

LAWYERS REVOLTING OR REVOLTING LAWYERS?

It sounds like a bad lawyer's joke but lawyers are revolting in Pakistan. Some would say lawyers are revolting regardless of where they live. Most people are familiar with the Shakespearean expression roughly characterized as "first kill the lawyers." Most people do not know, however, that Shakespeare was talking about the reign of terror introduced by Cromwell when only lawyers stood between the rudimentary early parliamentary democracy in England and the dictatorial power. In order for the tyrant to succeed the lawyers had to be killed.

Lawyers have been given a bad name back to Biblical times. The expression "an eye for an eye" has been criticized not only in modern times but even in some religious theology. The truth is, however, that the "eye for an eye" formulation was a restriction on the law of retaliation. Where once a tribal clan might wipe out an entire family for a crime committed against a tribal member, the Bible introduced the concept of no more than an eye for an eye; measure for measure. From the time of its first mention in Exodus, an "eye for an eye" meant nothing more than financial reimbursement in return for the commission of the offenses spelled out by the Bible. We know this to be true because the Bible is quite explicit that the "eye" given for the "eye" includes the "cure" and even the lost time from employment. Later theological courts included damages such as pain and suffering as a remedy for the lost "eye."

What does all of this have to do with Pakistan or the difficulty with our own Attorneys General in the United States Department of Justice? How odd it is to see a lawyer hurling a tear gas shell back at the police in Lahore, the lawyer dressed in his white shirt and black suit. The lawyers in Pakistan have become the chief resistance to the oppressive rule of General Musharraf. Like Shakespeare's character, the Musharraf government has sent baton-wielding police officers to pummel lawyers and haul them into police wagons. The lawyers do not have the support of the opposition political parties, have no army or air force but they do have the popular support of the people.

Haroon Rashid, the President of the Islamabad Bar Association instructed lawyers not to attack police officers. The United States has not given much comfort to the lawyers in order to curry favor with the Pakistani government in our lone ranger war on terrorism. Then again, we do not give much respect to our own lawyers fighting for the rule of law and we callously disregard the rights of our own citizens by essentially denying them the writ of *habeas corpus* and locking them away in places like Guantanamo, Cuba.

Part of the Pakistani protests surrounds the fate of the ousted Chief Justice of the country's Supreme Court who is urging his colleagues to defy the *de facto* marshal law imposed by General Musharraf. In Pakistan, almost seven hundred (700) lawyers are in jail while others have tried hard to stay out of trouble. Pakistan, having been at one time an English colony, has a history of a legal system at least acquainted with

democracy. While the United States has tried hard to transplant democracy to Afghanistan and Iraq, Pakistan actually has had some taste of an orderly functional legal system. However, in Pakistan we are now forced to back those who would dismantle the very system that we are trying to establish in Afghanistan and Iraq. How ironic.

While the United States is no Pakistan and we still have a vibrant workable legal system, there is no question that politicians of all extremes have used lawyers and the courts as a whipping post to divert attention from serious national and local concerns. How often do we hear of “frivolous lawsuits” when in fact the number of lawsuits continues to drop dramatically and consumers are frequently foreclosed from any legal remedy. Forced arbitration clauses in almost every consumer transaction limit or deny even the most basic remedies to those who are victims of illegal and improper corporate practices. The arcane doctrine of preemption slams the courthouse doors on people who are victims of dangerous pharmaceuticals and bad medical devices simply because an ineffective Food and Drug Administration has the theoretical power to regulate drugs and medical devices. The FDA, of course, is nothing more than a revolving door where big business represents the fox guarding the hen house. Civil rights cases have become almost impossible to bring because of the defense created by the courts that so long as the police can articulate “reasonable cause” they are virtually unrestricted in how they may treat citizens. Disrespect for the rule of law has been shown by our national government in how it has treated American citizens labeled as enemy combatants and in defiance of the implicit understanding that the United States Attorney’s Office would not be politicized.

Lawyers will be the butt of jokes and receive the painful end of the police baton wherever citizens forget that freedom and the crucial role played by lawyers go hand in hand. It is no accident that the overwhelming majority of the signers of the Declaration of Independence were lawyers and that one of the major architects of the American democracy, the second President of the United States John Adams, was a trial lawyer who defended the British soldiers many years earlier who were charged with the Boston massacre.

Clifford A. Rieders, Esquire
Rieders, Travis, Humphrey, Harris,
Waters & Waffenschmidt
161 West Third Street
Williamsport, PA 17701
(570) 323-8711 (telephone)
(570) 323-4192 (facsimile)

Cliff Rieders, who practices law in Williamsport, is Past President of the Pennsylvania Trial Lawyers Association and a member of the Pennsylvania Patient Safety Authority.