

Stereo. H C J D A 38.
Judgment Sheet

IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

Case No: **W.P. No. 25501/2015**

Asghar Leghari

Versus

Federation of Pakistan, etc.

JUDGMENT

Dates of hearing:	31.08.2015, 04.09.2015, 14.09.2015, 05.10.2015, 26.10.2015, 18.11.2015, 07.12.2015, 18.01.2016, 29.02.2016, 29.03.2016, 16.05.2016, 24.05.2016, 05.09.2016, 22.09.2016, 16.11.2016, 14.12.2016, 16.01.2017, 23.01.2017, 28.02.2017, 12.05.2017, 24.05.2017, 12.07.2017, 17.07.2017, 06.09.2017, 26.10.2017, 04.12.2017, 07.12.2017 and 25.01.2018.
Petitioner by:	M/s Mansoor Usman Awan, Shehzeen Abdullah and Hussain Ibraheem Muhammad, Advocates.
Respondents by:	Mr. Nasar Ahmad, Deputy Attorney General for Pakistan. Ms. Hina Hafeezullah Ishaq, Assistant Attorney General for Pakistan. Dr. Parvez Hassan, Chairman, Climate Change Commission. Ms. Saima A. Khawaja, Advocate/Member, Climate Change Commission. Dr. Muhammad Javed, Director Irrigation Department, Government of the Punjab. Dr. Qazi Tallat M. Siddiqui, Deputy Energy Advisor (Civil)/DS(W), Ministry of Water Resources, Islamabad. Mr. M. Irfan Tariq, D.G. Ministry of Climate Change, Islamabad. Nisar Ahmad, Director (PDM-II), Ministry of Inter Provincial Coordination, Cabinet Block, Islamabad.

Climate change is one of the greatest threats to human rights of our generation, posing a serious risk to the fundamental rights to life, health, food and an adequate standard of living of individuals and communities across the world.

*Achim Steiner¹
UNEP Executive Director*

Syed Mansoor Ali Shah, CJ:- The petitioner, who is an agriculturist, has approached this Court as a citizen for the enforcement of his fundamental rights. He submits that overwhelming majority of scientists, experts, and professional scientific organizations related to earth sciences agree that there is sufficient evidence that climate change is for real. He submits that no one can deny the devastating impact of increase in frequency and intensity of climate extremes. Further, most of the experts agree that the major cause is human activities, which include a complex interaction with the natural environment coupled with social and economic changes that are increasing the greenhouse gases (GHG) in the atmosphere, which are increasing global temperature and in turn causing climate change.

2. The climate system is a highly complex system consisting of the atmosphere, the hydrosphere, the cryosphere, the land surface and the biosphere, and the interactions between them. He submits that for Pakistan, climate change is no longer a distant threat. We are already feeling and experiencing its impacts across the country and the region. The country experienced devastating floods during the last three years. These changes come with far reaching consequences and real economic costs.

3. Learned counsel for the petitioner submits that in order to address the threat of climate change, the National Climate Change Policy, 2012 (“Policy”) and the Framework for Implementation

¹ Human Rights and Climate Change – UNEP- 2015

of Climate Change Policy (2014-2030) (“Framework”) has been announced by the Ministry of Climate Change, Government of Pakistan, however, no implementation on the ground has taken place. He fears that in the absence of any strategy by the Government to conserve water or move to heat resilient crops, he will not be able to sustain his livelihood. He submits that inaction on the part of Ministry of Climate Change and other Ministries and Departments in not implementing the Framework, offends his fundamental rights, in particular, Articles 9 and 14 of the Constitution besides the constitutional principles of social and economic justice. He submits that international environmental principles like the doctrine of public trust, sustainable development, precautionary principle and intergenerational equity form part of the abovementioned fundamental rights also stand offended. Reliance is placed on Ms. Imrana Tiwana and others v. Province of Punjab and others (PLD 2015 Lahore 522) and Ms. Shehla Zia and others v. WAPDA (PLD 1994 SC 693).

4. The Court treated this environmental public interest petition as a *rolling review* or a *continuing mandamus* and considering it to be a writ of *kalikasan*², as they call it in Philippines, the Court proceeded in an inquisitorial manner by summoning the following parties for assistance:

Federal Government.

- i. Cabinet Division, Government of Pakistan.
- ii. Ministry of Finance, Revenue and Planning and Development.
- iii. Ministry of Foreign Affairs
- iv. Ministry of Inter-Provisional Coordination.
- v. Ministry of Law and Justice
- vi. Ministry of Climate Change.

² a legal remedy designed for the protection of one's constitutional right to a healthy environment.

- vii. Ministry of National Food Security and Research.
- viii. Ministry of Water and Power
- ix. Irrigation Department.
- x. National Disaster Management Authority (NDMA).

Provincial Government.

- i. Agricultural Department.
- ii. Environment Protection Department/EPA.
- iii. Food Department.
- iv. Forestry, Wildlife and Fisheries Department.
- v. Health Department.
- vi. Housing, Urban Development and Public Health Engineering Department.
- vii. Planning and Development Department.
- viii. Irrigation Department.
- ix. Law and Parliamentary Affairs Department.
- x. Disaster Management Department (DMD).

5. The above Ministries and Departments alongwith their focal persons rendered full assistance and filed their respective replies.

The National Climate Change Policy, 2010 provides as under:-

1. Goal

To ensure that climate change is mainstreamed in the economically and socially vulnerable sectors of the economy and to steer Pakistan towards climate resilient development.

2. Policy Objectives

The main objectives of Pakistan's Climate Change Policy include:

- 1. To pursue sustained economic growth by appropriately addressing the challenges of climate change;
- 2. To integrate climate change policy with other inter-related national policies;
- 3. To focus on pro-poor gender sensitive adaptation while also promoting mitigation to the extent possible in a cost-effective

manner;

4. To ensure water security, food security and energy security of the country in the face of the challenges posed by climate change;
5. To minimize the risks arising from the expected increase in frequency and intensity of extreme weather events such as floods, droughts and tropical storms;
6. To strengthen inter-ministerial decision making and coordination mechanisms on climate change;
7. To facilitate effective use of the opportunities, particularly financial, available both nationally and internationally;
8. To foster the development of appropriate economic incentives to encourage public and private sector investment in adaptation measures;
9. To enhance the awareness, skill and institutional capacity of relevant stakeholders;
10. To promote conservation of natural resources and long term sustainability.

3. Pakistan's Vulnerability to Climate Change Threats

The important climate change threats to Pakistan are:

1. Considerable increase in the frequency and intensity of extreme weather events, coupled with erratic monsoon rains causing frequent and intense floods and droughts;
2. Projected recession of the Hindu Kush-Karakoram-Himalayan (HKH) glaciers due to global warming and carbon soot deposits from trans-boundary pollution sources, threatening water inflows into the Indus River System (IRS);
3. Increased siltation of major dams caused by more frequent and intense floods;
4. Rising temperatures resulting in enhanced heat and water-stressed conditions, particularly in arid and semi-arid regions, leading to reduced agricultural productivity;
5. Further decrease in the already scanty forest cover, from too rapid change in climatic conditions to allow natural migration of adversely affected plant species;
6. Increased intrusion of saline water in the Indus delta, adversely affecting coastal agriculture, mangroves and the breeding grounds of fish;
7. Threat to coastal areas due to projected sea level rise and increased cyclonic activity due to higher sea surface

temperatures;

8. Increased stress between upper riparian and lower riparian regions in relation to sharing of water resources;
9. Increased health risks and climate change induced migration.

The above threats lead to major survival concerns for Pakistan, particularly in relation to the country's water security, food security and energy security.

4. Climate Change Adaptation

Pakistan makes a tiny contribution to total global greenhouse gas (GHG) emissions (among the lowest in the world) but it is among the countries most vulnerable to climate change, and it has very low technical and financial capacity to adapt to its adverse impacts. For Pakistan to continue on a development path to achieve the goals articulated in the Planning Commission's Vision 2030 document, it is imperative to prepare the ground to enable it to face this new challenge. While Pakistan is working on a strategy that seeks to conserve energy, improve energy efficiency and optimize fuel mix to support global efforts for reduction in GHG emissions, the more immediate and pressing task is to prepare itself for adaptation to climate change. Only by devising and implementing appropriate adaptation measures will it be possible to ensure water, food and energy security for the country as well as to minimize the impact of natural disasters on human life, health and property.

4.1. Water Resources

Water resources are inextricably linked with climate; this is why the projected climate change has such serious implications for Pakistan's water resources. Freshwater resources in Pakistan are based on snow and glacier-melt and monsoon rains, both highly sensitive to climate change. Country specific climate change projections strongly suggest the following future trends in Pakistan: decrease in glacier volume and snow cover leading to alterations in the seasonal flow pattern of the Indus River System (IRS); increased annual flows for a few decades followed by decline in flows in subsequent years; increase in the formation and outburst of glacial lakes; higher frequency and intensity of extreme climate events coupled with irregular monsoon rains causing frequent floods and droughts; and greater demand on water due to higher evapotranspiration rates at elevated temperatures.

These trends will have a significant impact on the spatial and temporal distribution of water resources on both annual and inter-annual basis in the country. This will further exacerbate the already difficult situation of a water- stressed country facing demand increases due to population growth and increasing economic activity.

6. In order to implement the National Climate Change Policy, Federal Government has come up with the Framework for

Implementation of Climate Change Policy (2014-2030) which, *inter-alia*, sets four time-frames for implementation of the Policy in the following manner:-

Priority Actions (PA): within 2-years

Short term Actions (SA): within 5-years

Medium term Actions (MA): within 10 years

Long term Actions (LA): within 20-years

7. In view of Pakistan's high vulnerability to adverse impacts of climate change, in particular extreme events, adaptation effort is the focus of the Policy and the Framework. The vulnerabilities of various sectors to climate change have been highlighted and appropriate adaptation actions spelled out. These cover actions to address issues in various sectors such as water, agriculture, forestry, coastal areas, biodiversity, health and other vulnerable ecosystems. Notwithstanding the fact that Pakistan's contribution to global greenhouse gas emissions is very small, its role as a responsible member of the global community in combating climate change has been highlighted by giving due importance to mitigation efforts in sectors such as energy, forestry, transport, industries, urban planning, agriculture and livestock.

8. The Framework for Implementation of the Policy has been developed not as an end in itself, but rather a catalyst for mainstreaming climate change concerns into decision making that will create enabling conditions for integrated climate compatible development processes. It is, therefore, not a stand-alone document, but rather an integral and synergistic complement to future planning in the country. The Framework is a "living document". The goal of the Policy is to ensure that climate change is mainstreamed in the economically and socially

vulnerable sectors of the economy and to steer Pakistan towards climate resilient development.

9. The Framework provides adaptation actions for various sectors in the following manner:-

Water Sector: Adaptation Actions:

Pakistan is an agricultural country. Therefore water is an essential resource for sustained economic growth as well as human survival. Water, which is one of the most important national resource is increasingly becoming a scarce natural resource. Presently agriculture sector is using 93% domestic sector 5% and industrial sector 2% of water resources. Our Indus Basin Irrigation System (IBIS) is the world's largest contiguous irrigation system. Water resources are inextricably linked with climate; hence, the projected climate change has serious implications for Pakistan's water resources. The freshwater resources in Pakistan are mainly based on snow and glacier melt and monsoon rains, both being highly sensitive to climate change. Pakistan has moved from a water affluent country to water stressed country. In 1947, per capita water availability was 5000 cubic meter, which has currently decreased to around 1000 cubic meter, and projected to decrease to 800 cubic meter per capita by the year 2025. The country-specific climate projections strongly suggest the following future trends in Pakistan: decrease in the glacier volume and snow cover leading to alterations in the seasonal flow pattern of IRS; increase in the formation and burst of glacial lakes; higher frequency and intensity of extreme climate events coupled with irregular monsoon rains causing frequent floods and droughts; greater demand of water due to increased evapotranspiration rates at elevated temperatures.

Agriculture and Livestock: Adaptation Actions:

Agriculture sector is the life line and the single largest sector of Pakistan's economy. It contributes 21% to the GDP, employs 45% of the labour force and contributes about 70% to the export earnings. Agriculture in Pakistan is greatly affected by short term climate variability and could be harmed significantly by long-term climate change.

The country is broadly divided into the following 10 agro-ecological zones based on physiographic, climate, soil type and agricultural land use.

I. Indus delta; II. Southern irrigated plain; III. Sandy desert; IV. Northern irrigated plain V. Barani (Rain feed areas); VI. Wet Mountains; VII. Northern dry mountains; VIII. Western dry mountains; IX. Dry western Plateau; X. Sulaiman Piedmont.

Shortening length of growing period:

The duration of crop growth cycle is related to temperature; an increase in temperature will speed up crop growth and shorten the duration between sowing and harvesting. This shortening could have an adverse effect on productivity of crops and fodder for livestock.

Changes in river flows:

The Indus River System gets about 80% water from the Hindu-Kush-Himalaya glaciers. Increasing atmospheric temperatures are expected to increase glacier melt. IPCC (2007) projected that glacier melt in Himalayas would cause increased rivers flows during the next few decades and then followed by decreased river flows, as the glaciers recede.

Increased crop evapotranspiration:

Increased atmospheric temperature would cause higher water evaporation from soil and from plant leaves. These higher evapotranspiration losses would mean that plants would need more water to maintain optimum growth.

Land Degradation:

The deterioration of productive agricultural land areas due to water logging and salinity is causing major threat to food security in the country. Soil erosion due to water and wind is universally recognized as a serious threat to productive agriculture land areas. Water and wind erosion is the direct consequence of climatic parameters of high intensity rainfall, wind-velocity and higher temperatures. The northern mountainous region suffers from unfavourable soil and moisture regime, thereby causing soil erosion. Similarly arid regions of Punjab (Cholistan), Sindh (Tharparker) and Balochistan (Chaghi Desert and sandy coastal areas) are affected by wind-erosion.

Extreme Weather Events:

According to IPCC (2007), the frequency and intensity of extreme weather events, such as floods, heavy precipitation events, droughts, cyclones etc. are expected to increase in future. Such extreme events can also affect food security.

Livestock Sector:

Since the agriculture & livestock sector are heavily dependent on the vagaries of nature, it is highly vulnerable to climate change phenomena. Climate change will impact food security of the country mainly through reduced crop productivity, adverse impact on livestock health and increased agricultural production losses because of extreme weather events. This will necessitate the

agriculture and livestock sectors, particularly in rain-fed areas, to adapt to these climatic changes.

Forestry Sector:

Generally most of the forests in Pakistan are prone to the threats of changing climate in the form of changes in species composition, disease and insect attacks, more frequent forest fires, and shifting habitats due to unfavourable climatic conditions. Further research is required to investigate the real and specific climate change threats to each forest type so as to undertake realistic adaptation measures.

10. Petitioner submits that the most immediate and serious threat to Pakistan is that of water, food and energy security. It is submitted that priority items under the Framework have not been complied with and no action has been taken by the respective Governments or authorities to develop adaptative capacity and resilience to address climate change.

11. Climate Change is a defining challenge of our time and has led to dramatic alterations in our planet's climate system. For Pakistan, these climatic variations have primarily resulted in heavy floods and droughts, raising serious concerns regarding water and food security. On a legal and constitutional plane this is clarion call for the protection of fundamental rights of the citizens of Pakistan, in particular, the vulnerable and weak segments of the society who are unable to approach this Court.

12. Fundamental rights, like the right to life (Article 9) which includes the right to a healthy and clean environment and right to human dignity (Article 14) read with constitutional principles of democracy, equality, social, economic and political justice include within their ambit and commitment, the international environmental principles of sustainable development, precautionary principle, environmental impact assessment, inter and intra-generational equity and public trust doctrine. Environment and its

protection has taken a center stage in the scheme of our constitutional rights. It appears that we have to move on. The existing environmental jurisprudence has to be fashioned to meet the needs of something more urgent and overpowering i.e., *Climate Change*.

13. As no substantial work has been done to implement the Framework by the Government, and realizing that its effective and immediate implementation is necessary for the protection and safeguard of the fundamental rights of the people, this Court constituted **Climate Change Commission** (“CCC”) vide order dated 14.09.2015 in the following manner:-

I. CONSTITUTION OF CLIMATE CHANGE COMMISSION

“Climate Change Commission” is hereby constituted under Order 26 CPC, comprising the following members:-

1.	Dr. Parvez Hassan, Advocate, PAAF Building, second floor Kashmir Egerton Road, Lahore	Chairman
2.	Secretary, Ministry of Climate Change.	Member
3.	Secretary, Ministry of Water and Power.	Member
4.	Secretary, Ministry of Finance, Revenue and Planning and Development.	Member
5.	Director General, National Disaster Management Authority.	Member
6.	Director General, International Organization/Climate Change at the Ministry of Foreign Affairs (nominated by the Foreign Secretary).	Member
7.	Secretary, Irrigation Department, Government of the Punjab.	Member
8.	Secretary, Agriculture Department, Government of the Punjab.	Member
9.	Secretary, Food Department, Government of the Punjab.	Member
10.	Secretary, Forest Department, Government of the Punjab.	Member
11.	Secretary, Health Department, Government of the Punjab.	Member
12.	Director, Provincial Disaster Management Authority.	Member
13.	Secretary, Environment Protection Department, government of the Punjab.	Member
14.	Mr. Ali Tauqeer Sheikh, CEO &	Member

	National Program Director, LEAD, Pakistan, LEAD House, F-7, Markaz Islamabad.	
15.	Mr. Hamad Naqi, Director General, WWF, Lahore.	Member
16.	Mr. Mehmood Akhtar Cheema, Manager, Islamabad Program Office, IUCN.	Member
17.	Mr. Abid Solehri, CEO, SDPI.	Member
18.	Ms. Saima Amin Khawaja, Advocate, 78-B, Mozang Road, Lahore.	Member
19.	Mr. Anwaar Hussain, Assistant Advocate General, Punjab.	Member
20.	Mr. Mansoor Usman Awan, Advocate, Counsel for the petitioner.	Member
21.	Irfan Tariq, D.G. (Environment), Ministry of Climate Change, Islamabad.	Secretary .

II. TERMS OF REFERENCE OF CLIMATE CHANGE COMMISSION:-

Objective/Terms of Reference:

- a) Effective implementation of National Climate Change Policy, 2012 (“NCCP”) and the Framework for Implementation of Climate Change Policy (2014-2030) [“Framework”]

III. POWER OF THE COMMISSION

- a) The above Commission shall enjoy the powers under Order 26 of the CPC in order to achieve the objective of the Commission.
- b) The Commission shall have the power to co-opt any person/ expert, at any stage.
- c) The Commission can seek assistance of any Federal or Provincial Government Ministries/ Department by approaching the concerned Ministries/Departments in writing and the concerned Ministries/Departments are hereby directed to render full assistance to the Commission in respect of the above Terms of Reference.

IV. QUORUM OF THE COMMISSION

The quorum of the Commission shall be five which shall include the Chairman.

V. SECRETARIAT OF THE COMMISSION:

The secretariat of the Commission shall be housed at the Ministry of

Climate Change, Islamabad, however, venue of the meeting will be decided by the Chairman.

VI. EXPENSES OF THE COMMISSION:

- (a) Secretarial expenses of the Commission shall be borne by the Ministry of Climate Change.
- (b) The Commission may approach this court at any stage to seek appropriate orders for facilitation of their work.

VII. INTERIM REPORT

The Commission shall file interim reports as and when directed by this Court.

14. During the course of hearing Strategy 4.2 of the Framework regarding “legislating and implementing the draft National Water Policy to address the water related vulnerabilities induced by climate change.” Actions 4.2.1 and 4.2.2 therein provide as follows:-

- 4.2.1 Ensure that water related vulnerabilities induced by climate change are part of “National Policy”.
- 4.2.2 Ensure the expeditious approval of draft “National Water Policy” and its implementation.

15. Water has become Pakistan’s number one development and governance issue. Our per capita water availability has diminished from about 1,500 to nearly 1,000 cubic meters, owing to fast-growing population. In a recent article on economic growth Ali Tauqueer Sheikh, CEO, LEAD Pakistan writes as follows:-

“We will need to lay foundations for the blue economy. We will need water to fuel our economy, create water jobs, invest in water efficient technologies, create water markets for water savings and systems. It is critical for Pakistan to make water the central plank of our development agenda, if we are to meet our SDGs targets.... Climate change poses a more serious threat to Pakistan’s water supply than India’s. India cannot stop Pakistan’s water beyond a certain number of days even if it wanted to. At the risk of international isolation it can suddenly release water in

some of our rivers and cause damage, or deny water to some crops by exploiting timing. These issues can be handled by our water diplomats. But climate change poses more existential challenges. The changing monsoon pattern is making water supply erratic. It has started reaching the upper reaches of our Himalayan ranges and parts of Balochistan not traditionally covered by monsoon rains. Karachi and other coastal areas have begun to receive more frequent warnings about cyclones. Changes in rain patterns raise questions about food security and the need to invest in climate-smart agriculture. While we have a greater incidence of hydro-metrological droughts in parts of Balochistan, Punjab and Sindh, urban and rural flooding is becoming a recurrent phenomenon. In fact, torrential rains in the Jammu region and the upper reaches of the Kabul river basin have flooded Sialkot in Punjab and Nowshera in KP, drawing attention to emerging transboundary risks. As the glaciers recede, we face the threat of permanent reduction in our water lifeline.”³

16. The Chairman, Climate Change Commission placed on record Supplemental Report dated 24.02.2017 making the following recommendations:-

Recommendations

“The Commission recommends that the Secretary P&DD should submit plans for initiation of remaining about 100 Pas and also compile a quarterly report on completion of work on ongoing 144 PAs. Priority Projects in ADP 2016-2017: Since the last submission, the Commission has helped some GOPb departments prioritize 15 ‘climate smart’ projects of which 13 were finally approved by P&DD for inclusion in the ADP 2016-2017. The Commission learnt that the financial value of these projects was relatively miniscule in percentage terms of the total development budget of the province.

The Commission recommends that in the next FY, this number should ramp up substantially and that this allocation should include specific budget lines for social and softer components- and not just the infrastructural investments. The Commission, if requested by the Departments will be pleased to review and guide on selected projects.

³ The fuel of economic growth by Ali Tauqeer Sheikh, CEO, LEAD Pakistan, Dawn, March 22nd, 2016.

Framework for Developing and Assessing Climate-Smart Projects under Annual Development Plans:

The Commission learnt that there was no shared definition of 'climate smart' or 'climate compatible' projects that was used by the departments. Therefore, there was a great deal of variance in the quality, consistency even climate relevance (adaptation or mitigation) of these projects. The officers developing projects in GOPb's various departments needed a guidance tool or a framework for developing climate compatible projects in future. The Framework for Developing and Assessing Climate-Smart Projects under Annual Development Plans was approved at the 9th meeting of the Commission will fill that void now. Further, the Commission was requested to develop some core material that could facilitate implementation of the Framework and could also be used for the capacity building of the concerned officers. Such material has been developed and ready to be used.

The Commission recommends that, starting from FY 2017-2018, the Framework should be used for designing and developing projects for ADB, at least for some projects by selected provincial departments. For this purpose, the Commission recommends that 1) a high level Committee be constituted to oversee the earnest implementation of the Framework, 2) Secretary P&DD and MOCC initiate capacity building of concerned officers of CC Focal Points in GOPb departments and other concerned officers.

Accessing International Climate Finance & Linkages with NDCs: The Commission learnt that the GOP's capacity to access international climate finance needed substantial strengthening in order to fast track climate related investments/projects.

The Commission has developed 12 recommendations for GOP to access international climate finance and recommends the MOCC to work with P&DD in order to develop projects and access international finance.

The Commission recommends that all climate related investments/projects in the province should be specifically linked with Pakistan's NDC commitments and their implementation at the provincial levels.

Moving forward, the Commission recommends the following steps:

- I. The Framework for Developing and Assessing Climate-Smart Projects under Annual Development Plans be used/piloted by each GOPb department to develop their requests for ADB allocations. The preparations for the next ADP have just begun and the timing is perfect. If requested, the Commission can assist with capacity building of the concerned officers in the province.
- II. Each GOPb Departments should develop its plans of action, giving a list of priority projects/areas of investment. The Commission can assist them in developing their plans of action and determine their strategic priorities for the next 2-3 year's ADPs.
- III. P&DD needs to develop a template/criteria that could guide the decisions on the requests from the departments. The Commission can work with the officers at the P&DD develop such a template and operationalize for the next years' ADP." Considering that these recommendations are an outcome of the deliberations of the Commission, which includes members of the Government, therefore, I make these recommendations part of this order and direct the concerned Ministries/Departments of Federal, as well as, Provincial Governments to implement the same.

17. As recorded in order dated 06.09.2017 the matter regarding formulation of the National Water Policy was taken up by Council of Common Interest (CCI) in its meeting held on 25.08.2017 wherein CCI considered the matter and it was decided that the matter be placed before the Ministry of Water Resources to re-examine the Policy and resubmit the same in the next CCI meeting.

18. The Chairman has submitted its report today i.e., 25.01.2018, which is reproduced for ready reference:-

CLIMATE CHANGE COMMISSION

SUPPLEMENTAL REPORT ON IMPLEMENTATION OF PRIORITY ACTIONS

24 January 2018

A. Background Note

In its Final Report dated 16 January 2016 to the Lahore High Court, the commission had reported on the progress in the implementation of the PAs upto 31 December 2015. On the review of the Final Report, the Lahore High Court ordered, on 18 January 2016, that the “Commission is additionally tasked to look into the short term actions under the Framework and come up with a workable and achievable timetable for the same.”

A Supplemental Report was submitted on the order of the Lahore High Court dated 18 January 2016. It included the Reports of six (6) Working Groups, giving an update on their actions on the Priority Actions. Overall, of the 242 Priority Areas given in FCCPI, the 6 Working Groups reported progress on 144 PAs and that is about 60 percent of the total Priority Areas. The progress on 144 PAs is uneven and at various stages of progress, and many will need more time and resources for completion.

Summary of Progress

This report is follow up to the last supplemental report and summarizes progress against Priority Actions till 31st December 2017. All working groups were requested to share update on progress in various sectors against Priority Actions. The following Working Groups submitted revised reporting in January 2018:

1. Working Group on Water
2. Working Group on Wildlife, Forestry and Biodiversity
3. Working Group on Coastal and Marine Areas

Several new projects and initiatives were reported by the Working Groups especially in the Wildlife, Forestry and Biodiversity sectors. Yet no additional Priority Areas were addressed by any of the sectors as compared to previous reporting.

Actions Triggered by the Climate Change Commission

- There are a total of 735 actions suggested in the Framework, out of which 242 are Priority Actions, 380 Short Term, 108 Medium Term and only 5 are Long Term Actions.
- The Climate Change Commission was given the mandate to report on the Priority Actions under the assumptions that these will trigger subsequent attainment of Short, Medium and Long Term Actions.
- The report submitted indicates progress on 144 PAs and that is about 60 percent of the total Priority Areas. The progress on PAs remains uneven and at various stages of progress, and many will need more time and resources for completion.
- No completion report on any of the Priority Actions was

- requested/submitted. However as Priority Actions come to closure, it will be useful for departments to maintain catalogue of completed PAs along with any progress on Short, Medium and Long Term Actions.
- The Commission triggered climate action in the province of Punjab at several levels. It was beyond the ambit of the Commission to compile full catalogue of actions instigated by its influence. However it will be useful for stakeholders if such a report is compiled. Some key actions triggered by the Commission are:
 - i. Designation of climate change focal points in all provincial line departments and their capacity building by LEAD Pakistan in Islamabad to enable integration of Climate Change in provincial development plans and growth strategies.
 - ii. Two training workshops organized by LEAD Pakistan at PDD Lahore engaging senior and operational staff to enable climate smart evaluation of projects.
 - iii. Framework for Design and Evaluation of Climate Smart Projects was developed and approved by the Commission members for piloting and testing by PDD Punjab in future.
 - iv. Draft Climate Change Policy and Draft Water Policy of Punjab developed and awaiting approval of provincial cabinet.
 - v. For the preparation of provincial Climate Change Policy, several background studies and infographics were developed.

B. Summary of Supplemental Report

Total Priority Actions (PA) in FCCPI	PA covered in Working Group reports	PA addressed in Working Group Reports	% Priority Actions addressed
242	188	160	66.11%

No	SECTORS	Priority Actions in FCCPI	Progress Reported by WG	% PAs Addressed by WGs
01	Coastal & Marine Areas	08	07	87.5%
02	Agriculture & Livestock	47	34	72.3%
03	Forestry	30	30	100%
04	Biodiversity	04	04	100%
05	Wetlands	06	06	100%
06	Energy	22	18	81.81%
07	Disaster Management	29	25	86.20%
08	Water	42	36	85.71%
TOTAL		188	160	85%

Here is the breakdown on PAs from each of the six (6) Working Groups:

Forest, Biodiversity and Wildlife

#	Categories	Priority Actions
1	Policy/law making and implementation	10
2	Enabling Environment	7
3	Institutional strengthening and capacity building	9
4	Awareness	5
5	Assessment/Research	3
6	Infrastructure/Technology Implementation	6
TOTAL		40

Disaster Management Working Group

#	Categories	Priority Actions
1	Policy/law making and implementation	03
2	Enabling Environment	03
3	Institutional strengthening and capacity building	07
4	Awareness	03
5	Assessment/Research	08
6	Infrastructure/Technology Implementation	05
TOTAL		29

Energy

#	Categories	Priority Actions
1	Policy/ law making and implementation	05
2	Enabling Environment	06
3	Institutional Strengthening and Capacity Building	04
4	Awareness	03
5	Assessment/ Research	02
6	Infrastructure/ Technology Implementation	02
TOTAL		22

Coastal and Marine Areas

No	Categories	Priority Actions
1	Policy/ law making and implementation	00
2	Enabling Environment	01
3	Institutional Strengthening and Capacity Building	02
4	Awareness	00
5	Assessment/ Research	03
6	Infrastructure/ Technology Implementation	00
TOTAL		06

Agriculture & Livestock

No	Categories	Priority Actions
1	Policy/ law making and implementation	05
2	Enabling Environment	03
3	Institutional Strengthening and Capacity Building	08
4	Awareness	08
5	Assessment/ Research	11
6	Infrastructure/ Technology Implementation	12
TOTAL		47

Water

No	Categories	PA Actions
1	Policy/ law making and implementation	13
2	Enabling Environment	4
3	Institutional Strengthening and Capacity Building	4
4	Awareness	4
5	Assessment/ Research	29
6	Infrastructure/ Technology Implementation	26

Accumulatively, each category has PA for each Working Group, as shown in the table below.

No	Categories	Water	Agriculture	Coastal & Marine	Energy	Forest, biodiversity & Wildlife	Disaster Mgmt.	Total
1	Policy/ law making and implementation	13	03	0	5	10	3	34
2	Enabling Environment	4	04	1	6	7	3	25
3	Institutional Strengthening and Capacity Building	4	05	2	4	9	7	31
4	Awareness	4	02	0	3	5	3	17
5	Assessment/ Research	29	11	3	2	3	8	56
6	Infrastructure/ Technology Implementation	26	09	0	2	6	5	48
TOTAL		80	34	6	22	40	29	211

19. Climate Change Commission was constituted to ensure that the concerned Ministries, as well as, concerned Departments take charge of the matter so that the Province, as well as, the Country moves towards climate resilient development. According to the report submitted by the Commission almost 66.11% of the priority items of the Framework have been completed due to effort made by the Commission. The Chairman submits that the Commission has achieved its goals and now the matters should be left to the respective Governments to take forward. It is also pointed out that during the pendency of this petition the Federal Government has promulgated “Pakistan Climate Change Act, 2017” (“Act”), which was gazetted on April, 3, 2017 and establishes Pakistan Climate Change Authority. He proposes that in order to move forward, it is best if the Federal Government is directed to give effect to the aforesaid Act and further implement the Framework. I tend to agree with the Chairman of the CCC. Commissions constituted by our courts have played multiple roles, especially commissions constituted to address environmental concerns. In this case the Commission has been the driving force in sensitizing the Governments and other stakeholders regarding gravity and importance of climate change. The Commission has been a platform for discussion and planning regarding climate change and has materially assisted in developing human capacity to face the challenges of climate change under the auspices of the members of the Commission, in particular LEAD Pakistan. It is only because of the able stewardship of the Chairman, Dr. Parvez Hassan and the untiring and passionate efforts of the Members of the Commission that 66.11% of priority actions under the Framework have been successfully implemented.

Environmental Justice

20. On a jurisprudential plane, a judge today must be conscious and alive to the beauty and magnificence of nature, the interconnectedness

of life systems on this planet and the interdependence of ecosystems. From *Environmental Justice*, which was largely localized and limited to our own ecosystems and biodiversity, we have moved on to *Climate Justice*. Our environmental jurisprudence from *Shehla Zia case* to *Imrana Tiwana case* (referred to above) has weaved our constitutional values and fundamental rights with the international environmental principles. The environmental issues brought to our courts were local geographical issues, be it air pollution, urban planning, water scarcity, deforestation or noise pollution. Being a local issue, evolution of environmental justice over these years revolved around the national and provincial environmental laws, fundamental rights and principles of international environmental laws. The solutions entailed penalties and shifting or stoppage of polluting industries based on a precautionary approach leading to the recognition of the Environmental Impact Assessment (EIA).

Climate Justice

21. Enter Climate Change. With this the construct of *Environmental Justice* requires reconsideration. Climate Justice links human rights and development to achieve a human-centered approach, safeguarding the rights of the most vulnerable people and sharing the burdens and benefits of climate change and its impacts equitably and fairly. Climate justice is informed by science, responds to science and acknowledges the need for equitable stewardship of the world's resources⁴. The instant case adds a new dimension to the rich jurisprudence on environmental justice in our country. Climate Change has moved the debate from a linear local environmental issue to a more complex global problem. In this context of climate change, the identity of the polluter is not clearly ascertainable and by and large falls outside the national jurisdiction. Who is to be penalized and who

⁴ Mary Robinson Foundation- Climate Justice.

is to be restrained? On the global platform the remedies are adaptation or mitigation. In case of Pakistan, adaptation is largely the way forward. Adaptation is a response to global warming and climate change, that seeks to reduce the vulnerability of social and biological systems to relatively sudden change and thus offset the effects of global warming.⁵ Adaptation is especially important in developing countries since these countries are predicted to bear the brunt of the effects of global warming.⁶ Adaptation is the capacity and potential for humans to adapt (called adaptive capacity) and is unevenly distributed across different regions and populations, and developing countries generally have less capacity to adapt. Mitigation consists of actions to limit the magnitude or rate of long-term climate change. Climate change mitigation generally involves reductions in human (anthropogenic) emissions of greenhouse gases (GHGs). Mitigation may also be achieved by increasing the capacity of carbon sinks, e.g., through reforestation. Mitigation policies can substantially reduce the risks associated with human-induced global warming.⁷

22. Adaptation, as a strategy engages many stakeholders, which hitherto were not part of the environmental dialogue. Climate Justice, therefore, moves beyond the construct of environmental justice. It has to embrace multiple new dimensions like Health Security, Food Security, Energy Security, Water Security, Human Displacement, Human Trafficking and Disasters Management within its fold. Climate Justice covers agriculture, health, food, building approvals, industrial licenses, technology, infrastructural work, human resource, human and climate trafficking, disaster preparedness, health, etc. While mitigation can still be addressed with environmental justice, adaptation can only be addressed through *Climate Justice*, where the

⁵ "UNFCCC Glossary of Climate Change Acronyms"

⁶ Cole, Daniel A. "Climate Change, Adaptation, and Development", 26 UCLA J. ENVTL. L. & POL'Y 1, 3 (2008).

⁷ Fourth Assessment Report of the Intergovernmental Panel on Climate Change, 2007

courts help build adaptative capacity and climate resilience by engaging with multiple stakeholders.

Water Justice

23. In the context of Pakistan, the impending water crisis are accelerated by the impact of climate change on the hydrological cycle. The availability of water resources to satisfy the demands of society and those of the environment is a crisis of governance and justice. Water is life. Water is a human right and all people should have access to clean and affordable water. Water has interconnectedness with people and resources and is a commons that should be held in public trust. This brings us to Water Justice, a sub-concept of Climate Justice. Water justice refers to the access of individuals to clean water. More specifically, the access of individuals to clean water for survival (drinking, fishing, etc.) and recreational purposes as a human right. Water justice demands that all communities be able to access and manage water for beneficial uses, including drinking, waste removal, cultural and spiritual practices, reliance on the wildlife it sustains, and enjoyment for recreational purposes. Right to life and Right to human dignity under articles 9 and 14 of the Constitution protect and realise human rights in general, and the human right to water and sanitation in particular. In adjudicating water and water-related cases, we have to be mindful of the essential and inseparable connection of water with the environment, land and other ecosystems. Climate Justice and Water Justice go hand in hand and are rooted in articles 9 and 14 of our Constitution and stand firmly on our preambular constitutional values of social and economic justice.

Dissolution of the Climate Change Commission

24. The submissions made by the Chairman of CCC regarding passing future responsibility of implementing the Framework to the

Government is accepted. The Climate Change Commission after rendering a remarkable public and pro bono service, is hereby dissolved. The constitution and working of the Commission has resulted in developing a valuable resource on climate change which can be useful for the Government in the years to come. The respective Governments have to still implement the Framework, formulate the National Water Policy and ensure that the new Act is actualized and given effect to in letter and spirit. These objectives are critical for sustainable development and for the safeguard and protection of the fundamental rights of the people of Pakistan.

Standing Committee on Climate Change

25. In order to facilitate the working of the Federal Government, Ministry of Climate Change, Provincial Government, Planning & Development Department, as well as, CCI, the Court hereby constitutes a Standing Committee on Climate Change, which will act as a link between the Court and the Executive and will render assistance to the above mentioned Governments and Agencies in order to ensure that the Policy and the Framework continue to be implemented. The Federal and Provincial Governments and the CCI shall engage, entertain and consider the suggestions and proposals made by the Standing Committee.

26. The Members of the Standing Committee shall be as follows:-

1.	Dr. Parvez Hassan, Advocate, Climate Expert.	Chairperson
2.	Advocate General, Punjab	Member
3.	Secretary Climate Change, Ministry of Climate Change, Islamabad.	Member
4.	Chairman, Planning & Development Department, Government of the Punjab.	Member
5.	Mr. Ali Tauqeer Sh., CEO & National Program Director, LEAD, Pakistan.	Member
6.	Ms. Saima Amin Khawaja, Advocate/ Environmentalist 78-B, Mozang Road, Lahore.	Member

27. In the light of above, these proceedings stand concluded. I, do not wish to dispose of the petition, but instead, consign it to the record, so that the Standing Committee can approach this Court for appropriate order for the enforcement of the fundamental rights of the people in the context of climate change, if and when required. If any such application is filed, the case shall be revived and fixed before any Green Bench as per the Case Management Plan.

(Syed Mansoor Ali Shah)
Chief Justice

*M.Tahir**

APPROVED FOR REPORTING