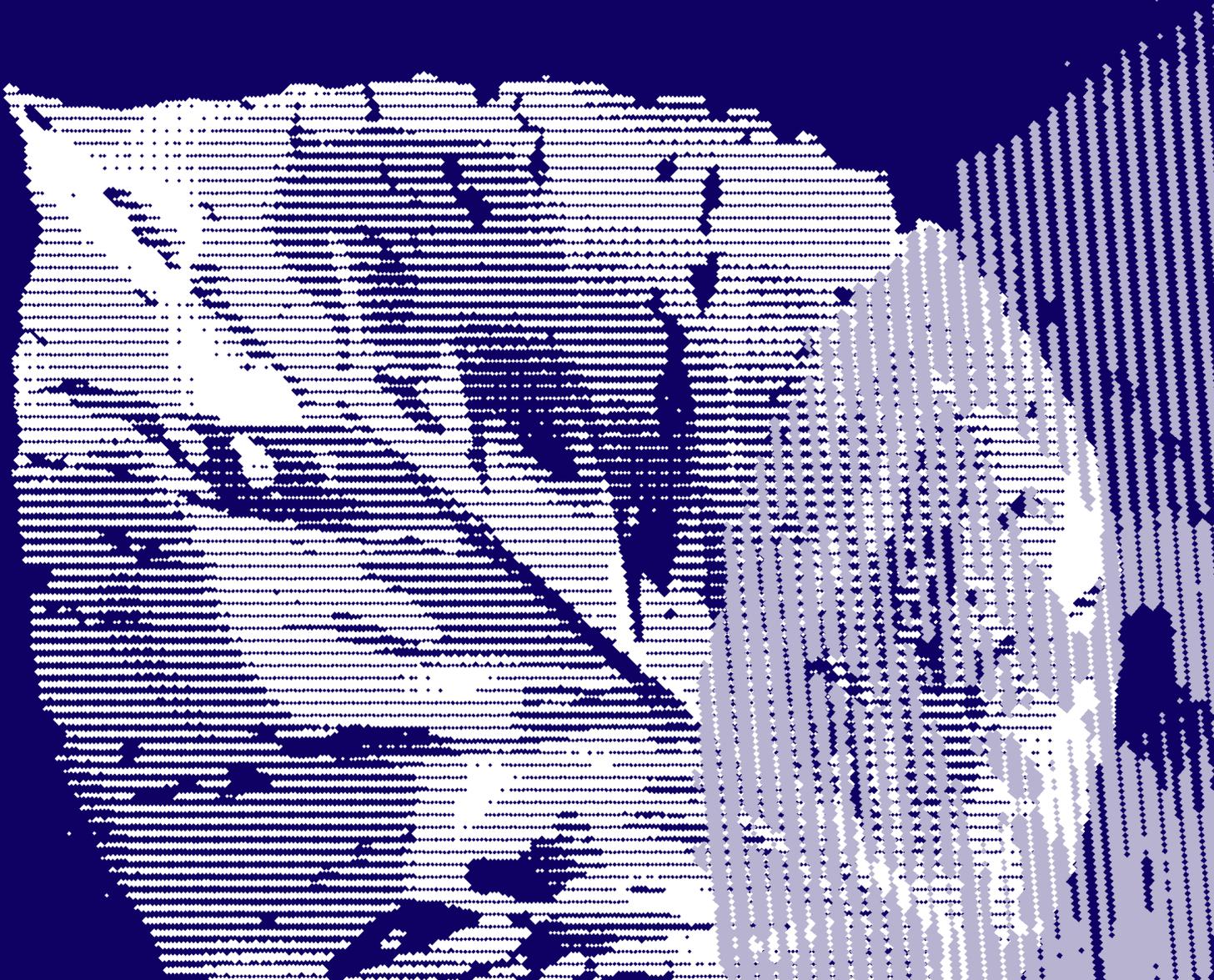


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IUCN – The World Conservation Union

Founded in 1948, The World Conservation Union brings together States, government agencies and a diverse range of non-governmental organizations in a unique world partnership: 954 members in all, spread across 140 countries.

As a union, IUCN seeks to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable. A central secretariat coordinates the IUCN Programme and serves the Union membership, representing their views on the world stage and providing them with the strategies, services, scientific knowledge and technical support they need to achieve their goals. Through its six Commissions, IUCN draws together over 8,000 expert volunteers in project teams and action groups, focusing in particular on species and biodiversity conservation and the management of habitats and natural resources. The Union has helped many countries to prepare National Conservation Strategies, and demonstrates the application of its knowledge through the field projects it supervises. Operations are increasingly decentralized and are carried forward by an expanding network of regional and country offices, located principally in developing countries.

The World Conservation Union builds on the strengths of its members, networks and partners to enhance their capacity and to support global alliances to safeguard natural resources at local, regional and global levels.

In Pakistan, the Union seeks to fulfill this mission by empowering communities to participate in the implementation of the National Conservation Strategy.

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The views expressed in this publication are not necessarily those of IUCN.

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Foreword

No citizen, whether living in one of our megacities or in the remotest rural area, can be unaware that our living environment is rapidly changing—for the worse.

Most individuals feel helpless to act: the problems are beyond their control; others are responsible for the problems and therefore for the solutions. There's always a 'they' to blame: 'The government should do this, the NGOs should do that'. However, a few have decided to take responsibility and act for themselves. A minute number have used the law to fight for their legitimate rights to a cleaner and healthier life. Examples are given in the text. Others have got together in groups to form community organisations or NGOs to push for change for the better. Some of these have used the legal processes and found allies in the courtroom.

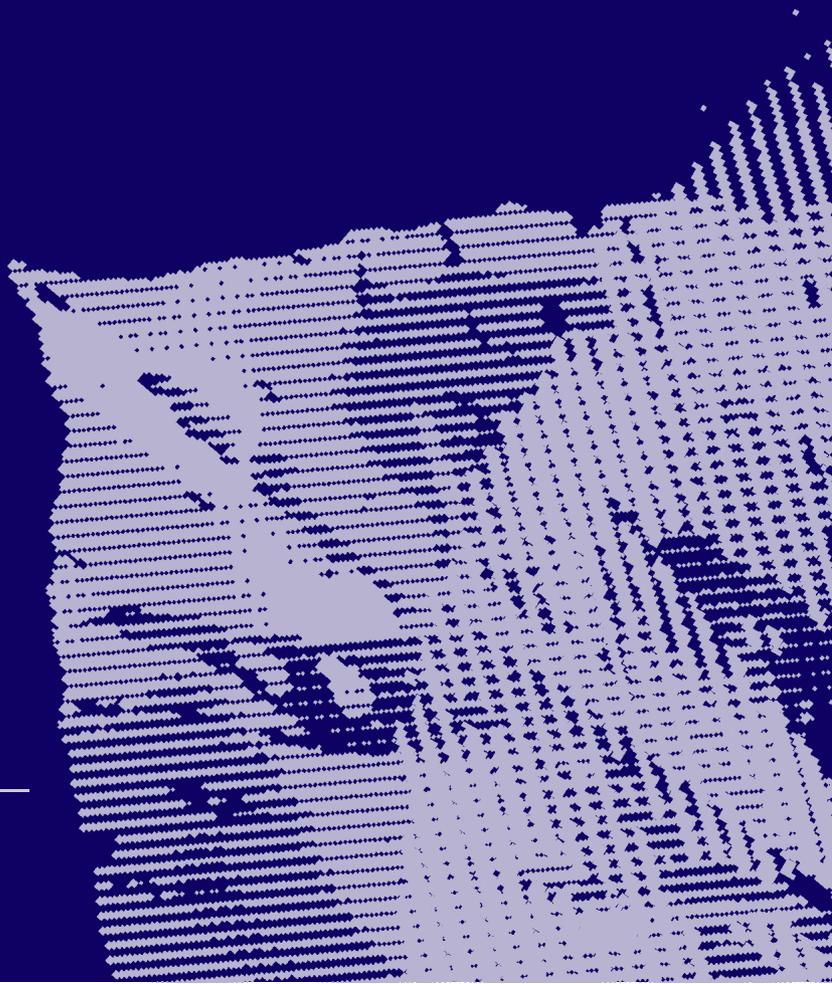
If enough of us are willing to take responsibility, a momentum will be created. Experience in other countries shows that a strong environmental movement can become a force for positive change. There are laws which support citizens' rights. Recourse to the courts through public litigation is one powerful route to make sure the voice of the citizen is heard. So why not take up the challenge and doggedly pursue your case to a conclusion? You too may find allies in the legal fraternity and the judiciary to ensure you have a fair and objective hearing, so that you too may win. If not, at least you will have made a lot of noise and drawn attention to the issues.

This book will act as your guide. So please read on.

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Introduction

Pollution, salinity, high levels of pesticides finding their way into the food chain, neglect of infrastructure leading to hazards for health, threatened or endangered species, encroachment on public places of scenic beauty...the list could go on and on. This book is meant for you—the citizen who is concerned about environmental problems and how they affect your life and the lives of others. Most people say they are concerned about environmental problems but almost always add: "but what can we do about it?" This book tries to help with answers to that question.

It looks at what citizens can do and describes the processes as well as some of the pitfalls. Chapter 2 looks at what you and your community can do and how non-governmental organisations can help. Chapter 3 goes one step further and talks about how the courts may be able to help and how you can use them. Chapter 4 gives a summary of your different options.

The processes described in Chapters 2 and 3 are illustrated through five case studies in Part II of this book. Chapter 5, the KAWWS case study, contains a lot of valuable lessons in community mobilization and using the Supreme Court to protect a community from contaminated water. Chapter 6 is a good example of the role of non governmental organisations and the media in overturning a potentially damaging proposal to route a highway through Kirthar National Park. The story of what happened when a non-governmental organisation used the court to make the government enforce its own ban on commercial fishing in the spectacular Haleji Lake is included

in Chapter 7. Chapter 8 is important as an inspiring example where one family obtained a court order designed to protect the health and property of people in Quetta from the dangerous combination of highrise buildings and vulnerability to earthquakes. And finally, Chapter 9 describes the case of the houbara bustard: a sobering illustration that political imperatives can, in some cases, override even apparently successful efforts.

We would have liked to have included a case study on the Pakistan Environmental Protection Act, 1997. Some have been initiated but are not yet at a stage where we can draw lessons from them.

At the end we have included some additional information that may be of help to you. In Part III, Information Sheet 1 explains some of the terms and expressions used in this book and Information Sheets 2, 3 and 4 give contact details of relevant non-governmental organisations, media organisations, the courts, and government agencies and departments.

This book is not necessarily meant to be read from cover to cover. It is a reference book and in order to make it easier to use, rather than cross-referencing, sometimes we have made the same point more than once. And since you may not read the concluding points in Chapter 4 we will say here what would otherwise only go in a final chapter: this book is meant to be a working book and is not the final word on the subject. We are sure that as readers, you will have your own experiences that others can benefit from. Or, perhaps, in the course of trying to use this book to address your own issues, you can suggest some approaches that might work better. You may even have case studies of your own. In particular, we would like to hear from anyone who uses the Pakistan Environmental Protection Act, 1997—whether through approaching the Pakistan Environmental Protection Council, the federal or the provincial Environmental Protection Agencies for assistance, participating in an Environmental Impact Assessment review, or using the Environmental Tribunals or Environmental Magistrates. Or you may just be able to help with the Information Sheets since they will rapidly become out of date. In any event, do let us hear from you. Your comments will be very welcome, and, through incorporation in a next edition, will help a lot of other people too.

In each of our lives, in our own communities, environmental degradation threatens our very survival. Much has been written about it and enough has been said. It is time for us all to take personal responsibility and act. We hope this book helps you to do just that.

What you can do and how communities and NGOs can help

What is the first step you can take towards solving an environmental problem? While there may be steps you can take as an individual, to be most effective, you will need support. It is getting and using that support that forms most of what we say in this chapter.

You can divide environmental problems into two kinds. The first is the kind of problem which affects a particular locality, such as poor maintenance of water, electricity or sewage system facilities or pollution from nearby factories. These can be called local issues. The second kind of environmental problem is one that may concern people all over the country, such as when national or cultural heritage is threatened (like the houbara bustard) or the preservation of a watershed in the mountains which benefits the people in the plains. These can be called broader public issues.

We will deal with local issues and broader public issues separately because what you need to do will differ for each. We have further divided up those sections into what you and your community can do and what an NGO can do because, again, the approach will differ.

Under each section, there is a step-by-step guide. If you try and read them sequentially, there is some repetition but, as far as possible, we have tried to make them self-contained. Where there are discrete pieces of information that help with more than one section we have included them in information boxes. These boxes are listed at the beginning of this book.

First though, we want to make a general point. It is that with the Pakistan Environmental Protection Act, 1997, for many local environmental problems (once the Act's rules and regulations are in force and the Environmental Tribunals and Environmental Magistrates are in place) you will need to inform or involve your provincial Environmental Protection Agency (EPA). First of all, they have a wide range of powers to prevent, stop or remedy a problem. Secondly, if you do come to the end of the line and decide to go to court, you need to give them 30 days' notice before doing so. Since they are likely to be involved in these cases sooner or later, making it sooner rather than later could save you a lot of work. The step at which you involve them will depend on the circumstances of your case but it should be considered an option right from the start for all environmental problems.¹

Local issues

In this part, we will explain the steps to be taken in getting your community involved (called 'mobilising') on an issue affecting a particular locality. We will explain the kinds of steps that your community can take and how an NGO can assist with a local issue.

What you and your community can do

What is your community? A community could be you and your neighbours because you share basic facilities or amenities in your neighbourhood. A disturbance in the water, electricity and sewerage systems will affect all your lives. Your common interest is, therefore, their proper maintenance.

A community could be a village or a group of villages threatened by polluted water or salinity and waterlogging in their agricultural lands. This would have a direct impact on the livelihood of farmers of the area. As a community, your common interest is to save your land from degradation.

In other words, for the purposes of dealing with a problem, your community is the group affected by it.

There is no single formula for success in dealing with an environmental issue: the approach adopted by communities to address a problem will depend on the kind of problem and the nature and size of the community. However, the involvement of the community will be critical in finding long-term solutions. The case studies in this book (as well as other examples), show that the active involvement of the communities plays a large, positive role in resolving problems.

1. The cases which come under this Act are set out in Box 7, Chapter 3.

This is a good point at which to read the KAWWS case study (Chapter 5). This is an excellent example of a community effort to resolve the problem of water contamination resulting from the poor maintenance of the water and sewerage systems. Drawing on the lessons learned in the KAWWS case and similar cases, the following are some steps that you and your community can take to deal with an environmental problem affecting you. Study the problem in detail to find out its causes and possible solutions. You can begin by:

STEP**1**

You need information

Collecting information. Gather as much information as you can on the issue. This includes:

- defining the problem exactly;
- what is causing the problem;
- who is responsible for causing the problem (if it is a part of the government it may be difficult at this stage to work out exactly who is responsible—it could be divided between different parts of government);
- what parts of the government are responsible for addressing issues of this kind (for example, for a pollution issue, it would be the EPA);
- the effects of the problem; and
- some possible solutions.

How do others see it? Talk to others in the community to find out how they see the answers to the above questions. They may see things quite differently from you and will be able to help with a more rounded view.

How does the person or organisation responsible see it? If you have been successful in finding out who is responsible for causing the problem, then talk to them. They may not realise the extent of the problem they have created or its effects and may be willing to work with you to find a solution. Go in with all the facts and a positive attitude. No-one likes being cast as the villain and if you do not begin with a friendly approach, you may squander whatever goodwill exists. In particular, if you take some of the steps which follow, failure to first talk may mean that you both end up taking hostile positions needlessly.

Of course, if you believe that the person or organisation responsible is likely to react badly or you think that you need community support to gather enough information, this step can be delayed until you have some support behind you. Box 1 suggests some ways of dealing with opposition.

The point we are trying to make is that talking to the person or organisation responsible should always be an option—from the first step to the last.

Box 1: Encountering and dealing with opposition

As you do some of these activities, you are likely to encounter opposition. After all, you will probably be challenging a decision or activity that is benefiting someone else. For example, a highly-polluting factory is benefitting from not having to install pollution control equipment. It is therefore natural for some people to feel threatened by what you are doing. Such opposition may include unsavoury means of pressure including attacks upon your character, inventing affiliation with unpopular groups, harassment tactics and so on to stop your efforts. Here are some ways to try and prevent or deal with this opposition:

- try to prevent your organisation from getting a 'label'. You should try to include as many people of the community as possible from different backgrounds. This will prevent your group from becoming linked with only one sub-group, political party or religious group or sect within your community;
- raising funds for your efforts may arouse distrust and criticism. You should let people know why you need the funds, how they will be spent and keep good, clear records so that you are able to account for the money that has been spent. Making this information available and letting people know what is going on will be very important to the success of your efforts and for building trust; and
- once the cause of the problem has been identified, your efforts should be aimed at showing what has been achieved over a short period of time. This is one of the fastest ways of building the trust of other members of the community in your work.

Analyse your information. You will need to sift through your information to get a coherent picture and to identify any remaining gaps. One helpful way of ordering your information concerning decision-making related to your problem is to make a commitment chart. Box 2 illustrates one such chart.

Box 2: Commitment chart¹

Key players whose commitment is essential to the issue	No commitment	Let it happen	Help it happen	Make it happen
1.		X		O
2.		X	O	
3.			X	O
4.	X	O		

For each key player, place an X in the column which describes that key player's present attitude. Then place an O in the column that describes the attitude that you need in order for your problem to be solved. If the X and the O are in the same box, then there is no action to take on your part. If they are in different boxes, that will tell you that work needs to be done with that key player.

1. Modified from Organisation Transitions, second edition, by Richard Beckhard and Richard T. Harris, Reading, MA: Addison-Wesley, 1987, pp. 94-95.

STEP

2 Letting the community know

Once the possible causes and solutions of the problem have been identified, you will have to share them with the community and point out the relevance of the issue to their lives. You can do this by:

Finding a link. You need to connect the problem and its impact on the community (the impact may or may not be visible).

Explaining the impact. Other members of your community need to understand why the problem matters to them—how it poses a threat or how its removal would make a difference to them. This is very important because generating and maintaining the interest of other community members is the only way you can get joint action. Some suggestions:

- approach other members of the community through house-to-house visits;
- discuss it amongst a group of friends at a local meeting place;
- approach an older, influential or respected person in the community to help involve others. This was one of the ways Safina Siddiqui of KAWWS (Chapter 5) convinced others in her community. Mrs. Siddiqui sought the assistance of a respected person in that community and asked her to 'lobby' with the others on the issue; and
- find out what the community uses or listens to in order to get information (for example, radio, opinion leaders, discussions during informal gatherings and so on) and use that.

STEP

3 Getting the community involved

At this stage, the following activities would be helpful and can be carried on at around the same time.

Community gathering. Discuss the issue at a larger forum with the community members. You could use established forums (society members' group, *panchayats* and *jirgas* etc.) or organise a meeting and invite those you have approached to discuss the problem and the possible solutions. When arranging the meeting, think about who you would like (for cooperation, assistance or support) to attend. The timing and venue of the meeting should make it easy for them to come.

Linking up with other community groups. Approach a group or organisation in your community which works on community related issues or is already working on this kind of issue for their assistance in highlighting and addressing this problem.

Organise a community organisation. If there is no active group in your community, consider organising one yourself. As more and more community members become aware of the issue and are willing to support it, you may find that an organised group to take on the responsibility for the

coordination and management of the community's efforts is necessary. You can start the group by asking friends or neighbours to join or by identifying members of your community who may have skills suitable for the kind of work you are doing.

Create interest in the problem by involving your local newspapers.

Write to your local newspaper on the problem (Box 4), asking them to highlight it but before you do this, consider again the option of talking to the person or organisation responsible. Negative press reports about them may make them uncooperative in the future.

STEP

4

What can your community group do?

Now that your community knows about the problem and wants to do something about it, what steps can they take?

Plan activities. Together with other members of the group and your community, plan activities that you think will help you in achieving your objectives. In planning, identify who can do what. Is your group able to carry out the planned activities or do you need help? Once you have decided this, identify roles and responsibilities for your members and for those who have agreed to help you. Box 3 has some general ideas which you may consider.

Raise funds. No matter what the scale of the problem faced by your community, to carry out your activities you will need money. Some initial suggestions:

- a standard membership fee;
- a contribution on a sliding scale; and
- local fund-raising activities (for example, *meena bazaar*).

Follow up. Remember to follow up your activities. For example, if you are dealing with local administration, you will have to follow up on the complaint you have made. This will indicate your interest and commitment to the issue and will ensure that it is kept alive. Throughout the process, make sure the other members of the community or group are kept informed.

Use the courts. Finally, where your problem involves a legal issue, you may think about trying to get help from the courts. In situations where there is an emergency, this can sometimes be a part of the first step where you may apply for an order from the court to prevent something from happening. Chapter 3 gives you a guide.

Box 3: Activities that will help you in your objectives

Get talking. Talk to the person or organisation responsible for the problem. They may not realise the extent of the problem they have created or its effects, and may be willing to work with you to find a solution.

Make it political. Write letters (Box 5), organise signature campaigns or melas, make visits to the politicians who matter. The strength of community support for an issue will often determine whether a politician is ready either to overturn a decision for which he or she is responsible or to use influence to overturn someone else's decision. For this activity to be effective, supplement it with good use of the media.

Use the media. Some of the things you have probably already been doing (for example, house-to-house visits, circulating newsletters and using society membership meetings, *jirgas*, *panchayats*, *khutbas* or street theatre) may have served as the most effective means of communication within your community, such as in the KAWWS case study (Chapter 5). But if you think that the issue faced by the community needs broader attention, you can also try using radio, television or newspapers and magazines, or even the Internet (Box 4).

Participate in EIA reviews. Is your problem one where an environmental impact assessment is being prepared? You have a right to participate in its review—get in touch with the federal or provincial EPAs.¹

Ask for help. What NGOs or parts of government can help?

Approach an NGO working on the same kind of issues to assist you. You should give as much detail about the problem as possible. If you have supporting material such as newspaper clippings, letters written to the local administration on the issue or any other relevant documentation, take that as well. You could put all this in a letter to the NGO, if seeing them in person is a problem. Also describe the kind of help that you would like from them. The NGO may either help you itself, or it can let you know of any other NGOs or groups who could help.

Approach your local provincial EPA, administration or another part of the government to help you. You will need to work out which part of government has responsibility for a problem such as yours. To find this out, you may have to go to a lot of different parts of the government and this may take quite a bit of time. And once you have the right place, you need to find the right person who will have authority to help with your kind of problem. Finding this information is not always easy. You may have to make several visits to the offices of the concerned agency with little success and you may be shuffled around from one department to another. But if you can find people who are sympathetic to your community's problem, they can help put you in touch with the right individuals.

Minimise the effects. Before your problem is solved, your community will need to deal with its effects. Depending on the resources available to you, you may need to use both labour and money. Acting jointly as a community saves each household having to 'reinvent the wheel' and may result in better knowledge and cost savings. At the same time, be careful to document everything you do including the hours of unpaid labour and money spent as it may form a part of a later claim by you from the person or organisation responsible. You will probably also need to ask for help in dealing with the effects.

1. Sub-section 12(3) of the Pakistan Environmental Protection Act, 1997.

What an NGO can do

A non-governmental organisation—an 'NGO'—is a formal association of people who voluntarily come together for a particular purpose. This purpose might be for charity or welfare (for example, focusing on disadvantaged children or a particular disability such as hearing loss), to advance a professional group (such as doctors or accountants), for development (such as the Aga Khan Rural Support Programme) or a

combination of these. The NGOs that we are referring to here include those that are working on environmental issues or related development issues.

NGOs can play a variety of roles ranging from leadership to support. But how and when NGOs should get involved in a certain issue will depend on the scope of the problem, the type of work done by the NGO and the capacity (that is, time and skills available) of the NGO in question.

For a local issue, there are three broad levels of involvement that an NGO can take. The first is getting involved at the request of the community where the community organisation takes the lead. The second is in initiating action (perhaps at the request of one member of the community) but withdrawing to a supportive, rather than leading role, once the community is involved. The final level is in initiating action and maintaining a lead role. Whichever level of involvement the NGO takes, it is critical that the community 'owns' the process and the ultimate solution. The following steps relate to the fullest level of involvement, and the NGO will need to modify them to the appropriate level of its involvement.

STEP

1

You need information

The steps involved for collecting information will be similar to those for community members. You will need information about the problem, need to know how the community sees the problem and how the person or organisation responsible sees it. You also need to analyse your information. For details, see the previous section. But there are some additional steps involved for NGOs.

Information about your NGO. Analyse your NGO's strengths and weaknesses. This will help in determining who your possible partners could be and the role your organisation could play best, based on its strengths. Based on your weaknesses, you can determine what skills are lacking and what other organisations could do to make up for it. The analysis of the situation will also indicate opportunities and inroads available for active community participation.

Information about the community. Identify the key people or groups in the community who have enough standing to involve other community members. These can range from individuals to organised groups (community-based organisations, village organisations, etc). Also find out what the community uses or listens to in order to get information (for

example, radio, television, opinion leaders, discussions during informal gatherings and so on).

STEP

2 Making use of the information

Be prepared. A community will often have high expectations of an NGO—higher than the NGO can probably deliver in terms of resources. Before starting to activate the community on the issue it is very important for the NGO to have clear answers to the questions of:

- who you are and why you are interested in our community issue. What the problem and its effects are—why it should matter to the community;
- what is the process of finding solutions? You will need to emphasise that it is a process and that solutions are expected to be the result of that process;
- how your organisation can help and how the community members can help; and
- how many resources is your organisation in a position to contribute (in person-time and money) and how far along the process this will take you.

Take advice and share information. Your organisation will need to know how best to get this particular community involved. You could start by meeting individually with some of the local influential people or the community group you are interested in. You could discuss the problem and what it means to the community, and how your organisation could help, as well as how the community's involvement could help. Taking the advice of the people you have consulted, take steps to let the wider community know about the problem through channels such as newspaper articles, posters, pamphlets or letters, street theatre or house-to-house visits.

STEP

3 Involving the community

Community gathering. Using the help of a person or group from the community, you could proceed to one or more larger group meetings to discuss the issue, possible solutions and overall objectives as well as specific activities which may help in achieving those objectives. When deciding upon activities, ensure that the targets and time frames you set out with the community are achievable. These will ultimately serve as indicators to the community of your commitment to the issue. Keeping to these time frames and targets is therefore essential. For general kinds of activities, please refer to Box 3. If the activities need money and your organisation is not in a position to fully (or only partially) cover the costs,

discuss the funding options for the proposed activities. Make your own limitations in this respect very clear.

Follow up with the community. Maintaining the momentum on the issue is essential. Once your initial round of activities is over, you may want to evaluate the impact with the involvement of the community. You should also give continuous positive feedback to the community by keeping them updated on and involved in all developments of the process.

Raise funds. This can be done directly by (and through) the community and/or through your organisation.

STEP

4

Taking it further

Follow up your activities. You will need to galvanise the community to follow up on its activities. For example, if they are dealing with local administration, they will have to follow up on the complaint they have made. This will indicate their interest and commitment to the issue and will ensure the issue is kept alive. Throughout this process, make sure that all members of the community are kept informed.

Using the courts. Finally, where your problem involves a legal issue and the community agrees, either they, or your organisation (or both together) can seek help from the courts. This is an option if all avenues for resolution of the problem have been exhausted, or in an emergency when you need an order from the court to prevent something from happening (in which case it may be one of your first steps). Chapter 3 will guide you in this.

As we noted earlier, mobilising or organising a community may bring with it mistrust and criticism from groups which feel threatened by your work for varying reasons such as being a threat to vested interests or value systems. The steps outlined in Box 1 will apply here.

Broader public issues

In this part, we will explain the steps involved when you want to do something about what we have called a broader public issue. As explained earlier, this means an environmental problem that may concern people all over the country such as when national or cultural heritage is threatened (like the houbara bustard) or the preservation of a watershed in the mountains that benefits people in the plains. For broader public issues, efforts are likely to be either on an individual level or through an NGO. This is because, unless the issue also happens to be a local issue, it will be

difficult for many members of your local community to make the link between the issue and themselves.

What you and your community can do

Under the local issues heading we talked about what a community is. But as we explained above, when a broader public issue is involved, a community as such is unlikely to be interested unless it is located nearest to where the problems are geographically located—or where ‘solutions’ are likely to be implemented. So what are the steps that you—and your community, if you are fortunate enough to have that support—need to take in dealing with an issue of broader public interest?

STEP

1

You need information

Collect information. This may not be as easy as it is for a local issue. However, to the extent possible, it is best to be in full possession of the facts. If you do not know much about the issue, then it may be useful upon first contact with politicians, government or NGOs, to ask questions or seek clarifications. This process can be repeated many times, building upon the answers previously given until you have enough information to proceed.

Further details. The kinds of information which would be useful in dealing with an environmental problem are set out under the heading of ‘what an NGO can do’ (page 17). To the extent that you have the time and resources, it would be useful to collate information. However, it may be more practicable for that to be left to the NGO with whom you have been successful in raising interest in the issue.

STEP

2

Planning steps to make a difference

Whether you are doing this on your own or as part of your community, it is worthwhile to plan your activities and work out whether you have the resources to do what you have planned. Your core activities may include the following:

Can the Environmental Protection Agency help? Is it a case where it can (Box 7, Chapter 3)? If so, you can pass on the information that you have gathered and ask for help. It may save you from having to undertake the steps that follow.

Use the media. Write letters to newspapers and magazines on the issue (Box 4). For instance, in the houbara bustard case (Chapter 9) many

Box 4: Using the media

What can you do?

■ **Who is your audience?** First work out who you want the message to get through to: the local community and administration (local newspapers or magazines), the provincial government and province-wide community support (newspapers or magazines distributed throughout the province and especially in the provincial capital city), the Federal government and nationwide community support (national newspapers and magazines). Choose the language of the newspaper that will reach the right people. For example, a water access issue in interior Sindh may require both access to Sindhi language newspapers locally as well as Urdu or English-language newspapers in Karachi or Hyderabad to attract the attention of the government.

■ **Who is responsible?** Find out the journalist responsible for reports of this nature in the newspapers concerned and provide him or her with information—background, photographs, arranging interviews with affected people and so on. Continue to update the journalist with information as the issue evolves. Be open about any further information requested.

■ **Write letters** to the editor.

■ **Try to write a story or article yourself.** Contact the editor of the newspaper or magazine and discuss the topic of your article with him or her. In general, as long as the article does not appear to be a public relations piece, the editor will consider outside contributions. However, that depends on whether the issue is of interest (is newsworthy) to the paper. If so, the editor may assign a reporter or ask for an outline of the issue you want highlighted. How you present the issue to the editor will to some extent also determine whether the editor's interest is raised or not. Be clear about your position and use simple language. Ask yourself if there is anything about the issue which would make you listen (if it were somebody else's problem) and focus on that. Ultimately, the final decision lies with the editor.

■ **Try television and radio.** It is state controlled so not as freely open as the print media but it can be very effective. The kind of shows that will get the most attention are normally interactive where the audience can get involved in a discussion or a news broadcast. You can write to the general manager of your local or provincial station on the issue you want aired. Pictures help...visual impact is very important for television. Or you can write to a show where viewers' or listeners' opinions are aired through letters saying that you would like to see this issue discussed.

■ **Don't forget the internet!** If you put your message on this you may get a response from unexpected quarters (senior government people, foreign interest, media interest or nothing at all...).

people wrote to newspapers and magazines as well as to the Minister of Environment. This indicated the interest and support of the general public to all concerned.

Other efforts. Turn to Box 3 for some additional ideas for activities.

Link up with NGOs. Contact relevant organisations and NGOs on the issue. A list of NGOs is given in Information Sheet 2. Draw the attention of the organisation to the problem, asking for their assistance, and giving the kinds of information set out in Box 3. The NGO will either take up the issue itself, or may give you the name of another NGO or group that could help.

Organise a group. Organise a group yourself (or a chapter of an existing group for your area) to work on the issue. The steps involved in organising a group will be similar in some ways to the ones listed for dealing with a local issue. But it will be a greater challenge, since in order to raise enough awareness to organise a group from within the broader community you will have to start many of the activities (such as writing to media, politicians, etc) yourself.

Making the group work. If you have organised a group, you will then need to plan activities, raise funds and follow up your activities. See the next section on what an NGO can do.

STEP

3

Taking it further

This part is here in case you have not organised your own group and therefore did not move on to the section about what NGOs can do. Politicians use the measure of public support on a certain issue as an effective indicator of causes that ought to be supported. If they are the responsible decision-makers, they can overturn the decision. If they are not the responsible decision-makers, they can put pressure on those who are. Taking it further may involve several activities.

Follow up. Remember to follow up your activities. For example, if you are dealing with local administration, you will have to follow up on the complaint you have made. This will indicate your interest and commitment to the issue and will ensure the issue is kept alive. Throughout the process, make sure that the other members of the community or group are kept informed.

Using the courts. Finally, where your problem involves a legal issue, you may think about trying to get help from the courts. In emergency situations this can sometimes be a part of the first step where you apply for an order from the court to prevent something from happening. Chapter 3 gives you a guide.

What an NGO can do

The case studies in Part II of this book illustrate the versatile nature of the role played by NGOs. In the Kirthar National Park case (Chapter 6), the Haleji Lake case (Chapter 7), and the houbara bustard case (Chapter 9) a number of NGOs were involved, each playing a different role.

The WWF and SCOPE took the lead in initiating media campaigns and court actions; in the houbara bustard case, some NGOs helped by

organising signature campaigns. IUCN, as an international association, supported the cause by providing timely and objective information.

For a broader public issue, your focus will be targeted more towards policy-makers and will require different forms of media for communication. Your reasons for raising awareness on the issue may be to create public pressure through advocating a certain position. Some general advocacy steps are outlined below.

STEP

1

You need information

As you will have observed if you have read the preceding sections, finding out as much about the problem—its causes and possible solutions—is the critical first step.

Baseline information about the problem. Gather as much information as you can on the issue. This includes:

- defining exactly what the problem is;
- what is causing the problem;
- who is responsible for causing the problem (if it is a part of the government it may be difficult to work out exactly who is responsible—it could be divided between different parts of the government);
- what are the parts of the government responsible for issues of this kind (for example, for a pollution issue, it would be the federal or provincial EPA);
- what are the effects of the problem; and
- what some possible solutions are.

How does the public see it? Talk to people, particularly in the communities located nearest to where the problems are geographically located—or where ‘solutions’ are likely to be implemented—to find out how they see the answers to the above questions. They may see things quite differently from you and will help to ‘round out’ what you know.

How does the person or organisation responsible see it? If you have been successful in finding out who is responsible for causing the problem, then talk to them. They may not realise the extent of the problem they have created or its effects, and may be willing to work with you to find a solution. Go in with all the facts and a positive attitude. No-one likes being cast as the villain, so if you do not commence with a friendly approach, you may find that you have wasted whatever goodwill existed. In particular, if you take some of the steps that follow, failure to

first talk may mean that you both end up taking hostile positions where there is no need for them.

Of course, if you believe that the person or organisation responsible is likely to react badly (Box 1) or you think you need community support to gather enough information, then this step can be delayed until you have some community support behind you. The point is, that talking to the person or organisation responsible should always be an option for as long the problem remains—from the first step to the last.

Information about your NGO. Analyse your NGO's strengths and weaknesses. This will help in determining who your possible partners could be and what role your organisation could play best, based on its strengths. Based on your weaknesses, you can determine what specific skills development your organisation needs, and what other organisations can do to fill in the gaps. This analysis will also indicate opportunities and inroads available for active community participation.

Information about likely sources of support. Sources of support may come from many directions, often unexpected. Your strongest supporters may well be from within the government department which is responsible for the problem. They could be reacting to external pressures and would prefer to uphold the law or minimise the environmental impact but are not in a position to do so. Such persons may be able to legitimately give you good data upon which to build your case. You may also find allies in the political establishment. Look at similar issues and try to identify public figures holding views similar to yours and contact them. NGOs, CBOs, academic experts in universities or in research institutions, the media and individuals may all be identified as being in a position to support your issue. Some supporters may be able to assist in the information gathering stage while others may help with activities and in particular, with advocacy.

Information about influence. Who has the authority (official or not) to have some influence over a decision which results in an environmental problem? In your list you can start with the Prime Minister (although that's not where you would usually aim your first activities). Since it is an environmental problem, you can add to your list the Pakistan Environmental Protection Council, the federal EPA, and, if the problem involves the provincial government, the relevant provincial ministry dealing with environment and the provincial EPA. Then add in the offending department (wildlife, petroleum, industries etc) or government agency. Before turning your attention to the politicians see who the issue matters

to—not necessarily an easy question to answer but worth looking into (local MPA or MNA, for example). In the Kirthar National Park case (Chapter 6), representations to people in government ensured a continuing high profile to the issue and also helped in spreading information at the higher levels of government.

Analyse your information. You will need to sift through your information to get a coherent picture and to identify any remaining gaps. One way of ordering your information concerning decision-making related to your problem is to make a commitment chart. Box 2 illustrates such a chart.

STEP

2

Planning steps to make a difference

You will have now accumulated a lot of information. How can you best put that information to use?

Bring in partners and supporters. In the process of analysing your own organisation, you will already have sketched out activities on the basis of your own capacity to implement them. At this stage, bring in your supporters and use them to revise the activities and allocate responsibilities. The houbara bustard case (Chapter 9) teaches some lessons on how important it is to keep your supporters involved and informed. Some core activities are likely to be:

Raising funds. Do the activities require funds which your organisation, partners and supporters cannot provide? If so, you will need to plan and implement a fund-raising programme.

Start writing. Start writing letters to those government or private sector bodies who know about the problem or have immediate authority relating to it. Start writing, too, to those of your potential supporters whom you have not yet contacted. Box 5 sets out a few pointers in writing those letters.

Use the media. On issues of national significance, where you need to mobilise the public over a short period of time, use of the press to create awareness and public interest is probably the most effective way. In the Kirthar National Park, Haleji Lake and the houbara bustard cases, media coverage was an important and critical part of successfully building up public opinion. These were urgent situations, requiring quick action. In

Box 5: About writing letters

Writing letters to the government, politicians or to your supporters is likely to be a part of dealing with any environmental problem. This box is about trying to make sure that they are read and understood. So here are some pointers in writing those letters (except for to the media which is different). Before you start writing, you need to bear in mind your audience. It is a good rule, that if you are writing to a government department or politician, to keep it no longer than two pages (one, preferably). Say in as few words as possible:

- what the problem is;
- their role in connection with it;
- what you want them to do (suggest a solution, if you can); and
- when you hope to hear from them (or when you will contact them).

Append, as attachments, if you need to:

- a list of the persons or organisations on whose behalf the letter is being written; and
- background information, setting out in separate documents, the narrative of what has happened from scientific or other supporting material.

If you send a 10-page rambling letter, the mere size of it will probably mean that it will (deservedly) languish in someone's overburdened in-tray for a very long time. Organisation of your material in the way recommended will also serve as a good basis for contact with your supporters. It will usually suffice to send a copy of that material together with a covering letter asking for their general support, suggesting the next step forward and how they can help.

the houbara bustard case, extensive use of the print media was made over a longer period of time and ranged from printing articles in the leading English newspapers and magazines to untried means such as advertisements. See Box 4 on how this might work.

STEP

3 Taking it further

Follow up. Remember to follow up your activities. For example, if you are dealing with local administration, you will have to follow up on your complaint. This will indicate your interest and commitment to the issue and will ensure the issue is kept alive. Throughout the process, make sure that the other members of the community or group are kept informed.

Using the courts. Finally, where your problem involves a legal issue, you may think about trying to get help from the courts. In situations where there is an emergency, this can sometimes be a part of the first step where you apply for an order from the court to prevent something from happening. Chapter 3 gives you a guide.

If you are successful in generating a high level of awareness and support on the issue, yet feel that you have not achieved any positive results and want to use other means, turn to Chapter 3.

How to use the courts

So you have tried to mobilise community support and use the media, lobbied the relevant government agencies and found that the decision-makers have not been favourably influenced or emergency action is needed. Time is pressing and you have decided that it is time to seek the assistance of the courts.² See Box 6.

A host of questions come to mind. Who can help? Do I have a case? What can a court do for me? In which court should I bring my case? What do I have to do? Are there any other laws that might help?

We will deal with these questions one by one but, like a lot of people, your first question is probably: who will help me? And you would rather that person help you with all the other questions. So that is where we will start.

Who can help?

We have three answers to the question of who can help you:

- you can consult a lawyer;
- you can approach one of the NGOs involved in the same issue or, if none has court experience, approach an NGO familiar with the courts; or
- you can help yourself.

We will talk more about the final option later.

2. You may not need to take any action yourself for enforcement of fundamental rights. The Supreme Court has the power to itself commence a case on the basis of information which has come to its attention (whether through your media campaign or otherwise). This kind of case is called *suo motu*. Your role in this kind of case is to provide any assistance to the Court that may be asked of you; you may be called upon to provide or verify the facts.

Box 6: Who are the courts?**The Supreme Court**

This is Pakistan's highest court and when it makes a decision, that decision will apply throughout Pakistan. You cannot normally begin a case in the Supreme Court (it mainly hears cases on appeal from other courts) but the kind of case which we are discussing—matters of public interest involving fundamental rights—are different and may be heard directly by the Supreme Court. The Supreme Court is located in Islamabad but it regularly sits in the provincial capitals.

The High Courts

These are the next level of courts below the Supreme Court. There is a High Court for each province¹ and when a High Court makes a decision, that decision will be binding on all the lower courts (sometimes called subordinate courts) of that province.

Environmental Tribunals

These are provided for in the Pakistan Environmental Protection Act, 1997 and have been constituted. They will deal with the matters ascribed to them in Box 7 (to the exclusion of any other court).

The Lower Courts

Beneath the High Courts in each province is a system of lower courts both for resolving disputes between people and for criminal matters.

Environmental Magistrates

Like Environmental Tribunals, Environmental Magistrates have not yet been appointed (except in the NWFP where the District Magistrates have been empowered to act as Environmental Magistrates) but are provided for in the Pakistan Environmental Protection Act, 1997. When they are appointed, they will deal with the matters ascribed to them in Box 7. This will be to the exclusion of any other court. It will be a specialist court having the status of a Lower Court.

The addresses of the Supreme Court and the High Courts are listed in Information Sheet 4.

1. In Punjab, this means the Lahore High Court (cases will also be heard in Rawalpindi, Multan and other places); in Sindh, this means the High Court of Sindh (at Karachi, Sukkur or Hyderabad); in Balochistan this means the High Court of Balochistan (at Quetta); in the NWFP this means the Peshawar High Court; and in Azad Jammu and Kashmir, the High Court of the same name.

How a lawyer can help

Aside from the obvious benefits in taking over what can appear to be an intimidating and complex process, a lawyer will be able to advance your case by:

- identifying the full range of legal remedies available in your circumstances;
- assessing which facts will have the most importance to the court and which questions to ask you to get facts that you may have thought were unimportant but may perhaps be worth more than you thought;
- dealing with responses of a technical legal nature from the people against whom your case is brought;
- assisting the court by bringing to its attention decisions in previous cases in support of your case; and
- assisting the court by asking for remedies in ways which will not result

in a decision that makes it difficult for environmental cases which come after yours.³

Affording a lawyer

But can you afford a lawyer? Consider some of the following suggestions.

Use your NGO support base. If you have already approached NGOs for support in your media campaign, those NGOs may well be with you in taking your campaign to the court stage and may have contacts with supportive lawyers who may be willing to take the case for no fee or a small fee.

Approach other NGOs. If the NGOs in partnership with you on this issue are not familiar with court actions, consider contacting an NGO that is (Information Sheet 2 may assist with this).

Approach public-spirited lawyers. You can take your own initiative in approaching lawyers to accept your case for no fee or a small fee. Some public-spirited lawyers may be happy to assist where there is no personal gain involved for you.

Ask the court to help. Late assistance is better than none. Once your case comes up for hearing by the court, you may ask the judge to appoint a lawyer to assist you.

A final option, and one mentioned earlier, is for you to deal with the courts yourself. Whether you take this route or you have a lawyer or NGO to assist you, read on. It will help you understand what is about to come.

Do I have a case?

This is where we start to get a little technical, but stay with us. The key to a successful court action is in knowing what you want the court to do, and in helping the court to get there.

Let's go back to a basic issue. What is your problem? You need to be very clear about this because if it comes under the Pakistan Environmental Protection Act, 1997 (and the Environmental Tribunals have been established and Environmental Magistrates appointed), then you must first approach those courts since they have exclusive jurisdiction in respect of their subject areas.

3. This is called the system of precedent: the building up of a body of law through reference to past decisions.

If it falls outside those subject areas, then you will need to consider using the constitutional provisions. There are two provisions that can help. Is your problem one where your environment is becoming polluted (even though there is compliance with the National Environmental Quality Standards), your health is suffering or basic amenities are not being supplied? If so, then in legal terms, this would be called an issue where your fundamental rights are being affected.

The second problem is when the government has done or is doing something that it ought not to, or is not doing something it ought to. It may be directly involved in the environmental problem, or indirectly, by not enforcing the law on someone else. You may be able to bring an action to make the government do the job that the law says it should.

One further issue needs to be mentioned at this point. In some cases, the main details of what has happened are not in dispute. But where the facts are credibly in dispute then generally the courts will not deal with them under these constitutional provisions.

The following gives details on the three kinds of cases which you need to know about: cases arising in connection with the Pakistan Environmental Protection Act, 1997; cases concerned with fundamental rights; and cases concerned with the enforcement of government obligations.

The Pakistan Environmental Protection Act, 1997

Once the Environmental Tribunals have been created and the Environmental Magistrates have been appointed.⁴ What you first need is a list of the cases that can only be heard by an Environmental Tribunal or an Environmental Magistrate. We set these out in Box 7.

Does your case fall under any of the headings in Box 7? If not, turn to the next section.

Having established that your case does come under this Act, you should, if you have not already done so, alert the federal or relevant provincial EPA to the problem.

If they have not taken any action and your subject can be brought to the Environmental Tribunal, then you need to give formal notice to the federal or relevant provincial EPA about the matter that you say breaches the Act

4. District Magistrates have been empowered as Environmental Magistrates in the NWFP.

Box 7: Cases under the Pakistan Environmental Protection Act, 1997

Environmental Tribunals will deal with the cases given below.

Pollution (other than motor vehicles).¹ Discharging or emitting pollution in excess of the National Environmental Quality Standards or standards set relating to the quality of ambient air, water and land;

Commencing a project without an approved environmental impact assessment or initial environmental examination.² These are required for such categories of projects as may be prescribed by the rules and regulations to the Act;

Prohibition of import of hazardous waste.³ This prohibition extends into Pakistan's territorial waters, exclusive economic zone and historic waters; and

Compliance with an Environmental Protection Order.⁴ These orders may be issued by the federal or provincial EPAs in order to prevent, stop or remedy a breach of the Act.

Environmental Magistrates will deal with the following cases:

Handling of hazardous substances (including generation, storing, transportation and disposal) outside the law.⁵ This refers to any domestic law as well as any relevant international convention⁶.

Pollution from motor vehicles.⁷ Discharging or emitting pollution in excess of the National Environmental Quality Standards or standards set relating to the quality of ambient air, water and land; and

Any rule, regulation, condition of licence, order or direction issued under the Act. These may be by the Pakistan Environmental Protection Council, the federal or provincial EPAs.

1. Section 11 of the Pakistan Environmental Protection Act, 1997.
2. Section 12 of the Pakistan Environmental Protection Act, 1997.
3. Section 13 of the Pakistan Environmental Protection Act, 1997.
4. Section 16 of the Pakistan Environmental Protection Act, 1997.
5. Section 14 of the Pakistan Environmental Protection Act, 1997.
6. In particular, the Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal, Basel, 1989 (known as the Basel Convention).
7. Section 15 of the Pakistan Environmental Protection Act, 1997.

and say that you intend to make a complaint to the Environmental Tribunal. After 30 days have passed, you may make a complaint to the Environmental Tribunal.⁵

In the case of subjects specified for an Environmental Magistrate, you can make a complaint directly to the Environmental Magistrate and do not need to first give notice to an EPA.⁶

Finally, in order to file a complaint with either the Environmental Tribunal or an Environmental Magistrate, you need to qualify as an “aggrieved person”. What does this mean in the context of this particular law? Since this is a new law, we do not yet know, but the term is used in the

5. Section 21(3)(b) of the Pakistan Environmental Protection Act, 1997.

6. Section 24(3) of the Pakistan Environmental Protection Act, 1997.

Constitution and has been interpreted very broadly. See Box 8 for further details.

There is one further right provided under the Pakistan Environmental Protection Act. If you are “aggrieved” by an order or direction of an EPA, you can appeal to the Environmental Tribunal to reconsider it.

About enforcing fundamental rights

In Pakistan, the Supreme Court has said that rights to a clean atmosphere and unpolluted environment (as well as proper healthcare, shelter and food) are protected under the Constitution as fundamental rights.⁷ Although the Constitution is not so specific, the court has interpreted the provisions in the Constitution dealing with the right to life⁸ and the dignity of man⁹ in a very broad manner.

When your fundamental rights are breached you have a right to bring a case (or, in technical terms, you have a legal cause of action). In our case studies, an example of this is the KAWWS case (see Chapter 5). In this case, the community was affected by contaminated water resulting from neglect of the water and sewerage systems by the civic agencies. For this type of case, you may approach either the Supreme Court¹⁰ or the High Court.¹¹

If you go to the Supreme Court, although you also have to show that your case is of public importance, anyone acting in good faith can commence a case. There is no need for you to be personally hurt or affected by the circumstances of the case.¹²

If you go to the High Court, you should first have tried to get any other adequate remedy available in law, for example, does the law provide for compensation in a case like yours? One further requirement is that there must be some connection between you and the case—that is, in legal terms, are you an “aggrieved person”? See Box 8.

About enforcing government obligations

The second kind of case that this book deals with is when the government has done or is doing something that it ought not, or is not doing something it

7. Shehla Zia vs. WAPDA, PLD 1994 Supreme Court 693.

8. Article 9: No person shall be deprived of life or liberty save in accordance with the law.

9. Article 14(1): The dignity of man...shall be inviolable.

10. Under Article 184(3) of the Constitution.

11. Under Article 199(1)(c) of the Constitution.

12. Benazir Bhutto (Miss) vs. Federation of Pakistan and another, PLD 1988 Supreme Court 416.

Box 8: Cases in the High Court: finding a connection between the case and you

Exactly what is the nature of the connection between the case and you? This information is needed by the High Court—that is, are you an “aggrieved person”? When a court will consider someone to be “aggrieved” has been the subject of many court decisions. It is still the subject of debate amongst lawyers and in the courts but it is clear that the courts are inclined to interpret it widely in cases of public interest litigation. For example, each of the Kirthar National Park, Haleji Lake and houbara bustard cases were heard by the High Court and in each case Tanveer Arif, the President of SCOPE commenced the case (sometimes with others). The status of SCOPE as a conservation organisation was accepted as sufficient for bringing the cases.

In the Quetta highrise case the right of the Isa family to bring the case was challenged and the court confirmed earlier court decisions² that an “aggrieved person”³ does not necessarily mean a person having a strict legal right. Even a person who is deprived of a benefit or privilege by an illegal act or omission can be considered an aggrieved person.

The Supreme Court has also interpreted “aggrieved person” widely. It found that people living some distance away from the construction of highrise buildings could bring a case where such a case has characteristics of public interest litigation and the people bringing the case were doing it free of charge.⁴

1. This issue is called “standing” or “locus standi” in legal terms.
2. Muntizma Committee, Al-Mustafa Colony (Regd.) Karachi and 3 others vs. Director Katchi Abadis Sindh and 5 others, PLD 1992 Karachi 54.
3. Within the meaning of Article 199 of the Constitution.
4. Multiline Associates vs. Ardeshir Cowasjee and others, 1995 SCMR 362.

ought to. The Constitution provides that you can ask for the assistance of the High Court (not the Supreme Court) in enforcing government obligations.¹³ Of our case studies, an example of this kind of case is the Kirthar National Park case (Chapter 6) where the government planned to build a highway through a national park in breach of its own laws. A second example is the Haleji Lake case (Chapter 7) where commercial fishing rights were granted by a government agency in breach of wildlife laws.

As with the case of enforcing fundamental rights in the High Court, you should first have tried to get any other adequate remedy available in law and you have to be able to demonstrate some kind of connection between you and the case.

When your case is both about enforcing fundamental rights and enforcing government obligations

Sometimes a case may fall under both headings. In the Quetta highrise case (Chapter 8), the High Court of Balochistan was asked to make the Quetta civic agencies enforce the Quetta Building Code. Arguably, this case could also have been brought on the issue of fundamental rights since public safety was being put at risk. The Quetta Building Code, which

13. Under Article 199(1)(a).

was designed to reduce damage and loss of life during earthquakes (and framed after the disastrous 1935 earthquake), was not being complied with by builders in Quetta.

This case could have been heard by the Supreme Court as a fundamental rights case or by the High Court of Balochistan as either a fundamental rights case or a case about enforcing government obligations. In a case concerning fundamental rights, the courts have a much wider range of remedies to help you with your problem. In addition, if you are looking for a solution that applies beyond one province, it may be better to bring the case in the Supreme Court to enforce fundamental rights rather than in a provincial High Court to enforce government obligations. And finally, the Supreme Court has more flexibility in granting interim orders that halt the harmful activities which are causing your problem.¹⁴

However, this is not the only consideration. For example, it may sometimes be more politically manageable to make the government do its job instead of directly confronting someone who is breaching fundamental rights. Later on, we will look at some guidelines in deciding whether to bring a case involving fundamental rights in the High Court or the Supreme Court.

What can a court do for me?

Case under the Pakistan Environmental Protection Act, 1997

Where the case involves a first offence by the offender, the powers of an Environmental Tribunal or an Environmental Magistrate are limited to imposing fines or imprisonment sentences. If it is a subsequent offence then the powers of these courts are extensive. They can close a factory, order compensation, confiscate property and publicise the offence through the relevant Chamber of Commerce and Industry. A third type of case involves an appeal in respect of an order or direction of an EPA. What rights you may have to appeal, if the order or direction is not addressed to you, is not at this stage clear nor is the manner of exercise by the Environmental Tribunal of its powers.

Nonetheless, it is not as bad as it looks: the Act tries to move away from enforcing compliance with the law through penalties. Therefore, it has conferred wide powers on the EPAs to deal with offences in a flexible and

14. In contrast, for the High Court, Article 199(4) provides that it will need to have reference to issues such as interference with public works before granting such an order and the relevant public officials will need to have the chance to be heard before the interim order is granted.

constructive manner. It also includes provision for payment of a pollution charge,¹⁵ in lieu of fines, which is meant to operate as an incentive rather than a penalty. In addition, the Act provides various entry points for the public to be involved in its implementation through requests that can be made by the public for assistance from the Pakistan Environmental Protection Council and the EPAs.

Case about fundamental rights

If yours is a fundamental rights case, the court has a great deal of discretion in deciding how best to help. In the KAWWS case, it was clear that contaminated water was a problem, but to the court it was less than clear as to exactly what caused the contaminated water (because of denials by the civic agencies) or who was responsible for maintaining the water and sewage systems in the KAECHS area of Karachi. The court formed a commission of enquiry to look into these issues and report back. The result was that KWSB voluntarily accepted responsibility for the maintenance and the court ordered the KWSB to undertake the required maintenance work on the water and sewerage systems in the area.

The court also has the power to order compensation and order that something should be stopped or done or to declare something as being unlawful.

Case to enforce government obligations

In cases where you are trying to enforce government obligations, the court can:

- direct someone in the government to do something which the law says must be done: for example, in the Quetta highrise case, it directed the Quetta Municipal Corporation to enforce the Quetta Building Code;
- direct someone in the government to refrain from doing something which the law does not allow: for example, in the Haleji Lake case, it issued a directive to revoke the illegal permission to fish; or
- declare that something done by someone in the government was unlawful and has no legal effect: this declaration was granted in each of the Haleji Lake and houbara bustard cases where fishing and hunting permissions had unlawfully been granted.

15. Section 11 of the Pakistan Environmental Protection Act, 1997.

In which court should I bring my case?

Case under the Pakistan Environmental Protection Act, 1997

If your case is under this Act, you will be bringing your case before an Environmental Tribunal or an Environmental Magistrate. We have set out which cases can be heard by a Tribunal or a Magistrate in Box 7.

Case about fundamental rights

If your case is about fundamental rights and it involves a matter of public importance, then you may be in a position to choose whether to bring your case in the Supreme Court or the High Court. The following list should help you decide.

A national or provincial issue. Is your issue one which applies to the whole of Pakistan? If so, the Supreme Court will be the most appropriate court since its decisions apply to the whole of Pakistan. If you take your case to a provincial High Court then the decision can only apply in that province. It will, however, be persuasive to the other High Courts if they come to consider the same issue. If the situation in your province is much more serious than in the other provinces, then using your provincial High Court is a reasonable option.

Time delays. What are the time delays and costs involved in getting cases heard in both the Supreme Court and in your provincial High Court?¹⁶ Some High Courts have a less heavy backlog of cases than others. For example, as a non-urgent case, the Quetta highrise case was heard by the High Court of Balochistan within one year of being filed. A similar case in another province may take much longer.

Convenience. Where are you, your supporters and your lawyer (if any) located? Having quick access to your own resources can be convenient and less costly.

Personal interest. If you wish to avoid the possible problem of establishing that you are an “aggrieved person” in a High Court action, then a Supreme Court action may be more suitable.

Right to appeal. If you receive a judgement against you in the High Court, then you can apply to the Supreme Court to be allowed to appeal the decision in that court. If this application is granted, the Supreme Court may reconsider

¹⁶ These factors regularly change. If you need to consider this issue, then consult a lawyer of your local provincial court for advice.

your case. If your case is initially heard by the Supreme Court, there is no higher court available to reconsider your case.

Availability of stay orders. The Supreme Court has more flexibility in granting an interim order to stop activities that are part of your problem. A High Court will need to have reference to issues such as interference with public works before granting such an order and the relevant public officials will need to have been heard before the interim order is granted.¹⁷

Case to enforce government obligations

If your case is about enforcing government obligations, you will have to bring your case to the High Court. If your issue is largely confined to one province, then you will bring your case to the High Court of that province. If it covers more than one province, consider some of the issues we have detailed above in our discussion of choosing between the Supreme Court and the High Court for enforcement of fundamental rights.

What do I have to do?

The first thing you have to do is wind down your media campaign. There are laws against commenting publicly on a case that is currently before the court in a manner which may affect the chances of a fair trial. In order to avoid possible problems, it is best to confine your media actions to providing the media with copies of the court papers. You may be in a position to add more material but this should only be done with the advice of a lawyer.

As far as cases under the Pakistan Environmental Protection Act, 1997 are concerned, what you need to do further as a complainant is not yet clear, because the rules and regulations are not yet in force. We will provide more detail in our next edition, but in the meantime this section is confined to constitutional cases.

Where do you start? First we will describe what is likely to be involved when you conduct your own case; then we will describe what is likely to be involved when you engage a lawyer.

Conducting your own case

There is no law which says you must use a lawyer to go to court, but it can be so complex that you do ordinarily need a lawyer to help you comply with the maze of procedural rules. In cases¹⁸ involving fundamental rights and

17. Article 199(4) of the Constitution.

18. Brought under the Constitution.

enforcing government obligations, however, the courts in Pakistan may relax the normally strict rules of procedure if you are conducting your own case. The court has recognised that not everyone can afford a lawyer and that unless such people can conduct their own cases, many deserving cases will be denied justice.

A case is ordinarily started by filing a constitutional petition with the court. If you are conducting your own case, you can either lodge a formal petition, write a letter, or send a telegram to the court.¹⁹ It is preferable to lodge a formal petition with the court because if you take the informal route of writing a letter or sending a telegram, the court is not obliged to hear your case but does so at its own discretion. A formal petition will set out the facts, the relevant law, how the law applies to your case (the grounds) and the “prayer” or “prayers”. These are the actions you would like the court to take. If you take this route, then refer to the next section which describes what happens when a lawyer conducts your case.

The rest of this section talks about the less formal route: sending a letter or a telegram to the court. This is what happened in the KAWWS case and this is the stage where it will be useful for you to turn to Chapter 5 to see what happened.

The court will need your active assistance in its efforts to find a solution. In a case involving fundamental rights, the court has a great deal of discretion in finding a solution, so it is a bit difficult to anticipate what you may be asked to do. Ordinarily—and preferably—all material and relevant information should be contained in the petition (or letter or telegram). However, the court may ask you for more information which may involve you in research costing both time and money. In some cases (but not usually), the court may ask you to assist a commission that it may specially set up to investigate certain aspects of the case. It will most certainly involve your being called to attend court at the times and dates specified by the court. It is critical that you comply with any court direction to attend and to provide any information to the fullest extent possible.

All of this means that, unless yours is an emergency case, it is very important for you to first get together all the information possible and to organise that information in a helpful way. Try as far as possible to detail the following:

19. Which the Court converts into a petition.

- your name and the names of your supporters, both people and CBOs and NGOs (but get their consent first), together with addresses and contact numbers;
- the organisation who is responsible for the problem (and its address and contact numbers), and if you can, the titles of the officers concerned within that organisation;
- a full listing of the facts known to you—do not try and make a judgement yourself about which facts are too unimportant to include; and
- organise your facts either by date or by subject: make it easy for the court. Give dates and specific locations wherever possible.

Your petition (or letter or telegram) to the court should set out all this information.

In addition, if you are bringing a fundamental rights case to the Supreme Court, then state that your case falls under Article 184(3) of the Constitution.

If you are bringing your case in the High Court, then state that your case falls under Article 199 of the Constitution.

You should also attach any supporting evidence for your case: originals and copies of all documents (these could be letters, receipts, extracts from government records, supporting scientific evidence) and any other evidence. If possible, copies of the more important pieces of documentation should be attached to the letter that you first sent to the court. In the KAWWS case, pieces of corroded water and sewer lines were produced in court—this was an exception. The court will normally require your evidence to be filed with the petition (or letter or telegram).

As to what happens next, it depends on the case itself. The KAWWS case was exceptional in many ways. However, if your case is similar, the next steps may involve you in quite a bit of investigation by the court. This may involve you in many court hearings, reporting on progress on the basis of directions given by the court and providing further information.

Using a lawyer to conduct your case

This book is not intended to turn you into a lawyer nor is it written for lawyers to tell them how to conduct your case, so we will not go into detail here. What we want to do is give you a sense of what is likely to happen

with a case conducted by a lawyer. With this, you will have an understanding of the kinds of steps your lawyer will need to take for you and of the possible timing involved.

Can we ask you to turn to the Haleji Lake case study (Chapter 7) at this stage? In our ‘using the courts’ section, we detail the documents that were filed by a lawyer with the court when beginning the case. We have described what each document is for; it is likely that your lawyer would file the same kinds of documents.

Besides the main constitutional petition setting out your case, your lawyer is likely to make the following applications at the same time:

- an application requesting exemption from having to produce original documents: if some of the evidence is only available, for example, in government records, then it may not be possible for you to produce the original document in court as you would otherwise be required to do;
- an application for the court to make temporary (or interim) orders stopping anything from happening in the time before the main constitutional petition is heard (this is called a “stay order”); and
- if your case is urgent, an application to have the main constitutional petition and the application for the stay order urgently heard.

The main constitutional petition and the accompanying applications will each need to be supported by an affidavit. An affidavit is the written equivalent of giving evidence in court. It will generally detail the facts as to why the application is needed.

Despite the best of preparations, you are likely to encounter unexpected delays. This will principally be because one of the parties to the court case (for example, a government agency against whom you are bringing the case) is likely to seek adjournments, that is, when a court hearing is postponed to a later date. It may be on the basis of having insufficient time to prepare its own defence to your case or perhaps one of the key people involved is out of the country at the time or, indeed, any number of reasons. It can even be a strategic move—getting a postponement of a hearing means that someone may carry on doing something for longer than may otherwise be possible.

Unexpected twists may also take place. You may find that the other party makes claims of its own against you, real or imaginary, and you will have to deal with these.

When the court finally gives a judgement, it will also consider the issue of who has to pay the court fees and lawyers' fees. With issues of this kind, the court may order that each party bear their own costs (as in the Haleji Lake case) but it is possible that the court may order the other side to bear your costs if you are successful. This does not mean your full costs; your lawyer will be able to explain to you what it is likely to mean in your case. On the other hand, if you are unsuccessful, it is possible that you will have to pay the costs of the other side, so you need to keep this possibility in the back of your mind.

Are there any other laws that might help the public?

The answer is yes. You may find yourself using these laws if the Pakistan Environmental Protection Act, 1997 does not apply and you cannot bring a constitutional case because the main facts of your case are in dispute. Or it may not be a case involving fundamental rights and you wish to get compensation. Or you are persuaded that, in your case, the advantages detailed below outweigh the disadvantages. However, most cases in which you wish to make sure that someone private observes the law will usually also mean that a part of government is not enforcing the law and you may be able to bring your case against the government in the High Court under Article 199 instead. If not, or if you think it would be more effective to have the law enforced more directly, there are two additional routes provided for by the law to help the public.²⁰

The Civil Procedure Code

The first of these routes is through bringing an action based on public nuisances under section 91 of the Civil Procedure Code.

This route will not be open to all environmental cases since it is based on the concept of nuisance. So far, its use in environmental cases has been limited to cases involving unauthorized constructions so there is not a lot of guidance to be had from the reported cases on this section. However, the general law of nuisance leaves scope for this action to be taken in connection with a much broader range of cases and pollution is an obvious example.

The advantages in bringing a case under this section are:

20. Of course, if you are personally affected, depending on the circumstances, you may be in a position to bring a private action (where you seek remedies that assist you personally) to the courts, rather than one in the public interest, although this route can be both expensive and may even take several years to resolve. If this route is open to you then you will need the assistance of a lawyer to guide you through the complex procedures.

- a case of this nature can be brought against anyone, government or private, who is committing the public nuisance;
- you need not have a personal interest in the case; and
- the remedies which the court can give you are wide: it has the discretion to order such action as may be needed—and that includes damages (that is, monetary compensation).

The disadvantages in bringing a case under this section are:

- you need the consent in writing of the provincial Advocate-General to bring the case;
- since you will be bringing the action in a provincial court, the remedy that the court may give you can only apply in that province;
- the full range of legal procedural requirements will need to be complied with, including the preliminary issue of in which level of the provincial courts the case needs to be filed: High Court, District Court or Civil Court (this will depend on the value of the remedy sought in the action); and
- it is likely to be expensive and time-consuming and a final remedy may not be available for a number of years.

Because of the disadvantages involved, you will need to engage a lawyer to bring an action of this nature. Given this factor, this book does not attempt to detail the procedures involved.

The Code of Criminal Procedure

The second additional route provided is under Chapters X and XI of the Code of Criminal Procedure, again dealing with the issue of public nuisance.

This Chapter provides a range of remedies to magistrates in dealing with cases of public nuisance and includes orders to stop activities and to remove offending substances or nuisances. Chapter XI allows for temporary orders in urgent cases of nuisance to be passed without notice to the offending party. In the case of Chapter X, a magistrate may act upon receiving either a police report or on other information, and it is open to a member of the public to make a report on a public nuisance to a magistrate. The range of public nuisances anticipated includes:

- unlawful obstruction or nuisance on land which may be lawfully used by the public, or any public place; and
- conducting a trade or keeping goods that are harmful to the health or physical comfort of the community.

The advantages of bringing information to the attention of a magistrate as a means of dealing with public nuisance are:

- there are no court costs or lawyers' fees involved;
- potential to be extremely effective since failure to comply with the order of a magistrate attracts a penalty of up to two years imprisonment;
- it is accessible—magistrates are found throughout the country whereas the High Courts are only to be found in the provincial capitals and certain other large cities;
- responsibility for taking action rests with the magistrate so that your own actions are limited to making the report on the public nuisance; and
- the magistrate has the power to quickly take action.

The disadvantages are:

- there is no obligation on the magistrate to act upon such information; and
- there is no provision for you to request the remedy which you think would be most appropriate.

Conclusion

We started by talking about what you, your community or your NGO can do to deal with an environmental problem affecting you or the lives of others. Because of the difference in approaches, we broke up the discussion in the following ways:

- Local issues. What you and your community can do when an environmental problem affects a particular locality.
- Local issues. What an NGO can do when an environmental problem affects a particular locality.
- Broader public issues. What you and your community can do when an environmental problem may matter to people all over the country.
- Broader public issues. What an NGO can do when an environmental problem may matter to people all over the country.

While the approaches differed, there were some key lessons common to all.

Information matters. Get as much information as you can on the issue.

Keep talking. Try talking to the source of the problem first and, where possible, keep talking.

Plan what you want to do. This will help in setting realistic expectations of how much you can do in terms of time, skills and money, but bearing in mind the next point.

Timeliness. Do you know whether your case is urgent? If not, you will need to find out if it is, since some issues require immediate action.

Follow up. Do not stop after the initial apparently successful activities—if you do not follow up it may be taken as a loss of interest and your gains are likely to be reversed.

The Pakistan Environmental Protection Act, 1997, once its systems are fully in place, means that, for many problems, using the law to help you should be simpler than before. If your problem is about pollution, hazardous waste, or projects for which an EIA or an Initial Environmental Examination (IEE) should have been prepared, then you can make a complaint directly to the federal or relevant provincial EPA. It has broad powers to make orders to prevent, stop or remedy an environmental problem. If no action is taken by it, then, depending on the nature of your problem, you may file a complaint directly with an Environmental Magistrate or the Environmental Tribunal (if they are functional).

There are some environmental problems that the Pakistan Environmental Protection Act will not cover. The Haleji Lake case and the houbara bustard case for example, if they were heard now, would not be covered and you would need to look to other laws to help. And if, for example, your health is suffering from pollution even though a particular factory or group of factories comply with the standards set by the law, again you need to look beyond the Act.

Before turning to constitutional law to help with your problems, though, we would recommend using other routes to resolve your environmental problems before approaching the courts. The courts can be quick, effective and cheap and, in an emergency, are a good first option, once you have sufficient information. However, they are not usually quick (which damages their effectiveness) and, unless you have the services of a public-spirited lawyer, not usually cheap. You can act for yourself, but whether the court makes allowances for you where you do not comply with its normal procedures, is a matter for the discretion of the court.

For these cases, we outlined who can help if you think you need to take your issue to court. We also talked about the two main types of cases that you would be likely to bring. You will either be trying to enforce government obligations by making government do the job that the law says it must. Or you will be bringing a case brought on the basis of a breach of fundamental rights: your right to a healthy environment. We have talked about, too, the kinds of help that a court can order or help bring about and described what will be involved in going through the process.

There are two additional routes and these involve using the laws against public nuisance. With the consent of the provincial Advocate-General, you can bring a civil case against someone responsible for a public nuisance. Using the criminal law provisions, you need only make a complaint to a magistrate who will take it further from there.

In Part II, we detail some case studies to both illustrate some of the steps set out in Part I as well as give an indication of the kinds of things that can happen. Our first, the KAWWS case study, illustrates the value of community organisation and planning your activities while also acting as a guide to bringing a case in the Supreme Court. The second, Kirthar National Park case study, illustrates the effectiveness of some well-executed activities, particularly making representations to senior people in government, the cumulative effect of widespread action and the key role of the media. The Haleji Lake case study, our third, is a good example of the steps involved in, and the potential for effectiveness of, the use of the courts to deal with an emergency situation.

We cautioned above about using the courts as a first option but sometimes there is no choice such as in the Haleji Lake case where it was an emergency, and in our fourth case study, the Quetta highrise case. With this case, it was not an emergency but the problem of dealing with a long-term systematic problem that had become so entrenched and routine that rousing community sentiment and media interest was very difficult. This case also emphasised the importance of first assembling all the facts—they will be needed if you are thinking of going to the courts.

And finally, as an illustration of a case involving the full range of advocacy tools, we included the houbara bustard case study, our fifth. It also gives reason to pause. Despite successful media campaigns, high level lobbying efforts and mobilisation of the public, houbara bustard hunting continues, albeit at a slower rate. Sometimes the high stakes combined with difficulty in continuous monitoring can mean that decision-makers do not alter their behaviour.

Now to repeat something we said in the introduction. This book is meant to be a helpful book and is not the final word on the subject. We are sure that, as readers, you will have your own experiences that others can benefit from. Or, perhaps, in the course of trying to use this book to address your own issues, you can suggest some approaches that might work better. You may even have case studies of your own. In particular, we would like to hear from anyone who uses the Pakistan Environmental

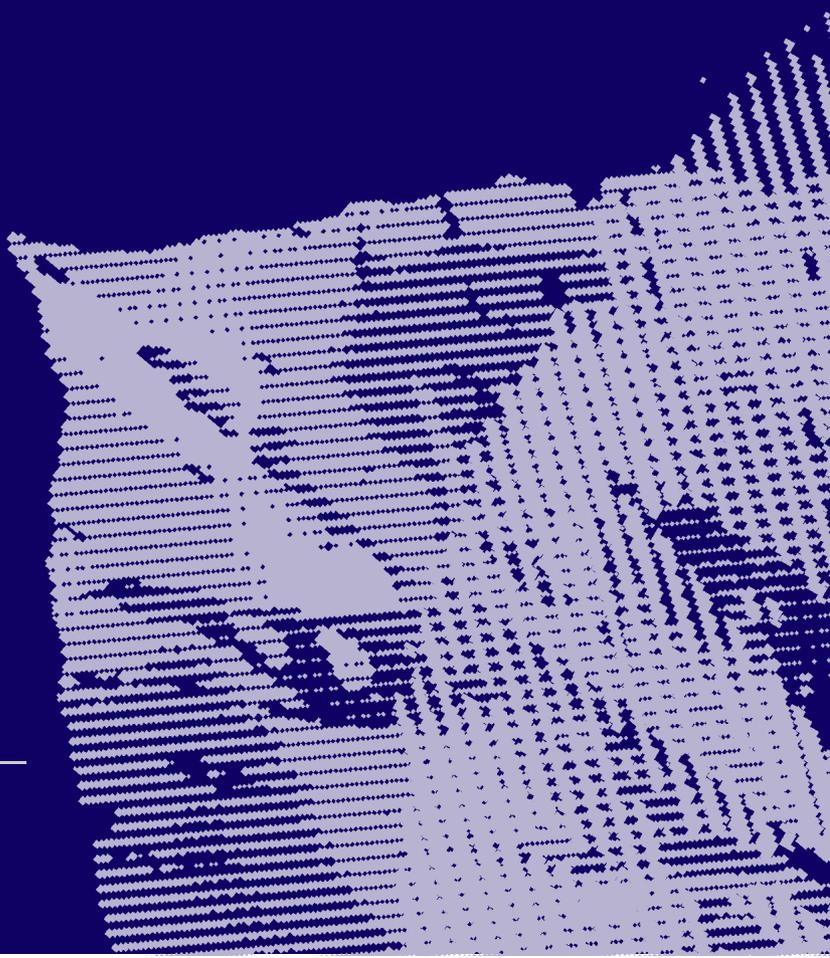
Protection Act, 1997 whether through approaching the Pakistan Environmental Protection Council or the EPAs for assistance, participating in an EIA review or using the Environmental Tribunals or Environmental Magistrates. Or you may just be able to help with the Information Sheets in Part III of this book since they will rapidly become out of date. In any event, do let us hear from you. Your comments will be very welcome and, through incorporation in a future edition, will help a lot of other people too.

And finally, if you are using this book to deal with a particular environmental problem—best of luck!

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KAWWS case study

The Karachi Administration Women's Welfare Society (KAWWS), a small NGO run on a voluntary basis, stands out as an example of a community-driven effort for a clean and healthy living environment. Established in 1988-89, the members are mostly women residents of the neighbourhood of Karachi Administration Employees Cooperative Housing Society (KAECHS).²¹ KAWWS was formed to address the range of problems in the living conditions of the KAECHS. KAWWS documented their problems with photographs and laboratory reports and wrote letters to the civic agencies, undertook repeated visits to the civic agencies and finally asked the courts to help with the most serious of their problems. In addition, KAWWS members took direct actions to improve their neighbourhood: planting trees, introducing systems for refuse collection, maintaining parks and other such initiatives.

The efforts of KAWWS can provide a model for other communities faced with similar urban issues. Over time, as their efforts have given positive results, KAWWS have begun to offer advice on their advocacy strategy to neighbourhood groups who are attempting similar courses of action.

Background

When Safina Siddiqui moved with her family to the middle class neighbourhood of KAECHS in 1988, the living conditions in the area were deplorable. Not only were basic civic amenities lacking, there were no

21. KAECHS was established as a residential scheme for the low income employees of the Karachi administration. Over time, the original owners sold their land to professionals and traders belonging to the middle class.

visible signs of any maintenance of the basic infrastructure. The conditions faced by the residents of the housing society were similar to those being faced by many in Karachi's newly developed areas: unpaved roads, garbage strewn over empty plots and dumped on the side of the streets, gutter and rain water collecting on empty plots and roadsides—all combining to give rise to an unhealthy living environment.

With the efforts of Safina Siddiqui (or Safina Apa, as she has become known) and some 40 women residents of KAECHS, things improved considerably over the years. The women, under Safina Apa's leadership, organised themselves into an NGO called the Karachi Administrative Women's Welfare Society (KAWWS) and began to pressure the civic agencies to complete the required development work for the area. Their pressure tactics ranged from appearing en masse at the concerned municipal offices, to documentation of the problems in the form of letters and photographs. Their efforts, however, had no immediate rewards. In many instances, it was only determination and persistence on their part that resulted in action being taken. Several visits from the women would lead to one small victory—a garbage collection van would start to come around once a week or a road would get paved. It was these small victories which added to form the larger changes visible in the area over the next four years.

During this process, the members of KAWWS realized that their knowledge of the institutional structures and responsibilities of the various civic agencies was limited. So the women embarked on a self-educating process to find out:

- how the systems providing civic services to the city functioned;
- the roles and responsibilities of the various civic agencies in maintenance and development of the different areas; and
- who to contact if a complaint had to be made on specific issues of infrastructure development and maintenance.

Becoming better educated about the institutional structures and functioning of the various concerned agencies was the essential groundwork needed to deal with civic problems. The knowledge and information they gathered over time has been compiled by them in two publications.²²

22. KAWWS has published two documents, a *Directory of Civic Agencies in Karachi* and a *Guide of KAECHS*. The first publication provides helpful information: maps of the four city zones, organogrammes of the various agencies, their structure, contact names and numbers, zonal profiles etc. The second publication is a profile of the sewer system and maps of blocks in the housing society. Anyone who has ever attempted to get any information from a civic agency with regard to their area will know how difficult such information is to come by. Most officers either pretend ignorance of the existence of such information or will often ignore these requests.

The breakdown of the sewer system was a recurring problem for residents of KAECHS. In some localities of KAECHS, KAWWS was able to achieve results through persistent lobbying of KAECHS and the Karachi Municipal Corporation (KMC). They also lobbied with the Karachi Water and Sewerage Board (KWSB), however, their efforts in this case met with no success. For one section of the sewerage system, KAWWS sought the intervention of the Additional Chief Secretary of Housing, Town Planning and Local Government who brought together the KMC, KWSB, KAECHS and the members of KAWWS. This meeting found a solution to fixing that portion of the system. Through the years, KAWWS became familiar with the authorities responsible for the water and sewer systems in KAECHS.

At the end of 1991, at a regular KAWWS meeting, members started complaining about dirty water flowing through the taps. On further investigation, they discovered that the sewage pipes and pipes carrying water for household use, running alongside each other, were badly rusted and leaking. This had resulted in a mixing of sewage water and water for household use.

First step

KAWWS took photographs of the damaged pipes, collected water samples and pieces of the rusty pipes from several different localities and had the water samples tested at two laboratories (the Aga Khan University Hospital and the KMC laboratory). In both cases the results showed the presence of fecal coliforms (an indication of the presence of human excreta/sewage water).

KAWWS lodged complaints with both the KAECHS and KWSB,²³ however, both agencies refused to take action. KAECHS claimed that this was a maintenance issue and not their responsibility whereas KWSB would respond that they had not yet “taken over” the area. The residents, particularly the members of KAWWS, were therefore unable to achieve any success in this particular case since no agency could be held accountable.

The role of communities, NGOs and the media

This particular case study is about the potential of communities and NGOs to address their own problems. The strength of its community organisation and community learning accumulated over the years, as

23. Development of an area is the responsibility of the Karachi Development Authority or the respective cooperative housing society. Developing an area involves setting up the infrastructure in that area, e.g. putting up electricity and phone lines, roads, laying the water and sewerage pipes. Once the area has been “developed”, the responsibility for maintenance lies with agencies such as the KMC and KWSB.

detailed above, was such that when this issue arose, KAWWS was in a position to deal with it.

In contrast, the role of the media in publicizing KAWWS' efforts or creating public pressure was limited, especially in comparison to issues such as the Houbara bustard. From 1988 to 1992, while major development work in KAECHS was being carried out, a few of the English newspapers and journals occasionally reported on KAWWS' efforts. KAWWS limited their proactive efforts with the media mainly to short press items (and accompanying photographs) on contaminated water or society membership rights with the aim of creating pressure on the concerned civic agencies. The few longer articles appearing afterwards in the press stemmed out of a reporter's own interest or were written by a member of KAWWS and focused largely on describing KAWWS' perseverance and accomplishments. Although significant for other groups attempting similar action, they were not geared towards creating pressure or at initiating a public debate on the issue, particularly, the poor management by the civic agencies. As a result, this issue could not be sustained and only appeared now and then on a one-off basis.

A reason for the media's limited role in this case was the scope of the issue itself. KAWWS' efforts were aimed at improving the living conditions of a relatively small residential area of the city, where the beneficiaries were the residents of the society themselves. In comparison, the houbara bustard issue (see houbara bustard case study, Chapter 9) gained much media popularity for its international scope and the implications of indiscriminate hunting by foreign dignitaries. Whereas the houbara bustard issue was successful in generating public interest that further fueled the debate, the efforts of KAWWS had limited potential to do so. The level of resources available to KAWWS also limited their efforts in using the media.

Using the courts

It was around the time when KAWWS was lodging its complaints with the KAECHS and KWSB that Safina Apa and another member of KAWWS attended a paralegal training course organised by the Lawyers for Human Rights and Legal Aid. The participants at this training course learnt that basic human rights included access to clean air and water.

At a further seminar, this time organised by IUCN on Environment and Law, Safina Apa learnt that the Supreme Court was encouraging the filing

of human rights cases of public importance and that it was not necessary to use a lawyer for such cases.

With this in mind, Safina Apa decided to ask KAWWS members to consider going to the court for help. She realized, though, that they would take some convincing since they shared her previous apprehensions that getting help from the courts was necessarily a lengthy, expensive, often fruitless exercise with complicated legal procedures and terminology. Initially some of the members were very cautious, however, over time enough members were convinced to start the court action.

KAWWS' limited resources prevented them from hiring a lawyer to draft their petition to the Supreme Court. Instead, they prepared a letter addressed to the Supreme Court. It was with some surprise that, soon afterwards, they received a notice from the court asking them to attend a hearing. The court had accepted the petition as coming within Article 184(3) of the Constitution and had dispensed with the ordinarily strict rules of procedure.

The steps involved in the court action are detailed in the box following. This level of detail shows how even the simplest of court procedures is likely to involve a great deal of time, research and active recommendations from the person or NGO commencing the action. It involved attending hearings on the dates set by the court, assisting the court by providing information and acting in accordance with its directions.²⁴

How it all ended

For the immediate relief of the residents of the society, the court ordered KAECHS to repair the pipes that were the subject of the court actions. This was done in 1992-93. However, with urban issues such as these, an end is not easily found. Water from the pipes both within KAECHS and upstream from KAECHS is regularly contaminated and, after intervention from KAWWS, usually repaired. The papers for the court action have not been withdrawn (and, indeed, are still pending) and the court is yet to exercise its power to order the KWSB to fulfil its obligations in providing clean water. Nevertheless, the court action has achieved the following:

- it has succeeded in identifying one agency responsible for maintenance of the water and sewerage systems—KWSB. KAWWS considers this an achievement simply because before the court action they were shuffled from one agency to another on issues related to the water and sewer

24. For lawyers reading this, the chronology may appear to be unorthodox, perhaps resembling European court systems rather than the common law adversarial tradition.

systems of the area. No particular agency would accept responsibility for their maintenance. With court action having done this, they can now focus all their energies on lobbying with KWSB for their water and sewerage problems;

- the pipes replaced by KAECHS, subsequent to a court order, although they technically served only 16 houses, are part of a large network of pipes in KAECHS. The water supply to KAECHS circulates through the whole network. Indirectly, the replacement of the pipes has benefited between 1,600 and 1,700 households; and
- KAECHS, through an agreement with KWSB, have also built an underground reservoir for the area. The residents, however, have contributed to buying the pump/water valves required for the reservoir.

Moreover, with the identification of KWSB as the agency responsible, the KAWWS members stepped up their lobbying. Their efforts are now aimed at ensuring that their area gets an allocation in the annual budget of KWSB. Although it has taken them four years (1992-1996) to do this, particularly because of a lull in the court proceedings, they have been successful in their efforts. For the first time, KWSB allocated an amount in their 1996-97 budget for KAECHS' water and sewerage systems.

Lessons learned

The success behind this case study can largely be attributed to the efforts of the community itself. While other cases in this book had active support from the media and NGOs in creating public pressure and opinion on this issue, KAWWS relied mainly on its own efforts to create an improvement in its living environment. See Box 9. What efforts enabled KAWWS to make a difference?

Information. Knowing who is who and who is responsible for what among the civic agencies can save a great deal of effort and time in trying to address a problem. The years that KAWWS members put into documenting their interactions with the civic agencies helped them target their efforts precisely.

Being well prepared. KAWWS members met regularly to report to other members the progress that had taken place and then to plan the next steps. They would also go to the problem sites and collect evidence in the form of water samples²⁵ and photographs to take to the concerned authorities to garner their support and in some cases even appeal to their sympathies.

25. The water samples, collected from various sites, were sent by KAWWS to the Aga Khan University Hospital laboratory and the KMC laboratories to test for potability.

Box 9: Chronology of the KAWWS court action

10 February 1992

KAWWS wrote a letter to the Supreme Court with two main complaints: first, of the health hazards associated with the use of open stormwater drains for the disposal of sewage, secondly, of the contamination of household water by sewage, the result of damaged adjoining water and sewage pipes. The letter stated that it was felt that these conditions violated the fundamental rights of the people living in the area.

The letter attached photographs and copies of the laboratory reports on the contaminated water.

22 February 1992

The Supreme Court issued notices to each of KAWWS, KWSB and KAECHS to attend a hearing before Mr. Justice Saleem Akhtar on 5 March 1992. The letter written by KAWWS had been converted into a petition and the case was listed as Human Rights Case No. 9-K/1992.

5 March 1992

KAWWS and KAECHS each sent representatives to the court but KWSB did not attend. KAECHS lodged a Statement of Facts with the court that put its view forward and made certain allegations about KAWWS (including KAWWS not having approached KAECHS for assistance). The court asked KAWWS to provide further details on its complaints.

7 March 1992

KAWWS provided to the court a comprehensive listing of the complaints and attached copies of a large number of specific complaints from residents (which included both the location of the problem and the signature of the resident).

9 March 1992

KAWWS sent a letter to the court providing copies of correspondence from KAWWS to the civic authorities.

12 March 1992

KAWWS sent a further letter to the court detailing the system of charges levied by KAECHS and KWSB, requesting the court to obtain specific information from KWSB on its responsibilities in KAECHS and requesting further that an independent assessor be appointed to recommend solutions.

KWSB filed a statement with the court disclaiming any responsibility for maintaining water and sewer systems in KAECHS.

The court held a further hearing in continuation of its hearing of 5 March 1992 which KWSB did not attend.

14 March 1992

KAWWS sent to KAECHS a detailed list of problems faced by residents in KAECHS together with proposed solutions, and sent a copy to the court. KAECHS prepared its own version of a report for the court detailing its compliance with complaints. This version was directly at variance with the report of KAWWS.

16 April 1992

KAWWS prepared a report for the court detailing the compliance by KAECHS staff on the complaints of KAWWS and the refusal by KAECHS to provide maps of the water and sewer system in KAECHS, responding to the statements set out by KWSB and requesting the court to appoint an independent expert on water and sewage to survey the area, recommend solutions and monitor the work done.

The Supreme Court considered these reports in a hearing on the same date and ordered that, in view of the conflicting statements, a Commission was to be constituted to report on whether the complaints in the original petition were correct, whether the list of complaints submitted pursuant to the court order of 5 March 1992 had been rectified by KAECHS and on the general conditions of the location. The Commission included Aban Marker Kabraji, Country Representative of IUCN Pakistan (as Convenor), Arif

Hussain, Advocate, and Jamshad Ahmad Khan, Chairman of the Zonal Municipal Committee of the Karachi Municipal Corporation. It was asked to submit its report to the court within 3 weeks for consideration at a hearing scheduled for 14 May 1992.

18 April 1992 to 10 May 1992

KAWWS provided supporting material to members of the Commission. However, due to a slow response to requests for documents from KAECHS, the Commission was unable to complete its report in the scheduled time and on 10 May wrote a letter to the court requesting that it extend the period for preparation of the report.

12 May 1992

The court granted an extension of 3 weeks to the Commission.

6 June 1992

The Commission submitted its report to the court, finding that the complaints in the original petition were correct, that the complaints detailed in the KAWWS letter of 7 March were only partially met and that the complaints were indicative of the general conditions in the locality. The Commission recommended that the court enforce the resolution of the KMC that KWSB has responsibility for maintenance of the water and sewer lines of KAECHS.

29 July 1992

The court asked KWSB to respond to the recommendation of the Commission. On 12 August 1992 KWSB replied that the resolution of KMC did not bind it and that conservancy charges are for sweeping and garbage collection services of the KMC.

22 August 1992

KAWWS gave a detailed response requesting that the court ascertain the responsible civic agency. The response of KAECHS of 7 September 1992 was somewhat stronger, and rejected the contentions of KWSB. The court set the matter for hearing on 8 October 1992.

8 October 1992

The court found that the dispute was now one between the KAECHS, KMC and KWSB. Since the KMC was not represented in court at the hearing, the matter was not further considered at that time but was set down for a hearing before the full court. At this hearing, the court directed that if KWSB was not responsible for water and sewerage in KAECHS, it should cease to collect conservancy charges. On 18 October, the court set the date for the hearing as 29 October 1992.

29 October 1992

KMC informed the court that KWSB¹ had decided to take over the water and sewerage responsibilities in KAECHS and the court ordered that it should start the necessary work.

1. KWSB, until 1995, was a subsidiary agency of the KMC and thus controlled by KMC. In 1992, during the hearings, the KMC administrator was still the head of the KWSB and could make decisions on behalf of KWSB. KWSB, however, wanted to contest this particular decision on the basis that they were forced by KMC to accept the decision. The reason given for not "taking over" the area was the sub-standard development work done by KAECHS. Since 1995, KWSB has become a separate local government agency.

Persistence and thoroughness. KAWWS members would make follow-up visits to the different agencies or departments to ensure that their complaints were being processed.

Time and money. KAWWS members also contributed their own time and money to improve the conditions of their surrounding environment. Although they maintain that the civic agencies are responsible for providing basic infrastructure facilities and maintenance, they also add

that it cannot be done effectively without the help of the residents. People will have to be both dedicated and willing to manage their neighbourhoods, particularly as the civic agencies become increasingly burdened because of expansion. In this respect, KAWWS' efforts have been two-fold. At one level they pressurised the civic agencies to carry out and complete the development of the area and for regular maintenance; on another they organised the neighbourhood to contribute towards tree planting, systems for garbage collection and disposal, street cleaning, joint maintenance of parks with KMC, roadside plantations and the construction of water chambers.²⁶

26. A mechanism to control the supply of water to different blocks to make the water distribution in the area more equitable.

Kirthar National Park case study

Pakistan has seldom experienced instances of concerted social activism where NGOs, public advocacy groups, the press and ordinary citizens have all come together to rally around an environmental cause. The campaign to save the Kirthar National Park from the adverse environmental impact of the proposed Indus Highway can be cited as one of those few examples. A look at the issues offers valuable insights into the sometimes conflicting demands of development and conservation and how such conflicts may be resolved through solutions which address both developmental as well as environmental concerns. But why was Kirthar National Park so important? How was it threatened? And what was done to save it?

Background

Kirthar National Park was declared in 1974. It is the first and largest national park in Pakistan and forms the core of a complex of protected areas, including the Mahal Kohistan Wildlife Sanctuary, the Hub Dam Wildlife Sanctuary and the Surjan, Sumbak, Eri and Hothiano Game Reserves.

The park is an area of outstanding natural beauty and cultural heritage and home to a wide variety of mammals, reptiles and birds characteristic of the arid subtropics of South Asia. It is a stronghold for the Sindh Ibex (whose population has increased considerably here due to protection) and provides a habitat for significant and steadily increasing populations of the Urial and Chinkara gazelle. The park is also home to superb archeological sites like the tombs at Taung and the Rannikot Fort as well as a local

human population (estimated to be between 10,000 and 15,000 people) with strong tribal traditions.

The park has not been able, however, to fulfil its purpose in terms of public recreation, research, education and economic development. This has been partly attributed to ineffective management of the park by the Sindh Wildlife Management Board (SWMB), now the Sindh Wildlife Department, due to the absence of any approved, up-to-date management plan²⁷ and the lack of human and financial resources. Experts agree, however, that the principal problem facing the park is the gradual increase in levels of human activity, resulting in disturbance of wildlife, hunting and habitat encroachment for grazing. It was precisely the threat of such an increase in human activity and the consequent disruption of the park's ecosystem that ignited the controversy over the passage of the Indus Highway through the park's confines.

The Indus Highway Project was first conceived in the early 1970s as a strategic highway to shorten the distance between Karachi and Peshawar and to bring economic development to the depressed regions on the west bank of the Indus. Later shelved due to excessive cost and changes in the political scenario, the project was again revived in the mid 1980s. Local consultants were engaged to carry out design and costing studies and the National Transport Research Center (NTRC), part of the Planning Commission of the federal government, was commissioned to carry out a detailed engineering and economic study of the entire project. The NTRC reported in 1988 and recommended, amongst other things, that a proposed link from Nuriabad to Sehwan be constructed due to its economic viability. This section of the highway was to run right through the park. However, no alternative routes were considered in this report, nor were the park authorities consulted during its preparation. The report does not even mention the environment.

In 1989, the OECF (Japan) emerged as a funding agency and Japanese consultants (in association with local firms) were appointed to review NTRC's feasibility study. The review was completed in 1990, reaching conclusions very similar to those of NTRC two years earlier. Again, the environment was not mentioned in their report, nor was there any consultation with the park authorities. The first mention of environmental issues appears in a short report from the Japanese consultants to the National Highway Authority arguing the economic case for the alignment

27. A proposal for an updated management plan for Kirthar National Park was prepared by WWF Pakistan in 1996. However, its approval is still pending.

through the park. A second report, a month later, considered alternative routes and again argued strongly for the park alignment on both technical and economic grounds.

By this time, the SWMB had expressed serious concern about the possible impact of the road on the park and its ecology. However, had it not been for the funding agency (OECD), which delayed the release of funds pending the receipt of a 'No-Objection Certificate' (NOC) from the Sindh Government, there was little that could have stopped the construction of the Indus Highway through Pakistan's foremost ecological reserve. At a meeting on 10 March 1991, attended by representatives of the Highway Project, the Government of Sindh, SWMB, WWF Pakistan and IUCN, it was decided that IUCN, on behalf of the Government, should be asked to carry out an urgent environmental review of the project. Two weeks later, IUCN had commissioned a consultant, Mr. James Ramsay, to carry out the review.

In his report, Mr. Ramsay discussed the possible impact of the highway on the park's physical environment and its human and animal inhabitants. The report recognized the significant economic opportunities the road would create for the local park population as well as the revenues from the greater visitor flows made possible by the highway. The basic economic benefit, however, would be due to the rapid and easy travel made possible by the new road.

With these positive impacts, however, the report discussed a number of ways in which the proposed alignment through the park would be disruptive and damaging to the park's environment. Of these adverse impacts, some of the more important are mentioned below.

The considerable construction activity to be carried out within the park would bring in large numbers of workers who would have a significant impact on the vegetation and wildlife of the area. The development of borrow pits and quarries for road construction materials would also cause a negative impact on the park.

The new highway would have a severe visual impact on the park's scenery and the noise generated by the traffic would be audible for long distances.

The highway would divide the sanctuary and park into two, and the projected traffic density levels (5,000 vehicles per day by the mid-1990s)

would act as a severe deterrent to the movement of wildlife due to noise, lights, frequency and speed of vehicles and the unnatural materials used in construction.

The most severe potential impact of the new highway would be due to the hunting and poaching which would be made possible by the rapid and easy access to important wildlife habitats. Experience elsewhere in the country shows that provision of road access results in rapid extermination of unprotected wildlife.

Concluding that the negative impacts of the proposed highway far outweighed its possible benefits, the report looked at various alternative routes and strongly recommended one which avoided the environmental impact and cost less than the initially proposed park alignment.

First step

This case was not a planned campaign by anyone in particular. It sparked the public interest, and activities were undertaken by government authorities, NGOs, private citizens and the media on their own initiatives. It started with an editorial in *Dawn* on 26 January 1991 (based on information provided by IUCN members) which commented on the highway proposal and its threat to the environment. Several letters to the editor were published in response, and WWF took up the issue and wrote to a key senator questioning the wisdom of the government's decision. Shortly afterwards a meeting was scheduled between the relevant government departments; WWF, IUCN and wildlife experts were also invited. The media put these actions in the limelight by reporting on the planned meeting, its postponement as well as its rescheduling, while at the same time reiterating the issues at stake. From this point on, the issue took on its own momentum.

The role of communities, NGOs and the media

The Kirthar National Park-Indus Highway issue was perhaps the first high-profile case in Pakistan where environmental concerns were in conflict with a major national development project. Beyond the essential imperative to preserve biodiversity and natural heritage, however, the case lacked the overtones of public interest that would ensure extensive media attention. The issues of equity, legality and national pride that attached, for instance, to the houbara bustard case were not the focus of the public's interest.

The Kirthar National Park case did, nevertheless, receive considerable coverage in the press. Even though the major Urdu and Sindhi newspapers

and magazines did not strongly take up the issue, the mainstream English press played an active role in raising and sustaining awareness about the issue and advocating the conservationists' cause. *Dawn*, for instance, carried a news item almost daily, while other papers averaged 2-3 pieces a week.

This positive media response can at least partly be explained by the growing consciousness and enthusiasm among members of the press themselves regarding environmental issues. A large part of it, however, was linked with the efforts by NGOs involved in the Kirthar campaign. An analysis of the press coverage as a whole indicates that most of it was either based directly on statements issued and reportage of events organized by NGOs, or at least relied heavily on information, material and expertise provided by NGOs.

The involvement of the NGOs themselves (and hence indirectly the kind of press coverage they were able to generate) took many different forms. What did the NGOs do that made a difference?

IUCN (an international association) played a mediation role and participated in meetings between officials of the Indus Highway Project, the National Highway Authority (in support of the project), the SWMB (opposing the project) and other invited NGOs and experts. At the request of the SWMB, IUCN commissioned an Environmental Impact Assessment of the proposed highway. The report prepared by its consultant, James Ramsay, became the technical core of the alternative routing argument put forward by the NGOs. The environmentally sound and economically feasible new route recommended by Ramsay's report strengthened the conservationists' case and gave fresh impetus to the campaign. The report helped generate a new wave of publicity and Ramsay was even interviewed personally. Additionally, the Journalists' Resource Centre (now called the Communications Unit) of IUCN regularly provided press release updates and briefings to journalists.

WWF participated in the government meeting with IUCN and raised awareness about the issue through newspaper advertisements and both public and private appeals to influential government members.

SCOPE played a role in awareness raising through press releases and briefings and petitioned the Sindh High Court (on 16 June 1991; on June 27, the Prime Minister cancelled the project) to issue orders preventing the construction of the highway. It was successful in getting accepted by the court as an aggrieved party in a case of environmental public importance.

The Aurat Foundation initiated a nationwide signature campaign and organized a Walk for Kirthar on World Environment Day. This event was widely reported in the press.

Additionally, other NGO and individual members of the community gave support through writing letters to the newspapers and members of the government and being involved in initiatives such as the Walk for Kirthar.

Using the courts

This is a short section since political events overtook the process. A Constitutional Petition under Article 199 of the Constitution was filed by SCOPE in June 1991. SCOPE's petition was supported by the kinds of applications described in Chapter 7 (the Haleji Lake case study)—that is, an application for an urgent hearing, an application for exemption from production of original documents and an application for a stay order preventing the commencement of work pending the hearing of the Constitutional Petition. For further details, see Chapter 7.

Before the court could consider the applications, however, the Prime Minister intervened. It is believed that he was at least partly influenced by the momentum of public opposition as manifested in the media and the courts.

How it all ended

At the end of June, the Prime Minister announced that he had directed the Indus Highway Authority to find an alternative route. The rerouting of the highway outside Kirthar National Park was confirmed in mid-September 1991 by the National Council for the Conservation of Wildlife (the federal government body concerned with wildlife) and the Prime Minister, through announcements in the press, television and radio.

Lessons learned

There are some positive lessons to be learnt from this case.

Responding quickly to urgent requests for help. When the SWMB asked IUCN for help with an environmental study, IUCN produced an authoritative report in the short time frame demanded.

Targeting senior people in government. Representations made by WWF and IUCN to senior government members and officials who could

make a difference or were influential ensured a continuing high profile to the issue and also helped in spreading information about the issue at the higher levels of government.

Group action. The independent initiatives of a spectrum of NGOs and individuals raised the profile and the credibility of the issue.

Key role of the media. The media's active role was undertaken by it with little prompting from NGOs but the link between the activities of the NGOs and the reporting of these activities by the media was crucial in maintaining pressure on the government.

Haleji Lake case study

In emergencies, sometimes an immediate appeal to the courts is the only way of avoiding potential devastation. The urgency can mean that there is little opportunity for general NGO mobilisation and a media campaign. Preventing large-scale commercial fishing in Haleji Lake was such an emergency.

Background

Environmental controversies in Pakistan are striking not only in terms of the environmental damage and degradation they bring with them, but also in terms of the blatant disregard of the country's existing environmental laws that is usually displayed. The issue of commercial fishing at Haleji Lake may be cited as a prime example of this phenomenon.

Haleji Lake, situated about 88 kilometres away from Karachi in Thatta district, covers an area of approximately 1,704 hectares. It provides refuge to tens of thousands of migratory birds fleeing the Siberian winter to the more hospitable climate of regions along the Indus flyway. Taking into account the lake's value as one of the most important fresh water waterfowl refuges in the world, the Government of Sindh, Wildlife and Forest Department, under the Sindh Wildlife Protection Ordinance (1972) granted Haleji the protected status of a wildlife sanctuary. Today Haleji is recognized as the second most important wetland site in the subcontinent after Bharatpur in India. It has been notified under the Ramsar Convention—which provides a framework for intergovernmental cooperation for the conservation of wetland sites—and declared a Ramsar site. Wildlife species at the lake are also protected under the CITES treaty and the Bonn Convention.

As far back as June 1975, a meeting chaired by a Sindh government minister had discussed the management of the Haleji sanctuary and decided that fishing at the lake would have to be stopped if its educational and ornithological value is to be preserved. According to the records of a meeting held in October 1977, the Government of Sindh gave orders to prohibit the issuance of fishing rights at Haleji Lake. The lake was, meanwhile, entrusted to the care of the Sindh Wildlife Management Board (SWMB), the Karachi Water & Sewerage Board (KWSB) and the Sindh Irrigation Department. The two government agencies were to jointly manage the lake, with the SWMB looking after the wildlife preservation aspects and the KWSB monitoring the supply of water from the lake to the city of Karachi.

In the face of the law as well as administrative orders, however, commercial fishing rights for the Haleji sanctuary were auctioned by the KWSB on 20 August 1992. In a letter issued on this date the Chief Engineer KWSB allowed Haji Ghulam Mohd. Meerbahar, a contractor from Thatta district, the right to fish at Haleji Lake on a commercial basis. The fishing rights were issued for a period of one year and could be extended for a further two years after “satisfactory performance” during the first year. The offer—for a sum of Rs. 900,000—was accepted by the KWSB without any consultation with other agencies of the Sindh Government, including the Sindh Wildlife Management Board. Three days later, the initial installment had been paid, the contract signed and Haji Ghulam Mohd. Meerbahar with more than a hundred fishing boats had taken control of Haleji.

Within days, the commercial fishing operation had devastated what had taken years of conservation efforts to restore. Apart from the obvious direct impact on Haleji’s fish population, thousands of migratory birds were either killed by the fishermen or scared away to safer areas by the noise of the fishing boats. Even the crocodile population at Haleji was disturbed by the fishing operation and some of them were found nearly 40 kms away in the marshes near the Pakistan Steel Mills. The diversity of wildlife that earned Haleji its place of importance internationally was critically damaged. While as many as 222 different bird species had been recorded at the lake in the past, this number is believed to have dropped significantly.

First step

As the news of what had happened spread, SCOPE and WWF perceived that this was clearly an urgent situation and no time was lost in mobilizing all three avenues: NGO support, mobilizing media interest and in pursuing court action. On 26 August 1992, a detailed report appeared in Karachi’s

English daily newspaper, *Dawn*. On 28 August SCOPE, WWF and a student jointly filed court papers seeking to immediately overturn the fishing licence and requesting an urgent court hearing. On 30 August, SCOPE, WWF and IUCN met to agree on a course of action and the next day issued a press release calling for action from government, NGOs and all concerned citizens to stay vigilant and raise their voices on the issue.

The role of communities, NGOs and the media

Apart from collaboration between SCOPE, WWF and IUCN, the urgent timing did not allow for an opportunity for larger scale NGO mobilisation and since court action was immediately instigated, the opportunity for planning by NGOs of a media campaign was limited. The media did itself (particularly *Dawn* and *The News*) maintain an interest, however, and continued to report on developments on the issue.

Using the courts

With the assistance of a lawyer, SCOPE, WWF and Syed Kamal Ahmed (a BSc student undertaking research at Haleji Lake) jointly filed a Constitutional Petition in the High Court under Article 199 of the Constitution. This main petition was accompanied by several other documents and court applications designed to assist the court and expedite the date of the court hearing.

These are the documents that were filed by SCOPE on 28 August 1992:

- Constitutional Petition under Article 199(1)(a) of the Constitution. This is the main court document. It sets out:
 - the names of the people bringing the case;
 - the names of the people and government departments against whom the case is being brought: in this case it concerned the wildlife officials, KWSB and Haji Ghulam Mohammad as the holder of the fishing lease;
 - the details of the people involved in the case;
 - the background to the case;
 - the grounds for bringing the case to court;
 - the rights of the people to bring the case to court (in the case of SCOPE and WWF, their status as conservation organizations and in the case of Kamal Ahmed, his rights in connection with scientific study); and
 - the action wanted (called “relief sought”) from the court.

Documents supporting the case were also annexed to the Constitutional Petition. In this case it included copies of government records relating to the declaration of Haleji Lake as a wildlife sanctuary, minutes of the Board of Management of Haleji Lake, documents concerning the granting of the fishing lease and the fishing lease itself, and relevant scientific information from authoritative books. If there is a specific order of the government that is the basis of the case, every effort should be made to produce it. This document is known as the “impugned order” and the prayer clause (where you specify the relief sought) calls upon the court to set aside or strike down the impugned order.

■ **Affidavit in support of the Constitutional Petition**

This document is a solemn declaration that the facts set out in the Constitutional Petition are true, that no material has been suppressed or concealed and that no other petition on a similar point has been filed by the petitioner. It is the same as giving evidence in court so it is very important to be as accurate and specific as possible.

■ **Application requesting exemption from having to produce original documents.²⁸**

This application was needed in respect of the supporting documentation annexed to the Constitutional Petition. This was because the originals of the documents were either in government records or extracted from library books and so were not available to be produced in court. Otherwise, it would have been necessary to produce the original documents.

■ **Application for an interim order directed at Haji Ghulam Mohd. Meerbahar for an immediate stop to the fishing at Haleji Lake (called a “Stay Application”).²⁹**

This application was needed so that the court could make immediate orders preventing the continuation of fishing in Haleji Lake pending the full court hearing of the Constitutional Petition. Unlike the Constitutional Petition, it did not need to be directed to the government agencies but only at Haji Meerbahar as the holder of the fishing lease.

■ **Affidavit in support of the Stay Application**

This document was needed to explain why it was necessary to impose an immediate ban even before the court had fully considered the Constitutional Petition.

28. Under section 151 CPC.

29. Stay Application under Order 39, Rules 1 and 2 CPC read with section 151 CPC.

- Application to treat the Constitutional Petition and the Stay Application as urgent.³⁰

This document was needed because the matter was urgent and would otherwise have taken its place in the court queues.

- Affidavit in support of the urgent application.

- Vakalatnama noting Kamil Sheikh as the lawyer on record for the people bringing the case.

This is a procedural requirement authorizing an advocate to represent a party and lets the court know which lawyer is acting for whom.

On 1 September 1992, the court granted the application for exemption from the production of original documents but ordered that legible copies of the court documents be filed. The court set the date for hearing of the Stay Application for 8 September and for the Constitutional Petition on 28 September but the respondents were successful in obtaining a series of adjournments based on various grounds. An adjournment is when something is postponed to a later date.

On 27 September, Haji Ghulam Mohd. Meerbahar filed an affidavit with the court that asserted, amongst other things, that “fish” are not a part of wildlife and that therefore the laws relating to wildlife did not apply. The court later held that this was not correct. Although this assertion was disputed, in order to put the issue beyond doubt, the Governor of Sindh, on the advice of the government, passed an ordinance on 29 December 1992 amending the legislation to clarify that the expression “wildlife” includes fish. In addition, the amending Ordinance specifically states that fishing rights cannot be leased or auctioned and any previous permissions to do so are annulled.

Haji Ghulam Mohd. Meerbahar, in retaliation, initiated his own Constitutional Petition against the government (but without making mention of this particular case) alleging, amongst other things, that his rights were denied to him without just compensation. Around the same time, he once again entered Haleji Lake, according to press reports, with a large number of fishing boats, together with over one hundred armed men. This incursion again resulted in thousands of birds either being killed or having to flee to other locations.

30.Under Rule 9, Chapter III-A, Volume V, High Court Rules.

Wildlife authorities reacted by arresting Haji Ghulam Mohd. Meerbahar, and the petitioners once again found it necessary to make urgent applications to the court: first for a stay order and secondly for an urgent hearing. Both applications were again supported by affidavits. The application for an urgent hearing of the Constitutional Petition was granted on 7 January 1993 and the court set a date for hearing both the Application for a Stay Order and the Constitutional Petition for 11 January 1993. The case was heard on 11 January 1993 and the written judgement handed down on 18 February 1993 in favour of SCOPE, WWF and Kamal Ahmed. At the same time the Constitutional Petition filed by Haji Ghulam Mohd. Meerbahar was dismissed. Both sides were ordered to pay their own costs.

How it all ended

For this chapter there is a happy ending. The court gave a favourable judgement that the government has implemented. During the course of the case, the Sindh government was cooperative even to the extent of taking the initiative of removing an alleged ambiguity in the law. Although there may be sporadic minor incidents relating to fishing in Haleji Lake (mainly involving the local community), large-scale commercial fishing has not recurred and the sanctuary status of the lake allows it to continue to play host to myriad forms of wildlife.

Lessons learned

This case was, overall, conducted well. If you refer back to the chapter of this book called “How to use the Courts” you will see that in order to bring a case under Article 199 of the Constitution, a person must be “aggrieved”. This case is a good example of the flexibility that the courts will allow to this term. Two organizations with a mandate in conservation and a student using the area for scientific studies were accepted (without it being made an issue) as being “aggrieved”. What else can this case teach?

The method of dealing with circumstances where you need urgent action to stop an immediate threat.

The benefit of making additional supporting applications to the court as well as the primary Constitutional Petition.

The importance of not only attaching supporting documentation, but making sure it is legible.

That a case can become protracted and complex through the maneuvers of those it is brought against, such as by means of repeated applications for adjournments, or, in this case, the filing of a retaliatory court action.

That even if you win the case, you will probably still be liable for your own costs.

Finally, in view of the above points, the advantages that the assistance of a lawyer brings.

Quetta highrise building case study

The city of Quetta in Balochistan has been wholly rebuilt since 1935 when an earthquake wrought complete devastation. Quetta regularly experiences earthquakes of varying intensity since the Quetta Valley lies within a high seismic zone and city planning rules have been made taking this into account. This case is not one of imminent destruction of the environment like the Haleji Lake case nor of an environmentally damaging development project as in the Kirthar National Park case. Rather, the issues involve systematic practices in town planning decisions that are likely to have devastating effects on the community upon the occurrence of the inevitable major earthquake.

Background

The Quetta Valley is striking when approached by air. It is situated on a plateau in Balochistan close to the Afghanistan border and is ringed by jagged mountains. Although it is naturally a desert landscape, irrigation has made possible the production of many temperate fruits, and the climate suits apples, apricots, mulberries and cherries. It is still a gracious and relatively small city built on a human scale. Much of this is due to the Quetta Building Code. This was made in the aftermath of the 1935 earthquake that ravaged the area and left around 60,000 dead in its wake. In the whole of Quetta, only one building was left fully intact.

The Quetta Building Code was formulated largely with a view to minimizing the impact of future earthquakes and in this it has been remarkably successful. Despite several earthquakes since 1935, none has resulted in a major loss of life. The Quetta Building Code requirements of

minimum open air spaces and maximum height of buildings are key elements in minimizing earthquake damage.

The Building Code is administered by the Quetta Municipal Corporation (QMC). The QMC was however, the first to violate the Building Code. The fruit and vegetable market that was serving its purpose well, was demolished by the QMC. In its place the QMC constructed the multi-storied Baldia Shopping Complex. After that, it became standard to ignore the provisions of the Building Code. Builders, politicians and QMC officials enriched themselves at the cost of the community, both in long-term factors such as overall standards of living, and the immediate and unpredictable risk of earthquake damage resulting in major loss of life and property.

First step

The Isa family has long been settled in Quetta. Some members have since moved to Karachi for business reasons but all remember the Quetta that they grew up in and the quality of life at that time. As such, a strong concern for the quality of the urban environment has meant that the family has been active in these issues both in Quetta and in Karachi. In Karachi, Qazi Faez Isa has devoted a great deal of time to SHEHRI, a leading NGO devoted to creating a better urban environment, as both its Chairperson and a member of the legal sub-committee. SHEHRI pursues a range of mechanisms to deal with environmental issues including taking court action.

The issue of highrise buildings in Quetta emerged strongly in the 1980s. The Isa family watched developments in Quetta with increasing alarm and discussed their concerns about non-enforcement of the Building Code with QMC officials and with officials of the Quetta Development Authority. Despite the fact that the QMC application form for building approval stated that the application was made under the Building Code, QMC officials insisted that the Building Code no longer applied. The family expended considerable time and effort in obtaining copies of the Quetta Master Plan and the Quetta Building Code to support the case.

The role of the community, NGOs and the media

In addition to pursuing official channels, the Isa family, together with other members of the community, arranged community meetings, passed resolutions and issued press statements. The QMC remained unmoved by public pressure. The only option remaining was to seek the assistance of the court.

Using the courts was somewhat easier for the Isa family than for other citizens since Qazi Faez Isa is a barrister and the family obtained the services of a leading Quetta lawyer, Mr. Basharatullah, to argue the case in the High Court of Balochistan. The case was brought in the names of Begum Saeeda Qazi Isa, Qazi Azmat Isa and Qazi Faez Isa against the QMC, the Quetta Development Authority, the Government of Balochistan and others.³¹

The first step was to decide whether to bring the case in the High Court of Balochistan or in the Supreme Court. It involved both fundamental rights and the case of government officials not complying with the law. Ultimately the decision was made in favour of the High Court. This was because, first, it was a local issue and the High Court had the jurisdiction to make all the necessary orders (that is, the orders did not need to affect the other provinces). Secondly, the High Court of Balochistan had a relatively short court list and the matter could be considered by the court quite quickly.

This was a case in which there was full compliance with all court formalities. A considerable amount of work went into collecting and assembling evidence in such an order and format that it both complied with court rules and was easily understood.

Although the orders sought by the Isa family in the court petition were to direct the QMC and the other government agencies to enforce the Building Code generally, a specific complaint in which the Isa family had an interest was also included. This concerned a building adjacent to one owned by them. This specific complaint was included as a precautionary measure in the event that the court did not consider the family sufficiently “aggrieved” for the purposes of Article 199.

If you refer back to Chapter 3 ‘how to use the Courts’ you will see that in order to bring an action under Article 199 of the Constitution, the petitioner must be “a person aggrieved”. This term has been interpreted widely by the courts in public interest cases but still needs to be addressed. In order to put the matter beyond doubt, the Petition therefore also referred to the personal interest of the Isa family.

After the court papers were filed, the case came up for hearing a year later.

31. Begum Saeeda Qazi Isa and 2 others vs. Quetta Municipal Corporation and 5 others, PLD 1997 Quetta 1.

How it all ended

In August 1996, the High Court of Balochistan gave judgement holding that the Quetta Building Code was still in force and that its provisions should be strictly applied. The judgement has turned out to be a landmark for Balochistan. What makes it so significant?

The decision that an “aggrieved person” within the meaning of Article 199 of the Constitution would not necessarily mean a person having a strict legal right: even a person who is deprived of a benefit or privilege by an illegal act or omission can be considered an aggrieved person.

Its provisions apply directly to builders currently in the course of building, those with current building permissions and future building permissions. By this one judgement, the future and safe development of Quetta has been enhanced.

The overtly “public” character of the judgement: the court accepted the position that “Quetta city ought to be horizontally expanded and not vertically developed ... Personal and individual benefits of builders must be subservient to the safety of lives of millions of citizens”. In its own words “The entire population of Quetta cannot be allowed to be put in danger for the benefit of a few builders who are constructing plazas and multi-storied buildings as against the provisions of the Building Code, 1937”.

This was the first case of its kind decided by the Balochistan High Court involving high rise buildings.

Since the case was decided, both the government and the affected builders lodged an appeal with the Supreme Court. Significantly, after that, a damaging earthquake took place in Quetta and the government withdrew from the appeal. The appeal by the builders is yet to be heard.

Lessons learned

Sometimes the options of community and media mobilisation will be insufficient to move the decision-makers. In this case, it was not a matter of a single decision to be overturned but instead involved the overturning of a long-standing systematic process of illegal building approvals in which people at most levels of the system had a stake. As such it was much easier to resist pressure from the community and the media. Maintaining media interest was itself an uphill battle, given the long-standing status of

the system. In these circumstances the only real option left was court action. Additional things this case can teach are:

- the importance of making it easy for the court: collect all available evidence and order it; and
- if you are bringing an action under Article 199 of the Constitution, try and include as a party someone who is closely affected by the issue in order to put beyond doubt the question of whether you are “aggrieved”.

Houbara bustard case study

The campaign to save the houbara bustard has undoubtedly become one of the most important chapters in the history of conservation efforts in Pakistan. The controversy has generated more press coverage and public debate than any other environmental issue in recent times. Apart from the basic issues of conservation and biodiversity themselves, questions of equity, justice, legality and even nationalism seem to arise at the mere mention of the houbara bustard. Why are these considerations relevant? Who are the key players in this drama? How has a bird managed to generate so much controversy for so long?

Background

The houbara bustard (*Chlamydotis undulata*) is a brown-to-buff coloured bird inhabiting harsh, arid plains and steppe habitats with little cover except for a few hardy desert shrubs. Each winter, thousands of these birds migrate to Pakistan from Central Asia and the former Soviet Union in search of warmer climates in which to roost and breed. The arid desert regions of Balochistan and Sindh have traditionally played host to significant wintering populations. Due to intense hunting pressure, however, the houbara bustard is a threatened bird species in Pakistan today.

This is despite the fact that the houbara is a particularly elusive creature to hunt. It often crouches behind a low bush or rock to avoid detection and is perfectly camouflaged against the dull brown or gray surroundings. Fleet on its feet as well as in the air, the houbara can give any preying falcon a difficult time. Ironically, it is precisely this ability to make the hunt more thrilling for the hunter, that worked against the houbara and has earned it

the fascination of Middle Eastern hunters for centuries. Having hunted the bird to near extinction in their own countries, Middle Eastern presidents, princes, generals, ministers and ambassadors have now made desolate and remote regions in the interior of Pakistan the scene of some of the most lavish hunts imaginable.

Each winter, scores of these Middle Eastern potentates and their hunting parties (consisting of hundreds of men) arrive in Pakistan in massive fleets of private planes. They come equipped with the latest in computers, radars, customized weapons, specially equipped vehicles and priceless falcons trained specifically for the annual houbara hunt. With so much money and effort being invested in the hunt, the odds are stacked heavily against the houbara. According to one expert estimate, in the four years from 1983-84 to 1987-88 alone, its numbers plummeted from 22,000 birds to a mere 7,500. While experts may disagree on the numbers, there is little disagreement over the fact that such levels of hunting are far too intensive and utterly unsustainable.

All this comes about even though the law itself recognizes the houbara as a threatened species. For years the houbara has been listed as a protected species in provincial wildlife protection legislation. This means that it is included amongst species that are considered to be threatened and are to be protected by a complete ban on hunting.³² While the law is enforced strictly upon local hunters, it does not seem to extend to the houbara hunting parties from other countries. It is standard practice for the Ministry of Foreign Affairs to formally "invite" Middle Eastern dignitaries to hunt the houbara each year. Huge districts are allocated to each hunting party and local government administrators are ordered to extend all possible cooperation to the guests. Even the rules laid out in the special permits issued to these hunting parties (relating, for instance, to maximum bag sizes and areas like national parks in which hunting is prohibited) are seldom if ever adhered to. Moreover, Pakistan is a signatory to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) which prohibits the export of any product or part of the houbara bustard without a licence. The smuggling of the houbara, however, is widely rampant. Of the numerous consignments headed towards the Middle East (primarily for the training of falcons), few are ever apprehended. Another pertinent factor is that for the local people houbara hunting expeditions represent a source of income.

32. Pakistan is also a party to the Convention on Conservation of Migratory Species of Wild Animals (known as the Bonn Convention) according to which all range states are bound to protect visiting populations of migratory species.

The position taken by the Ministry of Foreign Affairs on this issue is that maintaining and strengthening cordial relations with the Middle Eastern countries is an important foreign policy objective. Apart from aid from Middle Eastern countries which has become increasingly important for Pakistan in the post-Cold War scenario, a large number of Pakistanis still work in the Middle East, sending home valuable remittances. The houbara hunts have therefore become a matter of national interest. Conservationists argue, however, that deeming short-term monetary gains to be more important than the long-term economic benefits of biodiversity is dubious logic. Moreover, other countries have banned such hunts (for example, India) and have not suffered any monetary loss.

First step

Conservation of the houbara bustard has been a long-standing issue in Pakistan. Indiscriminate hunting of the bird in Pakistan was recognized as a major threat to the houbara population, as far back as 1983 at an international symposium on bustards, hosted by Pakistan. Subsequently, in 1985, a bill was tabled at the National Assembly putting a complete ban on hunting of the houbara bustard. However, the bill was never passed in spite of support from a number of members of the National Assembly.

The fact that the country was divided up and offered to various foreign dignitaries as hunting grounds throughout the 1980s as well as into the 1990s is well known. Up to 1991, the issue of the hunting of the houbara bustard was principally confined to a few local and international NGOs—WWF, International Council for Bird Preservation (now Birdlife International)—IUCN and the wildlife conservation departments of the provincial governments. The question then arises, when and how did the issue achieve the scale of public involvement that it has?

That the issue assumed national interest was, oddly enough, linked to the Gulf War. In Pakistan, the Gulf War had instilled strong sentiments directed against some Middle Eastern countries which were further fueled by the deportation of 3,000 Pakistani workers from the UAE for protesting the Gulf War. Thus, extensive hunting of the houbara bustard by Middle Eastern dignitaries suddenly became an issue of national pride.

An articulation of this was first made by WWF in an advertisement. WWF linked the hunting of the houbara to the deportation of the Pakistani workers and printed advertisements in some of the leading English newspapers and magazines. The advertisement showed pictures of both the houbara and the falcon, and the main captions read:

“Pakistanis are thrown out of foreign lands for breaking the law....
In Pakistan we throw out the law to serve our hunter guests.”

On 10 June 1991, a circular of the Sindh Government was issued, allotting the use of Thatta District to Naseer Abdullah Hussain Lotah, Director of the office of the Prime Minister and Ruler of UAE, for houbara hunting and falcon training for a period covering 1991 to 1995. This particular allotment of Thatta district sparked off a number of initiatives by NGOs, and especially the media, suddenly thrusting the houbara issue into the limelight. Of these, the initial ones include a signature campaign started by WWF as well as articles in the English dailies on the issuance of the particular circular. The next section of this case study details the role of all the actors involved in generating awareness on hunting of the houbara bustard.

The role of communities, NGOs and the media

The controversy surrounding the houbara bustard has generated greater public interest and debate than any other environmental issue in Pakistan. This is due, in no small measure, to the extensive coverage given to this issue by mainstream English language newspapers and magazines. A constant stream of news items, articles, editorials, advertisements and letters to the editor managed to generate and maintain an unprecedented level of public awareness and indignation at the plight of the houbara. As public interest peaked during the 1992-93 hunting season (winter months), news items concerning the houbara appeared almost daily in major newspapers.

A number of factors played a part in generating such high media interest. The broader issues of equity, justice and legality at the heart of the controversy turned it into more than just another environmental issue. Moreover, the strong sentiments held against some Middle Eastern countries, noted above, also contributed to the unusual media attention. But just about as important as any of these factors, was the fact that the organisations involved in the campaign managed to effectively utilize the press to get accurate and timely information as well as their point of view across to the general public.

Different organisations employed a host of diverse strategies to stop houbara hunting and to mobilize public opinion on the issue:

- WWF was at the forefront of efforts to save the houbara. Apart from supporting and conducting research on houbara numbers during the various nesting seasons, WWF carried out an extensive public

awareness campaign to put pressure on the government for a ban on houbara hunting. This campaign ranged from press releases, newspaper articles, advertisements in the press and protest walks, to lobbying with other NGOs and the government. The press releases and articles played an important role in getting information and the conservationist viewpoint across to the public.

The advertisements appeared in the major national newspapers, which although not often used in environmental issues before in Pakistan, were generally very effective in attracting attention to the issue. The advertisement linking the deportation of Pakistani workers from the Middle East with the houbara issue was bold and controversial but it was also strikingly effective.

Protest walks planned for the three major cities were called off by WWF at the last minute following a meeting held by WWF with the government who agreed to implement WWF's recommendations for the houbara bustard. In organising the walks, WWF had mobilised its now sizable public support, but in calling off the protest walk at such short notice it alienated this support to some extent. Many supporters felt that the walk should have gone ahead anyway both as a means of demonstrating to the government the strength of public support of the issue; in part, this was a measure of the lack of faith of the public in the government's undertakings to WWF. These sentiments led to some harsh press coverage of the incident.

When, in 1993, public pressure made permissions to hunt in Balochistan difficult to obtain, hunting parties switched their focus to southern Punjab. A licence to hunt was issued and WWF, being based in Lahore, commenced legal action in the Lahore High Court.

- SCOPE issued press statements, participated in interviews and wrote articles for newspapers and magazines. It initiated court action on the houbara issue in the Sindh High Court and was successful in securing judgements against some of the more well-known sheikhs from the UAE. The publicity received by these pioneering court cases had considerable impact in terms of mobilizing public interest and opinion for the houbara issue.
- IUCN provided information to the press, and individually to journalists when they needed to research their stories. Extensive research (including sources such as government departments) was undertaken

by IUCN in order to give comprehensive and current information to the press. IUCN also helped the press gain access to expertise on the subject, within and outside IUCN.

- Dharti Dost Sangat, a community-based organisation (CBO) from Sanghar in upper Sindh, also helped to highlight cases of houbara hunting in its area, through the English and Sindhi press. In particular, Dharti Dost Sangat brought to light a circular issued on 11 October 1992, by the Ministry of Foreign Affairs, Islamabad, to Sheikh Mohammed Bin Khalid Al-Nahyan (a UAE dignitary), allotting him the use of district Sanghar for hunting the houbara bustard. Dharti Dost Sangat wrote to SCOPE about this, appealing to them to protest this issue at the international level. In response, SCOPE organised a press conference in Karachi and issued a press statement highlighting this particular allotment, with an appeal to the government to cancel all hunting permits for the houbara bustard.

In addition, a large number of other NGOs and CBOs actively assisted with the issue by signing petitions, attending press conferences and writing letters. Apart from NGOs, however, a large number of concerned individuals took the trouble to write letters to the editors of various newspapers to express their anger at the unrestrained hunting of the houbara. But any account of the use of the media for houbara advocacy would be incomplete without acknowledging the efforts of the members of the press itself (particularly the English and Sindhi press). Many well-known and popular columnists wrote repeatedly on the subject, drawing the wrath of the Foreign Office and of ministers in the provincial and national assemblies. By 1993, they had helped make the houbara bustard a front-page news issue.

Using the courts

It is the federal nature of Pakistan's Constitution that can defeat the potential for complete justice. Before explaining further, it is worth reminding you of a dry point of detail from Chapter 3: that is, if you are bringing a case based on fundamental human rights you may be in a position to choose to approach either the Supreme Court under Article 184(3) or the High Court under Article 199(1)(c). If you are bringing a case for enforcing a government obligation, however, you can only bring your case in the High Court. A decision in a High Court, however, can only have force throughout the particular province to which the court belongs. In the case of the houbara bustard, it was a matter of making the provincial

governments enforce their own laws so that a judgement in favour of the hunting ban in, for example, the Sindh High Court would not be of assistance with problems in the Punjab, Balochistan or the NWFP.

SCOPE filed two cases in the Sindh High Court relating to separate permissions given to foreign nationals to hunt the houbara bustard. It received a successful verdict in one case which was challenged in the Supreme Court, which upheld the decision of the Sindh High Court. In the second case, a stay order was granted but the case itself remained undecided. However, neither of these cases sought overriding directions from the court to the government to enforce its own laws in connection with hunting the houbara bustard. The judgements dealt only with specific hunting permissions.

A similar case was brought by WWF in the Lahore High Court (covering the province of Punjab). The court made an interim order pending its hearing of the full case. However, before it could be heard, the Punjab Government passed a law removing protected status from the houbara bustard and placing it in a category which would allow hunting to proceed with a licence.

Given the limitations for High Courts in dealing with nationwide issues, it may be best to attempt to frame similar actions in terms of enforcing fundamental rights so that the Supreme Court can hear the issue directly. In the case of the houbara bustard, a petition based on Article 25 of the Constitution was also filed by a private citizen in the Lahore High Court. This Article relates to equality under the law and the petition filed alleged discrimination in favour of foreign hunters. Had this case been filed with the Supreme Court, there may have been potential for a judgement to be given with nationwide effect.

For details of the kind of steps taken in the court process by SCOPE, please refer to Chapter 7 (Haleji Lake Case Study).

How it all ended

It has not, in fact, ended. Despite a number of successful court judgements, the judgements and the law have not been fully enforced, although the number of hunting permits for the houbara dropped from between 120-150 in 1992-93 to 16 in 1994-95. Although the law unambiguously protects the houbara bustard from hunting, although there is widespread public support for the enforcement of the hunting ban and although the courts of Pakistan have directed that the law be enforced,

hunting of the bird continues. Few environmental cases in Pakistan have received public attention and importance of the kind given to the houbara issue yet hunting permits are still issued and the Middle Eastern dignitaries continue to descend into Pakistan accompanied by all their hunting paraphernalia. The lack of political will to enforce the law and the orders of the courts is a part of the reason. A second reason concerns the support of the local people for the hunting expeditions since it represents a source of income.

In 1993, SCOPE wrote a detailed letter to the then caretaker Prime Minister, Moeen Qureshi, detailing the status of the houbara bustard and asking for a ban. The government sent an investigation team to SCOPE's offices and the following week, the Prime Minister announced a three-year total ban on houbara hunting. However, once elections were held and the elected government installed, the ban was overturned.

Lessons learned

Despite effective media campaigns, NGO and community mobilisation and successful court actions, sometimes nothing works. At the end of the day, the houbara bustard issue is political, and successive governments in power have assessed its importance as not being critical to their chances of reelection. The benefits the government may obtain from the hunters for braving hostile public opinion have outweighed its domestic importance. The issue is not over and some of the NGOs involved are looking at other strategies that may be more effective, including intensifying research efforts and mobilizing international scientific and political support.³³ In the meantime, are there some helpful lessons to be learned from the campaign to date?

Information. Researching and making available as much information as possible—and making sure that it is correct. To have overstated the issue and called the houbara bustard endangered would have seriously damaged the success of the issue—to point out that it is threatened with becoming endangered because of unsustainable hunting levels was the less dramatic, but clearly correct, approach.

Cooperation. Many of the NGOs played complementary and mutually supportive roles. The collaboration between SCOPE and Dharti Dost Sangat, for example, was very effective.

33. Turning a domestic issue into an international issue can be complex and involves mobilising considerable resources. It is outside the scope of this book to set out the details but, should it be necessary, readers may consult one of the major environmental NGOs for advice.

Seeing the issue in its full cultural context. The houbara bustard issue was not just about conservation for a lot of the public. It was also about equal treatment under the law (local hunters were prosecuted while foreign hunters were facilitated) with a strong dose of nationalism. In pulling together all three currents, WWF was probably more effective than if it had just concentrated on the conservation angle. WWF saw the opportunity to do so and took it. In this case, it attracted some controversy since tapping nationalism is very sensitive and has the potential to provoke a disproportionately strong response. However, in other cases the linkages may be less sensitive and are worth considering.

Take your supporters with you. The numerous supporters from the general public and the media were bewildered and angered at the last-minute agreement reached between WWF and the government in calling off the protest walk. There were very good reasons for WWF to change its approach. However, the public and the media had felt part of a process in setting an important national conservation policy about the houbara and suddenly felt excluded and suspicious. What could have been done differently? The walks could have gone ahead as a reinforcement of the public position or even as a celebration of the (apparent) success of public pressure. If that was not possible, perhaps they could have been delayed, rather than cancelled, to allow a full public debate of the agreement with the government. Whatever the best solution in this case might have been, the important point is to take your supporters with you in each step of your campaign.

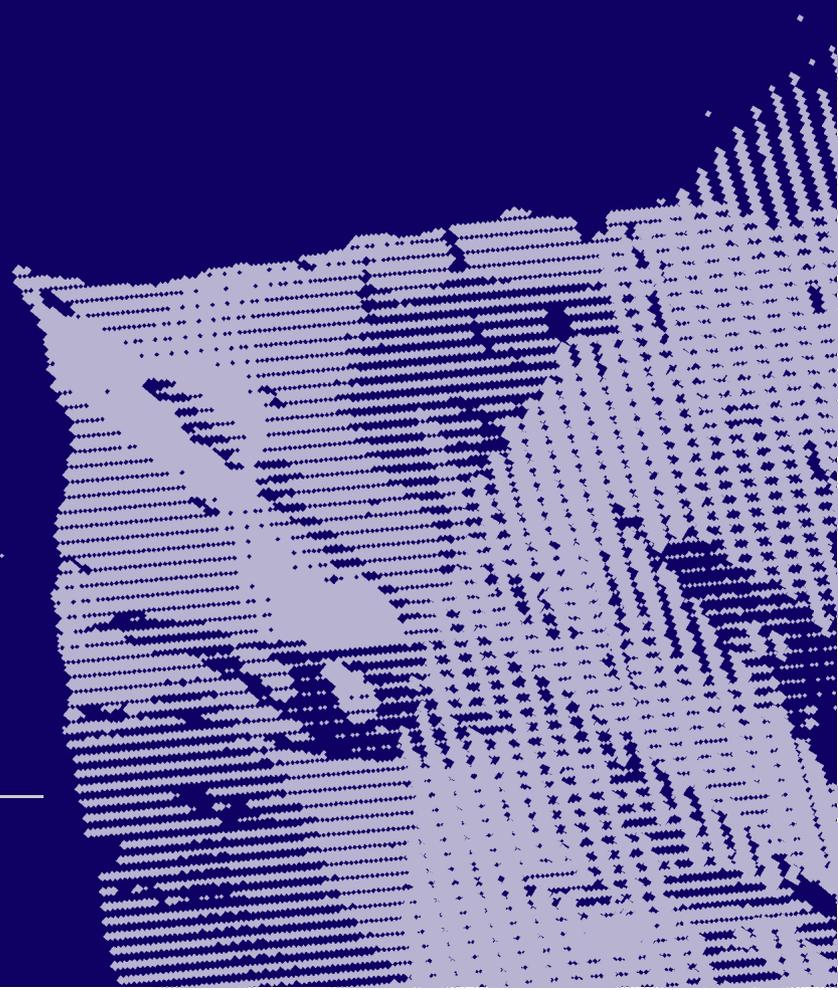
Livelihood and income issues. This issue is not just about the hunters and the wider public. It is also about the local people, who rely on the hunting expeditions as a source of income. In order for the issue to be resolved, those people for whom the income represents a part of their livelihood will need their economic issues addressed. For those people for whom hunting represents additional income, the question of incentives and disincentives needs to be addressed.

The limits of the courts. It is not worth pinning your hopes fully on a court solution. Even if you are successful, the breadth of the order sought may be limited to a particular province and, ultimately, the political will to enforce the court order (as indeed with the law itself) will ultimately determine the “real” success of the court action. It is worth observing, though, that the upholding of the law by the courts can act as moral support to public officials who attempt to resist illegal actions.

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3



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some helpful information



General glossary of words and expressions

Advocate-General

chief legal officer of a provincial government.

Affidavit

a written and signed statement, sworn or affirmed before a person authorized by law to administer oaths, in which a fact known to the person making the statement is affirmed. It can be a substitute for oral evidence.

Aggrieved person

as held by the courts in the context of Article 199(1)(a) of the Constitution: a person who is deprived of a benefit or privilege—not necessarily a legal right—by an illegal act or omission of a public authority.

Annulled

made void. If a judgement is annulled, it loses its effect.

Attorney-General

chief legal officer of the Federal Government.

Court action

the use or intervention of the courts for seeking solutions to a problem.

Court papers

all papers pertaining to a court action.

Constitutional Petition

a petition submitted before the superior courts under a constitutional article.

Declaratory order

a formal statement of the court, creating, asserting or preserving a right.

Discretion (judicial)

deciding or determining, according to circumstances, what seems just or fair in the circumstances.

Equity

evenness, fairness, justice.

Environmental Impact Assessment

report on the impact of a project on the environment, giving both the positive and negative impacts.

Fundamental rights

the basic rights of people as enshrined in the Constitution. In addition to proper health care, food and shelter, these have been interpreted by the Supreme Court to include the right to a clean atmosphere and unpolluted environment.

Good faith

anything which is done honestly and with good intentions.

Injunction

a remedy given by the court where someone is ordered by the court not to do something.

Interim order/temporary order

the order requested in a Stay Application.

Locus standi

see Standing.

Persuasive

when used in reference to a court case, it means that although the decision is held in high esteem and may be followed by the court in successive cases, the court is not

bound to do so: for example, a decision of the Sindh High Court will be persuasive, but not binding, for the Lahore High Court. A decision of the Supreme Court will be binding on the Lahore High Court since the Supreme Court is the superior court (see Precedent).

Party

when used in a court case, means either the petitioner or the respondent.

Petition

a formal request to a court to hear a case.

Petitioner

the individual or legal entity who files a petition before a court.

Precedent

in legal terms, this refers to judicial decisions or judgements in previous cases which embody a principle and can be used in subsequent cases that raise a similar issue (see Persuasive).

Prohibition

when used in reference to a court case, it means an order which forbids a certain action.

Procedure

in terms of court action, means the formal steps which are necessary to follow in bringing a case to court or in pursuing or advancing the case before the court.

Public nuisance

an act which interferes with the enjoyment of a right to which all members of the community are entitled. For example, a public nuisance may be caused by the escape of water or noxious fumes, noise, vibration or pollution.

Remedies

legal remedies are the actions which a court may take in dealing with or resolving a case. They include monetary compensation (damages), declaratory orders and stay orders (injunctions).

Respondents

the individual or legal entity against whom a petition is filed.

Standing

or locus standi, refers to the legal capacity of someone to approach the court for a remedy.

Stay application

an application submitted to the court to halt any action while the court decides the outcome of the case.

Suo moto

when a judge initiates court action on the basis of information which he or she has received by means other than through a court petition.

Major environmental groups

IUCN-The World Conservation Union

Address: 1 Bath Island Road, Clifton, Karachi 75530.
Telephone: 5861540-42
Fax: 5870287
Contact Person: Ms. Aban Marker Kabraji

AGHS Legal Aid Centre

Address: 131-E/1 Gulberg III, Lahore.
Telephone: 879273
Contact Person: Ms. Asma Jehangir

Association for Protection of Environment (APE)

Address: Room 74, 3rd Floor, Dilkusha Chamber, Plaza Square,
Karachi 3.
Telephone: 7721035, 7724115
Fax: 7771585
Contact Person: Mr. Rehan Ahmed

Baanhn Beli

Address: 18-B, Block 7/8, KMCHS, Karachi.
Telephone: 4532080
Fax: 4536940
Contact Person: Mr. Javed Jabbar

Environment Watch

Address: H. No. 119-A, St. 42, F-10/4, Islamabad.
Contact Person: Mr. Irshad Piracha

Karachi Administrative Women's Welfare Society (KAWWS)

Address: 32-C, Block 2, Karachi Administrative Employees
Cooperative Housing Society, Karachi.
Telephone: 4528884
Fax: 7772752
Contact Person: Ms. Safina Siddiqui

Pakistan Institute of Environment Development Action Research (PIEDAR)

Address: 2nd Floor, Yasin Plaza, 74-W, Blue Area, Islamabad.
Telephone: 271015, 820454
Fax: 820379
Contact Person: Mr. Syed Ayub Qutub

Pakistan Institute of Labour Education & Research (PILER)

Address: 141-D, (Annexe)
Block 2, PECHS, Karachi.
Telephone: 4557009
Fax: 4552170
Contact Person: Mr. Karmat Ali

SHEHRI-Citizens for a Better Environment

Address: 206-G, Block 2, PECHS, Karachi 75400.
Telephone: 4530646
Fax: 4530646
Contact Person: Mr. Qazi Faez Isa

Shirkat Gah-Women's Resource Centre

Address: F-25 A, Block 9, Clifton, Karachi 75530.
Telephone: 5832754, 570619
Fax: 5832754
Contact Person: Ms. Meher Marker Noshirwani

SUNGI Development Foundation

Address: No. 7, 1st Floor, Street 67,
G-6/4, Islamabad.
Telephone: 273272
Fax: 823559
Contact Person: Mr. Omar Asghar Khan

Society for Conservation and Protection of Environment (SCOPE)

Address: B-150, Block 13, D/2,
Gulshan-e-Iqbal, Karachi 75300.
Telephone: 4964001, 4965042
Fax: 4964001
Contact Person: Mr. Tanveer Arif

World Wide Fund for Nature, Pakistan

Address: Ali Institute of Education, Ferozepur Road,
P O Box 5180, Lahore 54600.
Telephone: 5862359-60
Fax: 5862358
Contact Person: Mr. Ali Habib

Media organisations

Dawn**Karachi**

Haroon House,
Dr. Ziauddin Ahmed Road.
Telephone: 5670001, 111444777

Lahore

20-N, Gulberg II.
Telephone: 5758120-5

Peshawar

Haroon Mansion,
Khyber Bazar,
Peshawar City.
Telephone: 210243

The News**Karachi**

Al-Rehman Building,
I.I. Chundrigar Road.
Telephone: 2630611-5

Lahore

13 Sir Aga Khan Road.
Telephone: 6367480-4

Rawalpindi

Al-Rehman Building,
Murree Road.
Telephone: 556223

Jang**Karachi**

I.I. Chundrigar Road.
Telephone: 2637111-9

Lahore

Davis Road.
Telephone: 6367480

Quetta

Mir Khaleel-ur-Rehman Road.
Telephone: 825416, 842016

Rawalpindi

Murree Road.
Telephone: 556223-7

Nawa-i-Waqt**Karachi**

Hockey Stadium,
Khayaban-e-Shamsheer,
Phase-V, Defence, Karachi.
Telephone: 5843720-2

Lahore

Shahrah-e-Fatima,
Nawa-i-Waqt House,
Lahore.
Telephone: 6360203

**Pakistan Press International
(PPI)**

Room 35,
Press Center, First Floor,
Shahrah-e-Kamal Ataturk,
Karachi.
Telephone: 2631123
Fax: 2637754

**Associated Press of Pakistan
(APP)**

Mashoor Mehal Press Building,
Near Bombay Hotel,
I.I. Chundrigar Road,
Karachi.
Telephone: 2635684
Fax: 2628118

**Pakistan Press Foundation
(PPF)**

Press Centre, First Floor,
Shahrah-e-Kamal Ataturk, Karachi.
Telephone: 2626435, 2631125

**Forum of Environmental
Journalists, Pakistan (FEJP)**

PO Box 3232,
Gulberg, Lahore.
E Mail: fejp@brain.net.pk

**Frontier Forum of Environmental
Journalists (FFEJ)**

c/o IUCN Sarhad Programme,
2 Islamia Road, Peshawar Cantt.
Telephone: 271728, 276032

Green Press

P. O. Box 1123, Islamabad.
E Mail:
masroor@greenpress.sdnpk.undp.org

Pakistan Television (PTV)

Islamabad
Islamabad Television Centre,
Constitution Avenue, Aga Khan Road.
Telephone: 820403
Fax: 823406

Karachi

Karachi Television Centre,
Stadium Road.
Telephone: 4931001-9, 4931138

Lahore

Lahore Television Centre,
Abbot Road.
Telephone: 9200651-9

Peshawar

Peshawar Television Centre,
Telephone: 279102

Quetta

Quetta Television Centre,
Hali Road.
Telephone: 9202458, 9202464

**Pakistan Broadcasting
Corporation (PBC)**

Gilgit

Gilgit Radio Station
Shahrah-e-Quaid-e-Azam,
Jutial, Gilgit.
Telephone: 55201

Islamabad

Broadcasting House,
Islamabad.
Telephone: 9211141

Karachi

M. A. Jinnah Road,
Karachi.
Telephone: 9215620-23
Fax: 9215624

Lahore

Empress Road, Lahore.
Telephone: 9200681-4

Peshawar

Khyber Road, Peshawar.
Telephone: 9210306

Quetta

Quetta Radio,
Quetta.
Telephone: 9202393, 9201929

Government agencies and departments

Section 1: Government

Environmental Protection Agencies

Sindh Environmental Protection Agency

Address: F-1/B-2, Block 7, Clifton, Karachi.
Telephone: 5867924, 5875722

Punjab Environmental Protection Agency

Address: 4 Lytton Road, Lahore.
Telephone: 7237852-7237763

NWFP Environmental Protection Agency

Address: Third Floor, Old Courts Building,
Khyber Road, Peshawar Cantt., Peshawar.
Telephone: 9210263-9210576

Balochistan Environmental Protection Agency

Address: Chamman Housing Scheme,
38-B, Airport Road, Quetta.
Telephone: 9201840-9202484-9202490

Federal Government

Environmental Protection Agency

Address: 44-E, Office Tower, Third Floor,
Blue Area, Islamabad.
Telephone: 9217882

Pakistan Environmental Protection Council

Address: (same as Environmental Protection Agency)

Ministry of Environment, Local Government and Rural Development

Address: 9th Floor, UBL Building, Blue Area, Islamabad.
Telephone: 9204581

Water and Power Development Authority

Address: Capital Development Authority Building
G-7/4, Islamabad.
Telephone: 9207331

Balochistan Government

Office of the Chief Minister

Address: Zarghoon Road, Quetta.
Telephone: 9202069

Office of the Governor

Address: Zarghoon Road, Quetta.
Telephone: 9202170-2

Forest Department

Address: Spinny Road, Quetta.
Telephone: 9201137

Planning and Development Department

Address: Civil Secretariat, Block 6, Quetta.
Telephone: 9201052

City Police Station

Address: Liaquat Bazaar, Quetta.
Telephone: 9201250

NWFP Government

Office of the Chief Minister

Address: Frontier House,
Peshawar Cantt, Peshawar.
Telephone: 9210719

Office of the Governor

Address: Governor House, Peshawar Cantt., Peshawar.
Telephone: 9210559

Planning, Environment and Development Department

Address: Civil Secretariat, Police Road, Peshawar.
Telephone: 9210448

Forestry, Wildlife and Fisheries Department

Address: Shami Road, Peshawar.
Telephone: 271184

Punjab Government

Office of the Chief Minister

Address: Chief Minister's House
7 Club Road, GOR-I, Lahore.
Telephone: 9212121, 7248866

Office of the Governor

Address: Governor's House, Lahore.
Telephone: 920011-14

Office of the Ombudsman, Punjab

Address: State Life Building,
Davis Road, Lahore.
Telephone: 6301617-20

Department of Forestry, Wildlife, Fisheries and Tourism

Address: Poonch House,
Multan Road, Lahore.
Telephone: 7562716, 7560292

Central Police Office

Address: Civil Secretariat, Lahore.
Telephone: 7352012

Sindh Government

Office of the Chief Minister

Address: Chief Minister's Secretariat, Karachi.
Telephone: 9202051

Office of the Governor

Address: Sindh Governor House
Aiwan-e-Sadar, Karachi.
Telephone: 9201201

Office of the Ombudsman, Sindh

Address: Shahrah-e-Kamal Ataturk,
Opp. Sindh Secretariat, Karachi.
Telephone: 2633931

Sindh Wildlife Department

Address: Barrack No. 10, Sindh Secretariat No. 4-A,
Frere Road, Karachi.
Telephone: 9203105

Central Police Office Sindh

Address: I.I. Chundrigar Road. Karachi.
Telephone: 2419333

Local Government and Rural Development Department

Address: Chief Minister's Secretariat, Karachi.
Telephone: 9202051

Department of Industries

Address: Second Floor, Kandawala Building,
M. A. Jinnah Road, Karachi.
Telephone: 7218819

Northern Areas Administration

Planning, Finance and Development Department

Address: Northern Areas Administration, Gilgit.
Telephone: 2421

Wildlife Department

Address: C/o Chief Conservator of Forest.
Northern Areas, Gilgit.
Telephone: 2361, 55093

Central Police Office

Address: Konodas, Gilgit.
Telephone: 2366

City Police Station

Address: Saddar Bazaar, Gilgit.
Telephone: 3302

Public Works Department

Address: Shahrah-e-Quaid-e-Azam, Gilgit.
Telephone: 2506

Section 2: Civic Authorities

Karachi

Karachi Municipal Corporation

Address: Morvick Road, Opp. KMC Stadium.
Telephone: 7724891

Karachi Electric Supply Corporation

Address: AMAI, Abdullah Haroon Road.
Telephone: 111999111

Karachi Development Authority

Address: Civic Centre, Gulshan-e-Iqbal.
Telephone: 4930001-5

Lahore

Lahore Development Authority

Address: LDAPlaza, Egerton Road.
Telephone: 9201530-31

Lahore Metropolitan Corporation

Address: Town Hall Building, Shahrah-e-Quaid-e-Azam.
Telephone: 7322589, 7320200

Peshawar

Peshawar Municipal Corporation

Address: G. T. Road, Peshawar City.
Telephone: 253540

Peshawar Development Authority

Address: Phase 4 Hyatabad.
Telephone: 270243

Quetta

Quetta Development Authority

Address: Sariab Road.
Telephone: 9211167

WASA

Address: Zarghoon Road,
New Sariab Phattak.
Telephone: 441424

Sui Southern Gas Company

Address: Samungli Road.
Telephone: 832852

Gilgit

Gilgit Municipal Committee

Address: Aga Khan Shah Polo Ground, Gilgit.
Telephone: 3012

Section 3: Courts

Supreme Court

Islamabad

Address: Aiwan-e-Sadar.
Telephone: 2639784-6

High Courts

Sindh

Address: Sindh High Court, Court Road, Karachi.
Telephone: 5689606

Punjab

Address: Lahore High Court, Lahore.
Telephone: 7324191, 7353450

Balochistan

Address: Balochistan High Court, Zarghoon Road, Quetta.
Telephone: 9202077

NWFP

Address: Peshawar High Court, High Court Building
Near Provincial Assembly, Peshawar.
Telephone: 9210149-58

Gilgit Court**Northern Areas**

Address: Gilgit Court, Konodas, Gilgit.
Telephone: 4169