REVIEW OF CRIME, PEACE AND SOCIETY
ISSN (O): 3079-6105, ISSN (P): 3079-6091
Vol. 2, No. 2, 2025, 61-70

Navigating the Complex Terrain: Assessing Common Article III in Non-International Armed Conflict and its Implications in Pakistan's Legal Regime

Muhammad Asif[1], Sara Qayum[2]*

Abstract

This research article delves into the intricate legal landscape surrounding Non-International Armed Conflict (NIAC) and the application of Common Article III in the context of Pakistan's legal regime. The study systematically examines the interplay between International Humanitarian Law and International Human Rights Law and provides a comprehensive analysis of the jurisprudence, thresholds, and criteria governing NIAC. Furthermore, it investigates the scope and applicability of Common Article III, shedding light on its significance in the domestic legal framework of Pakistan. The article also explores the historical evolution of military courts in Pakistan and their reestablishment, offering insight into the rationale behind their existence. A critical examination of the Supreme Court's judgment regarding the 21st Constitutional Amendment and the Pakistan Army (Amended) Act, 2015 case is conducted, highlighting the legal implications and ramifications of this landmark decision. Throughout the research, the article underscores Pakistan's international obligations in the realm of humanitarian and human rights law, illuminating the country's commitment to upholding these obligations in a complex and evolving legal landscape. This article serves as a valuable resource for scholars, legal practitioners, and policymakers seeking a deeper understanding of the multifaceted legal dynamics surrounding NIAC and Common Article III, particularly in the context of Pakistan's legal framework.

Article History
Received 23 August 2025
Revised 13 November 2025
Accepted 15 November 2025
Published 21 November 2025

OPEN ACCESS

Keywords
non-international armed conflict, Common Article III, Law of war, IHL

Introduction

This article intends to discuss the fundamental matters related to military courts. It includes the discussion on International Humanitarian Law and non-international armed conflicts. Moreover, the history of military courts and their establishment in Pakistan will also be brought in light.

Armed conflict is often classified into two types: international armed conflict (IAC) and non-international armed conflict (NIAC). NIAC appears anytime an internal disturbance occurs and the state's armed forces become involved with the rebels. After 9/11, Pakistan's army began operations in the tribal areas, becoming one of America's and NATO troops' primary partners. This event pushed Pakistan into internal strife and anarchy, killing thousands of civilians and military people. As a result, the Pakistan Army conducted a series of operations to control the situation in tribal areas. Meanwhile, Tehreek e Taliban Pakistan, or TTP, arose as a powerful group and grabbed control of Swat, forcing the people of Swat to flee their homes and relocate.

[1]PhD Scholar, Department of Law Hazara University. Email. asiflawassociates22@gmail.com

[2] Corresponding Author Associate Professor Department of law Hazara University Mansehra. Email: saraqayum@gmail.com

Again, the Pakistan Army had to undertake an operation to return them to their homes. The situation deteriorated as attackers stormed the Army Public School in Peshawar Cantt. Hundreds of youngsters were slaughtered in this catastrophe, which rocked the entire nation. Following this occurrence, the nation formed military courts through the 21st constitutional amendment to trial terrorists, which breaches the minimal safeguards granted by common article 3 of all Geneva treaties and the Pakistani constitution (Byron, C. 2001).

Non-International Armed Conflict and the Legal Regime

International Humanitarian Law

International Humanitarian Law (IHL) is a core set of regulations designed to mitigate the impacts of armed conflicts. IHL is also known as the law of armed conflicts. This law is intended to safeguard persons who are not participating in armed conflict or who are no longer physically capable of participating in hostilities. Treaties, agreements, and customary regulations compose IHL. since of ratification, treaties and conventions are obligatory on states, whereas customary norms and general principles are obeyed since they are part of nations' practises.

IHL only regularize the armed conflicts so that the loss can be minimized as much as possible, but it does not deal with when to use force; this is governed by a distinct part of international law set out in the UN Charter (Kretzmer, D. 2009).

International Human Rights Law

International Human Rights Law refers to laws that all people are entitled to. Treaties and conventions are also elements of international human rights law. States are expected to observe human rights accords and are obligated to do so. It suggests that nations are not only expected to protect their citizens from human rights violations, but also to avoid infringing on these right (Graham, D. E. 2012).

Reciprocation between International human rights law and international humanitarian law

International human rights law and international humanitarian law are closely related but distinct fields of study. While the latter is always used, the former is only employed during times of armed conflict. They are complementary to one another since the protection of humanity and human dignity is at the centre of both sets of rules. Moreover, the chemical they convey is fairly comparable to each other (Droege, C.2007).

Non-International Armed Conflict

NIAC was not new phenomenon to world but still countries were reluctant to address it as no country would wish to allow international community to get involve in their internal matters. Moreover, every state wants to deal with the culprits according to their own method and laws. Here, the important aspect was the state conduct during civil wars. Two legal instruments were there before 1949, one was The Liber Code of 1863 and it was promulgated during American Civil War, while the second was Rights and Duties of States in event of civil strife (inter-American). In 1921 a resolution was also adopted by ICRC concerning humanitarian issues during civil wars and it was also reaffirmed during another conference of ICRC in 1938. But the common article 3 of the Geneva Conventions was comprehensive and it covers almost every aspect. More importantly, it was universally ratified. Dr Schindler has provided a definition as :

"*The hostilities have to be conducted by force of arms and exhibit such intensity that, as a rule, the government is compelled to employ its armed forces against the insurgents instead of mere police forces. Secondly, as to the insurgents, the hostilities are meant to be of a collective character, i.e. they have to be carried out not only by single groups. In addition, the insurgents have to exhibit*

a minimum amount of organization. Their armed forces should be under a responsible command and be capable of meeting minimal humanitarian requirements".

Understanding Non-International Armed Conflict

It has always been of great importance to define what an armed conflict is, more importantly to discuss what is a non-international armed conflict? As Geneva Conventions do not define this expressly so it would be suitable to rely on judgements. International Criminal Tribunal for Former Yugoslavia, ICTY, has discussed the matter and defined the phenomena of armed conflict not of international character as *"Whenever there is protracted armed violence between governmental authorities and organized armed groups within a State".* (Dinstein, 2021).

Brink of NIAC

For establishing the presence of NIAC, mainly some features were focused. Firstly, the level of disturbance must go beyond the internal disturbance and secondly, among parties one must be the non-state militant group and state has deployed its regular military forces to deal with it. Furthermore, in 1979, one authority, reaffirming a certain intensity of the hostilities and organization of the Parties as guiding elements, observed:

"Practice has set up the following criteria to delimit non-international armed conflicts from internal disturbances. In the first place, the hostilities have to be conducted by force of arms and exhibit such intensity that, as a rule, the government is compelled to employ its armed forces against the insurgents instead of mere police forces. Secondly, as to the insurgents, the hostilities are meant to be of a collective character, that is, they have to be carried out not only by single groups. In addition, the insurgents have to exhibit a minimum amount of organization. Their armed forces should be under a responsible command and be capable of meeting minimal humanitarian requirements".

In its decision on jurisdiction in Tadić in 1995, the ICTY Appeals Chamber established that *"whenever there is … protracted armed violence between governmental authorities and organized armed groups or between such groups within a State".*

Implementing Tadić Criteria

Many analysts believe that applying the Tadic Test in Pakistan's tribal belt is justified since the intensity level in these regions has beyond a specific threshold, and it is now safe to state that an armed conflict exists, although of a non-international kind. However, one analyst stated that the sheer presence of armed soldiers in certain locations is sufficient to characterise it as a non-international armed war.

When the second component of the test was applied to military organisations, consensus was not attained. Certain scholars have suggested that the government declare Tehreek e Taliban Pakistan (TTP) as an armed opponent in the armed struggle. However, many complaints were expressed at this stage because there are over thirty other organisations functioning under the TTP's roof and it is still impossible to consider as one voice or in a single uniform (Cullen, A. 2010) .

Common Article III: Limit And Application

The most significant and essential of all the Geneva Conventions, Common Article III addresses the basic protections afforded to fighters engaged in NIAC. Common Article 3 becomes ipso facto pertinent as soon as the circumstances satisfy NIAC requirements. This article states that all high contracting parties to the Geneva Conventions have an international duty to provide the fighters in NIAC with the essential legal protections. It is noteworthy that additional rules of International Humanitarian Law would also come into play once the situation reaches the

threshold of a non-international armed conflict. The above-mentioned article becomes more effective if it is read with common article I of the Geneva Conventions and it states

"The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances".

Common Article III, where it provides the minimum judicial guarantees it also prohibits many other acts which are strictly against the human dignity and honours. Under this article, the persons taking no active part in hostilities are protected against the torture, inhumane treatment, hostage and these guarantees must be fulfilled by all the high contracting parties (Yasmeen, T. 2019).

Keeping in mind that common article 3 serves as an umbrella and under this very umbrella there are many other judicial guarantees expressly provided in all Geneva Conventions. These guarantees are:

- The principle of "nullum crimen, nulla poena sine lege" ("no crime without a law, no punishment without a law") (Art. 99.1, GC III)
- The principle of "non bis in idem" ("double jeopardy") (Art. 86 , GC III; Art. 117.3 , GC IV)
- The right of the accused to be tried before an impartial and independent court of law without any delay (Art. 84.2 , GC III)
- The right of the accused to be informed of the nature and cause of the offence levelled against him (Art. 104.2 , GC III; Art. 71.2 , GC IV)
- The right to access free legal counsel when the interests of justice so require (Art. 105.2 , GC III)
- The right of the accused to be informed of their rights of appeal (Art. 106 , GC III)

Military Courts

Known colloquially as "Military Courts," Court Martials are courts made up of commissioned officers that punish and discipline guilty military personnel and criminals. This type of court upholds the military justice code and has jurisdiction over personnel of the armed services. There are typically three basic kinds of court martials, each with a potential structure and range of punishment.

- Summary Court Martial
- Special Court Martial
- General Court Martial

Summary Court Martial, consisting of one active commissioned officer, only deals with enlisted individuals involved in noncapital offences. The penalties in a summary court martial are determined by the current accused's grade.

Special Court-Martial has been identified as a misdemeanour court that has the authority to try any type of person subject to UCMJ, including officials, midshipmen, and enlisted members. Any punishment may be imposed by a special court martial, with the exception of death, dishonourable discharge, dismissal, and incarceration for longer than a year. There should be a minimum of three members and one military judge. The military judge may allow the defendants to stand trial alone at their request.

General Court-Martial being the third type is often referred to as a felony court and may try all persons that subject to UCMJ Including members enlisted, military officers and midshipmen. It can impose any punishment including death penalty which UCMJ has not prohibited. It consists of one military judge and members not less than five and the defendant may be tried alone on his request by the military judge (Vladeck, S. I. 2014) .

Inception of Military Courts

Roman law served as the basis for both civil and military law, which dates back to the first century BC. Roman society was militarised, with a unified judicial system that catered to both military and civilian requirements. Following William the Conqueror's adoption of the Roman legal system in England in the eleventh century, there was an urgent need for independent legal systems. The military was first used in France and Germany's Court Martials around the sixteenth century, and as early as the seventeenth century, Gustavus Adolphus created a military code of law that conflicted with British common law in order to control his army. Soon within the English military the Court-Martial procedures were introduced followed by England, which created a national military law system in 1649.After the passage of Mutiny Act in 1869, Parliament became involved in military justice and thus set an English precedent about legislative control over military issues.

` The Second Continental Congress established a U.S. military after the epic confrontation between British troops and colonial militia forces in April 1775 at Lexington and Concord, Massachusetts. The Articles of War were adopted in the years 1775 and 1806, which were then modelled upon Mutiny Act and came in force in the Great Britain. Later annually renewed Army Act (reformed in 1955) replaced these Articles in the year 1881 in the British Army, however the continued their operation in navy till 1957 .

The US recognised the President as commander in chief in 1788, and Congress was granted the authority to declare war in order to promote the building of an army and establish civil control over the military. This decision was further upheld in the Dynes v. Hoover case. Additionally, the articles of war were amended in 1863 to include common law felonies, but only if they occurred during a time of war. But in 1866, the authority of Military Courts was limited, and it was decided in the ex parte Miligan 1866 judgement that civilians would not be covered by Military Court jurisdiction. Owning to the criticism faced by the articles of war during World War resulted in the formation of Uniform Code of Military Justice (UCMG) in 1951 and also introduced US Court of Military Appeals . The International Humanitarian Law (IHL) permitted establishment of Military Tribunals under Geneva Conventions, 1949 accompanied by its Additional protocols of 1977: and are also governed under national military manuals/codes.

Court martial are often confused with military tribunals as there is a slight difference between them and each type serves a specific purpose in the military court system. Court martial operates during peacetime however; military tribunal operates during wartime and may involve enemy combatants (Rollman, R. O. 1969).

Emergence of Military Courts in Pakistan

It was common knowledge that military tribunals were established primarily to trial military personnel, but occasionally their jurisdiction was extended to include civilians as well. General Muhammad Zia ul Haq declared martial law and suspended the Constitution on July 5th, 1977. For this reason, on July 15, 1977, Military Courts were founded. Later, when he restored democracy, they were dissolved. In Pakistan's past, these courts have been formed by democratic governments in addition to military dictatorships. For instance, summary military courts were instituted in Baluchistan during the Bhutto administration with the aim of eliminating political terrorism and secession. Formation of special' courts aimed to suppress acts of sabotage, terrorism and subversion were seen in October 1974 under Suppression of Terrorist Activities (Special Court) Act 1975 .

The Pakistan Armed Forces Ordinance, 1998 was amended by the Nawaz Sharif Government on January 30, 1998, in response to a string of violent incidents. This was done to

establish military courts and try suspects for a variety of offences in parallel with the Anti-Terrorism Act of 1997. However, the military court establishments established during the Bhutto and Sharif regimes were each challenged separately in the highest courts. Military courts established during the Bhutto period were contested before the Lahore and Sindh High Courts (SHC) in the cases of Darvesh M. Arbey v. Federation of Pakistan and Niaz Ahmed Khan v. Province of Sindh, respectively. The higher judiciary upheld the unconstitutionality of these summary courts in both instances and limited the actions of security forces and civil authorities to those permitted by the constitution. Same principle was held in Liaquat Hussein v. Federation of Pakistan, in which Supreme Court, by Chief Justice Ajmail Mian, banned the military courts setup during Sharif's regime and declared them unconstitutional and ultra vires. It further stated that provisions of the Ordinance that extended the jurisdiction of military courts to civilians were unconstitutional and that a trial by independent and impartial courts is a fundamental right of all citizens of Pakistan (Khan, A., Iqbal, N., & Ahmad, I. 2022) .

The Supreme Court of Pakistan held that, given that the federal government and military command share ultimate administrative oversight over armed forces members, these courts fall short of the requirements for being an impartial, independent, and competent body. Additionally, it was decided that the executive branch could not establish courts with no oversight or authority from the highest court, as stated in Article 203 of the constitution, making it impossible for a parallel legal system to exist. Any set up of such courts are ultra vires to constitution and potentially violates essential provisions such as Article 2A, 175 and 203 along with articles entailing fundamental rights and infringing the principle tracheotomy of power and fair trial right cannot be justified at any cost even reasoned as public emergency or the doctrine of necessity (Munir, B., & Mahmood, A. K. 2020).

Military Courts Reestablished in Pakistan

With the passage of Supreme Court's judgment given in Liaquat Hussein v. Federation of Pakistan the operation of special military courts came to an end until on 7 January 2015, following the tragic Army Public School Attack by terrorist in December .The military courts were once again revived in order to a try civilians for offences related to terrorism. The TTP led massacre witnessed the killing of nearly 140 persons most of them children in a School in Peshawar . The government with support of some other political parties amended the constitution through 21st constitutional (Amendment) Act 65 and Amy Act, 1952 though Pakistan Army (Amendment) Act, 2015 to give constitutional cover to military courts as such amendments were unopposed as 247 Members of National Assembly and senate voted in favor thus establishing military courts for speedy dispense of justice by expedient tail of terrorists. Both amendments had a ―sunset clause‖ of two years and ceased to be in effect on 6 January 2017.During this time was given ample time to bring necessary reforms in criminal justice system for strengthening the anti-terrorism institutions.

In December, 2014, National Action Plan was announced under the Premiership of Nawaz Sharif and establishment of Army courts were among the points mentioned in NAP to try hard-core terrorist . Such special courts were predictable as the execution orders had come out prior NAP was hammered out on December 24th, 2014 and the moratorium on death penalty were then lifted after seven years on December 16th following the execution order of six terrorist been signed by army chief General Raheel Shareef (Ghori, U. 2020).

Military Courts finally established with their jurisdiction extended over civilian that are accused of terrorism motivated by religion or sectarianism and the rationale behind this was to have expedient and speedy tails . Till now total amount of military courts are nine including three

in Punjab and KP each, two in Sindh and only one in Baluchistan. The legal procedure to transfer cases to military court is through interior ministry as each province will transfer cases. It is composed of military officials instead of civilian judges who are not under obligation to have law degree . Military Court of Appeal is the highest Appellate forum under Army Act and COAS approves the sentence of the appellate forum. Such courts operate under army legal wing headed by Judge Advocate General (Javed, K., Jianxin, L., & Khan, A. 2021).

So far, military courts have tried 646 people, finding the defendants guilty in at least 641 cases (a rate of 99.2 percent). Around 345 people have been awarded with capital punishment and 296 people have been given imprisonment sentences. At least 56 out of the 345 death sentences have been executed .

The LHCBA raised similar concerns and challenges about the constitutionality of these special courts as it has in the past. The Supreme Court took up the case and, in contrast to its past decisions, affirmed the 21st Amendment to the Constitution, so establishing the legitimacy of the army courts.It has granted the ability to contest convictions before the highest courts, which are empowered to conduct judicial reviews based on claims of unfair trials and procedural violations. The military courts were supposed to dissolve on January 7, 2017, but they were instead prolonged for an additional two years by the Amy (Amendment) Act of 2017 and the 23rd Amendment to the Constitution, which is now known as the 28th Amendment. This was due to the sunset clause expiring.

Rationale behind Military Courts

The rationale given behind the establishment of Military courts in Pakistan was that the ordinary criminal justice system was not efficient to bring the culprits to justice. Moreover, the proceedings in criminal cases are not speedy and the standards of evidence are of such nature which provides benefit to the accused and consequently, many of them got acquitted. The proponents of the military courts also said that the criminal courts including Anti-Terrorism Courts do not possess the will to convict the culprits. Another rationale provided by the proponents of the military courts was that, the judges were not feel safe and because of their personal security concerns it becomes almost impossible for them to do justice without having any fear in their minds (Ghori, U. 2020).

21st Constitutional Amendment and Pakistan Army (Amended) Act 2015 Case

This article provided a thorough analysis of the Supreme Court's ruling, covering a wide range of topics. The arguments made by petitioners in support of their case as well as the arguments made by honourable judges when the verdict was being written have both been thoroughly examined. Despite this, most judges agreed that the Constitution's structure was followed in the establishment of the military courts. Judge Azmat Saeed rejected the basic structure doctrine, ruling that the legislature is capable of assisting the administration in handling the situation because the terrorists' actions directly relate to Pakistan's defence.

In rendering his decision, Justice Jamal upheld the judicial review principle as established law. On the other hand, Justices Faiz Isa and Jawed S. Khawaja ruled that the Supreme Court has the authority to overturn any legislation passed by the Parliament that goes beyond the bounds of the Constitution. The current amendment is subject to being overturned since it violates both the basic structure concept and fundamental rights. Justice Fiaz Isa also stated that the Supreme Court had already dismissed the establishment of military courts based on the idea of a war threat in the Liaquat Hussein case. As the country is at war and terrible times call for extreme measures, Justice Sarmad Jalal Osmany defended the military courts.

Judges Ejaz Ahmed, Afzal, and Muhammad argued that the military courts' creation goes beyond the constitution since it undermines the judiciary's independence. According to Justice Dost, the Army's trial of terrorists fighting against the government would uphold the rule that no one may judge their own case. Fairness As if Saeed maintained judicial review while capitulating to the Parliament's sovereignty, asserting that the Parliament's sovereignty is what guarantees genuine democracy (Iqbal, Z., & Choudhry, I. A. 2017).

Analysis of the 21st amendment judgement

In this case the core issue of a fair trial. Whether it is afforded to civilians or not. In its judgement the Honorable Supreme Court mainly relied upon Ali Case of 1975 . The Court held that:

"The process and procedure followed by the forums, established under the Pakistan Army Act, have come up for scrutiny before this Court and found to be satisfactory and consistent with the recognized principles of criminal justice. In Ali Case 1975 the procedure to be followed for trials under the Pakistan Army Act was dilated upon in great length and found to be in conformity with the generally accepted and recognized principles of criminal justice. A similar view was also expressed by this Court in Mrs. Shahida Zahir Abbasi 1996. The provisions of the Pakistan Army Act were scrutinized by the Federal Shariat Court in Col. (R) Muhammad Akram 2009 and generally passed muster. The procedure which was found acceptable for officers and men of the Pakistan Army can hardly be termed as unacceptable for trial of terrorists, who acts as enemies of the State".

To start with, Brig. Ali and the others were military officials who were charged with invading the State in order to detain the senior military leadership. The General Court Martial placed them all under arrest and had them tried. Their objection to the jurisdiction of the military courts was overturned. Subsequently, their application was rejected; however, Supreme ultimately allowed them to file an appeal.

The fair trial standards set by Justice Munir, which were predicated on the rights of the accused, were cited by Justice Anwar ul Haq of the Supreme Court. These include the following: the right to know the charge and the evidence being used against him; the right to cross-examine prosecution witnesses; the right to present evidence of his innocence; the right to choose the attorney representing him; the right to request a transfer of the case; and the right to a jury trial. These rights are no longer upheld in our legal system (Khan, A. 2018).

Apparently, the criteria provided by Justice Munir is available in military courts, but the question arises when military courts deny the right to appeal to higher judiciary and only allow the appeals before Commander-in-Chief or to the federal government under section 131 and 167 of the Army Act. Another important observation was made by Justice Haq that in military courts there is no concept of reasoned judgement and a reasoned judgment is not penned down for appellate court but it is for the benefit of the accused .

It is important to note that in 1975 the criterion of fair trial was based upon Articles 9 and 10 of the1973 Constitution, the UDHR and the ICCPR. Although Pakistan was not a party to the UDHR and ICCPR but even then, Justice Anwar could have sought guidance from them, but he relied upon Justice Munir's criteria .

In 1996, in Shahida Zahir Abbasi case , Supreme Court again relied upon the Ali case and held that Military Courts do not violate any right related to judicial principle related to the trial of the accused. Then once again, in Muhammad Akram , Federal Shariat Court relying upon Ali and Abbasi case held that Supreme Court had held that *"trial before military court is in no way contrary to the concept of a fair trial in a criminal case".*

With all due respect, the Supreme Court's blatant disregard for some factual positions is the judgment's biggest weakness. Not taken into consideration were the UDHR, the ICCPR, Articles 9, 10, and 10A, as well as a few significant Supreme Court rulings. Actually, the right to a fair trial (10A) was not included in the Constitution until 1975, therefore these days, both the fundamental rights and the right to a fair trial are highly valued. In addition, Pakistan's 2010 ICCPR acceding put it under additional international duties. In the Gillani case, the Supreme Court argued that the concept of a fair trial would be interpreted to have been applied in a way that was generally accepted because the legislature had not provided us with the necessary resources. Furthermore, in the case of the Military Court, the honourable Supreme Court ought to have abandoned the Muni Criteria and instead relied on the constitution and court rulings. However, the court once more cited the Ali case and adopted the earlier strategy to support the establishment of military courts by citing Article 8(3) of the Constitution, which prohibits the court from determining whether military courts are compatible with fundamental rights. The military justice system also satisfies the requirements of a fair trial. Then on August 29, 2015 supreme Court barred leave to appeal against death sentences passed by military courts to terror suspects(Iqbal, Z., & Choudhry, I. A. 2017) .

Pakistan in the Context of its International Duties

Non-international armed conflict scenarios are covered by the Geneva Conventions. Life, liberty, and the right to a fair trial are all protected under the Covenant on Civil and Political Rights, which is an international document. Additionally, this covenant safeguards fundamental rights and forbids acts that violate human dignity.

Adopted shortly after World War II, the Universal Declaration of Human Rights is the first and most important declaration pertaining to human rights. It confers civil, political, and economic rights and was widely ratified. Additionally, every person's right to a fair trial is established under this document. Being a party to Geneva Conventions, UDHR and ICCPR Pakistan under international obligation to ensure respect and implement these treaties (Iqbal, Z., & Choudhry, I. A. 2017) .

Conclusion

After examining the aforementioned facts, it is evident that Pakistan's military tribunals constitute a flagrant breach of both its international commitments and the fundamental rights enshrined in the country's constitution. Furthermore, it seems that this decision was made in the aftermath of the Peshawar catastrophe, when the entire country was in shock, and that Pakistan's obligations to the international community were completely disregarded. Such ignorance not only betrays a complete disregard for the minimum judicial safeguards recognised by the civilised world, but also violates fundamental rights such as the right to a fair trial and equality before the law.

References

Byron, C. (2001). Armed conflicts: International or non-international?. *Journal of Conflict & Security Law*, *6*(1), 63-90.

Cullen, A. (2010). *The concept of non-international armed conflict in international humanitarian law* (Vol. 66). Cambridge University Press.

Dinstein, Y. (2021). *Non-international armed conflicts in international law*. Cambridge University Press.

Droege, C. (2007). The interplay between international humanitarian law and international human rights law in situations of armed conflict. *Israel Law Review*, *40*(2), 310-355.

Ghori, U. (2020). Military courts in Pakistan: A critical analysis. In *Order and Disorder in the 21st Century* (pp. 261-277). Routledge.

Graham, D. E. (2012). Defining non-international armed conflict: a historically difficult task. *International Law Studies*, *88*(1), 5.

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).

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.

Khan, A. (2018). Autonomous Weapons and Their Compliance with International Humanitarian Law (LLM Thesis). *Traditional Journal of Law*.

Khan, A., Iqbal, N., & Ahmad, I. (2022). Human Trafficking in Pakistan: A Qualitative Analysis. *Journal of Social Sciences Review*, *2*(3), 257-268.

Kretzmer, D. (2009). Rethinking the application of IHL in non-international armed conflicts. *Israel Law Review*, *42*(1), 8-45.

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.

Rollman, R. O. (1969). Of Crimes, Courts-Martial and Punishment-A Short History of Military Justice. *USAF JAG L. Rev.*, *11*, 212.

Vladeck, S. I. (2014). Military Courts and Article III. *Geo. LJ*, *103*, 933.

Yasmeen, T. (2019). SCOPE OF THE APPLICATION OF INTERNATIONAL HUMANITARIAN LAW (IHL) IN SITUATIONS OF NON-INTERNATIONAL ARMED CONFLICTS: EXTENDED APPLICABILITY OF COMMON ARTICLE. 3. *Journal of Law & Social Studies (JLSS)*, *1*(2), 99-105.