



Figure 57. Shared tube-well



Figure 58. Sharing water

A few years ago, HH bought a second house in France Colony and started renting her first house. In her old house, HH rents three *makaans* for Rs.5000-6000 per unit to male salesmen who work in the nearby F-7 *markaz*. In her current *chardewari* she has

three rooms and two bathrooms. To help with the payment of her recent house purchase, HH rents 2 rooms and one bathroom in her current house where she lives with her family. Her family has their separate bathroom and a room for her children. She has made a semi-covered structure on the second floor inhabited by her and her husband as well as serving as a living area and a kitchen. One of her two units is being used as a part-time workshop by a tailor who gives her a hefty Rs.8000/month for using the space a few hours each day. HH told me that she chooses her tenants carefully and only rents out to men who spend most hours of the day at work and who are either single or have families living in other cities or villages.

While transfer of these plots and built up units is illegal, it nevertheless happens all the time in France Colony. HH bought her second home from a woman named SS, who was a community activist during her days as a resident in France Colony. SS migrated from Karachi to Islamabad in 1998 and bought a place in France Colony. In 2002, her house was listed in the KAC serial-number classification. Around 2011, SS decided to sell the house for two reasons: (i) she felt that the living environment in the neighborhood had deteriorated with the rise in alcohol business and prostitution, (ii) she needed to satisfy a more immediate concern of generating money to marry off her daughter. The mode of transaction for built houses in France Colony as it has been explained to me is that both parties draft out an agreement on stamp paper, which is a document with a pre-printed stamp initially used as a tax collection tool in the British colonial period but now commonly used in South Asia (same in India) to legitimize leases, transfer deeds for property, vehicle, etc., or to write up contracts between different parties. Since the property owner does not own the land, the cost of the property is determined based on the cost of the building material and a reasonable margin of profit for the sellers. Terms of the transaction are drafted on the stamp paper, including the amount of payment and a waiver by the owner of all rights to the property. In the case of HH-SS transaction, the latter transferred the serial number to HH on a stamp paper, and handed her the document bearing the serial number issued by the CDA. Even though the transaction is of a completely illegal nature, it has a legal semblance.

As a way to conclude this discussion on the range of activities and negotiations around space discussed above, from official categorizations to pseudo-legal transactions,

I would like to introduce the figure of *chaudhry* found in neighborhoods like France Colony. In Pakistan, *chaudhry* is a title of honor traditionally associated with land ownership especially in rural Punjab. In contemporary usage, *chaudhry* is a common title used either at the beginning or end of names. In France Colony, the title still bears its earlier meaning of honor and power associated with those who carry political clout within France Colony. *Chaudhrys* are patrons of France Colony who believe that they ‘earned’ this title based on their leadership services since the early days of the development of this neighborhood. *Chaudhrys* are some of the earliest settlers of this neighborhood as explained by one of the residents of France Colony. According to her, “those who had been sitting (squatting) from before, they call themselves *Chaudhry*” (Resident France Colony, personal communication, March 19, 2013). She also referred to them as *upar walay* (those on top), that is, those located on the higher (and the more desirable side) of the *nullah* (ravine). Her definitions of *chaudhry* suggest the self-proclaimed nature of this title meant to reinforce the political (and spatial) position in the neighborhood and to differentiate it from the new arrivals.

Chaudhrys are also people with wealth often suspected of owning shops, and houses not only in France Colony but elsewhere in the city (Ex-MNA accused, 1989, May 14). While *chaudhrys* are important people with the power to get work done in France Colony, most people feel some contempt toward these self-proclaimed leaders of the neighborhood. *Chaudhrys* are the representatives of the neighborhood and are normally the first go-to people when national or international non-governmental organizations (NGOs) want to launch a project in France Colony. Residents eye these *chaudhrys* with suspicion, as they are believed to be self-promoting, and corrupt; many have been accused of pocketing significant sums of money given to them by NGOs for the uplift of the community.

Chaudhrys see themselves as deserving the title of honor based on the services they have given to the neighborhood and its residents. It’s an honor earned over time as during a conversation with one of the *chaudhrys* he claimed, “when I became a *chaudhry*” (Resident *chaudhry* France Colony, personal communication, February 2013). One of the community based activists who has been involved in community welfare since

early 1990 and whose father is one of the *chaudhrys* of France Colony explained his commitment to the cause of social welfare:

Social work is something I have inherited from my father, a part of my family heritage. But its not like *jagirdari* (feudalism)- I don't have birth right to it. Anyone can be in my position; it's only a matter of volunteering time and working for the benefit of the people. Most people ask why they should go after other people's problems? What is in it for them? When I go visit an official (CDA), not only do I have to take time off from work but also have to spend money, for *chai/samoosa* (tea/snack) for the officer. Once a trainer (of a workshop for community organizers) called people like me *sarphiray* (mad). We are volunteers and do this without any salary (Community activist France Colony, personal communication, March 15, 2013).

The authority of *chaudhrys* is reinforced by the structure of what may be considered an extension of the concept of "street-level bureaucracy," which alludes to the encounters that take place between ordinary citizens and the State via street bureaucrats (Lipsky, 1980). Police, schoolteachers, social workers, etc., are all examples of street bureaucrats who act as mediators of policies constructed elsewhere and who are in the position to exercise political power. While *chaudhrys* do not enjoy the same level of legitimacy enjoyed by street bureaucrats, they do possess political influence by virtue of their position in the community and recognition by CDA and local and international non-profit organizations. One of the *chaudhrys* I interviewed showed me the stamp that he uses to create different types of pseudo-official documents for the residents of the colony, including letters of residence needed by residents of France Colony who wish to send their children to the nearby government school. According to government policy, students residing in a particular neighborhood have to attend the nearby government school. In F-7/4 Girls' middle school, for instance, his letter vouching for the status of a person as a resident in France Colony holds value since the principal of the school personally knows him. Similarly, he also issues *rahdari* – a letter for animals including full description of the beast, needed to curb the theft of animals and for the legal movement of the animal within and outside the city.

4.3. Nonconforming Spaces as Sites of Negotiations

The story of France Colony is not one of absolute oppression as residents of France Colony have been able to receive almost the same rights as those living in planned places. This is most apparent in the incidents of friction between the residents of France Colony and the planned sub-sector F-7/4. Power in this case is not associated with wealth as residents of France Colony have been able to prevail despite several complaints of the wealthy residents of F-7/4. France Colony is an exception to the rule that is the master plan, and it is precisely in this space that those concessions incompatible with the plan can exist.

Partha Chatterjee's distinction of political society versus civil society fits into this narrative of France Colony, to a certain degree. In *The Politics of the Governed*, Partha Chatterjee describes 'civil society,' in terms of right-bearing 'citizens, functioning in a direct relationship with the state as determined in the constitution (2006). Chatterjee's 'political society,' in contrast, is the domain in which 'populations' existing and operating in constitutionally illegal spheres are also able to establish certain political relations with the state and at times are able to influence the terms of their governance. The concept of political society to understand the benefits enjoyed by residents of France Colony only partially explains the social relations that exist between dwellers of this neighborhood and CDA. France Colony provides an important vote bank but residents of this neighborhood are much more than voters, they are in fact often low-level bureaucrats themselves. In cities like Islamabad, their importance cannot be underestimated. While wealth can provide access to better facilities and living conditions, the power to make spatial exceptions reside with the State and those associated with it. The concessions made to create a low-income neighborhood outside of the official master plan of Islamabad and provision of services there are possible primarily because of the connection of the residents of France Colony with CDA. Informal settlements are found in many large cities around the world yet the official patronage enjoyed by France Colony makes it an important example to understand the role of the State in the constitution of urban nonconformity, and the consequent legal-illegal dimensions of such officially tolerated spaces at odds with official planning frameworks.

In the above discussion I have tried to present a varied spectrum of space-related activities and negotiations that go on in France Colony. The creative arrangement of shared electricity, for instance, is what Chatterjee refers to as the “entire substructure of paralegal arrangements, created or recognized by the govt authorities” (Ibid, p. 137). These paralegal arrangements find their pseudo-legal counterparts in the drawing up of land/house transaction deeds in property dealings in France Colony. In these examples we can identify that officials and residents attempt to regularize informal spatial processes by using bureaucratic innovation or mimicking legal procedures in order to create the effect of legality.

France Colony as an official spatial exception makes access to employment and residential opportunities to its residents possible, however, it offers more than the fulfillment of a basic human need of shelter and economic sustenance. The desire to become a part of the planned and hence legal framework, and to hold proprietary rights to a property in a good location in the capital city exists among the residents of France Colony. The significance of the plan to those living in the exception can be gauged by a statement made by a local community activist in France Colony, at a press conference held in 2006 (Peoples’ Rights Movement, 2006). Speaking of the government policy to upgrade ‘squatter’ settlements on existing locations, the activist argued that unless these settlements are planned like the rest of the sectors in Islamabad according to a *baazabta* (comprehensive) programme, the residents of these ‘squatter’ settlements couldn’t be considered equal citizens of Islamabad. The same activist in his interviews told me that while the residents of France Colony feel secure that they will not be evicted from Government land, they are currently negotiating with CDA to get ownership rights to plots within France Colony (Community activist France Colony, personal communications, September 28, 2012; September 29, 2012). He explained that getting ownership right is important because even though they have “everything in France Colony right now including school, telephone, etc.,” but they have no “*malkiyat*” (ownership). The activist explained that this is important because without *malkiyat*, they don’t have anything to give to their children as inheritance. Without hesitation, he added, “it is up to us whether we would like to keep it (plot) or sell it afterwards.” For people like the resident community activist, *malkiyat* is more about getting security of tenure.

It's about the desire to own property, which could be either passed on or sold rather than fulfill a basic human need of shelter. The desire to own property in a good location often gets overlooked in analyses of why slums' and squatter settlements' dwellers choose to live in these localities. Informal housing is often framed as meeting basic housing requirements for marginalized communities whose only motivation is essential survival. In France Colony where its residents enjoy no imminent threat of eviction, the aspiration to own property in a good location as future investment - often associated with middle- and high-income groups - also exists.

Desire to live in a desirable location also played an important role in the development of another illegal yet decidedly elite neighborhood of Bani Gala in suburban Islamabad. The desire of a few influential families to make their homes in the picturesque setting of Bani Gala motivated them to develop an undeveloped village in suburban Islamabad, in direct violation of its master plan, and with resistance from CDA. The story of Bani Gala is next.

Chapter 5

When The Exception Becomes The Rule



Figure 59. “PPP leader Jahangir Akhtar (right) is setting CDA Ordinance on fire on the second day of hunger strike against Bani Gala operation,” *The Nation*, Islamabad. June 29 1992.

At the end of June 1992, a few residents of the Bani Gala neighborhood in suburban Islamabad along with their supporters burned a copy of the CDA Ordinance -- a law passed in 1960 in order to establish CDA as a municipal corporate body tasked with the development and management of the new capital of Pakistan (figure 59). The act of

destroying a legal document laying down CDA's charter, responsibilities, and powers was carried out as part of public protests against CDA's anti-encroachment operation demolishing houses and killing people in Bani Gala a few days earlier. A dispute over the development of Bani Gala as an elite residential neighborhood with expensive mansions built on prime lakefront properties led to this military style escalation between the residents of this neighborhood and the city managers. Since the development of Bani Gala as a residential neighborhood was an obvious violation of the official zoning regulations of Islamabad, CDA officials felt it justified to use force to remove encroachments according to the official planning framework of the city. Violation of the master plan, in this case, was considered a public problem, and the use of force to remove it was considered as a reasonable response.

From the discussion in preceding chapters, we have seen that in the case of Islamabad not all apparent 'violations' of the master plan are illegal nor are they instantaneously removed by the city officials. In fact, in the examples described in Chapters 3 and 4, we see that spatial practices at odds with official planning protocols are often tolerated over long periods of time because they supplement formally planned spaces by accommodating those functions and necessities that cannot be otherwise delivered through formal planning and architectural practices. However, not all deviations from official plans and regulations are tolerated as seen in the anti-encroachment drive carried out by CDA to remove illegal houses built in Bani Gala -- an area reserved as a natural park in the official master plan and zoning regulations of the city. Why are some nonconforming spaces tolerated by CDA in Islamabad while others are resisted and forcefully removed? What are the tactics of sustaining nonconforming functions that are resisted by CDA?

This chapter will argue that certain nonconforming spaces are resisted by CDA because the makers of these spaces threaten CDA's jurisdiction as the sole developer and manager of Islamabad. In other words, CDA's participation in the development of nonconforming spaces is an important element in its decision to tolerate or resist spaces at odds with official planning protocols. By focusing on the development and legalization of an illegal neighborhood in suburban Islamabad, this chapter will show how spaces external to official planning protocols can be highly contentious especially in instances

where the officially and unofficially planned spaces directly compete for their continued existence. In such instances, the legal status of officially sanctioned plans and regulations does not necessarily mean that they will prevail over spaces outside of official planning framework. The history of the illegal neighborhood of Bani Gala, which was not only eventually legalized but also initiated a process that instituted major structural changes in Islamabad's master plan, illustrates these points. The process of legalizing Bani Gala also reveals the important role played by the judiciary in sanctioning certain structural changes in the city's official master plan, often against CDA's wishes. This leads to the important conclusion that even if the decision to decide upon spatial exceptions resides with the State, there can be a rift between various State institutions regarding such decisions, that is, the State is not a monolithic entity. In the history of Islamabad, Bani Gala, thus, serves as an important example of an exception becoming the rule in the context of a planned modern city!

5.1. The Promise of Bani Gala

Bani Gala is one of the existing villages within the National Park area, which Doxiadis conceived as a large green space in the master plan of Islamabad.⁵⁶ Bani Gala is no ordinary village, however. It is one of the most scenic places in Islamabad located on the South of Rawal Lake – an artificial water reservoir for Rawal Dam, and an important water source for the residents of Islamabad and Rawalpindi. Bani Gala offers spectacular views of the lake and hills of Islamabad from many vantage points. Doxiadis placed the National Park area toward the periphery of the city, away from the main urban areas, and restricted construction to minor low-density institutional buildings in order to avoid pollution of Rawal Lake (Doxiadis Associates, 1962a, p. 2). The spectacular views offered by Rawal Lake is the reason why many influential people decided to build their homes in Bani Gala in violation of the master plan of Islamabad. Long before the development of Bani Gala as an elite neighborhood, Doxiadis recognized the picturesque

⁵⁶ It may be recalled from Chapter 2 that Doxiadis planned the metropolitan area of the new capital into 3 subdivisions, including, (i) Islamabad proper comprising planned sectors on a square grid, and (ii) the Rawalpindi Town and Cantonments region, and (iii) The National Park Area. The proposal to develop the existing and new areas of Rawalpindi along with Islamabad was abandoned in the development of the new capital city (Doxiadis Associates, 1960b, p. 10, 14).

quality of the area around Rawal Lake and consequently, its potential as an attractive building site for many interested individuals and institutions, when he noted in a report submitted to CDA in early 1960s,

It is understood that this area is one of the most beautiful areas of Islamabad and the adjacency of the Lake makes it more attractive. But the importance of the land use specified in both the above cases should not be diminished from the fact that a small number of people should have the privilege of enjoying the best area of Islamabad. This area should be left for use by all citizens of Islamabad in such a way as to fulfill also the requirements of proper treatment of the Lake (Ibid, p. 6).

Doxiadis proposed large institutional buildings and sports facilities in the area next to the lake in order to ensure its public use in the future and to avoid pollution of the lake due to excessive construction activity. However, a small number of people did end up staking one of the best areas of the capital for their personal enjoyment. They were able to do so because of the structure of ownership and administrative control of land in the National Park area, and their ability to exploit these peculiar features for their own benefit.

The National Park area comprises several villages that predate the new capital city of Islamabad. Land in the area reserved for the new capital city is subdivided into ‘acquired’ and ‘unacquired’ areas depending on whether it has been purchased by CDA or is still owned by native villagers. In order to develop the National Park area according to the Doxiadis’ master plan, CDA first had to purchase private rural land holdings belonging to people who had been living in the area for generations.⁵⁷ CDA acquired almost all the private land in the area next to the Rawal Lake in the 1960s. Bani Gala, however, remained ‘unacquired.’

⁵⁷ The process of acquisition of land (and existing built up property) in Islamabad from private landowners upon payment of compensation is a long and contentious process, often shrouded in controversy. Private landowners as well as land mafia sometimes make multiple claims for the same piece of land and/or erect new structures in hope of getting maximum compensation for existing built up property from CDA. Compensation offered by CDA is often considered insufficient as compared to the open market property rates. In some cases, CDA can postpone taking over acquired land until it is needed for the development of new areas according to the master plan. Because of the sharp increase in land prices, occupants of areas already acquired by CDA show resistance in giving up possession and demand money for leaving the bought out land. This situation is further exacerbated by the direct involvement of CDA officials in aiding these irregularities. For a detailed analysis of the land acquisition and development process, see Hull, 2012, pp. 162-209.

Local villagers of Bani Gala consider the unacquired status of this area a blessing since many of them were able to sell their land for a profit according to higher market rates later on as opposed to residents of the neighboring villages of Lakwal and Malpur whose property was acquired in the 1960s for a marginal amount. Bani Gala is a place bestowed with the blessings of a saint, claims a local villager-turned-property dealer (Personal communication, October 2, 2012). According to this villager, the history of this area goes back to about 300 - 350 years ago, when a saint, Baba Shah Sharti Hussain, moved to this area to make it his home. At that time, there was no source of water for the village cattle so the Baba built a pond, which in local language is called a *bun* or *bunni*. Close to the pond were hills enclosing a plain, which is locally termed *galla* or *gala*. According to the villager, Baba Shah Hussain Sharti named this area Bani Gala because of these natural and man-made features (figures 60 and 61). The villager believes that perhaps it is because of the blessings of the holy saint on this area that most of Bani Gala still remains in the hands of the local population, and attempts to acquire land in the area by CDA have been unsuccessful.



Figure 60. Shrine of Baba Shah Sharti Hussain at the end of a narrow road near Bani Gala village



Figure 61. Pond right across from the shrine

The fact that CDA does not own all of the land in the area reserved for the new city of Islamabad and that it is not the only administrative authority that exercises control over the whole area of Islamabad further exacerbates the problem of development in the unacquired areas of Islamabad. The entire region reserved for the capital city is referred to as the Islamabad Capital Territory (ICT), which is further subdivided into two areas, urban and rural, each with its own governing body.⁵⁸ The Capital Territory Local Government Ordinance, 1979 defines the jurisdiction of various government bodies over the urban and rural areas of Islamabad. Urban areas of Islamabad are governed by Capital Development Authority (CDA), which oversees the development and administration of the residential, commercial, industrial, and institutional areas developed within various urban sectors of Islamabad. The administration of rural areas comes under a second administrative authority called Islamabad Capital Territory Administration (ICTA).⁵⁹

⁵⁸ Islamabad is a federally administered area and as such, its administrative structure is different from most other cities in Pakistan. Even though Islamabad geographically falls within the Punjab province, as a federally administered area it remains independent of the provincial government, and enjoys the same powers and roles as that of a provincial government. The President of Pakistan or his/her appointed official called the Administrator (now Chief Commissioner) oversees the administration of the capital city

⁵⁹ Officials of both CDA and ICTA are government representatives either on deputation from the Pakistan Administrative Service (PAS) of the Central Superior Services (CSS) or as in the case of CDA, also hired directly against various positions within the organization. At the top of ICTA hierarchy is the Chief Commissioner succeeded by a Deputy Commissioner, and other members belonging to the Central Superior Services of Pakistan. The administration of CDA comes under a Board comprising a Chairman and various members appointed by the Federal Government of Pakistan. The Commissioner Rawalpindi and Chief Commissioner Islamabad are also members of the CDA Board. Even though the Chief

ICTA is administratively subdivided into 12 union councils governing about 133 villages located in suburban Islamabad. In rural Pakistan, union councils are basic administrative units formed to administer a group of villages.⁶⁰ As one of the outlying areas of Islamabad, Bani Gala (designated in the official record a “sub-village” of Mauza Mohra Nur) falls under the jurisdiction of the Union Council of Bahra Kahu (figure 62).⁶¹

Despite the administrative division between CDA and ICTA, CDA oversees the development of Islamabad Capital Territory according to the official master plan of the city. While the development of Bani Gala as a residential neighborhood in the National Park area was a direct violation of the Doxiadis’ master plan, however, it also violated another important aspect of development of Islamabad as a new city, namely, CDA’s rights as the primary developer of both urban and rural areas of Islamabad, as discussed next.

Commissioner as a representative of the President of Pakistan holds the highest authority in Islamabad, yet in practice, the powers of Chairman CDA as being in charge of affairs of urban areas of the capital city are significant.

⁶⁰ Union councils comprise elected members known as councillors by ballot from the local population. Councillors of each union council nominate an elected member as their Chairman. Union Councils are constituted to administer a group of 5 to 23 villages, prepare union council development programs consisting of educational, health, and infrastructure facilities as well as manage, maintain, and improve public structures and infrastructure in the union council area (Islamabad Capital Territory Administration, 2007).

⁶¹ *Mauza* is a term used for a village which functions as an administrative unit for one or more villages.

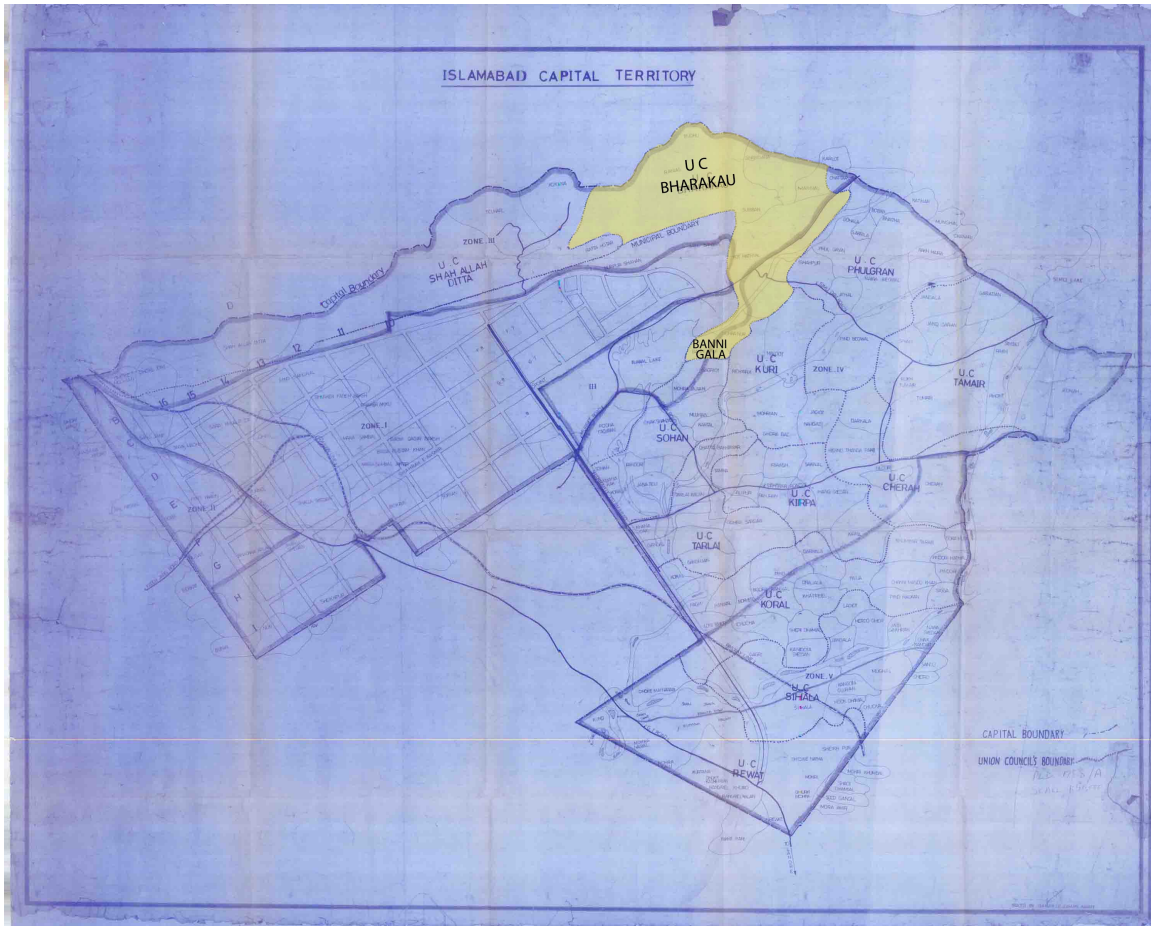


Figure 62. Map of Islamabad Capital Territory with union council jurisdiction. Source: CDA.

5.2. The Right to Develop

It may be recalled from Chapter 2 that Doxiadis' visualized the metropolitan area of Islamabad into three distinct regions, namely, (i) Islamabad proper, (ii) Rawalpindi Town and Cantonments, and (iii) the National Park (figure 63) (Doxiadis Associates, 1961, p. 18). The zoning regulations of Islamabad passed in December 1992 divided the Islamabad Capital Territory into 5 zones as shown in figure 64. According to the 1992 zoning regulations, Zones 1 and 2 were to be developed by CDA and private developers respectively, in the configuration of 'sectors' designed by Doxiadis. Zone 3 was preserved as a nature retreat comprising Margalla Hills National Park, and Rawal Lake, and its immediate environs. Zone 4 comprised rural peripheries of Islamabad and included most of the National Park area. Towards the south of Islamabad bypassing the city of Rawalpindi was Zone 5, an area that did not initially exist in the Doxiadis master

plan but was eventually included in Islamabad's territory by CDA. In this zone, private developers are allowed to develop residential schemes, which mostly follow the configuration of gated communities. Despite the provision for development by private developers in parts of Zone 1 (sector E-11), and in all of Zones 2, and 5, urban development in these zones requires formal approval from CDA.

According to the 1992 regulations, Bani Gala (as part of the National Park area) fell within Zones 3 and 4 (figure 65). According to a notification issued by the Federal Government of Pakistan in 1980, area falling within two kilometers from the highest watermark of Rawal Lake was declared a part of the Margallah Hills National Park, which falls under Zone 3 where all kinds of construction is strictly prohibited. The Islamabad Wildlife Ordinance, 1979 additionally protects any type of clearing of land within Margallah Hills National Park without CDA's permission. Many new mansions in Bani Gala built on the shores of Rawal Lake fell in the protected Zone 3, within the two kilometer range from the highest watermark of the lake.

While Zone 3 is a protected area where all construction activity is prohibited, only selective low-density constructions were allowed in Zone 4 to maintain its overall park-like character. Land within Zone 4 is subdivided into 'acquired' and 'unacquired' areas, as explained above. In the 1992 regulations, acquired areas of Zone 4 were to be developed as a park with construction limited to large public institutional buildings, sports facilities, and farming schemes. Existing settlements within the acquired areas were to be developed as model villages with a restriction on their further expansion. In the unacquired areas, no use other than agriculture was permissible. As mentioned above, land in Bani Gala was never 'acquired' by CDA, and hence, remained within the control of the local villagers.



Figure 63. Metropolitan area of Islamabad. Source: Doxiadis Report 37- Summary Of Final Programme And Plan. DOX-PA 93. September 30 1960.

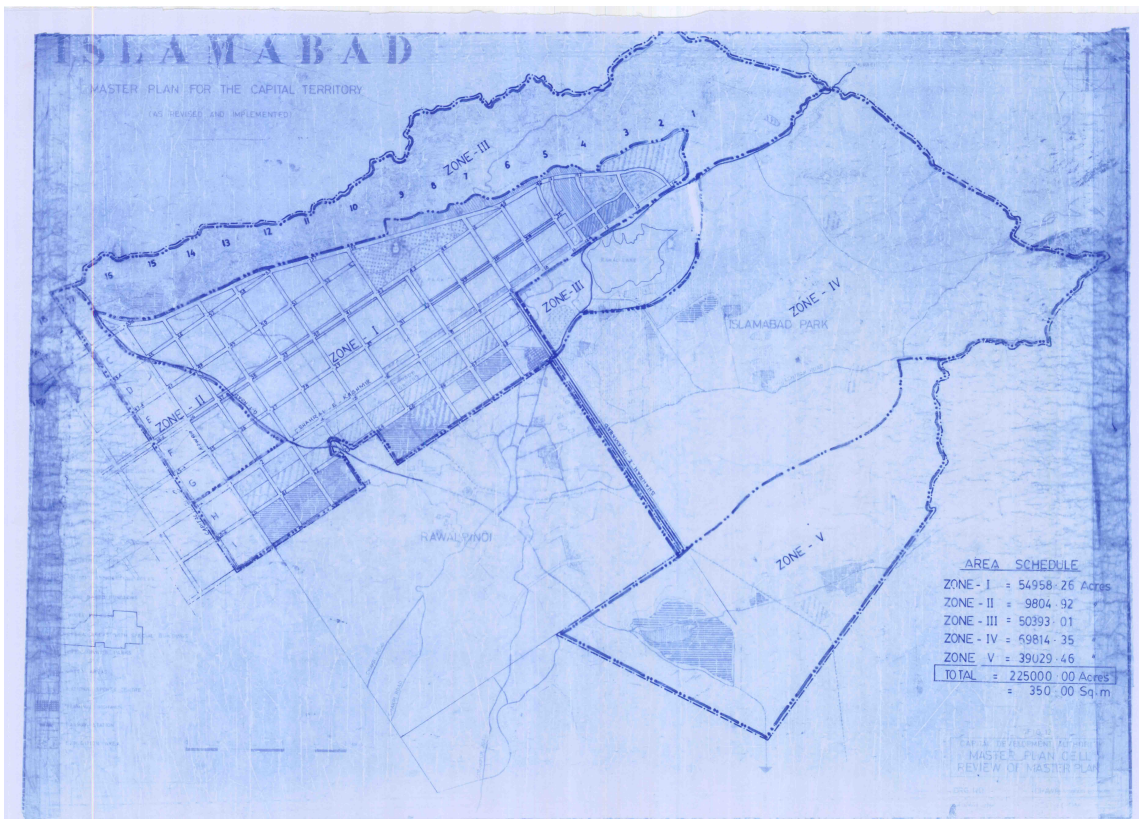


Figure 64. Zones of Islamabad according to the Islamabad Capital Territory Regulation 1992. Source: CDA



Figure 65. Bani Gala Zoning.

In Doxiadis' master plan and the subsequent zoning regulations of Islamabad, vast tracks of land in the periphery of the city was declared as the National Park area, which was to be developed with limited construction activity. Broadly speaking, two obstacles confronted this declaration of land reserved for a particular cohesive design principle. The first issue challenged the notion of Islamabad as a newly planned city in a *tabula rasa* situation. We know that several existing settlements with significant long-term populations were scattered across the supposedly vacant site of the new capital city. These existing settlements in the site for the new city had to be relocated in order to implement the official master plan of the city. In the history of Islamabad's development, the relocation and rehabilitation of existing populations, referred to as 'affectees' in official language, has proven to be a long and complicated process. In the case of Bani Gala, protected land belonged to local people who sold it for purposes unsupported by the master plan and zoning regulations of Islamabad.

The second obstacle to the development of the National Park area as conceived in the official master plan and zoning regulations was created by prospective homebuilders and property speculators; opportunists who saw potential in the undeveloped rural peripheries of Islamabad. They understood the land development process of a new city well and were thus able to bypass the role of CDA by negotiating directly with existing landowners in the area. As observed in the case of Bani Gala, discussed in depth below, the function of CDA as sole developer of Islamabad was undermined by these land opportunists who were able to develop the rural hinterland of Bani Gala into a thriving neighborhood by using their own connections and resources. By doing so, these people were not only able to save money on cheap undeveloped yet well-located land, on the one hand, but were also able to make a huge profit on their property once it was developed, on the other. For instance, land near the lake sold for approximately Rs. 20,000 - 30,000 per *kanal* in late 1980s.⁶² The price for the same property in 2012 was Rs. 15,000,000 per *kanal*. Finally, these developers were able to regularize their illegal developments in Bani Gala through a long legal process. Their efforts initiated a process that led over time to a complete revision of zoning laws in Islamabad.

5.3. The Rebirth of Bani Gala as an Elite Neighborhood

Urban development of Bani Gala started in 1980s when a group of well-to-do and influential people interested in building their houses in Islamabad decided to abandon the overpriced sectors developed by CDA in the capital city in favor of its peripheral undeveloped areas, where land was still available at inexpensive prices. Dr Abdul Qadeer Khan, Pakistan's most celebrated yet controversial nuclear scientist, was among the first residents of Bani Gala who made their homes along the shores of Rawal Lake.⁶³ What Khan brought with him, along with other early well-to-do settlers of Bani Gala, was immense political clout that helped in the long process of developing and legalizing this illegal neighborhood.

⁶² 1 Kanal = 1/8th of an acre

⁶³ While Dr Khan held an important position in national imagination as one of the critical figures in the development of Pakistan's atomic bomb project yet his celebrated image received serious blows in 2004 when evidence followed by his public confession proved his involvement in the illicit proliferation and trafficking of nuclear technology to other countries.

The first step in the history of Bani Gala as an elite neighborhood was the transformation of this scenic wilderness into a fully functional modern neighborhood without involving CDA in the developmental process. The initial influential builders of Bani Gala's lakefront properties, like Khan, collectively used their economic resources and political connections to carry out this transformation. I will tell the story of Bani Gala through the experience of a strong-willed well-to-do woman, whom I will call Mrs. Nabila, who was one of the first people to identify the potential of the picturesque Rawal Lake-lakefront area as the future home for herself, her family and her friends.⁶⁴ Her story is driven by her love for a beautiful site and her firm resolution to make it her home.

Mrs. Nabila discovered Bani Gala around 1984. At that time, she was living in a rental property in the expensive sector of F-6 in Islamabad and had started looking for a suitable site in the capital city to build her house. During her search, her brother suggested she visit Bani Gala in the suburbs of Islamabad. When Mrs. Nabila visited the area for the first time, it was completely undeveloped. What caught her immediate attention here, however, was the rare combination of water, trees and mountains all within easy physical and visual proximity to each other. When speaking about the idyllic setting of her house in Bani Gala, Mrs. Nabila declares, "When you think of God and nature, this is what comes to mind? You have water, mountains, and jungle all together in one place!" (Mrs. Nabila, personal Communication, March 7, 2013). She had always envisioned herself living on a large property with lush green lawns and gardens. The scenic bucolic setting of Bani Gala and the absurdly low land prices in the area as compared to the developed sectors in Islamabad were enough reasons for her to immediately purchase land for the construction of her dream project.

An undeveloped suburban location off the planned grid such as Bani Gala maybe an attractive housing option for privileged people like Dr Khan and Mrs. Nabila who possess monetary resources and domestic staff to maintain a life style that requires routine commute to places of employment and other facilities and services located in the developed sectors of Islamabad. But for low-income people like the residents of France

⁶⁴ I have known Mrs. Nabila indirectly through one of my closest friends who is related to her since my undergraduate years. Mrs. Nabila is someone who does not take nonsense from anyone even in the family. As a cancer survivor, she is also a figure of resilience, even terror in the family. Mrs. Nabila aspires to write a book on her experiences of developing her house in Bani Gala so that her children and grandchildren could know more about her role in the development of this neighborhood.

Colony, Bani Gala's bucolic charm and "jungle" setting may be seen as a sign for labor and hardship.⁶⁵ Unlike residents of France Colony who prefer to live close to the planned sectors of Islamabad so that they could have easy access to employment, leisure, health, and educational opportunities, residents of Bani Gala deliberately moved away from the developed sectors in order to enjoy nature, low land prices and the flexibility to build without strict regulation from CDA - in short, to escape the 'plan' and its limitations.

The development of Bani Gala from a "jungle" to a comfortable modern neighborhood without formal support from CDA was not a simple feat as it involved setting up of necessary utilities and infrastructure, such as electricity, telephone lines, roads and so on for the entire area. After purchasing land from local villagers in Bani Gala, Mrs. Nabila went ahead with the long process of not only building her house but also her neighborhood out of very little. "I like doing challenging things," claims Mrs. Nabila, so instead of feeling apprehensive about the absolute wilderness in Bani Gala at the time she made her land purchase, she took on the development of the desolate yet promising site of her future house as a challenge. Mrs. Nabila fondly remembers that her late husband, an influential retired army officer, thought she was mad when she declared her plans to build a house in this area.

Over time, Mrs. Nabila with the help of her friends, some of who also invested in land in Bani Gala, were successful in getting physical infrastructure to this undeveloped rural area. For instance, Mrs. Nabila used her personal connections with a Member of National Assembly to get 3-phase electricity for her house. In order to get telephone lines, Mrs. Nabila's friend whose daughter also bought land in Bani Gala went to an influential minister who ordered official funds to be diverted to give phone connections to the residents of Banigala. When she went to meet the general manager of Pakistan Telecom Corporation Limited, he told her that had it not been for the *sifarish* (recommendation/ cronyism), Bani Gala would not have gotten phone connections for another fifty years.

Using personal connections to get things done is not unusual in the everyday dealings of people with bureaucracy in Pakistan. However, what is extraordinary here is

⁶⁵ It may be recalled from Chapter 4 that CDA has been trying to relocate residents of recognized squatter settlements like France Colony to the suburban location of Alipur Farash for years now without much success.

the confidence Mrs. Nabila and others had in their ability to use this aspect of Pakistani society and bureaucracy to develop an entire region on their own. The development of Bani Gala is not simply a story of violation of the master plan of Islamabad but of the systematic organization of a handful of families who collectively used their personal connections and monetary resources to carry out an urban development project. These people knew that by knowing the right kind of people in government (including CDA itself), they would be able to challenge and undermine CDA's authority.

The development of Bani Gala into a residential neighborhood did not only mean bringing physical infrastructure like roads, electricity, gas and telephone lines to this area but also the establishment of a brand new community of residents. The recruitment of a new community of people who shared similar socio-economic backgrounds and enjoyed political clout was an important feature of the development of an illegal residential area in Islamabad. Collectively these people had the ability to not only subvert the master plan of Islamabad but also bypass the authority of CDA as the sole developer of the new city. In addition to buying land for herself, Mrs. Nabila encouraged friends to invest in this area and bought over 70 *kanals* of land along the banks of Rawal Lake for her siblings and a friend next to her property to create a private residential gated community (figure 66).⁶⁶ Their compound comprises five mansions belonging to Mrs. Nabila, her two sisters, her brother, and a friend with room for Mrs. Nabila's daughter to build her own house in the future if she so desires. The community is walled from all around and can be accessed via two entry gates. Private security guards monitor the entry of visitors into the compound.

Friends of friends also started buying land in the area. When the construction of her house was completed around 1988, Mrs. Nabila had a big house warming dinner party at her new place. One of Mrs. Nabila's friends asked if he could bring his friend along to the party as well. This friend turned out to be Dr Abdul Qadeer Khan. Dr Khan came to her house the next morning to have breakfast with her family while enjoying beautiful views of the lake from her house. He liked the place so much that he decided to buy land close to Mrs. Nabila's compound for his personal residence.

⁶⁶ 1 *kanal* = 1/8th of an acre



Figure 66. Aerial view of Mrs. Nabila's residential compound in Bani Gala.

The process of creating a new residential community in Bani Gala contrasts with the establishment of other communities in the city. While people in existing villages like Bani Gala have been living in these places for generations, communities in new sectors of Islamabad were formed only after these planned areas had been fully developed by CDA and opened to people for occupation. Community formation in the case of Bani Gala residents, however, was on the basis of their collective interest in developing this neighborhood on their own. The sense of community among old and new residents of Bani Gala did not exist right away as Mrs. Nabila recalls several incidents of altercation with local villagers. It was only after CDA launched its formal drive against residential constructions in the area that local villagers of Bani Gala also joined Mrs. Nabila in her mission to defend this neighborhood.

Mrs. Nabila has very little respect for the Bani Gala villagers whom she considers *muft-khorary* (free loaders) and frauds. By the time she began construction of her house in the late 1980s, land prices in this area had just started to come up as private developers

as well as individual property owners began investing in this area. Because of Bani Gala's rising popularity, Mrs. Nabila faced harassment from local villagers who after realizing the potential of this land, made multiple attempts to scare her away or take over her property. For instance, Mrs. Nabila remembers the time when the villager whose land fell next to hers tried to encroach on her property. One day she even saw him bring new buyers to the area and show them her property for a potential sale. In order to put an end to this, she called the *tehsildar* (revenue administrative officer) and told him to send his *patwari* and *gardawar* (record keepers of Government of Pakistan's Revenue Department) to her property. She also called the neighboring villagers and made the *patwari* and *gardawar* mark out her property line. She told her laborers to move in the property line one foot towards her side as a concession to the neighboring villagers. Mrs. Nabila feels that the villagers didn't appreciate her act of good will as they fired shots at her guard and laborers later that night. She had had enough. She called the police and got more than fifty people arrested on a 15-day remand, in which they would get beaten up daily. Mrs. Nabila recalls that after the arrest of the villagers, the village women issued threats that they would beat up the *begum* (rich lady) who had gotten their men folk arrested. When she heard about this, she went up to the village herself and asked these women to come out of their houses and execute their threats!

Mrs. Nabila uses the narration of these events as a way to demonstrate her resilience, benevolence, and power in the area. She presents herself as someone who is not easily dissuaded even when shots are fired on her staff or threats are hurled at her. She can be benevolent one moment when she gives away part of her property to win over her fraudulent neighbors but can be ruthless the next when she gets men beaten up so that the message could be sent to them and others not to cross her. Her actions thus both appease and create fear among the residents of Bani Gala.

In this way Mrs. Nabila dons the role of an elite *dalal-cum-gunda* (broker-cum-bully) for Bani Gala's new residential area. The *dalal* is a broker/developer of illegal land subdivisions while a *gunda* provides protection in land-related irregularities. These are essential figures featured in urban irregularities in Pakistan. Attracting new settlers is one of the main preoccupations of illegal subdividers operating in urban areas of Pakistan (Linden, 1991, p. 389). Mrs. Nabila understood the importance of enrolling other

stakeholders in Bani Gala as well. Through her interactions with local villagers, Mrs. Nabila was also able to establish her reputation in the area as a powerful influential *begum* (rich lady) who could get people beaten up by the police and stand firm in the face of open threats. Providing protection to her friends and family whom she attracted to the area was also a part of the role she crafted for herself. For instance, when CDA launched an anti-encroachment operation in Bani Gala, discussed below, she was offered immunity if she agreed to sign a document saying that they would not touch her property but would bulldoze all the other houses in her compound. She refused to sign the document and instead chose to defend the properties of her friend and family since she felt responsible for their investments in Bani Gala.

How does the process of setting up an elite yet illegal residential community in Islamabad compare with the routine encroachments involving urban poor elsewhere in Pakistan? Mrs. Nabila found land to develop in Bani Gala, which even though she purchased legally, rendered it illegal on the basis of its nonconforming use. Her personal staff comprising security guards and construction laborers initiated the squatting process by clearing the site and starting the construction of her house. She populated a new residential community with friends, family, and acquaintances. Just like in places like France Colony, utilities and infrastructure in the area arrived in a piecemeal fashion after negotiation with public officials and by using personal connections with bureaucrats and political representatives.

The materiality of illegal constructions belonging to the elite in Bani Gala, however, contrasts with that of informal constructions of urban poor in Islamabad. The principles of temporariness and incremental development underlying house construction in places like France Colony are missing in Bani Gala. The lakefront mansions in Bani Gala show no signs of impermanence, or insecurity about their futures owing to their illegal status (figure 67). Massive investments to the tunes of millions of rupees reveal the confidence of the owners of these houses in their ability to sustain their illegal development and defy juridical prosecution.

Finally, the dynamics among different socio-economic groups of people living in close spatial proximity in France Colony and Bani Gala offer another interesting contrast. It may be recalled from Chapter 3 that many high-income residents of Sector F-7 hold

their low-income ‘delinquents’ neighbors living in France Colony responsible for bringing down land prices and the overall environment of their neighborhood. In contrast, native villagers of Bani Gala welcome the arrival of influential people into their area since their presence has raised the esteem of their village-neighborhood and their property values, making most of them rich almost overnight.

An important aspect of the development of Bani Gala is that it is not an entirely illegal urban phenomenon. As mentioned above, new residents purchased their land legally but they used it for a nonconforming use. They balanced authorized and unauthorized actions to complicate the illegal status of their neighborhood. While they used personal connections to get physical infrastructure like electricity and telephone lines to their neighborhood, they legitimized their actions by paying the required initial charges and making monthly payments. This aspect of creating and maintaining an impression of conformity of nonconforming spatial practices played an important role in the legalization process of Bani Gala. We turn our attention to that process next.



Figure 67. View of the Bani Gala lakefront properties.

5.4. Mimicking Conformity

At the time of construction of her new house in Bani Gala, Mrs. Nabila created a documentary paper trail of official correspondence with various CDA and union council representatives to legitimize her illegal building activity. As previously mentioned, rural areas of Islamabad fall under the jurisdiction of various union councils instead of CDA whose authority is limited to urban areas. While new residential construction in Bani Gala as part of the National Park area was not permitted according to the official master plan of Islamabad, Mrs. Nabila received approval for the construction of her house from Bani Gala's concerned union council (Bahra Kahu) in 1988. The approval process involved the submission of architectural drawings of her proposed house to the Chairman, Union Council Bahra Kahu who issued his permission in the form of a signature and official stamp on the submitted drawing (figure 68). This permission process was a pure formality since the union council did not have any set process for approving new buildings in its jurisdiction nor did it follow any prescribed building byelaws while examining the submission drawings of new proposed construction. New residents of Bani Gala, like Mrs. Nabila, were thus able to take advantage of this situation as they received official approval for houses designed without strictly conforming to the building regulations of Islamabad. By using documentary evidence, such as the Chairman Union Council's approval stamp, Mrs. Nabila and others were thus able to create a gray zone of legitimacy for their houses; an attempt to bring the nonconformity of their dwellings into the folds of conformity. These people did not receive approval from the concerned union council because they wanted to follow existing building and zoning laws in Islamabad. Instead they wanted to fabricate dubious official paper trail to prove the legitimacy of their actions should they be challenged at a later stage. They were able to create pseudo-legal documents from an authority that, while exercised control over the area, was not ultimately responsible for its development; similar to the pseudo-legal deeds drawn by the France Colony residents in the sale-purchase of property within the neighborhood. Even though Bani Gala's new residents violated the overall zoning regulations of Islamabad by building their houses in the National Park area yet written building permissions from a government authority gave their building activity an illusion of legitimacy.

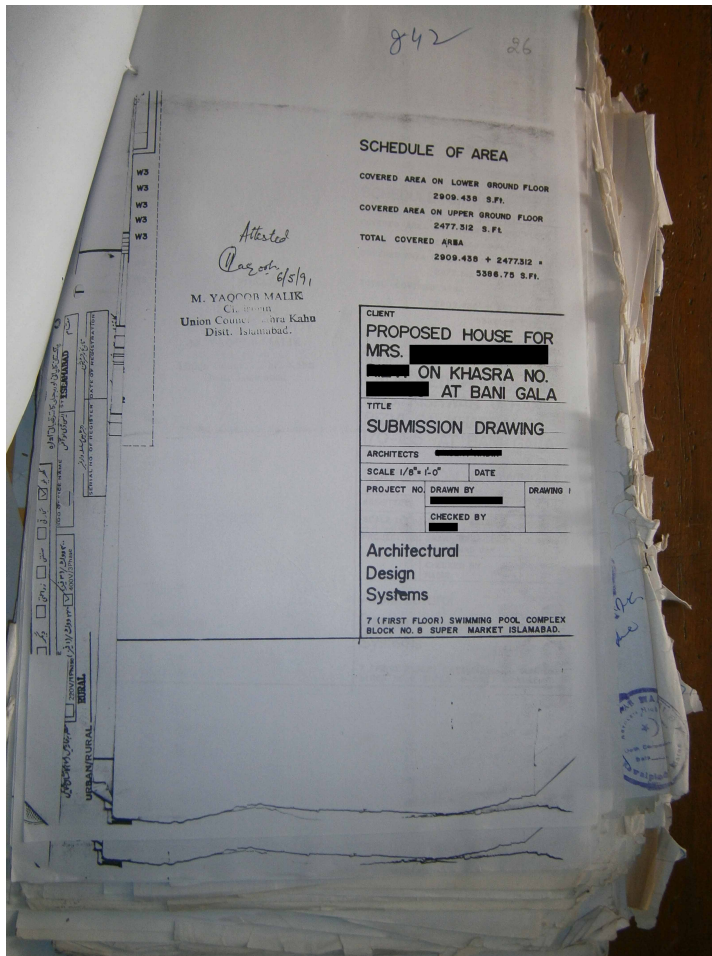


Figure 68. Approved submission drawing for the house of one of the petitioners bearing the stamp and signature of Chairman Union Council Bahra Kahu, Islamabad.

The development of Bani Gala as an up-and-coming neighborhood in rural Islamabad was not totally lost on CDA. CDA made feeble attempts of warning prospective homebuilders against purchasing land or carrying out any sort of construction in this area. Around six warning notices from CDA were published in English and Urdu daily newspapers from 1987 to 1992.⁶⁷ In 1991, the Environmental Protection Agency Punjab specifically issued a notice in the newspapers warning the pollution of Rawal Lake because of ongoing construction in the area (Environmental Protection Agency, 1991, October 30). In addition to warning the general public about prohibition of construction in Bani Gala, CDA also issued two notices in 1989 and 1991 to the chairmen

⁶⁷ Public Notices in Urdu and English dailies published on 16-10-1987, 11-2-1988, [2]9-1-1990, 4-11-1990, 30-7-1991, 7-2-1992.

of all union councils, which control rural areas of Islamabad. These notices informed the union councils of the ongoing constructions in the Islamabad Capital Territory Area without CDA's approval, and directed the chairmen to ensure that such illegal constructions were not allowed in their jurisdiction.⁶⁸ CDA also issued notices to new homebuilders, warning them against the raising of illegal constructions in Bani Gala, and ordering the immediate removal of these structures.

Mrs. Nabila received one such notice sent by CDA's Enforcement Directorate to her husband on June 9th 1988 directing him to stop the construction of his house immediately. Even though the property belonged to her and she was running the project, the concerned CDA official chose to correspond with her husband, which can be explained by the gender hierarchy and segregation norms still prevalent in Pakistani society. Citing clauses from the Pakistan Capital Regulation 1960 (Martial Law Regulation 82), the Director Enforcement CDA contended that the said house was illegal since its construction had not been approved by CDA. Furthermore, the notice demanded that Mrs. Nabila's husband appear before the Director Enforcement on June 24 1988 to appeal against this order.

On June 29th 1988, Mrs. Nabila drafted a reply with the help of her friend and sent it on behalf of her husband. The reply explained the reason why her husband could not appear in person before Director Enforcement was because the date set by the latter had been a weekly holiday. The letter also pointed to a bigger error made by the Director Enforcement in misreading the Pakistan Capital Regulation 1960 (MLR 82). It cited the interpretation of authority in Pakistan Capital Regulation 1960 as understood in the judgments of two previous court cases in 1967 and 1986 in which CDA had tried prosecute persons carrying out constructions in areas in the capital territory under the control of union councils. Mrs. Nabila and her husband argued that CDA's notice for demolition of their property was in excess of its powers since it had no jurisdiction in Bani Gala as determined in these previous court cases. The letter criticized CDA's Enforcement Directorate to have acted beyond its powers by interfering in matters that came within the jurisdiction of the concerned union council. Mrs. Nabila and her

⁶⁸ Report/ Parawise comments in response to Writ petition no. 599 of 1992 on behalf of CDA and others submitted on Sept 17th 1992 to the Lahore High Court Rawalpindi Bench, Rawalpindi.

husband, thus, requested that the Director Enforcement withdraw his notice and issue a statement to them informing of his remedial actions. Furthermore, as a precaution, the letter concluded with the following intimation from Mrs. Nabila's husband:

In case, I do not hear from you by 03, July 1988 I will presume that you have accepted my stand as it is in the law and will cause no further interference in the peaceful possession and construction of my property.

On 11th July 1988, Mrs. Nabila and her husband sent another letter declaring the validity of their stance and its acceptance by the Enforcement Director based on the fact that the latter had failed to respond to their earlier rejoinder. Silence on part of CDA was seen as submission to the arguments presented by Mrs. Nabila and her husband. In order to create this documentary legal evidence for her illegal house, Mrs. Nabila received help from people from within CDA. For instance, she knew the Chairman CDA at the time of construction of her house. He gave her insights about previous court judgments that refuted the jurisdiction of CDA over rural areas in Islamabad to include in her reply to the Enforcement Director. The structural engineer, whom she hired to draft the plan, design the structure, and oversee the construction of her house, was also employed at CDA. It was he who advised her to make sure that the CDA and Union Councils were aware of her construction plans. He also advised her to make sure to get 'diary numbers' for all her applications and letters written to CDA, so that she could have a proof of the receipt of these documents by various officials.⁶⁹ In one of the petitions, the fact that one of CDA's senior level official had been directly involved in the construction of Mrs. Nabila's house was presented as evidence that the CDA representatives were aware of the ongoing construction in Bani Gala.⁷⁰

This written correspondence between Mrs. Nabila's husband and the Enforcement Director, and the subsequent silence on the part of the latter reveal the intentions of both sides in creating documentary paper trail of their activities. For Mrs. Nabila, responding to the Enforcement Director in writing, and issuing a deadline for his response was a way

⁶⁹ All kinds of documents received or sent by government organizations in Pakistan are given a diary number for record keeping purposes. These numbers serve to track documents and as important evidence of their receipt by the concerned department.

⁷⁰ Writ Petition Number: 599 of 1992. Filed on 9.8 1992. Dr Shirin Bajwa versus CDA. Lahore High Court, Rawalpindi Bench. Rawalpindi.

of resolving the legitimacy issue of her house. For the Enforcement Director, issuing written notices to the press and homebuilders was a way to create the impression of keeping a check on illegal construction activity in rural Islamabad without the intention of getting involved in a messy situation with well-to-do people involved in a serious spatial irregularity.

Mrs. Nabila was ultimately more successful in furthering her interests as this written correspondence was cited in nearly all the petitions filed by various land-owners in Bani Gala against CDA, and quoted in the High Court's final judgment. These documents ultimately helped win the court case as they proved in court that CDA was not only aware of the residential construction activity that had been going on for years next to the lake in Bani Gala but also chose not to take any corrective measures to fix the alleged violation of Islamabad's master plan and zoning laws.

In addition to issuing notices and writing letters, CDA also took Bahra Kahu Union Council and various homebuilders in Bani Gala to Civil Courts in Islamabad. Some of these court cases were still pending at the time of the anti-encroachment operation carried out by CDA in Bani Gala in June 1992, which we will discuss next.⁷¹ However, it is important to note that in days leading up to CDA's operation, tension rose between the residents of Bani Gala and CDA employees. For instance, various local commissions were appointed by Civil Courts in 1991 to carry out field inspections in Bani Gala, and submit their reports on the ongoing illegal constructions in the area, as claimed by CDA. These reports mention the difficulty faced by the local commissioners in verifying the ownership of new constructions being raised in the area.⁷² All reports noted organized noncooperation demonstrated by local villagers who refused to assist the commissioners in collecting necessary information for their reports. The reports also claimed that local villagers had decided amongst themselves not to receive any notices or orders from CDA or courts about land that belonged to them.

One of the local commissioners reported hostility from the Bani Gala villagers as follows:

⁷¹ Ibid.

⁷² Ibid.

... I visited the spot twice but due to mob resistance (sic) I was unable to inspect the suit property. It would not be out of place to mention that the local people gathered in dozens and issued open threats that in case I proceeded with the inspection of the spot I shall have to face dire consequences.

Due to the extraordinary resistance (sic) and interference by the Local people of the area I could not inspect the suit property in compliance of the orders of this learned court inspite of my two visits ...⁷³

In 1992, tensions between CDA and Bani Gala residents escalated to a point where banners prohibiting the entry of CDA personnel were boldly displayed in the village (figure 69) (Virk, 1992). A senior officer from the Enforcement Directorate remembers that locals in Bani Gala would throw stones at CDA staff during their inspection visits to the area (Enforcement Directorate officer, personal communication, November 9, 2012). After years of halfhearted attempts to stop the ongoing illegal constructions in Bani Gala, CDA staff finally launched a formal anti-encroachment campaign under the direct orders and involvement of CDA's Chairman, Mr Fareed-u-Din Ahmad (in office from 1991 to 1993) whom Mrs. Nabila calls 'Hitler' based on his ruthlessness during the operation (Personal communication, Mrs. Nabila, March 7, 2013).

⁷³ Suit for permanent injunction in the Court of the Senior Civil Judge Islamabad. CDA versus Chairman Union Council Bara Kahu and others. Commission report submitted by S. Ziaul Hasnain Shamsi on December 22 1991.



This banner, if anything, shows how helpless is the CDA.—Staff Photo by TARIQ AZIZ

Figure 69. Caption, “This banner, if anything, shows how helpless is the CDA,” Photo by Tariq Aziz, *The Muslim*, Islamabad. 14 Jan 1992.

5.5. Anti-encroachment Drive or Violation of Private Property Rights

CDA, through its Deputy Commissioner, has the right to acquire any land in areas earmarked for the construction of the new capital city, according to the CDA Ordinance 1960. New construction in Bani Gala went on for a few years until March 1992, when the chairman of CDA at the time, Mr Fareed-u-Din Ahmad, directed the Deputy Commissioner, CDA to order acquisition of land within Bani Gala for the purpose of construction of the Federal Capital.⁷⁴ Things moved very fast after the Chairman CDA’s decision to acquire land in Bani Gala.

Minutes of meetings among CDA officials at that time reveals concerns for pollution of Rawal Lake as the primary reason behind the urgent procurement of land and property in Bani Gala.⁷⁵ The Director Lands and Rehabilitation, CDA on June 21 1992 while apprising senior CDA officials about the ongoing construction in Bani Gala and the consequent pollution of Rawal Lake argued that the simultaneous acquisition of land and demolition of under construction and unoccupied houses were necessary measures to

⁷⁴ Report/ Parawise comments in response to Writ petition no. 599 of 1992 on behalf of CDA and others submitted on Sept 17th 1992 to the Lahore High Court Rawalpindi Bench, Rawalpindi.

⁷⁵ Report/ Parawise comments in response to Writ petition no. 599 of 1992 on behalf of CDA and others submitted on Sept 17th 1992 to the Lahore High Court Rawalpindi Bench, Rawalpindi. Annexure R/20.

ensure that Rawal Lake is saved from further pollution. Approval was requested of the Federal Government's Cabinet Committee on CDA for directing the District Commissioner to enter upon and take possession of land in Bani Gala 'immediately' after the publication of a public notice under relevant sections of CDA Ordinance 1960. The Cabinet Committee's meeting on June 22 1992 gave its approval to CDA for carrying out the immediate acquisition of land within two-kilometer distance from the highest watermark of Rawal Lake.⁷⁶ In a letter dated June 22 1992, Chairman CDA directed the Deputy Commissioner to take immediate possession of land in Bani Gala, which was urgently needed in public interest.

The remarkable efficiency with which government officials at the time made decisions and sought approvals to urgently acquire land and demolish illegal unoccupied constructions in Bani Gala is closely tied to denying the residents of this illegal neighborhood the opportunity to use cronyism and influence to defer implementation of legal decisions, a common practice in Pakistan. As previously mentioned, the acquisition of private land for the construction of Islamabad is a slow process involving years of negotiation between CDA and land-owners. Decisions negatively affecting influential people, such as Mrs. Nabila and Dr Khan, demand quick action and secrecy so that they are not given the opportunity to use their personal connections to avert the impending law enforcement activity. This rationale is reflected in the date and time selected for carrying out the anti-encroachment 'operation.'⁷⁷ On Thursday June 25 1992, around 3:30 pm a large contingent of CDA staff and police, equipped with bulldozers and armor cars formally launched an operation in Bani Gala. Friday was the weekly holiday in Pakistan at that time while Thursday was officially a half working day that ended around noon. This news of the operation didn't come as a complete surprise to Mrs. Nabila as she had previously heard rumors that CDA had called Punjab Police for a big operation for which they were practicing in Margalla hills. She didn't take this news seriously though.

⁷⁶ Ibid.

⁷⁷ Operation refers to any military style raid on encroachments in Islamabad. For instance, CDA carried out a similar operation in late 1970s to evict residents of G-8/3 labor colony, as mentioned in Chapter 3. Small-scale routine operations include demolition of illegal kiosks and stalls in the city.

Mrs. Nabila remembers that around the time of the operation, electricity and phone lines to their houses were disconnected as she got word that an anti-encroachment raid was underway. When the CDA staff reached her residential compound, she went to the gate where a CDA magistrate was waiting with a piece of paper for her to sign. The document stated that her and Dr Abdul Qadeer Khan's house will not be touched in the operation but all other houses around their property would be demolished. She got annoyed with this proposal and asked him to go away. Even though her house was protected, she felt responsible to protect the houses of her family and friends since it was she who had gotten them to buy land here in the first place.

The reasons and terms for the concession given to Mrs. Nabila's and Dr Khan's residences remains unclear, however, the concession itself is a good example of the preferential nature of law enforcement as a norm in Pakistan even during an extreme military style anti-encroachment raid. Mrs. Nabila and her husband, who knew the Deputy Commissioner (the person in charge of the land acquisition process), called him up for help at the time of the operation. Because of his intervention, the CDA contingent backed up from their location to carry out their operation elsewhere in Bani Gala. Their phone lines and electricity connection were restored later that day as well. Once again, private connections prevailed over the rule of law or at least momentarily over its implementation. These events also demonstrate that not all of the administrative officials of Islamabad were equally invested in this anti-encroachment drive, thus further complicating the process of the alleged enforcement of law.

Other residents of Bani Gala weren't so fortunate in averting CDA's contingent and the destruction it brought about that day. Many houses belonging to new residents and existing villagers were either partially or fully demolished. The operation took a violent turn when gunfire was exchanged between the police and some residents of Bani Gala. The crossfire resulted in the loss of lives of two villagers and a policeman including several injuries on both sides. In the evening the villagers came to meet Mrs. Nabila in order to devise a plan to stop CDA's demolition activities. For the villagers, Mrs. Nabila thus instantly transformed from an intruder in Bani Gala to a local community leader with the ability (and connections) to save this neighborhood from destruction.

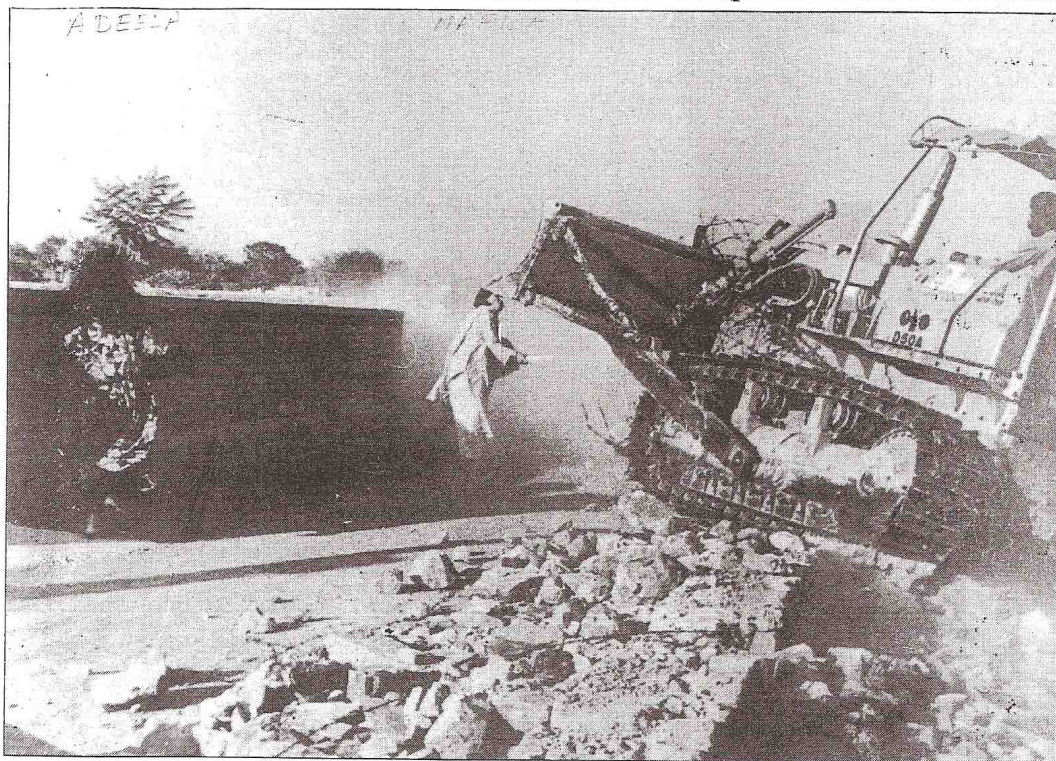
Early next morning on June 26 1992, Mrs. Nabila heard news that the operation staff had returned to resume their anti-encroachment drive in her part of the neighborhood. Electricity and phone lines went down again. The police and CDA contingent showed up on her gate once again the same evening. The time bought by their call to the Deputy Commissioner had apparently run out. CDA staff parked two of their bulldozers inside her residential compound. Things took a dramatic turn as Mrs. Nabila and her sister stood in front of the bulldozer (figure 70). Mrs. Nabila remembers that their mother cried at this disturbing sight. CDA staff and police threatened Mrs. Nabila that they were going to take over the house, and if they didn't leave the house voluntarily, they would use teargas to force them out of their property. Mrs. Nabila remembers that a couple of policemen even entered her premises. At this point her husband who knew the head of Inter- Services Intelligence (ISI), Pakistan's premier intelligence service, was able to get hold of him for help. ISI is a powerful organization with a controversial reputation for its central role in the Soviet-Afghan war, support of Talibans, and the US war on terror as well as being actively involved in domestic politics and staging multiple military coups in Pakistan. At the time the call for help came from Bani Gala, the ISI head happened to be with the then Prime Minister of Pakistan, Nawaz Sharif. Shortly after, Sharif ordered CDA Chairman to immediately stop the Bani Gala operation.⁷⁸

Mrs. Nabila remembers that at the time of the operation someone told her that Fareed-u-Din was watching the proceedings of the operation from a government guesthouse built atop a small hill in Bani Gala. She told the CDA staff to ask their Chairman if he thought he was Napoleon watching his forces attack the enemy?

The residents of Bani Gala saw the careful selection of the day and time of this operation after official working hours on a weekend as a tactic to deny them the right to seek legal alternative of getting stay orders from a court of law. Getting stay orders in land-related matters to temporarily suspend juridical proceedings is a routine practice used by alleged encroachers to avert anti-encroachment activities in Islamabad and elsewhere in Pakistan. In the case of spatial irregularities involving influential

⁷⁸ Mrs. Nabila had heard that a few days before launching the operation, Chairman CDA took Nawaz Sharif on a helicopter ride of this area. Sharif liked this place and ordered its possession. Sharif denied this story and gave her his word to solve this issue himself when Mrs Nabila met him after the CDA operation in Bani Gala.

encroachers in Islamabad, it is quite common for them to get a stay order as a preemptive measure to avoid CDA's anti-encroachment drives. Most of the stay orders and court cases related to nonconforming uses in Islamabad remain effective for years, during which time business goes on as usual. Recognizing delays created in anti-encroachment operations as a result of stay orders, CDA carried out its operation after courts had closed down for the weekend. Consequently, it was able to remove many encroachments in Bani Gala during the operation. The Bani Gala operation stopped after two days and its residents were eventually able to register their case in the court and get a stay against CDA's further demolition activities.



A bulldozer demolishing part of a building as a couple of residents hopelessly try to ward off the inevitable.—Observer photo by Sohail Nashir. More pictures and story on page 2

Figure 70. Caption “A bulldozer demolishing part of a building as a couple of residents hopelessly try to ward off the inevitable,” Photo by Sohail Nashir, Islamabad, *Pakistan Observer*, June 26 1992.

5.6. Taking CDA to Court

After carrying out the anti-encroachment drive for two days, CDA staff was successful in demolishing several houses in Bani Gala, however, those of Mrs. Nabila, Dr Khan, and some other influential people were spared (figures 71 - 74). After the operation was halted on the prime minister's directives, residents of Bani Gala only had a few days to submit their applications to the court for a stay order. Mrs. Nabila asked the same friend who knew Dr Abdul Qadeer Khan to ask Dr Khan to convince a renowned senior advocate, Mr. S. M. Zafar to take on this case. Mr. Zafar agreed to fight for them for a hefty fee, towards which they all contributed.

From 1992 to 1997, a total of sixteen petitions were filed with the Lahore High Court, Rawalpindi Bench, against CDA's ban on construction activities and the subsequent anti-encroachment operation in Bani Gala. The petitioners formed two groups of residents in Bani Gala: (a) those who had owned land in the village where they had been living for generations, and (b) those who had recently purchased land from local villagers to build their houses in this suburban area. The tone of petitions against CDA within these two groups of petitioners remained consistent, however, the grounds of plea had some variations.

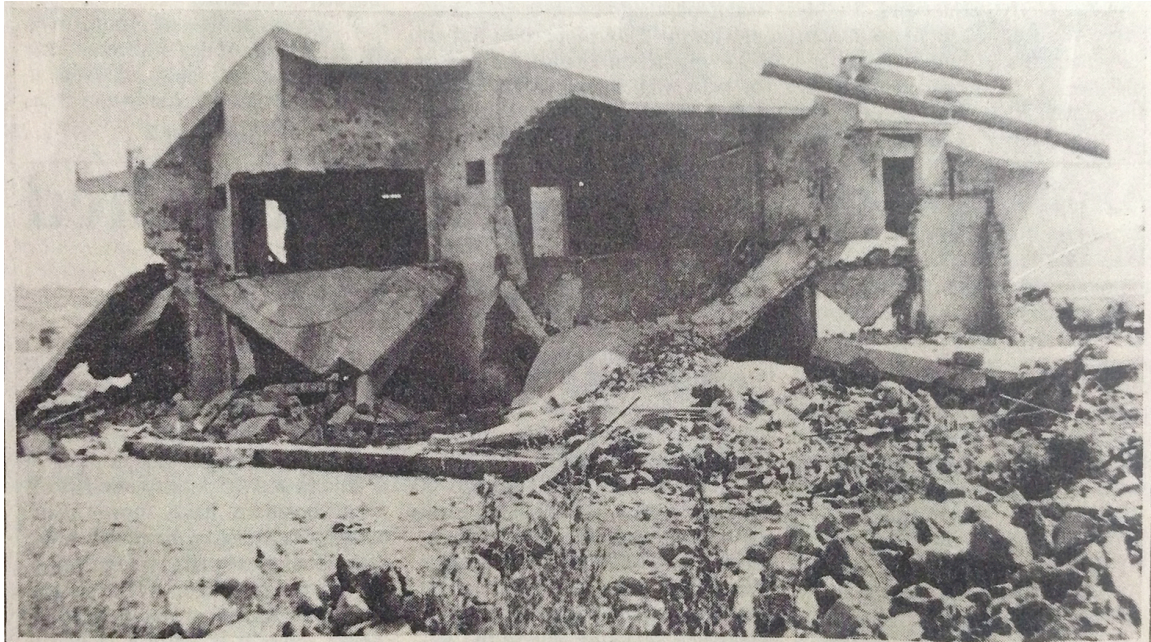
For instance, all petitioners challenged CDA's authority in imposing restrictions on constructions in Bani Gala, which they argued legally fell under the jurisdiction of Union Council Bahra Kahu. Local villagers in their petitions claimed that CDA, in imposing a ban on all constructions in Bani Gala without acquiring land in the village and having any jurisdiction over it, had acted unjustly. They pleaded that by placing an absolute prohibition on all sorts of constructions in Bani Gala, CDA had rendered their property valueless since land over which such restrictions exist could not be sold in the market at a fair price. By failing to legally acquire Bani Gala land from the villagers after the payment of fair compensation, CDA had furthermore, violated the constitutional rights of the villagers by denying them the right to use their land for dwelling purposes - the only function for which this land could be used given the prevailing circumstances.⁷⁹

⁷⁹ Writ Petition Number: 298 of 1992. Mr Muhammad Rafiq versus CDA. Lahore High Court, Rawalpindi Bench, Rawalpindi. Filed on 14.4.1992.

Recent arrivals in Bani Gala, like Mrs. Nabila and Dr Khan, in their petitions similarly highlighted CDA's highhandedness in claiming jurisdiction over an area that fell under the control of Union Council Bahra Kahu. They presented letters and submission drawings proving that they had started the construction of their houses legally after getting permission from the concerned authority, namely, the union council and not CDA.

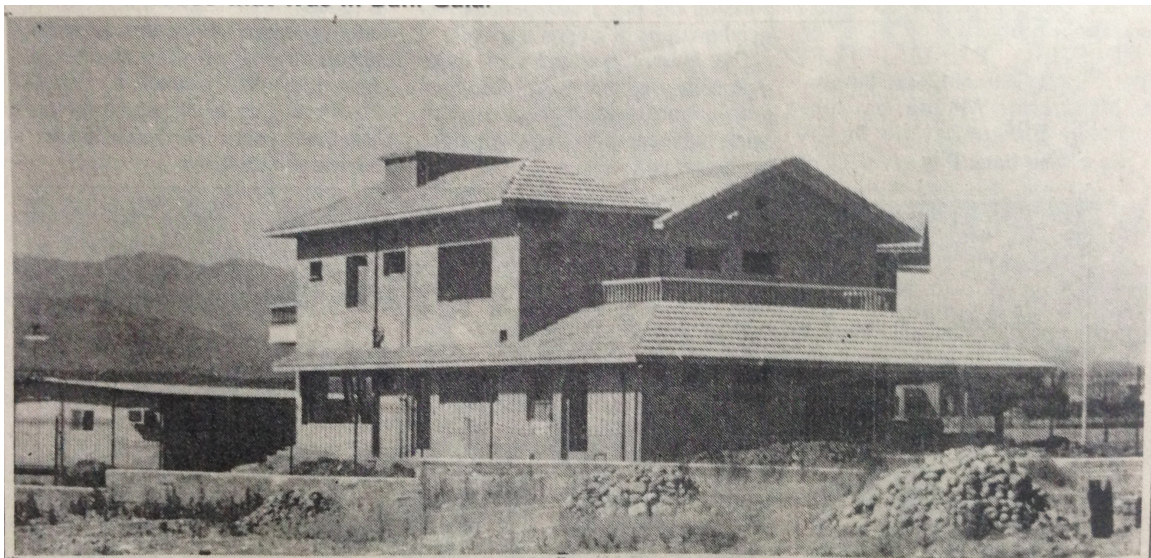


Figure 71. Caption: "Members of an affected family try to recover their household goods from their demolished house in Bani Gala," *The Nation*, Islamabad. June 27 1992.



Debris of a house that was in Bani Gala.

Figure 72. Caption: "Debris of a house that was in Bani Gala," *The Nation*, Islamabad. June 27 1992.



Dr Abdul Qadir's bungalow in Bani Gala.—Staff photos

Figure 73. Caption: "Dr Abdul Qadir's bungalow in Bani Gala," *The Nation*, Islamabad. June 27 1992.



Figure 74. Caption: “Victims of police atrocities”, *Pakistan Observer*, photo by Mian Khurshid, 1992.

In a petition filed by a new landowner in Bani Gala, it was argued that CDA’s objections, such as, pollution of Rawal Lake, were “contrived” to mask CDA’s vested interest in maintaining its monopoly over the development of land in Islamabad.⁸⁰ The petition elaborated that CDA’s normal practice for the development of residential sectors in the planned capital involves the acquisition of land from existing villagers at extremely nominal rates. The acquired land is then developed and sold to prospective homebuilders at an exorbitant price, often out of the reach of even the middle-income group. The petition alleged that in the past CDA had sold land it acquired for Rs.500 per *kanal* for about Rs. 1-1.5 million per *kanal*.⁸¹ It is worth noting here that the sale and auctioning of residential and commercial plots in Islamabad is the main source of generating revenue for CDA. Private development of land in the unacquired areas of Islamabad, the petition

⁸⁰ Writ Petition no. 791 of 1992. Mrs. Bushra Aitzaz Ahsan and others versus CDA and others. Lahore High Court, Rawalpindi Bench, Rawalpindi. P. 2.

⁸¹ Ibid. p.5. 1 Kanal = 1/8th acre

contended, thus, threatened CDA's monopoly of land and its vested interest in maintaining scarcity and artificially high prices of plots in the city.

CDA's stance in the court case was twofold. CDA argued that houses in Bani Gala had to be demolished because constructions close to Rawal Lake were polluting the main source of water for the 1.5 million residents of Rawalpindi (and Islamabad). CDA officials contended that these constructions were in direct violation of the official master plan, zoning regulations and other laws prohibiting construction in Zones 3 and 4 of Islamabad. Residents of Bani Gala did not see the hasty acquisition and possession of Bani Gala as simply a matter of environmental concern or zoning violation for CDA since it had approved many residential, recreational, and other types of developments in the vicinity of Rawal Lake, some within the two kilometer limit from its highest water mark.

The case remained in court for 6 years during which new purchase of land in Bani Gala came to a halt. During this period, old and new residents of Bani Gala organized themselves for collective action against CDA to supplement the court proceedings, as discussed below.

5.7. Post-operation Communal 'Solidarity'

Sensational news reports with vivid photos of the Bani Gala operation circulated in Urdu and English dailies for weeks after the incident. Newspaper articles and letters by concerned citizens both criticized and applauded CDA's anti-encroachment operation in Bani Gala. Those in favor of the operation lauded CDA and its Chairman for serving justice to the elite of Bani Gala, normally in a habit of flouting the rule of law. The newspaper articles asked why so much hue and cry was being made in the media about the demolition of illegal structures in Bani Gala when poor residents of squatter settlements are routinely evicted and their humble dwellings destroyed? (Readers' Column, 1992; Hyatt, 1992). CDA's critics saw this incident as evidence of the highhandedness of CDA and its selective enforcement of law in Islamabad. These articles dismissed CDA's stance that houses in Bani Gala were polluting Rawal Lake, and

wondered about CDA's real motives for this operation since it had overlooked many other cases of environmental concern in Islamabad in the past.

The residents of Bani Gala and its supporters were also active in carrying out a media propaganda campaign against CDA and its Chairman. Mrs. Nabila was at the forefront of many public demonstrations, press conferences, and meetings with important government and political representatives including the Prime Minister of Pakistan. She participated in these meetings and public protests with her close female friends and family members. She also invited village women from Bani Gala for added effect. In particular, Mrs. Nabila would take along the poor village woman who lost her young son during the operation (figure 75). For public demonstrations, Mrs. Nabila would rent Suzuki vans to transport local village women to various venues. During anti-CDA protests, Mrs. Nabila found village women to be stronger and braver than her high society friends, and easier to handle than the village men. In her experience the egos of male villagers would often get in the way of a smooth demonstration as they would argue about who would lead, or stand in front of the procession. In Bani Gala's village women, Mrs. Nabila found a supportive crowd, which brought value to her cause without questioning her authority.

The rich-poor show of solidarity evidenced during these anti-CDA protests provides insights into the nature of alliances created because of extraordinary spatial situations. From the rift between the poor residents of France Colony and their well-off neighbors in sector F-7, as discussed in Chapter 3, we see that such associations between different socio-economic groups do not exist naturally by virtue of their proximal living arrangements as part of the same neighborhood. We can also see that from Mrs. Nabila's story as local villagers in Bani Gala did not immediately accept her intrusion in their existing community. However, they did recognize her high social status and position of power based on her exhibition of force and influence during various altercations with them.

Mrs. Nabila and her village allies were thus aware of the value each side brought to the movement to save Bani Gala, in general, and for the success of these public protests against CDA, in particular. Mrs. Nabila with her personal connections and monetary resources, and the Bani Gala village folk with their resilient and apparently

destitute bodies were important assets to help garner public sympathy and political support against CDA's anti-encroachment operation. For instance, in July 1992, Mrs. Nabila took a group of over thirty mostly village women to the entrance of a hiking trail in Margalla Hills National Park to demand the removal of CDA Chairman on account of his role in the loss of lives and property in Bani Gala. Mrs. Nabila remembers that the venue was selected in reaction to the Margalla Hills Society, an environmental protection NGO being run by the "fashionable hoity-toity women" of Islamabad, who had decided to support CDA Chairman Fareed-ud-din (Mrs. Nabila, personal communication, March 7, 2013). Mrs. Nabila threatened these NGO women that the villagers would attack their houses if they didn't change their stance. She remembers with amusement that the "NGO-women" actually got scared of her empty threat and dropped their "cause." Her distance from these "fashionable hoity-toity" and "NGO" women is a deliberate political move on her part given that in any other context, she is nearer to them in socio-economic status than to the Bani Gala village women.

The superficial and calculated alliance between the rich and poor residents of Bani Gala was, however, easily recognizable. The press coverage of this demonstration was unforgiving toward Nabila et. al.,

Coming in Pajeroes and Toyota Cressidas these women also brought with them a few poor women who had not even seen such cars from inside all their lives... There was an impression that these poor women, who deserved every sympathy, were brought on the scene to serve others' interests (Jamal, 1992).

Earlier newspaper coverage of a press conference held by residents of Bani Gala on June 29th 1992 in a hotel in Islamabad similarly reported,

The 'organisers' of the Press conference were seemingly those who had purchased land at the picturesque Bani Gala near the Rawal Lake and built palatial houses there. They had brought the women of those poor families from whom they had purchased lands and who had been the actual victims of the operation, to narrate the stories of police excesses (Bani Gala victims, 1992).

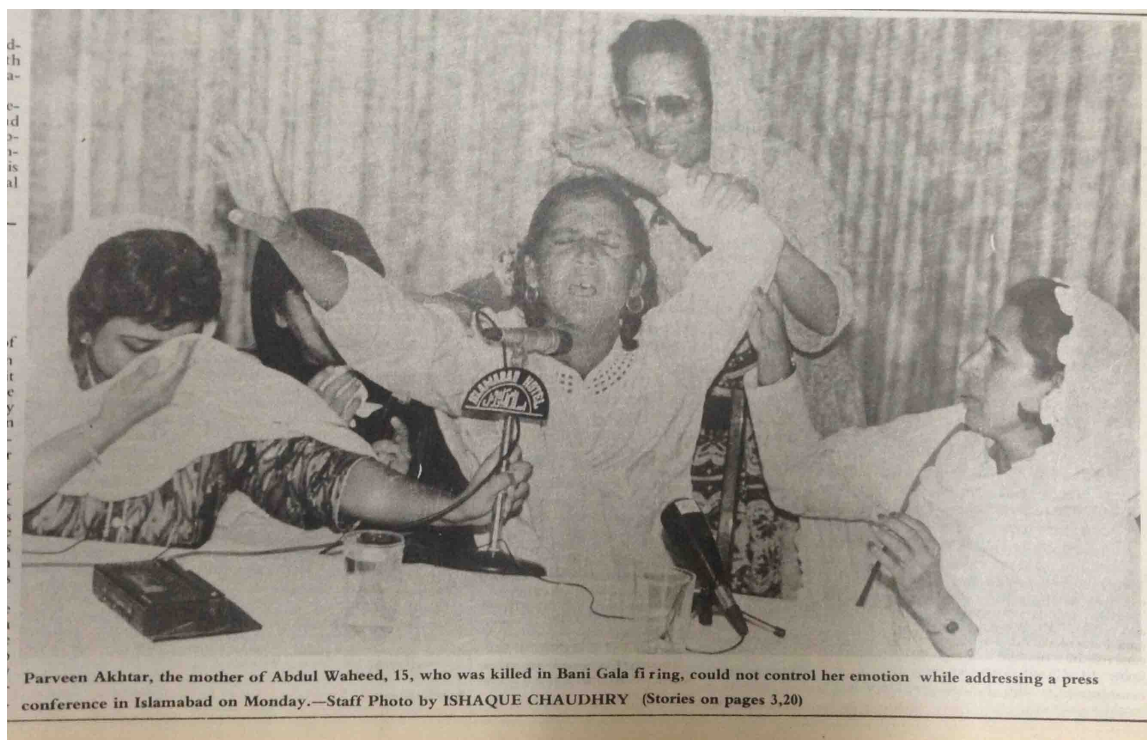


Figure 75. Caption, “Perveen Akhtar, the mother of Abdul Waheed, 15, who was killed in Bani Gala firing, could not control her emotion while addressing a press conference in Islamabad on Monday,” Photo by Chaudhry, Ishaque. (June 30 1992). *The Muslim*.

The post-operation communal solidarity between old and new residents of Bani Gala was however short-lived. On August 13 1992, some representatives of the residents of Bani Gala (primarily local villagers) entered into an agreement with CDA, accepting among other things monetary compensation for the acquisition of their land by CDA.⁸² The agreement between CDA and residents of Bani Gala also included monetary compensation given to the injured and the families of those who were killed in the crossfire during the CDA operation. The families of the deceased were additionally given a plot of land in Islamabad and employment of one family member in CDA. In return for these and other concessions, CDA asked those who entered the agreement to withdraw all legal proceedings against CDA and its operation in 1992. By September 1992, 156 residents of Bani Gala had accepted this agreement.

⁸² C. M. No. 1504 of 1992 in writ petition no. 599 of 1992. Dr Shirin Bajwa and others versus Federation of Pakistan and others. “Application under section 151 of C.P.C. on behalf of respondents no. 1 to 3 for production of additional documents and clarification of stay order.” October 1992. Lahore High Court, Rawalpindi Bench, Rawalpindi.

Mrs. Nabila was unhappy about the deal between CDA and Bani Gala villagers as she felt it sabotaged their court case. In the agreement, the area of the old village was to be left unacquired by CDA. It was also decided that those local residents living outside of the old village area would either be relocated close to the old village area or given 20' x 60' plots in one of CDA's model villages.⁸³ Mrs. Nabila believes that CDA crafted this deal for the benefit of local villagers, and schemed for the new residents to be forced out of Bani Gala. She got mad when she heard news of this agreement and told the villagers that they should be ashamed of themselves for entering into this deal. She reminded them that it was because of people like her that their land prices had gone up otherwise they would have lived miserably all their lives!

We see here that temporary communal solidarity between two different socio-economic groups was created in Bani Gala on the basis of a shared spatial arrangement whose very existence was put into danger. This sense of community faded away when spatial concerns of one group were fulfilled. This shows that spatial proximity among different groups of people is not a guarantee of social cohesion as is often assumed by planners and architects. However, as seen in the case of Bani Gala, pursuit of a shared spatial goal, such as, the nonconformity of the space and its defense, is what brought people together as a community for collective action.

5.8. The Exception Becomes the Rule

On October 23rd 1998, Justice M. N. Abbasi of Lahore High Court gave a judgment in favor of the residents of Bani Gala in the case entitled, *Abdul Qadeer Khan and others versus Chairman, CDA and others*. Justice Abbasi declared that CDA's actions violated the Constitutional rights of the residents of Bani Gala by depriving them their proprietary rights and placing restrictions on the use of land legally owned by them. The justice also declared CDA's haste in the forceful occupation of private property in Bani Gala without following prescribed land acquisition procedures as illegal. The court

⁸³ Ibid. CDA launched model village schemes in outlying areas of Islamabad in order to improve the housing stock in the capital and provide alternate plots to the people who have been displaced from their existing villages as a result of the construction of the new capital city. The development progress of these model villages is slow and unsatisfactory for any meaningful rehabilitation of displaced populations.

noted that according to the 1960 CDA Ordinance, CDA could not displace residents of Bani Gala from their houses without first issuing a notice via its Deputy Commissioner to the owners of land to be acquired. According to the law, the notice should give detailed information including the description of land to be purchased as well as its intended future use. The ordinance also necessitates that CDA give ample time -- a minimum of ten days -- to the affected landowners to submit their concerns and objections to the Deputy Commissioner. Justice Abbasi accepted the claim made by Bani Gala residents that an official notice regarding the acquisition of their land was issued after the CDA operation was carried out on June 25 1992. CDA's claim that this notice was issued on June 25 1992, the day of the operation, was refuted by the fact that the date signed by Deputy Commissioner CDA at the bottom of the said notice was of June 28 1992, which the CDA staff tried to change to June 25 1992. Justice Abbasi also observed that even though the area around Rawal Lake was declared a part of the National Park via a government notification in 1980, however, without acquiring all the area earmarked as the National Park in the master plan of Islamabad, acquisition of a small portion of land next to the lake (Bani Gala) could not be justified. Furthermore, unless a proper scheme for the National Park is prepared by CDA or the Central Government, acquisition of land for this purpose under the 1960 Ordinance could not be carried out.

While the 1960 Ordinance gives CDA the power to acquire any land in the area reserved for Islamabad, it also prescribes a complete process that the city's development authority must follow while making these acquisitions. Justice Abbasi stressed the necessity of a 'proper scheme' in the acquisition of land for the purpose of the new capital city according to the CDA ordinance. The implementation of Islamabad's master plan could not be carried out without a proper scheme identifying the proposed use of the concerned area. In the court's opinion, CDA thus could not acquire any land within the areas reserved for the construction of Islamabad unless it was ready for the development of the area according to a proper scheme.

The judgment highlights the tension between official planning rules and regulations concerning space that is owned by private individuals. The imposition of official planning rules in modern urban environments control nearly every aspect of the building construction process, from its physical form to its intended use. The freedom to

do whatever you please with your private property simple does not exist in such environments. The court decision however places into question the importance of private property rights in relation to public urban development projects in modern built environments.

Finally, the court did not accept the charge that houses built close to Rawal Lake were causing pollution to the drinking water source for the residents of Rawalpindi and Islamabad since CDA itself had allowed other residential, commercial, institutional and recreational buildings, all within close distance to the lake. CDA's insistence on the restriction on constructions of houses in Bani Gala alone was declared unsatisfactory and discriminatory in nature since eliminating only a few houses could not possibly stop the pollution of Rawal Lake also being caused by other constructions in the area.

While the High Court judgment challenged CDA's claim to unlimited powers in acquiring any land in the region earmarked for Islamabad, however, it did not prohibit CDA to acquire land in Bani Gala in the future after preparing a scheme for public purpose, and following the legal procedures as laid out in CDA Ordinance 1960, and Land Acquisition Act of 1894 (amendment of 1996). However, the court observed that it could only do so by providing a suitable alternative to the residents of Bani Gala and after paying compensation for their properties according to prevailing market rates.

Soon after the High Court judgment in favor of the residents of Bani Gala, CDA challenged this decision in the Supreme Court of Pakistan. Mrs. Nabila remembers that the whole village landed again in her house to convince her to pursue the case in the Supreme Court as well. Advocate S. M. Zafar was asked again to take on the case and after a few hearings the case was decided in the favor of Bani Gala residents on May 14 1999.

5.9. Bani Gala – a Symbol of Excess and Flouting Laws

Despite being declared legal by both the Supreme and High Courts of Pakistan, residential development in Bani Gala still remains a symbol of criticism for the rich and the influential flouting zoning and building laws of Islamabad. In 2005, a year after Dr Abdul Qadeer Khan's involvement in international nuclear trade was made public, *The*

Atlantic published a sensational article focusing on the life of Khan and his role in establishing atomic bomb technology in Pakistan and its proliferation beyond (Langewiesche, 2005). The article presented a scathing critique of Dr Khan and his wrong doings and used his Bani Gala residence as proof of his illicit conduct and disregard for observing the rule of law. The article opens with an introduction of Dr Khan as the owner of “a large weekend house ... built in blatant disregard of the law,” and goes on to speculate the motivation behind Dr Khan’s decision to build his house near the lake:

As to why, therefore, he insisted on building a weekend house that drained into Rawalpindi's drinking water, the answer is indeed twisted, though in a standard Pakistani way: the attraction was not in the setting on the lake (there are prettier lakes nearby) but, rather, in the open defiance of the law—an opportunity for the display of personal power... Khan's house on the lake served as a barely coded message, and one that was universally understood by Pakistanis at the time. It was a public brag... A. Q. Khan had pioneered the ground. Within a few years other houses had been built near his, perhaps a dozen in all, and each for the same reason—because of the extraordinary influence it took to get away with such a public crime. Some of the builders were generals. Some were Khan's associates from the secret laboratory.

This narrative of Bani Gala as a neighborhood created illegally by influential delinquents continues to be circulated despite the formal approval granted by both Supreme and High Courts of Pakistan to the residents of this area. Over the years Bani Gala has attracted many influential names to its serene environments even as it has opened itself to more middle class residents in search of affordable housing in the less scenic and hence less desirable parts of this neighborhood. Bani Gala, however, remains associated with the rich and periodically gets attention in the media as evidence of their wrongdoings. A few years ago, when the sportsman-turned-philanthropist Imran Khan turned to party politics, his expansive residence on a vast tract of 300 *kanal* (37.5 acre) of land on a hill in Bani Gala became a source of criticism by his political opponents.

5.10. Courts versus CDA as Planners of Islamabad

In the Bani Gala case we see a rift between two state institutions namely, CDA and the judiciary on the issue of nonconforming use of a planned space. This confirms the now accepted hypothesis that the State is not a homogeneous entity operating along the same set of principles (Fuller, 2000; Ferguson, 2002). The history of Bani Gala reveals how influential citizens of Islamabad via the judiciary challenged CDA's autonomy in decisions on matters related to the planning and development of Islamabad. The judiciary emerges as a key player in the history of Islamabad as a planned city because of its role in legalizing certain development patterns, incompatible with the official master plan and zoning regulations of Islamabad. For example, the opening up of Zone 4 for residential purposes (a major deviation from Doxiadis's master plan) followed the 1998 and 1999 court decisions on Bani Gala. In 2005, revisions were made to the zoning regulations of Islamabad to allow private developments (such as, orchards, and vegetable farms and farmhouses) in the unacquired areas of Zone 4 (previously restricted to agricultural use only), after receiving approval from CDA. The minimum area requirement for farms and orchards in Zone 4 was set at 20 *kanal* (2.5 acres), which could either be developed individually or as a cluster in a scheme of at least 50 acres.⁸⁴ The maximum covered area allowed for building a farmhouse on each farm or orchard was set at 2250 sq. ft.⁸⁵

The direct involvement of the judiciary in shaping planning policies and zoning regulations of Islamabad can also be seen in the various *suo moto* proceedings initiated over the last couple of years. A *suo moto* case refers to a legal proceeding, on any matter of public and national interest, which a judge starts on his/her own initiative without

⁸⁴ 1 Kanal = 1/8th of an acre.

⁸⁵ While the initial purpose of allotting Agro Farms (vegetable farms, and orchards) in Zone 4 was to encourage urban agriculture to meet fruits, and vegetable needs of Islamabad, many farm owners ended up using these large plots of land for non-agricultural purposes. Many built palatial bungalows (exceeding 2250 sq. ft area limit) in their allotted farmlands in order to enjoy the comforts of large estate living within city limits. In addition to using agro farm area for residential purposes, other non-agricultural commercial uses of these farmlands include, restaurants, and rental venues for weddings, concerts, and other events. These lavish bungalows built on vast expanses of land meant for farming was brought into public scrutiny around 2009 when the then Chief Justice of Pakistan, Iftikhar M. Chaudhry took a *suo motu* notice against the misuse of Agro Farm Scheme by influential people in Islamabad as reported in newspapers. Included in the list of lease holders violating the terms of Orchard and Agro Farm schemes that was presented in the Supreme Court were influential individuals, politicians, senior military officials, and lawyers including ex-military dictator and President of Pakistan, General Pervez Musharraf. Interestingly in 2007, Musharraf had sacked Chief Justice Chaudhry, who was reinstated in 2009 following Musharraf's departure after the general elections in 2008.

being moved by any body. Major changes to land use regulations of Zone 4 in Islamabad were introduced as a result of one such case initiated by a justice of the Supreme Court of Pakistan in 2007.⁸⁶ The basis of this case was various news reports on the increase in prices of items of daily consumption “due to the loose administration and weak (sic) policy of the government regarding price control.”⁸⁷ Broadly speaking, the case proceedings followed two main streams of inquiry. Firstly, the presiding justice demanded reports on existing price inflation of food items from all provincial governments in Pakistan. He directed strict actions to be taken against mill/factory owners or others involved in hoarding of food items with the intention of creating artificial scarcity of food items in the market, and selling these accumulated items at higher prices.

Secondly, the court focused on the role of the Agro Farms Scheme in Islamabad in meeting the food requirements of the city. In this court case originally initiated to check the rising prices of daily commodities in the country, an analysis of this second thread of inquiry on Agro Farming in Islamabad, reveals many interesting insights about the direct involvement of the judiciary in Islamabad’s planning and development. In the beginning of the case, the Supreme Court justice firmly issued the following directive to CDA: “take necessary steps with regard to Farm Houses [in existing Agro Farms], inspect them and in case any Farm House is not producing vegetables/fruit etc, cancel its lease according to law and submit report.”⁸⁸ Over the course of the case proceedings and in the final court ruling, however, the court reprimanded CDA for issuing notices to violating Agro Farm lease holders regarding the cancellation of their leases, and hence, causing “unnecessary harassment” over the course of this legal inquiry.⁸⁹ Blame for the misuse of land in the Agro Farm scheme in Islamabad was placed squarely on CDA,

The use of the land leased out for Farming under Agro Farming Scheme for other purposes is due to the ineffective policy of CDA and lack of proper administration. It appears that due to the neglect of CDA to provide the basic facilities including source of irrigation water to develop the Farming Scheme, the

⁸⁶ Suo Motu Case No. 10 of 2007 (Increased Prices of Daily Commodities), Supreme Court of Pakistan, Islamabad. Judgment on 24.01.2008 by Justice Muhammad Nawaz Abbasi, ACJ.

⁸⁷ Ibid p. 2.

⁸⁸ Ibid p. 6

⁸⁹ Ibid p. 15.

lease holders instead of concentrating on Farming, preferred to built (sic) only a Farm-house for their residence without proper utilization of leased land.⁹⁰

The court ordered CDA to provide proper facilities to the leaseholders rather than sending them notices of cancellation of leases of land not being used to produce food items, in violation of the terms of allotment of the Agro Farm scheme. The judgment took an even harsh turn for CDA when it came to those Agro Farms that were developed on private land unacquired by CDA in Zone 4. As mentioned above, according to the 2005 revision of the 1992 zoning regulations, only Agro Farms of a minimum of two and a half acres were permissible on both CDA and privately owned lands in Zone 4. The Justice noted that in the absence of proper facilities for irrigation, electricity, and agricultural loans for landowners in Zone 4, limiting land use to farming in the unacquired areas had placed extreme hardships on private property-owners. This policy especially created difficulty for those who owned land less than the minimum accepted area of two and a half acres as such small parcels of land could not be used for any other purpose according to the CDA zoning regulations. The judgment criticized these impossible requirements imposed by CDA's zoning regulations, which led to haphazard and illegal development in the unacquired areas of Zone 4 by small plot owners who were ineligible to participate in the Agro Farming scheme, on the one hand, and not allowed to use their land for any other purpose, on the other.

The judgment thus declared the existing bye-laws in Zone 4 “unjust, unreasonableness (sic), ... discriminatory” and consequently, without legal force.⁹¹ The judgment concluded with issuing detailed instructions to CDA for a major revision of its laws for Zone 4. According to the Supreme Court decision, the minimum area requirement of 20 *kanal* (2.5 acre) for Agro Farms was limited to the CDA owned land in Zone 4. The court reduced the minimum area of Agro Farms in privately owned land in Zone 4 to 4 *kanal* (0.5 acre). The most notable of these zoning changes according to the Supreme Court decision was the opening up of privately owned land in Zone 4 for residential and commercial buildings “like other areas and zones of Islamabad,” thereby significantly changing the character of the Natural Park Area as envisioned in Doxiadis’

⁹⁰ Ibid p. 15

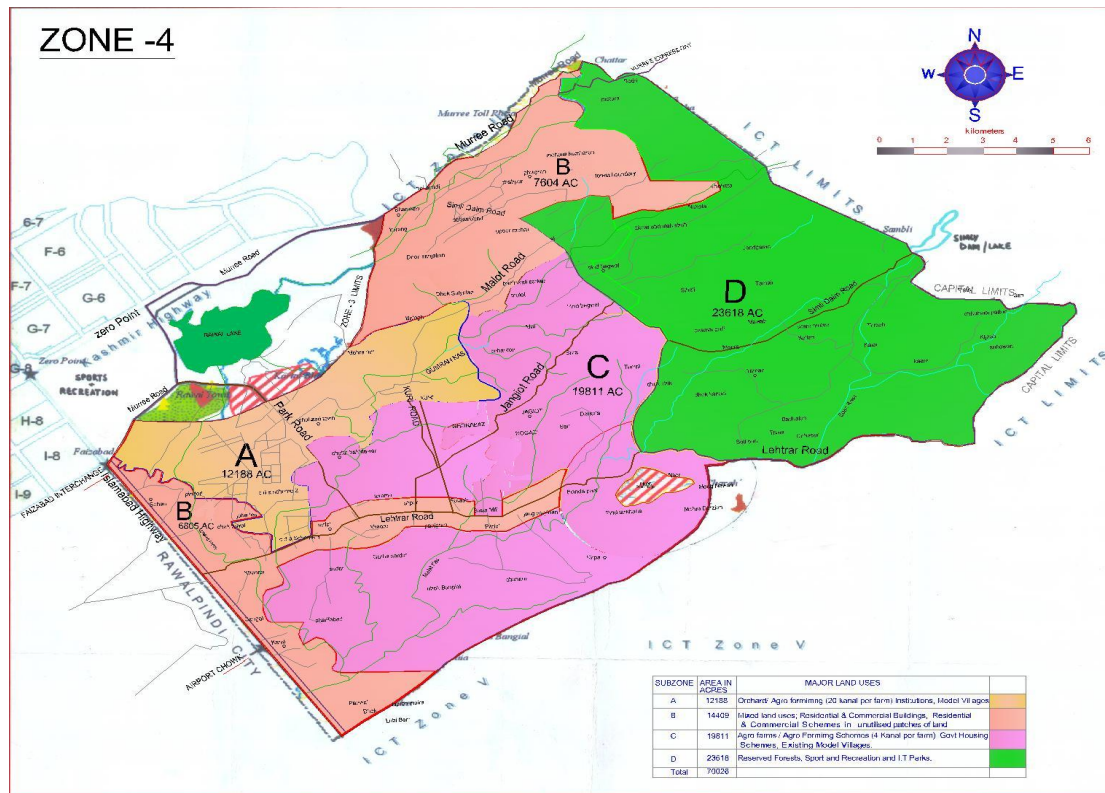
⁹¹ Ibid p. 21

scheme.⁹² The court however declared CDA's approval and regulation necessary for all new residential and commercial constructions in Zone 4.

The Cabinet of Government of Pakistan in April 2010 approved an amendment including a sub-zoning plan for regulating Zone 4 in the Islamabad Capital Territory Zoning Regulation, 1992, in keeping with the court ruling. In the 2010 amendment, Zone 4 was subdivided into 4 subzones A, B, C, and D (figure 76) to accommodate various land-uses.⁹³ The list of prohibited land uses includes industrial activities, livestock and poultry farming schemes. Commercial and residential activities are now acceptable in Zone 4 in addition to Agro Farm and Orchard schemes, public institutional buildings, recreational facilities, educational buildings, and IT parks. Residential activities in Zone 4 include both individual houses and multi-unit housing schemes, which are mostly built in the form of gated communities as opposed to Doxiadis' planned sectors. The amendment also makes provision for the regularization of existing commercial and residential buildings and schemes after payment of fees to CDA associated with the inspection, regularization, development, and commercialization of existing structures. CDA is responsible for approval of new projects in various subzones as well as the overall monitoring and regulation of Zone 4.

⁹² Ibid p. 22- 23.

⁹³ Amendment in ICT Zoning Regulation, 1992. Approved on 21.4.2010 by the Cabinet, Government of Pakistan, Cabinet Secretariat, Cabinet Division.



Subzone A (12188 Acres) = Orchard, Agro Farming (20 kanal per farm), Institutions, Model Villages
 Subzone B (14409 Acres) = Mixed land uses, Residential and Commercial Buildings, Residential and Commercial Schemes in unutilized patched of land
 Subzone C (19811 Acres) = Agro farms, Agro Farming Schemes (4 kanal per farm), Govt. Housing Schemes, Existing Model Villages
 Subzone D (23618) = Reserved Forests, Sport and Recreation and I. T. Parks.

Figure 76. Sub zoning plan for Zone 4, Islamabad according to 2010 amendment. Source: CDA

Legal decisions on certain exceptions either in the form of encroachments or zoning irregularities in Islamabad have instituted structural changes in the city’s official master plan and zoning regulations, often against the wishes of the Capital Development Authority. The cases of Bani Gala mansions and Agro Farming farmhouses in Islamabad do not simply represent violations of official zoning laws or the difficulty in their implementation but illustrate how these violations ended up challenging the very laws that declared these illegal. These examples also illustrate the active role played by the courts in Islamabad in the way the planned city and its initial master plan has shaped over the years. We see that major changes in the official master plan and zoning regulations of Islamabad were instituted because of various court decisions, such as, the opening up of

Zone 4 for residential purposes and the development of “housing societies” in contrast to Doxiadis’ planned sectors. As a result of various legal rulings, these apparent violations and irregularities of official planning protocols now hold legal force, and offer insights into how exceptions become rules in Islamabad.

Observing the problem of law enforcement and the discrepancy found between law as written in codes or legislation and law as realized in human action, legal philosopher Lon L. Fuller asks, "Does the reality of law lie in words on paper or in human behaviour?" (1968, p. 16). Fuller believes that the existence of law depends upon both words and actions (p. 20). He explains that on the one hand, words on paper alone are insufficient to prove the existence of law, and lose their power without enactment while on the other hand, it is the enacted words and not the action that the words stimulate that determine the existence of law (p. 19). However, the reality of law can also be found in the mediation between law in words and law in action, adds Fuller (pp. 20-21). The role played by the courts in this mediation is critical. Fuller explains that statutory law is not “applied to human affairs by the legislature which enacts it. That is the task of the courts. It is in the courtroom, then, that life and law intersect” (p. 21). Fuller asserts that, “The law cannot enforce itself. Some human agency must be charged with that responsibility” (p. 31). Hence, the role of law enforcement agencies and courts in the application of law is significant. The application of law as closely as possible to its intent is not a task to be taken lightly as Fuller admits that “If the discharge of the responsibility is lax, tainted with favouritism, or perverted by corruption, then the law, is in effect, modified and rewritten in the process of being applied” (p. 31). Fuller sees a solution to this problem of ineffective or erroneous application of law in the supervisory role of the courts (p. 31).

In the case of Islamabad, the application of law does not simply involve its discharge by law enforcement agencies, such as, CDA and ICTA, with the courts in a supervisory role. The master plan and zoning regulations of Islamabad were laws on paper that were challenged by the actions of people like the new residents of Bani Gala. This situation was further complicated when the courts decided in favor of the illicit building activities of the residents of Bani Gala. The master plan of Islamabad and its zoning regulations are laws on paper that needed CDA officials and the courts for their

application. We see that the zoning laws of Islamabad were changed due to the lax attitude of CDA's officials towards their enforcement. We also note that the courts mediated between the law in words and law in action in a way that initiated a process that ended up challenging and revising the law itself. The reinterpretation of law in courts indeed ended up rewriting the zoning regulations of Islamabad.

According to Fuller, legal system forms a type of hierarchy, which he terms 'the legal pyramid' (p. 33). At the top of this pyramid is legislature proclaiming acts of crime and their punishment. On the next level reside the courts of law entrusted with the application of law and resolution of disputed issues. On the third level fall law enforcement agencies required to deal with crimes and complaints or bringing to courts cases of criminal misconduct (p. 33), Fuller warns, however, that this pyramid is different from "a military chain of command" as "each level of the hierarchy has its distinctive role to discharge," and "Any direct encroachment on other roles, either upward or downward, can destroy the integrity of the whole legal process" (p. 33). In the *suo moto* case described above, we see that the courts encroached on the roles of legislature and CDA by questioning and revoking existing zoning regulations of Islamabad. The reality of planning laws in Islamabad thus exists in the complex ways the citizens, the judiciary and CDA mediate between laws written on paper and realized (and challenged) in human actions.

Chapter 6

Conclusion - Islamabad: A Planned City of Exceptions

“But the worst thing is that CDA staff destroyed trees that were fruiting,” protested an influential member of a political party after CDA removed fruit-bearing trees along with other structures he had installed to “beautify” an open public area next to his house in Islamabad (CDA clears five lawns, 2014).

In December 2014, a few months following an Islamabad High Court ruling instructing CDA to curb encroachments and other spatial irregularities in Islamabad, CDA’s enforcement squad removed allegedly illegal structures built on open public land in an expensive sector in the planned capital. A politician who owned a house in a cul-de-sac in street 51 in subsector F-7/4 was accused of encroaching on public land next to his house. The encroacher-politician had not only fenced this open public space but had also built several structures including a barrier, a guardroom, and an aviary, and installed benches and children’s play equipment there.

Vacant public green areas, like the one described above, were initially conceived in the Doxiadis’ master plan as green “lungs” of Islamabad, designed as spaces of leisure and respite for the residents of the planned modern city. Like the business people in Islamabad, residents of the capital city (and elsewhere in urban Pakistan) routinely claim open public spaces right next to their properties by taking up their maintenance and beautification as private gardens or landscape features (figure 77). Official municipal authorities like CDA also recognize this spatial norm of residents claiming adjacent open green spaces as extensions of their private gardens. Previously, CDA even issued No Objection Certificates (NOCs) to some residents who showed interest in adopting larger

open areas in existing sectors near their houses for “beautification purposes.”⁹⁴ The beautification process involves the transformation of open spaces from their natural to a lawn-like state by leveling or clearing of the site and plantation of grass, flowers and trees. In some cases, residents “beautify” open public spaces not for the benefit of the general public but for personal enjoyment, evident in the installation of fences prohibiting entry into these spaces.

The politician had been previously given a No Objection Certificate (NOC) by CDA to beautify about 10 *kanals* (1.25 acres) of open public land next to his property. His NOC (along with those issued to others for similar purposes) was cancelled in 2014 after the Islamabad High Court ruling. The politician had allegedly violated the terms and conditions of the NOC by privatizing the beautified area, and blocking a public thoroughfare. He also happened to be a resident of F-7/4, which is the same area as France Colony -- the CDA recognized informal neighborhood -- analyzed in Chapters 3 and 4. Interestingly, CDA carried out the anti-encroachment raid under the pretext of a complaint filed by some residents of France Colony who claimed that the politician was “encroaching into the *katchi abadi* (squatter settlement)” (CDA clears five lawns, 2014). This complaint marks an interesting twist to the earlier attempts made by the influential residents of F-7 to stop the further expansion of France Colony in their sector, as mentioned in Chapter 4.

⁹⁴ NOC a legal document often required by government departments in the Indian Subcontinent to process different requests related to many things like land, money, amenities, etc. NOCs are permissions issued either by institutions, or individuals stating that they do not object to the contents of the certificate.



Figure 77. Outside green area privatized by owners of adjacent house using dense hedge and metal gate in Sector G-9 in Islamabad

The example described above and others discussed in this dissertation demonstrate how the residents and business people of Islamabad continuously negotiate with CDA officials to create and sustain spaces external to the official master plan. My dissertation shows that CDA through its various functionaries has played a central role in creating revocable bureaucratic mechanisms to allow certain spatial irregularities, such as licenses for hawkers or NOCs for land beautification purposes. In the case cited above, we can see that the withdrawal of a bureaucratic concession transformed a green vacant space, initially “beautified” with official “permission,” into an illegally encroached and privatized public space. The politician accused of violating the terms of the NOC felt wronged by CDA for first making provisional extraordinary allowances that were rescinded at the time of the raid, thus turning a legal activity one day into an illegal one the next. He claimed that he had not done anything illegal since he had received proper permission from CDA for the beautification of the open public area next to his house. As

evident in the accusatory tone of the statement reported at the opening of this chapter, the politician believed that the CDA enforcement staff had acted unreasonably as they didn't even spare natural elements such as fruit bearing trees -- symbolizing nature and its blessings -- during their anti-encroachment raid.

This encroachment case is just one of the many examples of spatial practices that fall within the legal-illegal duality of spatial exceptions in Islamabad. With this dissertation, I wanted to investigate the development and lived experiences of similar spatial practices existing at the junction of the official modern master plan of Islamabad and its unofficial developments. The planned modern part of Islamabad is obviously an important feature of the development and lived experiences of the city. However, this dissertation was driven by the conviction that any investigation of the planned city would be incomplete without taking into account the so-called 'unplanned' or perhaps more accurately, the unofficially and informally planned part of Islamabad. I decided to focus on the unofficial informal planned part of the city as a way of learning more about the "plan;" of understanding the processes involved in operationalizing an abstract scheme on paper in real-life conditions. I wanted to understand the connection between spaces that are planned according to the official master plan of Islamabad and those outside of it. In particular, I wanted to understand the affects, if any, of nonconforming spaces on officially planned spaces.

Over the course of my research on different kinds of spaces in Islamabad, I realized two important aspects of non-conforming spaces in the city. Firstly, spaces that are obviously in violation of the master plan and planning regulations of Islamabad are not entirely illegal. For instance, "compounding area" is a term used in the Building Control Department of CDA to refer to an area in an existing building, which is in violation of building bye-laws but that can be regularized after paying a fine. By using this provision, areas in excess of the permissible total covered area of existing houses can be regularized after the payment of a fine. Some violations are compoundable while others are non-compoundable. Here we can see that there exists room for spatial exceptions to flourish within official planning protocols. In other words, the official planning framework is not entirely working against the so-called unplanned spaces.

Secondly, spatial exceptions do not always exist along the margins of a planned city. This means that these spaces of nonconformity can also completely take over planned spaces in official planning protocols. By definition, nonconforming spaces replace spaces that are planned for other purposes in the official master plan and planning regulations. That's the first level of displacement of planned spaces by nonconforming spaces. A second, more profound level of displacement occurs when nonconforming spaces take the place of officially planned spaces by becoming official themselves. This is most obvious in the Bani Gala example, in which the legalization process of the nonconforming residential use of the National Park area ended up displacing the official function of the region as a natural park.

The fiction of the plan-implementation as sequential processes is evident in the development of Islamabad over the years. The history of development of Islamabad shows that the final master plan of the city is not an unchanging bounded artifact. Instead spaces that are not part of the official master plan routinely challenge, suspend, and sometimes replace planned spaces. Because of their out-of-placeness, spaces outside of the master plan can also supplement planned spaces by offering to accommodate those functions that cannot be otherwise accommodated in planned areas. Nonconforming spaces thus offer room to go beyond the master plan without compromising the formal integrity of the overall planned scheme. For the most part, these nonconforming spaces are perceived as temporary in nature. In certain situations, however, they can institute permanent changes in the overall planned scheme.

The presence and proliferation of nonconforming spaces in Islamabad can be seen as signs of its failure as a planned city; as evidence of its flawed modernist ideology. My dissertation attempts to look beyond the negative characterization of nonconforming spaces in modern planned schemes as failures or flaws by focusing on the ways in which these spaces directly influence and support the development of a newly planned city. For instance, low-income nonconforming neighborhoods and businesses in open public areas in Islamabad function to serve the residential and commercial needs of people with modest incomes living and working in a city where formal housing and shopping areas are beyond their economic means. The absence of these spatial exceptions in Islamabad would simultaneously mean the absence of low-income populations and their services

from the city. Official planners and administrators of the city recognize the importance of nonconforming spaces for the functioning of a planned city and hence, create official and unofficial concessions to allow such spatial exceptions to continue. These concessions are allowed mostly in open vacant public spaces like the *nullah*-areas and greenbelts so that the planned spaces and functions of the master plan are not displaced.

Beyond tolerating certain nonconforming spaces for the sake of their functional value, city officials also show leniency towards nonconforming spaces associated with low-income people on humanitarian grounds. One of the officers in the District Municipal Administration (DMA), a CDA department concerned with the municipal administration of the city including the regulation of commercial activities, mentioned the difficulty of balancing his moral and official duties while dealing with commercial encroachments in the city (DMA official, personal communication, March 22, 2013). The confiscation of items and equipment of illegal hawkers can sometimes be an unpleasant task as he and his staff feel “really bad to take away the source of income from poor people.” He added, “*Hum log bhi insaan hain* (we are human as well)” referring to the difficulty of administering official protocols, sometimes devoid of humanity. He spoke about the dilemma faced by DMA staff “when a poor person with old shoes walks in to retrieve his stuff” confiscated during an anti-encroachment raid. He personally knows a “chips-wallah” (a person selling chips) who earns a living from his fries business set up in a veranda of the F-6 *markaz* market. The DMA officer knows for a fact that the “chips-wallah” and his family will not be able to survive if the DMA staff confiscates his deep-frying machine, in keeping with official anti-encroachment rules.

Framing such instances of non-enforcement of municipal regulations as corruption or incompetence of the DMA staff would be an oversimplification of the kinds of factors that influence decisions and actions of municipal officials in instances of encroachment. However, this is not to overstate humanitarianism as the main reason why municipal regulations are not enforced. Bribing enforcement officials and getting court stay orders are some of the common tactics used by owners of commercial enterprises to evade prosecution. Social connections, political affiliations and personal desires are other means of sustaining spatial exceptions. The residents and business people inhabiting and operating out of nonconforming spaces have confidence in their ability to manipulate and

subvert the official apparatus against zoning violations in Islamabad. Their confidence is most apparent in the daring investments made in high-end nonconforming commercial and residential spaces in the planned capital.

Social norms regarding space also play an important role in the way people justify acts of encroachments and nonconforming uses in modern urban environments. Residents of Islamabad, like in the rest of the country, routinely challenge official authority over the use and development of space legally owned by them. People have a different conception of official zoning regulations as restrictions on the use of structures legally owned by them are considered an imposition on private property rights. This can be explained by the longer history of mixed-used development of urban areas in Pakistan where unified living-working arrangements were common spatial traditions. Residents of Islamabad thus routinely participate in irregularities related to zoning regulations, such as, renting their houses for nonconforming commercial and office purposes.

As mentioned earlier, public spaces such as, roads, footpaths, corridors and green belts in the immediate vicinity of shops and houses in Islamabad are viewed as extensions of private property. It is not uncommon for people to enclose open green belts in front of their houses with fences, or to erect tents and cabins for private security guards outside the boundary of their houses. This encroachment on adjacent public space is again considered a right rather than a violation of regulations on part of the users of the space. Most encroachments of this type either involve temporary spatial practices of making claims to public areas or erecting structures that can be easily taken apart on short notice. An important feature of these temporary spatial strategies and construction techniques is that they are also sustained over long periods of time. Not all unauthorized constructions in Islamabad follow this notion of temporariness, however. The initially illegal mansions built on legally owned property in Bani Gala, for instance, were built to the highest architectural standards and showed no signs of impermanence, long before their status was legally accepted by the courts.

People also exhibit immense creativity in devising new ways to gain access to space in Islamabad. Informal housing in urban areas has been mostly conceptualized as a product of under the table negotiations and covert collaborations between various state and non-state actors (squatter settlement dwellers, government and police employees, and

land mafia, etc). In addition to these networks of alliances and collaborations, narratives weaving together real-life and fictitious situations are sometimes used productively to facilitate urban informality. For instance, by analyzing the story of a failed attempt to start a new squatter settlement in Islamabad as played out in print media, we can observe the use of propaganda tactics in the creation of nonconforming spaces in the city.

On August 16 2012, a teenage Christian girl, Rimsha Masih, allegedly suffering from mental disability was arrested from Islamabad's poor suburb of Mehrabadi (Sector G-11) for burning pages from the *Quran*. On August 28 2012, an article in *Dawn News* opened with the following statement, "Having fled their homes in the latest spasm of Pakistani religious strife, a few hundred Christians have camped in a forest in the Pakistani capital, cut down trees and are using the branches to build a church" (Seeking Refuge, 2012). The report elaborated that the fleeing Christians belonged to the same village as that of Rimsha and that they had fled to the forest in search of a safe location. Since violence from mobs against those accused of blasphemy is common in the country, many Christian families living in the area fearing backlash from Muslim vigilantes had reportedly left Mehrabadi. According to various newspaper reports, the total number of Christian families fleeing the poor neighborhood of Mehrabadi varied from 150 to 600 families.

The quoted statement above reveals many exaggerated aspects of the media coverage of this occurrence. Firstly, the alleged "forest" happened to be right in the heart of Islamabad's well-established residential sector of G-9. Similar to many other squatter settlement sites in the city, the place where the fleeing Christians had camped was also a low-lying open space adjacent to a natural *nullah* (ravine) at the edge of a cul-de-sac in subsector G-9/4. Secondly, the news statement referred to the erection of a makeshift church using branches of trees cleared from the site by the poor Christians who had been displaced from their places of residence and worship. While there were no signs of any structure on the site when I visited it two days later, the Christians wanting to settle there had tried to use the same squatting tactic, as commonly used by Muslim squatters in Islamabad, of erecting a religious structure to make claims to land (Hull, 2012, p. 210-244).

On August 29 2012, another news report made rounds in *The News International*. The article reported that the displaced Christian families from Mehrabadi had been given permission by CDA officials to ‘temporarily’ set themselves up for three months in an open area in Sector G-9/4 on the condition that they furnish an affidavit stating that they would vacate the site at the end of this period (CDA allows ‘Katchi Abadi’ in capital, 2012). The news article also reported protests of existing residents of G-9/4 who resisted the development of this settlement in their neighborhood, fearing that it would eventually turn into a permanent squatter settlement. One of the residents argued that if CDA really wanted to provide a secure place for the displaced Christians then it should have found a safe place outside the city and not right in the middle of an existing sector.

On August 30 2012, another news report confirmed the suspicions of G-9/4 residents quoting an unnamed official from the CDA’s Law Enforcement Wing that this situation seemed like the beginning of a new squatter settlement in Islamabad that “would open another source of income and minting money” for CDA (Residents threaten, 2012). The news also reported the resistance of the residents of G-9/4 who had started camping on the site and threatened to take the matter to court if CDA did not stop the allegedly displaced Christians from setting up a squatter settlement in their neighborhood. On August 30 2012, I went to see the site where the alleged attempt to set up a squatter settlement had been thwarted. The site had 20 or so residents of sector G-9/4 along with an equal number of policemen sitting on lawn chairs with banners that carried slogans rejecting the set up of a new settlement in their subsector (figure 78). The residents had camped on the site all day and night to guard the open green space in their neighborhood. There were obvious signs of deforestation as tree stubs dotted the site confirming the recent attempt to raise a new settlement there (figure 79).

When asked as to why they thought it was important to discourage the development of a “temporary” settlement in a vacant green space in their neighborhood, one of the residents argued that these vacant spaces next to natural *nullahs* (ravines) had been designed by the architect of Islamabad as the “lungs” of the city. It was interesting to note a resident of this area use the same language as used by Doxiadis in his reports, and often repeated by planning and architecture professionals in Pakistan to describe the existence of open spaces next to natural ravines in Islamabad. Another resident, who was

the first person to observe a group of alleged squatters clearing the site, and who later alerted his neighbors about the ongoing activities in their neighborhood, recounted the series of events that raised his suspicion. He remembered that in the past some poor women would come here to cut branches of trees for firewood but on Sunday August 26 2012, he observed an unusual activity of a few hundred women, children, and young boys, who came to this site and started cutting down trees. Moreover, he noticed that as the boys took turns cutting down the existing trees and bushes on the site, the women folk kept themselves busy by singing hymns, thus publicly performing their Christian identity. The residents guarding the site were of the opinion that the people who came to squat on the site did not belong to Mehrabadi but instead had been organized by the land mafia in Islamabad.

This example demonstrates the exploitation of a sensitive political situation in Islamabad in order to gain access to space in the planned capital. Many instances of violence against Christians and their supporters in the recent past have highlighted the vulnerability of the minority group in the country. Those interested in raising a new squatter settlement in Islamabad also exploited the tenuous relationship between the two religious groups by claiming that the lives of the squatters had been endangered by the recent blasphemy incident. They acted quickly to take advantage of this sensitive political situation by finding a suitable site in the city to squat, and spared no time in erecting (or at least reporting in electronic media to erect) a makeshift religious structure. While the residents of G-9/4 were eventually successful in defending the open space in their neighborhood, these series of events in Islamabad and their media coverage underscore the creative tactics used by interested groups to gain access to public space in a formally planned context.



Figure 78. Police in blue uniform and residents of sector G-9 camping on the site to thwart any attempt to setup a new squatter settlement



Figure 79. Signs of deforestation during the alleged attempt to set up a new squatter settlement in this area

What is the relationship between the city of spatial exceptions and the city envisioned in the official master plan of Islamabad? While Islamabad continues to grow, its development pattern has departed considerably from its initial planning ideology. The modern planned city without a center is now in the center of fragmented urban development on its peripheries. With the growth of the city in the south and the west, new urban development patterns such as gated communities and housing cooperatives now envelope the city developed according to the Doxiadis' grid of sectors. Moreover, Doxiadis' neighborhood sectors in certain areas now function very differently from their underlying planning principles. For instance, the rise in popularity of privately guarded residential enclaves, and growing concerns about security due to domestic terrorism in urban Pakistan have influenced the development of new residential areas in Zones 2 and 5 in Islamabad. According to the current zoning regulations of Islamabad, private developers can develop residential areas in Zones 2 and 5, after receiving approval from CDA. The regulations also stipulate that residential areas in Zone 2 can only be developed in the form of Doxiadis' sectors. While many of the privately developed new areas in Zone 2 maintain the overall configuration of Doxiadis' sectors, they function on principles very different from the neighborhood unit concept. Most of these sectors have security gates, private security guards, barriers, and fences at various entry and exit points in the sector, in order to restrict and monitor the movement of people within these neighborhoods.

The appropriation of "sectors" into gated communities is evident in other parts of the city as well. Due to growing concerns for security, the easy accessibility of various areas in planned sectors due to multiple entry-exit points has lost its appeal for some residents living in Islamabad. For instance, in I-8/2, an association representing the residents of streets 16-23 has successfully transformed their section of the subsector into a gated community by restricting entry and exit points, blocking off extra access roads leading into the subsector, and installing barriers with private security guards (figures 80-83).

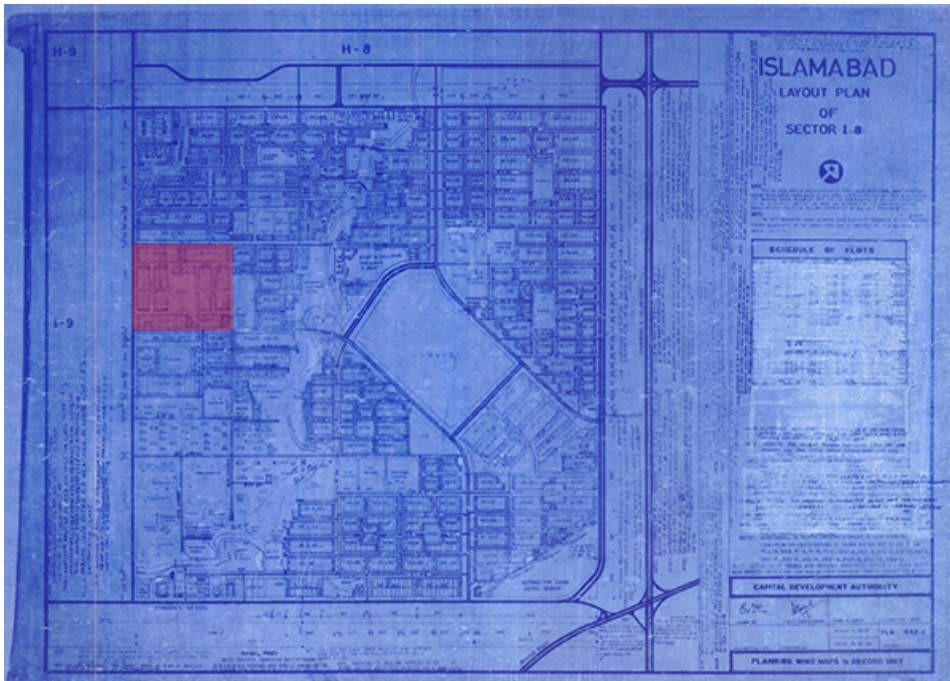


Figure 80. Master plan of sector I-8 with the section of subsector I-8/2 that is now working on the principles of a gated community shown in red.

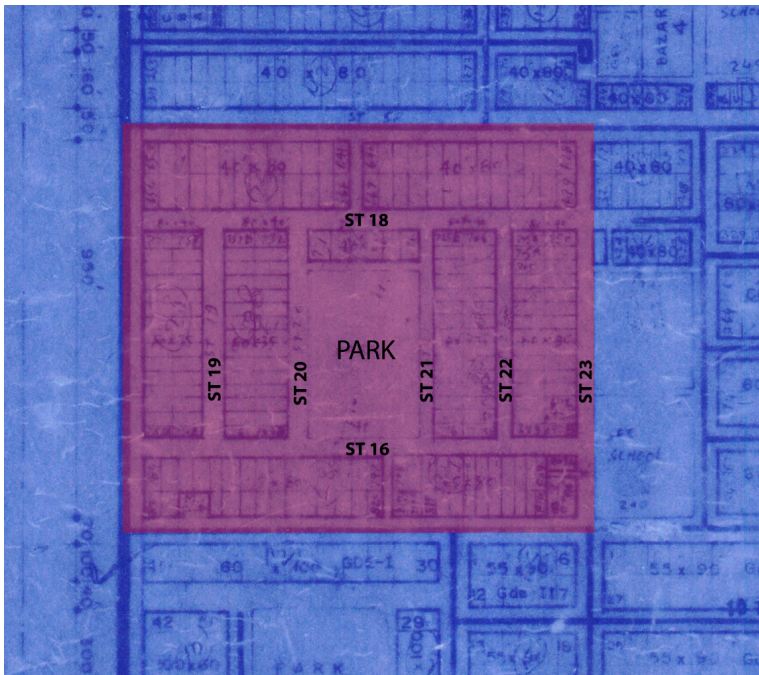


Figure 81. The section of subsector I-8/2 working on the principles of a gated community in red



Figure 82. Main entry to the section of I-8/2 with barrier and a security guard in order to restrict and monitor the movement of people in this neighborhood



Figure 83. Blocking off of a through road in the subsector I-8/2 using concrete blocks

Some of the other spatial practices at odds with the official master plan of Islamabad framed within discourses of security include the installation of bombproof barriers on open public spaces next to existing buildings to cordoning off of roads, u-turns, and sidewalks to discourage the flow of vehicular and pedestrian traffic in built-up areas in the planned capital. Residents and business people of the city also routinely encroach on adjacent public spaces under the pretext of improving the safety and security of their homes and businesses. Traversing through the planned modern city of Islamabad once conceived with an efficient gridiron road network is now impossible without encountering roadblocks and security check posts at various points in the city.

There is no single or simple way of conceptualizing spatial exceptions in planned modern contexts. In this dissertation, I have highlighted only a few important features of spaces that do not conform to official planning protocols in Islamabad. Additional research may reveal other important aspects of nonconformity in planned cities. What do all these spatial transformations mean for the status of Islamabad as a planned modernist city? The city of spatial exceptions co-exists with the city of the master plan in a state of temporary present. The city of spatial exceptions also represents the aspect of non-specialist user intervention in the constitution of planned modern urban environments. The role played by CDA officials in allowing and tolerating the city of spatial exceptions in Islamabad also signifies the recognition of spatial exceptions as important elements of modern built environments; as a central feature of contemporary planning paradigms. However, the existence of the city of spatial exceptions does not mean a demise of Islamabad as a planned modern city. We can see in the first fifty year history of Islamabad that while spatial encroachments are either a source of criticism of CDA's failed management, or of opportunity for the residents and business people of the city, Islamabad still maintains its status a modern planned city in both public imagination and everyday experience. Perhaps, it would be more accurate to appreciate Islamabad as a planned city of exceptions.

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