

PUBLIC INTEREST LAW ASSOCIATION OF PAKISTAN

Monthly Updates Summary on PILAP Litigation Cases

October 2018 Update

Case No.	The Court	Reference	Advocate	Updates
1	Supreme Court of Pakistan	C.P.105/2011 Access to Justice	The case is in limbo and no advocate assigned.	No updates this month.
2	Lahore High Court	WP-EPA 9137/2012 Ravi River Pollution	Ahmed Rafay Alam	The construction is being undertaken by WASA and may take over a year, No hearings/updates till the completion of plants.
3	Sindh High Court	C.P. No. 1267/2016 Sindh Education	Muhammad Najeeb Jamali	In a recent hearing, on, 5 th October 2018, the Secretary Education and MD SEF provided the reports to the court and copies were shared with the petitioners. The secretary requested the court that petitioners may come to his office for a meeting and go over reports and measures being taken to improve the school conditions. The court ordered to have a meeting on 13 th October 2018 and the minutes of the meeting to be shared with the court. The said meeting has held of petitioners and Sindh Education department. The minutes are under review and a second meeting is planned next week to discuss the remaining issues.
4	Lahore High Court	WP-7877/2015 Land Demarcation	Ahmed Rafay Alam	No updates this month
5	Supreme Court of Pakistan	Const.P19/2017 Nuclear Disaster Management	Salahuddin Ahmed	As per Mr. Salahuddin, "The CJP has ordered the hearing in chambers on 6th November 2018 due to sensitivity of the case and asked the attorney general to come prepared specifically in reference to the synopsis petitioners have submitted". (The 6th November hearing is postponed, no next date given)
6	Sindh High Court	C.P. No. D-3823 Heritage Building	Zubair Ahmed	No updates this month.
7	Lahore High Court	WP 19674/2016 BT Cotton	Ahmed Rafay Alam	No updates this month

The chronological details of each case are given below for reference.

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LITIGATION PROGRESS TRACKING REPORT

Case #1: Access to Timely Justice: (PILAP)

C. P. No. 105/2011 against Federation of Pakistan and Others in the Supreme Court of Pakistan

Abridged Prayer: 'To declare that "inexpensive and expeditious justice" is the "inalienable" right of every citizen of Pakistan within the meaning of Article 9 of the Constitution of Pakistan, and any further delay and procrastination by Respondent No.1 in abjuration of the "right to inexpensive and expeditious justice", amounts to a denial of the fundamental rights to the public at large, which act is unconstitutional, unlawful, illegal, and a refusal to concede to the people of Pakistan the fundamental rights guaranteed to them in the Preamble, Articles 2-A, 4, and 25 of the Constitution of Pakistan.'

- Note: Case in limbo, currently no strategy for or lawyer pursuing the case.
- The court has set hearing dates but not pursued by PILAP/Legal teams.
- 25th October 2011: Case was registered and listed for hearing.
- 12th June 2014: PILAP sent letters to CM Punjab & CM Sindh to evoke their interest in the case and provision of resources, task force and budget for better 'Access to Justice'. Acknowledgment and letters came from CM Punjab only but no real initiative noticed.
- 1st April 2015: Dismissed for Non-Prosecution
- 1st March 2016: On appeal, re-listing of petition was allowed.
- PILAP had a resolution to leave the Supreme Court petition and submit at Sind High court but no further progress recorded in this regard.
- Need to have Lawyer for the pursuance of case. Hiring process started in Oct 2017.
- President PILAP has met Mr. Arshad Tayebaly, Senior Partner, Mohsin Tayebaly & Co. in order to bring them on board and engage lawyers.

Case #2: River Ravi Commission: (PILAP)

Writ Petition No. WP-EPA 9137/2012 against Government of Punjab and Others in the Lahore High Court through Advocate Ahmed Rafay Alam

In response to the prayer for damages of wastewater drainage to the river 'Ravi', the Court has constituted the "River Ravi Commission" and directed WASA, EPA Punjab and Government of Punjab to enact recommendations of the commission and the court. The RRC is pursuing the case with developments and informing courts of the progress routinely.

- 11th May 2011 First Hearing: The court ordered Attorney General, Punjab to be present on next hearing and EPA, the Amici Curiae and respondents to provide more information. The court assigned the case to Green Bench.
- 18th May 2012: Notice issued to the Secretary Industries, Secretary Local Government, as well as, DCO, Lahore who will depute a senior officer along with record to assist the court on the next date of hearing
- 1st June 2012: The court ordered Secretary, EPD, Lahore to appear to explain if there are cheaper technologies and to propose a commission for assisting the court during onward trial.
- 8th June 2012: The River Ravi Commission established by the court, to restore the natural ecology of the River Ravi. The commission is to file an interim report on the progress made within two months.
- 7th December 2012: The court ordered to publicize 'Interim Report' filed by the commission and invite comments from general public. Also invited RRC members to be present for discussion on 'Bioremediation Project' in the report during next hearing.
- 1st February 2013: The court directed the Commission to prepare a brief report highlighting the technical difference between the pilot 'Bioremediation Project' and the proposals of the M.D. WASA with JICA.
- 1st March 2013: The River Ravi Commission, WASA and P&D Departments were directed to proceed with the approved Bioremediation Project and submit their progress report regarding the same before the next date of hearing. MD WASA was advised to coordinate with JICA for their proposal and submit detailed report which will provide technical background and cost breakdowns.
- 8th December 2015: The Chief Secretary, Government of the Punjab was directed to proceed with the recommendations of the River Ravi Commission and take immediate steps for setting up the Bioremediation Project at the earliest and submit an interim report regarding the progress made in this regard within one month.
- 28th January 2016: The progress noticed and advised for next hearing.

- 27th August 2017: According to the Chair of the River Ravi Commission, WASA Lahore has given the go ahead for the construction of a Bioremediation Plant.
- 15th September 2017: WASA has given presentation about construction of pilot plant. A committee is announced to oversee design and construction. Environmental Protection Department (EPD) will carry out a topographic survey and inform the committee for evaluation.
- 30th November 2017: Following update received from Advocate Rafay Alam Sb. in email: "No updates as yet. WASA and its technical team are taking their time on the design of the bioremediation plant. I'll see if I can convene a brief meeting with them later this week to speed things along."
- 01st March 2018: No significant progress, Advocate Rafay Alam Sb. planning to convene a meeting next week.
- 08th March 2018: NIGBE presented plan with WASA for construction of BR plant at a better site. The change was accepted but needed more documents so NIGBE will provide further documentation for approval and go ahead.

On April 27, 2018, ARA: "The ball is now in WASA Lahore's court. They have all the approvals and budget to carry out necessary procurement of materials and construction to build bioremediation plant. At our last meeting, however, we were only concerned about WASA's proposed timeframe (about a year) and wanted it reduced by half."

There will be no hearings/updates until the completion of the plant.

Case #3: Right to Education Case: (PILAP)

Constitutional Petition No. 1267/2016 against Government of Sindh and Others in the Sindh High Court on 3rd March 2016 through Advocate Muhammad Najeeb Jamali

The abridged prayer to the court:

- (i) Declare that the Respondents are under a constitutional obligation to provide free and compulsory education to all children in Sindh and the rest of Pakistan between the ages of five and sixteen years;
- (ii) Declare that Pakistani children have a right to be educated in any school of their choosing and that it is the Respondents constitutional obligation to subsidizes / fund the cost of education of these children;
- (iii) Direct the Respondents to take all necessary legislative, financial, and administrative measures within a period of six months to ensure the provision of free and compulsory education;

- 4th March 2016: First Hearing: The Court ordered to issue notices to respondents.
- Several hearings put up in the Courts Daily list but the case is still pending.
 - 22nd March 2016 - Discharged
 - 27th October 2016 - Adjourned
 - 8th December 2016 - Adjourned
 - 18th January 2017 - Adjourned
 - 16th February 2017 - The Court could not see the petition in available time and will be put up on some next date for hearing.
 - 12th April 2017 - Adjourned
 - 10th May 2017 - The Court could not see the petition in available time and will be put up on some next date for hearing.
 - 15th August 2017 - The Court could not see the petition in available time and will be put up on some next date for hearing.
- 10th August 2017: Chief Justice (CJ) of Sindh High Court (SHC) Justice Ahmed Ali M Shaikh took 'suo motu' notice of a report regarding the lack of basic facilities in schools of Sindh province. He has also sought a detailed report to this effect from the Secretary Education Sindh within a week.
- 28th August 2017: Dr. Amjad Waheed has proposed a letter to be sent from PILAP President praying court to bring effectiveness to petition in coherence to the court's advice to the Education Secretary.
- 3rd October 2017: A request is sent today to Chief Justice SHC for meeting with PILAP delegates Mr. Anwar Kashif Mumtaz and Mr. Saad Amanullah Khan in addition to a letter sent last month to persuade for the urgency of petition.

- 14th October 2017: SHC Justice Munib heard the case and has advised PILAP for an actionable plan so that he can pass judgment on during next hearing *24th November 2017*. Both Dr. Amjad Waheed and Advocate Najeeb Jamali attended the hearing. Dr. Amjad is meeting with Advocate Najeeb and Saad Amanullah Khan on Monday to plan a response. Next date of hearing Nov 24, 2017.
- 24th November 2017: In the last meeting, Dr. Amjad Waheed and Advocate Najeeb handed over a workable plan for review in the courts, which the court can then order the government. Tentative date for hearing on December 24.
- 28 February 2018: As per Advocate Muhammad Najeeb Jamali, next hearing date is granted on 8th March 2018.
- 8th March 2018: The Court could not see the petition in available time and will be put up on some next date for hearing.
- 25th September 2018: The justice advised both the secretary and MD SEF to present provable reports on what has been done and what is their mandate under the law. If there is any financing difficulty, he may write to finance secretary for the need. MD SEF said that they have good funding. The court ordered both the Secretary and the MD SEF to provide separate reports within 10 days on the next hearing, 5th October 2018.
- 5th October 2018: The Secretary Education and MD SEF provided the reports to the court and copies were shared with the petitioners. The secretary requested the court that petitioners may come to his office for a meeting and go over reports and measures being taken to improve the school conditions. The court ordered to have a meeting on 13th October 2018 and the minutes of the meeting to be shared with the court.
- 13th October 2018: The said meeting held of petitioners and Sindh Education department. The minutes are under review and a second meeting is planned next week to discuss the remaining issues.
- Next tentative date of hearing date 22nd November 2018 (auto-fix) as per SHC website.

Case #4: Land Demarcation/Rezoning: (PILAP)

Writ Petition No. WP-7877/2015 against Lahore Development Authority and Others in the Lahore High Court through Advocate Ahmed Rafay Alam

The prayer sought the court orders to Lahore Development Authority to stop re-zoning agricultural lands to residential and carry out 'Environmental Impact Assessment' before amendments to 'Master Plan' with reference to PILAP's concerns on such grounds.

- 20th March 2015: First Hearing: The Court issued notice to LDA and the Government of Punjab to appear for next hearing on 27th March 2015.
- 12th December 2016: Meetings of Legal team with LDA regarding Master Plan change.
- No further progress/updates available at the moment

Case #5: Nuclear Petition: (PILAP)

C. P. No. 19/2017 against Government of Pakistan and Others in the Supreme Court of Pakistan through Advocate Salahuddin Ahmed

PILAP has challenged the construction of Nuclear Power Plant close to the city of Karachi, Sindh and prayed the courts to declare it: (i) unlawful being close to city; (ii) the evacuation plans not sufficient (iii) stop construction of K2 and K3 plants on similar grounds.

- 1st February 2017: On filing of the petition, the Registrar denied the hearing and ordered that “the petition be returned as it is not before a proper forum”.
- 9th May 2017: On appeal, hearing of petition was allowed but first hearing date is not granted after re-listing.
- The Supreme Court is in recess currently and will start regular hearings in September 2017.
- 25th October 2017: The SC bench again raised the query why we were not pursuing this case before the High Court. Our reply was that the public importance of the matter required direct hearing before the SC. Advocate Salahuddin has impression that there was some reluctance on part of some members of the bench to hear the matter. The matter has been adjourned to hear the Attorney General on this issue.
- 30th November 2017: Following update received from Advocate Salahuddin: “Still waiting on a date to be fixed by SC Office”.
- 24th April 2018: The Honourable Chief Justice, Mian Saqib Nisar heard the petition. The Supreme Court issued notices to the respondents for their response.
- 31st July 2018: The respondents have submitted the responses as advised by The Honourable Chief Justice, Advocate Salahuddin has reviewed the responses and submitted our response to the registrar of the court. He is not hopeful for hearing on the 3rd August 2018 but the case is scheduled. We have requested the advocate office to provide copies of the respondent’s response for record at PILAP.
- 24th October 2018: As per Mr. Salahuddin, Advocate, “the CJP said that he’s taking this issue very seriously as our objections to the siting seem weighty. However he said that he doesn’t want to proceed in open court as sensitive matters are involved and he will hold the next hearing in chambers on 6th November 2018. The CJP asked the attorney general to come prepared specifically in reference to the synopsis we’d submitted”.
- The case is delisted on 6th November 2018 due non-availability of the bench.
- No hearing date announced.

Case #6: LLOYD's Bank Heritage Case: (PILAP+SHEHRI)

Constitutional Petition No. D-3823 against Silk Bank in the Sindh High Court on 1st June 2017 through Advocate Zubair Ahmed Abro

The abridged prayer: 'Declare that the permission for alteration in Protected Heritage and immoveable antiquity - Emirates Bank International Ltd. (Lloyds Bank) RAi-1/2, I. I. Chundrigarh Road, Karachi- issued by the Department of Culture, Tourism & Antiquities on recommendation of The Advisory Committee, on 29.06.2016 is in violation of Article 4, 9 & 28 of the Constitution of Pakistan as well as under the Antiquity Act, 1975, and the Sindh Cultural Heritage (Preservation) Act, 1994.

- 26th July 2017: First Hearing: The court ordered to issue notice to respondents.
- Hearing status: 'Urgent Application' is granted, notice be repeated. Mr. Anwar Ali (AR Writ Branch) appointed as commissioner to conduct a comprehensive inspection and file report.
- 1st August 2017: an inspection was carried out and site photos submitted to court with the report.
- 8th August 2017: "Discharged" (no hearing due strike/recess) by the Court.
- 22nd August 2017: "Discharged" (no hearing due strike/recess) by the Court.
- 1st March 2018: Advocate Zubair Ahmed filed application by Mr. Arif Belgaumi, for urgent hearing. His reply today, "Today (28.02.2018) bank counsel Mr. Yasin Azad appeared and requested for time on the ground that he has not received copy of all annexure of the petition. We opposed grant of time as we had already supplied complete set of petition many months ago. We have filed photographs of current position at the site. Court directed bank counsel to file reply to the petition within three weeks and adjourned matter to 19.03.2018".
- 19th March 2018: relisted by the Court on 29th March 2018.
- 29th March 2018: ZAA: "Today Silk Bank filed reply to the petition. They claim work is being carried out in rear building, which is not declared heritage. We need to file rejoinder to their reply within three weeks".
- ZAA: "Silk bank case will fix in first week of May. I have sent reply of silk bank to Arif Sb. for his technical input because on this date we have to file Rejoinder to their reply".
- The case came up twice in May but deferred. No hearing date assigned.

Case #7: BT Cotton/GMO Seeds: (PILAP)

Writ Petition, WP19674/2016, against Government of Pakistan and Others in the Lahore High Court through Advocate Ahmed Rafay Alam

PILAP had challenged the grant of GMO licenses for the varieties of BT Cotton on the grounds that the Federal Government is no longer legally allowed to regulate GMOs after the 18th Amendment.

- Our petition has been not being progressing.
- Recently, the Court accepted an application from CropLife (a Karachi based NGO) to become party to the matter.
- The latest update on this case is that the Lahore High Court has clubbed our petition with a similar petition on genetically modified seeds.
- No further updates available at the moment.
- 28th March 2018: ARA told that the case has come up in the court. ARA is trying to get the copy of proceedings and he will share. (The copy of proceedings obtained attached)
- 25th April 2018: The case is heard in the court on 25th April 2018. Order issued to Punjab EPA, agricultural board and other respondents to submit their responses/reports earlier than next hearing on 5th June 2018.
- 25th June 2018: The matter could not come up on June 5th, as Justice Jawad Hassan has been transferred to Bahawalpur. ARA met his Lordship informally yesterday and he informs him that he will be in Lahore by the beginning of next month. We will try and have the case fixed then, through the summer break is fast approaching”.
- No further updates