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QLANTIC
 JOURNAL OF
 SOCIAL SCIENCES
 AND HUMANITIES

Judicial Boundaries: Understanding the Scope of Military Courts in the Pakistani Legal Framework

Muhammad Usman ¹ Sohail Amjad ² Muhammad Imran Khan ³

Abstract: *In this article, we will analyze the criminal justice system of Pakistan. This article will provide insight into the system, what guarantees are provided by it, and what are the shortcomings of the system. Furthermore, we will see the role of Anti-Terrorism Courts in convicting the terrorists. In Pakistan's criminal justice system, there are several instruments to deal with terrorism. The criminal procedure code is the basic procedural law that is applied to almost all criminal proceedings. Pakistan penal code is the basic substantive law that contains the definition of the offenses and then also prescribes punishments for them. Since Pakistan has been facing the sedition of terrorism for a long time, it has developed a specific instrument for terrorism that supplements the criminal procedure code and Pakistan penal code. The Anti-terrorism Act of 1997 and the special courts formed under this Act are the specific instruments developed for counting terrorism. Further, the Protection of Pakistan Act and the 21st Constitutional Amendment are all the measures taken in the same regard to eliminate and eradicate terrorism. Before establishing military courts, Pakistan already had a proper judicial system to try the terrorists. Although questions can be raised regarding the performance of the courts, it cannot be denied that proper laws and courts were there before.*

Key Words: Military Courts, Judicial Boundaries, Pakistani Legal System

Introduction

The interplay between military jurisdiction and the established legal framework within a nation is a complex terrain that demands meticulous examination. In the context of Pakistan, the presence and operation of military courts have sparked considerable debate and scrutiny. This research delves into the intricate dynamics governing these institutions, seeking to unravel the scope and boundaries of military courts within the broader Pakistani legal framework. As a nation with a rich legal heritage, Pakistan grapples with the challenge of balancing the imperatives of national security and the preservation of fundamental legal principles. Military courts, established at various points in the country's history in response to perceived exigencies, represent a unique facet of the legal landscape. The mandate of these courts often extends beyond conventional judicial structures, invoking questions about their jurisdiction, authority, and the delicate equilibrium between civil liberties and security imperatives. Against this backdrop, our exploration aims to achieve a nuanced understanding of the role and limits of military courts within the Pakistani legal system. We delve into historical antecedents, legislative frameworks, and key judicial precedents to unravel the evolution of military jurisdiction. By doing so, we aspire to shed light on the factors shaping the scope of military courts, their relationship with civilian judicial institutions, and the broader implications for the rule of law in Pakistan (Mahmood & Qureshi, 2023).

This study is timely and critical as it addresses not only the legal intricacies but also the societal implications of the presence of military courts. The delicate balance between expediency and fairness, security imperatives, and individual rights forms the crux of our inquiry. Through a comprehensive analysis of relevant statutes, case law, and scholarly discourse, this research seeks to contribute to the ongoing dialogue on the contours of justice within the Pakistani legal milieu. In the subsequent sections,

¹ Lecturer, Department of Law, University of Sialkot, Punjab, Pakistan.

² PhD Law Scholar, International Islamic University, Malaysia.

³ Assistant Professor, Department of Law, University of Sialkot, Punjab, Pakistan.

▪ **Corresponding Author:** Muhammad Imran Khan (ikb_73@live.com)

▪ **To Cite:** Usman, M., Amjad, S., & Khan, M. I. (2023). Judicial Boundaries: Understanding the Scope of Military Courts in the Pakistani Legal Framework. *Qlantic Journal of Social Sciences and Humanities*, 4(3), 355-362.

<https://doi.org/10.55737/qjssh.993466398>



we will explore the historical context that led to the establishment of military courts, analyze the legislative framework defining their scope, and scrutinize key judicial decisions that have shaped their role. Additionally, we will consider the implications of military jurisdiction on human rights, constitutional principles, and the broader implications for the rule of law in Pakistan. By navigating these intricate judicial boundaries, we aim to provide a holistic understanding of the scope and limitations of military courts within the Pakistani legal framework (Munir & Mahmood, [2020](#)).

Criminal Justice System of Pakistan

The criminal justice system of Pakistan is governed through statutes, and it is further supplemented by government agencies for its practical enforcement. The criminal justice system is based upon two sets of laws: substantive laws and procedural laws. The said system in Pakistan comprised many enactments, including the Pakistan Penal Code, Code of Criminal Procedure, Qanoon e Shahadat Ordinance, and other statutory laws like the Anti-Terrorism Act and Anti-Narcotics Act. For the purpose of its practical implementation, there are certain departments that are working to enforce these laws. These departments are police, prosecution, and courts. It is pertinent to maintain here that the Criminal Justice System of Pakistan follows the Anglo-Saxon jurisprudence. This was established by the Honorable Supreme Court in *Federation of Pakistan v. Gul Hasan Khan* that under Anglo-Saxon Jurisprudence, society is represented by the state, and resultantly, the state becomes a party in offenses against persons and property. The state has the authority to launch prosecution, withdraw prosecution, and pardon after conviction. These all are the manifestations of this feature. Similarly, in the *Matlub Hussain* case, it was clearly mentioned that in a murder case, no other person except the accused who is being prosecuted or the Crown (now the State) at whose instance he is being prosecuted appeared to be the parties (Ali, & Hassan, [2021](#)).

Legal Mechanism to Try Terrorists Prior to Military Courts

Anti-terrorism Act and Code of Criminal Procedure

Before ATA, we have PPC for dealing with all offenses, whether of ordinary or extraordinary nature. Particularly talking about terrorism and situations related to non-international armed conflict. PPC contains provisions regarding offenses against the state of Pakistan and against the armed forces of Pakistan. The offense of hijacking is also included in the penal code. So we can say that even before ATA, we still had something against terrorism, though not that much. But as the problem became more intense and critical, a special instrument under the title of the Anti-Terrorism Act was enacted, and Anti-Terrorism Courts were established. After 1997, after the enactment of ATA, it became the primary substantive law against terrorism. While Cr. P.C remained the procedural law for it. Cr. P.C. is applicable to this Act as long as it is consistent with its provisions. While these special courts are still there, military courts were established through the 21st Constitutional Amendment. The procedure adopted by the military courts was quite alarming and created doubts in minds about justice (Hassan & Sabaruddin, [2019](#)).

Anti-terrorism Courts

To set up special courts is not an alien or new thing in Pakistan. Even military courts were established before to try terrorists. It is quite usual in Pakistan to establish a parallel judiciary in order to secure speedy justice. Certain laws were promulgated in our history to deal with terrorism and terrorists' actions. These laws include the Special Courts for Speedy Trial Ordinance 1987, The Terrorist Affected Areas (Special Courts) Ordinance and Act 1990 and 1992, respectively, and the Anti-Terrorism Act 1997. Through the Anti-Terrorism Act, special courts were also established. These courts were established for expeditious, timely, and inexpensive justice. The ATC was the idea of the then-prime minister, Nawaz Sharif.

The basic purpose of this Act was to prevent terrorism and sectarian violence by providing speedy trials for heinous crimes against humanity. Again, like in the past, these courts breached the independence of the judiciary as executives monitored such courts. The law was the product of haste and timely amendment by the Supreme Court through the *Mehram Ali* case, under which different provision of this act was amended, making it practical and public-friendly. On October 24, 1998, the Anti-Terrorism (Amendment) Ordinance was issued. This case acknowledged the significance of the independence of the judiciary enshrined in Article 175 of the Constitution. Justice Irshad Hassan Khan, Chief Justice of the Supreme Court

of Pakistan, made very strong observations in the said case. The amendment included the following essential changes:

- The tenure of office for judges was granted.
- The decisions of ATC were made appealable to the High Court and ultimately to the Supreme Court Special by disbanding the appellate.
- To accord ATC with regular legal procedures, the trials in absentia were restricted.

Since the amendment, the ATA has been amended numerous times to extend the range of crimes covered under the act. However, the establishment of ATC could not achieve the goals set at the time of its formation due to security concerns on the part of judges, state prosecutors, and defense counsel, leading to the delay of hearings and massive dockets of cases resulting in backlog in these courts nationwide. Due to the lack of basic resources and understaffing of such courts. Enough funds were not generated by the government, resulting in underdeveloped infrastructure, causing plague to the Pakistani legal system at large. Moreover, the state prosecutors for ATC were not given scant resources availed by regular session courts. As a result, ATCs have failed to deliver on their primary mandate—quick justice. A history of political victimization has been attached to anti-terrorism cases, thus challenging the credibility of convictions and decisions by ATCs. Soon after the passage of ATA, claims of human violations were reported internationally, and even Amnesty International rejected the formation of special courts. Under such circumstances, ATC could not combat the terrorism situation in Pakistan, and once again, the establishment of special courts failed to achieve the goal of eradicating terrorism and dispensing speedy justice.

All the laws that were made to combat terrorism were taken as extraordinary steps in extraordinary situations. Time and again, the governments switched to special courts, resulting in a parallel legal system, as evident in the history of Pakistan. Despite having ATC, the government of Pakistan, after the Peshawar attack on Amy Public School in 2014, again switched to military-led special courts as the only remedy to combat the uprising of terror and security threats during that time (Badshah, [2021](#)).

Constitution of 1973

Being the supreme law of the land, the Constitution is always held superior to any other law. All other laws seek their validity through the Constitution. It is the constitution that guarantees the integrity of the state and also the protection of the subjects of the state through fundamental rights. The right to a fair trial is also given in the Constitution as a fundamental right. The Constitution has incorporated some fundamental human rights from the Universal Declaration of Human Rights into the constitution. Surprisingly, the right to a fair trial was not included initially, but later, it was made part of the Constitution as a fundamental right through the 18th Amendment.

Justice Qazi Faiz Isa and Jawad S. Khawaja, while giving their dissenting notes in the 21st, also pointed out that in the Liaquat Hussein Case, the Supreme Court already held that a military court cannot be established even under the notion of war. They also maintained that the right to a fair trial would be violated if military courts were established (Areas, [2014](#)).

Eighteenth Constitutional Amendment

In Pakistan, while determining the constitutional and political curves, 2007 proved to be a decisive year, and success behind the harmony on the 18th Constitutional Amendment is the result of the 2008 election; the circumstances leading towards political reunion in the assembly, Benazir Bhutto murder and the rattle of Gen. Musharraf with the judiciary. On April 8, 2010, it was conceded by the lower house of the parliament, and the upper house agreed on it on April 15, 2010, whereas it converted into an act of parliament after President Asif Zardari ratified the bill on April 19, 2010. The 18th Amendment syndicates itself nearly 100 amendments, and it has affected 83 articles.

As numerous amendments took place in the Fundamental Rights Article I of the Constitution, some worthy things have been introduced to ensure the right of each citizen of Pakistan to enjoy a fair trial. A new article (10-A) has been inserted. Another important change presented through the 18th Amendment



was under article (175), formerly solely Supreme Court, and four provincial High Courts were contained in clause (1) of that article. Currently, Islamabad High Court has been introduced in it.

Fresh article 175A was incorporated in the Constitution, which contains the Judicial Commission as well as the Parliamentary Committee. These were a few amendments that took place and which were later challenged with the 21st Constitutional amendment with regard to a fair trial (fundamental rights) and Army Act 1952 (creation of special courts to try terrorism-related offenses) under article 175, which was argued to be made to be declared as unconstitutional to the basic doctrine of Constitution (Asghar, 2023).

Military Courts and Army Act

Army courts are formulated under the Army Act 1952, and in the Army Act 1952, many changes were brought, like Article 145 of the Constitution directing the Armed Forces to act.

A military court is composed of 3 to 5 serving officers of the military, and no legal education nor legal training is required of the serving officers. Culprit individuals have the right to appeal before the military appellate tribunal. However, criminals may have verdicts of the military courts —reviewed by civilian courts under the Army Act 1952. The Chief of Army Staff (COAS) himself or some other personnel nominated by him also sits in the appellate tribunal. In the Army Act, the rules of evidence in proceedings before courts-martial are similar to those perceived by regular civilian criminal courts. Likewise, it does not —necessitate that trials in courts-martial or court martial appeals are done publicly.

The two years is the duration period of the amendment and the insertion in § 2 of the Army Act (Individuals subject to this Act, i.e., Servicemen). Similarly, through Court Martial, no trial of the case would be conducted without prior sanction of the Federal Government and might hand over cases waiting in other courts, which earlier proceedings would be retained. This law has the overriding effect and shall prevail if some conflict arises.

These were some changes that were brought in the Army Act 1952, which led to the debate before the Judiciary, after which adjudicators of the Supreme Court of Pakistan heard and decided the case accordingly (Musaddi, 2023).

Basic Structure Doctrine

The rationale behind the very concept of the Basic structure doctrine is that there must be no free space for institutions to function nor to issue a blank cheque to do whatever one wishes. In favor of this doctrine, there are legislative instruments and judgments of apex courts. This very doctrine actually works to secure the fundamental features of the Constitution. This doctrine was incepted from the Basic Law of the Federal Republic of Germany in 1949. At the time of promulgation of the Basic Law of Germany, the text contained Article 79, which expressly bars the legislature from amending the “division of the Federation into Laender,” “the participation in the principle of the Laender in legislation,” and “the basic principles laid down in Articles 1 and 20”, of the Army courts are formulated Germany.

The judicial inception of the doctrine is on the credit of Indian Superior Courts. The Indian lawyers were enlightened by the work of Professor Dietrich Conard of Heidelberg University. He authored the doctrine and said that the basic structure of the Constitution cannot be changed. Thus, the efforts of Indian lawyers, the wisdom of the Indian judiciary, and the work of Prof Dietrich made the doctrine an integral part of Indian Jurisprudence (Khan, Bhatti, & Jillani, 2021).

The superior Courts of Pakistan have always shown reluctance in applying this doctrine. Consequently, the superior could not establish her position on concrete terms. In this regard, it is important to discuss certain cases where the apex courts of Pakistan adopted the doctrine but only impliedly and expressly.

Fazlul Quader Chowdhry Vs. Muhammad Abdul Haque

The terms ‘nature’ of the constitution and ‘basic provisions’ were first used in the case of “Fazlul Quader Chowdhry Vs. Muhammad Abdul Haque,” where the court, while deciding the scope of Article 224 of the 1962 Constitution, held that the “aspect of the franchise, and of the form of the Government are

fundamental features of a Constitution” and therefore “the Constitution was not intended to be varied according to the wishes of any person or persons.”

Syed Zafar Ali Shah Vs. Federation of Pakistan

In *Syed Zafar Ali Shah Vs. Federation of Pakistan*, this Court held that

“the Constitution of Pakistan is the supreme law of the land and its basic features, i.e., independence of the judiciary, federalism and parliamentary form of government blended with Islamic Provisions, cannot be altered even by the Parliament.”

On the matter of Martial Law, the honorable Supreme Court permitted the government to amend the Constitution provided that the basic structure of the Constitution, mentioned above, could not be changed (Shah, [2016](#)).

Military Courts and Independence of Judiciary

In Great Britain, there exists no written constitution, and the judicial system is not limited to the civil courts only. Rather, it shares the powers with military courts or any other courts entrusted with judicial powers. So, it is lawful there that military courts can exercise the judicial powers of the State as civil courts are authorized to do so. In countries governed through written constitutions, the situation is different. As in America, military law refers to a system by which military forces are governed. The distinction is made between the courts-martial and martial law courts. Former refers to the courts established to maintain discipline and govern the conduct of armed forces. Later, it refers to the courts that are established by the military government in an occupied territory. Martial law courts are established only when the judicial system of the country is obstructed, and martial law supersedes the civilian, and they become subject to military rules (Javed, K., Jianxin, L., & Khan, [2021](#)).

In Pakistan, the military courts cannot share the judicial powers lawfully. The reason behind this is that the armed forces are part of the executive authority of the State. Now, to allow military courts or consider them to be legal to try civilians would endanger the basic feature of the Constitution, and that is the independence of the judiciary. Furthermore, it is also the negation of the trichotomy of power.

The Rationale Behind the Independence of the Judiciary

The independence of the judiciary is the logical result of the federation. The courts have assigned two functions from the very beginning of their history. One of those functions is to interpret the law, while the second function is to adjudicate upon the legality of the exercise of power by other functionaries of the state. More importantly, all the rights have been expressly provided in the Constitution. These rights are against the state as the state is duty-bound to provide and secure these rights. So, the judiciary also has the role of ensuring that none of the state organs or functionaries could violate these rights. The nature of the tasks mentioned above requires that the judiciary must remain independent. Otherwise, the very function of the judiciary would be compromised.

In Pakistan, the independence of the judiciary has never been ignored or left to be implied. The preamble of the Constitution declares, “The will of the people of Pakistan to establish an order, wherein the independence of the judiciary shall be fully secured.” Moreover, the position of the Constitution is repeated in Article 2A, which is the operative part of the Constitution. Therefore, the Independence of the judiciary is one of the primary principles of the Constitution, and the relevant provisions of the Constitution must be read with that principle to ensure the independence of the judiciary. This was the basic principle on the basis of which many cases were decided in judicial history, such as *Azizullah Memon v. Government of Balochistan*, *Imran v. Presiding Officer*, and *Mehram Ali v. Federation of Pakistan*, where impugned legislations were declared unconstitutional. In the *Sharaf Faridi* case, the court held that the judiciary is independent of the executive and that the legislature has jurisdiction over all issues of a judicial nature, directly or through review (Khan, A., Javed, K., Khan, & Rizwi, [2022](#)).

Characteristics of Independent Judiciary

Judicial independence is a status-oriented concept. It maintains the court's status and emerges in terms



of its relationship to other organs or entities, particularly the executive. The core characteristics of independence of the judiciary are the security of tenure, financial matters, and administrative affairs. This was provided by the American Declaration of Independence, which attacked the British King for making the colonial judges. Such appointees were dependent upon his will for their tenure and salaries. One of the founding fathers of America, Hamilton, said that.

“Next to the permanency in office, nothing can contribute more to the independence of the judge than a fixed provision for their support in general nature course of human nature, a power over man’s subsistence amounts to a power over his will”

Independence of Subordinate Judiciary

Judicial independence is not a norm or any custom. Rather, it is an established principle provided by the Constitution. This principle holds no exception and extends to all courts. In the Sharaf Afridi Case and Azizullah Memon Cases, it was held that under Article 175 of the Constitution, the judiciary is absolutely separated from the executive, and this separation and independence is being extended to all levels of the judiciary from highest to lowest (Wolf, [2015](#)).

Rule of Law

According to Dicey, “rule of law does not mean that nobody is above the law, but it means that every person, whatever his ranks are, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary courts.” The concept of the rule of law is featured to bring uniformity, neutrality, and predictability. It contains the concept that governments exercise their power but can never go beyond the scope of established rules and laws, and laws must be applied with uniformity across the board (Khan, Iqbal, & Ahmad, [2022](#)).

Articles 4 and 5 of the Constitution provide the notion of the rule of law. Article 4 furnishes the guarantee to its subjects that even in the time of emergency when fundamental rights stand suspended, the right to life, liberty, body, reputation, or property of any person shall be protected, and every action shall remain under the framework of the law. On the other hand, Article 5 stresses the duties, and it demands the subjects to remain loyal to the Constitution and State.

Separation of Powers

A state acts through its organs, which are legislature, executive, and legislature. Separation of power is the pivot point of the American constitutional scheme, and it is followed by all systems where the American system is adopted. Not only this, the scheme is also accepted even in the unwritten constitution of the United Kingdom. Although the scheme is accepted and adopted in many constitutions in the American model, it is more effectively applied. In Parliamentary systems, the executive organ is established through the legislature, while the American system ensures the separation only from the judiciary and other two organs but also separates the executive from the legislature.

Separation of Power and the Pakistan Constitution

The concept of separation of power is not expressly provided in the Constitution. But it is a scheme of the Constitution from which the concept of separation of powers can be inferred. The Constitution is based upon the Parliamentary system, but it deals with organs of the state separately. It separately deals with the organs and empowers the executive, legislature, and judiciary with obvious distinction. So, even not so expressly, it is implied that the Constitution does provide this scheme a handsome space in the Constitution. In the recent past, many judgments have been given by higher judiciary in which not only is this scheme discussed, but the courts emphasized keeping the organs separate for good (Hussain, Khan, A., & Chandio, [2023](#)).

In a judgment, the Supreme Court held that in order to remove the disarray regarding the Constitutional arrangement regarding the division of power among the principal organs of the State, the executive, the legislature, and the judiciary, each being the master of its domain under the Constitution. In the Sharaf Faridi Case, it was expressly held that the judiciary and executive must remain separate from

each other as per the Constitution. The same position was repeated by the Supreme Court in the Azizullah Memon case in 1993, then in the Al-Jihad Trust Case in 1996, then in the Mehram Ali Case in 1998, and again in the Liaquat Hussain Case in 1999. Repeatedly, the Honorable Supreme Court kept saying through its judgments that the domain of function between the executive and judiciary must remain separate. In the Liaquat Hussain Case, the Honorable went to the extent that even the notion of the establishment of military courts cannot be justified (Iqbal & Choudhry, [2017](#)).

Case Laws

Al-Jihad Trust Case

Al-Jihad Trust vs. Federation of Pakistan signifies the appointment of judges to the superior courts. To minimize the role of the executive, the phrase “after consultation with Chief Justice” in Articles 177(1)11, 193(1)12, and 203-C (4)13 of the constitution have been interpreted by the Supreme Court in Al-Jihad Trust vs. Federation of Pakistan, PLD 1996 SC 324 the Court while deciding the case gave priority to the advice of the Chief Justice. The Court held there must be no unfairness and the consultation between government and judiciary should be effective, meaningful, and purposive.

Liaquat Hussain Vs. Federation of Pakistan

In this case, the military courts, established by the government to try civilians, were challenged. The courts were established under Article 245 of the Constitution to call the military to act in aid of the government. The Court held that the military courts established under Article 245 were unconstitutional. The court said that establishing the military courts to try civilians is unconstitutional since they form a parallel judiciary. It was further held that no courts could be established by superseding the Article 175 of the Constitution. Moreover, the Court referred to the Sharaf Faridi Case, in which it was decided that the executive must remain separated from the judiciary. On the question of fundamental rights, the court that the trial of civilians in military courts is violative of the fundamental guarantees provided in Article One of the Constitution because such rights cannot be suspended unless there is an expressly stated provision in the Constitution.

Darvesh M. Arbey v. Federation of Pakistan

In Darvesh M. Arbey v. Federation of Pakistan along with Niaz Ahmed Khan v. Province of Sindh, military courts during the Bhutto regime were challenged before Lahore and Sindh High Courts (SHC), respectively. In both of these cases, the superior judiciary maintained the unconstitutionality of these summary courts and restricted the acts of civil authorities and security forces within constitutional parameters and limits (Shah, [2014](#)).

Conclusion

The historical presence of military courts in Pakistan is not a novel phenomenon; however, it is one that has consistently evoked scrutiny and discussion. In the annals of Pakistan's legal history, instances of military court establishment have occurred, with the higher judiciary steadfastly playing its role as a guardian of justice. Throughout this evolution, the bedrock principles of the separation of powers have stood tall, upheld by the judiciary through landmark judgments that echo the importance of a balanced and independent legal system. The crux of the matter lies in the enduring concept of the separation of powers, a principle enshrined in the constitutional fabric of Pakistan. The judiciary, through its jurisprudential wisdom, has consistently upheld this principle, emphasizing the delicate equilibrium between the executive, legislative, and judicial branches of government. The foundational doctrines of the basic structure, the rule of law, and the independence of the judiciary have been revered as guiding principles, serving as cornerstones in the edifice of Pakistan's legal framework. Despite the historical underpinnings of military courts and their intermittent establishment, a critical evaluation of these institutions raises pertinent questions. The judiciary, in its role as the guardian of justice, has, through landmark judgments, delineated the contours of fundamental rights, the independence of the judiciary, and the sacrosanct concept of a fair trial. In the wake of these principles, the establishment of military courts appears, at times, as an irrational departure from the foundational tenets that underscore the legal system. The ongoing discourse surrounding the establishment of military courts demands a careful and



thorough examination of their compatibility with the constitutional ethos. While acknowledging the imperatives of national security, it becomes imperative to reconcile the exercise of military jurisdiction with the overarching principles that safeguard individual rights and ensure the integrity of the legal system. In conclusion, the establishment of military courts in Pakistan, though not an unprecedented measure, stands at a crossroads where the principles of justice, separation of powers, and the rule of law converge. The judiciary, with its storied legacy, continues to play a pivotal role in upholding the constitutional values that form the bedrock of Pakistan's legal system. The path forward requires a judicious balance—one that acknowledges the demands of security without compromising the fundamental rights and principles that define the nation's commitment to justice and the rule of law. As the legal landscape continues to evolve, the delicate equilibrium between military courts and established legal principles remains a dynamic arena, demanding continued vigilance and scholarly engagement.

References

- Ali, S. J. D. B., & Hassan, M. (2021). Countering terrorism: Constitutional and legal framework (A critical appraisal of judicial strategies of Pakistan). *Pakistan Social Sciences Review*, 5(I), 348–361. [https://doi.org/10.35484/pssr.2021\(5-i\)27](https://doi.org/10.35484/pssr.2021(5-i)27)
- Areas, T. (2014). Legal Challenges to Military Operations in Pakistan. *Pakistan's Counterterrorism Challenge*, 127.
- Badshah, N. (2021). The role of the superior judiciary in protecting its independence: A case study of judicial legitimization of military regimes in Pakistan. *Journal of Humanities, Social and Management Sciences (JHSMS)*, 2(2), 65–76. <https://doi.org/10.47264/idea.jhsms/2.2.6>
- Hassan, M., & Sabaruddin, J. S. (2019). Jurisdiction of military courts over civilian terrorists in Pakistan: A miscarriage of justice. *IIUM Law Journal*, 27(1), 63–88. <https://doi.org/10.31436/iiumlj.v27i1.415>
- Hussain, N., Khan, A., & Chandio, L. A. (2023). Legal Safeguards against Mob Justice: An Analysis of Blasphemy Laws in Pakistan and International Human Rights Norms. *Al-Qamar*, 13–26.
- Iqbal, Z., & Choudhry, I. A. (2017). Supreme Court Judgment in 21st Constitutional Amendment and Pakistan Army (Amended) Act 2015 Case—Implications for National Security of Pakistan. *Pakistan Vision*, 18(1), 13–30. http://pu.edu.pk/images/journal/studies/PDF-FILES/Article-2_v18_1_jun17.pdf
- Javed, K., Jianxin, L., & Khan, A. (2021). Constitutional exceptions of right to speech: Evidence from the APEX courts of Pakistan. *Journal of Humanities, Social and Management Sciences (JHSMS)*, 2(1), 72–84. <https://doi.org/10.47264/idea.jhsms/2.1.7>
- Khan, A., Bhatti, S. H., & Shah, A. (2021). An overview on individual criminal liability for crime of aggression. *Liberal Arts and Social Sciences International Journal (LASSIJ)*, 5(1), 432–442. <https://doi.org/10.47264/idea.lassij/5.1.28>
- Khan, A., Iqbal, N., & Ahmad, I. (2022). Human trafficking in Pakistan: A qualitative analysis. *Summer 2022*, 2(3), 257–268. <https://doi.org/10.54183/jssr.v2i3.136>
- Khan, A., Javed, K., Khan, A. S., & Rizwi, A. (2022). Aggression and individual criminal responsibility in the perspective of Islamic law. *Competitive Social Science Research Journal*, 3(1), 35–48. <https://cssrjournal.com/index.php/cssrjournal/article/view/47>
- Mahmood, A., & Qureshi, S. N. (2023). The Scope of Public Accountability of the Army and Judiciary in Islamic Republic of Pakistan. 51–66. <https://doi.org/10.53762/alqamar.06.03.e03>
- Munir, B., & Mahmood, A. K. (2020). Establishment of Military Courts in Pakistan and its Effects on Trichotomy of Powers: International and Domestic Standards. *Pakistan Vision*, 21(2), 250–262. http://pu.edu.pk/images/journal/studies/PDF-FILES/18_v21_2_20.pdf
- Musaddi, M. (2023). *Military Courts in Pakistan*
- Shah, A. (2014). *The army and democracy: Military politics in Pakistan*. Harvard University Press.
- Shah, N. A. (2016). The right to a fair trial and the military justice system in Pakistan. *The Journal of International Humanitarian Legal Studies*, 7(2), 330–362. <https://doi.org/10.1163/18781527-00702003>
- WOLF, S. O. (2015). Formal institutionalization of military rule: the 21st amendment in Pakistan. *Pakistan Security Research Unit (PSRU) Briefing Paper*, (71), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2839472