

Constitutional Bench clears military courts to rule on 85 civilian cases

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The Constitutional Bench (CB) of the Supreme Court (SC) has permitted military courts to announce verdicts for 85 accused civilians but made their rulings conditional on the outcome of an ongoing constitutional case. The bench, headed by Justice Aminuddin Khan, heard intra-court appeals challenging the decisions of military courts. The bench also comprised Justices Jamal Khan Mandokhail, Muhammad Ali Mazhar, Syed Hasan Azhar Rizvi, Naeem Akhtar Afghan, Musarrat Hilali, and Shahid Bilal Hassan. At the outset of the hearing, Justice Aminuddin Khan stated that only the military court case will be heard today. Justice Jamal Khan Mandokhail raised a key question, asking, “Can amendments to the Army Act bring every individual under its purview?” The hearing also touched upon the historical context of the Army Act, which predates Pakistan’s 1973 Constitution. Justice Muhammad Ali Mazhar asked for clarity on the reasons cited in prior judicial rulings invalidating sections of the Act. During arguments, Khawaja Haris, representing the Ministry of Defence, highlighted flaws in prior top court rulings. Justice Mandokhail warned against undermining judicial authority, stating, “Do not demean judicial decisions to the extent of calling them flawed.” Justice Mazhar

reiterated the need for detailed information on the May 9 incidents, which include the alleged ransacking of the Corps Commander's house. "If the case is restricted to this event, make it clear," he demanded. Additional Attorney General (AAG) provided fresh details, which were received earlier in the day, pledging to submit them formally in a miscellaneous petition. The CB debated the implications of voided Army Act provisions. Justice Musarrat Hilali asked about trials conducted under invalidated sections prior to May 9. Haris argued that decisions under such provisions are typically protected. Justice Hilali disagreed, calling it "discriminatory" against other defendants. Justice Mandokhail stressed that individuals voluntarily joining the army understand they are subject to its rules, which prioritize discipline over fundamental rights. "The Army Act was designed for military governance, not general public trials," he said. The Apex Court ruled that those eligible for leniency must be released, while others should remain incarcerated. Verdicts will proceed, but their implementation hinges on the SC's pending decision. Justice Aminuddin Khan expressed optimism that the case would conclude by January, paving the way for hearings on other critical matters, including challenges to the 26th Constitutional Amendment. The bench adjourned the hearing until after the winter recess.

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