**More Chaos?**

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An ultra vires declaration of the trial of civilians in military courts in the wake of the May 9 riots by the Supreme Court has opened a new pandora’s box; deepening the divide lines. The historic 4-1 verdict also called into question the 56-year-old law; Section 2 of the Pakistan Army Act of 1952. In ordinary circumstances, there appears nothing wrong in a bench of extremely honourable, senior judges reiterating a principle in line with a presumed international standard: let civilian institutions hold civilians accountable. Doing so would ensure the constitutionally-mandated right to a free, unbiased trial and ample opportunity for any accused to defend themselves. Frenzied excitement ensued as many, driven by their commitment to upholding human rights, celebrated this as the break of a new dawn. Balloons were popped, boats taken out as people got ready for a festive soiree. However, the very fact that this verdict can still be appealed before a full court, who might not be this prepared to undo th constitution in a bid to balance the scales, is enough to cast a gloomy aura.

It remains to be seen why the Supreme Court made no reference to the 2015 Act of Parliament that had approved any attack on military installations and military centres as a triable offence as deemed fit by the military courts, in accordance with the Army Act in its discussion of holding the trials of “103 civilians and accused persons, identified by the government in a list provided to the SC, and all other persons who may be placed under trial in connection with the events of May 9” in criminal courts. There should also have been deliberations about why sending more than 20 civilians to be tried under the controversial law was kosher between August 2018 and April 2022 during the tenure of Mr Imran Khan as the country’s prime minister.

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While a certain degree of opaqueness does cloud military court proceedings where the usual line of action focuses on swift delivery, calling them bereft of justice would be just as oblivious. Their biggest selling point to governments, especially amid national crises or emergencies, remains the ability to operate with greater speed and security.

Civilians may be brought before military courts in a number of countries if they are accused of committing crimes closely connected to or having an impact on the military, including but not limited to those in the free world (US), Muslim world (Iran, Saudi Arabia, Egypt, Turkey, Bahrain, Bangladesh, Lebanon, Jordan, Morocco) and quite surprisingly, our neighbour that is having a great adrenaline kick out of this controversy. These offences may include assaulting military personnel or property, espionage, treason, and other crimes that directly affect national security or military operations.

Nevertheless, legal frameworks and safeguards are of paramount importance. Generally, a court hearing case brought under the act is called the Field General Court Martial, which functions under the supervision of the military’s legal directorate. Both the president and prosecution counsel are of military background. Still, some safeguards are offered to the accused, which may include the right to legal representation and the presumption of innocence until proven guilty. In case, they cannot afford one, they can appoint military officers to represent them. More important remain the mechanisms for appealing military court decisions to review the fairness of the trial and the legality of the verdict. If convicted, defendants have the right to file an appeal within 40 days to an army court of appeal. If, even after going before the Army Court of Appeals, defendants believe they have not received a fair trial or express dissatisfaction with the proceedings, they can subsequently go to higher courts.

That the golden scroll should be prioritised above all conventional circumstances is a substantial statement on its own. No qualms about that. But what to do when the constitution itself allows one arm of the state to mingle with the affairs of another? The sincerity of the ruling elite as they aspire to set standards for ordinary men and women cannot be doubted. But why does this clamour magically gain momentum when their necks find themselves on the line? Instead of dismissing a phenomenon, a much better line of action could have been lasting, thorough and transparent reforms to build on the capacity of Pakistan’s judiciary; its speed in handling the unprecedented backlog, the strength of its verdicts and the un-politicisation of its judges. Only then can we stand tall and say no to any ad hoc setups.

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