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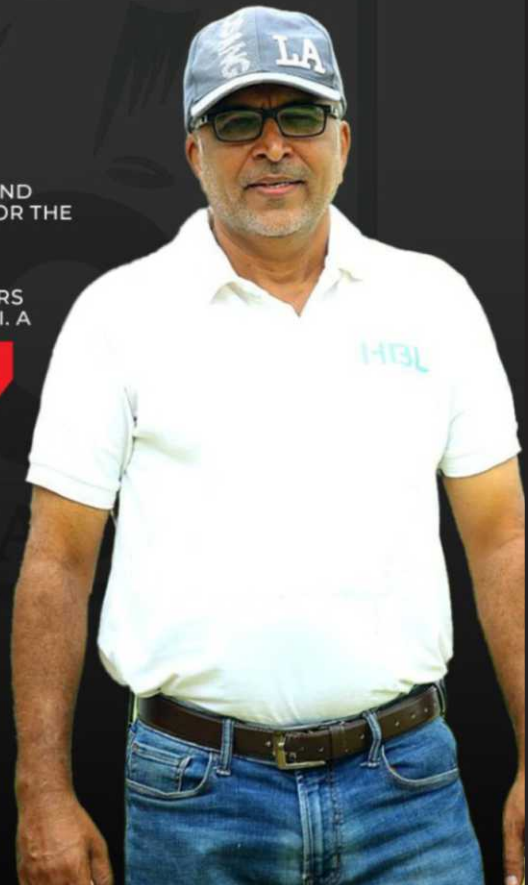


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HIGHLIGHTS



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The Hollowing of Law: Justice Shah at Yale

Justice (R) Syed Mansoor Ali Shah addresses Yale Law School's Bernstein Symposium. He powerfully warned how modern autocracy operates behind a constitutional façade to quietly capture judiciaries, urging active defence of democratic foundations.

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The FCC rules underage marriage remains legally effective.

Editor's Note

The past month has presented a profound challenge to the global legal order. The United States and Israeli aggression against Iran stand as a stark violation of international law and established norms.

This illegal war has triggered dangerous spillover effects across the Middle East, wreaking a devastating humanitarian toll, particularly amongst civilians in Iran and Lebanon. Beyond the tragic loss of human life, the conflict has severely disrupted international geopolitical cooperation, world trade, and the global economy.

Amidst this volatility, Pakistan has actively stepped into the breach, executing its level best to bring the warring parties to the negotiating table in Islamabad. While these efforts have not yet secured a permanent settlement, they have successfully brokered a crucial temporary truce. As Dr Jo Chitlik notes in our lead analysis, 'Why Pakistan?', this measured diplomatic engagement demonstrates Islamabad's strategic recalibration towards mediation and its growing credibility as a neutral convener.

This month's issue also examines the subtle erosion of domestic legal frameworks. In a compelling piece based on his Yale keynote, Justice (R) Syed Mansoor Ali Shah explores 'The Hollowing of Law', warning how modern authoritarianism preserves a constitutional façade whilst neutralising democratic accountability through the capture of the judiciary.

This systemic vulnerability is echoed in our broader rights coverage. Shizza Khan investigates 'The Surveillance Nexus', detailing how surveillance capitalism and state data extraction are converging to erode fundamental freedoms. Furthermore, Hooran Aziz unpacks the global refugee crisis in 'Borders Versus Humanity', exposing how states increasingly exploit legal loopholes to bypass their humanitarian duties.

Turning to commercial matters, *The Legal International* explores the domestic evolution of insolvency practice. 'Judicial Rescue Shift' highlights how Pakistani courts are actively encouraging corporate restructuring over liquidation, despite the absence of a unified statutory framework.

Finally, our other stories delve into the intersection of technology, conflict, and justice. Fajar Mahmood asks 'Who Takes the Blame?' regarding artificial intelligence accountability, whilst Temia Iqbal evaluates 'The Digital Gavel'. This month's issue also features Tayyaba Nadeem's 'The Rule of Data,' Areeba Rashid's timely 'Shadow War Rules,' and A Hussain's criminal law analysis, 'No Room for Doubt'.

We hope this May edition provides rigorous insight into the pressing legal challenges defining our era.

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Bullet For Justice

The daily administration of justice in Karachi has acquired a decidedly chilling undercurrent, according to the media reports.

During a routine cleaning of his chamber, District and Sessions Judge Suhail Jabbar Malik, who presently serves as Chairman of the Appellate Tribunal Council of Local Government, was the recipient of a rather grim parcel. Labourers shifting office furniture chanced upon a sealed envelope. Inside lay a handwritten note alongside a 9mm bullet.

How the envelope arrived remains a mystery, eluding both the labourers and the office peon. Consequently, Javed Iqbal, the judge's private secretary, swiftly lodged a formal complaint at the Aram police station under the Anti-Terrorism Act, prompting an FIR.

This is not an isolated brush with peril, according to the *Daily Express Tribune*. Judge Malik, formerly a member of the Anti-Terrorism Court, possesses a formidable history of presiding over terror financing trials, having issued death sentences to members of banned organisations in Sindh.

Furthermore, security personnel previously discovered a knife within his court. The episode vividly underscores the profound, persistent risks burdening the local judiciary, who continually handle highly sensitive legal matters amidst these severe modern challenges.

Restraint Without Reason

The European Court of Human Rights has delivered a piercing rebuke to Denmark, reminding us that even within the walls of a psychiatric ward, human dignity is not negotiable.

The case of Abdeelhadi Abbas Makki, a Danish national living with paranoid schizophrenia, reads like a claustrophobic nightmare. Makki was strapped to a restraint bed. He remained there for thirteen days, granted only thirty minutes of daily respite, under police escort, to shower and smoke.

The ruling highlights the delicate balance between safety and liberty, asserting that medical necessity cannot be used as an indefinite cloak for the suspension of a person's fundamental rights. Even in crisis, the law remains.

From Valour to the Yard

A decorated soldier faces a criminal trial for murder following his failed civil defamation suit



The descent from national hero to remanded prisoner was starkly illuminated when Ben Roberts-Smith, Australia's most decorated former soldier, arrived at Silverwater Correctional Centre.

Arrested by Australian Federal Police officers, the Victoria Cross recipient faces five charges of the war crime of murder. Police allege that between 2009 and 2012, he intentionally killed or procured the deaths of unarmed Afghans under the control of the Australian force.

This historic, sobering reckoning follows his catastrophic legal gambit. In a landmark 2023 defamation suit against journalists Nick McKenzie and Chris Masters, Justice Anthony Besanko concluded on the balance of probabilities that Roberts-Smith was complicit in the murder of four unarmed men. Having exhausted his civil appeals, he enters a more rigorous judicial theatre, where the threshold shifts to the exacting standard of beyond reasonable doubt. As he spends the night behind bars on remand, a nation must finally reconcile the bronze of his distinguished valour with the darkest shadows of modern war.

Ketamine Queen Sentenced



Jasveen Sangha, 42, with a master's degree and a penchant for what prosecutors termed "greed, glamour, and access," stood before a US judge on April 8, and traded her sobriquet, the "Ketamine Queen," for a 15-year prison sentence.

Sangha pleaded guilty to supplying the fatal vials of the

surgical anaesthetic that claimed the life of the *Friends* actor Matthew Perry in October 2023.

Though she faced up to sixty-five years for dealing drugs from her North Hollywood enclave, and continuing even after learning her wares had killed both Perry and another man in 2019, the sentence marks the harshest reckoning in a sweeping federal probe. Four others, including two doctors and Perry's assistant, also took plea deals for feeding his tragic addiction.

Her high-profile defence argued profound remorse and recent sobriety merited time served.



Wife Takes All

Dubai Civil Court dismissed a Dh5.8 million lawsuit brought by a man against his wife after she used a power of attorney to transfer and sell their family home.

The husband alleged his wife maliciously exploited a broad mandate to seize the property while he stayed abroad for business. Seeking compensation for both material and moral harm, he claimed blatant fraud and a severe breach of trust. The bitter dispute centred on a document the husband willingly signed during their marriage, granting his wife sweeping authority to manage his affairs.

Evidence showed the text was unequivocally clear. It explicitly permitted the wife to buy assets, sell property, and gift items to herself without further consultation.

Records from the Dubai Land Department confirmed the wife lawfully notarised a gift contract to move the title directly into her name. She sold the house two years later on the open market for Dh5 million.

In her robust defence, the wife submitted email correspondence where the husband clearly stated his intention to gift her the property. The court accepted these documented emails as valid, undeniable evidence of his prior consent.

Judges ruled that the scope of a power of attorney is strictly defined by its specific wording. Because the document expressly allowed self-gifting, the wife acted entirely within her legal rights.

The court noted that gifts between spouses are irrevocable under law once registration is complete. To establish civil liability, the plaintiff had to prove fault, damage, and causation. Since the wife meticulously followed the written authority, no unlawful act occurred.

The judges rejected the claim in full. The husband must now pay all court fees, expenses, and Dh1,000 in legal costs. It is a harsh, expensive lesson in the absolute finality of the fine print. Case closed.

Love fades, but the legal weight of a signature lasts forever, leaving the claimant with nothing but hefty legal bills and profound regret.

Ruling on Provincial Mining Taxes Challenged

Federation says the FCC ruling on mining levies infringes upon exclusive federal jurisdiction



In a surprise move, Pakistan's Federal government has filed a review petition against the ruling of the Federal Constitutional Court (FCC) that gave Balochistan Assembly, on December 11, last year, a green light to levy excise duties on minerals.

This is not a minor squabble, believe legal experts who contemplate it as a high-stakes battle for the soul of federal authority in the post-18th Amendment era.

The petition, drafted by the Law Ministry, takes aim at the judgement authored by Justice Aamer Farooq of the FCC. The Federation's stance is ostensibly straight forward: the court's interpretation of provincial competence is a clear deviation from Article 143. By upholding the Balochistan Finance Act of 2020, the FCC has disturbed the "delicate architecture" of legislative distribution. In short, the government argues the province has overstepped its bounds and encroached upon a strictly federal domain, threatening the supremacy that keeps the nation together.

What is riling the federal authorities is the court's reliance on the "double aspect" doctrine. The review contends that the FCC "forcibly injected" this concept into the 1967 Act to justify provincial overreach. From the Federation's perspective, "duties of excise" are a matter of exclusive federal jurisdiction under Entry 44. Allowing this interpretation to subsist would invite a constitutional conundrum, where provincial legislatures override federal supremacy by manufacturing "double aspects" from federal legislation, creating a messy legal free-for-all nationwide.

While the 18th Amendment bolstered provincial autonomy, the Fed argues the ruling stretches empowerment to a breaking point. The petition highlights that the court's reading of the 1967 Act's preamble was misplaced, disjoining the federal objective of imposing duty from the provincial goal of labour welfare. This "carte blanche" granted to Balochistan threatens to render Article 143 redundant, blurring lines between federal and provincial powers until the hierarchy itself collapses under the weight of provincial greed.

Through this petition, the government has sounded an alarm. It maintains that only the federal legislature possesses extra-territorial authority for trans-provincial matters. If the ruling stands, the constitutional balance is at risk, leaving the federation toothless against provincial legislative creep. The legal compass, they insist, must be recalibrated before the federal architecture is dismantled. This challenge is a critical attempt to stop a provincial power grab that could render the central authority entirely irrelevant.



The Wrong Man

Paul Quinn's appallingly overdue conviction for a savage 2003 rape ruthlessly exposes the rotten core of Britain's broken justice system

In the sprawling annals of British criminal jurisprudence, few tales are as grimly Dickensian, or as devastatingly modern, as the case of Paul Quinn and Andrew Malkinson.

On April 17, 2026, the older Quinn sat with his head bowed in a Manchester courtroom, finally convicted of a brutal 2003 rape in Greater Manchester. It was a moment of late retribution, yet the gavel's strike echoed with a hollow, tragic resonance. For seventeen torturous years, Malkinson, a man with no forensic link to the crime whatsoever, had languished behind bars for Quinn's savage offence.

This is not merely a tale of a delayed verdict; it is an autopsy of institutional hubris. The true horror of this saga lies not just in the crime itself, but in the bureaucratic blindness that followed. Police possessed an unidentified DNA sample from the victim's clothing as early as 2007, yet inexplicably chose not to pursue it.

Quinn, a convicted sex offender who lived mere miles from the scene, was left to walk the streets unbothered, free to allegedly commit further crimes. Instead, detectives stubbornly fixated on Malkinson, a convenient patsy trapped in an unforgiving, merciless machine.

To observe the British judicial process here is to witness a colossal miscarriage of the justice system. The state demanded finality over truth, burying exonerating evidence beneath a mountain of defensive paperwork and administrative apathy.

Malkinson begged for his life back, repeatedly petitioning appellate courts from his cell. He was continually rebuffed by a judiciary far more invested in protecting its own perceived infallibility than in confronting its catastrophic, terrible errors. It was an appalling dereliction of duty.

When a brilliant, fresh forensic analysis finally matched Quinn to the crime scene in 2022, the revelation did not feel like a triumphant breakthrough. Rather, it felt like a damning indictment of an establishment stubbornly refusing to look in the mirror.

Now, local police have offered unreserved apologies, but cheap apologies cannot unspool time. They cannot restore Malkinson's lost decades, nor erase the compounding trauma inflicted upon the victim. Quinn's conviction serves less as a testament to the perseverance of British law, and far more as a bleak, unrelenting reminder of sheer institutional ruin that defies all belief.

Ten Rupee Trial

After a quarter of a century, an Indian railway clerk wrongfully dismissed over ten rupees finally secures his rightful vindication

In the labyrinthine corridors of India's judicial system, the cogs of justice grind with notorious deliberation, sometimes pausing entirely over the most trivial sums. On April 11, 2026, a Division Bench of Madhya Pradesh High Court drew the curtain on an extraordinary twenty-five-year legal saga that began with a mere ten rupees, highlighting the merciless pace of administrative vindication.

The case centred on Narayan Nair, a former booking clerk stationed at the bustling Shridham Station ticket counter. In January 2002, Nair's life was irrevocably altered when a passenger alleged being short-changed by ten rupees, receiving Rs.21 in change instead of Rs.31. A railway vigilance team descended upon the scene. Although they initially claimed a massive discrepancy of Rs.778, they ultimately found a paltry excess of just seven rupees.

Furthermore, Nair maintained that the personal funds found in his possession were intended for his wife's medicine. He vehemently denied any knowledge of a rogue bundle of tickets discovered nearby, attributing the passenger's complaint to the sheer chaos of a massive crowd.

Nevertheless, the bureaucratic machinery lurched blindly forward. Nair was suspended, subjected to a disciplinary inquiry stripped of a fair hearing, and summarily dismissed from service in March 2002. Refusing to accept this Kafkaesque fate, he embarked upon a Sisyphean quest for exoneration. His initial appeal to the Senior Divisional Railway Manager proved entirely fruitless, propelling him towards the Central Administrative Tribunal. By July 2004, the Tribunal ruled in his favour, cancelling the draconian dismissal.

However, rather than conceding, the Indian Railways entrenched themselves, dragging the matter to the High Court the following year. Now, over two decades later, Justices Vivek Rusia and Pradeep Mittal have unequivocally condemned the vigilance action as wrongful, illegal, and contrary to established procedure.

By restoring Nair's dignity and full-service benefits, the bench has offered a poignant indictment of administrative overreach, proving that whilst justice may be dreadfully delayed, truth can occasionally survive the long, arduous wait. The ruling finally grants the aging clerk the profound peace of mind he was so heartlessly denied throughout his long, undeserved professional exile.

The Sacred Contract



Constitution Day in Pakistan, celebrated on April 10, marks the historic occasion in 1973 when the nation's representatives unanimously adopted the supreme law of the land. This day serves as a poignant reminder of the country's commitment to a parliamentary democratic system and the establishment of a robust institutional framework.

Prime Minister Shehbaz Sharif, in his message for the 2026 commemorations, paid a profound tribute to the visionaries who framed the document, describing it as a symbol of national unity and cohesion. He emphasised that the Constitution remains a sacred contract that binds the state and its citizens through a defined set of moral and legal responsibilities.

Highlighting its role as the ultimate guardian of human rights, the Prime Minister reiterated that the document ensures justice and provides a legal framework for the welfare of all federating units. The Prime Minister expressed gratitude for the dignity the Constitution bestows upon the nation, guiding its journey toward a stable and prosperous future.

IMAGE: © THE LEGAL



Today (April 10), we are celebrating the approval of the Constitution of Pakistan with a spirit of national pride... We bow our heads in gratitude to Almighty Allah for the honour and dignity bestowed upon Pakistan. Pakistan holding its head high among the nations of the world, will God willing, continue its journey of progress and prosperity.



Shadow War Rules

Law struggles to keep pace with deniable cyber conflict

International law presumes that harmful acts can be traced, attributed and assessed against clear thresholds.



by **Areeba Rashid**
Rawalpindi



IMAGE: © THE LEGAL

Cyber warfare has slipped beneath the threshold of war while reshaping it. States now project power through code, not tanks, yet the law meant to restrain them remains rooted in a physical world it no longer fully understands.

The expansion of digital networks has created a theatre of operations that is at once borderless and deeply embedded in national infrastructure. Power grids, financial systems and communications networks are now targets as much as they are tools. Yet the legal frameworks governing state conduct were built around visible force, territorial intrusion and identifiable actors. Cyber operations challenge each of those assumptions with quiet efficiency.

At the centre of this tension lies a structural mismatch. International law presumes that harmful acts can be traced, attributed and assessed against clear thresholds. Cyber operations are designed to defeat precisely those processes. Sophisticated attacks move through layers of compromised systems, often across multiple jurisdictions, masking their origins and muddying the evidential trail. What emerges is not simply a technical problem but a legal one. Without reliable attribution, the foundation of state responsibility begins to erode.

Attribution has therefore become the defining fault line in cybersecurity law. It is not enough to suspect a state's involvement. Legal responsibility requires proof

that meets accepted standards, yet those standards were never designed for an environment of engineered anonymity. Technical analysts may identify patterns, infrastructure or tactics linked to known actors, but translating those findings into legally persuasive evidence is fraught with difficulty. The gap between technical confidence and legal certainty is wide, and states exploit it.

This gap is compounded by deliberate strategy. Governments rarely conduct cyber operations directly. Instead, they rely on proxy actors, including private hacking groups or loosely affiliated criminal networks. These relationships are often opaque, informal and deniable by design. The result is a spectrum of state involvement

that resists binary classification. A government may encourage, tolerate or quietly direct operations without leaving a traceable chain of command. In such cases, the question is not whether the state is involved, but whether its involvement can be proven.

Existing legal doctrine struggles to accommodate this reality. The traditional test for attributing conduct to a state requires a level of control that is difficult to demonstrate in cyberspace. Proving that a government directed specific operations demands evidence that is rarely accessible. A broader standard, which considers overall control or support, offers more flexibility but still depends on demonstrating a relationship that cyber actors are adept at concealing. Neither approach fully captures the fluid and layered nature of modern cyber operations.

The evidentiary challenge is not merely technical. It is also political. States that possess strong intelligence linking an attack to a particular actor often hesitate to disclose it. Revealing sources or methods risks undermining intelligence capabilities. As a result, governments may choose strategic ambiguity over legal clarity. Public accusations are made selectively, often accompanied by limited evidence, while the full picture remains classified. This practice weakens the credibility of attribution and reinforces the perception that cyber accountability is shaped as much by geopolitics as by law.

The framework for assessing state responsibility does exist, at least in formal terms. The established principles hold that a state is responsible for conduct attributable to it that breaches an international obligation. These principles extend to acts carried out by entities acting under state direction or control. In theory, they provide a pathway for addressing cyber operations. In practice, their application is constrained by the same evidential and structural challenges that define the domain.

Legal scholars have increasingly argued for a more nuanced approach. Rather than treating state responsibility as a binary condition, they

propose a graduated model that reflects varying degrees of involvement. Under such a model, responsibility would extend across a spectrum, from active prevention of private cyber activity to full integration of cyber operations within state policy. This approach aligns more closely with operational realities, acknowledging that states may be complicit without exercising direct control. It also raises difficult questions about where to draw legal boundaries and how to calibrate responses.

The question of when a cyber operation constitutes a use of force adds another layer of complexity. Traditional definitions focus on physical damage or kinetic impact. Cyber operations, by contrast, may disrupt systems, manipulate data or degrade infrastructure without causing immediate physical destruction. Some analysts favour an effects-based approach, arguing that the consequences of an operation should determine its legal character. If a cyberattack produces outcomes comparable to a conventional strike, it should be treated as such. This reasoning offers a pragmatic path forward but introduces uncertainty. Assessing equivalence is inherently subjective, and states may interpret thresholds in ways that suit their interests.

Efforts to clarify these issues have been cautious and incremental. International discussions have affirmed that existing law applies to cyberspace, but consensus often stops there. Key questions about attribution standards, evidentiary requirements and thresholds for force remain unresolved. Regional initiatives have sought to fill some gaps, particularly in the area of criminal cooperation, but their reach is limited and dependent on participation. Diplomatic tools have also evolved, allowing coordinated responses to cyber incidents, yet these mechanisms operate more as instruments of policy than as expressions of settled law.

What emerges is a system that is present but under strain. International law has not been displaced by cyber conflict, but it has been stretched beyond its original design. Its concepts

remain relevant, yet their application is uneven and often contested. The result is a form of legal ambiguity that benefits those willing to operate in its margins.

This ambiguity carries risks. Without clear standards, states may misjudge the intent or origin of cyber operations, increasing the potential for escalation. The absence of reliable attribution mechanisms undermines deterrence, as actors calculate that the likelihood of accountability is low. At the same time, the selective disclosure of evidence erodes trust, making cooperative responses more difficult. In this environment, law struggles to perform its stabilising function.

Addressing these challenges does not necessarily require a complete overhaul of existing frameworks. Much can be achieved through refinement and clarification. Developing shared standards for attribution, even if not legally binding, would mark a significant step. Enhancing mechanisms for evidence sharing, perhaps through trusted international bodies, could narrow the gap between technical findings and legal proof. Clarifying thresholds for the use of force in cyber contexts would also reduce uncertainty, though achieving consensus on this point will be difficult.

The effectiveness of any legal framework depends on political will. States must be prepared to accept constraints on their own behaviour if they expect others to do the same. In the cyber domain, where strategic advantage often lies in ambiguity, that is a demanding proposition. Yet without such commitment, the law will continue to lag behind practice, offering principles without enforcement.

Cyber conflict is not an aberration but a defining feature of modern statecraft. It operates in the shadows, below the level of open warfare, but its consequences are real and growing. The challenge for international law is not to catch up entirely, which may be impossible, but to remain relevant. That requires adaptation, precision and, above all, a willingness to confront the uncomfortable reality that the rules of conflict are being rewritten in code.

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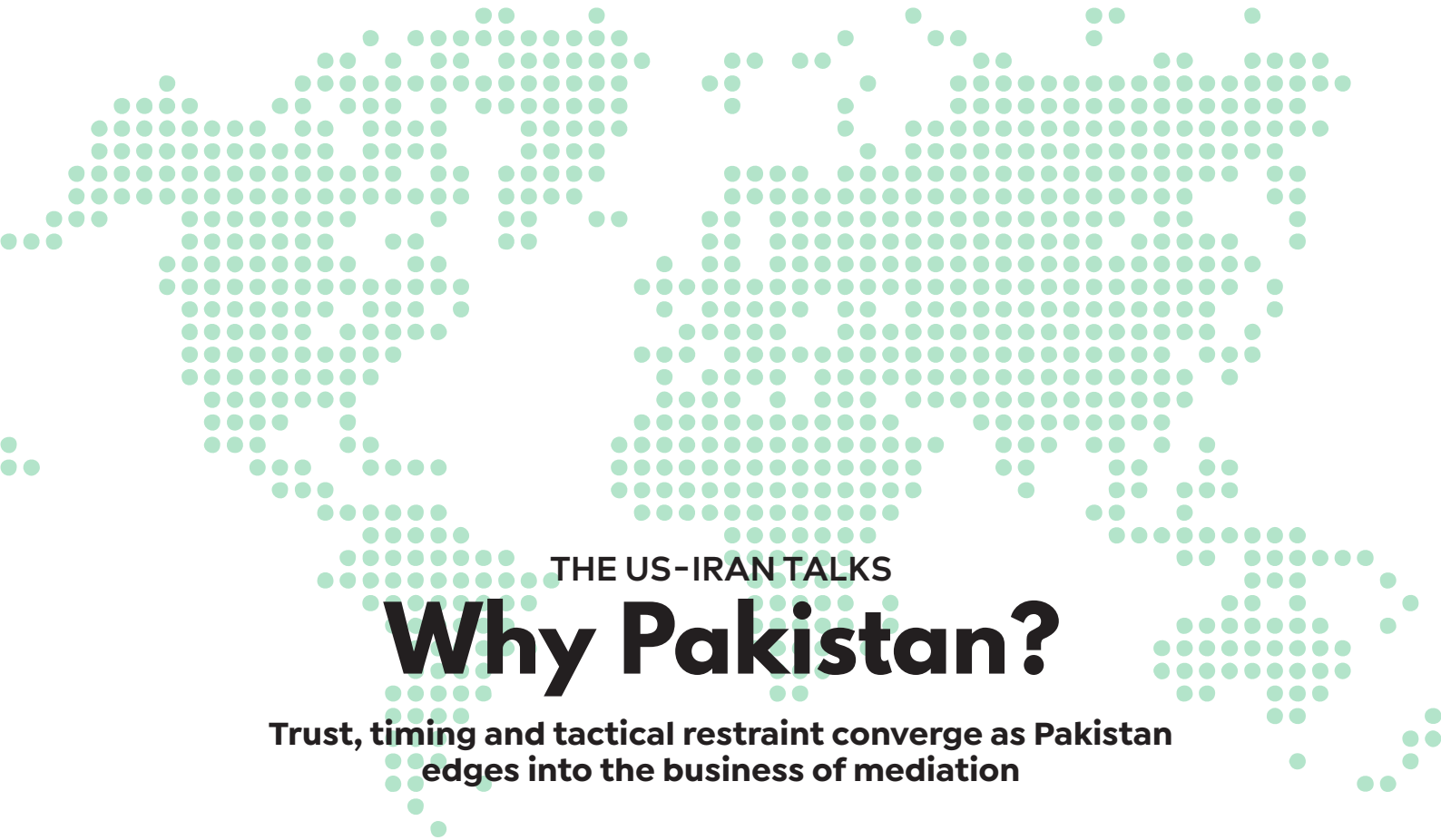


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THE US-IRAN TALKS

Why Pakistan?

Trust, timing and tactical restraint converge as Pakistan edges into the business of mediation



IMAGE: © THE LEGAL



by **Dr Jo. Chitlik**
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Fulbright Specialist & Senior Fellow at Emory Law's Center for the Study of Law & Religion. Professor ADR & Negotiations.

Dr Jo Chitlik begins with a deceptively simple question: why Pakistan? As Washington and Tehran edge back to the negotiating table, the choice of Islamabad as host cuts against familiar narratives of fragility and volatility. Yet the writer insists this moment is less anomaly than signal, a glimpse of a state recalibrating its place in a crowded diplomatic field.

Chitlik traces how Pakistan, long framed through the prism of security crises, is quietly testing a different register: restraint over rhetoric, facilitation over grandstanding. The April talks are not dressed up as a breakthrough, nor as proof of arrival. Instead, they are presented as a careful opening move in a longer game, one in which influence is accrued incrementally, through credibility rather than spectacle.

There is a measured scepticism running through the analysis. Hosting is not mediating, and proximity to power is not the same as wielding it. Pakistan's ambitions, Chitlik suggests, remain embryonic, contingent on repetition and reliability across disputes that differ in scale, actors and stakes.

Still, the choice of Islamabad matters. It hints at shifting diplomatic geographies, where middle powers seek relevance not by force, but by offering a table, and the discipline to keep it steady.

Historically, Pakistan's global image has been shaped in large part by its internal struggles with militancy and terrorism. These challenges, [not what Pakistan has done](#) or continues to do to overcome them, often overshadowed its diplomatic initiatives, economic growth, and constrain its ability to project itself as a neutral convener. However, the events of 2025 India-Pakistan crisis marked a [turning point](#) in how Pakistan sought to take control of its countries own narrative and reinvent itself on the global stage.

During the crisis, the world carefully watched as two nuclear powers, chose very different paths in handling their dispute. Even when the dispute escalated to airstrikes, Pakistan remained poised, exercising measured restraint in their response, not based in an inability to act, but instead from a deeper understanding that this type of conflict could potentially destabilise the entire region.

On [May 10, 2025](#), the two nations reached an agreement to cease all combat operations after direct, high-level military talks between them and the use of behind-the-scenes diplomatic pressure from the United States. This demonstrated institutional maturity, a willingness for dialogue, and reinforced international confidence in Pakistan's governance and security apparatus.

The international community closely observed whether Pakistan would maintain stability following its truce with India, given the long-standing animosity between these two rival nuclear nations. The successful maintenance of that fragile full and complete ceasefire demonstrated institutional maturity and reinforced confidence in Pakistan's governance and security apparatus.

More importantly, Pakistan leveraged this moment to articulate a broader philosophical stance; that [negotiation is not synonymous with concession](#). Rather, it is an acknowledgment of the complex, interdependent nature of global conflict. War, as Pakistan's own history shows, imposes costs that are neither contained nor equitably distributed. [Wars destroy](#) even that which it *allegedly* strived to protect. Pakistan's reframing positioned it as a state capable of contributing meaningfully to [dialogue-based conflict resolution](#), an essential prerequisite for hosting negotiations between adversarial powers such as the U.S. and Iran.



IMAGE: Parliament PR Office Iran

Why Islamabad?

The selection of Islamabad as the site for the April negotiations is both symbolic and strategic. [Symbolically](#), it signalled a degree of trust by both Washington and Tehran in Pakistan's ability to provide a neutral and secure environment. Strategically, it reflected Pakistan's geographic and political positioning as a bridge between regions, diverse cultures, and ideologies.

[Pakistan](#) maintains complex but functional relationships with both parties. Its [longstanding engagement](#) with the U.S., coupled with its regional proximity and [diplomatic channels](#) with [Iran](#), enables it to serve as an intermediary with a nuanced understanding of both perspectives. This [dual engagement](#) is rare and of great value in an era marked by deep [geopolitical polarisation](#).

Furthermore, Islamabad offers a controlled and secure environment for sensitive discussions. Unlike more traditional diplomatic hubs, Pakistan provides a setting that is removed from the immediate pressures of Western or Middle Eastern political theatre, thereby allowing for a degree of discretion and focus.

Pakistan's strategic positioning draws on its emerging [soft power capabilities](#). [Cultural diplomacy](#), institutional development, and demonstrated [diplomatic maturity](#) serve as the foundation for its evolving role in international relations. However, scholars emphasise that [soft power projection](#) requires institutional coherence and sustained commitment. The success of Pakistan's positioning depends on developing comprehensive frameworks for [cultural and diplomatic engagement](#) rather than relying on isolated initiatives.

The Mechanics of Hosting High-Level Negotiations

Behind the scenes, the successful execution of [state-to-state negotiations](#) of this magnitude requires an extraordinary level of logistical coordination and institutional capacity. The presence of high-ranking officials from both nations introduces layers of complexity that extend far beyond standard diplomatic protocol.

[Security](#) considerations are paramount. Each delegation arrives with its own [intelligence assessments](#), protective details, and operational expectations. The [host country](#) must integrate these parallel systems into a [cohesive security framework](#) capable of addressing both known and emerging threats. Pakistan's role, therefore, extended well beyond that of a passive venue provider and gracious host. It was responsible for airspace



security, ensuring that once dignitaries entered [Pakistani airspace](#), their movements were protected from [potential threats](#).

This required threat assessment and mitigation evaluating intelligence from multiple sources, distinguishing credible risks from background noise, and implementing appropriate countermeasures to ensure the safety of those in attendance. Additionally, Pakistan had to manage coordination among security agencies, harmonising domestic security forces with foreign protective services, often operating under different protocols and legal constraints, while maintaining operational discretion by preserving confidentiality and managing the logistical footprint of a highly visible international event.

The ability to deliver on these requirements without incident is itself a demonstration of

[institutional capability](#). It signals to the international community that Pakistan possesses not only the political will but also the technical competence to host sensitive [diplomatic engagements](#).

Soft Diplomacy and Strategic Signalling

Pakistan's hosting of the U.S.-Iran talks can also be understood as an exercise in [soft diplomacy](#). By facilitating dialogue between adversaries, Pakistan enhances its own diplomatic capital and reinforces its image as a constructive actor in [international affairs](#).

This form of engagement operates on multiple levels. On one hand, it strengthens bilateral relationships with participating states by positioning Pakistan as a [trusted partner](#). On the other, it communicates to the broader international system that Pakistan is prepared to contribute to conflict resolution beyond its immediate [regional concerns](#). In this sense, the talks function as both a diplomatic event and a [strategic signal](#), reflecting Pakistan's aspiration to move beyond a reactive foreign policy posture toward a more proactive role in shaping international discourse.

Importantly, credibility in soft power depends on demonstrated restraint, reliability, and the ability to [manage complex interactions](#) with escalation. [Pakistan's restraint](#) during the 2025 crisis demonstrating institutional maturity and choosing measured responses over military escalation contributes to its emerging soft power capital. However, [scholars caution](#) that sustainable soft power requires long-term institutional development and policy consistency, not episodic diplomatic initiatives.

Implications for Global Diplomacy

The broader implications of ['Pakistans role](#) in these negotiations extend beyond the immediate context of U.S.-Iran relations. They suggest a gradual diversification of diplomatic venues and intermediaries in the international system. Traditionally, high-level negotiations have been concentrated in a limited number of [global capitals](#). Pakistan's steps toward positioning itself as a potential host challenge this pattern, indicating that states outside the conventional centres of power can play meaningful roles in [facilitating dialogue](#).

Moreover, Pakistan's example shows the importance of [credibility in diplomacy](#). [Credibility](#) is not derived solely from economic or military power, but also from demonstrated restraint, reliability, and the ability to manage complex interactions without escalation. Small and middle powers increasingly employ niche diplomacy, specialising in mediation, humanitarian assistance, and cultural exchange to enhance their [diplomatic influence](#).

Research on mediation effectiveness highlights that [third-party mediators](#) require neutrality, process management capacity, and the ability to establish credibility with conflicting parties. Pakistan's positioning toward this role depends on continued demonstration of [these capacities](#). Additionally, [confidence building measures](#) and dialogue-based approaches require sustained commitment rather than one-off initiatives.

Challenges and Constraints

Pakistan's role in hosting the U.S.-Iran talks represents a significant diplomatic initiative, nonetheless important constraints limit its [scope](#). Pakistan's mediation capacity operates within a complex regional landscape shaped by sectarian dynamics, great power competition and domestic security considerations. Factors that can show both the significance and the strategic value of [diplomatic engagement](#).

Furthermore, establishing

“Pakistan's real achievement was not staging the talks, but proving it could manage risk without amplifying it.”

[credibility as a mediator](#)

requires repeated success across multiple disputes and sustained institutional capacity. Pakistan's positioning toward mediation must be understood as a [long-term strategic initiative](#) that remains contingent on future diplomatic outcomes and institutional development.

Additionally, research emphasised that the [efficacy of mediation](#) is contingent upon the perception of impartiality, the preservation of procedural confidentiality, and the capacity to facilitate open and constructive dialogue among the parties. Pakistan must develop institutional frameworks that embed these principles into its [diplomatic practice](#), rather than relying on personality-driven or *ad hoc* approaches.

Conclusion

From a Pakistani perspective, the April 11-12 U.S.-Iran talks represent more than a diplomatic milestone; they mark a deliberate effort to position itself toward a potential mediatory role in international affairs. Pakistan's journey to this moment was shaped by deliberate choices most notably, its restraint during the [2025 crisis](#) and efforts to reframe its international identity. By successfully hosting these negotiations, Pakistan has taken a significant step towards positioning itself as a potential actor in the domain of international mediation. Its approach emphasises that diplomacy, when grounded in maturity and strategic foresight, can serve as a powerful tool for both conflict resolution and [national repositioning](#). However, this positioning should be understood as an initial diplomatic initiative from which the potential to grow is limitless.

The question “*Why Pakistan?*”

thus finds its answer not in circumstance, but in [strategy](#). Pakistan's role was not simply to host the talks; this nation undertook [deliberate steps](#) to position itself as a [capable host](#). Whether this positioning matures into sustained mediator status depends on future diplomatic initiatives, the [development of robust institutional frameworks](#) for mediation, and Pakistan's ability to navigate competing regional interests while maintaining credibility with [international actors](#). Pakistan's diplomatic positioning will be measured by consistent demonstration of trustworthiness as a neutral convener in an increasingly [multipolar world](#).

At a more personal level, Pakistanis are characterised by a deeply rooted ethos of service deeply rooted in [Mehman Nawazi](#) ([hospitality](#)) an inclination to assist, support, and respond when called upon. This [art of hosting](#) is embedded within the cultural and religious fabric of Pakistan, informing both individual and collective conduct. It is not surprising that, when presented with an opportunity to contribute constructively to the de-escalation of a conflict that extends beyond the immediate scope of U.S.-Iran relations, Pakistan would be inclined to offer its assistance in a meaningful and timely manner.

The [current stakes](#) extend beyond abstract concerns of [stability](#). Even now, the [ripple effects](#) of economic measures, sanctions, trade disruptions, and energy market volatility are already reverberating across [interconnected economies](#), disproportionately impacting vulnerable populations and [straining supply chains](#).

Left unchecked, these pressures risk evolving into [broader challenges](#), including [geopolitical fragmentation](#), [weakened multilateralism](#), and heightened regional insecurity. It is within this context, that Pakistan's willingness to engage assumes particular significance, reflecting both a pragmatic recognition of global interdependence and a principled commitment to mitigating instability. ■

Empire's Failed Gambit

Analysing the collapse of international law amidst ongoing Middle Eastern conflicts



As a great power, it is vital to pay attention to international institutions you created, international law you largely wrote, and to foster good relations with allies. The Trump administration is clearly undermining international law, institutions, and damaging relations with allies in Europe, Asia, and the Persian Gulf. This war in Iran is disastrous for the United States.

The argument that Iran is a great threat is nonsense. The greatest threat to stability in the Middle East is the United States working with Israel. Iran has not started a war in centuries. The highly aggressive country is Israel, which has committed genocide in Gaza. We were complicit in that genocide twice, once in June 2025 and again on 28 February 2026, when the U.S. and Israel launched unprovoked attacks against Iran. The idea of Iran as a destabiliser is a myth.

Trump was forewarned but believed it didn't matter because they thought they could win a quick and decisive victory. The 'tag team' of the U.S. and Israel intended a 'shock and awe' strategy to decapitate the regime, expecting a revolution or immediate surrender. That strategy failed. We are now in a war of attrition where the Iranians hold almost all the cards.

In Lebanon, the Israelis are suffering tactical defeats against Hezbollah on the ground. The idea that they will conquer southern Lebanon is wrong, and they are suffering many casualties. Although it was thought Hezbollah had been 'defanged' by the end of 2025, they are still firing rockets into Tel Aviv daily, coordinated with Iranian missiles.

In Gaza, Israel is pursuing genocide and ethnic cleansing to get Palestinians out or murder them. On the West Bank, they are launching pogroms on a daily basis to ethnically cleanse that area as well. Israel is by far the most aggressive state in the Middle East, and perhaps on the planet. They have dragged the United States into a war against Iran while committing the greatest of all crimes—genocide.

Professor John Mearsheimer

Professor of Political Science,
University of Chicago, USA

IMAGE: Courtesy Wikipedia

Judicial Rescue Shift

Courts in Pakistan are redefining insolvency practice in the absence of a unified statutory framework



Pakistan's insolvency system is evolving through judicial intervention rather than legislative design. Courts are discouraging liquidation and encouraging restructuring, often within fragmented and overlapping legal regimes. While this approach promotes value preservation, structural gaps remain. Delays, limited cross-border tools and institutional weaknesses continue to constrain outcomes, leaving reform dependent on aligning law, practice and judicial capacity.

IMAGE: © THE LEGAL

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akistan's insolvency regime is being recast in courtrooms rather than parliament. Judges are not only interpreting the law; they are shaping its direction. In doing so, they are shifting the balance from liquidation towards corporate survival.

At a judicial colloquium in London, a message from Justice Jawad Hassan of Lahore High Court set out how this shift is unfolding. Delivered at a forum convened by INSOL International, UNCITRAL and the World Bank, his message highlighted the growing role of courts in an incomplete statutory landscape.

"Pakistan is a common law jurisdiction," Justice Hassan said, "in which insolvency law is shaped through statutory frameworks and judicial precedent." He added that "the courts play a central role in interpreting and applying insolvency principles, particularly in the absence of a unified insolvency code."

That absence is central to the system's design. Pakistan relies on multiple statutes operating in parallel. These include the Companies Act 2017, the Corporate Rehabilitation Act 2018 and earlier recovery laws. Each provides a route for creditors or distressed companies. Together, they create overlap.

Justice Hassan described this structure as one that *"operates through parallel statutory regimes".* While reforms have introduced restructuring tools, he said *"the system remains fragmented and jurisdictionally overlapping, often leading to procedural complexity and delay."*

For decades, liquidation has been the dominant outcome. Winding-up proceedings have been used to resolve corporate distress. These processes prioritise asset disposal and creditor repayment. Rehabilitation has been secondary.

The courts are now pushing back. *"The consistent position of the superior courts," Justice Hassan said, "is that winding up is a remedy of last resort, and not a substitute for debt recovery."* This principle is now embedded in judicial reasoning.

The reasoning reflects wider concerns. *"A winding up order extinguishes a commercial enterprise," he said. "Its consequences extend far beyond the litigating parties."* He pointed to job losses, reduced economic activity and broader public interest effects.

Courts therefore examine whether a business can be saved. *"The courts have emphasised the need to examine whether a genuine and bona fide possibility of revival exists before ordering liquidation," he explained.* In practice, this inquiry is often conducted within existing proceedings rather than through a dedicated rescue mechanism.

Judicial decisions illustrate this approach. In **Saudi Pak Industrial and Agricultural Investment Company Ltd v Chenab Ltd**, the court stated: *"Even after passing of a winding up order, efforts should be made by the judicial forums to allow the companies to continue running commercially."*

It set out conditions for revival. *"The company has improved its commercial viability; has acquired the requisite funds to discharge its liabilities... the cause for the winding up order has disappeared or is likely to disappear."* It also required that the company *"is able and willing to set it right either by arrangement, compromise, settlement or a proposal for the revival"*.

The court also imposed a broader test. *"The Court must give regard to the benefit and interest – and not*

merely wishes – of the contributor, creditors and public," it said. Judicial discretion, it added, *"can only be exercised in furtherance of... commercial morality"*.

This emphasis on discretion allows courts to respond to changing circumstances. In the same case, the court noted that *"the situation has changed after the Winding Up Order"*. It referred to a creditor's willingness to restructure and concluded that *"it will be against the public interest to deny such interim relief"*.

A later decision, **Askari Bank Ltd v Khawaja Flat Glass Industries (Pvt) Ltd**, points to a more structured approach. Justice Hassan described the court's adoption of a *"Five Rs methodology: Recovery, Restructuring, Renewal, Resurrection, and Resolution."*

Although developed in execution proceedings, he said it *"reflects a broader judicial inclination to support consensual restructuring where it is commercially sensible and legally permissible."* It also signals *"an evolving understanding that insolvency law must preserve value wherever possible."*

This approach aligns with international practice, where rescue frameworks are designed to maintain going-concern value. Yet Pakistan's system remains constrained by structural gaps.

The country has not adopted the UNCITRAL Model Law on Cross-Border Insolvency. *"Pakistan does not presently have a comprehensive cross-border insolvency framework," Justice Hassan said. This "limits recognition of foreign proceedings and coordination with international creditors"*.

In practice, many restructurings occur outside formal insolvency processes. Parties negotiate directly. They seek to avoid delays and uncertainty in court proceedings.

Justice Hassan acknowledged this trend. *"A significant proportion of restructuring takes place outside formal insolvency proceedings," he said, "primarily due to delay and uncertainty within the court system."* Where courts are involved, however, their stance is shifting.

"There is an increasing tendency to facilitate negotiated settlements and restructuring efforts," he noted, "particularly where financial institutions support such outcomes." This reflects a pragmatic judicial response to commercial realities.

Even so, institutional constraints remain. *"The absence of time-bound procedures and specialised institutional support continues to affect the efficiency and predictability of insolvency resolution," he said. This affects both recovery rates and investor confidence.*

The system also faces structural weaknesses. Justice Hassan identified *"overlapping jurisdiction, procedural delay, and limited commercial and financial specialisation within the judiciary"* as key challenges. These, he said, *"contribute to forum shopping, prolonged litigation, and erosion of asset value"*.

Despite these issues, the trajectory is clear. *"Pakistan's insolvency framework is in transition," Justice Hassan said, "from a liquidation-oriented system toward a more rehabilitation-conscious approach."* He added that *"this transition is significantly judicially driven"*.

The implication is clear. Courts are setting the direction. But they cannot complete the task alone. *"The continuing challenge lies in aligning legislative reform, institutional capacity, and judicial practice," Justice Hassan concluded, "to create a coherent and effective insolvency system"*.

For now, Pakistan's insolvency regime remains a hybrid. It combines fragmented statutes with an increasingly assertive judiciary. The result is a system in motion, shaped as much by judicial reasoning as by legislative design. ■



IMAGE: © THE LEGAL

The Surveillance Nexus

Law struggles to contain the fusion of corporate surveillance and state control



by **Shizza Khan**
Rawalpindi

Without urgent reform, surveillance capitalism will continue to erode the foundations of individual freedom and democratic society, as corporate data extraction and state surveillance converge into a system that challenges the very structure of rights protection.

The legal architecture governing the digital economy is under strain from a model that was never anticipated when modern human rights frameworks were conceived. Surveillance capitalism, driven

by the large-scale extraction and monetisation of behavioural data, has altered the balance of power between individuals, corporations and the state. What once appeared as a matter of consumer choice has evolved into a structural issue of rights, accountability and governance.

At the centre of this shift lies the concept of behavioural surplus: the continuous harvesting of data from everyday activities such as browsing, communication and movement. This data is not merely stored but analysed to predict and influence future behaviour. The legal difficulty is immediate. Consent, long relied upon as a cornerstone of data protection regimes, becomes tenuous when individuals cannot realistically understand or control how their data is used. The asymmetry between data subjects and data controllers undermines the premise of

informed choice.

This imbalance is compounded by the growing entanglement of private technology companies with state functions. Governments increasingly rely on private surveillance infrastructures for policing, intelligence and public administration. Facial recognition systems, predictive analytics and mass data aggregation are now embedded within governance frameworks. Yet the legal oversight of these tools remains uneven and often opaque. Traditional safeguards, designed for analogue forms of surveillance, struggle to operate effectively in a digital environment defined by scale and speed.

The consequences are not abstract. The deployment of advanced spyware has demonstrated how easily surveillance capabilities can be directed against journalists, activists and political opponents. These tools allow near-total access to personal devices, blurring the boundary between legitimate security measures and unlawful intrusion. The legal recourse available to victims is frequently inadequate, hindered by jurisdictional fragmentation and the technical complexity of the systems involved. Accountability becomes diffuse, shared ambiguously between corporate developers and state users.

Existing regulatory efforts, while significant, reveal the limits of current legal thinking. The European Union's General Data Protection Regulation is often cited as the most comprehensive attempt to frame data protection as a fundamental right. It introduces obligations around transparency, purpose limitation and data minimisation, alongside substantial penalties for non-compliance. However, its reach is inherently regional. Global technology companies operate across jurisdictions with differing standards, enabling regulatory arbitrage. In contrast, the United States adopts a sectoral approach, addressing privacy through fragmented legislation that leaves substantial gaps.

International human rights instruments offer broad

IMAGE: © THE LEGAL



principles but lack specificity when applied to contemporary surveillance technologies. Provisions on privacy and freedom of expression were not designed with algorithmic profiling or artificial intelligence in mind. As a result, there is a growing disjunction between normative commitments and practical enforcement. Courts are increasingly called upon to interpret these rights in novel contexts, yet jurisprudence remains uneven and reactive rather than anticipatory.

Beyond privacy, the implications for democratic participation are profound. Surveillance has a demonstrable chilling effect. Individuals who believe they are being monitored are less likely to engage in dissent, organise collectively or express controversial views. This self-censorship operates subtly but pervasively, weakening the deliberative processes that underpin democratic systems. In jurisdictions with weaker institutional safeguards, surveillance technologies have been used explicitly to restrict civic space and suppress opposition.

The legal challenge is therefore multidimensional. It is not simply a matter of regulating data flows but of reasserting the principles that govern the relationship between the individual and power. This requires a recalibration of legal frameworks to address both corporate practices and state conduct in an integrated manner. Piecemeal reforms are unlikely to suffice where the underlying model of data extraction remains intact.

There is increasing recognition of the need for stronger international coordination. Data, by its nature, does not respect national boundaries,

and unilateral regulation is limited in effectiveness. Efforts to develop common standards, whether through multilateral agreements or soft law instruments, are gaining traction but remain politically complex. Divergent economic interests and governance models complicate consensus.

At the same time, there is a growing argument for more robust accountability mechanisms. This includes clearer liability regimes for companies that develop and supply surveillance technologies, as well as stricter oversight of state use. Transparency obligations, independent audits and judicial authorisation processes are often proposed as safeguards, though their implementation varies widely.

Ultimately, the rise of surveillance capitalism forces a reconsideration of foundational legal assumptions. The notion that markets and rights can be neatly separated is increasingly untenable when economic activity itself depends on the systematic exploitation of personal data. Law must grapple with the reality that power in the digital age is exercised not only through coercion but through prediction and influence.

The direction of reform will determine whether legal systems can adapt to this transformation or remain perpetually behind it. What is at stake is not only the protection of individual privacy but the preservation of the conditions necessary for autonomy, participation and accountability. Without a coherent and enforceable framework, the convergence of corporate and state surveillance will continue to test the limits of human rights law. ■

There is no neutral ground when the constitution itself has been amended to produce injustice.

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The Hollowing of Law

From binding precedent to selective justice in re-engineered legal systems

by **A Hussain**

Islamabad

Democracy is not dying in a blaze of coups or sudden collapse. It is being steadily hollowed out, rewritten through laws, reshaped by compliant courts and secured by those who understand that power today is best preserved behind a constitutional façade.

A recent keynote by Justice (R) Syed Mansoor Ali Shah, Distinguished Chair in Constitutionalism & Justice at LUMS, Oscar M. Ruebhausen Fellow at Yale Law School 2026 and former Puisne Judge of the Supreme Court of Pakistan, delivered at the Bernstein Symposium at Yale Law School in New Haven, sets out how this process unfolds in practice.

Justice Shah's account is not confined to one jurisdiction. It reflects a broader pattern in which governments preserve the outward machinery of democracy while neutralising its capacity to constrain power. The method, he argues, is both sophisticated and disarming. "Authoritarianism is not a single thing," he observed. "It has a spectrum," one that increasingly "operates behind the façade of democratic form." Elections continue, courts sit, legislatures meet. Yet the substance of democracy, accountability, quietly recedes.

Shah's central claim is that this erosion is coordinated across institutions and borders. Governments that weaken courts at home also blunt scrutiny abroad. "The erosion of rights at home is paired with an attempt to blind the referees abroad," he said, describing a system in which domestic repression and international diplomacy reinforce one another. The result is an "assault on every level of the accountability architecture".

Nowhere is this more visible than in the judiciary. Courts are not abolished; they are absorbed. "Authoritarianism does not abolish the judiciary," Shah explained. "It captures" it. The distinction matters. A captured court retains legitimacy while losing independence, continuing to validate decisions that once it might have restrained.

Pakistan's recent constitutional amendments illustrate the process with unusual clarity. Changes to the judicial appointment system, including the abandonment of seniority in selecting the chief justice, have altered incentives within the judiciary itself. "The panel converts the Chief Justiceship into a competition," Shah noted, one in which "the path... runs through political alignment". The effect is not merely procedural. It reshapes behaviour, encouraging caution and compliance long before any formal

decision is made.

More striking still is the creation of a new constitutional court with authority to disregard decades of precedent. This, Shah suggested, is where the damage becomes lasting. "Jurisprudence is not a collection of outcomes," he said. It is "the accumulated reasoning of a legal order". To render that body of reasoning non-binding is to begin "the work of erasure".

His language is deliberate. The danger is not simply legal uncertainty but institutional amnesia. "Memory, once declared non-binding, does not disappear immediately," he warned. "It fades." Lawyers stop citing it, judges stop engaging with it and, over time, it ceases to function as law. What remains is a system in which decisions are untethered from precedent and therefore more easily aligned with power.

This, Shah argued, represents a more durable form of



control than the overt rupture of a coup. *“The coup that abrogates the constitution overnight leaves the constitution behind as evidence,”* he said. By contrast, a system that rewrites itself from within is *“harder to name, harder to reverse, and more durable in its damage”*. It preserves the structure while hollowing out the foundations.

The implications extend beyond Pakistan. Shah situates the country within a wider trend he calls the defining political development of the century: the rise of electoral autocracy. These systems maintain the language and rituals of democracy while systematically undermining its reality. *“It exploits the imprecision in our understanding of democracy,”* he said, and *“weaponises our tolerance for its forms”*.

The global data he cited reinforces the point. Autocratic systems now outnumber democratic ones, and the category in between, the hybrid regime, has become dominant. The risk, he suggested, is complacency. *“The critical danger is treating the hybrid regime as a stable equilibrium,”* he said. *“It is not. It is a snapshot of a trajectory.”*

Central to that trajectory is the dismantling of accountability. Shah described it as the *“load-bearing pillar”* of democracy, operating through elections, institutions and civil society. Autocracy, by contrast, *“systematically destroys all three forms simultaneously”*. The result is *“power without obligation,”* authority that does not need to explain or justify itself.

For courts, this creates a profound dilemma. Traditional judicial restraint assumes a functioning democratic framework in which elected bodies act within constitutional limits. But what happens when those limits are rewritten? Shah is blunt in his answer. *“There is no neutral ground when the constitution itself has been amended to produce injustice.”* Judges who defer in such circumstances are not avoiding politics. They are *“making a deeply political choice in favour of power”*.

The pressures that lead to such choices are varied. Fear remains a factor in some contexts, but Shah emphasised more mundane incentives.

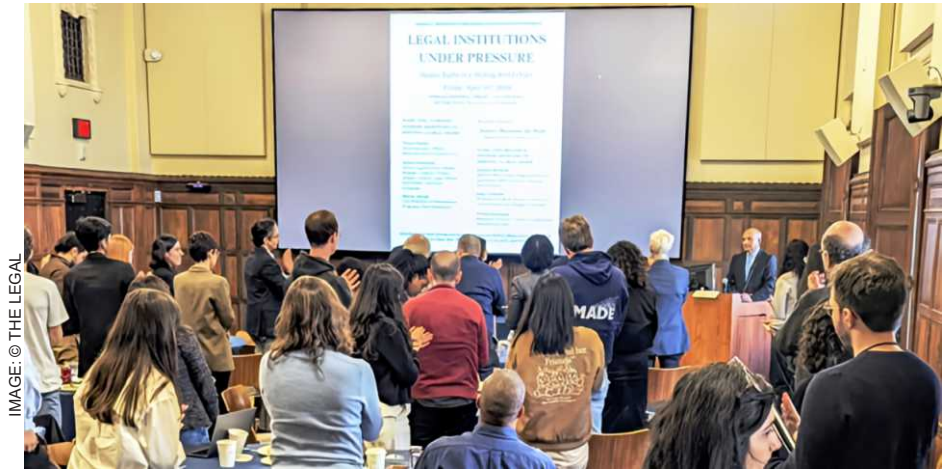


IMAGE: © THE LEGAL

“Much of judicial accommodation is not about survival under duress,” he said. *“It is about comfort.”* Status, security and professional culture all play a role in encouraging compliance.

Yet he rejects the idea that this outcome is inevitable. The responsibility, in his account, lies not only with institutions but with individuals. *“A judge who hides behind institutional apoliticism... is not being apolitical,”* he argued. The law, in such moments, requires active defence.

That defence may take different forms. Shah himself chose resignation, leaving the Supreme Court in 2025. The decision, he suggested, was both personal and principled. It marked a refusal to participate in what he described, drawing on post-war legal theory, as *“statutory lawlessness,”* the use of legal form to achieve outcomes that betray fundamental justice.

His speech also turned, unexpectedly, to the role of culture in sustaining resistance. Where institutions falter, he suggested, individuals and ideas endure. Writers and artists, less dependent on state structures, often become the custodians of dissent. *“A poem cannot be unmade by the imprisonment of its author,”* he said, pointing to a tradition of intellectual resistance that transcends borders.

The legal profession, he argued, has something to learn from this. *“Constitutional conviction must precede and animate legal technique.”* Without that foundation, technical skill alone is insufficient. The defence of democratic norms depends on a willingness to act, often at personal cost.

This brings him to what he sees as the long-term solution: legal education. Law schools, in his view, must move beyond producing *“technically excellent servants of power”* and instead cultivate a deeper commitment to constitutional principles. The lawyers and judges who will shape future systems are already in training. Whether they resist or accommodate will depend, in part, on how they are formed.

The task is not abstract. It requires rethinking curricula, professional incentives and institutional design. Courts need structural safeguards, such as secure tenure, transparent appointments, financial independence, but also a culture that values independence. Without both, formal protections can be circumvented.

Shah’s warning is clear. The erosion of democracy is no longer dramatic. It is incremental, procedural and often difficult to detect. *“This is how jurisprudence dies,”* he said, *“not with the drama of a coup, but with the quiet administrative authority”* of a system that has been reshaped from within.

The response, he suggests, must be equally deliberate. It requires attention to detail, a willingness to confront uncomfortable choices and a recognition that the rule of law depends not only on institutions but on those who inhabit them.

Justice Shah’s message is less about decline than about agency. Systems can be redesigned. Norms can be restored. But only if those within them are prepared to act. As he put it, recalling the simplest imperative of resistance: *“Can you describe this? I can. I must.”* ■



The Rule of Data

As Pakistan modernises its criminal justice system, the relentless drive for digital efficiency is colliding with fundamental rights to privacy and due process



IMAGE: © THE LEGAL



by **Tayyaba Nadeem**
Rawalpindi

Pakistan is rapidly shifting its criminal justice system to a digital framework. This transition creates serious friction between administrative efficiency and legal due process. The country must now balance modern evidence collection with fundamental privacy rights.

The criminal justice system in Pakistan is currently undergoing a structural transformation. The courts are moving away from traditional physical evidence. They are adopting a multi-layered digital regime. Authorities now handle many different forms of digital evidence. This data ranges from encrypted communication to closed-circuit television footage. The law must balance administrative efficiency with due process.

The Electronic Transactions Ordinance of 2002 creates a big difference in this legal landscape. The legislature also passed a new amendment to the Prevention of Electronic Crimes Act in 2025. This amendment adds further changes to the system. However, the Qanun-e-Shahadat Order of 1984 remains the primary law for evidence. Digital proof holds valid legal status. At the same time, the state must respect the privacy of its citizens.

The government must also maintain safeguards against the misuse of artificial intelligence. The law defines digital evidence clearly. It is information gathered or communicated in a binary form. Investigators typically retrieve this binary data from hard disks. They also extract it from mobile phones or other storage devices.

The foundational rules of evidence remain rooted in the 1984 order. Article 164 of this order gives courts specific permissions. It permits judges to accept evidence produced by contemporary devices. However, legal admissibility does not equal actual reliability. The Supreme Court addressed this issue directly in *The State vs. Ahmed Omar Sheikh*.

The court issued a clear mandate for digital evidence. It placed specific requirements on video files. A forensic report must accompany any video. This report must prove the video remains completely unedited. This strict step ensures the authenticity of the file. The 2002 ordinance also plays a role here. It granted the status of primary evidence to electronic records. These records must be entirely unadulterated to qualify. Furthermore, the government uses the 2016 act and its 2025 amendment to criminalise cyber-offences.

The institutional framework for these crimes recently changed. The National Cyber Crime Investigation Agency (NCCIA) replaced the Cyber-crime Wing of the Federal Investigation Agency. This transition occurred in 2025. Despite all these legal and structural advancements, procedural failures still exist.

Recent studies highlight serious problems in the chain of custody. These specific flaws result in a massive number of case dismissals. Judges dismiss 65 percent of cases containing digital evidence due to these custody errors. A severe lack of modern technology makes this situation much worse. Very few police departments have the right equipment. Only 18 percent of Pakistani law enforcement agencies have access to basic digital forensic tools. Consequently, courts treat digital data cautiously. They view it as corroboratory or circumstantial evidence. They

rarely accept it as conclusive proof. This cautious approach frequently calls for independent forensic verification. It also requires rigorous adherence to the chain of custody.

The NCCIA faced an overwhelming workload immediately after its creation. It received 94,552 complaints between April and December of 2025. The agency obtained only 20 convictions all over the country during this period. This outcome means the agency was successful only 0.021 percent of the time.

The judicial system also struggles with new technologies. Pakistani courts reject artificial intelligence as a source of independent information. They refuse to rely on it on its own. The Supreme Court ruled on this matter in *Ishfaq Ahmed v. Mushtaq Ahmed*. The court published this decision in 2025. The justices stated a clear position on artificial intelligence. The legal profession should welcome it with careful optimism. However, it must function only as a supplementary tool. Lawyers can use it for legal research. They can also use it for case management.

The Supreme Court set strict limits on technology in the courtroom. The court ruled on the nature of human faculties. Human reasoning cannot be replaced by a machine. Moral judgment and empathy are also irreplaceable. The justices emphasised a ban on artificial intelligence in final rulings. No artificial intelligence authenticity is allowed in decision-making.

Human oversight is an absolute mandatory requirement. This oversight prevents technological errors known as hallucinations. It also forces caution with synthetic media or deepfakes. The current legislation has a gap regarding this issue. The Prevention of Electronic Crimes Act does not explicitly define synthetic media. Therefore, judges must apply old rules to these new digital problems.

The rise of digital evidence brings contemporary challenges for privacy rights. Article 14 of the Constitution of Pakistan guarantees the privacy of the home. This constitutional protection faces severe pressure from modern surveillance. The courts previously tried to protect this right. *The Mohtarma Benazir Bhutto* case provides a strong example of this protection.

The court expanded the definition of a home in that decision. A home encompasses any area with a reasonable expectation of privacy. However, the 2025 amendments to the cyber law have raised serious due process concerns. The state established the Social Media Protection and Regulatory Authority. This new authority holds the power to block online content. It can block content under the claim of an aspersion against state institutions. Furthermore, investigative agencies use aggressive tactics. They frequently seize digital devices without robust judicial warrants.

The Supreme Court addressed these privacy violations very recently. The court issued a ruling regarding this issue in March 2026. The justices declared unauthorised secret recordings of private conversations entirely unlawful. They reaffirmed the legal status of such recordings. These secret tapes cannot be admissible evidence in any trial. Such recordings breach the constitutional right to privacy.

Pakistan must move toward a reliability-centred approach. Digital evidence must serve justice rather than uncertainty. This approach includes three specific requirements. First, judicial officers require mandatory artificial intelligence literacy programmes. Second, the government must expand the capacity and capabilities of the Punjab Forensic Science Agency. Third, the parliament must pass the Personal Data Protection Bill. The legislature must also update the cyber law to explicitly define synthetic media.

A principled framework is absolutely necessary for the future of digital law in Pakistan. It is crucial to use modern technologies nowadays. However, this use should not come at the cost of human dignity. It must also not damage the integrity of the justice system.

The rule of law must always take precedence over the rule of data. This principle acts as a safeguard. It protects human conscience as the primary cornerstone of justice. The state must focus on strengthening its forensic infrastructure. It must also set clear standards for the origin of synthetic media. These are highly important steps. They make sure the courts use digital evidence to find the truth. They stop the government from using these digital tools to control people. ■

LIMITING HABEAS CORPUS

Illegality Not Invalidity

The FCC rules underage marriage remains legally effective despite criminal prohibition



by A Hussain
Islamabad

A key ruling by the Federal Constitutional Court (FCC) of Pakistan has reignited debate on child marriage, religious conversion, and the limits of habeas corpus jurisdiction, after it refused to interfere in a controversial case involving the alleged abduction and marriage of a minor girl in Lahore.

The judgment, authored by Justice Syed Hasan Azhar Rizvi, runs through complex questions of personal law, statutory interpretation, and constitutional hierarchy, ultimately concluding that “no illegality, perversity, or misreading or non-reading of evidence has been found in the impugned judgments. Accordingly, leave is refused, and the petitions are dismissed.”

The case arose from a petition filed by Shahbaz Masih, who sought the recovery of his daughter, Maria Bibi, claiming she had been abducted and unlawfully detained. The matter had already travelled through multiple forums, including Lahore High Court and the trial courts, all of which declined to grant relief.

The father insisted that his daughter was a minor and that her

In a closely watched ruling, the Federal Constitutional Court (FCC) declined to recover a young woman from her husband, holding that her statements of free will carried decisive weight. The Court also clarified that under existing law, underage marriages are not automatically void, while emphasising limits on judicial intervention in personal faith, disputed facts, and custody claims.

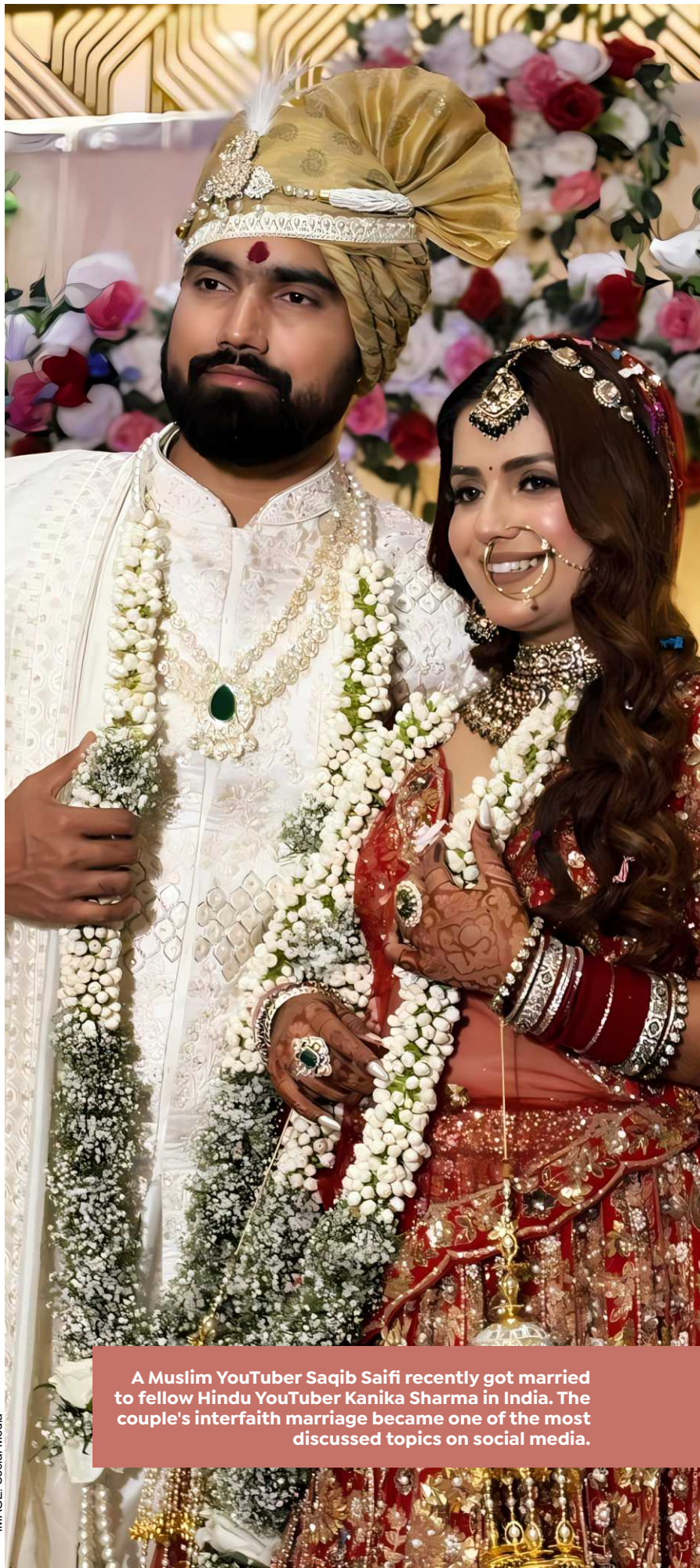
purported marriage to a Muslim man was void, particularly given her Christian background and the alleged falsity of the *Nikahnama* (marriage contract). However, the courts below placed heavy reliance on her own statements, recorded under section 164 of the Criminal Procedure Code, where she declared that she had married of her own free will.

The constitutional court began by setting out the procedural history, noting that the petitioner had repeatedly invoked different legal avenues but failed at each stage. The judgment records that “*in presence of the statements it cannot be inferred that Maria Bibi was in illegal custody,*” echoing the earlier findings of the Additional Sessions Judge. The bench emphasised that proceedings under section 491 CrPC are “*of interim and summary nature*” and are not designed to resolve complex factual disputes, particularly those involving questions of marriage validity or age determination.

One of the central planks of the petitioner’s argument was that a Christian minor could not lawfully contract marriage with a Muslim man. The court rejected this outright, calling the contention “*misconceived and devoid of substance.*” It went on to clarify the position under Islamic law, observing that “*a Muslim male may lawfully contract marriage with a Christian woman,*” and cited classical juristic authority as well as earlier case law. The judgment reaffirmed that such interfaith marriages are not prohibited per se, although their procedural regulation may differ under statutory law.

The bench also took the opportunity to make an important **doctrinal clarification** about precedent. In a striking passage, the court observed that the creation of the Federal Constitutional Court had “*constitutionally restructured*” the precedential hierarchy. It stated in clear terms that “*judgments of the Supreme Court of Pakistan rendered prior to the establishment of this Court do not operate as binding precedents upon this Court,*” though they retain persuasive value. The court added that “*the binding force of judicial precedent is not derived from institutional seniority but from the constitutional hierarchy itself,*” signalling a shift in Pakistan’s judicial architecture.

On the question of **religious conversion**, the court adopted a notably restrained approach. It held that faith is inherently personal and that courts should avoid intrusive inquiries into its authenticity. “*If a person openly professes belief in or adherence to a particular faith, no further inquiry or evidence is ordinarily required to verify its genuineness,*” the judgment states. It further explained that under Islamic principles, conversion requires only a



A Muslim YouTuber Saqib Saifi recently got married to fellow Hindu YouTuber Kanika Sharma in India. The couple's interfaith marriage became one of the most discussed topics on social media.

IMAGE: Social Media



IMAGE: Social Media

declaration of belief and acceptance of core tenets, without formal ritual. The court concluded that Maria Bibi had, at least prima facie, embraced Islam, and that “any further probe into the matter... would amount to unwarranted intermeddling.”

The issue of age proved more contentious. The petitioner argued that his daughter was just over twelve years old at the time of the alleged marriage, relying on birth and registration documents. The court, however, expressed scepticism about these records, noting delays in their issuance and inconsistencies in the family data. It observed that “the probative value of these documents is significantly diminished,” particularly where registration occurred years after the purported date of birth. The bench also pointed out contradictions in the father’s own statements, which undermined his credibility.

Even more crucially, the court revisited established jurisprudence on **child marriage** under the Child Marriage Restraint Act, 1929. Drawing on earlier rulings, it reiterated that the statute criminalises the act of contracting a child marriage but does not render such marriages void. In a key passage, the court stated that “the Act of 1929 merely criminalizes the solemnization of a child marriage but does not expressly declare such a marriage to be void or voidable.” It added that “in the absence of any explicit statutory provision invalidating the marriage itself, the legal status of such a marriage remains unaffected.”

This distinction proved

determinative. The court held that even if Maria Bibi were assumed to be underage, the marriage would not automatically be invalid under prevailing law. It stressed that “to infer such an intention... would amount to judicial legislation,” cautioning against reading into statutes what the legislature had not expressly provided. As a result, the husband was recognised, at least prima facie, as her lawful guardian, and her residence with him could not be treated as unlawful detention.

The judgment also underscored the evidentiary weight of the girl’s own statements. It noted that she had consistently asserted her consent, both before a magistrate and in other proceedings. The court observed that her statement under section 164 CrPC carried “significant evidentiary value” and could not be disregarded lightly. In this context, the bench concluded that “the custody of Mst. Maria with her husband cannot be termed illegal or unlawful,” a finding that had already been affirmed by the High Court and had attained finality.

Another notable aspect of the ruling is its reliance on **the principle of res judicata**. The court pointed out that an earlier writ petition on the same issue had been dismissed by the High Court, and that decision had not been challenged. Consequently, “the determination so made operates as final between the parties,” barring re-litigation of the same issue. This procedural bar further weakened the petitioner’s case.

Despite dismissing the petition, the

court took care to clarify that its findings would not prejudice any ongoing criminal proceedings. It stated that its observations “shall not prejudice or impede the proceedings before the competent criminal court,” leaving the door open for further investigation or prosecution if warranted.

The ruling is likely to have far-reaching implications. It reinforces the limited **scope of habeas corpus** in matrimonial disputes, affirms the continued validity of child marriages under certain interpretations of personal law, and signals a cautious judicial approach to questions of faith and conversion. At the same time, it raises difficult questions about the protection of minors and the adequacy of existing legal frameworks.

Critics may argue that the judgment exposes gaps in the law, particularly where statutory provisions fail to invalidate harmful practices. Supporters, however, may view it as a principled application of legal doctrine, grounded in precedent and statutory interpretation. What is clear is that the decision marks an important moment in Pakistan’s evolving constitutional jurisprudence, especially with the emergence of the FCC as a final arbiter of legal meaning.

In the court’s own words, “the ultimate touchstone... remains the Constitution itself, whose meaning this Court is duty-bound to expound with finality.” Whether that exposition will prompt legislative reform or further judicial debate remains to be seen. ■



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No Room for Doubt

Why the Supreme Court Upheld a Conviction Despite Missing Motive?

IMAGE: © THE LEGAL

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by **Waqar Hussain**
Islamabad

When a brother violently takes the life of the sister he is expected to protect, the act transcends ordinary criminality and becomes a grave moral rupture, Pakistan's Supreme Court declared while upholding a life sentence for sororicide.

Delivering a profoundly philosophical meditation on the sanctity of familial obligations, the highest court of the country dismissed Jail Petition No. 144 of 2022 on March 31, 2026. The [judgement](#), authored by Justice Ishtiaq Ibrahim alongside Justice Muhammad Hashim Khan Kakar, firmly maintained the life imprisonment handed down to Muhammad Munawar, formerly known as Munawar Masih, for the brutal murder of his sister, Mst Shabana Bibi.

The bench anchored its legal reasoning in the fundamental breakdown of human connection that sororicide represents. Writing for the court, Justice Ibrahim observed, "The case at hand is that of sororicide, the killing of one's own sister. It is profoundly unfortunate that siblings who share a bond of companionship, trust, and mutual care from childhood should act in betrayal of this bond".

The court aggressively rebuked the normalisation of such violence, stating that "When a brother takes the life of his own sister,

the very person he is expected to protect, cherish, and love, it transcends mere criminality and becomes a grave moral rupture". The bench further elaborated on the cultural devastation wrought by these crimes, noting that "Traditionally, a brother's care for his sister has been seen as a sacred responsibility, and to forsake this duty strikes at the heart of family bonds and the moral fabric of society".

The judgement painted a grim picture of a wider societal failing, observing that "Sororicide is an unnatural breach of trust that reverberates through the conscience of the community but alarmingly, such tragedies are becoming increasingly visible in our society, shattering families and leaving



society itself to grapple with the loss of its most fundamental bonds".

The tragedy that prompted this sweeping judicial condemnation unfolded during the summer of 2013. At roughly half past twelve in the afternoon, Munawar arrived at the rural home of his sister and her husband in the jurisdiction of Police Station Dijkot in Faisalabad. The complainant, who was the husband of the victim, was present in the residence alongside other family members, including eyewitnesses explicitly named in the judicial record as Shakeel and Shahbaz.

The court record indicates that upon his arrival, Munawar casually asked the complainant's daughter to

bring him water, a seemingly innocuous demand that caused her to step out of the room. In that brief, unguarded window, Munawar produced a lethal carbine and fired a catastrophic shot directly at Mst Shabana Bibi.

The blast struck the right side of her forehead just above the eye. Although the husband and other present individuals desperately attempted to apprehend the accused, the assailant managed to escape the bloody scene while actively brandishing his weapon, leaving his sister to succumb to the devastating injury on the spot.

Despite the immediate chaos and trauma of witnessing a family member's violent execution, the surviving

relatives contacted the authorities. The formal police report, registered under section 302 of the Pakistan Penal Code, was lodged a mere one hour and ten minutes after the eruption of violence, despite the local police station being located approximately thirteen kilometres away from the physical place of occurrence.

The Supreme Court viewed this rapid legal notification as an absolutely vital component of the prosecution's overarching case. The justices emphatically wrote that "Such prompt reporting of the FIR rules out the possibility of deliberation, consultation, or fabrication". In this swiftly filed report, the grieving husband specifically and exclusively

nominated his brother-in-law, Munawar, attributing to him a "definite and active role of causing the fatal firearm injury to the deceased".

The court placed immense judicial weight on the absolute intimacy of the relationship between the accuser and the accused, noting that the husband was obviously well acquainted with the petitioner, who was his own wife's brother. The judgement declared that "there remains no conceivable doubt regarding the identification of the assailant," and that the powerful combination of "prompt nomination, coupled with the close familial familiarity, effectively rules out any possibility of mistaken identity".

Addressing the defence's routine appellate attempts to suggest a false implication, the highest court relied on the established realities of human behaviour in the wake of extreme, intimate trauma. Justice Ibrahim articulated that "it is a settled principle of criminal jurisprudence that substitution of the real culprit is a rare phenomenon, particularly in cases where the eyewitness has witnessed the brutal murder of close relative".

The justices found it "highly improbable that the actual offender would be allowed to escape while an innocent person is falsely implicated". When meticulously scouring the evidentiary record for any hidden signs of malice from the husband, the bench noted that the trial file was entirely "bereft of any material suggesting ulterior motive or animus on the part of the complainant to falsely involve the petitioner in the murder of complainant's wife who was also the mother of his 5 children, thereby reinforcing the veracity of the prosecution case".

The court found the visual testimony provided by the husband and the other key witness, Shahbaz, to be thoroughly unshakeable. Both men were legally deemed "natural inhabitants of the scene," meaning their presence in the home at that specific time of day stands firmly established. The justices observed that the witnesses "consistently deposed that the petitioner, armed with a carbine, fired a fatal shot at the deceased," and that despite

Soricide is an unnatural breach of trust that reverberates through the conscience of the community but alarmingly, such tragedies are becoming increasingly visible in our society, shattering families and leaving society itself to grapple with the loss of its most fundamental bonds.

– Supreme Court of Pakistan

IMAGE: © THE LEGAL

facing "rigorous and searching cross-examination, their testimony remained unshaken on all material particulars".

This harrowing ocular narrative was powerfully bolstered by the grisly forensic realities presented during the original trial. The medical examination documented a devastating firearm wound on the right side of the face and head that caused "extensive damage to the skull, membranes, and brain, with brain matter protruding and pellets recovered from within".

The forensic pathologists concluded this trauma unequivocally established "that the injury was sufficient in the ordinary course of nature to cause death which corroborates with the mode and manner of occurrence described by complainant in FIR". The Supreme Court identified a "striking consistency between the ocular account and the medical findings," declaring that this exact alignment heavily reinforced the state's central narrative, "rendering it a cogent, reliable, and confidence-inspiring piece of evidence,

leaving no room for doubt regarding the manner of the occurrence".

However, the appellate judiciary was not entirely uncritical of the police investigation, deliberately choosing to systematically excise the fundamentally weaker portions of the state's legal argument. The prosecution had originally attempted to establish a firm motive rooted in a decades-old familial grudge. The state theorised that the victim and her husband had contracted a marriage of their own choice approximately sixteen to seventeen years prior to the bloody incident, an autonomous act that allegedly so displeased Munawar that he harboured lethal resentment for nearly two decades before finally exacting his revenge.

The Supreme Court rejected this delayed retaliatory theory outright. The bench astutely observed that the couple had peacefully lived together for nearly two decades and had been blessed with five children during this extensive period



"without any untoward incident, rendering the suggested grudge implausible". Furthermore, the highest court noted that "the prosecution has failed to adduce any evidence to substantiate this alleged motive," leading the apex judicial body to completely agree with Lahore High Court's earlier decision to thoroughly disbelieve the suggested animus.

The apex court also completely discarded the forensic value of the murder weapon recovery. While investigators did successfully recover a 12-bore carbine based directly on the petitioner's physical pointing, and a subsequent report from Punjab Forensic Science Agency confirmed the seized weapon was "mechanically operational," the evidentiary chain critically lacked a definitive scientific link.

The justices pointed out the glaring flaw in the investigation, stating *"Crucially, there is no evidence demonstrating that the fatal shot was actually discharged*

from this firearm". Consequently, the Supreme Court ruled that the lower appellate court had *"rightly disbelieved this piece of evidence, as reflected in paragraph 11 of the impugned judgment".*

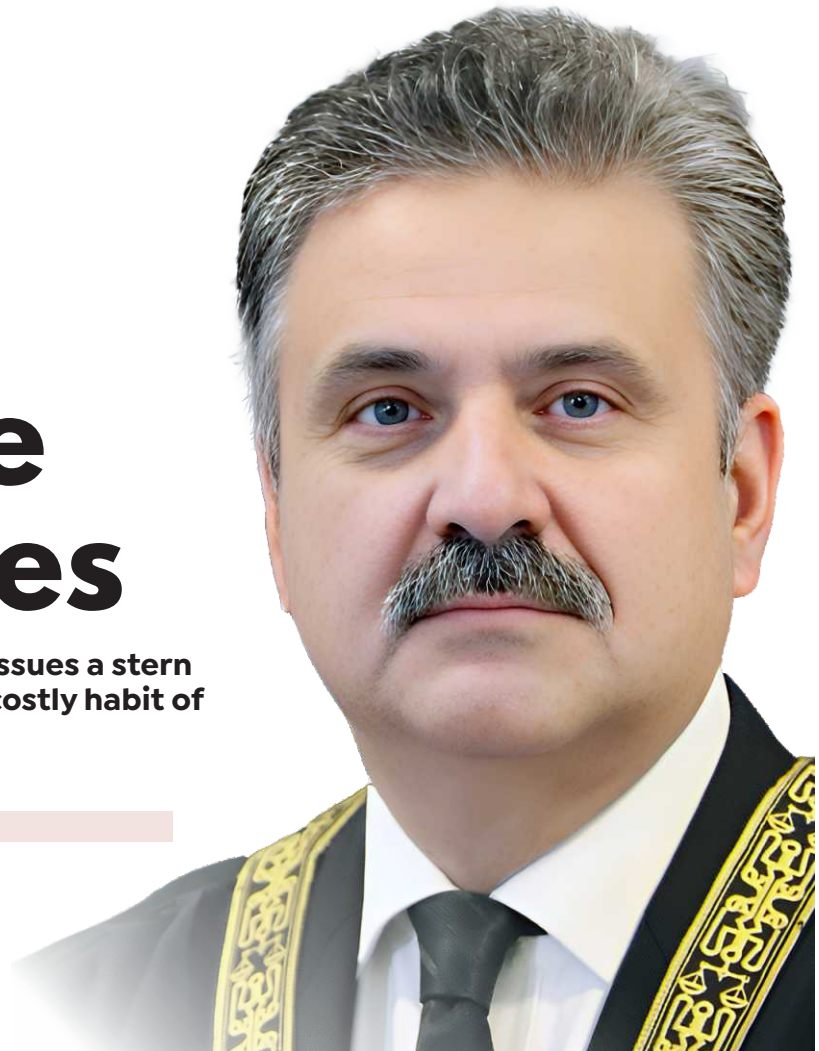
Yet, the total collapse of both the state's alleged motive and its weapon recovery evidence did absolutely nothing to alter the final judicial outcome for the accused. The sheer, unyielding weight of the immediate, fully corroborated eyewitness testimony was more than legally sufficient to seal the brother's fate. The procedural history of the case reflects that upon the initial conclusion of the trial, the lower court had convicted the petitioner on February 28, 2017, sentencing him to imprisonment for life, alongside a mandated payment of compensation in the sum of one hundred thousand rupees to the legal heirs of the deceased under section 544-A of the criminal procedure code, carrying an additional default penalty of four months' simple imprisonment.

After Lahore High Court dismissed his initial appeal, the Supreme Court took up the final review. The highest court decisively concluded that even after actively excluding the flawed motive and recovery evidence, the prosecution had nonetheless successfully established its murder case *"through confidence-inspiring ocular account furnished by the aforementioned witnesses, which finds strong corroboration in the medical evidence on record".*

In its final, definitive pronouncement closing the judicial chapter, the bench declared that *"the confluence of ocular and medical evidence leads this Court to the irresistible conclusion that the conviction and sentence imposed upon the petitioner are neither baseless nor tainted with any legal infirmity".* The life sentence formally remains actively enforced, serving as the final, unyielding legal word on a devastating tragedy that permanently ruptured a family and deeply disturbed the moral conscience of the highest court in the land. ■

No More Excuses

Supreme Court of Pakistan issues a stern warning to lawyers over the costly habit of casual delays



Pakistan's apex court has had enough of lazy lawyers. In a scathing new [ruling](#), the Supreme Court has declared war on casual delays, warning that wasting precious judicial time will no longer be tolerated under any circumstances.

Chief Justice Yahya Afridi recently dismissed a civil petition. A lawyer asked for a delay due to a prior personal engagement. The Court firmly refused. The Chief Justice wrote that "a vague assertion of 'prior personal engagements' cannot, by any stretch of legal reasoning, constitute a sufficient cause for adjournment".

He added that such behaviour "betrays a callous disregard for professional discipline and a troubling lack of appreciation of the responsibility that accompanies the privilege of audience before this Court". The attending Advocate-on-Record had to argue the case instead.

The judges used this case to issue a "clear corrective with respect to the culture of casual adjournments that has regrettably taken root". Under the Supreme Court Rules of 2025, delays are never routine indulgences. They are "matters engaging disciplinary and penal consequences". The rules demand a proper application from the Advocate-on-Record. Weekly public lists also warn that a lawyer's inability to appear does not justify a delay. The procedural framework makes it clear that "adjournments remain strictly exceptional".

Yet, the legal profession routinely ignores these rules. The Court expressed "immense disappointment, that the mandate governing adjournments is being increasingly disregarded by counsel". Official data reveals a shocking trend. Between January and March of 2026, lawyers asked for 653 delays. The Court noted that "an overwhelming majority of adjournments are sought despite the Court being assembled and matters being otherwise ready for hearing". This renders judicial time entirely unproductive.

The financial cost of this practice is massive. The Court reminded

lawyers of the "direct correlation between adjournments and the burden they place upon the public exchequer". Public funds completely sustain the justice system. Fixing a case for hearing engages court staff, infrastructure, and security arrangements.

When a lawyer postpones a case, "that entire institutional deployment stands expended without the discharge of its adjudicatory function in that cause, and in essence, is wasted". This lost time and money is practically "irretrievable".

These routine delays also severely harm the public. For litigants with limited means, repeated postponements act as a denial of timely justice. The Court warned that routine postponements erode public confidence.

The fundamental right to a fair trial "cannot coexist with a culture of routine adjournments sought merely for convenience". The Bar is now on clear notice. The Court will impose "compensatory costs" on those who break the rules. ■

Transfers Without Hearing

Judicial commission reshapes benches as dissenting Islamabad judges are reassigned across provinces



On a Tuesday (April 28) meeting convened against reluctance, three Islamabad High Court judges were reassigned across provinces, despite objections from the chief justice and without recorded reasons or hearings, marking a turn in the balance between bench and executive.

The Judicial Commission of Pakistan voted, by majority, to transfer Justice Mohsin Akhtar Kayani to Lahore High Court, Justice Babar Sattar to Peshawar High Court, and Justice Saman Riffat Imtiaz to Sindh High Court. The meeting was called by the commission's secretary after Chief Justice Yahya Afridi declined to summon it. He attended and opposed the moves, but did not carry the vote.

The margins differed. The transfers of Kayani and Imtiaz passed eleven to four; Sattar's passed ten to five. The chief justice of Peshawar High Court, Syed Muhammad Attique Shah, opposed Sattar's reassignment, citing impact on seniority within his court. No formal reasons were recorded for any of the transfers, and the commission declined to adopt a rule requiring reasons or prior hearings.

The three judges share a link. They were signatories to a letter sent to the Supreme Judicial Council that sought guidance on alleged interference by agencies in judicial work. Since the tenure of former chief justice Qazi Faez Isa, judges connected to that letter have reported pressure. In the months after the 26th Constitutional Amendment, the government secured earlier transfers that reshaped the Islamabad bench, including the move

that preceded the appointment of Sardar Muhammad Sarfraz Dogar as chief justice of Islamabad High Court.

At the meeting, the commission's judicial members voted with the majority. A member present said the body rejected a proposal to require reasons before transfers and declined to hear judges before decisions. Justice Sattar had written to the commission asking for a right of hearing; the request was not granted. One member described that refusal as appropriate.

Outside the room, the legal bar read the moment in constitutional terms. According to the media reports, Barrister Salahuddin Ahmed said that six judges had objected to direction from intelligence agencies; one later recanted, one was removed, and three have now been reassigned. He called the day a setback for judicial independence. Abdul Moiz Jaferii, an advocate, argued that transfers without consent place the bench under executive influence. He pointed to the absence of reasons and to the mismatch between Sattar's posting and the preference of the receiving court's chief justice.

The commission also dealt with proposals that did not proceed. Suggestions to transfer Justice Arbab Tahir to Balochistan High Court and Justice Khadim Hussain Soomro to Sindh High Court were withdrawn during the session. On vacancies created by transfers, the commission took a further step: it held that such seats should be filled through transfer rather than treated as openings for initial appointment.

The sequence has procedural and institutional consequences. Without reasons on record, review becomes narrow. Without hearings, the affected judges have no forum within the process. The chief justice's objection marks a split at the top of the judiciary, but the commission's structure allows a majority to prevail. In the immediate term, three benches will change composition. In the longer term, the practice will test how far transfer powers can be used without written justification and still sustain the authority of the courts. ■



Borders vs Humanity

The global refugee system is failing as states exploit legal loopholes to bypass their humanitarian duties

by **Hooran Aziz**
Rawalpindi

Global migration governance faces a persistent tension. States possess sovereign authority to regulate entry. Simultaneously, international legal commitments bind them to protect persecuted individuals. This dual structure creates a continuing conflict between national interests and international legal responsibility.

Migration broadly refers to the movement of individuals across borders. Individuals undertake this movement for various purposes. They might seek employment. They could pursue education. They may also desire family reunification. Refugees constitute a distinctly separate legal category. A well-founded fear of persecution defines this specific category.

This persecution can happen on multiple distinct grounds. It can occur due to race or religion. It can also stem from nationality or political opinion. Membership of a particular social group is another common ground for persecution. This central distinction remains incredibly important in international law. It completely determines a person's access to specific legal protections. Ordinary migrants simply cannot access these specific protections.

At the core of global migration governance lies a persistent tension. This tension pits state sovereignty against strict humanitarian obligation. States retain the sovereign authority to regulate entry. They hold the power to control their borders. This authority serves as a fundamental attribute of statehood. However, states are simultaneously bound by international legal commitments. They must protect individuals fleeing persecution. The 1951 Refugee Convention establishes these notable duties. This dual structure creates a continuing and deep



IMAGE: © THE LEGAL

conflict. National interests constantly clash with international legal responsibility.

The international legal framework governs refugee protection. The 1951 Refugee Convention anchors this entire system. The 1967 Protocol Relating to the Status of Refugees later expanded this legal framework. The Convention provides a universal legal standard. It formally establishes the strict definition of a refugee. A refugee is a person with a well-founded fear of persecution. The core principle of non-refoulement is central to this entire legal framework.

This crucial principle firmly prohibits states from returning individuals to dangerous territories. These individuals face terrible threats to their life or freedom in those territories. This non-refoulement principle has attained customary international law status. This status makes the principle binding on all nations. It remains legally binding even on non-signatory states.

The United Nations High Commissioner for Refugees supports this international system. It plays a key supervisory role. It also plays an active operational role in supporting refugee protection. The agency consistently coordinates international responses to crises. These legal and institutional foundations are very clear on paper. Despite this established clarity, actual enforcement remains incredibly weak. The global system completely lacks binding adjudication mechanisms. Therefore, legal compliance remains largely dependent on state consent. It also depends heavily on domestic political will.

State sovereignty remains a completely foundational principle of international law. Sovereignty encompasses the explicit authority of states to regulate their territorial borders. States vigorously use this power to control population movement. This sovereign authority includes vast discretionary powers over admission. It also includes total discretionary power over exit. Furthermore, states heavily use security-based restrictions. In actual practice, states increasingly rely on harsh mechanisms. They use these

mechanisms to regulate global migration flows. States build large border fortifications. They implement highly restrictive visa regimes. They heavily utilise immigration detention systems.

These defensive measures generate significant tension. They clash directly with established international refugee law. States readily justify these restrictive practices. They repeatedly use grounds of sovereignty and national security to defend them. However, such aggressive actions may severely undermine obligations. They can heavily damage established refugee protection regimes. These actions frequently prevent access to vital asylum procedures. Sometimes, these strict measures even result in indirect refoulement. This distressing situation vividly reflects a deep structural conflict. Sovereign discretion fundamentally opposes international humanitarian commitments.

Legal norms possess great clarity. Despite this documented clarity, state practice increasingly demonstrates a completely different reality. States actively deploy strategies to avoid their duties. They aim at successfully circumventing their legal obligations. Externalisation of border control is a very popular legal tactic. This practice allows states to shift migration management elsewhere. They push the logistical problem to third countries.

Consequently, states successfully avoid direct responsibility under international law. Pushbacks at sea represent another major global controversy. Human rights observers have widely criticised these aggressive pushback tactics. These actions definitively deny individuals the fundamental opportunity to seek asylum. This dangerous denial happens particularly in high-risk transit routes. The Mediterranean Sea is a prime example of such a dangerous route.

Safe third country agreements further facilitate the transfer of asylum seekers. States move these vulnerable people to other international jurisdictions. These alternative jurisdictions often have much weaker protection standards. These modern developments raise a truly fundamental question. Do these state practices constitute direct violations of international law? Or do they merely represent a strategic exploitation of legal ambiguities? Some state actions clearly breach strict non-refoulement obligations. However, other actions operate deep within legal grey zones. These persistent grey zones reveal the strict limitations of international enforcement.

Consequently, international refugee law remains normatively strong. At the exact same time, it is deeply institutionally weak. The legal system relies far too heavily on voluntary compliance. This severe structural weakness is further intensified by state behaviour. Powerful states practice selective adherence to the rules. These powerful nations often prioritise local domestic political concerns. They put these local issues directly over their international commitments. Reconciling sovereignty with humanitarian obligations is highly essential. This crucial reconciliation requires strengthening international cooperation. It also requires ensuring equitable responsibility-sharing among all states.

This shared international responsibility is particularly important today. Developing countries currently host very large refugee populations. They carry a highly disproportionate burden. Regional frameworks may help to solve this systemic problem. They can complement global legal instruments very effectively. Regional systems adapt protection mechanisms to specific geopolitical realities. The United Nations High Commissioner for Refugees remains completely central to this effort. It coordinates international responses. It focuses intensely on monitoring compliance. The agency also excels at assisting states. It helps them in implementing refugee protection standards properly.

However, the effectiveness of the agency is ultimately constrained by state consent. Sovereignty is a genuinely fundamental concept. Nevertheless, states should not invoke it to justify harmful actions. State power must not undermine core human rights principles. A truly sustainable global solution requires a dual approach. It requires aligning sovereign interests with binding humanitarian commitments. This vital alignment demands comprehensive legal reform. It also absolutely requires sustained political will. ■

Who Takes the Blame?

Courts confront a legal vacuum as artificial intelligence disrupts fault, causation and accountability



by **Fajar Mahmood**
Rawalpindi

The law has long assumed that harm has a human author. Artificial intelligence is dismantling that assumption at speed, leaving courts to assign blame in systems that learn, adapt and, at times, defy explanation.

Artificial intelligence is no longer a speculative technology. It is embedded in healthcare diagnostics, financial decision-making, transport systems and policing tools. Its rapid integration into critical sectors has outpaced the legal doctrines designed to regulate human behaviour. Liability law, in particular, is beginning to look strained. The familiar architecture of fault, causation and accountability struggles to accommodate autonomous systems whose actions are neither entirely predictable nor directly traceable to a single actor.

At the centre of the problem lies the doctrine of fault. In traditional tort law, liability depends on demonstrating that a defendant breached a duty of care and thereby caused harm. This model assumes a clear chain of human decision-making. Artificial intelligence complicates that chain. When a self-driving vehicle causes an accident, responsibility fragments. It may lie with the manufacturer that designed the hardware, the developer who coded the algorithm, the data engineers who trained the system, or the user who deployed it. Each actor contributes to the system's behaviour, yet none may have directly controlled the precise outcome.

This diffusion of responsibility exposes a structural weakness in fault-based liability. The law seeks a proximate cause and a culpable party. AI systems, by contrast, operate through layers of abstraction. Their outputs are often the result of probabilistic processes rather than deterministic instructions. As systems evolve through machine learning, even their creators may not fully understand how specific decisions are reached. The result is a mismatch between legal expectations of clarity and technological realities of complexity.

Causation, a cornerstone of liability, is equally destabilised. Courts traditionally require claimants to prove that a defendant's conduct materially contributed to the harm suffered. In AI systems, this requirement becomes difficult to satisfy. The so-called "black box" problem illustrates the challenge. Many



IMAGE: © THE LEGAL



advanced models generate outputs through opaque internal processes that resist straightforward interpretation. When an AI diagnostic tool misidentifies a disease and a patient suffers as a result, isolating the precise cause of error is far from simple. Was it flawed training data, a coding oversight, or an emergent property of the algorithm itself?

The evidential burden in such cases risks becoming prohibitive. Without transparency, claimants may struggle to establish causation, effectively shielding defendants from liability. This raises concerns about access to justice. If harm cannot be legally attributed, injured parties may be left without remedy, undermining the compensatory function of tort law.

Accountability presents a further layer of difficulty. Legal systems are built on the premise that individuals or corporate entities can be held responsible for their actions. Artificial intelligence challenges this premise by introducing agents that act autonomously without possessing legal personality. Some commentators have proposed granting AI systems a form of legal status, akin to corporate personhood, to bridge this gap. The idea is controversial. Critics argue that attributing liability to machines risks obscuring human responsibility rather than clarifying it. Unlike corporations, AI systems lack intention, assets and moral agency, making the analogy imperfect.

More pragmatic approaches focus on reallocating liability among human actors. One option is to extend existing doctrines to impose strict liability on those who deploy or benefit from AI systems. Under such a regime, claimants would not need to prove fault. It would be sufficient to show that harm resulted from the use of the technology. This approach prioritises victim compensation and reflects the reality that those who profit from AI are often best placed to absorb or insure against its risks.

Yet strict liability carries its own trade-offs. Imposing broad liability on developers and manufacturers may

discourage innovation, particularly in sectors where experimentation is essential. Smaller firms could be disproportionately affected, lacking the resources to manage extensive legal exposure. Policymakers must therefore balance the need for accountability with the desire to foster technological progress.

Regulation offers an alternative pathway. Tailored frameworks can set standards for the design, deployment and oversight of AI systems, reducing the likelihood of harm before it occurs. Risk-based models are gaining traction, categorising systems according to their potential impact. High-risk applications, such as those used in healthcare or transport, are subject to stricter requirements, including rigorous testing, documentation and human oversight. This approach shifts the focus from post hoc liability to ex ante risk management.

Transparency is central to these regulatory efforts. The concept of explainable AI seeks to make algorithmic decision-making more comprehensible. By designing systems that can provide intelligible reasons for their outputs, developers can facilitate both regulatory compliance and legal accountability. Explainability does not eliminate complexity, but it can reduce opacity to a level that courts and regulators can engage with. In liability disputes, it may prove decisive in establishing causation and identifying responsible parties.

The implications extend beyond civil liability into the realm of criminal law. Here, the challenges are even more pronounced. Criminal responsibility traditionally requires both a prohibited act and a guilty mind. Artificial intelligence satisfies neither criterion in a conventional sense. It can perform actions, but it does not possess intention or awareness. Assigning criminal liability directly to an AI system is therefore conceptually problematic.

The focus inevitably returns to human actors. Operators, developers and organisations may bear responsibility for crimes facilitated by AI. However, this attribution is not always straightforward. If harm arises from unintended and unforeseeable behaviour by a system, the justification for

criminal liability weakens. The law is cautious about punishing individuals in the absence of fault. Expanding criminal liability too far risks undermining fundamental principles of justice.

These tensions highlight a broader issue. Legal systems are reactive by design. They evolve through case law and incremental reform. Artificial intelligence, by contrast, advances rapidly and often unpredictably. The gap between technological capability and legal adaptation is widening. Courts are increasingly asked to resolve disputes involving systems they do not fully understand, applying doctrines that were never designed for such contexts.

A coherent response requires more than piecemeal adjustment. It calls for a re-examination of foundational concepts. Fault may need to be reconceptualised to account for distributed decision-making. Causation may require more flexible standards that recognise probabilistic contributions to harm. Accountability frameworks may need to emphasise control and benefit rather than direct action.

At the same time, any reform must preserve the core objectives of the legal system. Compensation for victims, deterrence of harmful conduct and the fair allocation of risk remain essential. Artificial intelligence does not negate these goals, but it complicates their achievement. Striking the right balance will be critical.

The stakes are high. As AI systems become more autonomous and more deeply embedded in everyday life, the consequences of legal uncertainty will grow. Businesses require clarity to innovate with confidence. Individuals need assurance that harm will be addressed. Regulators must navigate competing pressures from industry, public interest and technological change.

There is no single solution. A combination of approaches is likely to emerge, blending elements of strict liability, targeted regulation and technological transparency. Jurisdictions may diverge in their strategies, reflecting different legal traditions and policy priorities. What is clear is

that the status quo is unsustainable.

Artificial intelligence is not merely another technological development to be accommodated within existing frameworks. It challenges the assumptions on which those frameworks are built. The law must adapt, but it must do so with precision. Overcorrection could stifle innovation; underreaction could erode accountability.

For now, courts and policymakers are engaged in a process of experimentation. Early cases will shape the contours of liability in the AI age, setting precedents that may endure for decades. The outcome will determine not only how harm is addressed, but also how society distributes the risks and rewards of one of the most transformative technologies of the modern era.

The question is no longer whether the law will change, but how quickly and how effectively it can respond. ■



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THE LEGAL INTERNATIONAL


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Ashes of Law

In a courtroom in Kerala, the air was, mercifully, clear—though the subject was not. The bench, in a moment both resigned and revealing, observed that smoking had trailed humanity since the dawn of civilisation, an indulgence as old as ritual and rebellion alike.

The petition before it sought prohibition in public spaces so sweeping it bordered on the aspirational. Law, however, is rarely aspirational; it is negotiated reality.

The judge did not glorify tobacco, nor deny its harms. Instead, he traced the quiet limits of judicial power: courts can regulate, restrict, admonish—but not erase habit from the human condition. There was, beneath the legal reasoning, a faint philosophical shrug.

Outside, the world continued as usual—vendors lighting cigarettes, warnings printed in stark fonts ignored with practised ease. The ruling did not endorse smoking; it acknowledged endurance. Law, it seemed, could mark boundaries. It could not extinguish desire.



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The Digital Gavel



Technology offers a cheaper path to justice. But we must never sacrifice fairness for pure efficiency



by **Temia Iqbal**
Rawalpindi

The modern world operates mostly online. We shop, bank, and consult doctors through screens. Yet, the legal system remains stuck in the past. This is finally changing. Online courts are emerging, and they offer a radical fix.

People use dozens of digital services every single day. We secure medical advice on our phones, and we get our government services through web portals. Students study on the internet, and consumers manage their bank accounts with a few clicks. Almost every industry embraces this digitised reality. The legal sector is a glaring exception.

Courts are historically stubborn. They resist change. In fact, they operate in the exact same way today as they did hundreds of years ago. This stagnation creates a massive problem. The traditional court model simply does not work well anymore. It fails many different courts, and it fails everyday people.

Today, physical courts face an overwhelming burden. Case numbers pile up, and backlogs stretch for years. At the same time, many citizens cannot actually use these courts.

Various technological, social, and economic developments block their path. The system is broken. Legal experts now demand a complete rethink. They want to redesign outdated procedures. They hope to help lay people easily claim and defend their rights.

Going to court online is a fairly recent development. The idea might seem odd to some people, or it might even feel

completely inappropriate. A physical courtroom feels serious and important. An online portal lacks that traditional gravity. However, a growing number of countries embrace this change. They now operate online courts as a valid alternative to traditional venues. These virtual systems are incredibly exciting.

These digital platforms are basically a specific type of online dispute resolution system. Experts call this ODR for short. They run the entire resolution process on the internet. A user files the initial case online, and the system eventually formulates a final outcome. These systems can supplement traditional in-person proceedings. In some situations, they completely replace the physical courtroom.

The resolution can happen in a few different ways. Sometimes, the two sides reach a mutual agreement. They negotiate directly, or they use mediation. Other times, a neutral third party makes the final decision. This person might be an arbitrator, or they might be a formal judge. Different courts use different procedural models, and they employ various types of technology.

Consider a very common scenario. Imagine a person owes you money. They completely refuse to pay back that debt. You decide to fight back. You choose to file a lawsuit against them. Under the traditional system, you face immediate and severe hurdles.

First, you must figure out the paperwork. You have to formulate the actual lawsuit. You must know exactly what to write in the document. Then, you need to find the right place to submit it. You must also gather the correct type of evidence. Furthermore, you must develop sound legal arguments. The court will only consider your claim with proper legal framing.

Suppose you somehow pass this initial barrier. You must then wait. You wait for the other party to respond to your claims. After that, you wait for a judge. The judge must eventually issue a formal judgement. This judgement legally determines the merit of the case.

There is another possible route. You file the case in court, and then the parties start talking. They engage in settlement negotiations. They might resolve the dispute through mutual agreement. This can happen long before the judge even looks at the file.

Either way, taking a case to court is a remarkably complicated task. Defending yourself against a lawsuit is equally difficult. The entire process is extremely demanding, and it is terribly expensive. You often need to consult with a legal professional. This expert tells you how to formulate the claim and how to gather evidence. Furthermore, you might have to take a day off from your job. This means lost wages and added stress.

Many people simply cannot cope with these demands. They cannot afford a

lawyer, and they cannot afford the time away from work. They face real barriers to accessing the physical court. Consequently, countless people hold very good cases. They have valid claims, or they have strong defences against other lawsuits. Yet, they never turn to the courts in the first place.

Some brave individuals do try. They enter the traditional system. However, they do not manage to survive the long process. They drop out of the system entirely. The process never reaches an end. This creates a massive societal problem. We now have a huge gap in access to justice. This gap exists in many courts and across many different countries.

This failure hurts the citizens, and it deeply challenges the courts themselves. Courts exist to perform vital social and legal functions. They must resolve disputes peacefully and effectively between angry parties. They must apply and interpret the law on a representative sample of cases. The current system fails to do this. Ultimately, these failures challenge the very upholding of the rule of law.

Online courts leverage modern technology to fix this broken system. They do not just copy the old ways. Instead, they create radically different concepts of a court. Under this new model, a court is an online service. It is no longer just a physical place.

This shift changes everything for the average citizen. Lay persons can now use the courts from any location. They only need a simple internet-connected device. They can participate in the legal process effectively. They do not even need assistance from an expensive lawyer. The system is built for them.

Online courts also change the ultimate goal of the process. They actively encourage parties to end their dispute in mutual agreement. They push for early settlements. Users do not have to wait months for a judicial determination. They can resolve their issues quickly and move on with their lives.

Of course, this digital approach is not perfect. Online court procedures are not suitable for all cases. They are also not desirable for every single user. Some complex criminal trials require a physical courtroom. Some vulnerable individuals lack internet access.

However, for many case types, online courts are fantastic. For certain users, they are much more than just a good enough alternative. They are not simply a cheaper version of a traditional court. They represent a highly desirable development for modern society. These digital platforms offer real qualitative benefits. They directly improve access to justice, and they provide better redress for everyday court users.

The traditional system forces a harsh reality on ordinary people. A person receives a legal notice in the post. They feel immediate panic. They do not know the legal jargon. They cannot navigate the maze of rules. They call a solicitor. The solicitor quotes a massive fee. The person checks their bank balance. They simply cannot afford the help. They ignore the notice. They lose the case by default. This is a tragedy. This is a complete failure of the justice system.

Online courts remove much of this terror. The digital platforms use plain language. They guide the user step by step. A lay person can easily follow the prompts. The system asks simple questions. The user types their answers. The platform then builds the formal legal claim. It levels the playing field. The wealthy corporation and the ordinary citizen use the exact same digital interface.

We must step forward carefully. These technology-led dispute resolution systems hold great promise, but they carry risks. We must constantly balance the core principle of justice with the new drive for efficiency. This innovation can definitely lead to much better dispute resolution. Yet, we must protect the system's integrity. We should never compromise the procedural ways. These specific procedures ensure fair and honest decision-making.

Fairness must remain the absolute central focus. True justice must always guide the way. All parties deserve equal and fair treatment. The chosen dispute resolution methods must never alter the fundamental promise of justice. The gavel might fall in a grand wooden courtroom. It might click on a digital screen. The final result must remain perfectly just. ■

Evidence or Intrusion?

When private recordings cross from proof into offence, the Court redraws the limits of evidence

by **Nusrat Jameel**
Law Graduate - Islamabad

The case arrives without spectacle but not without consequence. A man walks into the Supreme Court carrying, in effect, a recording, thin, invisible, yet central to his claim that corruption once passed between two voices.

Basharat Ali Chaudhry, appearing in person, insists that what he captured is enough: a conversation, secretly taped, allegedly documenting a bribe of five thousand rupees. The trial court did not accept it. Lahore High Court did not accept it. By the time the matter reaches the Supreme Court, the recording has become less a piece of evidence than a question in itself: what does the law permit a citizen to do in order to prove another's wrongdoing?

The Court answers by declining to be drawn into the recording's content. Justice Muhammad Hashim Khan Kakar reframes the dispute with deliberate restraint: *"the critical inquiry that necessitates resolution is whether secret audio/video recordings... are considered lawful and admissible under Pakistani law."*

The shift is subtle but decisive. It moves the focus away from what the tape might reveal and towards the conditions under which it came into being. In doing so, the Court resists a familiar instinct, to treat recorded sound as inherently probative, as if the act of preservation confers authenticity.

Pakistani evidentiary law, the [judgment](#) reminds us, does not exclude electronic material outright. On the contrary, such material *"has been classified as primary evidence"* under the Qanun-e-Shahadat Order, 1984, read with the Electronic Transactions Ordinance, 2002. But the classification carries with it a set of demands that are technical and exacting.

The Court reiterates that admissibility depends upon authentication of the source, proof of the method of acquisition, and expert confirmation that the recording has not been altered. It anchors this requirement in precedent: *"No audio tape or video can be relied upon by a court until the same is proved to be genuine and not tampered with or doctored."*

In the present case, these conditions are not merely unmet; they are largely unaddressed. There is no forensic certification, no chain of custody, no independent corroboration. The recording stands alone, supported only by the petitioner's insistence. The Court treats this absence not as a technical lapse but as a structural failure. Evidence, in its view, cannot be self-validating.

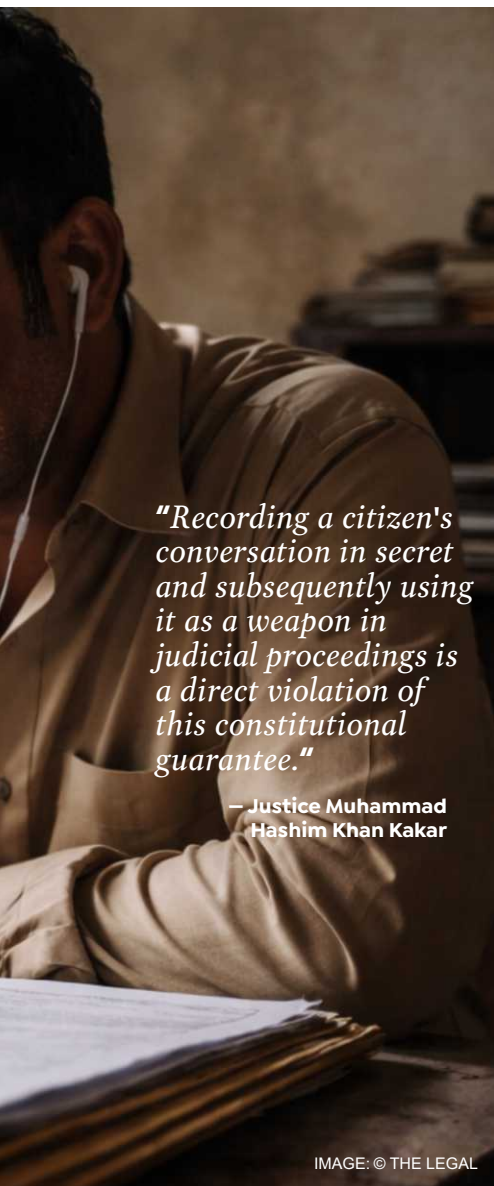
Yet the judgment does not end with questions of authenticity. It proceeds to examine the legality of the act of recording itself, drawing a distinction that is both narrow and consequential. A person may, the Court suggests, record a conversation to which he is a party; such conduct is *"generally not considered illegal*



wiretapping." But this tolerance is conditional and does not extend to the recording of conversations between others, nor does it immunise recordings made with a particular kind of intent. The Court introduces a criterion that is less frequently articulated but no less significant: the purpose behind the recording.

Evidence must be *"pertinent, duly obtained, and not infringe upon the rights of any of the parties involved."* The phrase *"duly obtained"* becomes the pivot. It signals that legality is not exhausted by the mere fact of participation. A recording made as part of a deliberate effort to ensnare, what the Court describes as laying *"a trap to procure evidence,"* crosses into a different category altogether.

Here, the judgment adopts a posture that is both doctrinal



"Recording a citizen's conversation in secret and subsequently using it as a weapon in judicial proceedings is a direct violation of this constitutional guarantee."

— Justice Muhammad Hashim Khan Kakar

IMAGE: © THE LEGAL

and moral. It states, without qualification, that *"the act of secret recording is an offense in itself, and the complainant's illegality cannot serve as the solitary basis for convicting an accused."* The inversion is striking. The complainant, who approaches the court as an aggrieved party, is recast as a potential wrongdoer. The recording, rather than strengthening his claim, exposes him to scrutiny.

This reorientation is reinforced by statutory reference. The Prevention of Electronic Crimes Act, 2016, the Court notes, criminalises unauthorised surveillance, including the capture or transmission of a person's voice with dishonest intent. The implication is that the law does not treat such acts as marginal or procedural irregularities; it treats them as substantive offences. A recording obtained through

such means is not merely suspect, it is tainted at its origin.

The judgment then widens its frame, situating the issue within the constitutional guarantee of privacy. Article 14 of the Constitution, the Court observes, secures *"the inviolability of the dignity of man and the privacy of the home."* The language that follows is unusually direct: *"Recording a citizen's conversation in secret and subsequently using it as a weapon in judicial proceedings is a direct violation of this constitutional guarantee."* The metaphor of the weapon is not incidental. It suggests that evidence, when obtained improperly, does not merely fail to assist the court; it actively distorts the legal process.

To this constitutional reasoning, the Court adds a layer drawn from Islamic jurisprudence. It invokes the Qur'anic injunction against spying, *"Do not spy (la tajassasu),"* and recounts an incident from the time of Hazrat Umar (RA), who, upon realising that he had entered a house without permission in pursuit of suspected wrongdoing, withdrew without imposing punishment. The narrative is not decorative. It functions as a parallel authority, reinforcing the proposition that even the suspicion of illegality does not justify intrusion into private space.

The Court is careful, however, not to collapse all forms of recorded evidence into a single category. It distinguishes the present case from situations in which recordings emerge from institutional settings. Referring to a recent decision involving CCTV footage, it notes that such evidence was derived from *"a security system that was permanently installed and operated on a regular basis,"* extracted by law enforcement, and subjected to forensic verification. In that context, the recording was part of an established system, not the product of a private initiative designed to produce evidence.

The contrast is instructive. In one scenario, technology operates within a regulated framework, subject to oversight and verification. In the other, it is deployed unilaterally, without safeguards, and with a specific aim. The Court captures this distinction in a single sentence: *"This is an instance in which a private individual secretly records a conversation with dishonest intent and subsequently attempts to convert his own criminality into the conviction of the respondents."*

What follows is less a doctrinal conclusion than a caution about institutional consequences. To admit such evidence, the Court suggests, would be *"equivalent to granting permission for conviction based on this type of evidence."* It imagines a legal order in which *"every citizen will be empowered to act as a prosecutor, technician, and witness,"* bypassing established procedures. The concern is not abstract. It reflects an anxiety about the erosion of boundaries, between state and individual, investigation and accusation, evidence and entrapment.

Against this backdrop, the procedural posture of the case acquires renewed significance. The respondents have been acquitted, and the law attaches weight to that status. The Court reiterates that an acquitted accused enjoys a *"double presumption of benefit of doubt,"* one that operates both before and after trial. Interference requires *"strong and exceptional reasons,"* which, in the Court's assessment, are absent. The dismissal of the petition follows, not as an abrupt end, but as the logical culmination of a line of reasoning that has already closed off the petitioner's central claim.

What remains, after the dismissal, is a judgment that speaks less about corruption than about method. It does not deny that wrongdoing may occur in private conversations, nor does it suggest that such conversations are beyond evidentiary reach. What it insists upon is that the means of accessing them must conform to law. A recording, however persuasive in content, cannot be disentangled from the circumstances of its creation. If those circumstances involve intrusion, manipulation, or the deliberate manufacture of evidence, the recording carries that defect into the courtroom.

In this sense, the case is less about a failed prosecution than about the limits of private initiative in criminal justice. The petitioner sought to convert a personal act of surveillance into legal proof. The Court's response is to draw a boundary, one that preserves the distinction between evidence gathered within the law and evidence produced in defiance of it. ■



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