

[ALRC Joint Statement] PAKISTAN: Canadian, Dutch and Hong Kong lawyers call for release of Pakistan lawyers and return to rule of law

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A Joint Statement by the Lawyers Rights Watch Canada (LRWC) , the Lawyers without Borders/Québec (LWB) , the Dutch Lawyers for Lawyers Foundation (L4L) and the Asian Legal Resource Centre (ALRC)

PAKISTAN: Canadian, Dutch and Hong Kong lawyers call for release of Pakistan lawyers and return to rule of law

Lawyers Rights Watch Canada (LRWC) and Lawyers without Borders/Québec (LWB) and the Dutch Lawyers for Lawyers Foundation (L4L) and the Asian Legal Resource Centre (ALRC) join to call for:

1. The immediate release of all lawyers arrested under preventative detention measures, including, without limiting the generality of the foregoing, Asma Jahangir, United Nations Special Rapporteur on freedom of religion or belief; Aitzaz Ahsan, President of the Supreme Court Bar; over 50 members of the Human Rights Commission of Pakistan (HRCP) including Executive Director I.A Rehman, Secretary-General Iqbal Haider (former attorney general of Pakistan) and Jawed Iqbal Burqi; Muneer A Malik former president of the Supreme Court Bar Association; Imran Qureshi, of the Women's Rights organization; Ali Ahmed Kurd, former Vice Chair of the Pakistan Bar Council; Tariq Mahmood, Ali Ahmed Kurd, Abrar Hassan, Ahsan Bhoon and others;
2. Strict adherence by the State and state officials to all Pakistan laws and to applicable international standards governing the guarantees, safeguards, rights and freedoms applicable to the role of lawyer, including those embodied in the UN *Basic Principles on the Role of Lawyers*[i]
3. Strict adherence by the State and state officials to all Pakistan laws and to applicable international standards governing the humane treatment of prisoners, including the universal non-derogable prohibition against torture;
4. Appropriate civil and criminal remedies for violations of the rights of those detained.
5. Dismissal of the warrant for the arrest of United Nations Special Rapporteur in Human Rights Defenders, Hina Jilani.
6. The immediate re-instatement of and adherence to the *Constitution of the Republic of Pakistan* and rescission of the Emergency Declaration of November 3, 2007, the *Provisional Constitutional Order No. 1 of 2007* and the *Oath of Offices (Judges) Order, 2007*

It is apparent that the above named and numerous other Pakistan lawyers have been arrested and detained solely to prevent them from carrying out their professional duty to advocate vigorously against the arbitrary suspension of the rule of law and violation of human rights by the Musharraf regime, and for the restoration of law in Pakistan. Reports indicate that the lawyers arrested have been subjected to a number of serious violations of their fundamental rights in addition to arbitrary arrest and detention, including denial of due process, denial of necessary medical attention, denial of access to legal representatives and visitors and exposure to the possibility of torture and other prohibited inhumane treatment. Recent (November 11, 2007) amendments were made to the law to allow the trial of lawyers and other civilians by military courts for a range of acts including making statements 'conducive to public mischief'.

LRWC, L4L, LWB and ALRC state that lawyers in Pakistan are duty bound to uphold the rule of law and to advocate for justice and against repression. To do so, they must be willing and free to stand between the state and the citizen and to criticize and call into question the actions of the State when human rights are threatened.

Norms of international law establish minimum standards protecting the advocacy rights of lawyers and these standards have been adopted by Pakistan both as a member of the United Nations and the Commonwealth Secretariat. Part VIII of the *Latimer House Guidelines for the Commonwealth*, provides, "An independent, organized legal profession is an essential component in the protection of the rule of law."[ii] The UN Basic Principles on the Role of Lawyers, at Articles 16 and 17, require Pakistan to ensure that lawyers are free to "perform all of their professional functions without intimidation, hindrance, harassment or improper interference..." and "where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities." Furthermore, Article 23 of the UN *Basic Principles on the Role of Lawyers* provides that "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 [...]."

Pakistan is also obligated to respect the prohibitions against torture, arbitrary arrest and detention contained in, *inter alia*, the *Universal Declaration of Human Rights* (UDHR). State practice and *opinio juris* have resulted in these rights becoming part of customary international law. Regardless of the current status of the Pakistani Constitution, the Islamic Republic of Pakistan remains obligated to observe these basic tenants of international law.

LRWC, L4L, LWB and ALRC condemn military president General Pervez Musharraf's repression of the peaceful efforts of members of the Pakistani Bar to uphold the law and to advocate for the rule of law, the independence of the Pakistan judiciary and adherence by the Musharraf regime, to the *Constitution of the Republic of Pakistan*. LRWC, L4L, LWB and ALRC condemn the extra-legal measures being used to punish the legitimate and lawful exercise of freedom of speech and assembly by lawyers.

LRWC, L4L, LWB and ALRC view the Emergency Declaration and subsequent changes to Pakistan law as being illegitimate, prohibited by both the *Constitution of the Republic of Pakistan* and by international law, with a cloak of apparent legality.

Background

When military President Musharraf sacked the Chief Justice of the Pakistan Supreme Court on March 9, 2007, hundreds of lawyers rallied and spoke publicly in support of the Chief Justice and against proceedings brought against him by Musharraf. Protests by lawyers, judges and others continued up to July 20, 2007 when the Supreme Court of Pakistan ordered Chaudhry reinstated as Chief Justice and dismissed the proceedings against him as illegal.

The repression of lawyers by the Musharraf regime recommenced when a state of emergency was declared and the Pakistan Constitution suspended on November 3, 2007. The suspension of the constitution resulted in the repeal of fundamental human rights, including the right to life and liberty, freedoms of assembly, association and speech, equality before and equal protection of the law. Core legal rights related to arrest and detention are also repealed, including the right to counsel. Since then, thousands of lawyers and human rights activists have been arrested and detained.

LRWC, L4L, LWB and ALRC join with other lawyers and human rights advocates in Pakistan and around the world in calling for the immediate remedies set out above.

Sincerely,

Gail Davidson, Executive Director, Lawyers Rights Watch Canada
Judith Lichtenberg, Executive Director, The Lawyers for Lawyers Foundation
Pascal Paradis, Executive Director, Lawyers without Borders Québec
Basil Fernando, Executive Director, ALRC

Lawyers Rights Watch Canada (LRWC) is a committee of Canadian lawyers who promote human rights and the rule of law internationally by providing support to lawyers and other human rights defenders in danger because of their advocacy. LRWC is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations. Earlier LRWC statements on Pakistan: www.lrwc.org/pub1.php

The Dutch **Lawyers For Lawyers Foundation (L4L)** (*'Stichting Advocaten voor Advocaten'*) is committed to enable lawyers, throughout the world, to practice law without improper interference and to this end, supports lawyers who are under threat or attack in the exercise of their profession while working for the protection of human rights. L4L, established in co-operation with the Dutch Bar Association, the Dutch affiliate of the International Commission of Jurists, and the Dutch Institute of Human Rights, regularly reports on the situation of human rights lawyers.

Lawyers without Borders Québec (LWB) is the Canadian branch of the "Avocats sans frontières" world movement. It is a volunteer NGO whose mission is to contribute to the defense of the rights of the most vulnerable individuals or groups in the developing world or in countries in crisis, particularly by supporting the work of lawyers, officials of justice and other human rights defenders. www.asfquebec.org

The **Asian Legal Resource Centre (ALRC)** is a Hong Kong-based NGO with General Consultative status with the Economic and Social Council of the United Nations. The ALRC was founded in 1986 by a prominent group of jurists and human rights activists in Asia and is committed to the development of legal self-reliance and the empowerment of people. The Centre promotes the respect of human rights in the region through the strengthening of institutions of the rule of law, notably the police, prosecution and judiciary. It also seeks to strengthen and encourage positive action on legal and human rights issues by the bar and other legal bodies and personnel, at the local and national levels, It seeks to promote rights in the region through advocacy, research and publications, such as Article 2.

CONTACTS

Lawyers Rights Watch Canada, Cara Gibbons, +1 416-822-1626; caragibbons@osgoode.yoru.ca
Gail Davidson +1 604 738 0338, lrwc@portal.ca

The Lawyers for Lawyers Foundation, Ms. Judith Lichtenberg; +31 (0)6 11 30 6378,
info@advocatenvooradvocaten.nl. <http://www.advocatenvooradvocaten.nl>

Lawyers without Borders, Pascal Paradis, +1-418-907-2607, pascal.paradis@asfquebec.org

Asian Legal Resource Centre, Basil Fernando, Executive Director, ALRC, Tel: +(852) - 2698-6339, alrc@alrc.net;
www.alrc.net

[i] Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

[ii] Article 3 of the Latimer House Guidelines, an Annex to the Commonwealth (Latimer House) Principles on the Three Branches of Government: Commonwealth Principles on the Accountability of and the Relationship between the Three Branches of Government: www.thecommonwealth.org/shared_aspiles/uploadedfiles/%7BACC9270A-E929-4AE0-AEF9-4AAFEC68479C%7D_Latimer%20House%20Booklet%20130504.pdf

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About ALRC: *The Asian Legal Resource Centre is an independent regional non-governmental organisation holding general consultative status with the Economic and Social Council of the United Nations. It is the sister organisation of the Asian Human Rights Commission. The Hong Kong-based group seeks to strengthen and encourage positive action on legal and human rights issues at local and national levels throughout Asia.*

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