

Pakistan's Ongoing Crisis: Military Courts and Human Rights

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Summary

Pakistan's ongoing crises, including political instability and recent protests, have led to a concerning situation where the government plans to take legal action against those responsible for damaging military buildings and installations. The use of military courts for civilian trials has raised significant concerns from human rights organisations, highlighting the need for due process and the transfer of such cases to the civilian justice system to ensure fairness and transparency. The situation underscores the importance of upholding human rights and ensuring proper legal proceedings in times of crisis.

Pakistan is currently facing a number of crises that require urgent attention. While much focus has been on the political situation and the conflict between former prime minister, Imran Khan, and the current government, another concerning issue has emerged. Following the protests on 9 May 2023, where Khan was arrested, the Pakistani government has declared its intention to [take legal action](#) against protestors responsible for damage to [military buildings and installations](#), including the residence of a prominent military commander and the army's General Headquarters. Mass arrests have been made, including Pakistan Tehreek-e-Insaf (PTI) leaders, and the establishment has emphasised its commitment to holding those involved in the unrest [prosecutable under the Army Act and Official Secrets Act](#). This decision was reached during a meeting of the National Security Committee, which was chaired by Prime Minister Shehbaz Sharif.

The [Army Act](#), enacted in 1952, primarily serves as a legal framework for conducting trials of military personnel according to the military's own legal code. However, it also encompasses certain provisions and cases involving civilians. [Amendments made in 1966](#) expanded the Act's reach to cover civilians accused of inciting mutiny, sharing state secrets with the enemy or participating in the targetting and attack of military installations. In the context of the aforementioned protests, where civilians caused damage to military buildings and installations, these individuals may be subjected to trial under this specific section of the Act. The field general court martial, overseen by the military's legal directorate, is responsible for conducting trials under this Act. While defendants retain the right to legal representation, penalties for offences can range from two years imprisonment to life imprisonment, or even capital punishment.

The [Official Secrets Act](#) was first introduced in 1923 by the British Indian government to safeguard classified information and maintain the integrity of official matters. Its primary objective was to prevent the unauthorised disclosure of sensitive information that could pose a threat to national security. The Act consists of [seven sections](#) that outline the provisions governing the protection of classified information. It provides a comprehensive definition of what constitutes official secrets and outlines the penalties associated with the

unauthorised possession, communication, or disclosure of such confidential data. Additionally, the Act addresses acts of espionage and any activities that have the potential to compromise national security. It grants the government the authority to initiate investigations, conduct searches of premises and seize materials related to suspected violations of the Official Secrets Act. This particular aspect of the Act allows the current Pakistan government to arrest civilians involved in the protests. Furthermore, it establishes the legal framework for prosecuting and imposing penalties on individuals found guilty of breaching the Act, including potential consequences such as imprisonment and fines.

The inclusion of civilians in military courts, alongside the usage of these acts, raises significant concerns. These courts are notorious for lacking proper due processes and severely limiting the chances of appealing to civilian courts. Recently, Idris Khattak, a human rights activist in Pakistan, was [sentenced to 14 years in prison](#) through a secretive military court trial. According to his lawyer, Khattak was declared guilty without any formal order or sentence being issued. During the trial, his lawyer had limited access to Khattak, and their meetings were recorded. Additionally, the lawyer was constantly accompanied by a military officer and restricted from speaking Pashto. Despite the Khattak family's appeal to transfer the case to a civilian court, their request was denied. The charges against Khattak were disclosed in a judgment, accusing him of espionage and other acts against the state. This case, along with numerous others in Pakistan's history involving civilians and military courts, highlights a deeply concerning pattern. There is a severe lack of transparency regarding the process by which these judgements are reached, and there is a high failure rate in transferring these cases to civilian courts. [Amnesty International](#) has expressed concern, stating that trying civilians in military courts goes against international law and is viewed as an intimidation tactic that undermines the right to a fair trial. The Human Rights Commission of Pakistan has also [voiced opposition](#) to the use of military laws to try civilians, emphasising the significance of ensuring due process.

While military courts have not yet been established, the police have [transferred 33 civilian suspects](#) to the army for trial, specifically on charges related to attacks on defence installations. [Human Rights Watch](#) has called on the Pakistani government to promptly transfer civilians facing military court trials to the civilian justice system. They stress the necessity of independent and impartial civilian courts to handle cases of violence, highlighting that military courts with secretive procedures and a lack of due process rights should not be utilised for civilian cases. As the political turmoil in Pakistan continues to unfold, it is crucial to prioritise the protection of human rights and ensure proper legal proceedings during times of crisis.

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