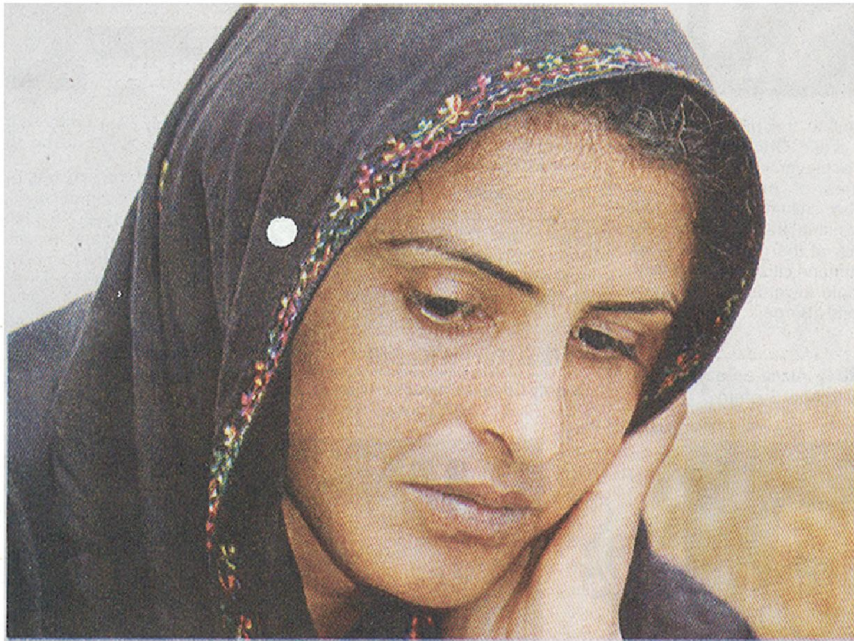


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■ HEARING IN MUKHTARAN MAI REVIEW PETITION

Civil society urges CJ to constitute larger bench



Mukhtaran Mai

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Islamabad

The civil society has appealed to Chief Justice Iftikhar Muhammad Chaudhry to constitute a larger bench for hearing review petition submitted by Mukhtaran Mai on May 19.

Signed by more than 250 individuals and organisations, the written appeal requests the chief justice to give due attention to Justice Nasir-ul-Mulk's forty-page 'Note of Dissent' in the recently published Supreme Court judgement of the three-member bench.

On April 21, the Supreme Court rejected appeals of Mukhtaran Mai against acquittal of her rapists and for enhancement of their sentence. However, the court ordered that Abdul Khaliq, one of the 14 accused in the case, would remain in prison to serve life sentence.

The review petition filed by Barrister Aitzaz Ahsan on May 19 sought the constitution of a larger bench, instead of a three-judge bench, which had heard her appeals and upheld the

March 3, 2005, judgment of the Multan bench of Lahore High Court.

In August 2002, an ATC had sentenced six men to death, four to life sentence for raping Mukhtaran Mai on June 22, 2002, on the orders of a 'panchayat' and two for being part of that 'jirga.' The remaining eight were released.

Later the LHC's Multan bench on separate appeals acquitted five of them and converted the death sentence of Abdul Khaliq to life imprisonment.

The 'jirga' had been called to seek punishment for Shakoork, then 12-year-old brother of Mukhtaran Mai. It suggested that Shakoork should marry the girl with whom he was accused of having an affair and Mukhtaran Mai be married to a man of the Mastoi tribe. But the Mastois rejected it and insisted that the offence of adultery should be settled with adultery.

Mukhtaran Mai was called by the council to apologise for the conduct of her brother who had already been sodomised by the

Mastois. She was allegedly dragged to a nearby hut and raped by four men.

The appeal points out that the recent judgement in Mai's case has encouraged 'jirga' system in the country. "We have grave concerns that the aforesaid judgement, as it stands in this case, will set a negative precedent in law and will have a highly detrimental influence on the way crimes of sexual violence against women are perceived by the police, judiciary and the legal profession. We are equally apprehensive that, in future, it will serve as a powerful deterrent to women victims and survivors of such violent crimes, preventing them from reporting such crimes to the police and from recourse to legal action." It mentions that after the SC judgement, the feudal landlords and tribal chieftains have been emboldened to start holding 'jirgas' and 'panchayats' publicly again. "A case in point is the recently reported Mahar tribe incident in Sindh, whereby the 'jirga's' decision led to 12 girls allegedly being given away as

compensation against Rs1.7 million to the enemy tribe, with impunity and in the full glare of the media, with the police, judiciary and the Government of Sindh allegedly as silent spectators."

It urges CJ to recall that under his leadership in 2006, the Supreme Court, and prior to that in 2004 the Sindh High Court, declared 'jirgas' and 'panchayats' illegal and directed the federal and provincial governments to eradicate them and to ensure that their decisions were not implemented. "After this declaration, many of the 'jirgas' and 'panchayats' went underground but after the subject judgement they have now re-surfaced." The appeal requests CJ to hold the government accountable for this implicit violation of the Sindh High Court's decision and SC directives. "It is indubitably imperative that these 'jirgas' and 'panchayats' be eliminated in accordance with the directives of the Supreme Court and Sindh High Court — for they are manifestly anti-women, anti-minorities, anti-poor, and anti-justice."

The appeal further says that "Your Lordship has always been pleased to uphold the principles of justice in cases pertaining to women's rights, human rights, constitutional rights and, most notably, in cases pertaining to 'jirgas' and 'panchayats', 'badal-e-sulah', 'wannai', 'swara', 'karo kari', 'sang chatti', bonded labour and missing persons. "It is with great expectations that we are taking the liberty of bringing this grave public issue to your Lordship's kind attention, in the confidence that justice will be done — with particular reference to this landmark case for ensuring justice for women in Pakistan, where their position has become increasingly vulnerable, and impunity for violent crimes against women has reached an unprecedented level.

At the end, the appeal mentions the names of individuals and organisation that have signed the appeal moved by Tahira Abdullah, Maliha Hussein, Shazreh Hussain and Samar Minallah.