

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)
(Constitution Petition No. 41/2015)

CMA 6010/2015

Aasim Sajjad Akhtar & Others

VERSUS

Federation of Pakistan

COMPLIANCE REPORT OF ORDER DATED 31-08-2015

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1. The present Report is being submitted in compliance with the orders of this Hon'ble Court dated 31.8.2015 in Const. P. 41/2015. (Copy of the Order is attached as **Annex A**)
2. The Hon'ble Court had issued to the undersigned, in his capacity as Secretary, LJCP, the following directions:
 - a. *The Secretary Law & Justice Commission of Pakistan (LJCP) shall either today or tomorrow convene a meeting of the petitioners, the respondents, if they so chose their learned counsel and the learned additional Advocate Generals of the Provinces and the Attorney General.*
 - b. *Mr. Tasleem A. Siddiqi shall be invited as a participant in the said meeting.*
 - c. *The meeting shall consider various proposals/suggestions aiming towards ensuring the enforcement of fundamental rights in Articles 9,*

14 and 25 with Article 38(d) of the Constitution. The Secretary LJCP shall thereafter prepare a report which shall be submitted in Court by the end of this week. The report may attempt to be based on consensus but if this is not possible then alternate views coming up in the meeting shall be put up before the Court.

d. The participants in the meeting shall attempt to ensure that the proposal prepared is firstly realistic, does not encroach on the authority of the governments to make policy but at the same time ensures the fulfillment of the Constitutional obligations imposed on the State, in the line with the Constitution.

3. Accordingly, the undersigned arranged two meetings where the various parties in Const. P. 41/2015 were invited to present proposals/suggestions aiming toward the enforcement of fundamental rights guaranteed in Articles 9, 14 and 25 with Article 38(d) of the Constitution. On 1.9.2015, the undersigned personally met with the Petitioner, Dr. Aasim Sajjad Akhtar and his counsel, Mr. Bilal Hassan Minto. On 5.1.2015, another meeting was conducted at the LJCP, on behalf of the undersigned by Barrister Shahzad Akbar, Director Foundation for Fundamental Rights and Ms. Ghina-e-Sehar, RO, LJCP. Representatives of the CDA, ICT and the Federation were given due opportunity to present their proposals regarding the enforcement and any concerns they may have. Written invitations were extended for this meeting and followed up with phone calls made on 04.05.2015 (Invitation letters are attached as **Annex B**). The meeting was attended on the CDA's behalf by Hafiz Hifz-ur-Rehman, ASC, Legal Advisor, CDA, Naeem Dar, Director (Law), CDA, Mr. Ammad, Deputy Director (Enforcement) CDA and on behalf of the Islamabad Capital Territory Administration by Ms. Rabia Aurangzeb, Assistant Commissioner (Saddar) (Attendance sheet is attached as **Annex C**). Mr. Tasneem A. Siddiqi, the Court-appointed urban policy expert shared a copy of his report which the undersigned has benefitted from in preparing of

this Report; since his detailed recommendations were available in writing, his presence at the meetings was dispensed with.

4. The various parties to this case do not seem to be at much variance with regard to their description of the basic PROBLEM. The basic problem is that Islamabad, despite its reputation as a planned city, is riddled with large and flourishing *katchi abadis*, which number no less than 42 and where a significant proportion of the city's population now resides. According to the National Housing Policy 2001 which continues to be available on the official website of the Federal Ministry of Housing, no less than "50% of the urban population now lives in *katchi abadis/slums/squatter settlements*."

5. The parties also seem to agree on their DIAGNOSIS of the cause of this problem. The rise of *katchi abadis* is only a symptom of the problem; the cause of the problem is: an acute shortage of affordable dignified housing in urban Pakistan. If an increasing proportion of citizens of the Islamic Republic is living in *katchi abadis*, it is not because they are particularly fond of the squalor and depredation which prevails there, but because dignified housing is in extremely short supply and therefore expensive. This is so in Islamabad, as in all parts of the country. This is a shortage recognized by official documents, amongst them the Housing Policy of 2001, which states that there is a "recurring backlog of 270,000 housing units annually." In the years since 2001, it is likely that this backlog in housing units has grown larger.

6. The participants of the two meetings conducted by the undersigned also seemed to agree on the basic constitutional principle governing the issues in this case. This principle, which flows from *Shehla Zia v. WAPDA* (PLD 1994 SC 693), may be articulated here for the Court's convenience:

The framers of the 1973 Constitution envisaged the creation of a "new social order" in Pakistan which was to be based upon "egalitarian

principles". (Preamble, Constitution) One fundamental plank of this social order envisaged by the framers of the constitution was the promise of a right to dignified housing for all citizens. This right of citizens can be inferred from an organic reading of Article 9 (right to life and liberty), Article 14 (right to dignity) and Article 25 (right to equality) read together with Article 38(d) (state's obligation to provide housing) and various other provisions of the constitution. A social order like the one which presently prevails in Pakistan, where a significant proportion of all citizens are forced to live in squalid *katchi abadis* and have the threat of evictions and demolitions always hanging on their heads, is a far cry. This is not the kind of Pakistan that the Constitution envisages. The State is therefore under a continuing obligation to take immediate and effective steps for realizing the promise of dignified house made to all citizens by the Constitution.

Furthermore, it may be noted that in a comparable jurisdiction (i.e. India which is beset by similar set of challenges and constitutional guaranteed rights as provided by the Constitution of Pakistan), the Supreme Court of India has already elaborated at great length the right to adequate housing, shelter and livelihood. According to the landmark case of *Olga Tellis v. Bombay Municipal Corporation* (AIR 1986 SC 180), the Right to Shelter is part of the all-encompassing Right to Life under Article 21 of the Indian Constitution. The SC of India restrained the state from eviction of the pavement dwellers unless they are provided adequate alternate accommodation.

7. The meetings honed down on four major issues regarding which the proposal have been made in this Report:

- (157)
- A. Temporary measures that might be taken to enforce the fundamental rights of *katchi abadi* residents in Islamabad;
 - B. Legal Lacunae is responsible for the shortage of affordable and dignified housing in Islamabad and proposals for remedying it;
 - C. Federal institutions responsible for creating low-income and social housing; and
 - D. The possible violation of the rights of the affectees of the I-11 operation and any remedy that may be provided to such affectees.

A.

A. *Katchi Abadi Acts: A possible temporary measure for enforcement of fundamental rights of katchi abadi residents*

Katchi Abadi residents in the provinces enjoy the protection of various statutes. These statutes generally recognize *abadis* comprising more than 40 houses and created after 23rd March 1985 as worthy of certain forms of state recognition, regulation and support. (See, for instance, Section 6 of the Khyber Pakhtunkhwa Katchi Abadis Act, 1996). Although the Federal Cabinet decided in 1997 to recognize Kachi Abadis in Islamabad that existed up to 31st December 1995, no such statute has been promulgated in Islamabad which puts katchi abadi residents in ICT at a disadvantaged position *vis-à-vis* their counterparts in the provinces. This may, in the view of some, be considered a violation of their right to equal protection of the law under Article 25.

The Legal Advisor to the CDA recognized this anomaly and recommended that legislation be done pertaining to katchi abadis in Islamabad, similar to the statutes already in place in the provinces should be promulgated. Once the legislature puts such laws in place, executive agencies like the CDA and ICT administration would have greater clarity about how to deal with the residents of *katchi abadis* in Islamabad.

The undersigned wishes to point out that cut-off dates (i.e. 23rd March 1985) and the minimum community size (i.e 40 contiguous houses) set out in the provincial katchi abadi Acts and in the CDA's policies are totally arbitrary and devoid of any rational and cogent justification. These cut-off dates must be subjected to judicial review to ensure that are in harmony with constitutional imperatives set out in Articles 9, 14, 25 read with 38(d).

B.

Legal Lacuna Responsible for the short of dignified housing for low(est)-income groups in Islamabad

The acute shortage of dignified housing for low(est) income ground in Islamabad is the root cause for the rise of *katchi abadis*. This shortage is neither natural nor coincidental. It is the result of certain errors and omissions about state functionaries. During our meetings, lacunae in statutes and delegate legislation have been identified, where law-makers seem to have been oblivious toward the Right to Shelter guaranteed to all citizens under the constitution. Three examples came up most prominently:

I. **Modalities and Procedures for Development of Private Housing Schemes in Zones II & V of Islamabad Capital Territory.**

These are a set of regulations framed by the CDA under I.C.T (Zoning) Regulations, 1992, which in turn were framed by the CDA in exercise of powers conferred upon it by S. 51 of the CDA Ordinance, 1960) hereinafter "Modalities and Procedures"). These Modalities & Procedures are increasingly significant because most new housing in Islamabad is being developed by private housing schemes to whom they apply, and not by the CDA.

Section 5 of the Modalities and Procedures may be reproduced here:

5. Planning standards. The planning standards may vary from scheme to scheme depending upon the residential density desired to be achieved by the Sponsors of the schemes. But the land use percentages must remain within the following limits.

(i)	Residential	<u>Not more than 55%</u>
(ii)	Open/Green Spaces/Parks	Not less than 8%
(iii)	Roads/Streets	Not less than 26%
(iv)	Grave Yards	Not less than 2%
(v)	Commercial and parking	Not more than 5%
(vi)	Public buildings like school, mosque, dispensary, hospital, community centre, post office etc.	Not less than 4%

Note: The above percentages will be subject to minor adjustments, keeping in view the site conditions, special requirements and the land use plan of the zone in which the scheme falls.

(vii) The width of the vehicular streets provided in the layout plan will not be less than 40 feet.

(viii) The minimum size of residential plot will be (130) Sq. Yds. - 5 muras

(ix) In Zone-2, the layout plan of the scheme shall conform to standard sectoral layout plan of Islamabad.

(x) The easement of nullah, et., shall be clearly identified and preserved as open spaces.

It is significant that while a minimum limit has been prescribed for land that must be used for "residential" purposes, there is no specification as to the kind of housing that must be constructed thereupon. The question of how much land out of this 55% residential area will be used for housing low-income groups and how much of it will be used for high-income groups has been left open to determination by market forces.

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The result is that most private housing schemes in Islamabad allocate close to nothing for low-income housing and social housing. Private housing schemes effectively shift the burden of housing low-income and unskilled labourers who come to work there on to strips of public land which exist adjacent to them; these strip end up becoming *katchi abadis* and, in a very real sense, subsidize the private housing schemes. It can be concluded that while these Modalities & Procedures reflect a concern for the environment and for community spaces, they display no concern whatsoever for socio-economic inclusivity. It is as though the state officials framing these Modalities and Procedure were simply not aware of Article 38(d) of the Constitution.

If Articles 9, 14 and 25 read with 38(d) are to be enforced, the block category "housing" in the Modalities and Procedures must be broken down into sub-categories including categories for "low income housing" and "social housing"; and it should thereby be made mandatory for all private housing schemes to dedicate a sufficiently large proportion of their land for use as low-income housing and social housing. Unless such regulation is put in place, the status quo will persist: palatial houses will keep on being built while low-income groups will remain condemned to a living in *katchi abadis*.

II. The Islamabad Land Disposal Regulation, 2005

It may be recalled that almost all land in Islamabad acquired was acquired by the CDA from citizens for "public purpose", using the state apparatus, and often at very low prices; it follows that the CDA holds this land in trust for all the citizens of Pakistan and not just the moneyed elite. Therefore, in disposing land, the CDA is obliged to ensure that the manner of its disposal serves the interests of all citizens, ie. trustees, and not just serve the moneyed elite. In order to realize this objective, the CDA has promulgates a series of Land Disposal Regulations, the lasts of which are ILDR 2005. These are regulations governing the disposal of "*all land acquired by [CDA] in the Islamabad Capital Territory...*" Regulation No. 5 therein sets out that in

any housing scheme, in all, about 25% of land will be allotted without pay market price. The Regulation is reproduced below:

5. Residential Plots. (1) All residential plots in developed Sectors shall be allotted through open auction. The residential plots in other Sectors shall be disposed of in the following manner:

i.	Through open balloting at prevalent market price	75%
ii.	Federal Government Servants including employees of Federal autonomous, Semi-autonomous bodies	10%
iii.	Defence Services Personal including Civilians paid out of Defence Estimates	5%
iv.	Deprived Groups including, widows, orphans, destitutes, handicapped persons, and persons needing compensation	5%
v.	CDA Employees	5% → included

Surprising, the category of "destitute" citizens, which would include the slum-dwellers who are, according to the National Housing Policy 2001, no less than 50% of all citizens have been allotted only a 5% quota. The quote is only a third of that given to Federal Government's civilian and military employees and equal to that of the employees of a single department.

The rationale behind the allocation of only a 5% quota for the "destitute" in Regulation 5 of ILDR 2005 needs to be judicially reviewed for compliance with Articles 9, 14 and 25 read with Article 38(d). Prima facie, the allocation is far too small, when seen in the light of Federal Government's own figures about the numbers of slum-dwellers in Pakistan, ie. 50%. Likewise, the actual enforcement of this quota needs to be ensured and it needs to be ensure that the land thus allocated is used in well-planned for building high-density blocks of flats, which would serve more people and would be easier for the CDA to manage.

III. Cooperative Societies Act, 1925

The Cooperative Societies Act, 1925 envisages the creation of, amongst others, a "housing society" which is "formed with the object of providing its members with dwelling houses on conditions to be determined by its by-laws". Housing societies are, in fact, an increasingly prominent corporate structure for housing schemes in Islamabad. The Deputy Commissioner, ICT is vested with the powers of the Registrar of Cooperative Housing Societies in Islamabad. All new housing societies require an NOC and existing societies all also subject to regulation by her.

It appears that in granting NOCs to Housing Societies, the DC does not scrutinize the applications for "socio-economic" inclusivity. In part, this is because the statute, which predates the Constitution, does not lay down any minimum quota for land that must be allotted to creating low-income and social housing. But in part this is because of a continuing blindness amongst state functionaries like the DC toward citizens' right to shelter envisaged by Article 38(d) etc.

If the fundamental right of citizens to housing is to be enforced, the regulator of housing societies must ensure that all such societies make adequate provision for low-income groups and destitute persons. All housing societies which have failed to comply with this constitutional imperative must be penalized for this violation and no such societies should be allowed in the future. If the Cooperative Society Act needs to be amended for this purpose, or if the ICT Administration needs to make regulations for this purpose, this must be done urgently.

IV. Other Housing Providers in Islamabad

Private-sector mega-developers such as the Defence Housing Authority - a statutory corporation - and Bahria Town - a private limited company registered with the SECP - also bear some responsibility for the housing crisis facing the low-income group of citizens in Islamabad. These entities are regulated, at least in theory, by the CDA and the ICT; once the latter have formulated rules and regulations needed for enforcing the constitutional right to shelter, such rules and regulations should be

applied without discrimination to these mega-developers also, be they companies or statutory corporations.

V. Miscellaneous Proposals

The Legal Advisor for CDA pointed out that although the CDA Ordinance was framed in 1960, despite the lapse of more than half a century, the Federal Government has yet to frame "Rules" under the said Ordinance. The absence of such rules leaves the CDA with unnecessarily vast discretion in various matters which it is liable to abuse. The absence of rules also leaves the CDA without adequate guidance on complicated policy measures.

Therefore, it is suggested that the Federal Government should be ordered to frame rules under the CDA Ordinance; in particular, such rules should be framed as would allow the CDA to discharge its responsibilities under Articles 9, 14, 25 and 38(d) of the Constitution.

C. Federal institutions responsible for creating low-income housing

Both the petitioners and the respondents pointed out that one of the key stakeholders responsible for the housing crisis in Islamabad is the Ministry of Housing and Works. Under the Federal Rules of Business, 1973, this Ministry bears the responsibility for execution of National Housing Policy, 2001 but has, in effect, done nothing to do so.

National Housing Policy of 2001 has a specific chapter titled "Katchi Abadis, Squatters settlements & Slums" that recognizes the problem. Its section 5.2.1(c) is reproduced below:

5.2.1

c) There shall be no eviction till katchi abadis residents are relocated as per resettlement plans.

Since CDA and ICT fall under Federal Government, it is their responsibility to frame rules to regulate the katchi abadis in the light of the guidelines provided in the National Housing Policy of 2001 and the National Katchi Abadi Policy of 2001, and to desist from evicting katchi abadi residents without first providing suitable relocation. Moreover, it also appears that there exists a precedent of CDA regularizing katchi abadis; earlier in pursuance to the Cabinet Decision in 1997 CDA regularized 06 katchi abadis in Islamabad that existed up to 31st December 1995.

Moreover, the Ministry of Housing and Works formulated a viable and effective housing policy and submitted its recommendations to the government. The National Katchi Abadi Policy was approved in principle by the President and Chief Executive on 22nd June 2001. CDA may be directed to implement the said policy and do the needful.

Likewise, responsibility also falls on the shoulders of the PHA Foundation. PHA Foundation is a Section 42 Company registered with the SECP since 1999, and falling under the administrative supervision of the Ministry of Housing and Works. The only 2 Objects of this Company, reproduced below, make it clear that it bears responsibility for the violation of the right to shelter in Islamabad:

a) To eliminate shelterlessness through development and construction of apartments for low income groups, employees of the PHA Foundation and other specified groups of people as decided by the foundation from time to time on ownership basis and at affordable cost.

b) To initiate, launch, sponsor and implement Hosing Schemes for the low income groups, employees of the Foundation and other specified groups of people as decided by the Foundation from time to time on ownership basis in

Islamabad and other major cities of Pakistan.

(Article III, Memorandum of Association, Pakistan Housing Authority, available at <http://www.pha.gov.pk/Documents/Forms/Memorandum%20of%20Association%20of%20PHA%20F.pdf>)

Clearly, the PHA can play a major role in ensuring that the fundamental right of shelter of low-income citizens and destitute persons is enforced; in fact, ensuring this is the PHA's *raison d'être*. Directions need to be issued to the PHA to (i) produce records about whatever progress it has made in pursuance of its Objects; and (ii) its phase-wise plans for providing low-income housing and social housing in the future, complete with housing unit numbers and time-lines.

D.

The Rights of I-11 Affectees

The Petitioner and his counsel contended that the affectees of the I-11 eviction must be re-settled in accordance with the Cabinet Decision of 1997, National Housing Policy of 2001 and National Policy on Katchi Abadis of 2001 in order to enforce and vindicate their constitutional right to shelter. The Petitioners also presented electoral rolls of 1983 of residents of I-11 katchi abadi to prove that the residents of I-11 fall within the original cut-off date (1985) and extended cut-off date (1995) set by Federal Cabinet, therefore the residents of I-11 are entitled to regularization and/or resettlement.

However, the Representatives of the CDA and ICT opposed this demand on pragmatic grounds. They were of the view that since no authentic record of the residents of the I-11 katchi abadi exist with them, it would be impossible for them to identify the affectees which is necessary for arranging re-settlement.

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The undersigned is of the view that the objections raised by the Respondents have no merit. Electoral records and National Identity cards indicating the place of residents, as well records of various executive agencies of the state and utility companies like IESCO and SNGPL could be used to identify the victims and provide them adequate compensation. Efforts must be made in that regard.

SUMMARY OF PROPOSALS

The proposals which largely enjoy across the board support and also sound reasonable to the undersigned may now be recapitulated:

- i. The Hon'ble Court may reaffirm the right to dignified housing for all citizens of Pakistan. This right of citizens can be inferred from an organic reading of Article 9 (right to life and liberty), Article 14 (right to dignity) and Article 25 (right to equality) read together with Article 38(d) (state's obligation to provide housing) and the Preamble of the Constitution. The Court may also reaffirm that the State is under a continuing constitutional obligation to take immediate and effective steps for realizing the promise of dignified house made to all citizens by the Constitution.
- ii. Legislation must be done pertaining to katchi abadis in Islamabad, similar to the statutes already in place in the provinces should be promulgated; that the cut-off dates and the minimum community sizes set out in the provincial katchi abadi Acts and various federal and provincial policies are arbitrary and devoid of any cogent and rational justification; these cut off dates and minimum community size must be judicially reviewed in order to ensure that they are compliant with the constitutional Right to Shelter.
- iii. The block category "housing" used in the Modalities and Procedures must be broken down into sub-categories including a category for "low income housing" and "social housing"; and it should thereby be made mandatory for all private

housing schemes to dedicate a sufficiently large proportion of their land for use as low-income and social housing;

The rationale behind the allocation of only a 5% quota for the "destitute" in Regulation 5 of ILDR 2005 needs to be judicially reviewed for compliance with Articles 9, 14 and 25 read with Article 38(d). Prima facie, the allocation is far too small, when seen in the light of Federal Government's own figures about the numbers of slum-dwellers in Pakistan, i.e 50%. Likewise, it must be ensure that this quota is enforced and the land thus allocated is used in a well-planned manner for building high-density blocks of flats, which would serve more people and would be easier for the CDA to manage;

CDA may be directed to implement and, if needed, frame rules to carry out the objectives of: the National Housing Policy of 2001, particularly its chapter dealing with katchi abadis; the National Katchi Abadi Policy of 2001; and the Cabinet Decision of 1997 on the katchi abadis of Islamabad; and may be directed to not evict katchiabad residents without first providing them alternative housing at suitable locations that does not disrupt their access to current means of livelihood.

Directions need to be issued to the PHA to (i) produce records about whatever progress it has made in pursuance of its Objects; and (ii) its phase-wise future plans for enforcing the fundamental right of shelter of low-income citizens, complete with housing unit numbers, broken down into various categories including "low-income housing" and "social housing" and provide time-lines for completion of construction.

The regulators of housing societies must ensure that all such societies make adequate provision for ~~low~~ low-income groups and destitute persons. All housing societies which have failed to comply with this constitutional imperative must be penalized for this violation and no such societies should be allowed in the future.

If the Cooperative Society Act needs to be amended for this purpose, or if the ICT Administration needs to make regulations for this purpose, this must be done urgently;

- viii. Rules and regulations regarding housing should be applied without discrimination to private mega-developers like DHA, Bahria Town and others;
- ix. The affectees of the 1-11 Operation must be identified and provided adequate alterative housing, which should not adversely affect the livelihood of the katchi abadi residents, in line with the promises made in Chapter 5 of the National Housing Policy of 2001 and in view of their rights under Articles 9, 14, 25 and 38(d) of the Constitution.

The undersigned is grateful to all the participants for their valuable suggestions and must acknowledge Barrister Shahzad Akbar, Umer Gilani, Advocate High Court and Ms. Ghina-e-Sehar, RO, LJCP without whose tireless efforts the timely completion of this Report would not have been possible.

Sincerely,

Mohammad Sarwar Khan, Bar-at-law
Secretary, Law and Justice Commission of Pakistan
September 6, 2015, Islamabad

Ms. Ghina-e-Sahar

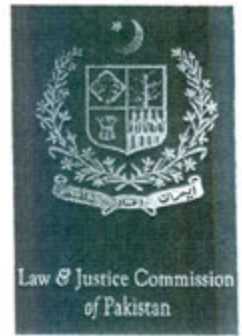
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No. F.1./RO-III/Research/ Katchi abadi/ 2015

Date: 04th July, 2015



To

Ms. Rabia Aurangzeb,
A.C. (Saddar),
Islamabad Capital Territory,
Islamabad.

Subject: Constitutional Petition No. 41 OF 2015 (In the Matter of demolishing of Katchi Abadi).

Dear Madam,

I am directed to inform that in pursuance of Orders dated 31.08.2015 issued in a Constitutional Petition No. 41/2015 by Hon'ble Supreme Court of Pakistan (copy attached herewith as annexure-A), it is to be submitted that in the referred order dated 31.08.2015 the Hon'ble supreme Court of Pakistan have directed the Secretary LJCP to convene a meeting with the concerned parties of the case to discuss the various proposals/suggestions aiming towards ensuring the enforcement of fundamental rights enshrined under Art. 9, 14 & 25 read with Art. 38 (d) of Constitution of Pakistan and to submit a report based on the developed consensus between the participants of the meeting. It is further to inform you that an initial meeting has already been conducted by the Secretary LJCP with some of the parties involved on 01.09.2015.

Therefore, in light of the above mentioned directions of Hon'ble Supreme Court of Pakistan, the Secretariat is holding a meeting to discuss the possibilities and the suggestions for enforcement of fundamental rights of the people of Pakistan in light of the above referred provisions of the constitution.

The meeting will be held on Saturday 5th July, 2015 at 09.00 AM in the Conference room of LJCP Secretariat.

Matter being urgent and important may be treated on priority.

Looking forward for your active participation, please.

Ghina-e-Sahar
Yours sincerely

Ms. Ghina-e-Sahar
04/07/15

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Lo. F.1./RO-III/Research/ Katchi abadi/ 2015

Date: 04th July, 2015

o

Ch. Aamir Rehman
Additional General-IV,
3rd Floor, Supreme Court Building,
Islamabad.

Subject: Constitutional Petition No. 41 OF 2015 (In the Matter of demolishing of Katchi Abadi).

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Ref. No. F.1./RO-III/Research/ Katchi abadi/ 2015

Date: 04th July, 2015



For

Mr. Roshan Ali Shah,
AD (Katchi Abadi)
Capital Development Authority,
Islamabad.

Subject: Constitutional Petition No. 41 OF 2015 (In the Matter of demolishing of Katchi Abadi).

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Therefore, in light of the above mentioned directions of Hon'ble Supreme Court of Pakistan, the Secretariat is holding a meeting to discuss the possibilities and the suggestions for enforcement of fundamental rights of the people of Pakistan in light of the above referred provisions of the constitution. Your valuable participation in said meeting is humbly requested.

The meeting will be held on Saturday 5th July, 2015 at 09.00 AM in the Conference room of LJCP Secretariat.

Matter being urgent and important may be treated on priority.

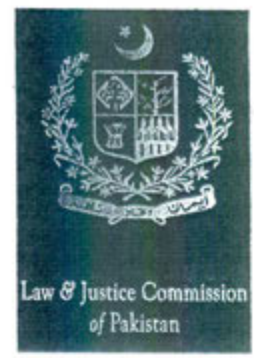
Looking forward for your active participation, please.


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Ref: F.1./RO-III/Research/ Katchi abadi/ 2015

Date: 04th July, 2015

Mr. Hafiz S.A. Rehman,
338-, Satellite Town,
Rawalpindi.

Subject: Constitutional Petition No. 41 OF 2015 (In the Matter of demolishing of Katchi Abadi).

Dear Sir,

I am directed to inform that in pursuance of Orders dated 31.08.2015 issued in a Constitutional Petition No. 41/2015 by Hon'ble Supreme Court of Pakistan (copy attached herewith as annexure-A), it is to be submitted that in the referred order dated 1.08.2015 the Hon'ble Supreme Court of Pakistan have directed the Secretary LJCP to convene a meeting with the concerned parties of the case to discuss the various proposals/suggestions aiming towards ensuring the enforcement of fundamental rights enshrined under Art. 9, 14 & 25 read with Art. 38 (d) of Constitution of Pakistan and to submit a report based on the developed consensus between the participants of the meeting. It is further to inform you that an initial meeting has already been conducted by the Secretary LJCP on 01.09.2015 with some of the parties involved in the matter.

Therefore, in light of the above mentioned directions of Hon'ble Supreme Court of Pakistan, the Secretariat is holding a meeting to discuss the possibilities and the suggestions for enforcement of fundamental rights of the people of Pakistan in light of the above referred provisions of the constitution. Your valuable participation in said meeting is humbly requested.

The meeting will be held on Saturday 5th July, 2015 at 09.00 AM in the Conference room of LJCP Secretariat.

Matter being urgent and important may be treated on priority.

Looking forward for your active participation, please.

[Handwritten Signature]
Yours sincerely

[Handwritten notes: 16/1/15, 7:15 PM, and other illegible scribbles]

Ms. Ghina-e-Sahar

Research Officer

Government of Pakistan
Supreme Court of Pakistan Building
Constitution Avenue
Islamabad, Pakistan

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Email: saharkhan@ljcp.gov.pk

Ref: F.1./RO-III/Research/ Katchi abbad/ 2015

Date: 04th July, 2015



To

Mr. Hifzur Rehman,
Legal Advisor to CDA,
Rawalpindi.

Subject: Constitutional Petition No. 41 OF 2015 (In the Matter of demolishing of Katchi Abadi).

Dear Sir,

I am directed to inform that in pursuance of Orders dated 31.08.2015 issued in a Constitutional Petition No. 41/2015 by Hon'ble Supreme Court of Pakistan (copy attached herewith as annexure-A), it is to be submitted that in the referred order dated 31.08.2015 the Hon'ble supreme Court of Pakistan have directed the Secretary LJCP to convene a meeting with the concerned parties of the case to discuss the various proposals/suggestions aiming towards ensuring the enforcement of fundamental rights enshrined under Art. 9, 14 & 25 read with Art. 38 (d) of Constitution of Pakistan and to submit a report based on the developed consensus between the participants of the meeting. It is further to inform you that an initial meeting has already been conducted by the Secretary LJCP with some of the parties involved on 01.09.2015.

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Yours sincerely



Striving for a rule of law based Pakistan
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23
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Ref: F.1/RO-III/Research/ Katchi abadi/ 2015

Date: 04th July, 2015



o

Mr. Malik Azhar,
Director (Enforcement)
Capital Development Authority,
Islamabad.

Subject: Constitutional Petition No. 41 OF 2015 (In the Matter of demolishing of Katchi Abadi).

Dear Sir,

I am directed to inform that in pursuance of Orders dated 31.08.2015 issued in a Constitutional Petition No. 41/2015 by Hon'ble Supreme Court of Pakistan (copy attached herewith as annexure-A), it is to be submitted that in the referred order dated 31.08.2015 the Hon'ble Supreme Court of Pakistan have directed the Secretary LJCP to convene a meeting with the concerned parties of the case to discuss the various proposals/suggestions aiming towards ensuring the enforcement of fundamental rights enshrined under Art. 9, 14 & 25 read with Art. 38 (d) of Constitution of Pakistan and to submit a report based on the developed consensus between the participants of the meeting. It is further to inform you that an initial meeting has already been conducted by the Secretary LJCP on 01.09.2015 with some of the parties involved in the matter.

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Looking forward for your active participation, please.


Yours sincerely



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Attendance Sheet for Meeting dated 5th September, 2015

Sr. No.	Name	Designation	Department	Phone/Cell	Signature
1	Barrister Shabzeel	Director Legal Foundation for Fundamental Rights (FFR)		0312-5055971 0301-5011568	
2	Umer Gilani	Associate Lawyer FFR			
3	AMMAD	Dy. Dir Enforcement CDA	CDA	0345-552412	
4	Hafiz Hifz us-Rehman	Legal Advisor	CDA	03335112205	
5	Rabia Awangzeb	Assistant Commissioner (Sadar)	ICT Administration	03225167898	
-6-	Naqem Dar	Dir (Law) COM	C.D.A.	0311-1005467	
7-	Shina-e-Sahar	Research officer	LJCP	0301-4111711	

housing, education and medical relief.....". Previously we had noted that the fundamental rights set out in Articles 9, 14 and 25 are also attracted in this case.

2. Today although the hearing has taken some time, the order we now propose to pass is an essence of the hearing. It has been noted that the State cannot possibly ignore its obligation to enforce fundamental rights or to act in accordance with the principles of policy, set out in Article 38(d), relating to housing/shelter for citizens. Mr. Tasleem A. Siddiqui has appeared in this case, who has expertise spread over many years dealing with 'Kachi Abadis' in Sindh. There are six respondents, who were originally impleaded in this petition. Their names appear in Para-1 of our previous order. The four Provinces are also impleaded as respondents. The provision of housing/shelter for citizens is one of the primary needs of the people of Pakistan. We are however, cognizant that a coordinated policy for housing etc. needs to be framed by the Federation and the four Provinces. Based on such policy it will be for the Court to ascertain the nature of the order which we can pass in exercise of our jurisdiction under Article 184(3) of the Constitution.

3. For the present, we wish to have assistance as follows:-

- (a) *The Secretary Law & Justice Commission of Pakistan (LJCP) shall either today or tomorrow convene a meeting of the petitioners, the respondents, if they so chose their learned counsel and the learned Advocate Generals of the Provinces and the Attorney General.*
- (b) *Mr. Tasleem A. Siddiqui shall be invited as a participant in the said meeting.*
- (c) *The meeting shall consider various proposals/suggestions aiming towards ensuring the enforcement of fundamental rights in Articles 9, 14 and 25 read with Article 38(d) of the Constitution. The Secretary LJCP shall thereafter prepare a report which shall be submitted in Court by the end of this week. The report may attempt to be based on consensus but if this is not possible then alternate views coming up in the meeting shall be put up before the Court.*

ATTESTED


Superintendent
Supreme Court of Pakistan
Islamabad

(d) The participants in the meeting shall attempt to ensure that the proposal prepared is firstly realistic, does not encroach on the authority of the governments to make policy but at the same time ensures the fulfillment of the Constitutional obligations imposed on the State, in line with the Constitution.

4. Mr. Tasleem A. Siddiqui shall be provided office space and facilities by CDA. The learned Deputy Attorney General shall make arrangements for his stay in Islamabad. Since Mr. Tasleem A. Siddiqui is permanently residing in Karachi, the Federation shall also make arrangements for his travel to and from Islamabad for the purpose of attending the hearings in this case.

To come up on 07.09.2015. Until then, the previous interim order shall continue.

Sd/-Jawwad S. Khawaja,HCJ
Sd/- Dost Muhammad Khan,J
Sd/- Qazi Faez Isa,J

Certified to be True Copy

Superintendent
Supreme Court of Pakistan
Islamabad



Islamabad, the
3rd August, 2015
Nisar /-

12280/15

GR No:	Civil/Criminal
Date of Presentation:	1-9-15
No. of Words:	8
No. of Follies:	5
Requisition Fee Rs:	5.00
Copy Fee in:	5.00
Court Fee stamps:	10.00
Date of Completion of Copy:	4/9/15
Date of delivery of Copy:	4-9-15
Compared by/Prepared by:	[Signature]
Received by:	[Signature]