**Supreme Court Upholds Fundamental Rights**

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In a concise and direct ruling, the Supreme Court of Pakistan declared that Clause (d) of subsection (1) of Section 2 of the Pakistan Army Act, 1952 (including its subclauses (i) and (ii), as well as subsection (4) of Section 59 of the same Act, are unconstitutional and without legal validity.

As a result, the Supreme Court has ordered that civilian and accused individuals, approximately 103 in number, as identified in the list provided by the Attorney General for Pakistan through CMA No. 5327 of 2023 in Constitution Petition No. 24 of 2023, and any others similarly situated with regard to the events of May 9th and 10th, 2023, will be subject to trial by competent Criminal Courts as established under the ordinary and special laws of the land for any offences they may be accused of.

Furthermore, the Court has clarified that any actions or proceedings under the Army Act pertaining to the aforementioned individuals or anyone else in a similar position, including but not limited to Court Martial trials, are deemed legally ineffective.

This Supreme Court decision had been widely anticipated, with expectations that it would find favour among civil society groups and the legal community.

Intriguingly, during prime-time TV discussions, it was not the army or its official communication channels but rather members of civil society, including politicians, analysts, and media figures, who vehemently voiced their concerns. They spared no effort in portraying the decision as contravening the constitution, violating the law, and undermining the safety and unity of the nation.

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Opponents of the Supreme Court’s decision argued that there is a palpable apprehension that the ruling might inadvertently bestow unchecked authority upon civilians in matters that pertain to the military and could be seen as an affront to the honour and dignity of the armed forces, a sentiment deeply rooted in the veneration of the military within the national psyche.

They argue that the decision seems to run counter to the constitutional framework and established legal norms, leading to a profound sense of dissonance and perplexity regarding the Supreme Court’s decision-making process. In their view, the ruling appears to challenge the very essence of the constitution and the rule of law that underpins the nation’s democratic foundation, provoking a fervent debate on the boundaries of judicial authority and interpretation.

The pivotal question at the heart of this debate centres on whether cases related to the attacks on military installations should be subjected to military courts. The consequences of both implementing or abstaining from this decision loom large, casting a shadow over the legal landscape. Simultaneously, there is a growing concern about the Supreme Court’s consistency, with historical instances of decisions being disregarded, potentially eroding the public’s faith in the judiciary’s capacity to ensure justice.

The establishment strongly characterized this ruling as an affront to the armed forces, stating that it was not just an insult to individual soldiers but a blow to the institution of the army. According to their perspective, the military had already initiated trials for the 102 civilians involved in the events of 9 May, and this decision has disrupted an ongoing and expedited legal process. Their contention suggests that the Supreme Court might have considered alternative avenues, such as referring the cases of these 102 individuals to special courts, rather than striking down the entire amendment, a move deemed by some as extreme and contentious.

Amidst the varied opinions surrounding the Supreme Court’s decision, several voices emerged in strong support of this pivotal ruling. A prominent legal expert articulated a compelling argument, asserting the unequivocal abolition of all military courts established for civilian cases. He emphasized the urgency for the military to promptly transfer all civilian cases back to civilian law enforcement agencies, ensuring their immediate relocation to civilian prisons, with trials conducted within the purview of civilian courts. This demand for the seamless transition from military to civilian jurisdiction carried a sense of urgency and fairness.

In a parallel narrative, others viewed the situation through an ethnic lens, highlighting concerns of ethnic bias in the application of the Army Act. Such observations accentuated the need for equitable and non-discriminatory justice for all citizens, transcending ethnic boundaries.

Another critical perspective underscored the incongruity of having civilians tried under the Army Act by military personnel, particularly when these officers lacked expertise in civilian laws. It was posited that this practice ran counter to the foundational principles of the constitution, challenging the essence of justice and the rule of law in Pakistan.

An insightful analyst characterized the decision as the annulment of a 76-year-old law, marking it as a historic milestone that would serve as a catalyst for awakening within the establishment. This characterization lent a sense of historical significance to the ruling, suggesting that it would lead to a transformative shift in the nation’s legal landscape.

Moreover, a highly regarded lawyer emphasized that this ruling finally eradicated a longstanding “black law” that had encroached upon the fundamental rights of the Pakistani people.

An astute analyst forcefully contended that military court trials stand in stark violation of the fundamental rights granted to the citizens of the country. These trials shrouded in secrecy, take place behind closed doors, where no one, not even the media, is permitted to bear witness to the court proceedings. Furthermore, the involvement of army officers, who often lack proper training and experience in civilian legal matters, as judges in these trials is a matter of grave concern. Decisions are rendered with arbitrary brevity, often without the formalities of charge sheets, evidence presentation, legal deliberations, or reference to past legal precedents. This approach, devoid of due process, undermines the right to a proper defence and fair trials, ultimately failing to uphold the rights of the accused.

Another perspective framed the existence of military courts, particularly in countries like Myanmar and Pakistan, as an unfortunate anomaly. These tribunals are commonly associated with hardcore terrorism cases, and some argue that they should never be extended to civilian matters. It’s crucial to underscore that even under military rule, the army typically lacks the authority to arrest civilians, further emphasizing that civilian trials should be conducted within the established civilian legal framework. This assertion encapsulates the prevailing view that military courts are an exception, not the norm, and are primarily intended for addressing the most extreme cases, rather than civilian matters.

In a momentous press talk, a distinguished and elderly senior lawyer aptly characterized the day as a historic milestone in the nation’s annals. He hailed the Supreme Court’s decision as not only a landmark but also as one of the most remarkable in the country’s judicial history, predicting that it would be etched in golden words. This decision, pertaining to a case of great importance, was deemed a pivotal moment that would fortify the pillars of democracy, the constitution, and the entire legal and justice system of the nation.

He illustrated this point with a poignant anecdote: When a King once asked an archbishop, asserting his sovereignty, the archbishop’s response was resounding. He reminded the King that it was the law that had elevated him to his position, and without the foundation of law, there could be no King. This story encapsulates the enduring principle that all institutions, regardless of their power, must now acknowledge that they operate within the framework of the law. They are obligated to honor and uphold the law and constitution, affirming the primacy of these principles over any individual or institution, and thereby securing the rule of law in the country.

The Supreme Court’s decision stands as a monumental milestone in Pakistan’s legal history, one that extends far beyond the realm of jurisprudence. By striking down the controversial amendment allowing military courts to try civilians, this ruling reaffirms the supremacy of law and the Constitution. In doing so, it safeguards fundamental rights, securing the very essence of a democratic society. But the significance doesn’t end there; this decision carries a profound impact on the social and economic well-being of the people, promoting an environment where justice, fairness, and equity can thrive.

Moreover, it has the potential to elevate the reputation and rating of the judiciary, fostering a renewed sense of trust in its ability to uphold justice. Paradoxically, this decision indirectly bolsters the armed forces, allowing the military to concentrate on their core objectives: ensuring the nation’s defence and security while reinforcing their image as the guardians of the constitution. In essence, this is a decision that echoes far beyond the courtroom, resonating throughout the entire fabric of the nation, underlining the importance of the rule of law, justice, and the enduring strength of democratic principles.

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