

Political, Judicial and Societal Impact of the Panama Case Verdict

The Supreme Court bench hearing the Panama case claimed in triumph that the verdict would be remembered for centuries. While its effects for the coming centuries are debatable, what it has undoubtedly achieved is a political victory for the ruling party as well as the so-called opposition. It gives PML-N an apparent nod to keep governing the country with the added confidence that the 'proofs' presented against the Prime Minister were inadequate. It gives PTI, PPP and JI something to shout about while they prepare their pre-election agenda. It saves the judiciary some face too as the so-called senior most judges gave dissenting notes in an attempt to keep the mirage of impartiality. Furthermore, it reassures the Nawazs' and the Zardaris' of the nation that no matter how much blood they suck out of the masses, all systems are in place to safeguard their thirst.

Yet, most importantly, this verdict hands down a confirmation to the general public of Pakistan that their hopelessness and frustration regarding the judicial process are indeed based on reality. This verdict validates the image of two parallel judiciaries present in our country; one for the rich and affluent, and another for the ordinary man. This judicial system could not get back the billions of dollars swindled by Mr. Zardari even though the federal government and the judiciary know exactly which Swiss banks the money is stashed away. Ms. Ayan Ali, who was caught red-handed trying to smuggle money to Dubai, was not only released from jail but also her name was removed from the exit control list (ECL) as if to facilitate her to 'complete the unfinished job'! It's the same legal wizards who remained silent while Musharraf took charge of the government, passed the controversial PCO, declared emergency in the country, and finally escaped the country after being charged with 'treason'. The same 'judicial diligence' gave Raymond Davis a clean chit to leave the country unscathed after having murdered Muslims in broad daylight. On the other hand, the common man knows well that when he knocks the door of a court, it may take his entire life to get a verdict! It is folklore now that rulers and the affluent class 'employ' services of judges rather than hiring lawyers!

A reading of the detailed Panama case verdict reveals the significant similarities in the thought processes and arguments of all the five judges. Yet, the decision came out to be 3:2. What caused the three judges (majority) to not rule against the current ruler despite debating the matter in almost the same way as the two other judges who wanted to oust the PM?

It doesn't take a lot of intellect to understand the root cause of the ailment our judicial system suffers from. No matter how impartial, brilliant and principled a jurist is, he cannot be just in this system. The reason for this is that the system is inherently flawed. This system enables man to decide on the fate of man, referring to the law of precedence. The law and jurisprudence is literally at the beck and call of judges who can twist and turn or interpret any law or canon to suit the situation. This power given to man, however pious he may be in his personal life, is the source of weakness and corruption. The 'doctrine of necessity', PCO in Musharraf era and now the Panama verdict are but a few examples.

Islam, on the other hand, provides a legal framework based on detailed Hukm Shari' which take their source from Quran and Sunnah. Islam encourages the judges to be free to adjudicate within the framework provided by Allah (swt) and the Messenger (saw). The same legal framework oversees the quality of judgments being handed out, and serves as an internal check-and-balance feedback system. Therefore, we see that judges in the days of the righteous Khulafah Rashideen were beacons of fairness, impartiality and justice. It is the same legal system which enabled a Jew to stand victorious in a case against none other than the Khalifah of Muslims at that time, a scholar and jurist in his own right, Ali Ibne Abi Talib (ra)! It is the same law adhering to which Khalifah Umar Bin Khattab (ra) punished his

own son and was himself accounted over his garment! There was no VIP treatment as we see today. The rights of the weak are restored to them regardless of their race, status, gender, school of thought or religion. When it was requested that a woman who committed theft be pardoned because she was from a noble family, RasulAllah (saaw) warned the Muslims by saying ... «إِنَّمَا أَهْلَكَ الَّذِينَ قَبْلَكُمْ أَنَّهُمْ كَانُوا إِذَا سَرَقَ فِيهِمُ الشَّرِيفُ تَرَكُوهُ وَإِذَا سَرَقَ فِيهِمُ الضَّعِيفُ أَقَامُوا ...» **“The people before you were ruined because when a noble person amongst them committed theft, they would leave him, but if a weak person amongst them committed theft, they would execute the legal punishment on him. By Allah, were Fatimah, the daughter of Muhammad, to commit the theft, I would have cut off her hand.”** [Bukhari] The core reason for the stability and robustness of this system is the fact that man doesn't get to decide man's sentence from his own whims and desires rather the judge confines himself to that which is revealed. Rasullah (saaw) said, «الْقُضَاءُ ثَلَاثَةٌ: وَاحِدٌ فِي الْجَنَّةِ، وَاثْنَانِ فِي النَّارِ، فَأَمَّا الَّذِي فِي الْجَنَّةِ فَرَجُلٌ عَرَفَ الْحَقَّ فَقَضَى بِهِ، وَرَجُلٌ عَرَفَ الْحَقَّ فَجَارَ فِي الْحُكْمِ، فَهُوَ فِي النَّارِ، وَرَجُلٌ قَضَى لِلنَّاسِ عَلَى جَهْلِ فَهُوَ فِي النَّارِ» **“The judges are of three types: One is in heaven, the others are in Fire. As for the one who is in Jannah; he is the man who knows the truth and judges by it, whereas the one who knows the truth and aggrieves it in judgment, he is in Fire. And the man who judges for the people on ignorance is also in Fire.”** [Abu Daud]

O Muslims of Pakistan, this judicial system is known well to you. What's the point of flogging a dead horse? You were hopeful that something good would come out of the Panama verdict because you want justice to prevail, but mere hope achieves nothing! You have to think – and think deeply as to how, after almost half a century, we are still left at the mercy of these corrupt rulers and the 'legal' cover they get from the judicial system the way they desire when they desire! Stand up shoulder-to-shoulder with Hizb ut Tahrir to resist this systemic corruption, with no fear of adverse consequences: «أَلَا لَا يَمْنَعَنَّ أَحَدَكُمْ رَهْبَةُ النَّاسِ أَنْ يَقُولَ بِحَقِّ» **“Do not fear the people from speaking the Truth when it is witnessed or seen, for it will neither shorten the life span nor cause loss in Rizq”.**(Ahmad)

O officers of Pakistan's Armed forces! O the fighting arm of the Ummah of Muhammad (saw), your leadership is the puppeteer behind this show. You know for sure that these rulers cannot do anything unless they get a green signal from GHQ. Your leadership ensures that this parasitic system prevails in a land which was dedicated to become a fortress for Islam and Muslims of the world. Respond to Hizb ut Tahrir, under its Ameer Sheikh Ata Bin Khalil Abu al-Rashtah, the eminent statesman and capable jurist when it calls you to give Nussrah so that this system is replaced with a Khilafah that takes its inspiration from the Khulafah Rashideen. Be assured that Khilafah is coming by the Will of our Lord:

﴿وَعَدَ اللَّهُ الَّذِينَ آمَنُوا مِنْكُمْ وَعَمِلُوا الصَّالِحَاتِ لَيَسْتَخْلِفَنَّهُمْ فِي الْأَرْضِ كَمَا اسْتَخْلَفَ الَّذِينَ مِنْ قَبْلِهِمْ وَلَيُمَكِّنَنَّ لَهُمْ دِينَهُمُ الَّذِي ارْتَضَى لَهُمْ وَلَيُبَدِّلَنَّهُمْ مِنْ بَعْدِ خَوْفِهِمْ أَمْنًا يَعْبُدُونَنِي لَا يُشْرِكُونَ بِي شَيْئًا وَمَنْ كَفَرَ بَعْدَ ذَلِكَ فَأُولَئِكَ هُمُ الْفَاسِقُونَ﴾

“Allah has promised those who have believed among you and done righteous deeds that He will surely grant them succession [to authority] upon the earth just as He granted it to those before them and that He will surely establish for them [therein] their religion which He has preferred for them and that He will surely substitute for them, after their fear, security.” [Surah An Nur 24:55]

Indeed, the word of Allah suffices for the believers, settling their hearts, eradicating their fears and energizing their limbs.

**Written for the Central Media Office of Hizb ut Tahrir by
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