

MILITARY COURTS: AN AFFRONT TO HUMAN RIGHTS

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ABSTRACT

The Peshawar School Attack tragedy saw in its wake the establishment of military courts, which allow for the prosecution of civilians accused of terrorism offences. However, what was initially intended to be a short-term solution, four years ago, is still in existence today. Presently, the PTI government is again making efforts to extend the military courts for a period of another two years. This article sheds light upon how these courts deal a severe blow to the integrity of our criminal justice system which also exercises jurisdiction over offences for terrorism. Additionally, concerns have also been raised with regards to Pakistan's obligations under a multiplicity of International Conventions.

INTRODUCTION

On 16th December 2014, a terrorist attack on the school children of Peshawar shook the nation to its core. It was in the aftermath of this act of horror when the entire nation decided to firmly stand against terrorism. The political and military leadership apparently forged a consensus 'to come down hard on the terrorists through a concerted national effort.' It was claimed that Pakistan faces an 'extraordinary situation' which poses a 'grave and unprecedented threat to the integrity of Pakistan and thus special measures were required to deal with it'.⁹²

This national political consensus was translated into a 20-point National Action Plan (NAP) which was unanimously approved by the Parliament on 24 December 2014. The plan demanded the formation of military courts to deal with terrorism cases, this was regarded as an essential measure to counter terrorism. It also required to lift the ban on death penalty in such cases. Later, in January 2015 the Parliament approved two extraordinary pieces of

⁹² Muhammad Zubair, 'Why Pakistan Should Not Renew Mandate Of Military Courts To Try Terrorism Suspects' (Constitution Net 2016).

legislation, i.e., the Constitution (Twenty-First Amendment) Act, 2015⁹³ and The Pakistan Army (Amendment) Act, 2015. The aim of these laws was to set up constitutionally protected military courts to try civilian suspects as the amendments allowed military courts to try offences related to “terrorism” committed by those who claim to, or are known to, belong to a terrorist organization “using the name of religion or a sect”. This was widely criticized by human rights activists since the new laws allowed blatant violation of the principles of fair trial and due process owing to the trials not being public, the absence of a right to appeal, and no legal qualifications of judges in the military courts.

Moreover, Pakistan lifted the moratorium on the death penalty on 9th January 2015, and since then, more than 400 prisoners on death row have been hanged, while around 8000 still await execution. The then Prime Minister Nawaz Sharif called it an important step to keep the masses of the country safe. However, the Human Rights Commission of Pakistan marked this step as an ineffective form of punishing emphasizing that the moratorium on death penalty should be restored.

The new law was termed as a ‘bitter pill’ which was necessary to swallow for the security of the country. The Preambles of both the bills were largely similar citing the “extraordinary situation and circumstances” that demanded “special measures for speedy trial”.⁹⁴ Both amendments lapsed on 6 January 2017 pursuant to a “sunset clause”.

1. PAKISTAN ARMY ACT, 1952

Following the amendment in Section 2 of the Pakistan Army Act, 1952, military courts were given the authority to try persons who claim to, or are known to belong to “any terrorist group or organization using the name of religion or a sect”⁹⁵ and carrying out acts of violence. The rules of evidence in the Pakistan Army Act are the same as those observed by the civilian courts.⁹⁶ However, the amendments to the Act allows the Federal Government to transfer proceedings pending in any other court against any person accused under scheduled offences to military courts. It is important to note that once a case has been

⁹³ Constitution (Twenty-first Amendment) Act, 2015.

⁹⁴ 'Parliament Passes 21st Constitutional Amendment, Army Act Amendment' (Dawn News 2015).

⁹⁵ Section 2(d)(iii) of the Pakistan Army Act, 1952

⁹⁶ Section 112 of the Pakistan Army Act, 1952

transferred, there is no requirement for a re-appraisal of evidence and verdicts can be based on previous evidence and recorded statements.

The Act now also does not require the proceedings to be in public and there is no requirement to disclose the identity of the accused. Furthermore, an accused person may be tried and punished for offences under the Act in any place whatsoever.⁹⁷

2. THE 2017 EXTENSION: MOCKERY OF THE CRIMINAL JUSTICE SYSTEM

*The renewal of military trials for civilians accused of terrorism has only weakened the rule of law, and undermined the right to fair trial and equality before the law in Pakistan*⁹⁸

Despite earlier promises that the use of military courts to try civilians was only a “temporary” and “exceptional” measure, after the expiration of the 21st Amendment, the Parliament enacted additional amendments in the law to renew military courts’ jurisdiction over civilians. On 30 March 2017, Parliament passed the 23rd constitutional amendment and amendments to the Army Act, 1952, with retrospective effect from 7 January 2017 (when the previous Amendments to the law had lapsed).⁹⁹ The 23rd Amendment provides, amongst other things, that for offences related to terrorism committed by those who claim to, or are known to, belong to “any terrorist group or organization misusing the name of religion or a sect”, the Article 175 of the Constitution of Pakistan will not be applicable.¹⁰⁰ These amendments were enacted for a two-year period from the day of their commencement, and were due to expire on 30 March 2019. The preambles of the amendments included that military courts “have yielded positive results in combating terrorism” and that it was in “national interest” to extend them for an additional term.

Many opposition leaders resisted the bill as they believed that supremacy of Parliament and democracy should not be compromised by bringing any such amendments. Whilst those in support believed that the extension is imperative to combat terrorism and consequently for

⁹⁷ Section 93 of the Pakistan Army Act, 1952

⁹⁸ 'Pakistan: End Military Trials Of Civilians' (International Commission of Jurists 2018).

⁹⁹ 'Military Injustice In Pakistan' (International Commission of Jurists 2019).

¹⁰⁰ Constitution (Twenty-third Amendment) Act, 2017.

the survival of the country. The agreement as to the amendment was also based on the consensus that judicial reforms will be ensured in the two-year extension period.¹⁰¹

However, even today in 2019, there is no indication of any such reform and ordinary criminal justice is still compromised and incapacitated to deal with terrorism cases in an efficient manner.

3. THE SECRECY SURROUNDING MILITARY COURTS

During the 2015-2017 term for military courts, it has been reported via Pakistan's military that around 274 people were convicted for terrorism related offences and almost 161 were sentenced to death. For 110 cases the military did not disclose any information related to their trails. Even the names of the convicts were not revealed. And when the military did choose to release the information on the convicts, it was ascertained that 94.6% of the convicts were sentenced on the basis of their confessions.¹⁰²

It was alleged by the family members and lawyers of many accused that they were coerced into confessing crimes and no rights were given to them. Many such appeals were lodged in civilian courts claiming that the convicts in military courts were denied the right to fair trial.

"Not only were the trials held in secret, also judgments with exact charges, reasoning and evidence have not been disclosed", said Reema Omer, international legal adviser for the International Commission of Jurists.¹⁰³

She also asserted that the high confessional rate in military courts is worrisome alleging that in regular murder cases the convictions on the basis of confessions is not even 5 percent (in Pakistan), while in these special courts 95 percent of convicts have confessed to their crimes before military courts. This raises grave concerns about torture and other ill-treatment.

¹⁰¹ 'Senate Approves Two-Year Extension To Military Courts' (Samaa News 2017).

¹⁰² Asad Hashim, 'Pakistan To Renew Military Courts For "Terror" Suspects' (Aljazeera 2017).

¹⁰³ Asad Hashim, 'Pakistan To Renew Military Courts For "Terror" Suspects' (Aljazeera 2017).

Moreover, data reveals that the accused persons of those convicted by Pakistan's military were imprisoned under a 2011 Pakistani law. This law allows indefinite detention without charge in terrorism-related cases, and had, in some cases, been held in custody without trial for as long as six years, the data reveals.¹⁰⁴

4. A MILITARY SOLUTION TO TERRORISM

It is of no doubt that the establishment of military courts in Pakistan sidelines the country's already ailing civilian courts. The 21st Amendment to the Constitution of Pakistan was not the first time the country has authorized military courts in Pakistan. On October 17, 1979 not long after General Zia ul Haq took over the country in a military coup, military courts were established. These were closed courts and none of its decisions could be challenged in civilian courts. Around one hundred courts were established at that time.¹⁰⁵ The law back then, authorized the military tribunals to make arrest of various political workers and journalists.

The situation now in Pakistan is very different from that time but it is incontestable that turning over the adjudication of terror cases from ordinary civilian courts to military courts considerably damages and undermines our civilian judiciary.

These special courts have the prerogative to try civilians in secrecy without any accountability which allows the military to pursue their own vendettas. The confidentiality of the cases permits the military tribunals to practice contravening legal principles without adhering to the principles of justice and fair trial. Since the military courts do not work under any coherent legal precedent, little or no information exists as to the basis of convictions and acquittals. This creates doubt in the minds of the public as to any conviction that is produced under these courts therefore it is suggested that the evidence is made public to eradicate any ambiguity and speculation as to the convictions.

¹⁰⁴ Ibid

¹⁰⁵ Rafia Zakaria, 'Military Courts And Terrorists Heroes' (Aljazeera 2014).

It is also worth discussing that Pakistan needed a military solution because of its lack of faith in civilian justice system. The ordinary courts have a low conviction rate specially with regards to terrorism cases. One of its major reason is that the safety of adjudicators, witnesses and all other involved parties is at stake in any such case. To circumvent this, enough protection should be provided to these parties if a just outcome is required in the civilian courts. Like the Pakistan Army, civilian security outfits should also be capacitated to protect the parties in terror cases.¹⁰⁶

5. CHALLENGING THE DECISIONS OF MILITARY COURTS

The decisions of the military courts cannot be appealed in the ordinary justice system. Nonetheless, the petitioners can initiate the writ jurisdiction of the High Court and Supreme Court. The right to review is available on grounds of coram non iudice, mala fide and without jurisdiction. In the Supreme Court 2016 judgment the right to interfere was narrowly interpreted.¹⁰⁷ Nonetheless, the Courts chose to act more responsibly in the Peshawar High Court 2018 judgment and iterated that the operation of military courts violated human rights in various cases of terrorism.

5.1 Supreme Court 2016¹⁰⁸

In 2016, the Supreme Court heard 16 petitions from relatives of the people challenging the conviction and death sentence given to the accused persons. It was contended that the procedures adopted and followed during the proceedings infringed the right to fair trial and due process. It was alleged that the victims of the disappearance had been subjected to secret trials and that no pre-trial proceedings were conducted, no proper evidence was produced, the lawyers further contended that their clients were tried in secret, without access to legal counsel of their choice and the confessions were obtained illegally through coercion. They also claimed that they were denied access to military court records that were of utmost

¹⁰⁶ Ibid

¹⁰⁷ Said Zaman Khan v. Federation of Pakistan and others

¹⁰⁸ Said Zaman Khan v. Federation of Pakistan and others

importance for the appeal.¹⁰⁹ Also, it was contended that at least two cases involved juveniles and therefore could not be tried by the Field General Court Martial (FGCM).

The Supreme Court in its judgment dismissed all the petitions without considering any allegation in detail. Azmat Saeed, J in his judgment held that while the right to appeal on the grounds of mala fide, coram non iudice and without jurisdiction was available to the petitioners, the grounds were to be given a strict interpretation. He held that the nature of the offence was exactly the mischief sought to be suppressed by the law and the trial reflected the due fulfillment of the mandate and the purpose of the law. He also clarified that neither the High Court nor the Supreme Court could sit in appeal over the findings of the FGCM or undertake an exercise of analyzing the evidence produced before it or dwell into the merits of the case. Most of the arguments were overthrown on the ground that the amendments to the law regarding the operation of the military courts could not be questioned on the basis of fundamental rights.

It was ruled by the Supreme Court that the military did not violate any rights whatsoever. The Supreme Court held that there was no evidence of bad faith or abuse of process. The courts chose to turn a blind eye towards the blatant violations of human rights by the military tribunals and this increased the fear of international jurists and human rights group regarding the working of military courts.

5.2 Peshawar High Court 2018¹¹⁰

The Peshawar High Court (PHC) on 18th October 2018 set aside the punishments awarded to 74 convicts by military courts in various cases of terrorism. The judgment favored those who advocated against the practice of military courts as it confirms the violation of human rights in the military tribunals. The judgment highlighted a series of abuse of human rights including:

¹⁰⁹ Asad Hashim, 'Pakistan Supreme Court Dismisses Civilian Appeals Against Military Convictions' (Reuters 2016).

¹¹⁰ Peshawar High Court, Writ Petition 536-P of 2018, 18 October 2018

- i. The record produced by the Field General Court Martial/Military Personnel & Deputy Attorney General & AAG did not contained (erased from record) all dates, names of prosecution's witnesses, their designations, amongst other significant details.
- ii. Proceedings were solely based on confessional statements. A judicial magistrate was not present on the record presented. A list was provided listing the Judicial Magistrates in a sealed envelope, but was not allowed to be published/placed on the record. The protocol of mandatory precautions was also not observed. And therefore, it was decided that the statements cannot be relied upon.
- iii. All the confessional statements were identical in all cases, i.e., all the judicial confessional statements were recorded in Urdu in the same handwriting and in one specific tone/style. Moreover, there were no eyewitnesses to these confessional statements and facts indicate that they were obtained in isolation where the accused persons had no contact with their lawyers/families. In aggregate, these flaws have led the Court to believe that the confessions are largely fabricated, and if not, they were obtained under duress and through coercive means. Reliance is placed on 1982 SCMR 321 (State v. Asfandiyar Wali and 2 others), 2017 SCMR 670 (Muhammad Pervez and others v. the State and others), 2017 SCMR 713 (Muhammad Ismail v. The State), and 2016 SCMR 274 (Azeem Khan v. Mujahid Khan), whereby confessions obtained in such a manner would have no evidentiary value.
- iv. The credibility of the defence counsel was questioned. The Army Act allows the accused persons to have a private civilian lawyer but surprisingly all the accused persons in the military courts had one lawyer claiming that the parties have consented to be represented by the same defence. It was quite apparent that this was not true and consequently it was regarded as a violation of the right to fair trial by the courts as the accused were denied to engage with their choice of defence counsel.
- v. The courts also highlighted the link between enforced disappearances and military courts proceedings. Emphasis was drawn upon the fact that the state agencies denied any knowledge of the whereabouts of missing persons until their names were released in a press statement (listing the names of people convicted and sentenced to death by military courts).
- vi. Moreover, the Peshawar High Court, through a reading of 2017 SCMR 1249 (Said Zaman Khan and others v. Federation of Pakistan) listed 4 grounds through which it

could be capable of assuming jurisdiction of cases emanating from FGCM Courts.

They are as follows:

- No evidence,
- Insufficient evidence,
- Absence of jurisdiction,
- Malice of facts & law.

After considering all the aforementioned facts and upon assuming jurisdiction on the four grounds listed in the case of Said Zaman Khan and others v. Federation of Pakistan, the Court was free to dilate upon Article 10A of the Constitution,¹¹¹ which allows it to adjudge upon the compatibility of the procedural irregularities in FGCM proceedings with the fundamental right to a fair trial.

Therefore, it was iterated in the judgment that the military courts have grossly violated human rights and therefore the above-mentioned findings led the Peshawar High Court to conclude that the cases brought forward were cases of “no evidence” and were based on “malice of facts and law”.¹¹² Thus, the judgements were set aside and the respondents were directed to set free all the accused, convicted through the Military Courts.

Following this judgment, the Government (appeal filed by the Ministry of Defence) challenged the decision before the Supreme Court. The Supreme Court has granted an interim stay on the release of the alleged terrorists until a written order is issued after hearing the appeals.

6. CONTINUING BREACH OF INTERNATIONAL HUMAN RIGHTS

*Military trials of civilians have been a disaster for human rights in Pakistan,
Frederick Ramski, ICJ's Asia Director¹¹³*

¹¹¹ Right to fair trial: For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.

¹¹² Peshawar High Court, Writ Petition 536-P of 2018, 18 October 2018 (p.173.)

¹¹³ 'Military “Justice” System: A Glaring Surrender Of Human Rights' (International Commission of Jurists 2019).

It is of no doubt that the trial of civilians by military courts is an insult to human rights and international law. Establishment of military courts have been widely criticized for the right reasons. The International Commission of Jurists (ICJ) said that the military courts system is a “glaring surrender” of fundamental human rights in Pakistan.

The right to due process and fair trial is potent in international as well as domestic law and has been thoroughly protected via several regulations. However, the implementation of the said right is a battle that Pakistan is constantly losing, especially with the establishment of military courts. The military courts have been neglecting the principles of fair trial and due process for 4 years now.

There are several international laws that protect right to due process and fair trial.¹¹⁴ Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Pakistan is a party to, states that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”. The UN Human Rights Committee (a body to monitor the implementation of ICCPR) clarified that the right to a fair trial before an independent and impartial court under Article 14 of the ICCPR applies to all courts, whether ordinary or specialized, civilian or military. Moreover, the covenant states that the authorities must assume a party innocent unless proven guilty.¹¹⁵

Article 14 of the Convention Against Torture (CAT) grants compensation to the victim of torture and an enforceable right to fair trial. No such compensation is due if the verdict is overturned on appeal. The victim also has the right to complain to Courts and NGO’s and to select a counsel and a doctor of their choice.¹¹⁶ Yet as mentioned above, the victims were regularly denied any such rights.

¹¹⁴ Article 8, 10 and 11 of UDHR, Article 14 and 15 of ICCPR, Article 13 and 14 of CAT, Article 40 of CRC, Article 6 of CERD, Article 13 of CRPD.

¹¹⁵ Communication No. 770/1997, Mr. Dimitry L. Gridin v. Russian Federation, CCPR/C/69/D/770/199, paras. 3.5 and 8.3.

¹¹⁶ UN Committee Against Torture (CAT), Report of the UN Committee against Torture: Twenty-fifth Session (13-24 November 2000) and Twenty-sixth Session (30 April-18 May 2001), 26 October 2001, A/56/44; UN Committee Against Torture (CAT), UN Committee Against Torture: Conclusions and Recommendations of the Committee against Torture, Bosnia and Herzegovina, 15 December 2005, CAT/C/BIH/CO/1.

The Convention on the Rights of the Child (CRC) protects the rights of the children. Article 40 of the Convention requires the Government to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings. General Comment No. 10 on the Convention on the Rights of the Child¹¹⁷ also recognizes that social workers may also be appointed with lawyers whilst dealing with juveniles. However, this is an ambitious article when it comes to military courts considering the courts record of dealing with the accused persons.

The ICJ cited serious fair trials violations in the operation of military courts, including: denial of the right to counsel of choice; failure to disclose the charges against the accused; denial of a public hearing; a very high number of convictions based on “confessions” without adequate safeguards against torture and ill treatment.¹¹⁸ Such a high confession rate has raised concerns that torture or other ill treatment has been used to coerce confessions, in blatant violation of Article 7 of the ICCPR.¹¹⁹ Facts reveal that the secret hearings are not even disclosed to the accused’s legal counsel. Individuals were unable to retain counsel of their own choosing, and family members were not granted visitation to the accused. This is again a violation of Article 14 of the ICCPR.¹²⁰

As evident, there is an entire framework that protects the right to fair trial but none of these obligations compel the military courts to stop causing destruction to the accused persons. It has been reported by local media that there are 11 military courts operating in the country. Two of these are located in Sindh, three in Khyber Pakhtunkhwa, three in Punjab and one in Balochistan,¹²¹ but very little information is available regarding the operation of these special courts. Most of the information available to the public of these trials is via the Inter Services Public Relations (ISPR) website.¹²² This usually includes ambiguous references and does not specify the nature of the crime committed by the alleged convicts. Till date there is ambiguity

¹¹⁷ UN Committee on the Rights of the Child (CRC), CRC General Comment No. 10: Children’s Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10.

¹¹⁸ Ayaz Gul, 'Watchdog: Pakistan's Military Courts 'Disaster' For Human Rights' (VOA News 2019).

¹¹⁹ Article 7, International Covenant on Civil and Political Rights

¹²⁰ Article 14, International Covenant on Civil and Political Rights

¹²¹ 'More Than 180 Convicts Sentenced To Death By Military Tribunals In Pakistan Since 2015' (Pakistan Today 2018).

¹²² 'Inter Services Public Relations Pakistan' (*Ispr.gov.pk*) <<https://www.ispr.gov.pk/>> accessed 15 April 2019.

surrounding the working of the military courts. Therefore, it is essential for Parliament to question the Army regarding these proceedings to clear the air regarding the legality, procedures and fairness of these courts.

According to International Commission of Jurists (ICJ) data, the military courts have dealt with 717 cases out of which 641 have been decided. The fate of the remaining unsolved cases depends on the future of the military courts. Out of the decided 641 cases, death penalty has been awarded to 345 convicts while 296 have been given prison sentences.¹²³ It was reported in the same article that from 2014 to 2018, terrorists from Tehrik-e-Taliban, Toheedwal Jihad Group, Sepah-e-Sahaba, Jaish-e-Muhammad, Al-Qaeda, Lashkar-e-Jhangvi, Harkat Ul Jihad-e-Islami and from other proscribed organizations were awarded death penalty by the military courts.

7. DEMILITARIZATION OF JUSTICE

The 23rd Amendment and the amendments to the Army Act, 1952, lapsed on 30 March 2019.¹²⁴ The Government has once again proposed to extend the term for military courts for another two years. However, this decision is not getting consensus among the parliamentary parties and there is no sign of extension, *as of yet*. The misery of this situation is that despite several criticisms the Government till date is focusing on the extension of the military courts instead of enhancing the capacity of our criminal justice system. The military courts were a need of an “emergency situation” that has now turned into a general practice. Military courts must not be considered a permanent answer to terrorism and any further extension to these special courts should be seen as the abortion of the ordinary criminal system.

CONCLUDING REMARKS

Pakistan continues to be on a war with terrorism. Military courts were established to offer speedy justice but it was not anticipated that this justice will be provided at the cost of basic

¹²³ Fakhar Durrani, '99Pc Conviction Rate In Military Courts: ICJ' (The News 2019).

¹²⁴ (Pakistan: as military courts lapse, Government must prioritize reform of the criminal justice system, 2019)

principles of fairness. The special courts create a parallel judicial system which not only goes against Pakistan's constitution but also against the norms of democracy and human rights. It was advocated that military courts cannot be the bastions of justice as they fail to provide even bare-minimum of what is expected from a democratic state.

The operation of military courts has had serious implications for human rights of accused persons facing military trials. Military courts lack basic fair trial and due process guarantees required by Pakistan's international human rights obligations. Therefore, in order to align our domestic law with our international obligations, military courts for civilians should be abolished completely and as mentioned above, any extension to these courts will be an announcement of failure of Pakistan's justice system globally.

To counter the problems legislative changes should be introduced to strengthen the civilian justice system. Talking about the need for reforms in the criminal justice system, Ms Omar said,

[The] criminal justice system would require substantial reform of a number of institutions - which have historically been resistant to change - including the prosecution, the police and the judiciary, each of which has its own set of complications. Furthermore, there is also a need to revise and update the legislation related to criminal justice - both substantive and procedural, as well as legal aid provisions.¹²⁵

The ICJ in the 2019 Briefing Paper on "Military Injustice in Pakistan",¹²⁶ examined the performance of Pakistan's military justice system for terrorism-related offences since the 21st and later the 23rd amendments came into force. It explained how the trial of civilians in military courts violates Pakistan's obligation under international law. The paper proposes that the people charged with criminal offences should be tried by independent and impartial courts in proceedings that comply with international fair trial standards. The Government should strengthen the ability of the criminal justice system to ensure that the trials are

¹²⁵ Fakhar Durrani, '99Pc Conviction Rate In Military Courts: ICJ' (The News 2019).

¹²⁶ 'Military Injustice In Pakistan' (International Commission of Jurists 2019).

effective as well as in line with the national and international obligations. It was rightly said that the;

The continuing operation of military courts to try terrorism-related offences does not help counter the very real terrorist threat facing Pakistan, but it has and will further continue to erode the effectiveness of the country's administration of justice and the rule of law.¹²⁷

The 2018 Peshawar High Court judgment was a step forward to realize the destruction that the special courts have been causing. In the 2016 Supreme Court judgment the Court had a chance to reverse the militarization of justice in progress under the guise of combatting terrorism and to reinforce independence of the judiciary in the country. However, this opportunity was missed but then in 2018 the appeals with similar facts were upheld. Although the Government has challenged this decision, nevertheless it can be seen as a silver lining.

Pakistan is under a duty to protect its citizens from terrorist attacks and also to protect the fundamental rights of its citizens. It is undesirable to combat terrorism on the expense of the rights of the citizens. To effectively fight terrorism in the long run, the procedural requirements should be lawful and legitimate. History shows that departure from ordinary legal procedures in fighting any national crisis is never an appropriate and long-lasting solution. Thereby, Pakistan should bring the perpetrators to justice in a legitimize manner and must not sacrifice the principles of the rule of law under the label of 'secret proceedings'.

¹²⁷ Ibid