

Crime and punishment

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TWO news items illustrating the state of affairs in the country's judicial domain appeared in The News last Friday. Both speak volumes about the rotten system that has been in place in Pakistan since ages, without any signs of a change for the better.

One of the news items pertains to the hanging of a murderer in Rawalpindi who killed four persons in 1989. The second news item originated from Dera Ghazi Khan where three persons were executed for having deprived their rivals of their precious lives as far back as 1990. It has taken the wheel of justice a period of twelve long years in the first case, and full eleven years in the second, to turn a full cycle. Many governments have come and gone during the intervening period of over a decade. Some of the ruling parties have been in power more than once. They have all been promising the people the provision of justice at their doorsteps, with minimum expense and in the shortest possible time. These news items prove beyond any shadow of doubt that, like most of the rulers' promises, the one pertaining to the provision of justice was also nothing but a hoax that they have been playing against the common man.

What happens when the time lag between the committing of a crime and the execution of punishment for the same is inordinately long? Firstly, the aggrieved party loses confidence in all the agencies involved in the provision of justice. Depending upon the intensity of the impact that this loss of confidence may have on the mind of the members of the aggrieved party, some or all of them may take the law in their own hands and try to settle the scores with the murderers of their near and dear ones. This has been a very common practice in this country. One frequently comes across incidents where a desperate member of the aggrieved party kills an accused person while on his way to or from the courts where the case had been dragging its feet for long. Being in police custody, generally shackled and unarmed, the accused has no means to defend himself. Such incidents have two evil consequences. For one, the accused person may die without having had a full opportunity to present his defence at the trial court. This is tantamount to denial of justice. Again, the tardy dispensation of justice results in the execution of more crime, this time on the part of one or more members of the aggrieved party. Thus, instead of reducing the incidence of crimes in the country, the judicial system becomes instrumental in increasing it further. It also contributes significantly towards an increase in chronic family feuds involving a vicious circle of killings and counter-killings. The net result is an avoidable increase in the workload of the police, the investigating agencies, as well as



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the already over-worked courts.

The second effect of a dilatory judicial system becomes visible when the death sentence awarded to an accused person is finally implemented. In principle, the execution of a murderer should act as a deterrent for all future murderers. In the public mind, the individual to be executed should stand out as an undesirable person whose continued presence in the society is considered dangerous for fellow human beings. The event should arouse sympathies for those unfortunate persons who had lost their lives at the hands of the culprit, and for their surviving kith and kin. However, a

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time lag of over a decade between the occurrence of the offence and the execution of sentence completely neutralises the element of deterrence. Rather than decrying the heinous act of the culprit and displaying sympathy for his victims, the public starts sympathising with the person being sent to the gallows to pay for his evil deed.

Thirdly, the longer a trial lasts, and the greater the time between the awarding of a punishment and the execution of the crime, the greater the chances of miscarriage of justice. The accused gets plenty of time to influence the various agencies concerned with the investigation and trial of the case, and the mitigation of sentence. Whether we like it or not, we cannot avoid admitting the fact that our police as well as the judiciary is liable to fall an easy prey to temptations of all sorts, including unwarranted pressure from political or bureaucratic quarters.

Fourthly, the more the provision of justice is delayed, the more expensive it becomes for the parties concerned. While the moneyed class may be able to afford the luxury of prolonged litigation, it is the poorer segments of society who are hit hard as a result of delayed justice. There is no dearth of cases in this country where search for justice forces them to undergo

heavy debts, sometimes to the extent of mortgaging their own future, as well as the future of their subsequent generations.

Delay in the provision of justice is not a new phenomenon in Pakistan. It is an old malady to which no serious attention has been paid so far by the concerned authorities. No wonder, like all malignant diseases, this particular illness has also attained alarming dimensions over a period of time. Today it stands immune to all cosmetic remedial measures beyond which no government has the vision to go. People had pinned high hopes on the present military government that had declared the provision of speedy justice as one of its seven objectives after assumption of power. Unfortunately, things seem to have gone back to square one after the initial enthusiasm to show some tangible results wore down within a short time. People were impressed by the creation of a Chief Justices Committee and the periodical review of all pending cases in the country's courts personally by the Chief Justice himself, with his emphatic directives to all concerned to expedite the disposal of overly delayed cases. And yet, it takes eleven to twelve years for a murderer to be hanged in this country. If we are content to call that "speedy justice", God alone knows what will be the state of affairs if justice is not all that speedy!

It is not very difficult to find the reasons that normally lead to excessive delay in the provision of justice. Some of these can be counted in one breath. These are: slow and unscientific methods of investigation accompanied by the lack of urgency on the part of the prosecution, dilatory tactics employed by one of the parties to the case, greedy lawyers who accept more cases that they can conveniently handle within a reasonably short period, non-availability of witnesses at successive hearings, absence of judges on the date of hearing due to other unforeseen preoccupations, the system of long summer vacations for judges, the continued use of outdated systems and obsolete procedures for the recording of court proceedings and for record keeping, efficiency resistant working conditions in the courts, for judges, advocates, witnesses, and parties to a case, inadequate number of authorised judges as compared to the high incidence of crime in the country, and so on. A comprehensive, long-term plan has got to be made to overcome these problems, with necessary funds placed at the disposal of the Chief Justice to complete the task within a laid down time frame. If a beginning is made in that direction, a day will soon come when it will not take more than a decade for a murderer to be sent to the gallows for his heinous crime.