**An extraordinary case**

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In the wake of the horrendous attack on the Army Public school in Peshawar by TTP on 16 December 2014 in which 149 people were killed including 132 school children ranging between eight and eighteen years of age, a twenty-point National Action Plan was devised to deal with terrorism that enjoyed across the board support among the military and political leadership of the country. The plan also envisaged the establishment of military courts to try the perpetrators of the crime. The plan was the strongest-ever statement of intent to deal with and eliminate terrorism in all its manifestations and the unqualified expression of support for Operation Zarb-e-Azab. The Twenty-first Amendment in the constitution provided for the establishment of military courts for two years. However, some political parties soon after having supported the establishment of military courts started expressing reservations on the issue including some human rights groups. The measure was also challenged in the Supreme Court. The contention of those who opposed this move was that it constituted a breach of the fundamental rights of the people. Another argument was that the SC in its decision in 1999 had rejected the idea of setting up military courts to try terrorists for reasons of unconstitutionality. Nevertheless, after a protracted debate on the issue the SC did agree to the proposal in view of the enormity and severity of the crime and the extraordinary circumstances. The argument that won the approval of the SC was that the incident constituted an existentialist challenge to the state and the writ of the government. Further that the enjoyment of fundamental rights was contingent upon the subservience of the individuals to the state. Those who worked against the interests of the state or took arms against it did not qualify to enjoy the fundamental rights enshrined in the Constitution.

[Wapda win men, women tennis titles in National Games](https://www.nation.com.pk/30-May-2023/wapda-win-men-women-tennis-titles-in-national-games)

The attacks on the Lahore Corps Commander House, military installations across the country and destruction of the monuments of the martyrs on 9th May by the followers of PTI—as corroborated by the audio and videos that went viral on the media—undoubtedly were the biggest ever assault on the symbols of the state authority. The decision by the Corps Commanders, National Security Committee and the cabinet to try planners, instigators, abettors, and attackers of military installations, buildings, etc on May 9 under the Army Act and Official Secrets Act is an appropriate response. The resolve of the Army leadership and the government not to spare the perpetrators of these nefarious acts needs the unqualified backing of the entire nation. In this regard it is heartening to note that what transpired on May 9th is being condemned by the whole nation and many leaders of the party responsible for it have also said adieu to it realizing their folly. The police and other law enforcement agencies are in the process of collecting incriminating evidence against all those involved in these attacks before bringing them to face the military courts. In the meantime, voices are being heard against the legitimacy of trying civilians in the military courts by some political elements and human rights groups like in the past. There are calculated attempts to generate controversy on the issue without realizing the gravity of the situation. In my view, it is a devious move to create doubts about the whole process.

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Unfortunately, our existing judicial system is not capable of dealing with situations like this which require firm and prompt responses to punish those who resort to anti-state acts. This is an extraordinary situation needing an extraordinary response. Under the existing circumstances, only the military courts can ensure quick justice. The reality is that the existing military courts are part of the country’s judicial system and many civilians have been tried under the Army Act. For trying any civilian involved in attacks on military installations the Army does not even need the permission or approval from the federal government. Army Act 1952 was promulgated after the approval of the Pakistan parliament in 1952. Section 2(d) of the Act covers the crimes committed by persons who are not part of the defence forces. It stipulates “The persons who are not otherwise subject to this act, shall be subject to this act if they are accused of having committed, in relation to any work of defence, arsenal, naval, military or air force establishment or station, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Pakistan, an offence under the Official Secrets Act, 1923.” The Act also covers attacks on military installations.