**Crimes of the state**

**[Dr Farid A Malik](https://www.nation.com.pk/columnist/dr-farid-a-malik)**

September 20, 2022

No crime should go unpunished. Unfortunately, in the land of the pure, ‘crimes of the state’ are not punished. From invoking the Doctrine of Necessity to the judicial murder of Bhutto there is a long list of infringements. In the chequered political history of Pakistan, only the trial of the fourth usurper under Article 6 of the constitution stands out. Perhaps when the history of Nawaz Sharif’s political journey is written this will be the only silver lining in the dark clouds. On August 14, 1973, the Islamic Republic of Pakistan was declared a constitutional democracy. Every legislator, commissioning cadet and graduating civil service officer takes oath to defend and follow the constitution despite no one ever having seen it or understood its contents. After 75 years of freedom, the state apparatus remains coercive and guided by colonial acts instead of the document passed by the elected representatives of a free people which constitutes an agreement between the rulers and the ruled.

[PM Shehbaz reaches New York to attend UNGA session](https://www.nation.com.pk/20-Sep-2022/pm-shehbaz-reaches-new-york-to-attend-unga-session)

It’s the colonial mindset that dominates the state apparatus after 75 years of independence. Muhammad Ali Jinnah, the father of the nation, warned against this approach in his addresses to the armed forces and bureaucracy. “You are now servants of the state” were his words. The Lawyer’s Movement in 2007 did liberate the judiciary from this thinking but then it led to more confusion due to inept judicial leadership. The restored Chief Justice of Pakistan (CJP) overstepped his limits and created major problems for the executive. The two major debacles that stand out are the Reko Diq mining project and the privatisation of Pakistan Steel Mills. There should have been a reference to the Supreme Judicial Council (SJC) against the CJP, instead, there was a move to extend his tenure for the years of his suspension by the fourth usurper.

As the files and paperwork are controlled by the bureaucracy, executive abuse is rampant with no avenue for relief or accountability. In the original 1973 constitution, administrative accountability courts were to be established under Article 212 but the idea was sabotaged in 1979 under the third usurper. Instead, an office of the Ombudsman was created to contain maladministration, which is mostly manned by retired bureaucrats who now sit in judgement against their peers. Hardly any relief to the public is provided.

[Magnitude 7.7 earthquake strikes Mexico's west coast](https://www.nation.com.pk/20-Sep-2022/magnitude-7-7-earthquake-strikes-mexico-s-west-coast)

Then in 2017, the Right to Information Act was enacted. Information commissions have been established both at the federal and provincial levels. I have had the chance of sitting through some of the hearings of these commissions, while the complainants are many, the state tries to hide behind the Government of India Official Secrecy Act 1923. The information commissioners then remind the Principal Information Officers (PIO’s) that the Act has now been repealed in 2017 by another Act. They have to be reminded that now information cannot be held back, it has to be divulged, but the resistance continues. I think there should be a national campaign to let everyone know that the Government of India Act 1935 has been replaced with the 1973 constitution and the Official Secrecy Act with the Right to Information Act 2017, there should be no hiding behind the colonial legislations passed by the British Parliament and enacted by Queen Victoria over a century ago when we were subjects of the colonial empire.

[Japan evacuates millions as typhoon batters southern regions](https://www.nation.com.pk/20-Sep-2022/japan-evacuates-millions-as-typhoon-batters-southern-regions)

In the Islamic Republic of Pakistan, the crimes of the state must be checked and punished for the nation to grow. All impediments in the path of growth have to be removed. The founder party of Pakistan, the All-India Muslim League ceased to exist on August 14, 1947. Jinnah tried to reform the new party but his efforts were thwarted by the vested interests who desired control. In a constitutional democracy, the rule of law must prevail. Just as an ending remark, after the judicial murder of Bhutto, out of the first five judges, only one was punished and that too under revolutionary justice while four of them died of old age despite admitting that they could not resist the pressure of the state.