Unravelling RUDA: Environmental Justice and Constitutionalism in Lahore High Court

Public Interest Law Association of Pakistan v. Environmental Protection Agency, Punjab and others
2022 LHC 129

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Introduction

The case of the *Public Interest Law Association of Pakistan v. Environmental Protection Agency, Punjab and others*[1] is a landmark judgement by the Lahore High Court concerning the Ravi Riverfront Urban Development Project (the 'Project' or 'RRUDP') led by the Ravi Urban Development Authority ('RUDA'). The case arose from a series of petitions challenging the legal and procedural aspects of the Project, which included its dubious Master Plan, disregarding local bodies' involvement, and environmental degradation. The Lahore High Court ruled the RUDA Project unlawful, striking down its master plan and various administrative actions undertaken by RUDA. This case note examines the legal issues and the Lahore High Court's reasoning and provides recommendations accordingly.

Background

The Pakistan Muslim League-Nawaz ('PML-N') government conceived this Project in 2013 with the intention of converting the river Ravi into a perennial freshwater body and developing a housing society on the adjacent riverbed. The Lahore Development Authority ('LDA') was tasked by then Prime Minister Nawaz

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[1] *Public Interest Law Association of Pakistan v. Environmental Protection Agency, Punjab and others* 2022 LHC 129.

Sharif to investigate the area, after which the Project was included in the amended Lahore Master Plan 2016 by the LDA.[2]

At the time, LDA could not finance a large-scale Ravi River rehabilitation project. LDA's Urban Unit issued a tender for a feasibility report of the Project, which was given to the consultancy firm Meinhardt. However, Meinhardt did not abide by the terms of the agreement laid down by LDA. Instead, it began planning a feasibility report for constructing a city near Ravi. As a result of deviating from the contractual terms, LDA rejected the report and blacklisted Meinhardt from all projects in Punjab. Following Meinhardt's removal, LDA issued a notification under Section 4 of the Land Acquisition Act, 1894 ('LAA'), informing the local residents of the area about the acquisition of their land for the RUDA Project.

After the acquisition of land by the last government, the project was revived by Prime Minister Imran Khan in 2018. The Punjab Government passed the Ravi Urban Development Authority Act, 2020 ('RUDA Act'), which created a specialized committee, the Ravi Urban Development Authority, under Section 4, to supervise and accelerate the execution of the Project, especially Phase 1 of Ravi Riverfront City.[3] The committee adopted the feasibility report drafted by Meinhardt because LDA had approved it, and the Amended Master Plan ('AMP') 2016 had been incorporated in it, which detailed the regional boundaries of the Riverfront Project. In light of environmental concerns, RUDA commissioned Engineering Consultancy Services Limited ('ECSL') to conduct the Environmental Impact Assessment ('EIA') in accordance with the Punjab Environmental Protection Regulations, 2017 and the Pakistan Environmental Protection Act, 1997. However, a conflict arose between the RUDA and the local residents regarding the Project's legality and its environmental impact.

[2] The Project's initial idea was such that it was described as Lahore Ring Road, Ravi River Development, which included Lake View City and was intended to expand the city of Lahore. LDA identified roughly 17,000 acres of land under the name of Lake View City in the Ravi Basin, and the territory was marked for a potential project.

[3] Phase 1 included urban development on 46 kilometres on either side of the Ravi basin. Reviving the river remained a priority, for which a barrage along with river channelization was planned for the first 14 kilometres.

Issues before the Court

The Lahore High Court examined multiple legal questions concerning the validity of RUDA's actions. First, RUDA claimed that the Project aligns with the previously approved Master Plan.[4] However, the petitioners, who mostly included lawyers and environmentalists, argued in the public interest that it is an unapproved Plan issued by a blacklisted firm and does not present a proper Master Plan for the Project.[5] Second, Section 6 of the RUDA Act requires local government involvement in the Project, specifically, forming an enforcement system in coordination with a local government. However, later the Punjab Government passed the Ravi Urban Development Authority (Amendment) Ordinance, 2021 ('Amendment Ordinance'), which removed the Section 6 requirement. The petitioners argue that this Ordinance violates Article 140-A of the Constitution, which guarantees the participation of local governments in such projects.[6] Third, RUDA claims to have prepared an EIA report in accordance with the Punjab Regulations. However, environmental experts like Rafay Alam argue that this assessment was carried out improperly without the approval of the Environmental Protection Agency.[7]

Lahore High Court's Ruling and Legal Analysis

I. Master Plan

The primary legal contention regarding the Project's construction was the absence of an independent and sound master plan licensed by RUDA. The original plan intended to restore the River Ravi basin and improve the depleting quality of Lahore's groundwater reserves. However, according to Fahad Malik, one of the petitioners in the case, when the Imran Khan government revived the project, its focus shifted towards developing residential and commercial properties. To achieve this, the government established RUDA and granted it the authority—through the RUDA Act—to alter Lahore's Master Plan, a power traditionally held by the Lahore Metropolitan Corporation.

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[4] The AMP was the Master Plan submitted by RUDA in December 2020. This plan was later found out to be the 2016 plan proposed by Meindhardt and rejected by the LDA, and therefore, not included in the 2016 Master Plan for the city of Lahore by the LDA.
[5] *Public Interest* (n 1) [57].
[6] *Public Interest* (n 1) [7].
[7] *Public Interest* (n 1) [212].

Fahad Malik argued that RUDA's reliance on the Meinhardt feasibility study for the master plan was inherently flawed. Meinhardt was only hired to assess the Project's feasibility and not to draft its new Master Plan. Moreover, Meinhardt had no relevant expertise and was later blacklisted by LDA for deviating from its Terms of Reference. Despite all these issues, RUDA accepted Meinhardt's plan with a view that it had been approved by LDA. However, LDA had never approved such a plan.

The Lahore High Court criticized RUDA's undertaking of the Project without due diligence. Justice Shahid Karim held that RUDA was under the misconception that the Meinhardt plan was lawful. He ruled that the approval of the Master Plan suffered a misdirection of facts and, therefore, could not be understood as a rational and intelligent decision.[8] The Lahore High Court's ruling highlighted three key points:[9]

i) RUDA's master plan was invalid because it lacked independence and did not meet the criteria for a project-specific Master Plan. The Lahore AMP, which RUDA claimed as its basis, was not designed to support a standalone project of this scale.

ii) LDA had never formally approved any Master Plan for the RUDA Project. RUDA's adoption of Meinhardt's plan without proper authorization was deemed a significant administrative failure.

iii) Meinhardt was found to lack the qualifications and authority to draft a legally binding Master Plan, especially after being blacklisted. As a result, any reliance on their document as the foundation for the RRUDP was ruled unlawful.

In conclusion, the Lahore High Court struck down the RUDA Master Plan, stating that any developments based on this plan were illegitimate.

[8] *Public Interest* (n 1) [16].
[9] Ibid.

II. Local Government

The petitioners' second legal contention against the RUDA Act was that it disregards the role of local government. They argued that superseding this constitutionally embedded procedure violates the Constitution itself. The issue of local government's involvement arose from Section 6 of the RUDA Act, which was amended through an Ordinance issued by the Governor of Punjab. Representing petitioners, Waqar A. Sheikh argued that removing the phrase 'with the agreement of the local government' from Section 6 of the Act is unconstitutional, as it deprives residents of the Ravi area of their right to participation in governance.

Waqar A. Sheikh pointed out two major grounds that led to the provincial government's failure to fulfil its constitutional duty of involving local government in the Project. Firstly, Section 6 of the Act instructed the Authority to develop a Master Plan in consultation with the local government. However, the Authority failed to do so within the stipulated time. Instead of addressing the lapse through proper channels, Governor Punjab issued the Amendment Ordinance, which removed the requirement of consultation with the local government. The responsibility of creating a viable Master Plan in consultation with local government cannot be circumvented by passing a saving clause through an Amendment Ordinance.[10] Since it lacks credibility, the Amendment is deemed *void ab initio*. No such justifications can retroactively legitimise the government's unlawful acts.

Secondly, the Amendment Ordinance violates Article 140-A of the Constitution, which requires that provinces must devolve political, administrative, and financial authority to the elected representatives of the local governments. No Amendment Ordinance can override this constitutional obligation of any provincial government. The Supreme Court ('Court') in the *Lahore Development Authority v. Imrana Tiwana*,[11] held that:

> …even after the insertion of Article 140A the Provincial Government would continue to have the authority to enact and amend statutes, make general or special laws with regard to Local Government and local authorities, enlarge

[10] *Public Interest* (n 1) [37].

[11] *Lahore Development Authority v. Imrana Tiwana* 2015 SCMR 1739.

> or diminish the authority of Local Government and extend or curtail municipal boundaries. This power of amendment has, however, to be informed by the fact that if the Provincial Government oversteps its legislative or executive authority to make the Local Government powerless such exercise would fall foul of Article 140A of the Constitution. An excessive or abusive exercise of such authority would not be countenanced by this Court. It would be struck down.[12]

The Petitioners contended that, while the precise quantification of devolution of power is absent, this inference most certainly does not allow the provincial government to usurp powers away from local authorities. The case signals that the devolution of powers exists to ensure the elected representatives are stakeholders in the policy. By extension, the voters who elect these representatives get to exercise their authority, which has not been done in the present matter. In the *Imrana Tiwana* case, the Court further emphasized that local governments must remain active stakeholders in policymaking. This ruling, based on Article 140-A of the Constitution, reinforced the provincial government's duty to strengthen, and not to curb the role of local governments. In short, any function RUDA performs must be in consultation with the local government. Section 6, as initially enacted, aligned with the holding of *Imrana Tiwana*, but by deleting some words from this Section, the Provincial Government exceeded its authority. Lastly, the petitioners challenged Section 4 of the Ordinance for undermining the democratic rights of the Ravi residents.

In the present case, the Lahore High Court upheld the petitioners' arguments and ruled that RUDA cannot prepare or approve Master Plans without the approval of the local government. The judgement reads, 'Any master planning and preparation of schemes by RUDA, in the absence of an agreement with the local government concerned, is illegal.'[13]

The strict ruling of the Lahore High Court shows its commitment to protecting constitutional provisions from executive overreach. Consequently, Section 6 of the original RUDA Act stood valid, while the Amendment Ordinance

[12] *Public Interest* (n 1) [57].
[13] *Public Interest* (n 1) [217(4)].

was declared unconstitutional. Therefore, now any new Master Plan authorized by RUDA must be formulated, keeping the local government as an active participant.

III. Environmental Compliance—Invalid EIA Report

Advocate Rafay Alam challenged the Project's current EIA report because it violated the Punjab Environmental Protection Regulations, 2017, and the Pakistan Environmental Protection Act, 1997, which states, 'All environmental assessments are to be prepared by registered consultants only.'[14] These Regulations envisage that registered environmental consultancies must draft all Environmental assessments. Alam argued that any project should only be permitted if these regulations are formally integrated into master plans or developmental schemes. On this issue, the Lahore High Court ordered the government to issue the regulations in its official gazette within a month and incorporate them in the EIA Report to fulfil its statutory duty. Moreover, the Lahore High Court made it mandatory that no EIA administered by a non-registered environmental consultancy or one that violated the Punjab Regulations will be authorized. Thus, RUDA's EIA report, presented by ECSL, was declared to be unlawful and without any authority. The Lahore High Court's decision to delegitimise any such documentation against the Environmental Regulations of Punjab safeguards landowning rights and citizens whose land was impacted by the acquisition, impacting their livelihood.

Moreover, the Lahore High Court identified two significant reasons why the continued development of RRUDP was environmentally unsustainable. Firstly, the development of the Project infringes the right to life for the citizens of Pakistan under Article 9 of the Constitution. Secondly, the Project worsens food insecurity concerns due to the conversion of agricultural land into commercial estates.

Socio-Environmental Hazards of the Project

Although it was declared unlawful, the EIA report itself exposed various loopholes in the project, highlighting its unsustainability. The report identified two major costs: human costs and environmental costs. The project area mainly consists of agricultural land, supporting both the livelihood of small-scale farmers and large-

[14] Pakistan Environmental Protection Act 1997, s 12.

scale agricultural operations. The acquisition of land under the LAA will lead to the dispossession of almost 634 households, inhabited by a population of around 4,271 people.[15] Two settlements that cover an area of roughly 25.11 acres will be displaced permanently. The EIA report identified this as a significant issue because the rehabilitation and resettlement efforts will be highly challenging, as monetary compensation alone will not be able to mitigate the impacts on affected communities.[16]

Although the Project promises sustainable development and strives to achieve river restoration, an important environmental preservation goal, its construction will come at the cost of 1,410.83 acres of agricultural land. Pakistan's agrarian economy will suffer the most because the construction of this project will not only compromise Punjab's food production capacity but also harm the associated ecosystem. The Project will lead to significant environmental degradation, including loss of greenery, land degradation, and increased noise and air pollution due to construction activities.

While the EIA report attempts to present a balanced assessment of the Project, the *amicus curiae* for the proceedings efficiently condensed the Project's environmental harms. In an interview, the *amicus curiae* explained that 75.78% of the planned Ravi Riverfront city is based on agricultural land. The detailed analysis of the EIA report revealed that 82% of the population residing on this land relies on agriculture for their livelihood. These areas produce essential staple crops such as wheat, rice, and corn, as well as the mass production of fruits. Kalakhatai Road, which RUDA authorities plan to acquire adjacent to this cropping region, plays an important role in producing and exporting quality Basmati rice to meet local and international needs. The Project also includes forest areas owned by the Pakistan Army and the forest department. If continued, the construction of the Project will result in the loss of approximately 4958 acres, further exacerbating environmental degradation.[17]

[15] Engineering Consultancy Services Punjab 'Environmental Impact Assessment (EIA)' (June 2021) 127 <https://ruda.gov.pk/system/files/EIA%20River%20Training.pdf> accessed 17 November 2024.
[16] Engineering Consultancy Services Punjab (n 15) 100.
[17] *Public Interest* (n 1) [130].

There is a glaring flaw in the EIA report, for it does not consider the loss of trees and green areas in assessing the harm the project will incur on the environment. The only detail regarding the loss of forest land states that out of 4958 acres of forested land, only 255 acres of forest will be lost owing to the widening of the river banks. However, the report provides no clarity about the remaining forest land that falls within the project's designated area, leaving a crucial gap in environmental impact assessment.

Developmental projects like RUDA, which were carried out without taking environmental hazards into account, have significantly contributed to desertification in the province of Punjab. As a result, problems such as bad air quality, higher temperatures in the form of heat waves, and water pollution have become prevalent. This trend raises concerns about how much environmental loss is justified in the name of economic progress.

In support of this information, the Pakistan Bureau of Statistics reveals that the food import bill has drastically risen between 2021 and 2022 by 33%, from 3 billion to 14 billion. This is an alarming trend because not only has the share of agricultural exports lessened, but Pakistan's self-sufficiency in producing food items has also dropped. This is counterintuitive because a considerable chunk of Pakistan's economy relies on agriculture.

According to a World Health Organization ('WHO') report titled Pakistan Overview of Food Security and Nutrition, Pakistan stands at 109, ranking out of 127 countries on the food security index.[18] While the world's average score on food safety is 60, Pakistan's score is alarmingly low and stands at 43.5.[19] On the other hand, India's score is well above the world average, i.e., 82.5. While there could be multiple reasons that could potentially contribute to India's higher score, it is essential to acknowledge that while India also adhered to the same Land Acquisition Act of 1894 as that of Pakistan, India revised its acquisition policy to address environmental concerns and food security issues by promulgating a new

[18] World Food Programme, 'WFP Pakistan Country Brief' (*wfp.org*, December 2024) <www.wfp.org/countries/pakistan> accessed 12 December 2024.

[19] World Food Programme, 'Pakistan Overview of Food Security and Nutrition – 2019' (*wfp.org*, 25 August 2020) <https://www.wfp.org/publications/pakistan-overview-food-security-and-nutrition-2019> accessed 6 December 2024.

Act, i.e., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This Act ensures that no agricultural land will be acquired by the government for public purposes. Conclusively, in the absence of such a framework, it is pertinent for Pakistan to align its developmental goals with the preservation of the environment and sustainable development. The food security issue that RRUDP's pursuit may cause is a direct threat to the lives of people and the environment of Pakistan.

Recommendations

In light of the legal and environmental implications of the RUDA Project, we propose certain recommendations that can be adopted to ensure equitable and lawful city planning. First, Pakistan must revise the LAA to prohibit the acquisition of agricultural land for commercial and real estate purposes. The current legal framework, enacted in the colonial era, does not adequately protect landowners, local communities, or environmental resources from arbitrary acquisition and urban expansion projects like RUDA. The worsening conditions, like environmental degradation and food insecurity, require the government to bring legislative changes, ensuring that no agricultural land will be acquired and converted into commercial land, even for public purposes. The Act must be amended to introduce an agricultural zoning policy, requiring the government's approval before any changes in the classification of land use.

Moreover, in cases of the acquisition of non-agricultural land, it is necessary to amend the compensation mechanism in light of the country's current realities and circumstances. The present compensation mechanism in the LAA does not enshrine definite criteria and is left at the government's discretion to decide the value of the acquired land. Lastly, as happened in the case of the RUDA Project, a lot of citizens were displaced from the Ravi area and were later not provided any means of rehabilitation and livelihood. Therefore, the compensation, along with the economic value of land, must also include the long-term livelihood impacts on displaced communities. It may be in the form of rehabilitation packages or alternative housing and employment opportunities. In 2013, India introduced the Land Acquisition, Rehabilitation, and Resettlement Act, which ensures no agricultural land is acquired and provides a detailed framework for resettlement, ensuring displaced communities receive long-term support. By implementing similar reforms, we can strike a balance between urban development and protecting landowners and environmental sustainability.

Second, to ensure transparency, the environmental assessment procedures need significant reforms. Independent and government-registered environmental agencies should be tasked with carrying out EIAs, rather than hiring non-registered or fake consultancies, as happened in the RUDA Project. These assessments should not give surface-level reports regarding the feasibility of the projects. For instance, before initiating large-scale projects like RUDA, the EIAs must consider factors like water resources, biodiversity loss, and food insecurity. Similarly, if there is any threat of adverse impacts of such projects, the developers must submit scientific mitigation plans explaining how they will compensate for the damages through conservatory measures. Moreover, the assessments should include rigorous public consultations and empirical evaluations of long-term environmental and ecological impacts. In public consultations, civil society organizations and environmental experts should be given ample opportunities and formal avenues to challenge EIA reports in case of major discrepancies. Lastly, for developers and other government-registered bodies that fail to comply with environmental regulations and submit fraudulent reports, strict penalties should be imposed, including hefty fines and revocation of licences.

Third, the Lahore High Court's judgement on the violation of Article 140-A of the Constitution requires the strengthening of the role of local governments in Pakistan. To ensure democratic accountability and uphold the constitutional principle of devolution of power, urban planning projects, like RUDA, should not be initiated without consultation with local bodies. Since the local residents bear the consequences of such projects, it is necessary to engage them at all stages. Moreover, Article 140-A of the Constitution requires an amendment in which the local government's legislative powers on different subjects must be clearly defined and a mechanism must be provided regarding the devolution of political, executive, and administrative powers. The local authorities should be given a legally mandated role in approving and managing large-scale local developmental projects so that provincial governments can be prevented from unilaterally overriding local government participation. Furthermore, the RUDA Act must be amended to reinstate the requirement for consultation with local bodies to ensure that major urban planning projects are done in collaboration. Besides devolving administrative powers, the local governments should be financially independent, and they must be given the authority to allocate urban development funds without any intervention from provincial governments. Similar to the 57.9% share allocated for provinces in the Constitution, provincial governments should be required to set aside a fixed percentage of their share for local governments. Lastly, the local governments should be able to levy taxes on major developmental projects within their jurisdictions to generate their own revenue and fund essential infrastructure projects in their respective domains.

Fourth, urban expansion must be planned with sustainability at its core. Pakistan must implement sustainable urban development policies that prioritise environmental protection and resource efficiency over indiscriminate land conversion. The government should prioritise the development of smart cities that integrate green spaces, water conservation measures, and renewable energy sources. Big cities like Lahore must incorporate green spaces like ecological corridors and parks to improve air quality and preserve biodiversity. Similarly, mandatory green zones must be established around urban centres to prevent environmental degradation. Moreover, to achieve sustainable development, one of the most important strategies is to revive and protect the natural water bodies like the river Ravi to ensure water security for future generations. Besides, smart city planning should designate non-arable lands for commercial and residential purposes and impose strict land-use regulations prohibiting the conversion of fertile agricultural land into real estate or housing projects. Thus, instead of converting fertile agricultural land into housing societies, alternative strategies such as vertical expansion (high-rise residential buildings) should be encouraged to accommodate growing populations without exacerbating food insecurity and environmental degradation. Lastly, tax incentives should be provided to those who integrate eco-friendly construction practices like green roofs and solar heating into their buildings.

Conclusion

In conclusion, the Lahore High Court ruled that the RUDA Project was unconstitutional due to multiple legal violations. The Lahore High Court's reasoning was strongly grounded in constitutional and statutory interpretation. By holding the Project's Master Plan unlawful, the Lahore High Court ensured that such large-scale projects cannot proceed in an arbitrary manner. The Lahore High Court's interpretation of Article 140-A of the Constitution reinforces federalism and requires devolving powers to local governments, preventing centralized control of provincial governments without any oversight. Additionally, the EIA conducted by RUDA was deemed *ultra vires* as it failed to comply with regulatory standards. In short, the Lahore High Court ruling affirmed that the Project poses threats to the environment by converting large-scale agricultural land into an urban real estate project, resulting in food insecurity, ecological damage, and the displacement of many people dependent on those lands. Therefore, in the future, Pakistan's urban planning policies must incorporate thorough environmental studies, prioritise public welfare, and maintain democratic governance systems. To achieve balanced and responsible development, it will be essential to maintain legal compliance, promote sustainable urban growth, and actively include local governments in decision-making processes. Without such measures, projects like RUDA will keep setting dangerous precedents for unchecked urbanization at the cost of environmental and social stability.