

On judges and judicial system

There is a general outburst in the media and among the women NGOs against the LHC verdict in Mukhtaran Mai case, acquitting the alleged rapists sentenced to death by a sessions court. Most are showing their anguish against the judges of the LHC and the government is planning to go into an appeal to the Supreme Court of Pakistan against the verdict, so said Shaikh Rashid the Information Minister.

People are not only disappointed and showing resentment against the judges of the LHC but also with the judiciary of the country at large. I think this is being a little harsh on the judges who have their own limitations of the law to abide by. This is not a healthy sign and there is a definite need for rehabilitating the confidence of the people in the judiciary of the country. In that it is not only the judges who have to establish and display their conscientious independence but along with them the whole judicial system also needs revamping. Most importantly, the Evidence Act must be revised and brought in conformity with the advanced forensics of the 21st century. There is many a loophole in it allowing its wrongful use by the unethical. Professional witnesses consisting of Police touts and those hovering around the court rooms to be hired and

tutored by the lawyers at the eleventh hour should be tried, convicted and sentenced by the same very court where they had appeared as a false witness. Our courts take pride in quoting a time old adage, "justice is blind", meaning that they just go by the evidence produced before them and not try to find out the truth by themselves. This concept needs changing. A judge is a judge. And it is his onerous duty to find the truth before he either sentences some one or sets him free. What happens now a days is that the prosecution produces witnesses who say A murdered B. Defence produces witnesses saying that A did not. Who so ever presents its case better wins. Judge is just sitting there mutely and at times even being convinced of a fact cannot act by himself! Presentation of the case depends upon :-

How sharp are the opposing lawyers. Normally the prosecution is carried out by the government officials who have not much at stake. Whereas the defence is represented by the sharpest minds available, paid heavily and have their reputation at stake.

How influential is/are the defendant(s) - politically, socially or economically.

I am sorry to say, how fair are the judges involved.

In most cases the alleged murderer is found Not Guilty

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and set free. Now the big questions arise :-

If A had not murdered B, who had? A is set free after the trial and the matter dumped! What happened to B who was murdered?! Where is his/her murderer?

Why was A in the first

other party or under the government pressure for having placed a time limit upon them in certain important cases to gain political mileage.

Who is or would have been responsible for the hanging (murder) of an innocent person? Should not the prosecu-

Law & Justice
After that comes the role of the lawyers. How many refuse to accept the brief of a known criminal or of an accused about whom they have the 'personal' knowledge of having committed the crime? Unfortunately, none. After all there must have been some very fine legal brains behind the rapists of Mukhtaran Mai who got them acquitted from the LHC. Such fine souls openly profess that it is none of their concerns whether their client has committed the offence or not.
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instance charged with an offence that he had not committed? What were the factors leading to his arrest?

What, if A had been found guilty due to the better presentation by the prosecution, though falsely, and hanged? There have been many instances where police have arrested the innocent person(s) either in connivance with the

tion be tried for "Intent to murder" in such cases?

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brains behind the rapists of Mukhtaran Mai who got them acquitted from the LHC. Such fine souls openly profess that it is none of their concerns whether their client has committed the offence or not. They simply want to interpret (read manipulate) the law in getting him/her acquitted. At the time of

types of courts functioning concurrently in the country. Regular judicial courts at each tier of administration, Military Courts, Special Tribunals and Courts, Anti Terrorist Courts, Shariah Courts, Panchayats and Jirgas etc.

Leaving aside Panchayats and Jirgas - who have their own faults and flaws, who does not know that the police or the prosecution have different rates of illegal gratification for producing an accused before which court? Why is it so that the accused prefer to be in one type of court and not the other? Does it not speak of the no-confidence of the accused in one or the other type of court, which is, I believe, an outright negation one of the most fundamental principles of justice that the accused must have full confidence in the judge (the court) trying him/her?

Lastly, Justice delayed is justice denied. Quick and visible justice could go a long way in the reduction of the crime. More judges with good conscience, honest and conscientious lawyers with ability to interpret law honestly and not arrange lengthy postponements by bribing the court clerk. Responsible and God fearing witnesses Independent and God fearing investigation by the prosecution are some of the immediate measures that our judicial system needs badly.