

From the President

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Zahid Hamid
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The Law Society

6 November 2007

Dear Minister

The Law Society is the professional body representing more than 138,000 lawyers in England and Wales. It is concerned to see the independence of the legal profession, the rule of law and human rights upheld throughout the world.

The Law Society is concerned about the recent proclamation of emergency and the events reported in the media in last few days. We are extremely concerned about the mass arrest of lawyers, the attack on the independence of the judiciary and the undermining of fundamental freedoms.

Lawyers

The Provisional Constitution Order (PCO) promulgated by the President on 3 November 2007 provides that the "*Constitution of the Islamic Republic of Pakistan shall remain in abeyance*". This means that fundamental rights under the Constitution have been suspended.

It has been reported that hundreds of lawyers were beaten and arrested yesterday for demonstrating against the PCO. These clashes in Lahore, Multan and Karachi left several lawyers wounded.

The Judiciary

The PCO effectively provides that judges cannot exercise their functions unless they take an oath of loyalty in accordance with Oath of Office (Judges) Order, 2007. We understand that 60 out of 97 judges have refused to take the oath.

It has also been reported that Chief Justice Chaudhry was sacked and replaced after he and eight other judges refused to endorse the PCO, declaring it unconstitutional. Chief Justice Chaudhry is now under house arrest.

The PCO prevents any court or tribunal from calling in question the order of PCO, the Proclamation of Emergency, and the Oath of Office (Judges) Order 2007.

The PCO also prevents any court from making an order against the President or any legal action being issued against him.

International Standards

I wish to draw your attention to Article 23 of the UN Basic Principles on the Role of Lawyers (1990) which states that:

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization...

Further, Articles 1, 3 and 4 of the UN Basic Principles on the Independence of the Judiciary (1985), state that:

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

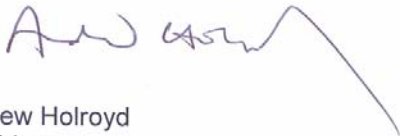
3. The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.

4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision...

The fundamental rights suspended under the Constitution are equivalent to those set out in the UN Universal Declaration of Human Rights. International human rights law provides that any limitations placed on these freedoms should be only such as are prescribed by law as well as being necessary and proportionate for, among other things, the protection of the rights and freedoms of others.

On behalf of the Law Society, I respectfully urge you to re-instate the Constitution, lift all restrictions on the judiciary, release all lawyers and judges held in custody and allow lawyers to exercise their freedom of expression and assembly.

Yours sincerely,



Andrew Holroyd
President