



INTERNATIONAL COMMISSION OF JURISTS

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Pakistan: Suspension of constitution grave blow to rule of law. President urged to end attack on independence of judges and lawyers

The International Commission of Jurists (ICJ) today condemned the suspension of the constitution in Pakistan, the summary dismissal of the Chief Justice and the arrest of leading lawyers, and expressed grave concern at this dismantling of the rule of law.

“President Musharraf has dealt a grave blow to the rule of law and stability in Pakistan”, said Nicholas Howen, Secretary-General of the ICJ.

“Dismissing and replacing the Chief Justice, arresting lawyers and suspending the constitution, will not help to address the serious security threats facing the country”, said Nicholas Howen.

“The Proclamation suspending the constitution is a direct attack by the President on a judiciary that has acted independently in a series of court cases that touch on the powers of the executive. The President has undermined the separation of powers”, he added.

The ICJ called on the Government to suspend preventive detention orders issued against hundreds of perceived opponents, including at least ten leading lawyers in the country. Lawyers detained include the President and a former President of the Supreme Court Bar Association and the President of the Baluchistan Bar Association.

Also detained is ICJ Commissioner and United Nations Special Rapporteur on religious intolerance, Asma Jahangir. She was put under house arrest late on 3 November, under a 90-day preventive detention order, reportedly to prevent her making “inflammatory speeches”. Lawyer Hina Jilani, who is also United Nations Special Representative of the Secretary-General on human rights defenders, is expected to be detained by waiting police when she returns from overseas, under an arrest warrant that has already been issued.

The ICJ called on the Government to permit people to exercise their right to peacefully protest and reminded the authorities that individuals can be held personally and criminally responsible for serious human rights violations, including unlawful violence used against peaceful demonstrators.

About 70 members of the non-governmental Human Rights Commission of Pakistan, including the Executive Director and Secretary-General, were reportedly arrested and detained in a police station, after police used tear gas to break up a meeting in Lahore earlier today, 4 November. Police are reportedly demanding they sign a declaration that they will not participate in demonstrations.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

33, rue des Bains, P.O. Box 216, 1211 Geneva 8, Switzerland
Tel: +41 (0) 22 979 2800 Fax: +41 (0) 22 979 2801 Website: <http://www.icj.org> E-mail: info@icj.org

On 3 November, security forces surrounded the Supreme Court with troops and the Government dismissed Chief Justice Iftikhar Mohammad Chaudhry, who had been reinstated by the Supreme Court in July after an earlier removal in March. Only five of the 17 judges of the Supreme Court reportedly agreed to take a new oath of office.

“In his Proclamation the President says he is committed to the rule of law. We call on the Government immediately to suspend preventive detention orders issued against lawyers, reinstate the dismissed Chief Justice and restore the constitution”, said Nicholas Howen.

The ICJ expressed concern that, contrary to constitutional and international law, the state of emergency has been issued for an indefinite period and that the suspension of the constitution seeks in effect to avoid usual legal constraints on the state of emergency.

“The Government of Pakistan cannot by proclamation remove all legal restraints on emergency powers and other actions of the Government. Under constitutional law in Pakistan and international law that binds Pakistan, the Government is bound to observe the rule of law and not abrogate it”, said Nicholas Howen.

The proclamation declaring a state of emergency and suspending the constitution, issued on 3 November 2007, principally justifies the President’s actions by accusing the judiciary of interfering in the functions of the executive and legislature. It also invokes the increasing number of terrorist attacks and level of violence in the country.

The ICJ is concerned that the President has retaliated against an independent judiciary. In recent months the Supreme Judicial Council of Pakistan declared unconstitutional an earlier suspension of the Chief Justice by the President and the Supreme Court was due to rule soon on the constitutionality of President Musharraf having stood for President while he was also Commander in Chief of the Army. Earlier this year the Supreme Court also took up on its own initiative a significant number of complaints of enforced disappearances alleged to have been carried out by the security forces.

In April 2007, after the suspension of the former Chief Justice, the ICJ sent a high-level mission to Pakistan, led by senior Malaysian advocate and former United Nations Special Rapporteur on the independence of judges and lawyers, Dato’ Param Cumaraswamy. That mission expressed grave concern at the history and pattern of attacks on the independence of judges and lawyers in Pakistan, including the detention and suspension in March of the former Chief Justice and the arbitrary detention and torture or ill-treatment of lawyers peacefully demonstrating in support of judicial independence. At the end of the mission, Dato’ Param Cumaraswamy concluded:

“ ... the present judicial crisis, if not resolved soon, could deteriorate and cause irreversible damage to constitutional order in Pakistan. The Mission urges the Government to address the underlying causes of this crisis and to restore a fundamental democratic principle that is pivotal for the rule of law in Pakistan – the independence of the judiciary”.

The ICJ is deeply concerned that the crisis has escalated in Pakistan, rather than being resolved in favour of the rule of law.

For further information, contact the ICJ in Geneva on +41-22-9793800.