

Legal Framework of Civilian's Trial in the Military Courts of Pakistan Viz-a-Viz International Fair Trial Standards

Ayesha Youssuf Abbasi*

Abstract

Civilian trial in military courts is not a novel concept in Pakistan as it has been practiced multiple times in the country. However, the term has surfaced again with the events following the political unrest in Pakistan in May 2023. The government of Pakistan announced the trial of 33 civilians arrested on the allegation of inciting violence against the armed forces of the country. This announcement spurred uproar in the multiple fractions of civil and legal societies of Pakistan and also attracted concerns from International Human Rights Organizations. In this research, the workings of the military courts in Pakistan are investigated along with the analysis of the military laws and procedures in light of international human rights law. The study finds that the trial of civilians in military courts does not fully observe the standards of fair trial as guaranteed by the international human rights law that binds the state of Pakistan legally to comply. Military courts are established to try military personnel and instead of trying civilians in the military courts, the paper recommends that judicial reforms should be introduced in the civilian legal system to make it more robust and effective.

Keywords: Right to Fair Trial, Civilian Trials, Military Courts, ICCPR, UDHR, Constitution of Pakistan, 1973, International Human Rights Law, Pakistan Army Act (PAA), 1952.

* Advocate District Courts, Islamabad, and Visiting Lecturer at Bahria University, International Islamic University, Islamabad, and Rawalpindi Law College.

1. Introduction

Pakistan has a long history of trying her civilians in the military as well as in the special courts. In the backdrop of religious riots in 1953, many civilians were tried in the military courts under military laws.¹ Some special tribunals² were also established to try civilians over the charges of terrorism and rebellion in 1975. Some of the military courts established by the civilian government were challenged on the basis of their constitutionality³ and were later declared unconstitutional by the apex court of Pakistan.⁴

To deal with the crimes related to terrorism, special anti-terrorism courts⁵ have also been working in the country since 1997. However, the procedures and laws followed in these special courts are outside the domain of this paper. The focus of this paper is mainly on the procedures and laws followed by the military courts. Despite the presence of the anti-terrorism courts, in 2015 Pakistan's Constitution underwent the 21st amendment to try the civilians in the military courts for the charges of terrorism.⁶ In 2017 the military courts were given an extension of an additional 24 months through the 23rd. Amendment,⁷ as the former amendment was inserted through a sunset clause of two years. In 2019, the 23rd Amendment also expired

¹Hussain Ahmed and Sara Qayum, "Civilian Trial in Military Courts in Pakistan v. The International Fair Trial Standards on Military Justice. A Critical Analysis," *Pakistan Journal of Criminology* 13, no. 1 and 2 (2021): 49.

²"Suppression of Terrorist Activities (Special Courts) Act," (1975).

³Bakht Munir and Attaullah Khan Mahmood, "Establishment of Military Courts in Pakistan and its Effects on Trichotomy of Powers: International and Domestic Standards," *Pakistan Vision* 21, no. 2 (2020): 251, 252.

⁴Niaz Ahmed Khan v. Province of Sindh, PLD 604, (Karachi High Court 1977); Darwesh M. Arbey v. Federation of Pakistan and others, PLD 206, (Lahore High Court 1980).

⁵Established under the "Anti-Terrorism Act," (1997).

⁶Mirza Hasib Zubair Baig, "Abusive Constitutionalism and Military Courts in Pakistan," *Islamabad Law Review* 4, no. 1 & 2 (2020): 2.

⁷"Constitution of Pakistan (Twenty-Third Amendment) Act," Pub. L. No. XII of 2017 (2017), secs. 2 & 3, <https://senate.gov.pk/uploads/documents/23rdamendment.pdf>.

following the sunset clause, and military courts established under the 21st Amendment ceased to exist.⁸

Significantly, the military courts do function in Pakistan for the trial of military officers. Additionally, these courts are empowered to try civilians as well in certain cases under the Pakistan Army Act, 1952⁹ (hereinafter will be mentioned as PAA (1952) and its rules. This research primarily discusses the trials of civilians in these courts and critically analyzes their trials under the provisions of international human rights law. Many scholars have researched and analyzed the workings of the military courts and challenged their constitutionality and their compliance with international human rights law standards. However, their research is particularly on the backdrop of the terrorist attack on the Army Public School in 2016 and the subsequent 21st and 23rd Amendments in the Constitution of Pakistan and the PAA 1952. However, the scenario of this research is quite different from the previous research work because this research explores how civilians can be tried in the military courts even after the lapse of the 21st and 23rd Amendments under the PAA (1952). Further, it investigates the question if international human rights of a fair trial are observed for the trial of civilians in the military courts or not.

This article is partitioned into four portions. The first part discusses what military courts are and what laws and procedures are followed by them. It discusses the situations and cases under which civilians are tried under the military laws in the military courts. The second part of the article deals with a discussion on the normal course of civilian trials and points out the differences found between military and civilian court trials. The third part of the article discusses if the military courts ensure the principles of a

⁸“Pakistan: As Military Courts Lapse, Government Must Prioritize Reform of the Criminal Justice System,” *International Commission of Jurists* (blog), April 1, 2019, <https://www.icj.org/pakistan-as-military-courts-lapse-government-must-prioritize-reform-of-the-criminal-justice-system/>.

⁹“Pakistan Army Act,” (1952) (Act XXXIX of 1952).

fair trial as ensured by the Constitution of Pakistan along with the discussion on the fundamentals of a fair trial as laid down by international human rights law and investigates if the military laws and procedures comply with the international human rights law in all prospects.

2. Military Courts, their Laws and Procedures Under the PAA (1952)

Military courts are established under military laws that are enforceable by the armed forces of Pakistan. Several laws are enforceable on the armed forces' members in Pakistan, that are quite distinct from the ordinary criminal legal system present in Pakistan. It is pertinent to mention here that in the personal dealings of a civil nature conducted by the members of the armed forces, civil law applies to them. This paper only focuses on those military laws which apply to civilians as well.

In this regard, the discussion revolves around the PAA (1952) whose section 2 discusses the classes of people who are subject to the said act. The sections in its sub-clauses 1(d)¹⁰ and 1(dd)¹¹ discuss the civilians who are not otherwise subject to the PAA (1952) but are subjected to the said act under the circumstances as have been defined by these clauses. These clauses explain various circumstances under which the PAA (1952) can be applied to the civilians of Pakistan. These situations can be summarized as provoking any member of the armed forces for non-allegiance to his duty, committing offenses against the army (including all heads) concerning their work, property, violations of some provisions of the Pakistan Penal Code 1860, Pakistan Arms Ordinance, 1965, Explosive Substances Act, 1908, High Treason Act, 1975, Officials Secret Act, 1923 and Prevention of Anti-National Activities Act, 1974. It also includes damaging state property and

¹⁰Clause (d) was inserted in section 2 of the PAA (1952) through Defense Services Laws (Amendment) Ordinance, (III of 1967).

¹¹Clause (dd) was inserted in section 2 in the PPA (1952) through Pakistan Army Amendment Act 1977 (Act X of 1977).

trespassing in restricted areas. In violation of all these laws, a civilian is subjected to the PAA (1952).

The PAA (1952) directs that every person who has committed an offense under the said act is to be held by military personnel for military custody.¹² It indicates that a civilian is taken into military custody if he is accused of committing any offense under the PAA (1952). The said law also sets the period of detention without a formal investigation of the charge.¹³ However, this period of 48 hours (excluding public holidays) commences when the commanding officer is informed about the military custody of the accused. This period is extendable based on reported reasons given by the commanding officer and he can be kept in custody until the trial or his release from custody provided that the commanding officer keeps giving reasons in a special report every eight days intervals.¹⁴

The military courts are called court-martials and are of four kinds constituted under this act. These kinds are;

- i. General Courts Martial: These courts are either convened by the Chief of Army Staff of Pakistan (hereinafter to be mentioned as Chief) or any person whom the Chief authorizes.¹⁵ According to the PAA (1952), these courts must be comprised of at least five officers fulfilling the requirements laid down by the relevant law.¹⁶
- ii. Districts Courts Martial: These courts can also be either convened by the Chief or by any authority whom the Chief warrants.¹⁷ These courts must be comprised of three or more officers who satisfy the requirements laid down by the relevant law.¹⁸

¹²Pakistan Army Act, sec.74.

¹³Ibid., sec.75.

¹⁴Ibid.

¹⁵Ibid., sec.81.

¹⁶Ibid., sec.85.

¹⁷Ibid., sec.82.

¹⁸Ibid., sec.86.

- iii. Field General Courts Martial: These courts may either be convened by any person whom the Chief or the Federal Government appoints, or by an officer having a brigadier rank or above.¹⁹ Its composition should be of three or more officers but not less than three.²⁰
- iv. Summary Courts-Martial: According to the Act, any commanding officer can convene these courts. These courts can be constituted by a single officer but mandate the attendance of two officers.²¹

It is pertinent to mention here, that in the hearings before all these courts, a Judge Advocate, who is an officer of the Pakistan Army, must be present.²² However, no kind of courts have been specifically allocated to try the civilians under the PAA (1952) but as the District Courts Martial and Summary Courts-Martial try petty offenses under the act, it can be implied that civilians are not tried under these two courts-martial. The power rests with the convening officer to try any case under the said act. The judgment passed by any of these courts, except for the summary trial courts,²³ must be confirmed²⁴ by the authorities designated by the law, who also have the power to revise,²⁵ mitigate, commute, or remit the sentence.²⁶

Military laws have prescribed some protections to the accused as well, such as protection against double jeopardy, which means once the accused is acquitted or convicted by the military court or the criminal court, he can be tried for the same offense neither by the military nor by the criminal courts.²⁷ It is the right of the accused, as per the PAA (1952), that the names of all the members convening the trial must be read over to the accused. The accused can get his objections recorded over any officer who

¹⁹Ibid., sec.84.

²⁰Ibid., sec.88.

²¹Ibid.

²²Ibid., sec.103.

²³Ibid., sec.127.

²⁴Ibid., sec.119.

²⁵Ibid., sec.126.

²⁶Ibid., sec.124.

²⁷Ibid., sec.90.

has to sit at the court.²⁸ However, to decide on the question of the objection is at the discretion of those remaining officers of the court (through voting) against whom no objection has been recorded.

The authority of these officers is final and if the majority of officers do not agree on the objection, the objection is set aside and the trial begins. It is barely possible that the officers of armed forces vote against their colleagues especially when on trial is a civilian. It is pertinent to mention here, that this right of objection is not granted to those who are tried by the Summary Courts Martial. The PAA (1952) gives the advantage of the disagreement of the officers of the court to the accused, meaning thereby that every judgment that is to be passed by the officers should be in majority, and in case of equality of votes, the decision will be given in the favor of the accused.²⁹ During the Trial by the military courts, rules concerning the examination and procurement of witnesses as well as the evidence are as same as in the criminal courts,³⁰ unless specifically elucidated by the PAA (1952).

In case of revision of the judgment passed by the Military Courts Martial, the case is again tried by the same court by the same officers who have passed the judgment earlier.³¹ The proceedings of the Military Courts Martial can be annulled on the grounds of illegality or injustice by the Chief or any officer appointed by the Federal Government on this behalf.³² However, all the courts of Pakistan are barred from entertaining any appeal from the decision of the Military Courts Martial.³³

²⁸Ibid., sec.104.

²⁹Ibid., sec.105(1).

³⁰Ibid., sec.112.

³¹Ibid., sec.126.

³²Ibid., sec.132.

³³Ibid., sec.133.

2. Trial of An Accused under the Criminal Legal System

The main laws dealing with the criminal legal system in Pakistan are the Pakistan Penal Code 1860, the Qanoon-e-Shahadat Ordinance, 1984, and the Code of Criminal Procedure 1898. The criminal proceeding begins with an initial report of the offense recorded by the police, commonly known as a First Intimation Report (FIR)³⁴ after which an investigation begins and evidence is collected based on which arrest is made. On being arrested, the accused is to be produced before the concerned magistrate within 24 hours of his arrest, as fixed by the Constitution³⁵ as well as the Code of Criminal Procedure.³⁶ The arresting authorities must intimate the accused of the grounds of his arrest at once³⁷ and provide him with a legal counsel of his choice.³⁸ On being produced before the magistrate, the magistrate can send the accused to the police remand³⁹ the duration of which should not exceed fifteen days.⁴⁰ This duration is fixed so that law enforcement agencies are restrained from keeping the accused for an unlimited time.⁴¹ On the completion of the investigation, a police report⁴² is to be submitted to the magistrate within 14 days, commencing from the date of the lodging of the FIR, after which the trial of an accused commences.

The ultimate right to a fair trial and due process of law is guaranteed by the Constitution of Pakistan⁴³ to the accused and the Constitution has left it to the subordinate statutes and precedents to elaborate what amounts to a fair trial and due process of law and where the Supreme Court of Pakistan

³⁴“Code of Criminal Procedure,” (1898) (Act V of 1898), sec.154.

³⁵“Pak. Cons,” (1973), art.10(2).

³⁶Code of Criminal Procedure, sec.61.

³⁷Pak. Cons, art.10(1).

³⁸Ibid., art. 10(2).

³⁹Code of Criminal Procedure, sec.167.

⁴⁰Ibid., sec.344.

⁴¹Mariam Sherwani, “Rights of the Accused in the Legal System of Pakistan: A Legal Analysis,” *Islamabad Law Review* 3, no. 3 & 4 (2019): 103.

⁴²Code of Criminal Procedure, sec.173.

⁴³Pak. Cons, art.10A.

on various occasions has elaborated them in the light of the international human rights law.⁴⁴ However, certain provisions have been laid down by the subsidiary legislative enactments that provide for facilitating the accused to prepare his defense, the right to appeal to the higher forums,⁴⁵ the right to have a public trial in an open court,⁴⁶ the announcement of judgment in an open court in the attendance of the accused⁴⁷ and the judgment containing the points of determination, the reasons as well as the rationale behind the judgment.⁴⁸ Moreover, the right to bail⁴⁹ is also available to the accused if reasonable evidence shows the non-involvement of the accused in committing the alleged offense, keeping intact the presumption of innocence of the accused until proven guilty. These safeguards when compared with the provision of the PAA (1952) leave a lot of areas uncovered by the principle of fair trial for a civilian tried by a military court. Firstly, the indefinite period of detention of the accused endangers the principle of the presumption of innocence. According to the PAA (1952), military trials can be held anywhere,⁵⁰ whereas, in practice, the places of these trials are barely disclosed to the public.⁵¹

Adjudication, as per the Constitution, is the function of the Judiciary and the Constitution of Pakistan has guaranteed the independence and impartiality of the judiciary.⁵² The function of adjudication as performed by the military that falls under the Executive branch of the State is altogether something far and beyond as envisaged by the Constitution. Moreover,

⁴⁴Niaz A Shah, "The Right to a Fair Trial and the Military Justice System in Pakistan," *The Journal of International Humanitarian Legal Studies* 7, no. 2 (2016): 340, <https://doi.org/10.1163/18781527-00702003>.

⁴⁵*Ibid.*

⁴⁶Sherwani, "Rights of the Accused in the Legal System of Pakistan," 103.

⁴⁷Code of Criminal Procedure", sec.366.

⁴⁸*Ibid.*, sec.367.

⁴⁹*Ibid.*, sec 96;497 and 498.

⁵⁰Pakistan Army Act, sec.93.

⁵¹Munir and Mahmood, "Establishment of Military Courts in Pakistan and Its Effects," 254.

⁵²*Ibid.*, 255.

nowhere in the military laws, a proper procedure has been laid down, nor the qualifications and expertise of a military judge have been declared. Military judges are officers of the military and are not working under the judicial branch of the state. Their subordination to the Military, as well as the Executive, sabotages their independence and hence the principle of an impartial judge.

The minimum duration of three years for the commencement of trial as set by the PAA (1952), that too without the grant of bail also raises suspicions about the principle of speedy justice. Especially, where a civilian is held for such a long period by military authorities that are quite inaccessible to the public is challenging for an accused civilian and his family members. The punishments as laid down in the PAA (1952),⁵³ are of different types, but for the offenses for which civilians can be tried under the said law, there are rigorous punishments including the death sentence. The convening officers of the court, where civilians can be tried can give any punishment, they want to give, which is confirmed by the Chief or the federal government, the same authority who has appointed the officers of the court. In case of non-confirmation of the sentence or punishment, the trial commences again before the same body of officers.

The PAA (1952) gives the right to the convicted to apply for review but all sorts of civilian courts are barred from exercising appellate jurisdiction over the judgments rendered by the military courts.⁵⁴ The trials conducted by the military courts are secretive and are not open and public trials, nor the judgments given by the military courts have all the essentials as prescribed by the Code of Criminal Procedure.⁵⁵

⁵³ Pakistan Army Act, sec.60.

⁵⁴ Ibid., sec.133.

⁵⁵ Code of Criminal Procedure, sec.366 and 367.

4. The Right to Fair Trial in International Human Rights Law and the Military Trials

In the realm of International Human Rights Law, many instruments ensure the right to fair trials such as the Universal Declaration of Human Rights,⁵⁶ the Convention on the Rights of Child,⁵⁷ and the International Covenant on Civil and Political Rights⁵⁸ (forming a part of the international law), and European Convention on Human Rights,⁵⁹ American Convention on Human Rights,⁶⁰ Arab Charter on Human Rights⁶¹ and the African Charter on Human and People's rights⁶² (forming the part of the respective regional international law).

However, from the standpoint of Pakistan's obligation under International Human Rights law, the two key instruments concerning fair trial rights are the Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as Pakistan has voted for UDHR and ratified ICCPR.⁶³ While guaranteeing fair trial prerogative, the UDHR, in its Article 10, has categorically mentioned some terms that can be construed as setting some parameters of a fair trial as per the said declaration. First, the entitlement of fair trial rights to everyone, without any discrimination. Second, an open public hearing,

⁵⁶UNGA, "*Universal Declaration of Human Rights*", 10 December 1948. 217 A (III), art. 10.

⁵⁷"*Convention on the Rights of the Child*," 20 November 1989, UNTS 1577, entered into force 2 September 1990, art.40.

⁵⁸"*International Covenant on Civil and Political Rights*," 16 December 1966, UNTS 999, entered into force 23 March 1976, art. 14.

⁵⁹"*European Convention for the Protection of Human Rights and Fundamental Freedoms*," as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, entered into force 3 September 1953, art. 6.

⁶⁰"*American Convention on Human Rights, "Pact of San Jose", Costa Rica*," 22 November 1969, entered into force 18 July 1978, art. 8.

⁶¹"Arab Charter on Human Rights," 2004, art. 13 and 16

⁶²"African Charter on Human and Peoples' Rights ("Banjul Charter")," 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986, art. 7.

⁶³Shah, "The Right to a Fair Trial and the Military Justice System in Pakistan," 335.

and third an independent and impartial body before whom the trial takes place. Hence, as per the UDHR, every trial must be held in an open hearing and before an independent and impartial tribunal, and justice is delivered without any discrimination on whatsoever basis.

The ICCPR, in its article 14, has elaborated on the fair trial right to some length according to which everyone is equal before the courts. The article entitles everyone to an open and public hearing that too before an impartial and independent court or any adjudicating body. However, the article provides exceptions to public hearings on the grounds of public morals and policy, the national interests of a democratic state, and meeting the ends of justice. The article also enshrines for the accused the principle of the presumption of innocence until proven guilty and other minimum guarantees such as the provision of information as to the nature of the charge, a reasonably required time for preparing for defense, the right to a lawyer of choice, trial without undue delay, examination of witnesses, availability of the interpreter and protection against self-incrimination. Moreover, Article 14 also entitles the accused to the right to review his punishment from the body of law higher than the body that has awarded the punishment. It also recognizes the entitlement of the accused to compensation in case of miscarriage of justice and protection against retrospective punishment.

The right to equality before the court is guaranteed to the accused as per Article 14, regardless of the kind of offense the accused is charged with and the nature of the proceeding before the body that tries the accused.⁶⁴ It is pertinent to mention here that this provision is not only applicable to courts or tribunals but also to a body to whom the judicial task has been

⁶⁴General comment no. 32, Article 14, “Right to equality before courts and tribunals and to fair trial,” 23 August 2007, CCPR/C/GC/32GC3, para 3.

assigned.⁶⁵The tribunal is regarded as a body established under law independent of the legislative and the executive branch of the state.⁶⁶There is no exception to the right to have a trial before such an impartial and independent body.⁶⁷

ICCPR has however not outlawed military trials nor has it forbidden the trial of civilians in the military courts.⁶⁸However, the guarantees provided by Article 14 must be ensured in every trial that has to take place before anybody of law whatsoever.⁶⁹In light of the safeguards, as guaranteed by the international human rights law on the matter of the right to a fair trial to which Pakistan is under obligation, the trial of civilians before military courts is quite questionable. The military courts overlook certain safeguards as ensured by international human rights law, such as the principle of an impartial and independent tribunal.

The military courts in Pakistan are not presided over by the judges working under the judicial branch of the state but rather are the officers and personnel of the military itself. They are neither judicially qualified nor trained. The work under the executive branch of the state hence violating the condition of impartiality and independence. The Human Rights Committee while commenting on Article 14 of ICCPR observed that the impartiality of military courts raises serious concerns regarding the ensuring of a fair trial.⁷⁰It also observed that such trials are to be held only in exceptional situations, and the practice of such trials has declined globally

⁶⁵General comment no. 32, Article 14, "Right to equality before courts and tribunals and to fair trial," para.7.

⁶⁶*Ibid.*, para.18.

⁶⁷*Ibid.*, para.19.

⁶⁸Shah, "The Right to a Fair Trial and the Military Justice System in Pakistan," 338.

⁶⁹General comment no. 32, Article 14, "Right to equality before courts and tribunals and to fair trial," para 25.

⁷⁰*Ibid.*, para 22.

given the reservations.⁷¹ The impartiality of judges highly depends on factors such as their independence from the executive or legislative branch of the state, the rules and procedure according to which they are appointed and removed and the terms and conditions under which they continue their service,⁷² factors which are highly questionable regarding the presiding officers of the military courts. Moreover, the right to review and appeal by a higher tribunal is also a protection guaranteed by Article 14 of the ICCPR that has been ignored by the military laws and courts. According to human rights standards, the jurisdiction of the military courts or tribunals should only be limited to the trial stage, the appeal against the decision of these trials should lie before the civil court, having impartial and independent judges.⁷³

Regarding the question of public hearing of a trial, the UDHR has recognized no exception to the right, whereas the military trials in Pakistan are notorious for their secrecy. A public hearing of a trial ensures the fairness of the trial. During the Nuremberg Trials, the trial of one of the high-ranking German ministers who worked under the Nazi regime was objected to by the US Military as a violation of fair trial on the grounds of its secret proceedings.⁷⁴ Despite the reservations on the military trials from a human rights perspective, these trials are conducted by many countries throughout the world, however, many European Countries such as Germany do not have military courts at all, and they try their military personnel in the ordinary criminal courts. In the United States, military personnel are

⁷¹Shah, "The Right to a Fair Trial and the Military Justice System in Pakistan," 339.

⁷²Farkhanda Zia Mansoor, "Reassessing Packer in the Light of International Human Rights Norms," *Connecticut Public Interest Law Journal* 4, no. 2 (2005): 270.

⁷³"Draft Principles Governing the Administration of Justice through Military Tribunal," UN Doc. E/CN.4/2006/58, Principle 17.

⁷⁴*In re Altstötter and Others* (The Justice Trial), 1947, cited by International Humanitarian Law Databases, Fair Trial Guarantee, Rule 100, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule100#Fn_8AD7AC55_00127.

governed by military laws, and their trial is also held under the court-martial. These court martials are governed by the Uniform Code of Military Justice, which the Supreme Court of the United States has declared to be separate from the jurisprudence in the civilian courts.⁷⁵ According to these laws, only those civilians are tried in the military court who accompany the armed forces during the emergency or war times, otherwise not.⁷⁶

5. Conclusion and Recommendations

The distinction between military laws and ordinary civil laws is drawn due to jurisprudential differences between these two legal systems. Many Constitutions of the world, including the Constitution of Pakistan excludes the operation of fundamental rights enshrined in the constitution on the military laws. Military personnel when recruited into the armed services agree to the laws and conditions of the armed forces, whereas the civilians are under the oath, obligation, and protection of their constitution. Therefore, to try the civilians of Pakistan under the shady laws and procedures of the laws and courts is in contravention of the dictums of fair trial principles as recognized by the Constitution of Pakistan and the well-settled principles of International Human Rights Law. Even though every trial, regardless of the legal system under which it takes place, must comply with the principle of fairness and equality to try civilians in the courts specifically designed to try military personnel raises concerns from a human rights perspective.

Instead of establishing a parallel judicial system along with the civil judicial system, the Pakistani state should bring judicial reform in the ordinary judicial system. Robust system protection of Judges and witnesses

⁷⁵Jennifer K.Elsea and Jonathan M. Gaffney, "Military Courts-Martial Under the Military Justice Act of 2016,"(Library of Congress Public Edition 2020): 3,<https://crsreports.congress.gov/product/pdf/R/R46503/2>; Also see Parker v. Levy, 417 U.S. 733, 744 (1974).

⁷⁶UCMJ; 10 U.S.C. § 802(a)(10), art. 2.

should be established, effective digital reforms should be introduced, police should be trained and updated to deal with the cases of unusual cases and situations and all legal fraternity should be made responsible for swift trials to prevent the miscarriage of justice.
