

MQM LEGAL AID COMMITTEE'S PRESS CONFERENCE AT THE KARACHI PRESS CLUB

Karachi, 5th May 2007

Respected Journalists!

Assalam-o-alaikum

We are grateful of your presence in today's press conference. The purpose of today's press conference is to present to the people of Pakistan our point of view with regards to the Presidential reference against the Chief Justice of Supreme Court Iftikhar Muhammad Chaudhry and its after effects as a result of the protest of the political and religious parties and the lawyers organisations throughout the country – and to inform about the conspiracy behind these protest demonstrations.

The Article 209 of the country's constitution provides the right to the President of Pakistan to send a reference based on complaints received against a judge of the Supreme Court or the Chief Justice of the Supreme Court to the Supreme Judicial Council. Therefore, the reference forwarded by the President Pervez Musharraf against the Chief Justice Supreme Court Iftikhar Muhammad Chaudhry has been in exercise of this constitutional right.

The Supreme Judicial Council is an autonomous and constitutional institution with the constitutional authority to hear references against chief justices and judges of Supreme Court and High Courts. The Presidential reference against Chief Justice Iftikhar Muhammad Chaudhry is a constitutional matter and is being heard by the Supreme Judicial Council. The respect to judiciary, constitution and law demands that the hearing of Supreme Judicial Council is allowed to be conducted in courts and to wait for the decision of the Supreme Judicial Council that comprises of honourable and respected judges of the country. However, regrettably it has to be said that this constitutional issue of the Presidential reference has been converted into a political issue by the Opposition political and religious parties and certain lawyers' organisations who are trying to create crisis situation in the country for their ulterior political motives.

Every Pakistani who believes in the supremacy of constitution and law, promotion of democracy and the rule of justice definitely believes in the independence and autonomy of the judiciary. As Pakistanis, we too respect the judiciary and firmly believe in the independence and autonomy of judiciary and are prepared to offer any sacrifice to strengthen and stabilize the independence of judiciary. However, instead of an individual we believe in the independence, strengthening and stability of the institution of judiciary. Because, individuals may retake their oath under the PCO (Provisional Constitutional Order) whereas the Constitution of Pakistan states that according to the country's Constitution when the judges of Supreme Court and High Courts take oath of their office it is binding on them – taking another oath over this is totally unconstitutional.

The present conduct of the political and religious parties and certain lawyers' organisations throughout the country in the name of independence of judiciary is not for the stability of the institutions but under the cover of an individual this is an effort to gain political mileage and for their ulterior political motives. The Opposition political and religious parties after miserably failing to organise successful sit-ins, long marches or million march and despite all their efforts were unsuccessful in bringing the public out on streets. Now under the rubric of presidential reference, which is a purely constitutional issue, they are playing political games and court matters are being brought out on the streets. Throughout the country, in the name of independence of judiciary, loot, arson, ransacking and other protest activities are being carried out for their ulterior political motives. We also regretfully inform that certain lawyers' organisations have become part of this conspiracy of some political and religious organisations.

Peaceful protest is the right of every Pakistani including the lawyers but the way recent spate of protest demonstrations are being organised in the name of independence of judiciary by certain lawyers, organisations, political and religious parties have raised serious questions in the minds of the enlightened people of Pakistan. They ask that Pakistan in its 60 years of existence has witnessed several martial laws, suspension of civil courts, courts were compelled to operate under military instructions, civil rights usurped – but then the lawyers' organisations and their partners, the political and religious parties, as compared to today did not run such a campaign? We ask the lawyers' organisations and the political and religious parties who are protesting countrywide on the issue of presidential reference against Chief Justice Iftikhar Muhammad Chaudhry that when in 2000 the then Chief Justice Supreme Court Saeed-uz- Zaman Siddiqui and other Supreme Court and High Court Judges were pressurised to retake their oath under the PCO, Chief Justice Supreme Court Saeed-uz- Zaman Siddiqui was made hostage in his residence for hours – but the Chief Justice Supreme Court Saeed-uz- Zaman Siddiqui and other Supreme Court Judges Justice Nasir Aslam Zahid, Justice Wajih Uddin, Justice Kamal Mansoor Alam, Justice Mamoon Qazi, Justice Khalilur Rehman, 3 Judges from Sindh High Court, 4 Judges of Peshawar High Court and 2 Judges of Lahore High Court stood as retired when they refused to retake their oath under the PCO – why then these lawyers' organisations and political and religious parties never thought of the independence of judiciary and its sanctity? Where were these lawyers' organisations and the political and religious parties? Why did they not protest against the abusive and cruel treatment meted out to Chief Justice Supreme Court Saeed-uz- Zaman Siddiqui? The issue today is of only one Chief Justice which is being heard by the Supreme Judicial Council but in year 2000, 15 Judges including the Chief Justice of Supreme Court were retired for refusing to take oath under the PCO. Why the lawyers' organisations and political and religious parties did not organise protest demonstrations to support the then Chief Justice Supreme Court and other Judges. Were Justice Saeed-uz- Zaman Siddiqui, Justice Nasir Aslam Zahid, Justice Wajih Uddin, Justice Kamal Mansoor Alam, Justice Mamoon Qazi and Justice Khalilur Rehman not honourable judges of the Supreme Court? When Nawaz Sharif during his regime pressurised the then Chief Justice Supreme Court Syed Sajjad Ali Shah and Chief Justice Sajjad Ali Shah had to request the then Chief of Army Staff General Jehangir Karamat for help, which he refused to provide, and afterwards the Muslim League leaders and workers attacked the Supreme Court and raised their hands on the Supreme Court Judges – we ask why the lawyers' organisations and political and

religious parties did not organise countrywide protest demonstrations for the independence of judiciary? Why did they not think of the respect and sanctity of the judiciary? We also ask that during Nawaz Sharif Government Governor Rule was imposed in Sindh and military courts were established unconstitutionally – why the same lawyers’ organisations and political and religious parties did not start a campaign for the independence of judiciary? Then it was the MQM alone who challenged the establishment of these military court terming them unconstitutional and illegal and fought the legal battle in court – where were all these so-called flag bearers of independence of judiciary? The people also ask that when during the army operation against the MQM, thousands of its workers and supporters were being extra-judicially murdered in the urban centres of Sindh, the then Government usurped the independence of judiciary and the judiciary was being openly insulted – why the lawyers’ organisations, political and religious parties did not organise similar protest demonstrations? In the same era not only the MQM lawyers were made target of State oppression but also the judges who were providing justice to the victims of oppression were threatened – why the lawyers’ organisations, political and religious parties did not organised such protest demonstrations throughout the country? This double standard of lawyers’ organisation, political and religious parties raises serious doubts and suspicion that in the name of independence of judiciary the act of shutting down the courts and coming out on the streets is not for the independence and autonomy of judiciary but to create a crisis situation in the country with a view to achieve their ulterior political motives.

On the one hand the political and religious parties including the lawyers’ organisations speak of the independence of judiciary whereas on the other hand they demonstrate outside the Supreme Court which tantamount to pressurising the judiciary. Is this act not against the very spirit of the independence of judiciary? The manner in which the lawyers and workers of political and religious parties surround the Supreme Court building on every hearing of the Presidential reference, damaging the doors and railings – does this not tantamount to disrespecting the sanctity of the Supreme Court? A lawyer responds to arguments with reasons but the act of certain lawyers of attacking and manhandling government lawyers including Waseem Sajjad and Khalid Ranjha – does it suit lawyers? Is torturing and beating up the journalists and representatives of print and electronic media and damaging their cameras constitutional or legal? On the one hand the lawyers organisations talk of independence of judiciary whereas on the other hand lawyers having a difference of view are being tortured and victimised and their Bar membership being cancelled. Is this act in accordance with the democratic norms? It is with regret that certain lawyers’ organisations in collusion with political and religious parties are not only trying to influence the Supreme Judicial Council but also in the name of protest they are regularly shutting down the courts thus hindering the process of justice being delivered to the common people and as a result inflicting physical and mental torture to thousands of detainees and their family members. The family of these poor detainees travel from remote areas for the hearing of cases but the courts are made to close down in the name of protest; therefore, they have to then return disappointed. And they have to go through the same painful experience on the next date of hearing as well. The regular closure of courts is also affecting the staff. We ask does the poor detainees, their family members, the staff related to courts have to undergo further financial and mental torture – is this independence of judiciary?

Another important point is that the Opposition political and religious parties in the name of independence of judiciary are trying to make Sindh and particularly Karachi as their political battlefield with a view to upset the peace of the city and disturb the ongoing development projects. Those religious parties are in the forefront of this conspiracy that have repeatedly been rejected and defeated by the public. We are surprised that certain lawyers' organisations are also becoming part of this conspiracy which is regrettable.

At present the country is surrounded with severe dangers and the Opposition political and religious parties instead of demonstrating sensibility in this precarious situation are bent upon creating instability in the country, therefore, through today's press conference we appeal to all the lawyers' organisations that they must not become party of the conspiracy of political and religious parties of converting a constitutional matter into a political issue for their ulterior political motives. If the country exists then there will be courts as well but if by becoming part of this conspiracy and the emotional actions causes irremediable damage to the country then it will not be compassion to the country. The Presidential reference is under judicial proceedings with the Supreme Judicial Council, respect to the sanctity of judiciary demands that the Supreme Judicial Council is allowed to function, wait for the decision, court matter be allowed to resolve through judicial proceedings and the country should not be plunged into further crisis. Peaceful demonstration is the right of lawyers' organisations but they must ensure that their protest is totally peaceful, refrain from violent activities and must not provide their platform to the political and religious parties for their ulterior political motives. Lawyers may continue their peaceful demonstrations but avoid closing down and boycotting the courts and must allow the judicial process to continue so that the detainees can get justice and other cases can also be decided.

Through this press conference we once again would like to clarify that we believe in independence of judiciary and want complete respect and sanctity of this institution. We want that the judiciary to be completely free, autonomous and respectable. We are with those who sincerely believe in the independence, autonomy and sincerity of the judiciary. Through this press conference we appeal to the people of Pakistan that the must not become part of the conspiracy of the self-seeking political and religious parties, demonstrate their unity and solidarity as the country needs this today as it has never done in the past.

Thank you.

Wassalam

**Legal Aid Committee
Muttahida Quami Movement**