**SC Decision on Military Courts and Our National Security**

[Agha Qamar](https://dailytimes.com.pk/writer/agha-qamar/%22%20%5Co%20%22More%20Articles%20by%20Agha%20Qamar)

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The recent verdict by the Supreme Court of Pakistan to curtail the powers of military courts has ignited a vigorous national debate. The decision is not just a matter of legal complexity but also carries profound implications for the country’s internal security challenges and the functioning and morale of its armed forces.

Article 245 of Pakistan’s Constitution empowers Army to guard against external aggression and threat of war and subject to Law Act in Aid of Civil of Power when called upon to do so. Two of important roles given in the mandate include:

o Protect any work of defense, military installations, camps, prohibited areas, military forces and military documentation/ information.

o Defend Pakistan forces and protect against espionage/ sedition.

To formulize a systematic approach to deal with cases of sedition and espionage, a legal framework was enacted in 1952 in the form of Pakistan Army Act to complement existing Official Secret Act. However, this act did not elucidate dealing of civilians involved in such acts. Consequently, section 2(1)(d) was added in Pakistan Army Act during 1967 to deal with civilians involved in sedition/ espionage cases in the interest of national security and safety of Pakistan. This section ensures that any person whose actions directly or indirectly interfere with functioning and security of Armed Forces is prosecuted accordingly. The same section was also endorsed and included in 1973 Constitution and all subsequent amendments. It has also been held up by numerous higher courts decisions, and it safeguards all right of appeal in High courts and Supreme court. Approximate number of sedition cases dealt under section 2(1)(d) are 11 and espionage cases dealt are 1091.

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Supreme Court’s decision has deviated Pakistan away from internationally settled principles of mil laws jurisprudence. This matter was settled and decided by SC in last 55 years that any civilian who violates Pakistan’s Military Laws will be tried in military courts. There are cases in history of Pakistan where civilians in one way or the other have been tried in military courts. In 1975, it was challenged for first time in case of Brigadier Farrukh Bakht Ali (Retired) but Supreme Court upheld the decision. Later in 2007, Supreme Court again upheld the decision in the case of Mushtaq Ahmad. No court ever said that civilians working in defense organizations cannot be tried in military courts. In 2015, District Bar Rawalpindi, challenged 21st Amendment in which mil courts were to be established for 2 years. SC dismissed the petition and endorsed that civilians can be tried in military courts. When Peshawar High Court overruled some convictions, it also did not declare civilian’s trials in military courts as illegal. Supreme Court, in this case, went beyond petitioners’ prayer and gave verdict against settled jurisprudence of military laws.

o If we cast a glance at our judicial system particularly civil courts, it is replete with cases of perjuries and procrastination. Shifting of such cases to civilian courts will expose them to lengthy proceedings and will result in potential exposure of sensitive information. It will not only compromise national security but also the morale and discipline of the armed forces.

The recent Supreme Court ruling has brought forth significant implications that ripple across various dimensions. It appears to favor terrorist organizations and their international backers, constituting a severe threat to Pakistan’s national security. Despite the relentless efforts and sacrifices made by the nation, the military, and law enforcement agencies in the fight against terrorism, inherent deficiencies within the legal system now offer terrorists an escape route, allowing them to continue their anti-state activities.

Amid the ongoing debate comparing civilian and military courts, it is essential to underscore that military courts adhere strictly to the constitution, and accused individuals have the right to appeal their cases in the High Court and Supreme Court. International rankings affirm the competence of military courts, placing them 7th on the Index of International Judicial Competence. In stark contrast, Pakistan’s civil courts languish at 136th worldwide, a stark indication of their poor performance.

In light of these facts and the evolving situation, it is clear that the Supreme Court’s decision to limit the powers of military courts poses a significant threat to the country’s security. Cases in the realm of national security including those related to Armed Forces are of paramount importance, and their efficient adjudication is vital for the safety and security of the nation. It is in the interest of Pakistan to have a legal framework in the form of military courts that ensures the swift and effective handling of such cases, without compromising the principles of justice and transparency.

Considering the unique security challenges Pakistan faces, the complexities of its geo-strategic environment, and the continued threats to its national security, the reconsideration of the Supreme Court’s decision is imperative. The security, morale, and discipline of the armed forces, as well as the protection of Pakistan’s national interests, demand a careful evaluation of this verdict and its potential implications on the country’s future.

*The writer can be contacted on KM210975@gmail.com.*