

## **AN URGE – AN APPEAL**

### **'CHEHRAY NAHIN NIZAM KO BADLO':** **[Change the system NOT faces]**

*The below essay was published in media in August 2013 –  
but it is correct even after two years  
In Pakistan two years are not enough to give you true smiles  
Even 20 years are not sufficient – think for 200 years*

Just a day before, Pakistan's Federal Interior Minister Nisar Ali Khan, in his press conference made a hint to constitute a Joint Intelligence Body to deal with the terrorism menace effectively. Good job - but what the new body will perform. Some intelligence directorates would work together to share the information collected about the terrorists, suicide bombers and hardened criminals etc. Consider the next step now.

The intelligence would be passed on to the Rangers or Police or FC or BC or FIA or alike department to conduct raids, arrest the terrorists with recovery of their suicidal jackets, rocket launchers, grenades, Kalashnikovs and bags of bullets. Consider the next step now.

The police would take arrested persons on remand; send them to judicial lock-ups, then to jails; the police case would remain under investigation for months and years and the arrested lot would be released on bail by the respective courts due to LACK OF EVIDENCE or FAULTY EVIDENCE.

The police mostly consider it better to sell out the culprits for little money or fear of TERRORIST GROUP behind them or on instructions of their political bosses. If police stands, the courts would let them off again due to broken EVIDENCE.

We all Pakistanis, as a nation, are fond of STATUS QUO. We are all DISCUSSION loving people; see our TV live programs, news editorial pages and even our Senate, National & Provincial Assemblies – all are the discussions and debating FORUMS to keep that status quo in place.

Since the last 14 years, how many terrorist events and suicide bombings

The Living History of Pakistan VOL-I

have been reported; thousands of people died, burnt or mutilated – but NOT A SINGLE CONVICTION.

Reasons – police officer's evidence is NOT ADMISSIBLE. There may be more countries like India or BD where this 160 years old law prevails but there the terrorism menace is negligible. The Pakistani magistrate is made to record statement under Sec 164 CrPC but even then 99.99% cases end up in zero convictions.

Not a SINGLE MALE has been convicted under Haddood Laws since 1979; tens of women have been '*sangsarred*' [death by stoning].

CCTV recordings, camera photographs, TV footages, DNA tests, medical opinions, forensic reports, finger prints AND all expert analysis are considered SECONDRY EVIDENCE in Pakistani laws – is there any other country in the world which keeps such nasty law.

The same drama is being repeated daily and in all places of Pakistan where the terrorist attack occurs. Net result comes that police, Rangers, FIA, IB, ISI and other concerned departments may be wrong but MORE FAULT LIES WITH LAW & COURTS.

See the following media reports [covering very limited time] for a while:

***On 12<sup>th</sup> March 2013;*** the media, both print and electronic, told the nation that Sindh Rangers apprehended more than 460 suspects and recovered hundreds of weapons by conducting **15 major operations in Karachi and 96 raids during the past three months.**

Ranger's Col Shafiq Niazi said - those taken into custody included 49 major targeted killers besides extortionists affiliated with various proscribed outfits as well as political parties. During the operations against criminals; 7 of the Ranger's men had been martyred and 14 wounded.

***On 17<sup>th</sup> June 2013;*** the Rawalpindi police saved the city from a major terrorist attack by seizing an explosives laden car and nabbing two terrorists. SSP Sikandar Hayat informed the media that the police stopped a Toyota Corolla at the Naseerabad picket. The two young men in the car did not stop and tried to speedily exit the scene. The police then intercepted them successfully, recovering two suicide jackets from their car's CNG cylinder, 20 bombs, 4 Kalashnikovs, 4 pistols and a huge cache of bullets from them. The criminals were arrested and investigated; the terrorists confessed during preliminary questioning that they belonged to Miranshah and were planning on targeting Rawalpindi. They were shifted to an undisclosed location by the police.

**On 5<sup>th</sup> July 2013;** eleven suspects, including a suicide bomber, were arrested during several hours search operation in Karachi's Manghopir area by Rangers and police. During the raid, Rangers officers seized a huge amount of arms, a few motorcycles, a monitor, mobile phones and threatening pamphlets. According to initial investigations, the suicide bomber had reached Karachi from North Waziristan a day before.

Around 1,500 Rangers officers took part in that operation, which was conducted on a tip off.

**On 2<sup>nd</sup> August 2013;** Khyber PK's Lakki PS held two men Gul Wahab and Imranullah on main bus stand in Lakki city and recovered a Kalashnikov, a Kalikow and 129 bullets from them. Separately, another police party of Tajori PS arrested a man Amanullah in Adamzai market and seized a Kalashnikov rifle and 20 rounds from him. Police registered separate cases against the arrested persons under relevant section of law.

What else Pakistanis expect from their police or Rangers. What else the courts need to get convinced. In the above cases Police or Ranger's evidence would not be accepted under Pakistani LAW; so from where the INDEPENDENT WITNESSES would come up. Courts are weak – Laws are weak. After a week, all were bailed out Scot free. The terrorists and miscreants know it so the whole Pakistan is suffering since twenty years and would continue to suffer; one can apprehend.

The Assemblies only convene their sessions for friendly discussions or question - answers; no law making ever done in right directions; long policy statements and media briefings – nothing beyond.

**Former FIA's Chief, Tariq Khosa,** in his essay **of 6<sup>th</sup> August 2013** in print media have suggested following measures.

- Inter-agency intelligence coordination between the federal and provincial institutions should be notified with well-defined terms of reference.
- A counter-terrorism joint task force must be launched with selected ones from the Anti-Terrorism Force of the police and SSG of the military.
- Joint Interrogation Teams (JIT) should be notified by the home department.
- Provincial monitoring committee should be constituted under the law ministers.
- All militants and undertrial accused should be held in high-security prisons.

**BUT IN ADDITION** the Pakistani nation needs to stand up for SUMMARY JUSTICE. The 173 years old Police Act, 160 years old PPC, CrPC, Evidence Act [though little reformed in Gen Zia's times negatively] have to go now. The British had given you these laws but are not practised even in their own territories – abandoned since long.

PML(N) should have considered the new legislation in their first parliamentary session. 19th century evidence act and court procedures, as we still see in Pakistan would not work now. See how many terrorist cases have been worked out or gone through successful trials in our courts; if a single mass killer has been punished during the last 14 years - NO. The people arrested and jailed are then 'facilitated' to flee away through jail breaks - see the Bannu & DIK jail events.

How Iran, Saudi Arabia, UK or other developed states have dealt with such menace. Simply that if a killer is identified, he is taken through **summary trial procedures** [*no gimmicks of 150 years old evidence requirements like in Pakistan – waiting for the eye witnesses*], and next week he is hanged in the main square. Whether Islamic Laws or English Laws; both equally effective. Judge has to convince himself and decide about the culprit - not the procedural lacunas.

What a mockery of Pakistani social values; daily TV news tell that gangs with illicit arms captured, bomb making devices recovered but the TV video recording is not accepted in court. CCTV footage is there but no punishments; what else a judge should need to deliver justice.

Why all this fuss - Change the laws please. Shelve the Pakistani evidence act and court's procedural code. Select the TOP quality judges in all respects; law knowing & God fearing with courageous backgrounds [even one in a district will be enough]; let them accept all evidence what appeals them to decide, no flaws in policeman's arrest process or recording statements etc should be able to take away the killer free.

Give those judges new law to decide through summary procedures. Where there is TV or CCTV footage, should be used to send the killer to gallows straightaway. Appeal should be decided in three days and execution in a week in open. There are more than 3000 mercy petitions with the Presidency, some pending decisions since 15 years - is it justice and is it Islamic Republic by the way?

Radical changes are needed now; otherwise let the killings be on. They are separatists, nationalists, terrorists or sectarian activists or what else

The Living History of Pakistan VOL-I

- when someone knows that if '*I kill the other, I'll be immediately taken to gallows*' [when arrested]' - the things will go different.

Since long killers in Pakistan know that the courts and laws are favouring them, and lawyers are there to save them through EVIDENCE gimmicks - the appeals - then mercy petitions - till then they would otherwise be out through jail breaks.

Books can be written and months can be consumed on this debate but **the only solution left** that we have to go 180 angle to the famous maxim [*that 'don't punish an innocent - 1000s actuals can be freed under benefits of doubt'*]. But think; TV & CCTV footage and camera eyes do not leave any doubt. Be radical - change the laws and procedures please; much will be OK.

Families of dying officers from Police and Rangers also demand JUSTICE; it should not only be the prerogative of criminals whom the courts set free daily under this maxim.

The Pakistani nation should rise up now **for 'CHEHRAY NAHIN NIZAM KO BADLO'** – where is Imran Khan's high trumpeted shouts for INSAF. He can at least bring radical changes on above lines in his Khyber PK through provincial legislation.

The Supreme Court has already settled in its own verdict cited as 2012 SCMR 1258, in these words, "**Justice at no cost and at no stage should be allowed to fall prey to the procedural technicalities, which may be ignored if they tend to create hurdle in the way of justice**". But *Hathi ke dant khane ke aur Dikhane ke aur*.

SC itself is confined to 'Contempt Notices', it should have raised itself high. In general we follow the English Law, but in that originating country [UK], the last Contempt case was heard in 1946 [for details **Judges & Generals in Pakistan Vol -I & Vol -II** are referred]

MNAs & MPAs are there only to deal with RRP's and Nandipurs. But the SC should have worked out summary procedures and summary courts to deal with the above exemplified cases of Rangers raids. If you do not believe police – OK; believe Rangers, TV eyes & media at least; the persons arrested with illicit lethal arms should have been hanged till now.

Have a sweet dish after the meal – it is going to be another sunset in Pakistan now.

{published at [pkhope.com](http://pkhope.com) on  
16<sup>th</sup> August 2013}

Roedad Khan had also agreed, more or less, [***the News*** dated **12<sup>th</sup> December 2013** is referred] through an illustration that:

*'.....one Marshall Court in the US. Marshall made the Supreme Court 'a driving force' for change. Marshall employed the law as a means to attain the political and economic ends that the people favoured. The judge was to use his power to mould the law in accordance with the needs of the American people. Marshall moulded his decisions to accord with the "felt necessities of the time". For Marshall, the constitution, like the law, was a tool to serve the needs of the nation.'*

Will some judge rise from Pakistani soils to do the same like job [***given the parliament is impotent***].

"Change happens by listening and then starting a dialogue with the people who are doing something you don't believe is right." - Jane Goodall

.....So the goal should be to stay open-minded, be comfortable with being wrong. Broaden your horizon with new areas of interest. It is more beneficial to you to open your mind and consider a different perspective.

**Abraham Lincoln** said: "*I walk slowly, but I never walk backward.*" So, please keep moving forward.

Inam R Sehri

3<sup>rd</sup> November 2015