

Australian Lawyers join chorus of global support for Pakistani colleagues

The Law Council today joined a chorus of lawyers' associations around the world, including the Commonwealth Lawyers Association, the International Bar Association and LAWASIA, in both expressing support for the lawyers of Pakistan and in condemning the Pakistani Government's assault on the rule of law.

The Law Council expressed grave concern at a series of drastic measures recently adopted by the Pakistani Government in defiance of international human rights law. Such measures include:

- ◇ expanded powers of arrest, allowance for prolonged detention without charge and the suspension of suspects' rights to access legal representation;
- ◇ the forcible removal from office and house arrest of the Chief Justice of the Supreme Court and six other Judges who refused to ratify the Government's emergency proclamation;
- ◇ the arrest of hundred of lawyers, including many national and provincial bar association leaders, and other activists for protesting in defence of the rule of law and the independence of the judiciary; and
- ◇ the enforcement of severe restrictions on permissible media content and the intimidation and harassment of journalists attempting to inform the public about unfolding events.

The Law Council acknowledged deep respect for the lawyers of Pakistan who have, at risk to life and liberty, bravely led national protests against the authorities' blatant interference with the judiciary and attempts to manipulate and sideline the existing legal order in pursuit of private gains.

The Law Council called on the Pakistani Government to immediately release all those who are currently being held in custody as a result of peacefully standing up and raising their voices in support of fundamental rights and freedoms.

The Law Council also called on the Pakistani Government to restore the Constitution and to allow the Judiciary to assume its rightful role in interpreting and applying the law without fear or favour.

Law Council of Australia
8 November 2007





Law Council
OF AUSTRALIA

*From the Office of
the President*

9 November 2007

W. ROSS RAY QC

president@lawcouncil.asn.au

Pervez Musharraf
President of Pakistan

c/o His Excellency Mr Jalil Abbas Jilani
High Commissioner to Australia
High Commission for Pakistan, Canberra
4 Timbarra Crescent
O'Malley ACT 2606

Dear President Musharraf,

RESTORATION OF THE RULE OF LAW IN PAKISTAN

I am writing to you in my position as President of the Law Council of Australia to express grave concern about the abrogation of the rule of law in Pakistan and related breaches of international human rights law.

As a lawyer, representing some 50,000 other lawyers, I am compelled to write in particular to express concern for my Pakistani colleagues, many of whom find themselves in detention as a result of their non-violent protests at the suspension of the Constitution and the dismissal of the Chief Justice of the Supreme Court.

You may well assert dismissively that many miles and very different socio-political environment away, Australian lawyers can not possibly understand the context in which events are currently unfolding in Pakistan.

I do not accept that assertion.

I have read the text of the Proclamation of Emergency declared by you on 3 November. That text reveals the frustrations of an Executive forced to contend with an independent and impartial judiciary whose function is not to advance Government policy and rhetoric nor to secure the Government's survival, but to uphold the law.

Such frustrations on the part of the Executive are not only common to, but often characteristic of, healthy democracies in which the separation of powers is respected.

Certainly, Australian lawyers are familiar with frustrations of this kind expressed by our own Executive.

What is unfamiliar and what has rightly attracted severe international condemnation is the response adopted by Pakistani authorities.

The forcible removal from office and house arrest of the Chief Justice and other non-compliant members of the judiciary is an unequivocal affront to the rule of law. So too is the unnecessary suspension of the Constitution and the fundamental rights protected therein.

You have purported to take these actions in order to secure the safety and stability of Pakistan.

However, the elevation of the arbitrary will of the Executive beyond scrutiny and above all other considerations simply cannot deliver either goal.

In fact, on the contrary, your actions have undermined the very institutions and the very equilibrium which is key to the maintenance of any stable, peaceful democracy.


That lawyers would unite in protest and take to the streets in such circumstances is not only inevitable but worthy of admiration. They act, not in their own interests, but in the interests of the community. Their protest is indicative of the important role that a competent and independent legal profession necessarily plays in the protection and promotion of human rights.

Respecting that role and respecting their motivations, I urge you to order the immediate release of all those who are currently being held in custody as a result of peacefully standing up and raising their voices in support of fundamental rights and freedoms.

Further, I implore you to restore the Constitution of Pakistan and to allow the judiciary to assume its rightful role in interpreting and applying the law without fear or favour.

Many countries aspire to an independent and impartial judiciary and a competent and independent legal profession. Recent events suggest that Pakistan, in some respects at least, has the makings of both. Such institutions, once squandered are difficult to restore.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'W. Ross Ray', written in a cursive style.

W. Ross Ray QC