REVIEW OF CRIME, PEACE AND SOCIETY
ISSN (O): 3079-6105, ISSN (P): 3079-6091
Vol. 3, No. 9, 2026, 01-18

Right to Education and Environmental Pollution: Reconciling Article 25-A with the Best-Interests Principle

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Abstract

Every year, the heavy and poisonous smog hinders the educational process in Punjab province. In November 2024, almost 16 million students were hindered from continuing their studies, while such steps were also taken in 2025. This research paper seeks to investigate the issue of how to reconcile the constitutional provision regarding free and compulsory education in Pakistan under Article 25-A with the provision of acting in the best interest of the child when the air pollution prevents them from attending schools. In the current study, both doctrinal and socio-legal approaches would be used in interpretation of Article 25-A along with the right to life provided for in Article 9, the right to clean and sustainable environment stated in Article 9A introduced by the 26th Amendment in 2024, and Article 3 of UNCRC. The article argues that school closure may constitute a lawful emergency measure but is an inadequate long-term response. When the state closes schools without addressing the pollution responsible for those closures, it exchanges one child right for another and ultimately fails to secure either. Properly interpreted, the best-interests principle does not require the state to choose between children's health and education. Rather, it requires the state to safeguard both by reducing pollution at its source, ensuring that schools provide safe air, and guaranteeing continuity of learning for disadvantaged children when closure is unavoidable. The article concludes by proposing a five-part framework of state obligations and practical recommendations for federal and provincial governments.

Article History
Received 12 October 2026
Accepted 04 November 2026
Published 10 November 2026
Corresponding Author*
OPEN ACCESS

Keywords
right to education; Article 25-A; Article 9A; best interests of the child; air pollution; smog; Pakistan; UNCRC; environmental constitutionalism

1- Introduction:

For children in Pakistan, the school term now involves the smog season. The Government of Punjab ordered the closure of public and private educational institutions on 6 November 2024[3] when Lahore's Air Quality Index (AQI) touched 1,165 in 18 districts. After a week, it decided to close all schools till the higher secondary level in Punjab. The Air Quality Index of Lahore was 1,153 while in one monitoring station, AQI was 2,009[4]. In comparison, AQI beyond 300 becomes "hazardous." According to UNICEF, the impact of this disruption of education affected almost 16 million children in Punjab and over 11 million children under five were exposed to smog in severely impacted districts.[5]

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[3] Schools, colleges closed across 18 Districts as smog reigns in Punjab, Dawn E-paper, published on November 7, 2024, Schools, colleges closed across 18 districts as smog reigns in Punjab - Pakistan - DAWN.COM
[4] Pollution chart goes through the roof: Schools closure extended across Punjab - Pakistan - DAWN.COM
[5] Over 11 million children under 5 in peril as they breathe toxic air in Punjab, Pakistan, UNICEF warns

The pattern continued beyond 2024. In October 2025, the Punjab Environmental Protection Agency directed that no school in the province could open before 8:45 am because early-morning school traffic contributed to peak smog levels.[6] During the 2024 smog season, schoolchildren in Lahore had already been prohibited from participating in outdoor exercise. Pakistan's leading newspaper described such measures as band-aids applied to gaping wounds.

These issues give rise to a tough legal issue. The Constitution of Pakistan, via its Article 25-A, obligates the State to ensure the provision of free and compulsory education to all children aged 5-16. Article 3 of the UNCRC, moreover, stipulates that the best interests of the child shall always be a primary consideration in relation to all actions concerning children. On one hand, the closure of schools can be seen as a measure in the best interest of children to safeguard their respiratory system, while on the other hand, it amounts to the temporary suspension for several weeks of the right of education that was guaranteed by Article 25-A. This is happening in a country where, prior to school closure, it was estimated that there were 25 million children aged 5-16 who were out of school, 9.6 million of them being from Punjab province.[7]

2- Research Questions:

This paper addresses the following three interrelated questions:

1. What obligations do the Constitution of Pakistan and international law impose on the state concerning air pollution and children's education?
2. Can the closure of schools amid smog be in agreement with Article 25-A and the Best Interests principle, and on what grounds?
3. What would a lawful, child-centered response to air pollution in schools require in Pakistan?

3- Methodology and Scope:

This paper comprises two elements; the first element is the doctrine of law while the second element is socio-legal analysis of evidence regarding the law. In the doctrine, the main theme of discussion shall be the interpretation of Articles 9, 9A, 14 and 25-A of the Constitution in light of the UNCRC and the general comments of the UN Committee on the Rights of the Child. For socio-legal analysis, there shall be notifications from the Government, Lahore High Court orders, reports from UNICEF and other sources and research articles in peer reviewed journals regarding the linkage between air pollution and learning. The province where the issue is most severe is Punjab but the discussion will also cover other provinces due to the 18th Amendment (2010) which made education a provincial subject.

This paper is structured as follows. Section 2 will cover the legal context. Section 3 will cover the evidence related to health and learning effects of air pollution on children. Section 4 will

[6] Smog: School Timing Violators to Face Heavy Fine in Punjab, https://stateofchildren.com/smog-school-timing-violators-to-face-heavy-fine-in-punjab/

[7] Pakistan has 25 million out-of-school children, parliament told | Nukta

cover judicial reaction. Section 5 will cover the responsibilities of the State. Section 6 will reconcile Article 25-A and the best interest principle. Section 7 is the conclusion.

4- The Legal Framework:

All the necessary prerequisites in the legal framework of Pakistan exist for the maintenance of good health and education of children. However, the problem lies in the interpretation of these prerequisites and in their effective enforcement. There are four factors mentioned below, which are interrelated to each other. These factors include the right to education, right to life and a healthy environment, best interest of the child, and international guidance.

4.1. Article 25-A, the Right to Education:

The addition of Article 25-A came through the 18th Amendment in the year 2010. According to the article, "the State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law." Before the year 2010, the only thing mentioned about the concept of education is the Principles of Policy of Article 37(b) and Article 38(d). There is nothing judicially enforceable in the Articles. The Article 25-A made education a justiciable fundamental right in Constitutional Petition No. 37 of 2012 due to the bad condition of schools.

4.2. Three features of Article 25-A are particularly relevant to this article:

Article 25-A discussed as *"The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by Law"*.[8] It is an obligation requiring action. In this context, the idea "provide" requires the positive action from the government instead of mere non-action.

The issue concerns provision of education rather than just school enrollment. The right to education formally existing but being inaccessible for several weeks during winter cannot be considered as the "provided" one in full extent. In this regard, the "4-A" approach suggested by the first UN Special Rapporteur on the right to education prescribes that *the education should be available, accessible, acceptable and adaptable.* Adaptability stands for flexibility of the education system with regards to changes, including environmental emergency.

It is implemented through provincial laws. The 18th Amendment has made education a matter for provinces. The Article 25-A was implemented in Punjab by the Punjab Free and Compulsory Education Act 2014. The Sindh province adopted the Sindh Right of Children to Free and Compulsory Education Act 2013, and Islamabad adopted the Right to Free and Compulsory Education Act 2012. Thus, the obligations mentioned below mainly apply to provinces.

4.3. Articles 9, 14 and 9A of the Constitution:

Courts in Pakistan have defined the environmental protection as part of the right to life guaranteed in its constitution since the 1990s. For instance, in the Shehla Zia v. WAPDA[9], the

[8] Article 25-A, the 18th Amendment Act, 2010, published in the Official Gazette of Pakistan (Extraordinary) on April 20, 2010.
[9] Shehla Zia vs. WAPDA, PLD 1994 SC 693.

Supreme Court held that "right to live" as provided in Article 9 of the Constitution and the right to dignity in Article 14 includes the right to live in clean and healthy environment. This definition was followed further by the cases like Shehri CBE v. Province of Sindh and Imrana Tiwana v. Province of Punjab, which recognized environmental justice as part of the right.[10]

The 26th Amendment, adopted in October 2024, made the provision explicit. Under Article 9A, *"every person shall have the right to a clean, healthy, and sustainable environment."* As per UNDP, Article 9A "embodied the case law of the past three decades and converted an implied right to explicit fundamental right." The Human Rights Commission of Pakistan greeted the 26th Amendment as long awaited and called for its implementation at the earliest.

Article 9A is very important for schoolchildren. Children should be studying in schools where they are required to stay for at least six hours a day in legal terms.

5. The Best-Interests Principle:

The UN Convention on the Rights of the Child has been signed and ratified by Pakistan in 1990. Pakistan is among those countries which signed the Convention first. The essential element of Article 3(1) is that in every action that concerns the child, both legislative and judicial, the best interest of the child will be the paramount consideration.

5.1. General Comment No. 14 (2013) of the Committee on the Rights of the Child identifies three dimensions of the principle:

Substantive right; All children have the right for their best interests to be determined and to prevail over all competing interests.

Interpretative principle; In case of several alternative interpretations of the provision, the one that best serves the interests of the child should be chosen.

Procedural rule; Each decision concerning children should take into account its possible effect upon them, and the state should demonstrate that the interests of children have been taken into account.

In addition, according to General Comment No. 14, the best interest of a child should be understood holistically. Such aspects as health, education, security, and development belong to such consideration. These aspects should not be seen as competing interests to be balanced, but rather as inter-related ones, which should be equally protected.

The legislative framework of Pakistan demonstrates the same approach. Thus, the Constitution of Pakistan provides for Article 35, which imposes the duty of the state to protect women and children. Additionally, the laws such as Punjab Destitute and Neglected Children Act 2004 and guardianship laws provide for the best interest of the child as the standard. Courts of Pakistan apply the welfare principle in the context of family affairs. The drawback is that its application does not approach to the environmental and educational policy.

5.2. International Guidance Linking the Three Rights:

[10] Breathing inequality: how pregnant women in Punjab bear a hidden human rights burden - Global Campus of Human Rights | Education & Research.

Additionally, some other articles of the UNCRC also have an explicit linkage between air pollution and the right to education:

Article 24(2)(c) states that States Parties will protect children from diseases taking into consideration "the dangers and risks of environmental pollution."

Article 28 ensures the right to education and takes steps to promote access to education and reduce dropout rates.

Article 29(1)(e) requires the development of respect for the environment through education.

Article 4 requires states to make sure the economic, social, and cultural rights to the maximum of their ability.

Pakistan acceded to the International Covenant on Economic, Social and Cultural Rights in 2008. Article 12(2)(b) requires efforts to improve "all aspects of environmental and industrial hygiene," while Article 13 provides the right to education. Last but not least, in 2022, the UN General Assembly proclaimed the right to a clean, healthy, and sustainable environment as a human right according to Resolution 76/300.

Above all, the Committee on the Rights of the Child approved General Comment No. 26 on the rights of children and the environment in August 2023. For the first time, the right of the child to a clean, healthy and sustainable environment was explicitly mentioned in it[11]. The Comment obliges states to act urgently in cases such as improving air quality and implies that both present and any possible violation of the rights of children is included in the scope of responsibility of states. It is claimed that the pollution of the environment affects the right to education, and education is required for children to understand and solve environmental issues. Moreover, the necessity of child-rights impact assessment of environmental decision-making is pointed out[12].

In light of the above-discussed sources, there is one important principle. Taking into account the best interest of the child, the state is supposed to protect the child from air pollution as well as to give education to him/her. If protection of one right includes restriction of another right, it is supposed to be temporary and reversible.

6. The Evidence:

How Air Pollution Harms Children's Health and Learning:

The available evidence demonstrates a dual harm. Polluted air damages children's bodies and cognitive development while they remain in school, whereas school closures intended to reduce exposure remove learning opportunities that many children may never recover. Both forms of harm disproportionately affect children from low-income households.

[11] UN Committee on the Rights of the Child calls on states to take action in first guidance on children's rights and the environment, with a focus on climate change, Press release on 28 August, 2023, www.unicef.org

[12] New UN CRC General Comment on children's rights and the environment, In August, the United Nations Committee on the Rights of the Child (CRC) launched General Comment No. 26 (2023) on children's rights and the environment, which focuses particularly on climate change, September 2023

6.1. The Scale of the Pollution:

Lahore's air quality is unsafe for much of the year, rather than only during November. The Pakistan Air Quality Initiative (PAQI) reports that Lahore recorded no clean-air day in 2024 under World Health Organization (WHO) standards and that 218 days failed even to meet Punjab's comparatively weaker standards. The city's annual average PM2.5 concentration was 104.6 µg/m³, approximately 21 times the WHO guideline[13]. Nationally, air pollution reduces the average Pakistani's life expectancy by approximately 3.9 years and may reduce life expectancy by up to seven years in Lahore.[14]

The principal sources are known and can be controlled. In Lahore, transport contributes approximately 35% of primary PM2.5 emissions, industry contributes 28%, and brick kilns contribute 17%. Winter temperature inversions trap pollution close to the ground, while crop-residue burning intensifies seasonal peaks[15]. This is legally significant because a harm that is foreseeable and attributable to regulated activities is a harm that the state has a duty to prevent.

6.2. Harm to Children's Health:

Children experience greater exposure than adults because they breathe more rapidly, have smaller and developing lungs, and possess less developed immune systems. Before the record smog of 2024, UNICEF estimated that air pollution was associated with approximately 12% of deaths among children under five in Pakistan[16].

During the 2024 smog season, the health system faced substantial pressure. Officials reported that 1.8 million people in Punjab visited hospitals and clinics over 30 days, most of whom presented with respiratory illness. Health Department data indicated that Lahore recorded 131,368 respiratory cases and 5,129 asthma cases in October and November 2024. Nurses at Jinnah Hospital reported that children arrived daily with severe breathing difficulties.[17]

6.3. Harm to Learning while Schools Remain Open:

Air pollution also affects children's capacity to learn. Fine particulate matter can reach the brain and cause inflammation. The research associates early exposure with weaker working memory, reduced attention, and lower academic performance[18]. Recent large-scale studies indicate similar effects:

In Italy, a 10 µg/m³ increase in PM2.5 on an examination day reduced primary-school pupils' test scores by 4.4% of a standard deviation. The effect was stronger among lower-achieving

[13] No clean air day in Lahore in 2024 under WHO Standards, published in Dawn E-paper on 11th December, 2025.
[14] Unveiling Pakistan's Air Pollution: A National Landscape Report on Health Risks, Sources and Solutions, Report published on November 27, 2025, editor Abid Omar Version v1, Pakistan Air Quality Initiative.
[15] Unveiling Pakistan's Air Pollution: A National Landscape Report on Health Risks, Sources and Solutions, Report published on November 27, 2025, editor Abid Omar Version v1, Pakistan Air Quality Initiative.

[16] After primary schools, Pakistan's Punjab closes high schools as smog crisis deepens, ww.arabnews.pk/saudi-arabia.
[17] Record air pollution hospitalizes hundreds in Pakistani city By Yan Zhuang and Zia ur-Rehman New York Times, Updated November 7, 2024, 3:53 p.m.
[18] Lu W, Hackman DA, Schwartz J. Ambient air pollution associated with lower academic achievement among US children: A nationwide panel study of school districts. Environ Epidemiol, 3rd November, 2021.

and emotionally vulnerable students and was substantially reduced in schools with mechanical ventilation. [19]

In Denmark, movement from a very clean day to an average polluted day reduced mathematics scores by 1.8% and reading scores by 0.9% of a standard deviation[20].

In California, long-term PM2.5 exposure was associated with sixth-grade students in the most polluted districts performing closer to a fifth-grade level. The authors identified classroom air filters as a potentially cost-effective intervention[21].

These studies were conducted in settings where pollution levels represent only a fraction of those experienced in Lahore. The effects on learning in Punjab's classrooms, where PM2.5 concentrations are substantially higher, may therefore be greater, although Pakistan-specific studies remain unavailable. This absence constitutes a significant research gap.

6.4. Harm to Learning when Schools Close:

School closures decrease exposure through the journey to school and outdoor play, but they also cause great educational harm. According to UNICEF, climate disruptions affected education of 26 million children in Pakistan in 2024, and alone smog forced closure of classes of 16 million children in Punjab in November 2024[22]. At an earlier point in the school year, about 26 million children in Punjab missed a week of classes due to heat wave forcing school closures in May 2024[23].

Pakistani experience of COVID-19 school closures is illustrative of how long this disruption could last and of the extent of its damage. According to the World Bank, the problem of learning poverty the share of ten-year-olds who cannot read a simple text - will grow from 75% to 79%, and about 930 thousand children will drop out of schools due to lack of access to remote learning for poor families[24]. Children again went through "online learning" during smog closures in 2024, although most of public schools and poor families did not have necessary technology and connectivity for that.

Below are presented seasonal trends of this disruption.

Date	Measures	Who was affected

[19] Clouded Minds: Air Pollution and Student Cognitive Performance, by Simone Ferro, Elena Meschi & Caterina Pavese, University of Milan Bicocca - Department of Economics, Management and Statistics Working Paper No. 574

[20] Air Pollution and Cognition in Children: Evidence from National Tests in Denmark, Research Seminar in Economics, Timo Hener (Aarhus University) with Christina M. Andersen, Timo Hener, Marianne Simonsen, Lars Skipper, Jørgen Brandt, Jesper H. Christensen, Lise M. Frohn, and Camilla Geels, on 25 April, 2024.

[21] Particulates Matter: The Influence of Cumulative Local Air Pollution Exposure on Sixth-Grade Academic Achievement in California, Robert W Wassmer https://orcid.org/0000-0001-5237-6534 rwassme@csus.edu and Michael D Turgeon, published online on 2nd November, 2024

[22] UNICEF appoints Youth Advocate for Climate Action and Girls Empowerment in Pakistan, Press release on 07 February 2025

[23] More than Half of Pakistan's School-Age Children will be out of School due to Extreme Heat, Save the Children, by Diana Oberoi published on May, 23 2024.

[24] Literacy losses due to the Pandemic, Business Recorder's Editorial published on October 11, 2020

Dec 2022	Lahore schools closed three days per week under Lahore High Court directions.	All schools in Lahore district
Nov 2023	Lahore High Court ordered schools to close on Saturdays during smog.	Schools in Punjab
May 2024	Heatwave closed schools for one week.	Approximately 26 million children in Punjab
Oct 2024	Outdoor sport and exercise prohibited for Lahore schoolchildren until January.	All pupils in Lahore
3rd Nov 2024	Primary schools in Lahore closed for one week.	Primary pupils in Lahore
6th Nov 2024	Schools and colleges closed in 18 districts until 17 Nov; transition to online classes.	Lahore, Gujranwala, Faisalabad, and Multan divisions
12th Nov 2024	Closure extended to all schools up to higher secondary level across Punjab.	Learning of approximately 16 million children disrupted (UNICEF)
Nov 2025	Punjab EPA prohibited schools from opening before 8:45 am, with fines for violators.	All public and private schools in Punjab

7. Who Bears the Burden:

Both forms of harm are unevenly distributed. Children from wealthier households may attend schools equipped with air purifiers, travel in enclosed vehicles, and transition to online learning at home. Children from low-income households often walk or travel by rickshaw through highly polluted air, attend poorly ventilated government classrooms, and lose learning opportunities entirely when schools close. Girls face an additional risk because time away from school may become permanent through domestic work or early marriage. Any assessment of children's best interests must therefore prioritize the most disadvantaged children, as required by Article 2 of the UNCRC and General Comment No. 26.

7.1. The Judicial Response:

Pakistan's courts have been the most active state institutions addressing air pollution. However, judicial orders have often treated school closure as a pollution-control mechanism rather than as a restriction on a fundamental right. This section traces the case law through three stages before assessing its implications.

7.2. Foundations:

Shehla Zia v. WAPDA and the Right to a Healthy Environment:

The case of Shehla Zia v. WAPDA (PLD 1994 SC 693) has been decided on account of the complaints made by people in connection with the presence of high-voltage grid station in proximity to residential areas of Islamabad. In this case, the court declared that the right to life provided by the Constitution entails protection against any kind of hazard to one's health posed by the process of development and recognized the precautionary principle. As per this

principle, if there is an imminent danger, then absence of scientific proof cannot be an excuse for non-intervention.[25]

7.3. Structural Remedies:

In the case of Asghar Leghari v. Federation of Pakistan, the Green Bench of Lahore High Court held on 4 September 2015 that there had been violation of the rights to life and dignity due to the lack of implementation of climate policy by the state government[26]. This decision used the precedents of Shehla Zia and Imrana Tiwana and created a Climate Change Commission for monitoring the implementation of the policy.

Leghari shows both strengths and weaknesses of the commission approach. Environmental lawyer Rafay Alam mentions that the recommendations of the Commission have been fulfilled only during the time it worked and the case was under judicial control; once the final decision has been delivered, the Commission stopped working. Similarly, International IDEA states that there is not much information available about the activity of the Standing Committee. Hence, judicial control might help in implementation, but its effectiveness can be reduced after ending the active judicial monitoring.

7.4. The Smog Litigation: Schools at the Front Line:

Since approximately 2017, Justice Shahid Karim of the Lahore High Court has heard a series of public-interest petitions concerning smog, filed by advocates including Sheraz Zaka and Haroon Farooq. The court established a Judicial Water and Environmental Commission and required daily reports from the provincial smog committee. Across successive winters, schools have occupied a central position in judicial orders:

2021. The court rejected a proposal to close schools automatically in localities where the AQI exceeded 400, instead favoring work-from-home measures for offices. It asked the government to consider advancing winter vacations to 20 December.

2022. In compliance with the court's directions, Lahore schools were closed three days each week.

2023. The court declared a smog emergency, observing that the prevailing smog resulted from government failure. It directed all educational institutions in Punjab to close on Saturdays until the end of January. In early 2024, it also ordered schools and colleges to conduct at least one weekly class on environmental issues.

2024. The court required schools to provide pick-and-drop transport after the winter break to reduce the number of private vehicles transporting children to school. It warned that non-compliant schools could be sealed. The court also directed the education department to plan procurement of school buses and repeatedly called for a ten-year smog policy.

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[25] CLIMATE CHANGE AND RIGHT TO LIFE IN PAKISTAN: A CRITICAL ANALYSIS OF ARTICLE 9 AND 9A OF THE CONSTITUTION OF PAKISTAN 1973 by Muhammad Aizaz, www.gavel.bahria.edu.pk

[26] Leghari vs. Federation of Pakistan, (W.P. No. 25501/2015), Lahore High Court, 2015

2025. The court ordered a province-wide crackdown on smoke-emitting vehicles, with Article 9A available as an express constitutional basis.

7.5. Assessment:

What the Courts Have and Have Not Done:

The Lahore High Court deserves recognition for its sustained supervision. Without this oversight, the provincial government would likely have undertaken substantially fewer measures. Several orders, including those relating to school transport and vehicle inspections, address pollution sources rather than merely reducing children's exposure.

However, three weaknesses remain from a child-rights perspective.

Closure as a tool for reducing traffic. There are closures orders which aim at reducing traffic as well as emissions and not solely to protect children's health. If school days are cancelled to reduce the pollution levels in the city, then children's education is taken to serve the greater good. This is against Article 3 of the UNCRC because the interests of children should be taken into account as a principal issue.

There are few examples in the published reasoning about Article 25-A. Judicial orders take care of emissions, transport and the right to life, yet seldom compare the educational losses of children with the health benefits. There is very little data in the public domain that any child impact assessment was performed in relation to school closures, as suggested in General Comment No. 14.

The remedies do not continue after the smog season. Similar to Leghari, the enforcement becomes stronger with the court proceedings and weakens thereafter. The repeated use of judicial orders every winter indicates that there are unresolved issues underlying the problem.

Article 9A, read together with Article 25-A, enables courts to tackle those shortcomings. Courts can not only consider whether the air is safe, but also what efforts have been undertaken by the state to make sure that schools are safe enough to keep functioning.

8. State Obligations Concerning Air Pollution and the Right to Education:

The state's obligations may be defined with precision. Human rights law commonly divides them into duties to respect, protect, and fulfill rights, to be implemented with due diligence and without discrimination. Applied to smog and schools in Pakistan, each duty has specific content.

8.1. The Duty to Respect:

The state must not itself cause harm. Public bodies are among the relevant polluters through government vehicle fleets, public works that generate dust, and the routing of heavy traffic near schools. The Punjab Environmental Protection Agency (EPA) has acknowledged this responsibility by ordering emissions inspections of institutional heavy vehicles, including those used by educational establishments[27]. The duty to respect also requires the state not to

[27] Order u/s. 15 of the Punjab Environmental Protection Act, 1997 for Compliance of PEQS by Institutional HTVS, Environmental Protection Agency, Dated: 24.11.2025

close schools for purposes unrelated to children's interests, such as reducing city traffic, without assessing the educational losses experienced by children.

8.2. The Duty to Protect:

The state must prevent third parties, including factories, brick kilns, vehicle owners, and farmers engaging in crop-residue burning, from harming children. This is a due-diligence obligation. It is breached where harm is foreseeable and the state fails to take reasonable preventive measures. Smog in Punjab is entirely foreseeable because it recurs each October and its major sources are well documented.

There have been improvements in legal measures taken by Punjab. Punjab Environmental Protection Act 1997 was amended in 2023 to ban substandard fuels and smoking vehicles[28], which has been done with the aid of the Punjab Environmental Protection (Smog Prevention and Control) Rules 2023. In November 2024, Punjab introduced a ten-year plan for mitigating smog problems. Punjab created an Environmental Protection Force along with air quality monitoring facilities; as of 2026, there are 59 stations of air-quality monitoring in the province, with an aim of reaching 100. By October 2026, the government claims that 8,000 brick kilns are now using zigzag technology, while 10,000 subsidised super-seeders were distributed to mitigate crop burning[29].

Those actions have brought some results. Independent monitoring of PAQI demonstrated that the peaks of daily PM2.5 in Lahore have decreased by 56% during the period between November 2024 and November 2025 - from 539 µg/m³ to 237 µg/m³, while there have been no full-scale closures of schools province-wide, as in 2024. Nevertheless, the levels of pollution of 237 µg/m³ are still very high. According to the critics, the ten-year plan had no costed benchmarks, and the zigzag kilns still do not satisfy national air quality standards. Emergency actions, like anti-smog guns, only treat symptoms and not causes of smog.

8.3. The Duty to Fulfill:

The principle of fulfillment entails a responsibility of the state to act positively to provide the necessary resources to enable the realization of the rights. In regard to smog, the fulfillment principle has three elements.

- **Safe School Environments:**

Classrooms must be spaces in which children can breathe safely. Research indicates that mechanical ventilation and filtration can substantially reduce pollution-related learning loss. However, the Pakistan Economic Survey 2025-26 reports that approximately 33% of public schools lack electricity, while 22% lack toilets and boundary walls[30]. A school without electricity cannot operate an air purifier. Basic infrastructure is therefore integral to the right to clean air in schools.

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[28] Pakistan's Punjab charts roadmap for reducing smog and vehicle emissions, UN Environment Programme, 6 March, 2025.

[29] Punjab Provides 10,000 Super Seeders, converts 8000 Brick Kilns to Zigzag Technology, by Rija Sohaib, www.propakistani.pk published on October 10, 2026.

[30] Clouded Minds: Air Pollution and Student Cognitive Performance, by Simone Ferro, Elena Meschi, Caterina Pavese, www.papers.ssrn.com published 15 June, 2026.

- **Continuity of Learning:**

Where closure cannot be avoided, the state must provide meaningful alternatives, including printed learning materials, radio and television lessons, catch-up classes, and adjusted academic calendars. A notification directing children toward "online classes" does not satisfy this obligation for students without devices or internet access.

- **Adequate Financing:**

Pakistan's public expenditure on education has declined sharply, from approximately 1.9% of GDP in 2019-20 to a provisional 0.8% in 2024-25, despite increasing climate-related disruption[31]. Reduced expenditure in the face of growing need raises a serious question of retrogression, which international economic and social rights law generally presumes impermissible unless fully justified.

8.4. Non-Discrimination and the Most Vulnerable:

All three duties must be performed with particular attention to children who face the greatest risks, including children from low-income households, girls, children with disabilities or asthma, and children living near brick kilns and industrial zones. Article 25 of the Constitution guarantees equality, while Article 2 of the UNCRC prohibits discrimination. Measures that protect children in elite private schools while leaving government-school students in unfiltered classrooms or without access to remote learning are likely to fall short of these guarantees.

9. Procedural Obligations:

The state also has procedural duties. General Comment No. 14 stipulates that there must be an assessment of best interests for any decisions involving children. General Comment No. 26 mandates an assessment of how a proposed environmental measure will affect the rights of children. In reality, every order of closure, any change in timing of classes, and any ban on outdoor activities should have a justification, the basis of the decision, its potential effects on education, and measures adopted to mitigate such effects. This also means having data on air quality in schools, which has been provided by Punjab through its AQI portal.

10. Reconciling Article 25-A with the Best-Interests Principle:

The central argument of this article is that the apparent conflict between Article 25-A and children's health is largely a false dilemma produced by state inaction. The best-interests principle does not require the state to choose between a child's respiratory health and education. It requires the state to secure both and permits a temporary limitation of one only where the state has taken all reasonable measures to avoid that outcome.

10.1. Why the Dilemma is False:

The choice between keeping schools open in toxic air and closing schools arises because the state has not created a third option; schools that remain open while maintaining safe indoor

[31] The Education Funding Gap, Pakistan's latest education financing report lays bare a hard truth: the country's constitutional promise of education is not being matched by public spending, and millions of children are paying the price, Business Recorder, published 30 March, 2026

air. When courts or governments close schools, they often manage the consequences of earlier failures to control emissions and equip classrooms. Under the due-diligence standard, a state cannot rely on an emergency that it could reasonably have anticipated and prevented as justification for restricting a fundamental right.

The Supreme Court of India addressed a comparable issue in November 2024. While retaining strict anti-pollution measures in Delhi, it asked the air-quality commission to reconsider school closures. The court observed that many children were losing access to mid-day meals and that many lacked air purifiers at home. Consequently, children might not experience safer air at home than at school. Schools moved to hybrid classes within hours. The same reasoning applies with greater force in Punjab, where a child sent home from a government school in Lahore may breathe the same polluted air in an unfiltered home while losing the structure, nutrition, and protection that school provides.

10.2. An Integrated Reading of the Constitution:

Articles 9, 9A, and 25-A should be interpreted together rather than as competing rights. Two interpretive implications follow as;

Article 25-A includes a safe learning environment. The state must "provide" education. Education delivered in conditions that violate Article 9A represents defective provision. The obligation under Article 25-A therefore includes a duty to ensure that schools are places where the Article 9A right is respected. This approach is consistent with the interpretive dimension of the best-interests principle, which requires adoption of the interpretation that most effectively serves children's interests.

Article 9A imposes a heightened duty toward children. Compulsory education requires children to be in specified places at particular times. This compulsion creates a heightened duty of care regarding air quality in those locations, comparable to the state's heightened responsibilities toward persons in its custody.

This integrated approach changes the central question from "which right prevails?" to "what must the state do to ensure the enjoyment of both rights?"

10.3. A Test for Lawful School Closure:

School closure may remain necessary in some circumstances, particularly where the AQI remains at hazardous levels for several days and no safe space is available. Drawing on proportionality analysis, General Comment No. 14, and the Indian experience, this article proposes that a smog-related school closure is compatible with Article 25-A and the best-interests principle only where it satisfies six conditions:

- **Legality:**

The closure must be ordered by a competent authority under a clear legal power, such as the Punjab Environmental Protection Act, and published with reasons.

- **Child-centered Aim:**

Its primary purpose must be the protection of children's health rather than the reduction of general traffic or emissions at children's expense.

- **Necessity:**

Less restrictive measures, including later start times, indoor-only activities, filtered classrooms, mask provision, and school transport, must have been attempted or shown to be insufficient.

- **Proportionality:**

The closure must be limited in duration and geographical scope according to air-quality data and reviewed against those data at short intervals.

- **Mitigation and Equality:**

Genuine continuity of learning must be provided to every affected child, including those without internet access, and essential services delivered through schools must be maintained.

- **Accountability:**

A written best-interests assessment must record the expected health benefit and learning cost, while lost school days must be recovered through calendar adjustments or catch-up programs.

A closure that does not satisfy these conditions is not merely poor policy. It constitutes an unjustified limitation of a fundamental right and should be open to challenge under Article 199.

11. A Graduated Response:

The six conditions may be incorporated into a graduated plan linked to the official AQI so that decision-making becomes predictable and child-centered. The thresholds below are illustrative and should be determined by health authorities.

AQI Band	School Measures	Accompanying State Duty
151-200 (unhealthy)	Schools remain open; outdoor sport is restricted for younger and asthmatic children.	Publish school-level AQI; notify parents; assess classroom ventilation.
201-300 (very unhealthy)	Schools remain open; outdoor activity is prohibited; later start times and masks are provided.	Operate classroom purifiers where electricity is available; enforce school transport; target nearby emission sources.
301-400 (hazardous)	Schools remain open only where indoor air can be kept safe; other schools adopt structured remote learning, beginning with primary classes.	Deliver printed materials, radio and television lessons; maintain school meals and health services; review data daily.
Above 400 (severely hazardous)	Short, time-limited closure across affected districts.	Prepare a written best-interests assessment; impose a maximum review period of seven days; add catch-up days to the academic calendar.

12. Long-Term Reconciliation:

Emergency measures alone are insufficient. Over the longer term, Article 25-A and the best-interests principle can be reconciled only through a framework that removes the need for recurring closures. This article proposes five elements:

- **Prevention:**

Reduce annual average PM2.5 concentrations, rather than focusing solely on winter peaks, through enforceable sectoral targets for transport, industry, brick kilns, and agriculture, supported by published and costed timelines.

- **Protection at school:**

Establish a "clean-air school" standard comprising electricity, ventilation, classroom filtration, green buffers, and no-idling zones around schools. Implementation should begin in the most polluted districts and prioritize government schools serving low-income communities.

- **Plan the Calendar:**

Align winter vacations with the predictable smog peak and adjust school schedules so that unplanned closures become less frequent.

- **Guarantee continuity:**

Maintain a ready, low-technology remote-learning system and establish a legal entitlement to catch-up learning whenever a specified number of school days is lost.

- **Assessment:**

Require child-rights impact assessments for smog measures, ensure that children and parents participate in smog committees, collect data on learning lost because of environmental closures, and report annually to provincial assemblies.

This framework transforms the best-interests principle from a general aspiration into a practical procedural rule, consistent with the purpose of General Comment No. 14.

13. Recommendations and Conclusion:

13.1. Recommendations:

The following recommendations arise from the analysis and are directed toward the institutions best placed to act.

13.1.1. Provincial governments (School Education and Environment departments):

- Amend the Punjab Free and Compulsory Education Act, 2014 and other such acts across all the provinces to incorporate the rights of children to study in a safe environment, including clean air, and the right to cover any lost learning from environmental closures.
- Follow an established, AQI-based graduated approach to school closures, along with a written best-interests assessment of each closure.
- Fund a phased "clean-air schools" program, beginning with electrification and ventilation in government schools located in the most polluted districts.

- Develop and maintain low-technology remote-learning systems, including printed materials, radio, and television programming, for deployment during each smog season, while protecting school-based nutrition and health services during closures.
- Collect and publish data on school days lost to smog and heat, disaggregated by district, gender, and school type.

13.1.2. Federal government:

- Reverse the decline in education spending and meet the stated target of 4% of GDP, including ring-fenced funding for climate-resilient school infrastructure.
- Coordinate an interprovincial clean-air strategy because airsheds cross provincial and national boundaries, and pursue regional cooperation regarding transboundary smog.
- Ensure comprehensive reporting on the environmental rights of children and learning interruptions in Pakistan's next periodic report to the United Nations Committee on the Rights of the Child.

13.1.3. Courts:

- Interpret Articles 9, 9A, and 25-A together and require the state to justify any smog-related school closure according to the six conditions outlined in Section 6.3.
- Prioritize orders that address emission sources and school safety over orders that close schools to reduce traffic.
- Incorporate durable monitoring mechanisms into structural remedies, drawing lessons from the decline in implementation following *Leghari*.

13.1.4. Researchers and Civil Society:

Conduct Pakistan-specific studies on indoor classroom air quality and its effects on attendance and learning.

Support children's participation in smog policy, as recommended by General Comment No. 26.

13.2. Conclusion:

Pakistan has the legal provisions which enable it to safeguard the health of children, as well as to provide education for them. The right to free and compulsory education is assured under Article 25-A; a clean and healthy environment under Article 9A; and the best interests of the child under UNCRC. However, the past few years' experiences of smog in Pakistan reveal the ramifications of treating these rights independently. Children have had to suffer from poisonous air around and within the schools, and when the air pollution has crossed tolerable limits, schools have been closed.

This article has argued that school closure may constitute a lawful emergency measure, but only as a child-centered, time-limited, mitigated, and accountable last resort. The deeper obligation is preventive. The state must reduce pollution at its source, ensure that classrooms provide safe air, and plan educational provision so that a child's right to learn is not suspended each winter. Encouraging developments, including lower smog peaks in 2025, indicate that intervention can produce results. The remaining task is to convert seasonal emergency responses into a permanent rights-based system in which no Pakistani child must choose between breathing and learning.

14. Disclosure of AI Use:

I did not use any generative AI tools to draft, outline, or develop the core ideas, analysis, or arguments of this paper. I did use a premium version of Grammarly to assist with grammar and spell-checking of the paper, and I used ChatGPT and Gemini to rephrase and improve the clarity and flow of existing sentences that I wrote. I reviewed and edited all AI-assisted text in the paper.

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