

Event Report

**Legal Aspects of
Contemporary South Asian Issues**

EIAS Discussion

25 May 2016

On 25 May 2016 EIAS welcomed Mr Ahmer Bilal Soofi for a lively talk. Mr Soofi is a leading lawyer practicing before the Supreme Court and is also a senior partner of law firm with offices in Lahore and Islamabad. He is the founding President of the Research Society of International Law, the only think tank of international law in Pakistan that is dedicated to activities for lawyers, journalists and Government officials for improving capacity and awareness about legal commitments of Pakistan under various treaties and conventions.

His areas of expertise include both litigation and transactional work. Mr. Soofi has appeared in several cases before the Supreme Court of Pakistan on matters of constitutional and national importance. He has also advised the Government of Pakistan on several important legal issues.

Mr. Ahmer Bilal Soofi is Pakistan's former Law Minister. Mr. Soofi acted as an expert from Pakistan to provide country report that became part of the ICRC Customary Study on international humanitarian law. He has done extensive work for improving legislation in Pakistan relating to human rights and international humanitarian law. In this regard, Mr. Soofi and his team carried out a one volume comprehensive comparison of Pakistan's entire legislation with the Geneva Conventions, Additional Protocols and the Rome Statute. More recently, he has advised the Government on the Child Rights Convention. He has also advised the Government on the legal aspects of the country report from Pakistan on UNSC Resolution 1540.

Introduction

The South Asian region, despite being the most densely populated, remains the least integrated region in the world characterised by a lack of cooperation and collaboration between countries. This lack of cooperation extends towards Muslim communities within the region too that are currently facing the common and dire challenges of extremism and radicalisation. The identification of common legal agendas for South Asian countries can go a long way in combatting the issues of the region.

South Asian countries are party to certain legal instruments – for instance, UNSC Resolution 1267 on Al-Qaeda, and Resolution 1373 on Counterterrorism. This commonality serves as the basis of legal agendas, and notwithstanding the political division, a common legal framework needs to be identified.

Kashmir Dispute

The Kashmir dispute has been a longstanding and major irritant in Pakistan's relations with India. Mr Soofi highlighted the urgent need for both countries to deal with this issue and find effective solutions to combat the regular deadlock on the subject. Attempting to settle this issue only through the prism of a political perspective has its limitations – the application of a legal dimension, in addition to the political one is essential.

In fact the constitutions of both countries explicitly refer to the need of resolving the Kashmir issue. The current positive political climate with PM Sharif and PM Modi in power and their persistent efforts to improve the détente is conducive to settling the Kashmir dispute.

Mumbai Attack

The efficacy of the legal process in handling the aftermath of the 2008 Mumbai attacks was limited as a result of a lack of cooperation on the part of the Indian government, and restrictions on the ability to prosecute and press adequate charges. The lesson was learned from the experience that the admissibility before the domestic court is a technical issue. In order to settle this matter, proper admissible evidence needs to be handed over.

The transnational nature of terrorism makes it difficult to prosecute, increasing the need for further cooperation between states. A legal structure in this regard is paramount to combat this issue, and a harmonious collaboration of the same is needed to construct common areas in the legal framework.

Bangladesh War Crime Trials

With respect to Bangladesh, Mr. Soofi stressed upon the need for Muslim communities to come together and develop a common narrative towards political and legal issues that would discourage the population from embracing extremism. He highlighted the fact that the trial proceedings specifically excluded the application of a general procedure code, and instances where a lack of precedent leading to capital punishment was awarded by administrative assessment – an utter violation of international covenant and rights, according to Article 14 of the ICCPR. The exclusion of the criminal court of Bangladesh is

an obvious issue in this regard, the solution to which could be provided by setting up a special court to convict people.

Issue of Interference

The issue of interference and intervention was another crucial subject touched upon by Mr. Soofi. He highlighted the need for each state to implement self-disciplinary policy making in order to refrain from interfering in each other's affairs, which potentially obstruct significant efforts like the process of counter-terrorism. He referred to the recent arrest in Balochistan of Kulbhushan Jadav – an alleged spy working for RAW, India's intelligence agency; an incident that violated the principles of interference and international law enshrined in the UN Charter.

Conclusion

To conclude, he once again stressed the importance of the application of a legal aspect and dimension to the issues that the South region is currently facing, and the imperative for South Asian countries to effectively come together and cooperate to defeat terrorism and radicalisation.

Q&A Session

On the question of the Pakistani government's position on human rights issues, including massacres in different parts of the country and numerous missing people, Mr. Soofi stated that the attack of some groups against the state potentially sets the paradigm of the law of conflict. A legal framework is required to address this, which the Pakistani government is looking into. Furthermore, Mr. Soofi stressed upon the need to improve Pakistan's trade and economic environment. For this, the Economic Zone Act was established in 2012 to make economic improvements that would enhance the quality of life of citizens. In addition, the recent lifting of sanctions on Iran has led to an increase in opportunities and has paved the way for bilateral relationships and treaties.

In responding to the question on Jamaat-e-Islami's non-terrorist designation, Mr. Soofi clarified that the Jamaat-e-Islami are not classified as terrorists. Rather than classifications, an effective approach should entail examining the root causes and motives behind acts of extremism and altering the narrative that persuades them to take such actions and decisions. This is a long-term process with the ultimate goal of winning them back and providing them with a more solid system.

Report prepared by Yujin Lim and Shairee Malhotra