

Pakistan Young Leaders Conference 2011

Date: 12/02/2011 – 13/02/2011

Legal Affairs Committee

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The Legal Affairs Committee discussed three relevant matters, namely the blasphemy law, judicial reform/implementation of law and candidacy laws. In spite of discussing perhaps the most controversial issue in Pakistan today, the Legal Committee is pleased to have arrived at a consensus.

The committee comprised of lawyers, law students, and those from other fields, including, for example, psychology, business and information technology, with an interest in Islamic law and history represented across disciplines. Several different viewpoints were expressed during the course of the discussion yet all participants maintained a cordial and civil attitude, with the result that participants heard each other out, explained their own views, were flexible enough to attempt to understand one another, and above all, learn from each other. By drawing on the experiences of all present for the discussion, our aim was to adopt resolutions supported by an overwhelming majority of participants. Those matters on which broad consensus could not be reached, such as whether to eradicate the death penalty from the blasphemy law, a resolution to that effect was not adopted.

Our efforts hope to reflect a pluralistic society where all views can be expressed freely, without suppression or fear, such that consensus can be reached, and not a polarised society where discord is rife, debate discouraged and ill-feeling towards fellow countrymen and women festers.

Resolution – Blasphemy Law

- (I)** We resolve to educate and increase awareness among the general public on what the Blasphemy Law states, how it is currently being used, what the canons of Islamic jurisprudence and history say in their entirety, and how other Muslim countries have approached the issue.
- (II)** Without amending the substance of the blasphemy law, we support procedural amendments to the law such that misuse is curtailed, including:
 - (a)** Establishing a Preliminary Inquiry committee comprising of senior ranking police officers, minority representatives and a sessions court judge to investigate the blasphemy cases, *and*
 - (b)** Ensuring punishment for false accusations in blasphemy cases in accordance with the principles of Islamic law.
- (III)** We advocate the introduction of a requirement of malicious and wilful intention to commit the offence of blasphemy.

In discussing judicial reform and the implementation of law, participants noted the relevance of the historic lawyers' movement of 2007-2009. However, the focus remained on improving administration of justice. In this regard, corruption and lack of accountability were recurring themes during the course of the discussions. It was noted that these two concerns must be addressed in order to enhance people's faith in the system and hence the writ of the state.

It was recognised however that in combating corruption and ensuring accountability, functionaries of all organs of state must be scrutinised, including elected representatives, judicial officials, civil servants and military officers. It was also recognised that in order for all Pakistanis to have equal faith in the system, accountability must be perceived as across-the-board by all ethnic, linguistic, religious and other groups living in Pakistan.

Thus some specific suggestions were made to improve the administration of justice and focus on judicial reform.

Resolution- Judicial Reform/Implementation of the Law

- (I) We believe that freedom of information is the first step towards greater accountability. To this effect, we advocate the allocation of resources and application of technology towards the collection and timely public dissemination of data related to the administration of justice.
- (II) We support reforms in the administration of justice by empowering law enforcement agencies, including:
 - (a) The formation of a Police Complaint Commission to oversee policing functions and ensuring cooperation of this body with the local judicial authority, *and*
 - (b) Establishing a witness protection scheme in order to increase confidence in the general public to come forward as witnesses.
- (III) We propose the establishment of a Law Commission presided by senior academics and retired judges established in their fields, with an aim to scrutinize existing judicial decisions and laws, and promote comprehensive legal research and analysis, including that of Islamic laws.

During the course of the discussions, it was agreed by a majority of the participants that democracy is a better system of government than a dictatorship. Nevertheless, the lack of good governance by the current democratic dispensation was lamented. To this end, Article 62 and 63 of the Constitution were scrutinised to see if they could be modified or added to so as to ensure that elected representatives are more responsive to the people that they represent.

Although broad consensus could not be reached on whether to amend, modify or further explain the current provisions, particularly as they reference Islamic qualities for the qualification/disqualification of Parliamentarians, certain additional objectively quantifiable criteria were nevertheless suggested and agreed upon, with a view to enhance the calibre of elected representatives.

Resolution- Candidacy Laws

- (I)** We resolve that, as a qualification for candidacy to Parliament, the person must not have falsified his/her tax returns, not have defaulted on loans, and must not have a criminal record.

- (II)** We resolve that, as a qualification for candidacy to Parliament, the candidate must have either lived in the constituency from which he/she is contesting for a minimum period of three (3) years, OR, have made a substantial financial or material contribution to uplift the standard of living of that constituency.

- (III)** We seek to amend the election commission requirements for declaration of assets, to include all assets held under the names of persons other than the candidate, and for which the person is a beneficiary, and we seek to disqualify a candidate who has either undervalued and/or misstated his or her assets in the disclosure forms.