**Climate justice**

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The least developed, poorest, and most marginalized – countries and communities – are disproportionately vulnerable to climate-related impacts despite being negligible contributors.

The inequitable nature of climate change and its impacts have led to the determination that the phenomenon is not just a physical problem with technical solutions but also an issue of equity and justice, demanding a new approach to policymaking and reparations rooted in social justice and human rights.

Transition to a more equitable future requires a shift in the narrative from vulnerability to climate resilience, necessitating an overhaul of climate governance, both internationally and domestically. In the international sphere, collective global action is mandatory to secure financing and appropriate financial flows and for technology transfer and capacity building to support vulnerable countries’ adaptability and build their resilience in line with their national objectives.

Domestically, climate policy must be established based on equity and justice, requiring cooperative action from all branches of government.

Historically, the judiciary has played an important role in shifting the societal narrative necessary for positive action by the executive and the legislature, prompting behaviour change on an individual level.

In Pakistan, the judiciary is playing a similar role in the fight against climate change - changing societal narrative one judgment at a time by advancing the principles of climate justice.

In 1994 when ‘environmental constitutionalism’ was still a novel concept, the Supreme Court of Pakistan, in the case titled Shehla Zia and others vs WAPDA, interpreted the fundamental human right of life and dignity to include the right to a healthier and cleaner environment. In 2018, in the Asghar Leghari vs FoP case, the Lahore High Court introduced the concept of intra-generational equity and public trust doctrine to environmental jurisprudence while initiating the inclusion of the concept of climate justice. This was further reaffirmed by the SC in the DG Khan Cement Company Ltd vs Government of Punjab (2021) case.

In the case titled Sheikh Asim Farooq vs FoP (2019), the LHC urged the state to adhere to its sovereign commitments by implementing laws and policies devised to protect the fundamental right of citizens to a clean and healthy environment by safely managing, conserving, sustaining, maintaining, protecting and growing forests and planting trees in urban areas to mitigate adverse impacts.

Food security is an intrinsic part of climate justice. This was recognized in an LHC judgment titled Muhammad Ahmad Pansota vs FoP (2020) where constitutional provisions were interpreted to include food security as an inalienable fundamental right of citizens of Pakistan and uphold the state’s obligation to promote the social and economic wellbeing of the people by providing life necessities such as food.

The SC, through its judgment in the case of Zahoor Ahmed vs Capital Development Authority (2022), mandated that urban development authorities should “ensure to factor in adaptation, climate resilience and sustainability into their plans, policies and decisions in order to protect the constitutional rights of life, dignity and property…” of the people of Pakistan.

An increasing body of literature suggests that social inclusion makes adaptation, mitigation and relief strategies more context-sensitive and bridges implementation gaps. The SCP mainstreamed the concept in the case of Province of Sindh vs Sartaj Hyder (2023) by upholding the establishment of a citizen’s committee to oversee disaster relief works in flood-affected areas. The decision gave the most affected a voice in the decision-making process, a classic example of an equitable approach.

In Public Interest Law Association of Pakistan vs Province of Punjab (2023), the initial environmental examination and environmental impact assessment were acknowledged as necessary tools for sustainable development, ensuring minimum impacts of development on the environment and biodiversity.

Rules of interpretation were used to mainstream climate concerns in matters that did not directly invoke climate change in Collector of Custom vs Waseef Ullah (2023 SCMR 503) whereby an exemption notification issued under customs laws was interpreted from the perspective of mitigation goals under the existing international and national legal framework.

The urgent need to increase forest cover to aid in the prevention of disasters, provide a stable supply of water and accelerate mitigation efforts was recognized in Shah Zaman Khan vs Govt of Khyber Pakhtunkhwa (2023). In Haroon Farooq vs Govt of Punjab (2023), the LHC observed that the principle of dubio pro natura should be invoked to ensure water justice and further prompted the state to timely implement the national water policy.

June 5 is celebrated globally as World Environment Day. It is important to acknowledge the emerging role of the courts in Pakistan in the fight against climate change. They have mainstreamed equity; set a precedent for including vulnerable communities in decision-making; encouraged sustainable development; set in motion a shift in narrative to acknowledge we conserve our land for future generations; and declared the right to a clean, healthy environment a fundamental human right.

In the words of the late archbishop Desmond Tutu of South Africa (as quoted by Mary Robinson in her book ‘Climate Justice’): Climate justice can be a new ‘narrative of hope’. Much has been done, but much more must be done to ensure that the executive and the legislature meet the judiciary’s pace to effect the social change urgently required.

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