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## Climate Constitutionalism: Integrating Environmental Rights into National Constitutions

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### Abstract

*The increasing interest of the world in the concept of climate change reshaped the legal discourse of the environmental protection as a policy goal into that of the constitutional necessity. This change is commonly referred to as climate constitutionalism, as it is associated with the changing perception of environmental protection as a basic human right, a prerequisite of the fulfillment of other constitutional provisions. The debate presupposes some urgency in the context of Pakistan. Even though the right to a healthy environment is not specifically stated in the Constitution 1973, the higher court has creatively applied the basic rights especially the right to life, right to dignity and right to property to give it the environmental aspects. Such judicial activism however portends questions of sufficiency of constitutional designation in mitigating the complications of climate change. This paper suggests that constitutionalizing of environmental rights does not only represent a legal but also a sociological change in the perception of duties of states to their future generations. This paper compares the constitutional system of Pakistan with the progressive models of the constitutions of South Africa, Ecuador and the Philippines to point out the shortcomings of the Pakistan model with regard to environmental governance norms and structures. Finally, it argues a recognition of environmental rights in national constitutions enhances the democratic accountability, environmental justice and offers a more sustainable basis of climate governance.*

**Keywords:** Climate Constitutionalism, Environmental Rights, Constitutional Law, Pakistan, Environmental Justice, Climate Governance

## 1: Introduction

Climate change has been one of the biggest legal and ethical issues of the twenty-first century that has reconstructed the parameters as well as role of constitutional law. Conventionally, constitutions used to be shaped with the aim of organizing the political power, protecting the rights of people and establishing the contact between the state and its citizens. But the growing pace of climate crisis has revealed the shortcomings of such frameworks because now the environment is directly challenged by environmental degradation, which is a threat to the constitutional life, dignity and equality promise. This has brought in the notion of climate constitutionalism, which is a normative approach to the process of embedding environmental protection and climate responsibility into the constitutional fabric of states<sup>1</sup>.

In a nutshell, climate constitutionalism acknowledges the fact that the establishment of other constitutional rights cannot be achieved without the environment being stable. The right to life is jeopardized and the social justice of the state is questioned when the air, water and ecosystems in a country are in a bad state. Therefore, the current constitutions are more and more incorporating the environmental principles in their preambles, their fundamental rights, directive principles or state obligations. This worldwide ecological governance of the environment by means of constitutional methods is represented by the identification of a right to a healthy environment in over 150 constitutional documents in the world<sup>2</sup>.

Pakistan is an interesting example of this movement in the world. Although the Constitution of 1973 does not directly state environmental rights, Pakistan has slowly bridged this normative gap by purposive interpretation by its judiciary. Grounded primarily in Article 9 (Right to Life) and Article 14 (Human Dignity), the superior courts have expanded the meaning of life to include a clean and healthy environment.<sup>3</sup> Landmark cases such as *Shehla Zia v. WAPDA* (1994) had laid down environmental degradation as an infringement of the constitutional rights; therefore, judicial guidance over pollution control, water management and climate adaptation were given.<sup>4</sup> The development in jurisprudence is an indicator of a new version of constitutional environmentalism in Pakistan legal order.

However, environmental protection is being constitutionalized in Pakistan only to a great extent, through the judiciary and not the text. Judicial creativity has some benefits such as flexibility and responsiveness, but it has structural problems. In the use of constitutional means, constitutional legitimacy is enhanced where the rights are clearly written down in law or in the amendment of the constitution as opposed to their being deduced through judicial interpretation. Unless specifically guaranteed in the constitution, environmental rights remain subject to a lesser or dreamy position, being left to the judicial whim of the day instead of being put in place as a lasting state obligation.<sup>5</sup>

In addition, the sociology of climate constitutionalism is extensive. The inclusion of environmental rights in constitutions is not only a process of law evolution but also a change in the consciousness of the masses concerning intergenerational justice and the social contract between the state and citizens. The shift in constitutional environmentalism, therefore, represents an anthropocentric approach to governance, with its primary orientation around human needs and human development, to an ecocentric view of constitutional order in which nature as such is given inherent value and legal status.

<sup>1</sup> Louis J Kotzé, *Global Environmental Constitutionalism in the Anthropocene* (Bloomsbury Publishing 2016).

<sup>2</sup> James R May and Erin Daly, 'Constitutional Environmental Rights Worldwide' [2011] *Principles of Constitutional Environmental Law* 329.

<sup>3</sup> Joana Setzer and Lisa Benjamin, 'Climate Litigation in the Global South: Constraints and Innovations' (2020) 9 *Transnational Environmental Law* 77.

<sup>4</sup> Arifa Naheed Rana and others, 'Environmental Laws And Policies In Pakistan: A Discussion'.

<sup>5</sup> Maria Antonia Tigre, 'The 'Fair Share' of Climate Mitigation: Can Litigation Increase National Ambition for Brazil?' (2024) 16 *Journal of Human Rights Practice* 25.

In comparison, other countries including South Africa, Ecuador and the Philippines have made a formal constitutional acknowledgment of environmental rights which have defined the state enforceable responsibilities towards environmental protection as well as climate change adaptation. These models show how the provisions of the constitution may inform the laws, judicial interpretation and administrative responsibility in governance of climate. The existing structure of Pakistan, in its turn, is characterized by a disjointed policy in which the issue of the environment is solved with the help of statutory regulation and the participation of the judiciary yet is not reflected in the basic document of the Constitution.

The paper as such examines the possibility of the application of climate constitutionalism in the legal framework of Pakistan. It explores the theoretical basis of environmental constitutionalism, the history of environmental rights in the jurisprudence of Pakistan and critically evaluates the comparative constitutional models, which can be used to learn. The main thesis developed is that an environmental right constitutionalizing would offer a more consistent, democratic and sustainable basis in responding to climate problems. This kind of integration would ensure that the constitutional order of Pakistan is brought in sync with the current global trends and also increase its dedication towards sustainable development, social justice and, intergenerational equity.

The following part builds up the conceptual approach of climate constitutionalism, its theoretical foundations, and its normative justification in the context of the general discussion of environmental and constitutional law.

## **2: Climate Constitutionalism as Conceptual Framework**

The idea of climate constitutionalism can be viewed as the meeting of two strong streams of contemporary jurisprudence constitutionalism, which determines the system of governance and rights protection, and environmental law, which is aimed at maintaining an ecological balance and sustainability. It is based on the understanding that the climate crisis is not the issue of the environment or science but the issue of the constitution, the issue of the constitutional effectiveness of the basic rights, the separation of powers and the duty of the state to secure citizens and future generations.

Constitutional climate the very idea of climate constitutionalism represents a normative development in constitutional thinking. It is a social contract between the state and its people that it changes by making ecological stewardship a part of the constitution and not a discretionary policy. This change highlights the fact that constitutions as living instruments need to change to protect not only civil and political but also environmental and intergenerational rights that are critical to the survival of man. According to the scholars, the development signifies the shift between traditional anthropocentric constitutionalism, which pays much attention to the well-being of people, and the model of the eco-constitutionalism, which acknowledges the intrinsic value of nature and its right to be preserved.<sup>6</sup>

Climate constitutionalism has an intellectual ground on environmental constitutionalism which argues that entrenchment of environmental norms in the constitution adds to their enforceability, durability and democratic legitimacy. Constitutions have a symbolic and functional value: symbolically, constitutions express the utmost ideals of a given society and its shared conscience; practically, they commit all the branches of government to a system of ecological responsibilities. Incorporation of environmental rights in the constitution thus transforms environmental protection as an issue of choice into one that has a right to adjudication and a constitutional responsibility of the state.<sup>7</sup>

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<sup>6</sup> Louis J Kotzé, 'The Transnationalization of Environmental Constitutionalism', *Research handbook on transnational environmental law* (Edward Elgar Publishing 2020).

<sup>7</sup> James R May and Erin Daly, 'Perspectives on Emerging Issues in International Environmental Law: The Role of Human Dignity in Achieving the Un Sustainable Development Goals' (2021) 19 *Direito em Movimento* 81.

Climate constitutionalism has aspects of substantive and procedural rights in terms of jurisprudential perspective. Substantively, it commits the right to a healthy and sustainable environment which is connected to life, dignity and equality. Procedurally, it guarantees participatory environmental governance by means of availability of information, access to participation and access to justice, which are in line with the Aarhus Convention and sustainable development goals. All these dimensions can enable citizens to make governments accountable to the climate inaction and environmental degradation.<sup>8</sup>

The emergence of climate constitutionalism, sociologically speaking, reflects a change in legal consciousness of great significance. The process of constitutionalization of the rights of the environment is an indication of the increased interest of the people in the fact that the ecological stability is the key to the social and economic justice. It reverses the intention of law to no longer be a control over human actions and moves it to the protection of the ecological systems on which life depends. This solution focuses on intergenerational equity, the understanding that the current generations are entrusted with the planet by future generations, and makes sustainability a constitutional principle, as opposed to an ideal.<sup>9</sup>

A number of theoretical constructs also describe the development of climate constitutionalism. According to the rights approach to environment protection, the environment protection is considered vital to the realization of other human rights, which include health, housing and livelihood. The model of duty focuses on the state duties and responsibilities to avoid harm and implement climate mitigation. A third approach is ecocentric constitutionalism, which applies constitutional protection to non-human beings such as Ecuador and Bolivia did with the right of nature. All these models demonstrate the ability of the constitutional law to change over time and be adapted to the emerging interpretations of justice, responsibility and living in the planetary ecosystem.<sup>10</sup>

In the Pakistan case, climate constitutionalism is conceptually justified by the interpretive growth of the fundamental rights. The Pakistani jurisprudence is embryonic as the reasoning of the judiciary that a clean environment is intrinsic to the right to life depicts climate constitutionalism. However, unless this is explicitly recognized in the constitution, this change is incomplete. Lack of textual inclusion exposes environmental rights to changes in policies and administrative laxity and contributes to the importance of making environmental rules formal and constitutional to enhance environmental management and responsibilities to the people.

Therefore, the climate constitutionalism conceptual framework is based on three premises which are interconnected: environmental rights constitutionality, the enforceability of ecological obligations and the judicial and participatory constraints on environmental decision-making as relates to the public. These all combine to form a comprehensive constitutional framework that will be able to address the existential challenge of climate change. In the following section, the study will discuss how the constitutional framework in Pakistan has dealt with the rights of the environment and the creative judicial interpretations that have contributed to the development of the changing environmental jurisprudence in Pakistan.

### **3: Constitutional Foundations of Environmental Rights in Pakistan**

The Constitution of the Islamic Republic of Pakistan of 1973 lacks a clear clause on the right to clean or healthy environment. However, this has been made possible through the changing jurisprudence of the higher courts and the interpretive elasticity of the constitutional provisions that has caused environmental protection to become a de facto

<sup>8</sup> Abbas Poorhashemi, 'International Environmental Law', *Public International Law* (Routledge 2024).

<sup>9</sup> Emilie Topp Bluitgen, 'Sammenspillet Mellem Rawls' Retfærdighedsteori Mellem Generationer Og Det Aktuelle Internationale Miljøretnlige Princip Intergenerational Equity' (2025) 48 *Retfærd* 3.

<sup>10</sup> Carla Sbert, *The Lens of Ecological Law: A Look at Mining* (Edward Elgar Publishing 2020).

constitutional belief. This development depicts how the judiciary has increasingly taken up environmental governance and reflects how the constitutional structure of Pakistan has gradually been adjusted towards the climate of constitutionalism. Environmental rights in Pakistan are founded on the understanding of Fundamental Rights of Chapter I Part II of the Constitution. Article 9, one of them, which requires the right to life and liberty, has been the center of the constitutional grounds of environmental jurisprudence. *Zia v. Shehla*, 1994, p. 78. WAPDA (1994) believed that clean and healthy environment is a part of the right to life. The case was a historic one as it provided that environmental degradation is a constitutional injury to the life and dignity of citizens. The Court rationale was that no development project or government policy could be considered justified in case of threat to the fundamental right to life by the environmental damage.<sup>11</sup>

On this basis, the courts have associated Article 14 right to human dignity and Article 23, right to property, with environmental protection. Dignity in the sense of the judiciary implies the quality of human life, which is directly impacted by environmental pollution, deforestation and resources loss. Property, in its turn, is not regarded as a right of an individual but as the right which is predetermined by social well-being and ecological concerns. This is a rather interpretive approach that shows that the environmental protection is already built into the very fabric of the constitutional order of Pakistan.

The other important constitutional aspect comes out of Article 38(d) whereby, the state is bound to guarantee the provision of basic necessities of life, such as proper living conditions. Though it is in the Principles of Policy and thus unjustifiable, this article gives a normative ground on how to incorporate environmental protection in the obligations of the people welfare. Equally, Article 199, which gives the High Courts the authority to grant writs to uphold the fundamental rights, has played a significant role in the legal proceedings against the environment. The petitions of public interest which have been made under this provision have enabled citizens and the civil society to invoke constitutional redress against environmental degradation hence increasing participatory constitutionalism.

The constitutional obligations in Pakistan have also been expounded by the judiciary based on international environmental requirements. *West Pakistan Salt Miners Labour Union v. in General Secretary*. The Supreme Court appealed to the principle of sustainable development in *Industries and Mineral Development* (1994), which indicated that it was prepared to reconcile domestic concept of constitutional interpretation with international environmental principles.<sup>12</sup> The future cases have re-established the active position of the judiciary by putting environmental protection as a necessary part of the constitutional governance and the responsibility of the state.

Structurally, though, there is no specific scope on an environmental right that is clear on paper, thus it creates difficulties to coherence and enforceability. The interpretations of the courts, though so progressive, are subject to the discretionary range of the courts and are not as entrenched in the text as permanent. Environmental duties of the executive, and legislature, consequently, are still mostly driven by policy and not mandatory by the constitution. This has led to unequal application, bureaucracy and disintegration of institutional applications.

The Eighteenth Amendment (2010) which dropped environmental regulation to the provinces has also added to constitutional coherence. As much as devolution is consistent with the concepts of participatory federalism, it has also caused unequal application of environmental enforcement between the provinces. Lack of central constitutional structure

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<sup>11</sup> Hareem Hilal, 'TRIPARTITE DIVISION OF THE HUMAN RIGHTS OBLIGATIONS OF THE STATE IN RELATION TO THE RIGHT TO HEALTH' (2022) 4 Pakistan Journal of Social Research 315.

<sup>12</sup> Salar Ahmad Tarar and Nayab Ahmad Tarar, 'Article 9A and Environmental Rights in Pakistan: A Legal and Jurisprudential Analysis' (2025) 4 Indus Journal of Law and Social Sciences.

has complicated the organization of the federal and provincial governments, especially in dealing with trans boundaries and climate adaptation solutions to environmental problems.

In spite of these constraints, the Pakistani courts still remain the primary guardians of environmental constitutionalism. The introduction of the Green Benches and the development of a public trust doctrine as a branch of Pakistani jurisprudence can testify to the transformed constitutional ethos according to which the ecological stewardship is considered a constitutional duty of a state. These court cases, though not written in the Constitution, are a practical adjustment of constitutional values to new environmental conditions.

After all, the constitutional provisions of environmental rights in Pakistan are indicative of a hybrid approach to constitutionalizing through the judiciary, whereby the courts can serve as instruments of environmental justice in the lack of textual commitments. The effectiveness of this policy, however, is pegged on embedding environmental protection in an institutionalized manner by formal constitutional amendment. Non-discriminatory acknowledgement of the environmental rights would give the legal assurance, democratic credibility and structural integrity to elevate the judicial-led system of environmental governance in Pakistan to a constitutional obligation enshrined in the constitution.

#### **4: Comparative Constitutional Approaches to Environmental Rights**

The history of climate constitutionalism in the world shows that environmental rights constitutionalizing can offer more robust backgrounds to climate governance, legal responsibility and sustainable development. Various jurisdictions, especially South Africa, Ecuador and the Philippines have a number of important lessons to offer to Pakistan since these represent various constitutional prototypes of incorporating environmental protection into the supreme law. All of these constitutions reflect unique strategies of balancing the state, its citizens and environmental accountability that reflected the variety of possible avenues of introducing the environmental rights into the constitutional legislation.

##### **South Africa: Environmental Rights as Enforceable Guarantees**

The constitution of Republic of South Africa (1996) is one of the most liberal constitutions that acknowledged environment rights. Section 24 specifically has the right to an environment which is conducive to their health and well-being and makes a responsibility of the state to make reasonable legislative and other efforts to avoid environmental degradation and to conserve it. This is a provision that will change environmental protection to a preference policy into a justiciable right that can be enforced by a judiciary.<sup>13</sup>

Courts in South Africa have taken this right broadly and have associated it with the principles of social justice, sustainable development and intergenerational equity. In *Fuel Retailers Association v. Director-General Environmental Management* (2007), the Constitutional Court highlighted the concept of environmental protection combined with economic and social development, which supported the principle of environmental governance. This strategy emphasizes the fact that environmental protection does not work against but in tandem with development. Notably, the South Africa model is an integration of the rights of the environment and constitutional responsibilities, thus establishing mutual accountability between the state and the citizens.<sup>14</sup>

##### **Ecuador: The Rights of Nature and Ecocentric Constitutionalism**

The 2008 Constitution of Ecuador is a paradigmatic shift of constitutionalism being anthropocentric to ecocentric. Not only does it acknowledge the right to a healthy environment but also criminalizes nature as a person, known as

<sup>13</sup> Melanie Murcott, 'Book Review: Louis J Kotzé (Ed), Environmental Law and Governance for the Anthropocene (Hart Publishing, Oxford 2017) 379 Pp.' (2020) 11 Journal of Human Rights and the Environment 324.

<sup>14</sup> James R May and Erin Daly, 'Perspectives on Emerging Issues in International Environmental Law: The Role of Human Dignity in Achieving the Un Sustainable Development Goals' (2021) 19 Direito em Movimento 81.

Pachamama (Mother Earth). Articles 71-74 of the constitution of Ecuador state that nature has the right to exist, survive and reproduce its essential cycles and that the state and citizens have the parallel obligations to protect and safeguard these rights.<sup>15</sup>

This ground-breaking constitutional invention has generated the landmark judicial rulings in which the courts applied the rights of nature despite the human interests. In *Vilcabamba River Case* (2011), the Provincial Court of Loja concluded that the government infringed the rights of the river by permitting the constructions to the detriment of the natural flow of the river. The case confirmed nature as a constitutional topic as opposed to being an object of human control. This practice by Ecuador therefore renegotiates constitutionalism itself, no longer focusing on the rights of people but on an environmental ethic that is comprehensive and ecological balance is the goal.

Although this method might appear daring to the constitutional tradition in Pakistan, the example of Ecuador can be a useful source of understanding of how the constitutional tradition of environmental protection could be integrated not just as a right, but also as a constitutional philosophy. The institutionalization of environmental integrity as a constitutional value through Ecuador achieved a form of ecological democracy that is consistent with normative goals of climate constitutionalism.

### **The Philippines: Judicial Innovation in Environmental Governance**

The Philippines: Environmental Governance through Judicial Innovation. Environmental protection is also enshrined in the Constitution of the Philippines (1987) in the Declaration of Principles and State Policies (Article II, Section 16) which states that the State shall uphold and promote the right of the people to an ecology that is balanced and healthful. It was a brief provision that the judiciary has construed liberally particularly on the landmark case *Oposa v. Factoran* (1993). The decision supported by the Supreme Court in that case made it clear that the doctrine of intergenerational responsibility holds, as the right to a healthy environment is applicable to future generations as well.<sup>16</sup>

The difference between the Philippine model is that innovative procedural mechanism of enforcing the environment has been developed. The Writ of Kalikasan (Writ of Nature) was presented by the Rules of Procedure of Environmental Cases (2010) and the right to petition environmental protection, in the constitutional courts, was offered to the citizens. This is a mechanism that operationalize constitutional environmental rights in that it provides participation and accountability by the people and it helps close the gap between constitutional awareness and effective implementation.

### **Lessons for Pakistan**

As the comparative experience in South Africa, Ecuador and the Philippines explain, constitutional environmental protection may adopt a variety of albeit complementary forms:

1. **Textual assurances** (South Africa) form forceable rights and government obligations.
2. **The acknowledgement of the rights of nature** (Ecuador) makes environmental protection a constitutional philosophy based on ecological balance.
3. **Environmental rights** are achievable and practical through procedural innovations and citizen involvement (Philippines).

To the country of Pakistan, all these models have one common theme; that is the imperative to entrench environmental rights both substantively and procedurally. Codified constitutional attention along with participatory measures, including environmental commissions and citizen suits, would codify environmental governance under nonjudicial activism. Besides,

<sup>15</sup> Susana Borràs, 'Rights of Nature to Protect Human Rights in Times of Environmental Crisis', *Environmental and Agricultural Informatics: Concepts, Methodologies, Tools and Applications* (IGI Global 2020).

<sup>16</sup> *ibid.*

constitutional reform should be harmonized with the Pakistani socio-legal environment, which is based on Islamic principles of stewardship (Khilafah) and social justice and this will be a culturally credible approach to the inclusion of environmental rights into the Constitution.

Through such varied constitutional experience, Pakistan can shift away the jurisprudence of judicial implication to textual and institutional constitutionalism of climate protection so that environmental stewardship becomes a constitutional part of its identity that is permanent and enforceable.

### **5: Challenges and Limitations of Climate Constitutionalism in Pakistan**

Although the judiciary of Pakistan has gone a long way to ensure that the aspect of the environment protection is incorporated into the constitutional interpretation, climate constitutionalism has several structural, political and socio-legal barriers to its actualization. These limitations paint the picture of the lack of connection between the normative desires and actual implementation and point out the need of widespread constitutional and institutional shifts.

#### **1. Absence of Explicit Constitutional Provisions**

One of the main problems is the lack of a textual guarantee of the environmental rights to the Constitution. Pakistan is not one of those countries like South Africa or Ecuador, where the right to a healthy environment is explicitly identified and, therefore, the issue of environmental protection is primarily left to judicial interpretation. Although courts have applied Article 9 (Right to Life) and Article 14 (Human Dignity) to take an environmental dimension, these interpretations are necessarily case-specific and cannot be used instead of constitutional entrenchment. The environmental rights are not guarded by any explicit provisions, and this is how they can be affected by the change of judicial philosophy or political priorities, or legislative negligence.

#### **2. Fragmented Institutional Framework**

In Pakistan, environmental governance is characterized by institutional fragmentation and it is worsened by the Eighteenth Amendment (2010), which devolved the environmental responsibilities to provincial governments. Although federalism fosters participatory governance, decentralization of powers has led to coordination problems in between the federal and provincial government agencies, especially on transboundary environmental matters like water management, air pollution and climate adaptations. Lack of a centralized constitutional model reduces the policy consistency within the framework where significant environmental choices are prone to local political influences and resource limitation.<sup>17</sup>

#### **3. Limited Public Participation and Legal Access**

Good climate constitutionalism involves the involvement of masses in environmental decision making. The existing legal frameworks in Pakistan, though providing access to the people through Article 199 of the Constitution, have not been accessible to all marginalized groups due to the procedural and resource-heavy nature of the system. In comparison to the Philippine Writ of Kalikasan that formalizes the participation of the citizens in the enforcement of the environmental laws, Pakistan does not have such mechanisms to provide participatory and inclusive environmental governance.<sup>18</sup>

#### **4. Political and Economic Constraints**

In Pakistan, environmental policy usually faces conflict with political and economic concerns. Development- environment dilemma exists as industrial growth, energy growth and development of infrastructure projects at times comes at the expense of environmental protection. Environmental rights can be imposed by judicial authorities, which can be limited

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<sup>17</sup> Christophe Jaffrelot, Mohammad Waseem and Asma Faiz, 'Mapping the Post-18th Amendment Federalism in Pakistan: Hegemony, Centralization or Cooperation?' (2024) 62 Commonwealth & Comparative Politics 185.

<sup>18</sup> Qi Gao, 'Retrospect and Prospect: Public Participation in Environmental Impact Assessment in China' (2023) 101 Environmental Impact Assessment Review 107146.



by executive unwillingness or bureaucratic stagnation and lessen the effect of judicial orders. Moreover, the problem of environmental protection is often insufficient financing and lack of proper implementation of statutory frameworks, which significantly flattens the efficiency of climate constitutionalism.<sup>19</sup>

### **5. Socio-Cultural and Awareness Barriers**

The other weakness is that, there is a relative lack of environmental rights public awareness and legal literacy. In Pakistan, the socio-cultural understanding tends to prefer short term economic survival rather than long term sustainability of the ecological environment, and thus restricts the popularity of environmental rights as embodied in the constitution. This causes the executive and the judiciary to be less pressurized by the society to take environmental protection measures, and this limits the sociological power of climate constitutionalism.<sup>20</sup>

### **6. Reliance on Judicial Activism**

The existing environmental constitutionalism in Pakistan is largely a judicial constitutionalism as it depends on the courts to give a broad interpretation of the current fundamental rights. As much as judicial activism has been able to deliver landmark decisions, it cannot substitute formal legislative or constitutional entrenchment. The excessive use of the judicial remedies may lead to the development of a reactive and not a proactive system where the protection of the environment is based on litigation but not systemic structures of governance.

### **Conclusion of Challenges**

All these restrictions help to point out that Pakistan is still yet to achieve success in the path of an effective climate constitutionalism. Lack of explicit constitutional rights, decentralized institutional power, weak mechanisms of participation, political-economic trade off, socio-cultural and dependence on judicial activism all inhibit the achievement of a robust constitutional environmental structure. Such challenges will have to be handled using a multi-pronged approach, which involves a constitutional reform, institutional reinforcement, participation based legal systems and awareness promotion. These measures would transform inferred environmental rights which are judicially inferred to become long-lasting, enforceable and socially acceptable elements of the constitutional order in Pakistan.

### **6: Reforms and Recommendations**

Climate constitutionalism in Pakistan requires a blend of constitutional, institutional and procedural reforms in order to be advanced. Such actions must deal with current failures in law recognition, governance framework and citizen involvement and make it so that environmental protection is a lasting and binding constitutional responsibility and not a matter of judicial discretion.

#### **1. Constitutional Entrenchment of Environmental Rights**

The first and the most basic reform is the inclusion of environmental rights into the Constitution. This might be in the form of an exclusive article that would ensure the entitlement to a clean, healthy and sustainable environment including the responsibilities of the state to ensure that it does not cause environmental damage and encourages conservation. Constitutional entrenchment would offer a kind of legal assurance, bring the environment protection to the uppermost

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<sup>19</sup> Muhammad Saad Saleem, Aqsa Tasgheer and Tehreem Fatima, 'Exploring Judicial Activism in Pakistan: A Review of Key Precedents in Advancing Environmental Sustainability' (2023) 3 Journal of Religious and Social Studies-JRSS 1.

<sup>20</sup> Arif Hasan, 'The Changing Nature of Informal Settlements in the Megapolis in South Asia: The Case of Karachi, Pakistan', *Communities, land and social innovation* (Edward Elgar Publishing 2020).

normative plane and integrate Pakistan with the global tendencies of climate constitutionalism, including the South African Section 24 or the ecocentric clauses of Ecuador.<sup>21</sup>

## **2. Institutional Strengthening and Federal Coordination**

Decentralization of environmental control under the Eighteenth Amendment implies the need to have strong mechanisms of federal-provincial coordination. The creation of the constitutional National Environmental Commission can also coordinate the policy, develop national environmental standards and support the introduction of climate adaptation policies. There should be sufficient technical, financial and regulatory power granted to provincial environmental agencies that are under a national template. This would minimize fragmentation, consistency in enforcement and cross-provincial environmental issues like pollution of rivers, deforestation and managing air quality.<sup>22</sup>

## **3. Procedural Reforms for Public Participation**

The participation mechanisms play an important role in operationalizing the rights of the environment. Pakistan may also come up with specialized legal tools like the Philippine Writ of Kalikasan, which will enable the citizens and civil society groups to take a petition to the courts so as to have the environmental rights enforced. These procedural changes would make justice more accessible; the issue of environmental concerns no longer restricted among the urban elites and enhance the sociological validity of environmental constitutionalism.<sup>23</sup>

## **4. Integration of Sustainable Development Principles**

The concept of sustainable development and intergenerational equity should be clearly identified in constitutional reform as principles of legislation and governance. This would give the economy a structure of norm that would help in balancing economic growth and environmental protection, minimizing development projects and ecological conservation conflicts. This would then provide the courts and policymakers with a clear constitutional direction on which they can analyze the environmental impact of their development projects, and make the issue of climate consideration a systematic part of decision-making.<sup>24</sup>

## **5. Enhancing Judicial Capacity and Environmental Expertise**

Judges should rely on expert knowledge of the environmental law and science to enforce climate constitutionalism. It is possible to establish special Green Benches consisting of the trained judges and technical advisors as a means of improving the quality of judicial decision and serving as an enforcer of environmental rights. The judiciary would be enhanced by continuous judicial education programs on climate law, the principles of ecological science and sustainable development so that they become an effective advocate of constitutional environmental rights.<sup>25</sup>

## **6. Public Awareness and Legal Literacy Campaigns**

Public awareness is the only thing that is missing to be legal. National campaigns, civic education and community-based activities should enlighten the citizens on their environmental rights, the constitutional structure and legal redress system.

<sup>21</sup> Louis J Kotzé, 'The Transnationalization of Environmental Constitutionalism', *Research handbook on transnational environmental law* (Edward Elgar Publishing 2020).

<sup>22</sup> Christophe Jaffrelot, Mohammad Waseem and Asma Faiz, 'Mapping the Post-18th Amendment Federalism in Pakistan: Hegemony, Centralization or Cooperation?' (2024) 62 *Commonwealth & Comparative Politics* 185.

<sup>23</sup> Sanne Akerboom and Robin Kundis Craig, 'How Law Structures Public Participation in Environmental Decision Making: A Comparative Law Approach' (2022) 32 *Environmental Policy and Governance* 232.

<sup>24</sup> Daniel A Sabsay, 'Constitution and Environment in Relation to Sustainable Development' (2003) 21 *Pace Env'tl. L. Rev.* 155.

<sup>25</sup> Syeda Saima Shabbir and others, 'Legal Framework for Promoting Environmental Justice in the Context of Climate Change: Highlighting Proactive Role of the Supreme Court of Pakistan'.

The involvement of community in environmental governance makes them accountable and promote a social culture of protecting the environment, therefore strengthening the sociological aspect of climate constitutionalism.

### **7. Legislative Complementarity**

The constitutional reform should be supported with the corresponding legislation such as the new environmental protection laws, climate adaptation policies and industry regulations. Documenting procedural standards, enforcement systems and punishments would offer an all-encompassing framework to execute the constitutional environmental duties. Such a legislation should also help the partnership with local governments, civil society and international agencies to deal with the complex and transboundary environmental issues.

### **Conclusion of Recommendations**

All these reforms would make Pakistan adopt climate constitutionalism in practice as a constitutional principle inferred judicially to a constitutional principle rooted in the text and institutionally. The durability, equity and participation of environmental governance in Pakistan can be achieved through inclusion of environmental rights in the Constitution, institutional solidarity, increased procedural openness, incorporation of sustainability and popular sensitization. These would bring the nation in line with the global best practice and also address the unique socio-legal and ecological conditions.

### **7: Conclusion**

The constitutionalism of climate is a new basis in the legal and constitutional life of Pakistan and is an indication of the understanding that it is impossible to separate the protection of the environment and the larger protections of life, dignity and social justice. Although this right to a healthy environment has not been stated explicitly in the Constitution of Pakistan, nevertheless, through judicial interpretation, this gap has been gradually being filled thus laying the basis of a constitutional ethos wherein ecological sustainability is being incorporated as a principal component of human rights.

The positive experience of South African, Ecuadorian and Philippine experience has shown the advantages of explicit constitutional recognition, procedural advice and ecocentric strategies in entrenching environmental protection in a high law system. The models offer practical and normative lessons in the context of Pakistan, as it is important to entrench the text, establish institutional coherence and participatory mechanisms to create effective climate governance.

Nevertheless, present-day overreliance on judicial activism, haphazard institutional organizations, low levels of engagement and socio-political restrictions highlight the importance of total reform. The introduction of environmental rights directly into the Pakistan Constitution, enhancing coordination between the federal and provincial level, inventing specific legal solutions and increasing the level of awareness among people are the important steps of operationalizing climate constitutionalism.

Lastly, the introduction of environmental rights into the constitutional order is not merely a legal question and rule, but also a sociological and moral requirement. It confirms the responsibility of the state to take care of the current and future generations, harmonizes domestic law with international environmental standards and offers a sustainable development framework that is durable. Pakistan can ensure ecological integrity and social justice to future generations by adopting climate constitutionalism and making environmental protection a proactive and interactive and constitutionally guaranteed duty rather than a reactionary and case-by-case judicial activity.

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