**[Can courts fix the climate crisis?](https://www.dawn.com/news/1838321/can-courts-fix-the-climate-crisis)**

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THE realities of climate change that seven-year-old Rabia Ali had warned us of eight years ago have hit home. Take, for example, the latest heatwave which thousands are experiencing across Pakistan. “It’s like sitting in a tandoor,” says Niaz Junejo, a resident of Jacobabad, Sindh, where temperatures have reached up to 51 degrees Celsius.

Back in 2016, Ali had taken the government of Pakistan to court for violating her fundamental “right to life” by mining coal in Tharparkar and polluting the air and the water she breathed and consumed. She reminded the state of its legal obligation towards its citizens, warning that its apathy towards climate change could become an existential threat in times to come.

A year before, Asghar Leghari, a lawyer, had also charged the state with violating his fundamental right to life due to its inaction in meeting its climate change adaptation targets which, he warned, impacted the country’s water, food and energy security. It was the year when Pakistan, along with almost every nation in the world, signed the Paris Agreement, promising to limit any rise in global average temperatures to well below 2°C — in fact, a maximum of 1.5°C — above pre-industrial levels. Leghari recalled the court’s historic ruling to be “affirmative” and thus quite significant, after it set up a climate commission to oversee the working of the state departments.

The right to a clean environment may not expressly be mentioned in Pakistan’s Constitution, but the courts have interpreted the Constitution to include it as a fundamental right. In the ‘Shehla Zia vs Wapda’ case in 1994, Justice Saleem Akhtar explained that the right to “live” does not only mean “the vegetative or animal life or mere existence from conception to death”. Life, as he saw it, should “include all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally”.

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Although there is much awareness as well as acceptance about climate change since 2015, bringing about a systemic change has yet to happen. Perhaps we need to change the way we are looking at the phenomenon; perhaps it should be given a human face. That is what the Human Rights Commission of Pakistan is calling for — bringing climate change out of the folds of science and environment and examining it through the lens of climate justice.

The year 2024 started with a skewed and alarming weather phenomenon for Pakistan. Close on the heels of a snowless December in 2023, the new year began with some snow, but it was too little, too late. In the plains, the winter season began with a pall of dense smog. Then April received above average rainfall, making it the wettest month since 1961, resulting in over 140 fatalities in KP and Balochistan, not to mention damage to homes and schools.

And now the country is reeling from extreme heat. That is not all. Climatologists say soaring temperatures may lead to glacial melt with the danger of glacial lake outburst floods and flash floods.

So far, these climate disasters have failed to move the government to pore over the plethora of climate policy documents it has crafted over the years and find solutions from it. Imran Khalid, a climate expert, calls for a “people first” approach when policymaking happens. “Without involving and engaging with the communities for whom the policies are made, these strategies will remain nice-looking glossy documents with little impact on the welfare of folks who truly need it,” he points out.

Reporting on loss of life, property and infrastructure during the several climate crises — floods, landslides, torrential rainfall, smog, melting glaciers, wildfires and deforestation — the country grappled with, the annual State of the Human Rights report for 2023, put the government in the dock and brought attention to the inadequate assistance, delayed reconstruction and lack of preparedness for climate-induced disasters on the part of the state.

One way of holding the government accountable is to take it to court, like Ali and Leghari did. Both brought human rights into the climate change equation.

To be fair, Pakistan is not alone. The story is the same across the globe. Ecological lawyer David Boyd, the outgoing UN special rapporteur on human rights and the environment, believes this game-changing strategy of slapping the state with a slew of court cases will make the state legally obligated to regulate businesses to respect climate, environment and human rights.

But Leghari warns that taking the state to court is no substitute for the “robust policymaking” that climate expert Khalid referred to earlier. “Courts can be a good tool,” he says, but only if litigating is done strategically for it to have an impact.

Due to lack of subject matter expertise in the judiciary, in Pakistan at least, courts may come up with a “whimsical, and not very thought-through prescription”, which, although given in good faith, may end up having a negative impact in the larger scheme of things. However, if it is business as usual — inaction on the part of the government and justice denied — it will only exacerbate the climate crises.

Thus, the upcoming climate change conference organised by the Law and Justice Commission of Pakistan (to be held on June 8, 2024, in Islamabad) could not have come at a more opportune time. Indomitable speakers like Dr Parvez Hassan and Justices Mansoor Ali Shah, Ayesha A. Malik and Jawad Hasan will feature at the event. The legal fraternity will deliberate on the climate-related challenges Pakistan is grappling with in different sectors, including agriculture, water, energy, etc, while considering the governance challenges that go with them, and play a part in reminding and holding the state accountable for its obligation to its people and to the planet. At the same time, it is only fair to the state that the people be made responsible for protecting, conserving and restoring the Earth.

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