**Deciding on Military Courts**

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In an ideal scenario, the judiciary forms an iron-clad pillar of the state whose office should be strong, well-equipped and ferocious enough to deal with the needs of the masses and withstand the pressure of the mighty. Because we do not live in a world where buffaloes roam and the deer and the antelope play, we are forced to add to the equation the ugly realities unfolding around us. Ours is a country that consistently suffers from a mounting caseload. Ours is a judicial system that has yet to come up with a framework to ensure the timely provision of justice. The overwhelming caseload is hell-bent on breaking the backs of our courts, with the superior and lower judiciaries grappling with a staggering backlog of 2.144 million cases. With petitions forced to prolong over generations and innumerable elderly, helpless females and confused children wandering around the courtyard, trying to look for their share of justice, this bizarre notion to bolt the doors shut on the alternative systems of justice in line with the country’s constitution can neither be understood nor advocated.

As the August Supreme Court reconvenes today to deliberate over the challenging of the Supreme Court’s verdict that declared the trial of civilians in military courts, there is a long list of legal technicalities that need to be addressed. If the court wishes to go down the same road as the bench earlier, would it negate the existence of military courts around the world? From Columbia to Turkey all the way to Washington DC, elected, functioning governments had green-lit the existence and prevalence of military courtrooms in a bid to give exemplary punishments to those who dare play with the writ of the state. Back in 2015, the APS tragedy in Peshawar prompted the establishment of military courts through the 21st Constitutional Amendment. These courts were granted jurisdiction for the speedy trial of cases related to specified acts. The civil and military leadership had cracked their heads together and came up with a solution for our very own “9/11” debacle. Only an effective display of an iron-clad grip on the constitution could prove to be a deterrent for all those who wished to take the law into their own hands and smear egg over the credibility of the entire country. For all those raising the issue of these courts mandated to terrorism cases and emphasising the value of “civilians” appearing before closed courtrooms, Turkey serves as a commendable example. By punishing all factors and facilitators in a failed coup, trial courts in Turkey established the supremacy of the state over the nefarious whims of the few.

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So, when the honourable bench enters the courtroom and deliberates upon the heated issue, it would be worth its time to consider the message its gavel would send out to those hatching these agendas. If the sun actually sets on military courts, whose authority would deter the blood-thirsty cults next time they wish to trample upon the entire country?

The petition contends that the bench established for the Military Courts case did not adhere to the Supreme Court Practice and Procedure, asserting that the five-member bench’s decision is legally flawed and ineffective. There’s a well-worded clarification as to how the state had not demanded a military trial for all individuals detained in connection with the May 9. Rather, the scope of military trials was to be limited to those charged under the Official Secrets Act. Since the specified act allowed the armed forces to construe attacks on military installations as acts of terrorism, individuals implicated in damaging military installations during the May 9 events were also to be tried as per Pakistan’s law by the military courts.

Here is where the highest judiciary can step in and carve its name in the country’s legal history. By holding the military courtrooms’ feet to the fire, there is a need to ensure all those who appear before them are given every right mandated by the Constitution. The right to a free, fair trial in addition to accessing every opportunity to defend oneself in the most appropriate manner possible should be upheld. Considering these rights are already enshrined in the Act, the government should make sure the military justice system meets the fair trial standards. Instead of handing out per carium verdicts, the urge to hand out swift justice should be balanced with effective deliberations over the principles and the precedent involved. Today’s decision should also stand neither per curiam nor per incuriam!

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