



PAKISTAN

# Destroying Legality

Pakistan's Crackdown on Lawyers and Judges

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## **Destroying Legality Pakistan's Crackdown on Lawyers and Judges**

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# Map of Pakistan



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## I. Summary

*At the police station, the SHO started beating me and telling me to shout slogans in support of Musharraf. I refused. So he punched me and kicked me and beat me with a stick and something else. Other police officers present also joined in at the SHO's urging. They kept taunting me and telling me to call [Chief Justice] Iftikhar Chaudhry for help and ordering me to shout slogans in support of Musharraf. They kept beating me like this until I passed out.*

—Hassan Tariq, District Bar Association executive committee member in Nawabshah, Sindh province, describing his arrest on November 8.

*From the Bar Rooms [lawyers' lounges], the library, the study and the news room—lawyers were arrested from everywhere. And no one was arrested without being beaten up and humiliated. The senior lawyers—elderly individuals—were the worst affected. They were having breathing problems because the atmosphere filled with teargas. Some of them were lying on the ground and were gasping for air. Even they were hauled up.*

—Abid Saqi, a lawyer describing the police raid on the Lahore High Court on November 5.

At 5 p.m. on November 3, 2007, Pakistan's president, General Pervez Musharraf, acting in his capacity as army chief, suspended the constitution and declared a state of emergency, replacing the constitution with a Provisional Constitution Order (PCO).

Musharraf announced in a televised address to the nation in the early hours of November 4 that he had been forced into subverting the constitution to combat terrorism and Islamist extremists. He also made this clear in his official proclamation suspending the constitution:

There is visible ascendancy in the activities of extremists and incidents of terrorist attacks, including suicide bombings,... rocket

firing and bomb explosions and the banding together of some militant groups have taken such activities to an unprecedented level of violent intensity posing a grave threat to the life and property of the citizens of Pakistan.... I, General Pervez Musharraf, Chief of Army Staff, proclaim emergency throughout Pakistan. I hereby order and proclaim that the constitution of the Islamic Republic of Pakistan shall remain in abeyance.

In the name of fighting terrorism and Islamist extremism, Musharraf instead mounted what was effectively a coup against Pakistan's civil society. Targets of the crackdown included lawyers, judges, human rights activists, opposition political party members, journalists, students, and academics.

The declaration of the state of emergency itself was not, as Musharraf claimed, necessitated by new terrorism threats, but by perceived threats to his own continued rule by an energized, principled lawyers' movement calling for genuine respect for independence of the judiciary and the rule of law. Scores of government opponents including lawyers remain in prison across the country today; the leaders of the lawyers' movement and senior judges of the Supreme Court remain under house arrest. Thousands have been released, but the fear of being re-arrested hangs over them as charges against them under the Anti-Terrorism Act remain on file. Under the restored constitution, lawyers have to contend with the possibility of being banned from their profession should they earn the governments ire. And all government opponents face the very real possibility of finding themselves in "legal" military custody and facing prosecution by military courts under the amended Army Act.

This report provides an analysis of the crackdown on lawyers and judges and its significance, based on interviews with eyewitnesses and victims. It is the most detailed empirical account to date of what happened during the November crackdown and ensuing events.

It shows how Musharraf tried to dismantle a movement of the nation's lawyers and judges that had been making genuine progress in putting Pakistan back on the path to democracy. In the eight months prior to the crackdown beginning November 3, the

lawyers' movement had done more to challenge the pillars of military rule than the political opposition had done in eight years. If not reversed, this blow against Pakistan's legal institutions, will have long-lasting consequences for human rights and the rule of law in the country.

The issue is not the state of emergency itself, which was lifted on December 15, but the manner in which Musharraf used the emergency and the frontal assault on the judiciary, the legal profession and civil society in order to secure his continued rule. While the active phase of the crackdown on lawyers may have passed, Musharraf has used it to insulate all of the repressive measures he enacted during the period from future challenge. The emergency has formally ended; the repressive measures Musharraf introduced under cover of the emergency remain the law of the land today. And the lawyers and judges, though still defiant, continue to face arbitrary arrest and imprisonment by a hostile government and the military establishment.

Musharraf's biggest backers, the United States and United Kingdom, both issued formulaic statements urging Musharraf to end the state of emergency prior to December 15 and repeatedly emphasized free and fair elections as the way out of the crisis. However, to date, there has been no action to match these words in terms of sanctions or the withholding of aid, and these countries continue to prop up Musharraf with substantial military and financial assistance.

The United Kingdom has reiterated its support to Musharraf in the aftermath of the crackdown. Addressing a meeting of Pakistani students in Islamabad on December 6, the British High Commissioner to Pakistan Robert Brinkley said that Britain had chosen not to press Pakistan to restore the deposed judges because "the clock cannot be turned back; we have to move forward."

The Bush administration has provided even stronger political support for Musharraf. The United States has notably failed to press strongly for human rights improvements in the country, a return to the constitution as it stood on November 3, 2007 or the release and restoration of ousted Supreme Court chief justice Iftikhar Mohammad Chaudhry and other judges. On December 16, when asked if there should be a reinstatement of the ousted judges, US Secretary of State Condoleezza

Rice responded that the United States supported the idea of an “independent judiciary in Pakistan” but added that the January 8 elections would herald a “different and new day” in Pakistan and the issue of the judiciary would be “resolved” in that “context.”

Rice’s notion that elections will cure the Musharraf government’s broad attack on democratic institutions such as the judiciary is mistaken. Free and fair elections and a genuine transformation to a parliamentary government are unlikely so long as the judiciary cannot function as an independent branch and laws remain on the books that allow Musharraf to manipulate the political environment on whim.

In a country with a long and well-documented history of election-rigging by a partisan military, the emergence of an independent judiciary provided the best hope for a free and fair election. A military-backed ruler who found himself unable to cohabit with such a judiciary, and dispensed with the constitution in order to get rid of it, is unlikely to preside over an electoral exercise that, in all likelihood, would bring his political opponents to power. Nor is a meaningful democracy viable without lawyers able to operate freely within an equitable legal system.

Genuine election campaigns are impossible when the media remains muzzled, leaders of the lawyers’ movement—the most potent symbols of political opposition to the government—remain under arrest, and when the legitimate judiciary of the country has been deposed and replaced by hand-picked supporters of the government.

The conduct of the crackdown lends insights into the Musharraf government’s disregard for the country’s democratic institutions. Musharraf started his crackdown by dismissing the judges who refused to recognize the state of emergency and placing them under house arrest. On the evening on November 3, a seven-member bench of the Supreme Court headed by Chief Justice Iftikhar Mohammad Chaudhry convened to issue an order barring the government from proclaiming emergency rule and urging government functionaries not to implement emergency orders.



A few hours later, these judges were removed from the Supreme Court premises which were sealed by army troops, and the judges detained. Musharraf summarily fired Chief Justice Chaudhry. Much of Pakistan's senior judiciary was taken into custody and two-thirds of them were put under de-facto house arrest.

Lawyers arrested in the first sweep on the night of November 3 included Aitzaz Ahsan, president of the Supreme Court Bar Association; Munir Malik, his predecessor; Justice (retired) Tariq Mehmood; Ali Ahmed Kurd, a senior lawyer from Balochistan and one of Musharraf's most vociferous critics; as well as office bearers and presidents of provincial bar associations across the country, and virtually all leading lawyers associated with the movement for judicial independence.

Asma Jahangir, chairperson of the nongovernmental Human Rights Commission of Pakistan and a United Nations Special Rapporteur, was served a 90-day detention order on the night of November 3 and her home was officially deemed a sub-jail. Jahangir was released from house arrest on November 16, only after Musharraf came under severe international pressure. As of this writing, the central leaders of the lawyers' movement remain under arrest or in detention.

In the following two days and beyond, the police and the army arbitrarily arrested, detained, and assaulted thousands of lawyers from Lahore, Karachi, Islamabad, Peshawar, Quetta, and scores of Pakistan's smaller cities. Lawyers who gathered at the Lahore High Court, the Sindh High Court in Karachi, and district courts across the country were unceremoniously beaten, tear-gassed, bundled into police vans, and locked in police stations or jails in their thousands. Some were placed under house arrest.

Lawyers and judges were the focus of the crackdown because Musharraf perceived the Supreme Court, which had successfully struggled for its independence in the preceding eighteen months, as standing in the way of his re-election as president. And lawyers had been at the forefront of a new movement agitating for a return to constitutionalism and the rule of law. This movement began on March 9, 2007, with Musharraf's attempted ouster of Supreme Court Chief Justice Iftikhar Mohammad Chaudhry. Although the emergency was ostensibly claimed to fight religious

extremism, the lawyers' movement had not made even tangential use of religion or religious rhetoric or politics and has had no links to religious extremists. Events make clear that Musharraf felt threatened by people armed with ideas and words, not the armed militants operating in the tribal areas and the North West Frontier Province.

By November 10, one week after the suspension of the constitution, the government admitted it had arrested some 5,400 persons. Human Rights Watch believes the true number may have been twice as high.

Musharraf also imposed sweeping censorship rules on the media. All private television channels and international media were taken off the air. This made it more difficult for people within and outside Pakistan to comprehend what was happening to the lawyers and judges.

Over the next week, hundreds of those arrested were charged under provisions of the Anti-Terrorism Act (ATA) or detained under the colonial-era Maintenance of Public Order Ordinance. Thousands more were simply held without charge.

A Lahore High Court judge told Human Rights Watch, "Anytime they [the government] want to intimidate or scare people they use the ATA." A prosecutor in the anti-terrorism court in Lahore admitted that the ATA is used to harass politicians: "Filing of false cases against politicians is routine. The ATA is another tool for those in power to harass opposition."

Similarly, the broad and vaguely worded Maintenance of Public Order (MPO) Ordinance allows the government to "arrest and detain suspected persons" for up to six months for a range of offenses, "with a view to preventing any person from acting in any manner prejudicial to public safety or the maintenance of public order." As of mid-December, scores remain in detention under the MPO.

Human Rights Watch has gathered accounts of unlawful police violence, arbitrary arrests and mistreatment in custody of lawyers from across Pakistan since November 3, 2007. The accounts, mostly gathered from Pakistan's major cities, provide a glimpse of the scale, scope, and tenor of the crackdown against the legal community.

Those interviewed are lawyers who have been released, and the family members of lawyers who are still in detention.

Crucially, many of those released have charges under the ATA or MPO remaining on file against them—a constant reminder that the authorities can always haul them for trial. The government has also arbitrarily amended laws to assume powers to de-license lawyers, effectively depriving them of a livelihood if they continue with active protests against the government.

Only four of the Supreme Court's 17 judges took an oath of allegiance to the November 3 Provisional Constitutional Order, which immensely broadened Musharraf's authority under the law. Musharraf claimed he was building the rule of law, but in his single-minded determination to cling to power he had eviscerated the judiciary, if not the judges' determination to uphold the rule of law.

Musharraf has used the state of emergency to arbitrarily change laws and amend the constitution. These amendments seek to institutionalize severe restrictions on individual rights, provide immunity to Musharraf and other officials for human rights violations, and subvert the rule of law—even after the state of emergency is lifted and constitutional rule is restored. These laws, among others, serve the purpose of marginalizing the judiciary, and muzzling lawyers.

As part of his effort to institutionalize the military's power even after a return to civilian rule, on November 10 Musharraf amended the 1952 Army Act to allow the military to try civilians for a wide range of offenses previously under the purview of the country's civilian judiciary. Under the amended Army Act, civilians can now be tried in military courts for acts of treason, sedition and less specific offenses such as “giving statements conducive to public mischief.”

In his capacity as army chief, Musharraf amended the constitution on November 21 and again on December 14 through executive orders to provide blanket indemnity for all actions taken while the constitution is suspended. The orders included a number of amendments that would normally require a two-thirds majority in parliament to become law. Crucially, he withdrew the power of judicial review by Pakistan's courts

of all actions taken under the Provisional Constitution Order. The November 21 order states that, “All proclamations, president’s orders, ordinances, Chief of Army Staff orders, laws, regulations, enactments, including amendments to the Constitution, notifications, rules, orders or bye-laws in force immediately before the date on which the emergency was revoked, will continue in force until altered, repealed, or amended by the ‘competent authority.’” In effect, Musharraf has given his arbitrary tampering of the constitution the force of law, and placed it beyond judicial review or the need for parliamentary approval. Even after the constitution is restored and the state of emergency officially ends, all the regulations rushed out since November 3 will continue to be in force unless opposition parties win a two-thirds majority in parliament and repeal them. Given the lengths Musharraf has gone to in order to impose these changes to the basic law—suspending the constitution itself—it is unlikely that Musharraf will allow such a situation to arise.

Musharraf also amended the Legal Practitioners and Bar Councils Act on November 24. Effectively, this amendment allows the government, at its discretion, to revoke any lawyer’s professional license to practice. It also provides the courts, now heavily politicized by Musharraf’s dismissals of justices of the Supreme Court, the power to do the same.

On November 28, Musharraf retired as army chief and the following day he took the oath of office as president under the suspended constitution for a five-year term. However, Musharraf’s election as president is widely regarded as illegal, and the country remains effectively under military control.

On December 15, he lifted the state of emergency and “restored” the constitution. But the constitution, burdened with the restrictions put in place by the new laws described above, has been effectively transformed into an instrument of coercion, rather than a document upholding basic rights.

Chief Justice Chaudhry remains under strict house arrest along with his sixteen-year-old daughter, seven-year-old son, and other members of his family. Most of the other judges of the Supreme Court who refused to accept Musharraf’s subversion of the constitution also remain under house arrest.

The US and the UK are muting their criticism on the grounds that Pakistan's central role in the US-led “war on terror” makes Musharraf an indispensable ally. This policy is as dangerous as it is flawed. It seeks to appease the power ambitions of the Pakistani military at the expense of much of Pakistani society, most notably those who share the values of respect for human rights and the rule of law that the West espouses.

Terrorism is a grave threat facing Pakistan as Musharraf pointed out on November 3 while suspending the constitution. But the Pakistani government’s efforts to combat terrorism are doomed to fail when the government is focused on detaining and harassing judges and lawyers.

If influential actors such as the United States and United Kingdom are genuinely interested in fostering democracy and human rights in Pakistan, or in Pakistan’s political future and stability, they should focus on restoring the judiciary and lawyers to their status prior to November 3. This would require urging Pakistan to:

- Repeal all arbitrary laws and constitutional amendments in effect since November 3, 2007, and restore the Constitution in its entirety as it stood on November 3, 2007.
- Release and reinstate Chief Justice Iftikhar Mohammad Chaudhry and all other judges who have refused to take oath under the November 3 Provisional Constitution Order.
- Withdraw all cases filed under the Anti-Terrorism Act, the sedition law or other sundry provisions of the law for acts protected under international human rights law or are otherwise not cognizable criminal offenses.
- Immediately lift all restrictions in violation of international law on the rights to freedom of expression, association, and assembly.
- End efforts to coerce or intimidate judges and lawyers from exercising their legal functions and the rights to freedom of expression and assembly.



## **II. Methodology**

This report is based on approximately 50 interviews conducted with lawyers and judges between November 3 and December 5, 2007. The interviews were conducted in person and by telephone in the cities of Karachi, Lahore, Islamabad, Rawalpindi, and Nawabshah. The interviewees were mostly senior lawyers and judges from the major urban centers and consequently are likely to have faced considerably less police brutality than their lesser known counterparts in smaller towns. Not all interviews conducted are reproduced in this report: interviews conducted in Quetta, Peshawar, and Nowshera informed the conclusions reached, but are not included in this report. Interviews were conducted in English and Urdu. All documents cited in the report are either publicly available or are on file with Human Rights Watch.

The crackdown that began in Pakistan on November 3 had much wider geographical and social reach and impact than is documented below. In addition to the groups examined here, the country's media, human rights defenders, students, and political activists have undergone, and are experiencing, ongoing violence and violations of their fundamental rights at the hands of the Pakistani state.

### III. Background

#### The Lawyers' Movement for Judicial Independence

On March 9, 2007, President Gen. Pervez Musharraf summoned Supreme Court Chief Justice Iftikhar Muhammad Chaudhry to his office and effectively dismissed him for alleged “misuse of office.” The real reason was because the court was starting to demonstrate its independence from the executive. Justice Chaudhry refused to resign, triggering mass nationwide protests against Musharraf for several months. Government attempts to suppress a movement led by lawyers to restore the chief justice were often violent. Security personnel beat lawyers, opposition activists and journalists covering unfolding events.<sup>1</sup> The political crisis deepened on May 12, when 42 people died in violence instigated by activists of the Mutahedda Qaumi Movement (MQM), a major coalition partner in the Musharraf government, trying to prevent Chaudhry from entering Karachi to address the Sindh High Court Bar Association.<sup>2</sup> In the face of relentless country-wide protests by lawyers and human rights activists, joined later and only half-heartedly by opposition political party activists, Musharraf temporarily backed down and the Supreme Court restored the chief justice to office on July 20.<sup>3</sup>

But the court that restored Chaudhry as its chief justice had been fundamentally transformed. For the first time in Pakistan’s history, the country’s senior judiciary as a group saw itself not as an ally and enforcer of the executive but beholden to the rule of law and the constitution—the basis on which bar associations across Pakistan had agitated for Chaudhry’s reinstatement.

Pakistan’s lawyers, highly articulate and politicized, have played an important role in every major democracy movement the country has witnessed. However, the movement to restore Chief Justice Chaudhry to office broke with precedent and

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<sup>1</sup> “Pakistan: Protesters in Judge’s Case at Risk of Violence,” Human Rights Watch news release, March 15, 2007, <http://hrw.org/english/docs/2007/03/15/pakist15492.htm>.

<sup>2</sup> “Pakistan: Broadcast Media Muzzled by Musharraf’s Decree,” Human Rights Watch news release, June 6, 2007, <http://hrw.org/english/docs/2007/06/06/pakist16084.htm>.

<sup>3</sup> “Judiciary turns the corner,” *Dawn*, July 21, 2007, <http://dawn.com/2007/07/21/top1.htm> (accessed December 16, 2007).

presaged a fundamental shift at several levels. First, lawyers led by their local bar associations and centrally by the Supreme Court Bar Association, provided the leadership of the campaign to restore Chaudhry and by extension of the constitution. In the process, they gained public support directly without the aid of political parties. Indeed when opposition political parties, sensing the wide appeal of the campaign, sought to join in, they were welcomed, but only in a subsidiary, supporting role. This is particularly noteworthy, given that many of those lawyers pivotal in what became known as the Lawyers' Movement for Judicial Independence, hold important positions in political parties.<sup>4</sup> Meanwhile, Pakistan's political parties, particularly the Benazir Bhutto-led Pakistan Peoples Party, attempted to use the lawyers' agitation to negotiate a transition to democracy with Musharraf.

The lawyers' campaign to restore the chief justice grew to become a campaign for the restoration of constitutional rule, and by extension for the ouster of Musharraf because of his repeated attacks on the rule of law. Lawyers used the country-wide structure and organization of bar associations to mobilize effectively, and, unlike recent political opposition leaders, they proved impervious to coercion, blackmail or co-option. They used the safe-haven of the courts—customarily the police can only be invited in by court authorities—to mount effective protests against Musharraf.

The spectacle of high-profile lawyers agitating for the independence of the judiciary, and a return to the rule of law, emboldened the media to provide extensive coverage of not just the agitation but ensuing retaliatory violence by police and plainclothes intelligence personnel. Further, prominent lawyers succeeded in mobilizing segments of society hitherto considered apathetic, depoliticized, or simply disinterested—the urban privileged. By bringing the judiciary over to the side of the rule of law, Pakistan's bar associations had achieved what its political parties had singularly failed to do: effect a deep schism within the Pakistani ruling establishment, raising serious questions about the lack of accountability in governance as well as mobilizing public opinion on the side of transparency, accountability and the rule of law.

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<sup>4</sup> For example, Aitzaz Ahsan, the detained president of the Supreme Court Bar Association is a former law minister and senior Pakistan Peoples Party legislator. Ahsan has refused his party's nomination to contest elections scheduled for January 2008 because the Bar Associations reached a decision to boycott the election.

Military rule, impunity for human rights abuses, and most significantly, Musharraf's very continuation in office—the cornerstones of the Pakistani military's informal internal compact on governance—had been more fundamentally threatened by a few thousand lawyers in eight months than by the combined efforts of its political opposition over eight years.

As a movement for constitutionalism and the rule of law, the lawyers' movement based its arguments and sought both physical and political security in the protections enshrined in the constitution. Musharraf's decision to suspend the constitution on November 3 must be seen in this context. Its purpose was to destroy legality in order to muzzle those who saw it as a route to change.

The suspension of fundamental rights and constitutional protections served a very clear purpose: it allowed for the evisceration of the judiciary as an independent institution, the transformation of courthouses into battlefields where lawyers were tear-gassed and beaten by police and intelligence officials with impunity. And it allowed for the arbitrary detention and humiliation of those who had sought strength in due process of law.

On November 18, Peter Beaumont reporting for *The Observer* described the government's retaliation:

Retribution is being meted out on a massive scale... The aim of the state of emergency has been largely to humiliate the opposition. ...Reports of humiliation and abuse are common from those who, because of age or good connections, have been let go or transferred to house arrest... Even those who have thus far avoided arrest are not immune to the threats... Last week *The Observer* listened as a warning was delivered to a prominent civil society activist, who asked to remain anonymous, about how a relative had been sent with a message from Pakistan's intelligence organization, the ISI, warning: 'Shut up or else.' ...<sup>5</sup>

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<sup>5</sup> Peter Beaumont, "Musharraf widens his sphere of punishment," *The Guardian*, November 18, 2007, <http://www.guardian.co.uk/pakistan/Story/0,,2212932,00.html> (accessed December 16, 2007).

## The judiciary and Musharraf

For much of the country's history, the Pakistani judiciary has remained beholden to executive authority. It frequently sought refuge in, and developed, the "doctrine of state necessity" derived from the legal theory of the Austrian jurist Hans Kelsen and predicated on the concept of a *Grundnorm*, a hypothetical norm, on which all ensuing tiers of the legal system are based.<sup>6</sup>

The Supreme Court repeatedly applied this doctrine to constitutional law in order to legitimize successive extra-constitutional seizures of power, including Musharraf's 1999 coup. On October 15, 1999—three days after the coup, Musharraf promulgated Provisional Constitution Order (PCO) Number 1 of 1999,<sup>7</sup> replacing the 1973 Constitution. In January 2000, he ordered the judiciary to take a new oath of office under the PCO.<sup>8</sup> Six judges who refused to take the oath were dismissed from office, and in May 2000 the reconstituted Supreme Court legitimized Musharraf's military coup under the doctrine of state necessity.<sup>9</sup>

On December 31, 2003, Pakistan's parliament, formed the previous year in a controversial election and packed with Musharraf's supporters, passed the 17th constitutional amendment effectively legitimizing Musharraf's decrees since his seizure of power and restoring the constitution.<sup>10</sup> However, the amendment, at best, only allowed Musharraf to hold the dual office of president and army chief until the expiry of his presidential term deemed to have begun in 2002.<sup>11</sup>

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<sup>6</sup> Hans Kelsen, *Pure Theory of Law*, (Knight trans, UC Berkeley press, 1967).

<sup>7</sup> Provisional Constitution Order No. 1 of 1999, <http://www.pakistanconstitution-law.com/appendix2.asp>.

<sup>8</sup> "Judges who did not take oath under the military's Provisional Constitutional Order," Pakistan Press International, January 27, 2000.

<sup>9</sup> Verdict of the Supreme Court of Pakistan regarding Constitution Petitions Nos. 62/99, 63/99, 53/99, 57/99, 3/2000, 66/99, and 64/99, May 12, 2000.

<sup>10</sup> Raja Asghar, "Senate approves 17th Amendment: President's assent likely today," *Dawn*, December 31, 2003, <http://dawn.com/2003/12/31/top1.htm> (accessed December 16, 2007).

<sup>11</sup> The precise duration for which Musharraf could hold both offices has been the subject of much public debate and legal dispute. On September 27, 2007, the attorney general of Pakistan told the Supreme Court that Musharraf was entitled to simultaneously hold the office of President and Army chief until November 15, 2007.



Subsequent to the restoration of the constitution, in due course, on May 7, 2005, Iftikhar Mohammad Chaudhry, the senior-most judge of the Supreme Court, was appointed Chief Justice by Musharraf.<sup>12</sup>

On June 23, 2006, a nine-member bench of the Supreme Court headed by Chief Justice Chaudhry annulled the sale of the Pakistan Steel Mills, the country's largest industrial unit, to a three-party consortium. Authored by the chief justice, the judgment stated that the entire exercise reflected "indecent haste" by the Privatization Commission and the Cabinet Committee on Privatization (CCOP) headed by then Prime Minister Shaukat Aziz—previously a private banker based in New York with no prior political experience first plucked from obscurity by Musharraf to be his finance minister in 1999. The judgment stated: "This unexplained haste cast reasonable doubt on the transparency of the whole exercise, and reflects CCOP's disregard towards mandatory rules and materials, essential for arriving at a fair reference price... A constitutional court would be failing in its duty if it does not interfere to rectify the wrong, more so when valuable assets of the nation are at stake."<sup>13</sup>

The annulment of the Steel Mills privatization marked a watershed in relations between the Supreme Court and the Musharraf government, and was widely regarded as an unprecedented act of defiance.

In January 2007, the Human Rights Commission of Pakistan, an independent NGO, filed a petition on behalf of the families of the "disappeared"—terrorism suspects and other opponents of the government—who had allegedly been taken into custody by Pakistan's feared Inter Services Intelligence (ISI) agency and other military intelligence agencies, yet whose detention the authorities denied.<sup>14</sup> The chief justice

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<sup>12</sup> "Chaudhry Iftikhar named new CJ," *Dawn*, May 8, 2005, <http://dawn.com/2005/05/08/top4.htm> (accessed December 16, 2007).

<sup>13</sup> Nasir Iqbal, "PSM deal done in indecent haste: SC," *Dawn*, August 9, 2006, <http://www.dawn.com/2006/08/09/top4.htm> (accessed December 16, 2007).

<sup>14</sup> The International Convention for the Protection of All Persons from Enforced Disappearance, E/CN.4/2005/WG.22/WP.1/Rev.4 (2005), which has not yet entered into force, describes "disappearances" as "the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

repeatedly summoned government officials and ordered them to produce the “disappeared” persons. Research by Human Rights Watch indicates that some cases of enforced disappearances in Pakistan have involved both the ISI and US intelligence officers, with suspects in the “global war on terror” arrested without warrants and interrogated by US law enforcement agents in illegal ISI detention centers.<sup>15</sup>

On March 9, 2007, as already noted, Musharraf summoned Chief Justice Chaudhry to his office and effectively dismissed him for alleged “misuse of office.” Justice Chaudhry’s refusal to resign triggered country-wide anti-Musharraf protests for several months.<sup>16</sup> Subsequent to Chaudhry’s restoration, the Supreme Court remained strident on issues such as enforced disappearances. However, it sought to avoid a direct confrontation with

Musharraf, controversially dismissing, on September 28, a constitutional challenge to Musharraf’s dual role as president and army chief on technical grounds. The Pakistani constitution prohibits the chief of the army from holding political office.<sup>17</sup>

On October 5, the Supreme Court declined to stay the presidential election scheduled for the next day, but directed the Election Commission not to officially notify the result until it gave its verdict on petitions challenging the eligibility of Musharraf to run for the office of president while remaining army chief.<sup>18</sup> Musharraf was elected on October 6. Pakistan is technically a parliamentary democracy and the president, normally expected to function as a largely ceremonial head of state, is elected by an indirect vote for which the National Assembly, Senate, and the four provincial assemblies act as the electoral college. Prior to the election, Pakistan’s opposition parties resigned from their seats or boycotted the vote in protest, leaving

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<sup>15</sup> Human Rights Watch, *Off the Record — U.S. Responsibility for Enforced Disappearances in the “War on Terror,”* No. 3, June 2007, <http://hrw.org/backgrounder/usa/cto607/>.

<sup>16</sup> “Pakistan: Protesters in Judge’s Case at Risk of Violence,” Human Rights Watch news release, March 15, 2007, <http://hrw.org/english/docs/2007/03/15/pakist15492.htm>.

<sup>17</sup> Clause 1 of Article 43 of the Constitution of the Islamic Republic of Pakistan states: “The President shall not hold any office of profit in the service of Pakistan or occupy any other position carrying the right to remuneration for the rendering of services.” The office of army chief is considered an “office of profit.”

<sup>18</sup> Iftikhar A. Khan, “SC keeps Musharraf’s fate in its hands: Go-ahead for presidential election,” *Dawn*, October 6, 2007, <http://dawn.com/2007/10/06/top1.htm> (accessed December 16, 2007).

only Musharraf's supporters, who enjoyed a majority in the electoral college, to elect him. As instructed by the Supreme Court, the Election Commission refrained from officially notifying the result, temporarily preventing Musharraf from taking oath of office for a fresh five-year term.<sup>19</sup>

From then on, the Supreme Court faced immense pressure from the government to rule in Musharraf's favor on the question of whether he could, in fact, seek a further term of office as president while remaining army chief. Human Rights Watch learned from reliable sources that the Supreme Court repeatedly tried to impress upon the government the need to find a constitutional mechanism, such as a constitutional amendment, that would allow Musharraf to seek election while still army chief. In court proceedings, the court maintained that the doctrine of necessity was "dead" and it would rule according to the constitution.

According to Pakistani legal scholars, the constitution as it stood had at best provided Musharraf with a one-time waiver to hold both posts and further prohibited a candidate for president from running for office until two years after retirement from a military position.<sup>20</sup> Unable to muster a parliamentary majority for a constitutional amendment and unwilling to negotiate with the opposition parties, government ministers repeatedly said that the Supreme Court should rule Musharraf's election illegal, the military could suspend the constitution, impose martial law, and fire the judges.<sup>21</sup>

In the event, that is effectively what happened. The Supreme Court was expected to reach a decision by November 9, but on November 3, Musharraf suspended the

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<sup>19</sup> Raja Asghar, "Musharraf steals the show, but victory hangs on court," *Dawn*, October 7, 2007, <http://dawn.com/2007/10/07/top1.htm> (accessed December 16, 2007).

<sup>20</sup> Article 63 of the constitution of the Islamic Republic of Pakistan outlines the disqualifications for a member of parliament (National Assembly and Senate). Clause 63 (K) disqualifies a member of parliament from holding office if "he has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest, unless a period of two years has elapsed since he ceased to be in such service;" Article 41 deals with the qualifications of the President. Clause 41(2) states that "a person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be elected as member of the National Assembly." Read together, Article 63(k) and Article 41(2) make it clear that Musharraf would be disqualified from holding presidential office unless two years had elapsed since his retirement from "the service of Pakistan" in his capacity as army chief.

<sup>21</sup> "Pakistan: Musharraf Should Accept Ruling on Re-Election," Human Rights Watch news release, October 24, 2007, <http://hrw.org/english/docs/2007/10/24/pakist17130.htm>.

constitution and imposed a state of emergency. Attempts by Supreme Court judges to bar the government from proclaiming emergency rule and urging government officials not to implement emergency orders were thwarted as the judges were summarily fired and detained.<sup>22</sup> Musharraf dismissed Justice Chaudhry again and the army placed him under house arrest along with his family. Overall, almost two-thirds of 97 senior judges declined to accept emergency rule and were dismissed and placed in detention or under house arrest guarded by the paramilitary Rangers, the police, and the Inter Services Intelligence (ISI) agency of the military. The government replaced them with Musharraf loyalists and on November 22, a “puppet” Supreme Court quickly dismissed the legal challenges to Musharraf’s re-election as president.<sup>23</sup>

Musharraf’s order suspending the constitution was a diatribe against the judiciary. In a clear reference to the Steel Mills privatization case, Musharraf said, “there has been increasing interference by some members of the judiciary in government policy, adversely affecting economic growth, in particular; constant interference in executive functions, including...economic policy, price controls, downsizing of corporations.”

Musharraf went on to accuse the judges of aiding terrorism by “working at cross purposes with the executive and legislature in the fight against terrorism and extremism,” and accused the courts of thwarting intelligence agencies in their activities. He took exception to Interior Ministry and intelligence officials being held accountable and the Supreme Court’s requests for answers on enforced disappearances, asserting: “the humiliating treatment meted out to government officials by some members of the judiciary on a routine basis during court proceedings has demoralized the civil bureaucracy and senior government functionaries, to avoid being harassed, prefer inaction.”<sup>24</sup>

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<sup>22</sup> “Seven judges reject PCO before being sent home,” *Dawn*, November 4, 2007, <http://dawn.com/2007/11/04/top2.htm> (accessed December 16, 2007).

<sup>23</sup> Nasir Iqbal, “Way almost cleared for Musharraf’s oath-taking,” *Dawn*, November 23, 2007, <http://dawn.com/2007/11/23/top2.htm> (accessed December 16, 2007).

<sup>24</sup> “Text of Pakistan emergency declaration,” BBC News Online, November 3, 2007, [http://news.bbc.co.uk/2/hi/south\\_asia/7077136.stm](http://news.bbc.co.uk/2/hi/south_asia/7077136.stm) (accessed December 16, 2007).

The deposed judges categorically deny any sympathy for “terrorists” and assert that they have never done more than insist on due process for all suspects, including terrorism suspects, and an end to the involvement of the security apparatus of the state, including the military intelligence agencies, in illegal detention, torture, and “disappearances.”



## **IV. Laws Used To Detain Protestors**

The Pakistani government has detained thousands of lawyers, political party activists, human rights defenders, students, and others without charge. Hundreds of others have been charged under various provisions of Pakistani law, some passed through regular parliamentary procedures, others through irregular and unconstitutional procedures by General Musharraf. The legal provisions most frequently used to detain and charge people since November 3 are provided below. Persons held under such laws—when arrested for the peaceful exercise of their basic human rights, such as to expression, association and assembly—are being held no less arbitrarily under international law than those detained under no law at all.

### **Maintenance of Public Order Ordinance (1960)**

The Maintenance of Public Order (MPO) Ordinance (1960) finds its origins in the British colonial legal system. The MPO was designed to override standard legal procedures and due process of law in situations where persons were accused of engaging in political protest or posing a threat against the colonial order. Since independence, the Pakistan state has strengthened and made frequent use of the MPO.

The broad and vaguely worded MPO allows the government to “arrest and detain suspected persons” for up to six months for a range of offenses “with a view to preventing any person from acting in any manner prejudicial to public safety or the maintenance of public order.” Since the imposition of the state of emergency, thousands of lawyers and government opponents have been detained, primarily under section 16, entitled, “Dissemination of Rumors etc.,” which prohibits speech that “causes or is likely to cause fear or alarm to the public” or “which furthers or is likely to further any activity prejudicial to public safety or the maintenance of public order.”<sup>25</sup> At the time of writing, scores remained in detention under the MPO.

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<sup>25</sup> West Pakistan Maintenance of Public Order Ordinance, 1960.

## Anti-Terrorism Act, 1997

Adopted under the government of Prime Minister Nawaz Sharif, the ostensible objective of the Anti-Terrorism Act (ATA) is the “prevention of terrorism, sectarian violence and for speedy trial of heinous offenses.”<sup>26</sup> However, essentially the law has been used as an instrument of political coercion, particularly under Musharraf’s rule. The law created special anti-terrorism courts which exist in all four provinces in Pakistan. The jurisdiction of the anti-terrorism court extends to all persons—including children (defined in the law as anyone under the age of eighteen).<sup>27</sup>

Terrorism is defined broadly and vaguely to include a variety of acts, such as those which “create a serious risk of safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civil life.”<sup>28</sup> Offenses are punishable by “imprisonment of not less than five years but may extend to imprisonment of life and with fine.”<sup>29</sup>

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<sup>26</sup> Anti-Terrorism Act, 1997, Preamble.

<sup>27</sup> ATA, section 2(d). See also, Human Rights Watch, *Prison-Bound – The Denial of Juvenile Justice in Pakistan*, section IV, November 1999, <http://www.hrw.org/reports/1999/pakistan2/>.

<sup>28</sup> ATA, section 6(i). Section 6(1) enumerates numerous offenses that constitute “terrorism” if designed to “coerce and intimidate, overawe the Government, the public or a section of the public, community or sect to create a sense of fear or insecurity in society” if it:

- (a) involves the doing of anything that causes death;
- (b) involves grievous violence against a person or grievous bodily harm or harm to a person;
- (c) involves grievous damage to property;
- (d) involves the doing of anything that is likely to cause death or endangers a person’s life;
- (e) involves kidnapping for ransom, hostage-taking or hijacking;
- (f) incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
- (g) involves stoning, brick-batting or any other form of mischief to spread panic;
- (h) involves firing on religious congregations, mosques, imambargahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;
- (i) creates a serious risk to safety of public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civil life;
- (j) involves the burning of vehicles or any other serious form of arson;
- (k) involves extortion of money (bhatta) or property;
- (l) is designed to seriously interfere with or seriously disrupt communication systems or public utility service;
- (m) involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties; or
- (n) involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant.

<sup>29</sup> ATA, section 7(h).

The law permits the government to add or delete offenses without recourse to parliament.<sup>30</sup> A prosecutor in Lahore told Human Rights Watch how the ATA was continually revised by the government to address changing political circumstances: “The ATA is subject to constant modification. Every few years the government feels that the definition is insufficient to accommodate offenses so new offenses are added.”<sup>31</sup>

The ATA has been consistently used by Musharraf’s government to silence and harass opponents. It has used the ATA to periodically detain thousands of political party workers belonging to opposition parties, including the Pakistan Peoples Party (PPP), Pakistan Muslim League-Nawaz (PML-N), and Jamat-i-Islami (JI). A Lahore High Court judge told Human Rights Watch, “Anytime they [the authorities] want to intimidate or scare people they use the ATA.”<sup>32</sup> A prosecutor in the anti-terrorism court in Lahore admitted that the ATA is used to harass politicians: “Filing of false cases against politicians is routine. The ATA is another tool for those in power to harass opposition.”<sup>33</sup>

Since the state of emergency was imposed, the ATA has been used to detain thousands, including hundreds of lawyers, human rights workers and political activists. Scores remain in detention.

## **The “Sedition Law” – Section 124-A of the Pakistan Penal Code**

Section 124-A of the Pakistan Penal Code is commonly known as the “Sedition Law.” It states: “Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Federal or Provincial Government established by law shall be punished with imprisonment for life to

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<sup>30</sup> ATA, section 34.

<sup>31</sup> Human Rights Watch interview with prosecutor (name withheld), Lahore High Court, Lahore, April 17, 2006.

<sup>32</sup> Human Rights Watch interview with Lahore High Court judge (name withheld), Lahore, April 27, 2006.

<sup>33</sup> Human Rights Watch interview with Rana Bakhtiar, Prosecutor, Anti-Terrorism Court, Lahore, April 19, 2006.

which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.”<sup>34</sup>

Several lawyers have been charged under this law, but given the seriousness of the charge, evaded arrest by going into hiding. In April 2004, an opposition leader, Makhdoom Javed Hashmi, was sentenced under this law to 23 years in prison at Musharraf’s behest.<sup>35</sup> His release was ordered by the now deposed Supreme Court in August 2007.<sup>36</sup>

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<sup>34</sup> Pakistan Penal Code.

<sup>35</sup> “Pakistan: Bush Should Urge Return to Civilian Rule,” Human Rights Watch news release, September 21, 2004, <http://hrw.org/english/docs/2004/09/21/pakist9360.htm>.

<sup>36</sup> Nasir Iqbal, “SC orders release of Javed,” *Dawn*, August 4, 2007, <http://dawn.com/2007/08/04/top1.htm> (accessed December 16, 2007).

## **V. Amendments to Laws Under Emergency Rule**

President Musharraf has used the state of emergency to arbitrarily change laws and amend the constitution. These amendments seek to institutionalize serious restrictions on individual rights and provide immunity for Musharraf and other officials for human rights violations and the subversion of the rule of law—even after the state of emergency is lifted and constitutional rule is restored. These laws, among others, serve the purpose of marginalizing the judiciary and muzzling lawyers. They include:

### **Ordinance LXVI of 2007 to amend the Pakistan Army Act, 1952**

As part of his effort to institutionalize the military's power even after a return to civilian rule, on November 10, 2007, Musharraf amended the 1952 Army Act to allow the military to try civilians for a wide range of offenses previously under the purview of the country's civilian judiciary. These include offenses punishable under:

- the Explosive Substances Act, 1908;
- prejudicial conduct under the Security of Pakistan Act, 1952;
- the Pakistan Arms Ordinance, 1965; the Prevention of Anti-National Activities Act, 1974;
- the Anti-terrorism Act, 1997;
- several sections of the Pakistan Penal Code.

Under the amended Army Act civilians can now be tried in military courts for acts of treason, sedition and less specific offenses such as “giving statements conducive to public mischief.”<sup>37</sup>

Shockingly, trials of civilians conducted by special military courts under the amended law will not be public, investigations will be conducted by military officers,

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<sup>37</sup> Pakistan Army (Amendment) Ordinance, November 10, 2007, [http://www.app.com.pk/en/index2.php?option=com\\_content&task=view&id=20627&pop=1&page=0&Itemid=2](http://www.app.com.pk/en/index2.php?option=com_content&task=view&id=20627&pop=1&page=0&Itemid=2).



and rules of evidence and procedures prescribed by law and the constitution for civilian trials will not apply.

While the Pakistan security forces have long enjoyed impunity for serious abuses, the amendments to the Army Act will exacerbate the problem. First, by subjecting civilians to trial by military courts, family members of victims of military abuses will be even less willing to come forward than ever before. Secondly, the amendment to the Army Act making it retroactive to 2003 will permit the armed forces to claim as lawful the many illegal detentions for which it has been responsible in recent years. Before Musharraf dismissed Supreme Court justices and effectively took control of the Supreme Court, it was investigating some 400 cases of “disappearances.” While some of these cases concerned terrorism suspects, many involved political opponents of the government. The Supreme Court under Chief Justice Chaudhry publicly stated that it had overwhelming evidence that Pakistan’s intelligence agencies were illegally detaining terror suspects and other opponents and repeatedly urging the authorities to free such individuals or process them through the legal system. In response to pressure from the Supreme Court, scores of those who “disappeared” were freed, but threatened with re-arrest or worse if they spoke publicly of their ordeal.

### **Ordinance LXIX of 2007 to amend the Legal Practitioners and Bar Councils Act, 1973**

Announced by Musharraf on November 24, this amendment is intended to end the independence of the Bar Association and to give the government powers to disbar lawyers involved in anti-government activities. It provides the government appointed attorney-general, in his capacity as the chairman of the Bar Association, wide powers over the Bar Association. In an attempt to muzzle the lawyers’ movement, the chairman is authorized to expel from or cancel the membership of any member of a bar association, who is not given adequate opportunity to defend him or her self. The ordinance also allows anyone aggrieved by any decision, order or resolution of any Bar Association or the Federal or any Provincial Bar Council to appeal to the chairman of the Pakistan Bar Council, who can then overrule the decisions. To discourage legal claims against the government, the ordinance also empowers the Supreme Court or the High Courts, now under Musharraf’s control, to dismiss

complaints, reprimand lawyers, suspend lawyers, and remove a lawyer's name from the roll of lawyers if the court has reason to believe he or she is guilty of professional or other misconduct. Crucially, the attorney-general's decisions (in the role of chairman) are "final" and hence not open to appeal in a court.

Effectively, this amendment allows the government, at its discretion, to revoke any lawyer's professional license to practice. It also provides the courts, which have been heavily politicized by Musharraf's dismissals of justices of the Supreme Court, the power to do the same. In the absence of an independent judiciary, effectively the government has arrogated to itself the power to expel any lawyer it deems undesirable.<sup>38</sup>

### **Constitution (Amendment) Order, 2007 (President's Order No. 5 of 2007)**

On November 21, 2007, Musharraf, in his capacity as army chief, amended the constitution through an executive order to provide blanket indemnity for all actions taken during the period the constitution remains suspended. The order included a number of amendments that would normally require a two-thirds majority in parliament to become law. Crucially, it withdrew the power of judicial review by Pakistan's courts of all actions taken under the Provisional Constitution Order.

The Order introduced a new constitutional clause called Article 270AAA which validates and affirms all laws, orders and constitutional amendments from November 3 until the constitution comes back into effect. Article 270AAA(1) states that, "The proclamation of emergency of November 3, all President's orders, ordinances, Chief of Army Staff orders, including the Provisional Constitution Order No 1 of 2007, the Oath of Office (Judges) Order 2007, the amendments made in the Constitution through the Constitution (Amendment) Order, 2007 and all other laws made from November 3, 2007 to the date on which emergency is revoked, are accordingly affirmed, adopted and declared to have been validly made by the competent authority and, notwithstanding anything contained in the Constitution,

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<sup>38</sup> Ordinance No. LXIX of 2007, Legal Practitioners and Bar Councils (Amendment) Ordinance, [http://www.app.com.pk/en/index.php?option=com\\_content&task=view&id=21729&Itemid=38](http://www.app.com.pk/en/index.php?option=com_content&task=view&id=21729&Itemid=38) (accessed December 16, 2007).

shall not be called in question in any court or forum on any ground whatsoever.”<sup>39</sup>

According to article 270AAA (2), “All orders made, proceedings taken, appointments made...and acts done by any authority, or by any person in exercise of powers derived from any proclamation, PCO order No 1 of 2007, president’s orders, ordinances, enactments, including amendments to the Constitution...or sentence passed by any authority in exercise of these powers, notwithstanding anything contained in the Constitution or any judgment of any court, be deemed to always to have been validly made, taken or done, and shall not be called in question in any court or forum on any ground whatsoever.”<sup>40</sup>

Article 270AAA (3) states that “All proclamations, president’s orders, ordinances, Chief of Army Staff orders, laws, regulations, enactments, including amendments to the Constitution, notifications, rules, orders or bye-laws in force immediately before the date on which the emergency was revoked, will continue in force until altered, repealed, or amended by the ‘competent authority’.”<sup>41</sup>

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<sup>39</sup> Constitution (Amendment) Order, 2007,  
[http://www.app.com.pk/en/index.php?option=com\\_content&task=view&id=21447&Itemid=1](http://www.app.com.pk/en/index.php?option=com_content&task=view&id=21447&Itemid=1) (accessed December 16, 2007).

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

## **VI. Beatings, Mistreatment and Arbitrary Detention of Lawyers**

Human Rights Watch has gathered accounts of unlawful police violence, mistreatment and arbitrary arrests of lawyers from across Pakistan. The accounts, reproduced below, mostly gathered from Pakistan's major cities, only provide a glimpse of the scale, scope and tenor of the crackdown against the legal community. Those interviewed are lawyers who have been released, some had been held without charge, others were charged under the ATA or MPO or are family members of lawyers still in detention.

On the night of November 3, the police and intelligence personnel arrested leaders of the lawyers' movements publicly and in the presence of the media, wherever they happened to be. On the following two days, violent crackdowns against lawyers occurred in Lahore, Karachi, Islamabad, Peshawar, Quetta, and scores of Pakistan's smaller cities and towns. Those who gathered at the Lahore High Court, the Sindh High Court in Karachi, and district courts across the country were unceremoniously beaten, tear-gassed, bundled into police vans, and locked in police stations or jails. Some were placed under house arrest.

Pakistani authorities have still not provided Human Rights Watch access to jails or police stations where lawyers are still being detained. While many lawyers in Pakistan's major urban centers have been released, scores remain in detention across the country, particularly in smaller cities. Crucially, the four central leaders of the lawyers' movement remain under detention and many others have charges on file against them. The government has also arbitrarily amended laws to assume powers to de-license lawyers effectively depriving them of a livelihood if they continue with active protest against the Musharraf government.

### **Lahore**

On November 5, police and intelligence personnel violently cracked down on lawyers who had gathered at the Lahore High Court. The Lahore High Court Bar Association had urgently called for a rally that day to protest against "the imposition of emergency, unconstitutional removal of judges, issuance of the Provisional

Constitutional Order (PCO), and continuation of dictatorship.” The protest was meant to start from the court premises, which the police could customarily only enter if invited by court authorities. The lawyers planned to march on The Mall, Lahore’s main thoroughfare where the court is located. The protestors began gathering at 9:30 a.m.; by 11 a.m. about 3,000 lawyers and civil society representatives had gathered at the court premises. The Lahore High Court Bar Association had asked lawyers to gather and march towards the main gate of the court.

Abid Saqi, a lawyer from Lahore, told Human Rights Watch what happened as the lawyers reached the gate:

As soon as we reached near the main gate, stones started flying around us. The policemen in plainclothes, or maybe they were Intelligence Bureau personnel, who had been swarming around the court premises since morning, took the lead. The plainclothes policemen or intelligence personnel outnumbered the ones in uniform. I think they must have been around 1,500 in plainclothes. When I reached the parking lot with other protestors, just outside the main gate of the Lahore High Court, I saw plainclothesmen gathering around the protestors. Soon the policemen deployed on the main gate started lobbing teargas shells towards protestors, who started running for cover towards the Bar Room from where they had marched.

The lawyers ran back inside the court premises expecting the police would not follow them. But as Saqi explained, the police were evidently under instructions to ignore prohibitions on entering the court without permission:

As we ran for cover thinking the police would not enter [the court premises], they followed us and started baton-charging the protestors. After that, all hell broke loose as lawyers were slapped, punched, kicked, baton-charged and dragged on the ground by the police. I went inside the Kyani Hall [of the Lahore High Court Bar Association] from where I ran towards the study downstairs. When I realized that the lawyers were still being chased, I proceeded towards the Kashmir

Lounge along with 30 to 35 lawyers. The Kashmir Lounge is the place where lawyers, litigants and their guests sit and have lunch during daytime. We came and sat inside the lounge when the lawyers were still being arrested, baton-charged and tear-gassed. But all around us the police were beating, attacking and arresting lawyers. From the Bar Rooms, the library, the study and the news room—lawyers were arrested from everywhere. And no one was arrested without being beaten up and humiliated. The senior lawyers—elderly individuals—were the worst affected. They were having breathing problems because the atmosphere filled with teargas. Some of them were lying on the ground and were gasping for air. Even they were hauled up.

Saqi then described what happened when the police reached the Kashmir Lounge where he and some 35 other lawyers had sought refuge:

‘We are willing to go wherever you want to take us but don’t beat us up,’ Malik Muhammad Hussain said to police. But the policemen started hitting the lawyers with batons and told them to queue up and follow them to the vans parked outside the main gate of the High Court.

Saqi showed Human Rights Watch a deep wound on his right leg and said he was bleeding profusely after being hit by a baton-wielding policeman. He managed to evade arrest by escaping from an ambulance where he was deposited briefly to receive rudimentary first-aid.

Saqi told Human Rights Watch that he later managed to visit Kot Lakhpat Jail in Lahore to see his colleagues on the evening of November 6. He described the visit:

Some 200 lawyers were locked up in one block of the jail. There are a total of 100 cells in one block. Usually a cell is used for two prisoners but as many as five lawyers were locked up inside each cell. They were in their lawyers’ uniforms [black coats] from the day before, had not been allowed to bathe and complained that they were provided with filthy water for drinking. Everyone I spoke to also complained they

were not being allowed to see their relatives and jail authorities had refused to provide the clothes and food brought by the relatives.

The authorities transferred these lawyers from Kot Lakhpat Jail and Camp Jail in Lahore to other district jails across Punjab later that day.

Saqi concluded ruefully: “I had no idea that the government would be so brutal in its treatment of lawyers. After all we are the people involved in the dispensation of justice.”<sup>42</sup>

The Lahore High Court Bar Association Vice President, Firdous Butt, shared her experiences of the same day with Human Rights Watch:

When we started moving out of the High Court, I felt that visually at least, the policemen in uniform and the plainclothes personnel together outnumbered the protestors. I noticed a plainclothes officer standing behind us talking on the phone to someone. A DSP [Deputy Superintendent of Police], Mukhtar Shah, was also spotted by lawyers and was asked to leave the premises of the court immediately. He was wearing a black coat and marching towards the Mall Road among lawyers. When the police blocked us from marching outside the main gate of the high court, some lawyers proposed taking the rally out from the premises’ back gate near the mosque. Meanwhile, a policeman, who was tall and well-built, deliberately started throwing stones towards the lawyers. Soon, I saw a brick hitting Wali Muhammad Khan, an advocate, who fell down hurt and bleeding. And then the police started firing teargas shells and the protestors started running towards the Bar Room. I ran inside the Kyani Hall of the Lahore High Court Bar Association and we shut the door. But the policemen broke down the door of the Kyani Hall. They fired teargas shells inside the hall and arrested everyone indiscriminately. When they fired teargas inside the Kyani Hall, I felt as if I had been poisoned. I was not able to keep my

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<sup>42</sup> Human Rights Watch interview with Abid Saqi, Lahore, November 11, 2007.



eyes open or breathe. But I managed to run away from the hall and took refuge in the washrooms next to the Old Lounge.

After couple of minutes, I and other lawyers I was hiding with emerged from the washroom and went inside the Old Lounge, where a few lawyers locked up the room from inside and placed chairs in front of it. When I asked for water from the canteen, attached to the lounge, a man told me that the police had taken away the staff after beating them up. Soon we heard the policemen pounding on the door, and we opened it up—asking them not to beat us up. “Let’s go wherever you want us to go,” we said. But they still beat up lawyers before throwing them inside the vans parked outside the main gate of the high court. I also saw the police break down the door of the Women’s Lounge, where a few lady lawyers had locked themselves in, and arrested them. The way they pillaged the place, it seemed as if they were an enemy army which had just conquered a territory and gone wild.

Butt then recounted to Human Rights Watch what happened after they left the court:

There must have been around 35 to 40 lawyers inside the van, which took us to Mughalpura Police Station. I was the only female lawyer inside the van. At around 10 p.m., a DSP ordered that I be shifted to Race Course police station, where I was sent to a lock-up. Some nine to ten female lawyers were already locked-up there. But our cell faced one with male lawyers in it so we held an impromptu meeting and advocate Muhammad Azhar acted as the secretary. We not only condemned the emergency rule but also criticized the regime for banning media channels. We also demanded holding of an inquiry into maltreatment of lawyers and bringing to book those ordering such an act.

Butt described to Human Rights Watch her experience of being charged in Anti-Terrorism Court:

Perhaps because we were still unrepentant after all that had happened, the next day, we were taken to Anti-Terrorism Court, where we were told for the first time that a case had been registered against us. The security in and around the court was overwhelming, and it was as if we were the most dangerous terrorists. We were asked to mark attendance in the van, and a record was prepared. Only two lawyers, Rubi Hayat and Firdous Imtiaz, were given bail and I was among 35 or 40 lawyers brought back to the Kot Lakhpat Jail. I heard that the authorities were reluctant to release me. I could not understand why I could not be given bail. I had neither robbed banks nor kidnapped children for ransom. In jail, I was not allowed to meet anyone. On November 7, some lawyers were allowed brief family visits. Most of the lawyers were still in their court uniform they had put on to go to work on November 5.

Butt told Human Rights Watch that the jail authorities refused to let her leave, even after she had been granted bail. She managed to regain her freedom only after an eight-hour standoff with her jailors:

On November 8, I heard I had been granted bail. I was allowed to come out of my cell and made to sign the release register but still they stopped me from going out. Once I had signed the release register, the authorities tried to send me back to the cell, but I refused. I told them that I would not stay and to prevent me from leaving would amount to contempt of court. They told me that they were helpless and could not let me go unless their superiors told them to do so. Finally, I was released at 8 p.m. although the order for release had reached the authorities around noon. On my way out, I met Lahore High Court Bar Association secretary Sarfraz Cheema who told me that hundreds of lawyers had been shifted to other district jails without any reason. When I went to the court for the confirmation of bail on November 10, I

was told I had been charged with hurling abuse in the court inside the courtroom of Justice Bilal. I had done no such thing.<sup>43</sup>

Iftikhar Ali, another Lahore High Court lawyer, described his experience of arrest and subsequent treatment to Human Rights Watch:

The personnel of the elite police force had punched and kicked me a lot all over my body before they threw me inside the prisoners' van. Lawyers who tried to evade arrest were beaten up even more brutally—kicked, punched, and beaten with batons. Some 40 to 45 lawyers were bundled into the van I was in, which took us to Bhagwanpura police station. We were all taken to a small room which had standing space only and even then was very crowded and claustrophobic. The crowded cell smelled foul because of the smell emanating from an unventilated toilet, separated from the cell by a thin wall. Before we were locked up, the policemen frisked us and took away any mobile phones they could find.

There, Atif Mahmood Chaudhry, former member of the Punjab Bar Council, fell seriously ill. We shouted for help but no one listened. I myself asked the guard standing in front of the room to get his superior but he did not move. Finally after over an hour or so, someone phoned the Rescue 112 service, and a van arrived to give him first-aid treatment.

No one was allowed to see us in the lock-up. They [police] told us that they had strict orders from their higher-ups not to allow anyone to meet the lawyers. We were not given anything to eat or drink until late in the evening. Then it was because some of the relatives of the lawyers had connections with the policemen and managed to smuggle us some fruit. It was at 1 a.m. that a policeman informed us that an FIR

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<sup>43</sup> Human Rights Watch interview with Firdaus Butt, Lahore, November 13, 2007.

[First Information Report] was lodged against the lawyers under the Anti-Terrorism Act.<sup>44</sup>

Former Judge of the Lahore High Court and ex-president of the Lahore High Court Bar Association, Fakhr-un-Nisa Khokhar, told Human Rights Watch about her experience the same day:

On November 5, we condemned the arrest of Supreme Court Bar Association president Aitzaz Ahsan and the closure of television channels in the wake of the imposition of emergency rule in the country. The meeting of the Lahore High Court Bar Association, duly presided over by its office-bearers, had also sought release of all the detained lawyers and members of the bar association.

When I reached the main gate of the High Court I saw heavy contingents of police deployed there. They stopped lawyers from going out of the premises of the High Court. I myself saw lawyers getting baton-charged, beaten and falling to the ground. People in plainclothes were beating up the lawyers with kicks and fists. Then the policemen started firing teargas shells and many senior lawyers fell to the ground gasping for air. Then the police started hurling bricks.

I heard policemen break into the Bar Room reserved for women lawyers and calling them whores and sluts. Another female lawyer also told me that policemen called them whores and dared them to come out of the Bar Room, which was locked by them out of the fear of arrest.

I saw policemen smash the door. One of the policemen fired a teargas shell inside the Bar Room, which made all the lawyers run outside. During the process a lawyer fell down and policemen started beating him. I fled myself because the teargas had filled the room and prevented me from breathing.

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<sup>44</sup> Human Rights Watch interview with Iftikhar Ali, Lahore, November 11, 2007.

I was unable to walk properly. I leaned over a wall and started vomiting. I was semi-conscious. Some of the lawyers helped me and made me sit in a chair. They gave me a soaked handkerchief for my eyes which were burning from the teargas and gave me some salt to taste. Someone brought my shoes I had lost in my bid to run away from the Bar Room and took me to the dispensary [located within the premises of the high court at the back of the Kyani Hall]. But the police broke into the dispensary as well and started beating and hitting the lawyers with batons. They dragged the injured lawyers outside the dispensary and asked me to get out as well. 'I will go out but let me first get first aid,' I told the policemen. Then they called a large policewoman, who told me to get up immediately. When I repeated what I had said earlier, she started abusing me and beating me with a stick. I received two blows on my head. Then the woman ordered another policewoman to drag me out.

With the bandage wrapped around my foot, I was not able to put my foot down on the floor. I was told I had been arrested and dragged to a police van. Just when I was about to be pushed into the police van, someone told the policewoman that my condition was unstable and that I should be taken to hospital. The Rescue 112 ambulance took my blood pressure, which had been 199/90 and my blood sugar had shot up to 499. I was semi-conscious when someone took me to Mayo Hospital where I was lodged at the Intensive Care Unit (ICU).

All the time I was in the ICU, policewomen stood guard outside but they left when someone told them not to arrest me. The police had arrested lawyers indiscriminately. Even lawyers, who had nothing to do with the protest were beaten up and thrown inside jails.<sup>45</sup>

Most lawyers detained in Lahore have been released. However scores remain in prison and releases are still taking place at the time of writing. However, charges

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<sup>45</sup> Human Rights Watch interview with Fakhr-un-Nisa Khokhar, Lahore, November 14, 2007.

under the Anti-Terrorism Act remain on file against hundreds of lawyers, leaving open the possibility of re-arrest. Protest demonstrations by lawyers against the arrest and firing of judges, and Musharraf's arbitrary changes to the constitution continue in the city. Lawyers are still boycotting court proceedings as part of their protest campaign.

## **Karachi**

Police and paramilitary troops beat and arbitrarily detained lawyers at the Sindh High Court in Karachi on November 4, 2007, as they congregated for work and attempted to welcome judges deposed by the Musharraf government the day before.

Kashif Paracha, a Sindh High Court lawyer, told Human Rights Watch what happened when he arrived at the court on the morning of November 4:

On Monday morning we went to the courts at the normal time, around 8:15 a.m. By 8:30 a.m. more lawyers were walking in one by one. There was heavy checking at the gates, with police demanding our Bar Council or Bar Association cards as proof of identity. Police and Rangers [paramilitary troops] were present in heavy contingents outside, and some five-six vans were inside the High Court building.

When about 100-150 lawyers had gathered, the Rangers got out of their vehicles and closed the gate, barring the entry of lawyers still coming in. A long queue of cars started building up. We asked them to open the gate and let the lawyers in and they did. Suddenly some police pounced on a lawyer who was inside –he must have been on their ‘wanted’ list– and started taking him to the van outside. Some lawyers tried to rescue him and were baton-charged.

They then closed the gate again. We tried to talk to the main person in charge of the Rangers, a colonel. We asked him to open the gates to let the lawyers in, and he flatly refused. He told us in clear terms that he would not allow any procession or protest. Then he said he would go and ‘talk to someone.’

Some 20-25 lawyers were standing around and waiting for him to come back, when suddenly a big police force attacked us without provocation. They were armed with batons and some had guns. The Rangers had gone, and the police came in, about 100-150 of them. They started herding lawyers one by one into the vans and beat those who resisted.

We were the first ones to be taken, and about 35-40 of us were loaded into one van. It was hot and crowded and there was little ventilation. They took us to Artillery Maidan police station, and we had to stay in the van for about 15-20 minutes before they took us inside. They kept bringing in groups of lawyers, rounding up anyone who was outside.

Some lawyers had gone into the Bar Room and locked it. They held a General Body meeting and retired Justice, Rasheed Rizvi, gave a speech. Police were picking up lawyers from everywhere, the library, the canteen, without provocation, anyone with a black coat [i.e., a lawyer]. They picked up lawyers as they came out of the Bar Room.

They got about 55 lawyers into the Artillery Maidan police station. A few (five-six) were released that day. The police kept telling us that we would be released that day, by late evening, perhaps 10:30 p.m., except four-five who would be detained under the MPO.

However, most of us were then told that we were detained for 90 days under the MPO and taken to Central Jail. This was a very painful period. They stuffed us into vehicles, and again kept us waiting for 15-20 minutes. By 11:30 p.m. we had reached Central Jail. However, the jail rules don't allow them to take custody after 6 p.m. The MPO orders had not reached the jail, and the superintendent refused to take custody of us. We were kept standing in the car outside the jail premises. It was suffocating. There were 35-40 of us and they wouldn't even open the vehicle doors. This caused serious problems for the older counsels, some of whom have kidney or diabetes problems.



Finally, at around 2:15 a.m., the jail gate was opened to let the vehicles in. However, we were kept in the vans until someone came with the MPO. We finally checked into the jail at 4 a.m.

Throughout this time (since leaving the police station), we were given no food or water. We were taken to two wards. The senior counsels, including the retired judges, had a very difficult time, like Rasheed Rizvi, who has a frozen shoulder and is diabetic, and Shafi Mohammadi. The experience really affected their health. There were only one or two beds. Everyone slept on the bare floor, with no mattresses, blankets or sheets. No one was allowed to meet us without the Home Secretary's written permission.

I was released on the third night, at around midnight. The senior people and the bar association office bearers were kept back. Those with 'fresh faces' or those who had been randomly picked up were being released in groups of two-three. A batch of eight-ten was released on November 8. A review board met every day to decide who gets to go and the MPO orders are withdrawn against those people.<sup>46</sup>

Rafiq Ahmed, a Sindh High Court lawyer described what happened when he arrived at the court on November 4:

I arrived at the High Court at around 8:15 in the morning. The police blocked our entry to the court and were checking our ID cards. At about 8:45 or 9 a.m. the police closed the door to the court and stopped the lawyers from entering. We went to the main gate to ask the police and Rangers on that side to let us in. They opened the gate halfway and let a few cars in but the lawyers were still stuck outside. They started chanting slogans against the emergency and in support of the deposed judges. The police charged at them, grabbed two lawyers ruthlessly and put them in the van. They cordoned off the area

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<sup>46</sup> Human Rights Watch interview with Kashif Paracha, Karachi, November 12, 2007.

between the main gate and the High Court. We were inside the gate but couldn't enter the court. Salahuddin Ahmed, Kashif Kashmiri and one other lawyer were with me. A number of lawyers were standing near the gate where the judges enter from. The police were preventing the judges who had not signed the PCO from entering. The police attacked the protesting lawyers, grabbed the four of us and shoved us in the van as well.

They took us to the Artillery Maidan police station along with 50 or 60 other lawyers. We had no idea why we were being detained. At around 9:30 or 10 a.m. the SHO [Station House Officer] called us outside and told us we were being taken somewhere else. Mr. Rashid Rizvi, who is still in detention, said we were professionals and we deserved to know where we were being taken. The SHO then said we were being transported to the Central Jail. They stuffed 27 or 28 lawyers into the police van and drove us to the jail where they made us wait in the van, packed like sardines, for close to an hour. It was hot, stuffy and unbearable. There were a few old and ailing people with us. Some were diabetic and had heart disease and none of us were given any water. We guessed that the reason for this delay could have been that they didn't have our detention orders. So they had gone to get them from the Interior Ministry. Our detention orders were very vague stating that they had apprehensions that we were involved in anti-state activities. We were provided with no grounds for detention beyond that.

After that we were shifted to our respective barracks. I am very lucky that I was kept in a privileged barrack with some senior lawyers. My friends were less lucky. They were given no facilities, no bedding, proper water facilities etc. The police let our families give us food and other essential supplies like cutlery, bedding and medicines for some of the inmates. I was released later that day at around 9:30 p.m., Saturday, November 10.<sup>47</sup>

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<sup>47</sup> Human Rights Watch interview with Rafiq Ahmed, Karachi, November 12, 2007.

Zahid F. Ebrahim, a Sindh High Court lawyer recounted his experience of the following day to Human Rights Watch:

At about 8:15 a.m. on the morning of November 5, several lawyers were standing in the Sindh High Court parking lot. More were coming in. There were heavy contingents of police outside and a Rangers jeep and two mobiles [police cars] inside the premises, patrolling the area.

Someone said that the new judges were in court. There were at least six police mobiles standing at the entrance where the judges come into the Sindh High Court. There were lots of police at the gate where the lawyers enter. I arrived early, and my car has a High Court sticker and there were High Court protocol officers at the gate to identify people, so I was allowed in without any further checking.

Then we heard that the other judges (non-PCO) were coming to the High Court and went to receive them at the main gate. Some lawyers raised a few slogans about 15 yards from the gate, for about five minutes. Someone said the judges (Faisal Arab, Sajjad Ali Shah, Sarmad Osmany, Maqbool Baqar) had gone back. We started walking back. People were just ambling about. Then we heard that they (the judges) were coming in from the lawyers' entrance, so we started going there. People were still coming in, parking their cars, just walking about. The more active lawyers were in the front (of the group going to the lawyers' entrance), we were behind.

As lawyers got to the gate, the police started beating them with batons. The police caught some people and some people stepped back.

One lawyer personally knew the colonel in charge of the Rangers and went to talk to him, tell him we're not doing anything. There were not more than a hundred lawyers milling around. So this lawyer was talking to the colonel, about 20 yards from the main gate. The colonel told him that he would go talk to someone and be right back. We were

just standing there, inside the High Court, so we had no concerns about being attacked or anything.

Many people think it was the colonel who went and told the police to attack us. Suddenly we saw them running towards us. We were in shock, because we were just standing there. '*Ham ne kiya kiya hai?*' [What have we done?] I asked the man running at me. He launched into me saying, '*Kiya kiya hai, mein batata hoon!*' [What have you done, I'll just tell you!] I had no clue what was happening. Two other people, whom I didn't see, grabbed me from behind. My immediate reaction was to try and pull away, although these guys were big and there was no way I could escape them. I was just stunned by the absurdity of it all, the shock of being attacked like that.

They started dragging us into the van. All around, they were doing that. Everyone was running, desperately trying to get away, hiding in bathrooms or wherever they could. One of my associates stuck to me, wanting to go in the same van as me. It was only then that we realized we were being 'arrested.'

They took us to the police station (Artillery Maidan). More and more lawyers were being brought in. One lawyer came in with a Swiss photographer, got a picture taken of himself among the arrested lawyers, then left. We thought they would let us know. Someone told us that three to four people would be released.

It was getting dark. There were lots of family and friends outside and occasionally the police would call out to one of us to meet a visitor. The people outside sent lunch and dinner in for us. Benazir Bhutto's lawyer Farooq Naik and PPP senator Safdar Abbasi came to meet us.

I was getting worried about my associate Furqan Ali, who had only recently been married. Around 9:30 or 10 p.m. the police started calling out names from different lists and we heard that a meeting was

underway at Governor House to discuss our situation. The SHO started calling out names and making us stand in a line. Some people were made to stand aside – Ishrat Alvi, who had only just parked his car and put on his coat when he was picked up, Furqan, Salahuddin, and some others.

The rest of us were put into two prison vans. It was only when we got into the prison vans that it hit the families waiting outside that we were being sent to jail. We were very cramped inside the van, but had our cell phones and could talk to the media. It was suffocating.

One-and-a-half hours later, they let two people out. Someone called for me to get out, and I thought I was being released. Instead, I was made to sit in another police mobile with four police *sepoys* [low-ranking policemen], for some two-three hours. The police were [verbally] abusing one person, and that was Musharraf. They were unhappy at having to carry out these orders and saying that the protestors should remain united.

The same person who had told me to get out of the first van then came to say that we're releasing you. I started to call home, but he told me to wait, and handed me over to another man in civilian clothes who had a file. He made me sit in another police mobile. He said the release orders for me had come. After some time they took me back to the Artillery Maidan police station, saying that they would make me sign an undertaking. However, at 4:30 a.m., they released me without making me sign anything.<sup>48</sup>

Emad Hasan, the son of Abrar Hasan, president of the Sindh High Court Bar Association (SHCBA) described his family's experience to Human Rights Watch:

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<sup>48</sup> Human Rights Watch interview with Zahid F. Ibrahim, Karachi, November 22, 2007.

On Saturday, November 3, police came to our house at around 11 p.m. to arrest my father Abrar Hasan. When they did not find him, they took away my brother-in-law Masroor Alvi without any warrant. He was detained, threatened and harassed and finally dropped back at around 2 a.m. when his condition started deteriorating. [He has high blood pressure and hypertension.] At 9 a.m. they picked him up again without warrant to pressurize my father. On November 4, my father came home at around 10:30 a.m. half an hour later, police came and took him to Mobina Town Police Station without any warrant. We followed them and waited at the police station for around four hours until someone brought a copy of the MPO being served on him.

The police then took my father to Central Jail, Karachi. We had prepared a bag of essentials –medicines, toothpaste/brush, a *shalwar* suit [traditional attire] and books. The jail staff allowed the other items but not the books.

Once he was in prison, we could not contact my father. I talked to Khawaja Naveed, Attorney General of Sindh, that evening. [By that time he had taken oath as a judge of High Court under PCO.] He was astonished at my father's arrest and promised to ensure he was given proper class.<sup>49</sup> We had possession of my father's mobile phone, fearing that it would be taken by jail staff. We kept informing callers of the situation. My father had asked me to give a copy of the MPO to the Bar Committee. That night a member of Sindh Bar Council called me and asked how he could help. Late at night an old family friend and a very senior lawyer, who had gone through all these ordeals in General Zia-ul-Haq's era called from the US and guided me to file application for provision of proper class, meetings and food from home. A formal application was necessary.

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<sup>49</sup> "Proper class" means imprisoned as a political detainee and not with criminals. The Pakistani prison system allows for various tiers of treatment depending on the offense.

On the morning of November 5, I called a member of the Sindh Bar Council at around 9 a.m. He said he was in the Bar Room, and police had cordoned off the whole area and were not allowing lawyers to enter. Also, because of the strike, no application could be moved in High Court. He suggested I approach the Home Department. I reached the office, and got the paperwork together, including my father's NTN (National Tax Number) Certificate, application etc., and went to the Home Department to submit the application. I printed the application on plain paper instead of our company's letterhead, so they wouldn't become apprehensive and refuse to take the application. I submitted the application with the dispatch department.

Later, I along with my father's clerk and driver went to our office and removed items like laptops, printers, papers, letterheads etc. We closed the office and came home. This was because police had baton-charged lawyers at the High Court and District Court, and had taken many lawyers into custody, and were still looking for other lawyers. From the sweep at the District Court, they also arrested a lawyer who works at my father's law firm. We heard that Mustafa Lakhani, Iftikhar Qazi, Rasheed Rizvi, and others had also been arrested.

I then asked a friend and an uncle to meet me outside the jail. The meeting time at the jail is from 8 a.m. to 4 p.m., for which one must enter between 8 a.m. to 2 p.m. On Friday, the meeting time is from 8 to 11:30 a.m. for prisoners in B class only. You have to submit a written application along with a copy of your ID card. Because my father was detained under the Maintenance of Public Order Ordinance, there was no provision to meet him. However in the morning the jail doctor had met him (as we learnt through a government doctor in our family) and provided water and biscuits to him. Later we learned that my father had been kept in a room with the president of the Malir Bar Association and a Tehrik-e-Insaf activist.<sup>50</sup>

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<sup>50</sup> Tehrik-e-Insaf is a small political party headed by cricket legend Imran Khan.



On November 5, we submitted an application to the Home Department to allow the family to meet my father. We were finally allowed to meet him on November 8. Emergency was proclaimed by the government to combat terrorism, but rather than cracking down on terrorists, the government has arrested these law-abiding citizens.<sup>51</sup>

Abrar Hasan was released from Karachi Central Jail on November 19, 2007.

Mahrouf Sultan, a paralegal and human rights activist with the Human Rights Commission of Pakistan in Karachi described his experience to Human Rights Watch:

In the early hours of the morning of November 5, around 1 a.m., 10-12 policemen surrounded my house and started banging on the main door asking for me. My sons were very brave and they refused to let these men into the house and told them I will come outside to meet them. They hurled abuses at us. The men said they were taking me to meet the SHO [Station House Officer] of the Gulbahar, Abbotabad police station for only 15-20 minutes. When I walked out of the house there were a number of policemen as well as five or six men in plainclothes. The men in plainclothes did most of the talking. When I stepped out of the house they grabbed me, put me in the police van and drove me to the Gulbahar police station where I was immediately locked up with two other men. We were given no food for the next 24 hours. No breakfast, lunch or dinner. I stayed at the police station for one day and two nights.

On the morning of November 6, I was taken to the Karachi Central Jail. This experience was very painful. I along with 300 other people was made to squat on my feet for approximately ten hours while we were filling out forms as a form of punishment. We had to sit like this in the hot sun with no shade anywhere. At the Central Jail we were given letters and my letter stated that I will be held in custody from

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<sup>51</sup> Human Rights Watch interview with Emad Hasan, November 16, 2007.

November 5, 2007 until February 2, 2008. Roughly 50 people out of the 300 were arrested for protesting against the emergency while the others were simple laborers, small motel owners, and workers.

They kept around 150 of us in one barrack which is meant to accommodate no more than 60 people. There was barely any room to spread ourselves properly to sleep. There were four toilets in the barrack, six or seven taps but there was no water. The stench and lack of hygiene was terrible. We didn't even have water to wash ourselves before saying our prayers. We were only allowed to leave the barrack for our early and mid-afternoon prayers (*Zohr* and *Asr*) which we would offer at the mosque in the jail. There was no water there either. When we asked them for water facilities they took money from us telling us that they needed the money to fix the water motor. There was no clean water to drink. There were drums placed for us outside the cell and other imprisoned people would carry water to us in plastic bottles that were cut up and used as bowls. Other inmates in the prison would soak their hands in the drums of water while filling the cups cut of plastic Pepsi bottles and the drum was kept open the entire day. The food, such as was on occasional offer, was inedible.

My children sent me 3,500 rupees but the policemen stole most of it. My son brought a small pillow for me but the policemen didn't let me have it. I was not allowed to meet anyone in my family for the entire duration of my stay in prison...not even my children.

While the police didn't lay a hand on me, they beat the other inmates in a terrible manner, with sticks, and by punching and kicking, with belts –any way you can imagine. Many of these inmates were bruised and black-eyed. I was finally released on November 10. They were calling out people's names and my name was not on the list. I was mistaken for someone else called Sultan. So I returned home.<sup>52</sup>

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<sup>52</sup> Human Rights Watch interview with Mahrouf Sultan, Karachi, November 12, 2007.

Most lawyers detained in Karachi have been released. The releases began on November 20 and are still taking place at the time of writing. However charges under the Anti-Terrorism Act remain on file against hundreds of people including lawyers. Sedition charges also remain on file against at least eleven lawyers. All those with charges pending against them face the prospect of re-arrest. However, demonstrations by lawyers against the arrest and firing of judges and Musharraf's arbitrary changes to the constitution continue in Karachi. Lawyers continue to boycott court proceedings as part of their protest campaign.

## **Other cities**

Hassan Tariq, a prominent member of executive committee of the District Bar Association in Nawabshah, Sindh province, described to Human Rights Watch his torture in detention after being arrested on November 8. He is currently at the National Medical College Hospital in Nawabshah. According to Tariq:

I was arrested on November 8 by [name withheld], a Station House Officer (SHO) [at the] police station in Nawabshah. I was arrested because of my opposition to the November 3 action by the government and because I support judicial independence.

At the police station, the SHO started beating me and telling me to shout slogans in support of Musharraf. I refused. So he punched me and kicked me and beat me with a stick and something else. Other police officers present also joined in at the SHO's urging. They kept taunting me and telling me to call [Chief Justice] Iftikhar Chaudhry for help and ordering me to shout slogans in support of Musharraf. They kept beating me like this until I passed out.

When I regained consciousness, I found myself in the lockup where I had severe breathing problems and was in terrible pain. I kept asking them to take me to the hospital but they only laughed and ignored me. I passed out again. Once they took me to some doctor who gave some medicine but it had no effect. At some point I was brought to hospital.

The police took Tariq to the Nawabshah Medical College Hospital on November 13, five days after he was beaten, in critical condition. Doctors found he had fractured ribs and internal bleeding to his lungs. On November 13, the hospital informed local journalists that he had been admitted as a general patient without any documentation by the police. Police stood guard outside his room regardless. After an operation to clear his lungs on November 14, the police suddenly disappeared from outside Tariq's hospital room.<sup>53</sup> Said Tariq of his experiences, "I think my own case should tell you why judicial independence is the only way Pakistan can be saved."<sup>54</sup>

Chaudhry Mohammad Ikram, former vice president of the Supreme Court Bar Association, was arrested by police as he was speaking to journalists at a protest outside the Marriott Hotel in the capital Islamabad on November 4, 2007. Ikram told Human Rights Watch how he came to be arrested and what ensued:

There was a protest at 4 p.m. called by civil society, lawyers, and students. I had just spoken on *Al Jazeera* [international television news channel] on the emergency, condemning it. At the protest, I held an impromptu press conference reiterating that Iftikhar Chaudhry was still the chief justice and the emergency was basically a declaration of martial law. I insisted that until the judiciary was restored, the lawyers would continue their movement. And that the army must go back to the barracks. During this time, a police officer came up to me and started pulling me. I told him to let me finish talking. But he tried to drag me. He was a person of the rank of Superintendent of Police (SP). There were about 40 policeman right in front of us and another 40 at a distance. There must have been about an equal number of protestors. When they tried to drag me, I told them, 'I'm here and not running away. You can arrest me if you like.' They pushed me to the car regardless. They then took me to the Secretariat police station at Constitution Avenue. I asked them what charges they were holding me

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<sup>53</sup> Zulfiqar Memon, "Senior Advocate Hospitalized After Police Torture," *Dawn*, November 14, 2007, <http://www.dawn.com/2007/11/14/top9.htm> (accessed December 5, 2007).

<sup>54</sup> Human Rights Watch telephone interview with Tariq Hassan, November 22, 2007.

under but they laughed and failed to respond. At the station, there were NGO activists already being held there. We were made to sit for about two hours then an SHO (Station House Officer) arrived and said 'Come with me.' So I said, 'Present me before a magistrate before you take me to jail.' He said we have got the magistrate to sign the orders and we have judicial remand of you –you are going to Adiala jail. I repeatedly asked what provision of the law, what charge we were being held under. It later turned out to be section 188 of the PPC which is bailable at the police station if you follow the law.

Once we got to jail, we again tried to find out what the charges were. But we were not told. Then they shifted us at around 10 p.m. to a seven-room block of the jail. It was a C class block. Within two days, there were at least 50 people – about five-seven per room. It filled up with lawyers ... many with political affiliations and others who had not.

We were allowed no communication with the outside world –no family visits. Nothing. The ISI kept visiting and checking up on us. We were given thin threadbare blankets, no pillows, just the freezing floor. Many of us were not young and developed severe health complications. We were given no facilities whatsoever. The ISI were not interested in talking to us or interrogating us. They wanted to spy on us and sneer at us. Their purpose was to keep us isolated and demoralize us. They did call some of us individually and suggest that if we sign an affidavit saying we will not engage in politics, they would let us go. The lawyers refused. Zero communication with families. Personal effects delivered by our families were simply stolen by the jail authorities.

Our bail applications were filed with the Secretariat judicial magistrate on November 6 but he simply did not come to office until November 15.

But most of us were illegally detained for at least 24 hours after the bail order was received. I was released on 15 November.<sup>55</sup>

### **Leaders of the Lawyers' Movement**

The lawyers' movement that began on March 9, 2007 with the ouster of Chief Justice Chaudhry has been led at the central level by four Supreme Court lawyers – Munir Malik, Tariq Mehmood, Aitzaz Ahsan, and Ali Ahmed Kurd. Malik and Mehmood are former presidents of the Supreme Court Bar Association and Ahsan is the incumbent president. Kurd is a prominent lawyer and vocal critic of Musharraf from Balochistan. Human Rights Watch has been unable to speak with Kurd, who is currently under house arrest in Quetta, the capital of Balochistan. Earlier, he was held at Adiala Jail in the city of Rawalpindi in Punjab province and for several weeks at an undisclosed location in military custody. However, Malik, Mehmood and Ahsan spoke with Human Rights Watch describing their treatment and experiences since November 3, 2007.

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<sup>55</sup> Human Rights Watch telephone interview with Chaudhry Mohammad Ikram, December 5, 2007.



Ali Ahmed Kurd, a senior Pakistani lawyer and leading figure in the lawyers' movement for constitutional rule. © 2007 AP/Anjum Naveed

### *Muneer A. Malik*

Muneer A. Malik, former president of the Supreme Court Bar Association (SCBA), is well known for his role in the lawyers' movement. The police arrested him on November 3 in Islamabad and sent him to Adiala Jail and then Attock Jail, a harsher facility. Within a week he developed a medical condition that worsened due to inadequate medical care. He suffered from renal failure. When finally transferred to the Pakistan Institute of Medical Sciences, Islamabad, on November 23, his condition was precarious. His treatment and care was prejudiced further as the detention orders were not lifted even at the hospital and a heavy police contingent of more than 40 persons including members of the Anti-Terrorist Squad were posted outside his hospital room and within the hospital premises. His detention orders



were only effectively withdrawn on November 25. Since then he has undergone dialyses four times. He is still weak but recovering and currently in a hospital located in Karachi, where he spoke with Human Rights Watch.

The police arrested Malik in his hotel room in Islamabad on the night of November 3. He had flown there from Karachi that afternoon for a television interview. On landing he heard rumors about the emergency and called his colleague, retired Justice Tariq Mahmood. The latter had not heard the news until then. Mahmood went to the Supreme Court and got the order of the seven-member bench of the court against the PCO and brought it to Malik. Both then visited the Geo TV office [private Pakistani television channel] where the news of the emergency was confirmed through the satellite channel.

I returned to my hotel by about 9 p.m. The receptionist said that plainclothesmen had been there asking about me, Tariq Mahmood and Ali Ahmed Kurd. He had told them that Kurd had left, and that Tariq Mahmood was with me. I told the others to leave and went to wait for them in my room, leaving the door open. We are lawyers not fugitives. What could I hope to achieve by running away?

They came at about 10:30 p.m. –the SHO, Kohsar Police Station, three policemen and a magistrate. One policeman stood outside the door. I offered them tea but they said I would be their guest. They showed me three warrants – one for myself, one for Tariq, and one for Kurd. I went into the bathroom and called Tariq Mahmood to warn him. I also called Kurd’s wife and told her that he should get off the train at Multan. He didn’t get the message and was arrested from Rahimyar Khan.

They were pretty civil. I packed, settled my bill and went with them. The warrant had said Adiala Jail, but the vehicle turned right and went through a forested area. I demanded to know where I was being taken, and they told me Kohsar Police Station, where Aitzaz Ahsan had been taken.

We got to Kohsar Police Station. The date and the time of the detention order was recorded as 11:40 p.m. I had to deposit my cell phone with them. They opened up a room and gave me tea. After about 30 minutes, I was taken in a car, escorted by two jeeps, to Adiala Jail. We arrived at about 3 a.m. I noticed some plainclothes men. Surprisingly, the prison authorities didn't search me. Someone made a phone call asking where to keep me. I heard him repeat the answer, 'A Class, with Aitzaz Ahsan.'

I was taken to a quadrangle, shaped like a square U, a barracks with individual rooms. They were quite spacious, with attached baths. There was a common eating area and a kitchen. Someone woke up Aitzaz, who had arrived half an hour before. We talked for about 45 minutes. There were a lot of people in that barrack.

That night one of the prisoners who had brought in a cell phone and SIM card tried to send a text message. The jamming device in the quadrangle probably blocked it and revealed the attempt. The next morning, prison authorities installed another jamming device. The Superintendent came and convinced the prisoners to give up the SIM card. He also told me that I was being transferred to a 'better class,' by which he meant B Class. Aitzaz threatened to bang his head against the wall until it bleeds if I was transferred. They left.

The superintendent was transferred that day. He must have lost the trust of the ISI because of the SIM card incident. The new superintendent had a Taliban-style beard and shaved upper lip... That night, I was woken up at 2 a.m., and told that he wanted to see me. We woke up Aitzaz Ahsan and he went with me. The superintendent said I was being transferred to Attock District Jail. He wanted to again create a fuss, but I told him that it was better not to resist. They would have taken me by force there even if I had refused.

At 3 a.m., I was put on a police mobile. With me was Siddique-ul-Farooque, [Pakistan Muslim League-Nawaz leader], who was being taken to Bahawalpur Jail –via Attock. He had to ride with me for four hours to Attock, and then several more hours to Bahawalpur. It was a bumpy ride and bitterly cold. I borrowed a *shalwar kameez* from another prisoner, and some money from Aitzaz.

At Attock Jail, five or six plainclothes policemen took me in through a side gate rather than the main entrance. They took me to a room. Inside was a mean-looking fellow, weighing about 200 pounds, with a shawl over his shoulders. He thumped his chest and said, ‘You know who I am? I am the person against whom the first *suo moto* action was taken’ [by deposed Chief Justice Chaudhry]. He wanted to know where Hamid Khan (another former SCBA president) was. ...

They offered me tea. The mean-looking fellow with shawl told the uniformed policemen to do their *karawai* – job. This meant such a thorough check that if they had been looking for a needle in a haystack they would have found it. They even checked the drawstring hole of my *shalwar*. They took my fingerprints, photograph, asked for my father’s name, took my weight and other details, like a criminal.

The mean-looking fellow and two other plainclothes men then took me to the old part of the jail. After some 50-60 steps we turned right, and came to a part marked in Urdu as the *Mautyafta Qaidityon Ke Liye* – for condemned prisoners. There was no one else there. They opened a cell and pushed me in.

The cell was bare, with a high ceiling and a concrete slab for a bed. I asked for a blanket, a *durrie* [rug] and pillow. After some time a *bardashti* [convict sentenced to hard labor who does menial chores for other prisoners] came with a pillow without a pillowcase, a threadbare rug, and a flimsy blanket. He pushed the items through the bars, and stood there.



Former president of the Supreme Court Bar Association, Munir Malik.  
© 2007 Tanveer Shahzad

He was due to be released in December and offered to take a message for me when his brother came to visit. I had nothing to write with, as they had confiscated my pen, paper and books. He broke off a rose flower and squeezed the petals to extract a red juice. I found a white handkerchief and wrote the number on that.

At 8:30 a.m., the jail staff came with a bucket of tea and raw *nan* [bread] which I refused to eat. I told them I'm on hunger strike. I said I'm not a criminal; I've been brought here under preventive detention, not charged with any offense.

On November 7, while I was still on hunger strike, the superintendent of the jail came. I asked him if I was in solitary confinement. He said no. I asked him if I was being punished for something by being put in this cell, and he said there was no other accommodation. I asked if I could have something to read, and he said that the orders for that would have to ‘come from above.’

At around 6 p.m. on November 7, Malik’s solitary confinement ended. He was taken another 500 meters, to the new portion of the jail. There were four sets of four cells each, about eight by four feet, with a concrete slab (six by two and a half feet) for a “bed”.

This was called the *kasuri* cell –meant for prisoners who had violated a jail rule or committed some offense in jail. They would be shackled if they were considered dangerous. The cells could accommodate one person, and even that was suffocating.

Malik went to sleep. Someone came and checked the area every hour. At around 3 a.m., seven people were brought in, four from Multan and three from Jalanpur district (near Multan) – all these lawyers were arrested from the courts.

One lawyer who came in was from Sahiwal. He was among the 41 who had been injured during a torch lit procession when the lawyers were protesting to restore the chief justice. The police threw acid at them and his face was still disfigured. The Sahiwal bar has given the greatest sacrifices. The police filed an anti-terrorism case against them. The lawyers filed a direct complaint against the police brutality. The chief justice of the Lahore High Court froze their file to protect the police.

By Friday, November 9, Malik started to feel the need to urinate every hour. He was worried because he had suffered from urethritis and proctitis in the past.

I went to the jail doctor. He was a nice guy but very overworked, looking after 1,400 prisoners in the jail which has a capacity of 340. Often the medicines were not available in Attock, so someone had to go to Rawalpindi to buy them. I was given antibiotics for two days but they didn't work. No one tested my urine. On the third day they changed my medicine after I complained of fissure in my rectum, which bled when I passed stools and was very painful. They kept changing my medicine.

When I had visitors, I had to say I was fine. There was always someone from the ISI standing behind me and I feared repercussions if I said anything else. By the next Friday (November 16) I could feel the fluid shifting from one side to the other in my stomach. Specialists from outside hospitals came to see me and said that I should be transferred to hospital.

One specialist extracted water from Malik's stomach with a syringe. But, contrary to the impression given to his family and friends, he was never transferred to the jail hospital.

By the following Thursday I was in severe pain. But they said I was faking. By the third Friday (November 23) I was completely incoherent, unable to even get up. That was when they finally shifted me to PIMS [Pakistan Institute of Medical Sciences in Islamabad], but I don't remember much of that.<sup>56</sup>

Malik had been seriously ill for nearly two weeks before the authorities finally decided to shift him to hospital. He was transferred from PIMS, Islamabad to the Sindh Institute of Urology and Transplant (SIUT) in Karachi, on November 29. The doctors are still investigating whether any permanent damage has been inflicted on his kidneys.

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<sup>56</sup> Human Rights Watch interview with Munir Malik, Karachi, December 3, 2007.

Many imprisoned lawyers around the country were released after they signed undertakings promising not to take part in politics again. However, Malik received no such offer. In any case, as he told Human Rights Watch, “I would have died rather than sign such an undertaking.”

Malik remains critically ill in a hospital in Karachi.

### *Tariq Mehmood*

Tariq Mehmood is a former judge of the Balochistan High Court and a former president of the Supreme Court Bar Association. Mehmood has been a high-profile figure in the lawyers’ movement since March 9, 2007. He spoke to Human Rights Watch from the Services Hospital in Lahore where he was shifted briefly for medical treatment while under arrest.

I was in Islamabad on November 3. At perhaps 6:30 p.m., I received a call from Aitzaz Ahsan telling me that he has been arrested. The Supreme Court also called me to let me know that the court has passed an order against the emergency. I called the media to let them know. Aitzaz called a little later to say that he had reached Kohsar police station. I went to Kohsar police station, but was told by Aitzaz Ahsan to leave as there was an arrest warrant issued against me as well. I went to De Pape hotel, where Munir Malik was staying. Munir and I went to the press club, found no one there and so went to the Supreme Court. The court had been sealed by the military so we went to Geo TV which had already gone off the air, stayed there for a while and then came back to De Pape hotel.

The receptionist at the hotel informed me that the police had come looking for Munir Malik, Ali Ahmed Kurd and I. The receptionist told them that Munir and I had stepped out and Kurd had taken the train to Quetta. Munir told me to leave and go home (to my house in Islamabad). I reached home at about 11:30 p.m. and got a call from Munir Malik, saying that he has been arrested. Geo called me and told me to leave the country, they would arrange for me to go to Dubai [in

the United Arab Emirates] to take part in talk shows. I was preparing to leave the next day when the police came for me at 12:15 a.m. (November 4).

I was taken to the airport police station. I was arrested under MPO and the order was given by the district magistrate, Islamabad. But since I was arrested from Rawalpindi, they kept me at the airport police station and meanwhile got fresh orders from the home secretary of Punjab, Khurshid Pervaiz Khan, for a 90-day detention. I was kept at the Airport police station until November 5. On that day I was taken to Sahiwal jail in the Punjab town of Sahiwal. In Sahiwal I was kept at Gora Ward, a prison cell built during the British era. It has not been refurbished since. While all other prisoners were kept in the comparatively newly built cells, I was purposely kept in a dilapidated one.

I was kept in solitary confinement during my entire incarceration in Sahiwal.

My two sons aged 14 and 16-years-old were allowed to see me for a couple of minutes, but my relatives who had brought them to Sahiwal were not allowed to see me.

The cell was infested with cats, rats and mosquitoes. Due to the noise I could not sleep at night. It was cold, damp and dark. The rats would try and bite and protecting oneself was not easy and prevented sleep or any peace. I was given a thin dirty stinky blanket and no bedding. I slept on the floor. The toilet was a squat toilet and I have trouble with my knees and my back, so I had problems going to the toilet.

I was not allowed any access to information (newspapers, radio, TV). I asked for newspapers, but was told that they were under strict instructions not to give me any newspapers. Other prisoners were allowed to watch TV, get newspapers, etc.





Retired Justice Tariq Mehmood, former president of the Supreme Court Bar Association. © 2007 Tanveer Shahzad

On November 15, the jail superintendent came to see me and asked me how I was. I told him he could see for himself, that is when I was given a mattress. I informed him that my knee and back pain had grown worse since I had been imprisoned. So an orthopedic surgeon was allowed to examine me. The surgeon told me that sleeping on the floor and using a squat toilet had exacerbated my ailments. He recommended I get an X-ray done but the home secretary declined the prison superintendant's request for me to get an X-ray.

On November 26, orders were given to shift me to Kotlakpat jail in Lahore. I was brought for a routine medical examination to Services Hospital before being moved to Kotlakpat jail.

But here the doctor said I had developed complications while in prison and the doctors may have to operate on my knee. I am waiting for all tests. But the police are very keen to take me back to prison, it is only on the insistence of the doctors that I am still here. My wife and children came to see me once. Otherwise I am not allowed any relatives.

Afzal Haider (Musharraf's law minister) came to see me and told me to play my role in reining in younger lawyers. Of course I refused. I told him: 'I am your prisoner and am still wondering why I have been imprisoned. I am alone in my hospital room. It seems I am likely to remain here.'

When I was growing up, Pakistan was under martial law. When I began my career as a lawyer, Pakistan was under martial law. And now I'm an old man and Pakistan is still under martial law. This has to end.<sup>57</sup>

Tariq Mehmood was shifted to Islamabad on December 5 and placed under house arrest after his home was declared a sub-jail.

### *Aitzaz Ahsan*

Aitzaz Ahsan is the incumbent president of the Supreme Court Bar Association and a former law minister of Pakistan. He was arrested early in the evening on November 3, 2007. At the time of his arrest, he was addressing a press conference denouncing the declaration of emergency. The police surrounded his office, and arrested him in the presence of the gathered media. After his arrest, he was initially moved to a local police station, and then shifted to Adiala jail in the nearby garrison town of Rawalpindi. At Adiala jail, he was placed under solitary confinement overseen by

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<sup>57</sup> Human Rights Watch interview with Tariq Mehmood, Lahore, December 4, 2007.

members of Pakistan's military, and was denied even basic needs such as medicines, a change of clothes or bedding and blankets. His family was not provided any information as to his whereabouts or condition of detention for several days. During this period his wife was forced to go into hiding herself as the government issued warrants for her arrest and raided the couple's homes in Lahore and Islamabad to arrest her.

On November 6, 32 members of the United States Senate wrote to Musharraf stating:

...It is simply not right that Mr. Ahsan is being jailed for doing his job as an attorney by defending rights of his client... We ask you to immediately look into this matter and urge you to release Mr. Ahsan from prison immediately.<sup>58</sup>

The Pakistani government ignored the request.

About five days into his detention, Ahsan's sister-in-law was permitted a 20-minute visit. From November 3 until November 25, Ahsan was kept confined in Adiala jail, Rawalpindi. He was not allowed access to counsel and not charged with any crime nor brought before any tribunal or court.

On November 25, the authorities transferred him to Lahore in police custody to file his nomination papers as a candidate for upcoming parliamentary elections. He was then moved to house arrest at his home in Lahore, where he has remained ever since. His house has been declared a sub-jail, and approximately 40 policemen have been deployed there. He is not allowed to meet with anyone. The only person allowed access to him is his mother since she lives in the same house.

On December 2, one hour before Ahsan's 30-day detention orders were set to expire, the government issued new orders arresting him for an additional 30 days.

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<sup>58</sup> Letter from 32 US senators to General Pervez Musharraf regarding Aitzaz Ahsan, November 6, 2007.

On December 3, Anne W Patterson, the U.S. Ambassador to Islamabad attempted to visit Ahsan. She was denied permission.<sup>59</sup>

Ahsan spoke briefly with Human Rights Watch from house-arrest about his arrest and treatment in custody:

On November 3 at about 6 p.m., I was addressing a press conference at my house in Islamabad announcing to the press the judgment of seven judges of the Supreme Court setting aside the imposition of the emergency and the suspension of the constitution. This order had been issued on an application I had moved the previous day. The judgment had been faxed to me by the court. The police surrounded my house around 6:30 p.m., and in the presence of the press they arrested me and drove me in a police van to Kohsar police station in Islamabad. There were 35-40 officers. I asked them what the charge was. They had a detention order detaining me under MPO—preventive detention—without trial for 30 days. The law itself accepts that no crime has been committed but enables the magistrate to pass an order on the assumption that you may commit a crime.

At Kohsar police station, they kept me detained for about four hours sitting in the officer-in-charge's office. At around 10:30 p.m., they drove me to Adiala jail about 20 miles from the station, outside Rawalpindi. I think we got there just before midnight. I didn't have any bedding with me. It was a coldish November night. Jail authorities were respectful and the jail superintendent was polite, even deferential. He told me, 'You are not a criminal, you are a political prisoner. We respect you and within the jail rules I will do my best to keep you comfortable.'

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<sup>59</sup> Issam Ahmed, "US ambassador denied access to Aitzaz," *Dawn*, December 4, 2007, <http://www.dawn.com/2007/12/04/top6.htm> (accessed December 5, 2007).



Aitzaz Ahsan, president of the Supreme Court Bar Association.  
© 2007 Aamir Qureshi/AFP/Getty Images

I think it was reported by spies in the prison system that the superintendent, a Mr. Beg, and his deputy had been kind because both were transferred the following morning and the superintendent was sent to the worst possible posting in the Punjab –Bawhawalpur jail. Munir Malik was in the next cell. [Retired general] Hameed Gul also came later. The attitude of the jail staff became very intimidating and humiliating after [the new superintendant's] arrival. So, for example, if one asked for food, they delayed it by many hours. On November 5, my sister-in-law obtained an order from the deputy commissioner of Islamabad, who was the detaining authority, and she came with food for me – but they kept her and my nephew sitting on the floor the whole day – on the road – but did not let them in.

They would not allow us to move or give us rations and no newspapers were allowed. They particularly intimidated and threatened us with physical violence when they wanted to remove Munir Malik elsewhere. The jail staff was ready to beat us up but they were stopped at the last second. I was alone in my cell – but in the compound there were other people.

Things eased a little on November 7. It could be because of the letter sent by US senators seeking my release. I remained in Adiala jail until November 24. Then they brought me to Lahore to file my nominations for elections. On November 25 they shifted me to house arrest. My detention order has been extended until January 2.

It's been hard but I am hesitant to talk about it because my colleagues in the legal fraternity have had a much harder time. People have been beaten badly, they have criminal cases to face. Right now, we must face what comes our way and restore the judiciary no matter what. <sup>60</sup>

On December 12, Pakistan's Interior Minister, Hamid Nawaz, said that Ahsan would only be released "if he stops talking about running the 'Judicial Bus'—a reference to Ahsan's proposal that lawyers run a country-wide mass-contact campaign seeking the restoration of the judiciary ousted on November 3.<sup>61</sup>

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<sup>60</sup> Human Rights Watch telephone interview with Aitzaz Ahsan, December 5, 2007.

<sup>61</sup> Syed Irfan Raza, "Aitzaz will be freed if he gives up agitation plan: minister," December 11, 2007, <http://dawn.com/2007/12/12/nat1.htm> (accessed December 16, 2007).

## **VII. Judges Under Detention**

In addition to Chief Justice Chaudhry, five judges of the Supreme Court remain under effective house arrest in Islamabad's Judges' Colony, the enclave where Supreme Court judges are officially housed. These are Justice Nasirul Mulk, Justice Sardar Mohammad Raza, and Justice Shakirullah Jan. Two judges detained in Islamabad, Justice Rana Bhagwandas and Justice Ghulam Rabbani were released on December 16. Another five Supreme Court judges remain under effective house arrest in Lahore. These are Justice Khalilul Rehman Ramday, Justice Jamshed Ali Shah, Justice Tassaduq Hussain Jilani, Justice Raja Fayyaz, and Justice Falak Sher.

On November 20, the Pakistani government announced that the judges were no longer under house arrest. Brigadier (retired) Javed Cheema, a spokesperson for Pakistan's Interior Ministry, told the media on November 20 that the "judges are free to go from their homes, they are free to move. Those who are staying back ... are staying of their own accord."

However, judges who remain in the Judges' Colony told Human Rights Watch that contrary to the government's claims, they were still being forcibly confined.<sup>62</sup> Human Rights Watch conducted telephone interviews with Justice Rana Bhagwandas in Islamabad and Justice Khalilul Rehman Ramday in Lahore.

### **Chief Justice Iftikhar Mohammad Chaudhry**

Chief Justice Iftikhar Mohammad Chaudhry and his family, including a 16-year-old daughter and seven-year-old son, have been under strict house arrest and held virtually incommunicado since November 3. The judge has managed to communicate with the outside world intermittently by mobile telephones smuggled into his home, but the government has repeatedly used signal jamming equipment and other means to disable these telephone lines. Chaudhry has not had access to television

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<sup>62</sup> "Pakistan: Free Judges Held Under House Arrest," Human Rights Watch news release, November 21, 2007, <http://hrw.org/english/docs/2007/11/21/pakist17402.htm>.

or newspapers since November 3.

However, when he has had an opportunity to smuggle out a statement, Chaudhry has not minced his words. On November 6, he sent a letter to the media stating:

The acts of proclamation of emergency and PCO are highly unfounded, unconstitutional, illegal, and without lawful authority... The treatment meted out to the honorable judges of the Supreme Court and High Courts after the proclamation of emergency is incompatible with all norms of decency, besides being unconstitutional...I am virtually arrested and so are my other learned brothers of the Supreme Court who refused to take the oath under the PCO.... bad governance forced people to approach the Supreme Court for remedy in those cases, and the Court could not abdicate its jurisdiction or turn a blind eye to such situations, and all judges of the Supreme Court are determined to do so in the future... I, on behalf of the judiciary, deplore acts of terrorism in all forms and as a matter of fact the judiciary has always condemned such acts.<sup>63</sup>

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<sup>63</sup> Nasir Iqbal, "Iftikhar hits out at Musharraf," *Dawn*, November 5, 2007, <http://dawn.com/2007/11/06/top5.htm> (accessed December 16, 2007).





Deposed Chief Justice of Pakistan Iftikhar Mohammed Chaudhry. © 2007 AP/Anjum Naveed

Justice Rana Bhagwandas, who is under house arrest in the Judge's Colony, explained to Human Rights Watch that while he and the other judges detained there are allowed to walk within the compound of the colony, neither Chief Justice Chaudhry nor his family are allowed to even step out of their residence which is guarded by police and military intelligence personnel around the clock.

Whenever we have tried just to visit the Chief Justice we have been refused permission to do so. He keeps getting new mobiles to try and communicate but the government keeps jamming signals and killing the chips. Chaudhry's family is also in custody and is not allowed to move out. He has a small son and a school-going daughter in there [his house]. On November 21, he tried to walk out and a truckload of police arrived and put out barbed wire around his house. I have not seen him or his family out even once.<sup>64</sup>

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<sup>64</sup> Human Rights Watch telephone interview with Justice Rana Bhagwandas, November 21, 2007.

Chaudhry's 16-year-old daughter, Palwasha, smuggled out a letter to her father's colleagues in the judiciary on November 29 entitled "I am a proud child" which, is illustrative of what life has been like for Chaudhry's family since November 3:

We may not be allowed to attend our schools or universities, we may have our mobile phones blocked, we may not be allowed to meet anyone or go out, we may be kept in our homes like prisoners, we might be treated like militants or terrorists but we don't care, because it's a time of sacrifice and we have to do it.<sup>65</sup>

Former prime ministers Benazir Bhutto and Nawaz Sharif have both tried to visit Chaudhry unsuccessfully. Bhutto attempted a visit on November 11. Security forces blocked her attempt with a heavy show of force.<sup>66</sup> Similarly, riot police prevented Nawaz Sharif from meeting Chaudhry on December 5. A heavy contingent of police besieged the Judges Colony, and blocked all entry points with barbed wire and concrete barricades to prevent the meeting.<sup>67</sup>

However, the Saudi Arabia ambassador to Pakistan, Ali Awadh Al-Asseri, was allowed to meet Chaudhry on December 7. The press reported that the Saudi ambassador invited Chaudhry for "Haj"—the Muslim pilgrimage to Mecca. This was widely interpreted as an invitation into exile which Chaudhry is said to have declined.<sup>68</sup>

Justice Chaudhry sent word to Human Rights Watch that while his family, especially his children, were suffering under prolonged detention, he felt he had no option but to "uphold the law and constitution."<sup>69</sup>

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<sup>65</sup> Chaudhry, Palwasha "I a.m. a proud child," unpublished letter, November 29, 2007.

<sup>66</sup> "Bhutto blocked from visiting chief justice," CNN, November 11, 2007, <http://www.cnn.com/2007/WORLD/asiapcf/11/10/pakistan.bhutto/> (accessed December 16, 2007).

<sup>67</sup> "Police stop Nawaz from meeting sacked CJP," *The Daily Times*, December 7, 2007, [http://www.dailytimes.com.pk/default.asp?page=2007\12\07\story\\_7-12-2007\\_pg1\\_4](http://www.dailytimes.com.pk/default.asp?page=2007\12\07\story_7-12-2007_pg1_4) (accessed December 16, 2007).

<sup>68</sup> Nasir Iqbal, "Iftikhar 'declines Haj invitation': Saudi ambassador meets deposed CJ," December 7, 2007, <http://www.dawn.com/2007/12/08/top1.htm> (accessed December 16, 2007).

<sup>69</sup> Verbal message from Chief Justice Chaudhry to Human Rights Watch, November 30, 2007.

## **Justice Rana Bhagwandas**

Justice Bhagwandas was the senior-most judge of the Supreme Court and former acting chief justice between March 9 and July 20, 2007, when Musharraf first deposed Chief Justice Iftikhar Chaudhry. He headed the Supreme Court bench that restored Justice Chaudhry to his post on July 20. Justice Bhagwandas remained under house arrest in the Judges' Colony in Islamabad until December 16, 2007, when he was released and allowed to return to his home in Karachi. He maintains that he only agreed to vacate his official residence in the Judge's Colony because he had reached his date of "constitutional" retirement under the pre-November 3 constitution. Under the Pakistani constitution, Supreme Court judges retire at the age of 65.

Human Rights Watch interviewed Bhagwandas by telephone while he was still under house arrest in Islamabad. In what follows, we provide his account verbatim, but supply descriptive headings to guide the reader:

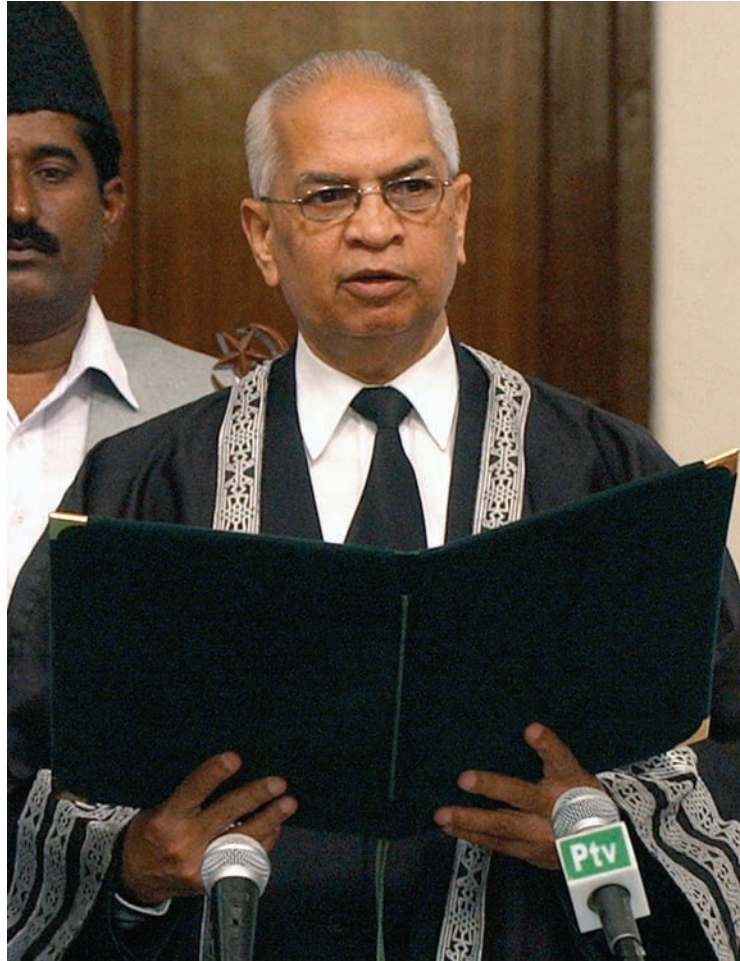
### **On the imposition of Emergency**

On November 3, I was in my chambers and so were the other judges. I heard a state of emergency was about to be imposed and sent word to the chief justice asking if he was free to see me. I went to his chambers and we heard on Geo television that the emergency was to be imposed. Around 5:30 p.m. we were informed that it had happened. We convened immediately and heard a petition filed the day before by Aitzaz Ahsan, the Supreme Court Bar association president, asking us to restrain the government from imposing emergency. A seven-member bench passed a unanimous order. We ruled that the imposition of emergency was illegal. We also restrained the army from acting against the constitution and we suspended the operation of PCO. You can find our judgment in the press. We received phone calls from High Court judges and provincial chief justices. We faxed copies of our ruling to all the judiciary, the prime minister, the president and provincial governments.

Sometime between 6 and 6:30 p.m. we heard that the army and police had surrounded the Supreme Court. Two journalists from ARY TV and GEO TV very bravely managed to smuggle themselves into the Supreme Court to tell us that we were surrounded and collected copies of the order and released it to the rest of the media.

We sat in the Supreme Court until 8:20 p.m. and then reached home around 8:30 p.m. We reached the Judges' Colony and realized that the entire neighborhood and our homes were surrounded by huge contingents of police, army and plainclothes intelligence persons who had disconnected all telephones. But we are judges. We could hardly put up physical resistance. So with dignity, all of us went to our respective homes. Six of us, including the honorable chief justice, are still detained in Islamabad. Five are in Lahore, I think.

Other colleagues have been offered inducements and been put under immense pressure to take oath under the Provisional Constitution Order (PCO) but have refused. These judges include Justice Ramday and others. We are firmly of the view that the rule of law, justice and respect for human rights must prevail. We tried to help the country move towards constitutionalism knowing full well that Musharraf does not want that. The sheer number of threats and messages sent to us before November 3, the attempts at blackmail, made that clear. But my colleagues, the honorable chief justice and I, chose to do our duty as judges and to be true to our oath to uphold the constitution. And we will pay whatever price is extracted from us simply because that is our debt to our country and all those who have looked up to us to prevent a slide into an unconstitutional totalitarian state.



Deposed Senior Supreme Court Judge Rana Bhagwandas. © 2007 AP/Shakil Adil

### **On restrictions on movement, conditions of detention**

I am under virtual house arrest. Certainly, other judges and I are allowed to walk about within the confines of the Judges' Colony but not outside and we are always watched. Nobody can visit me and I can go nowhere. All phones have also been disconnected. I can only move about within the judges' colony. I am speaking from a mobile phone currently in my possession but once the government realizes I am using this line, they will disconnect it.

My family is in Karachi and I am in Islamabad. The government wants to shift me to Karachi but is not willing to release me. They want me to

remain under house arrest. I told them that they must release me unconditionally or I would not leave my colleagues in custody here to be under house arrest just to be near my family. So, to punish me for my refusal, they have not allowed me to meet my family members who have come to Islamabad to meet me since November 3.

Once, before November 10, I tried to walk out of the Judges' Colony but they refused to let me. On *Diwali* (a Hindu religious festival), I wanted to go and visit my family who had come to Islamabad but I was refused permission.

### **On government claims that judges are not being detained**

The government is telling lies when it says we are free men. Just today (November 21), Justice Rabbani and I tried to walk out of the Judges colony. We went walking to the security cordon. We said to the guards: "the government says we are free men, let us go." The police and intelligence people said words to the effect of: "Sir, please go back. If you walk out, they will find a way to bring you back. And we will definitely get fired." So we turned back. We are judges of the Supreme Court. I had never thought this would happen to us.<sup>70</sup>

### **Justice Khalilur Rehman Ramday**

Justice Ramday is a judge of the Supreme Court and was part of the seven-member bench of the court that declared the imposition of emergency illegal on the evening of November 3, 2007. Justice Ramday was moved to Lahore the following day where he remains under house arrest. He spoke to Human Rights Watch on the telephone from house arrest. In what follows, we provide his account verbatim, but supply descriptive headings to guide the reader:

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<sup>70</sup> Human Rights Watch telephone interview with Justice Rana Bhagwandas, November 21, 2007.

### **On restrictions on movement, conditions of detention**

I am under house arrest for doing little more than trying to uphold the law and constitution and refusing to take oath under the Provisional Constitutional Order (PCO).

Outside my house a heavy contingent of the Rangers [paramilitary troops], police and, of course the ISI have been deployed since I was shifted here. They were deployed in order to prevent anyone from entering or leaving my home.

Yesterday (November 20), I heard from family that we had been released. Then I heard it on CNN. It's a falsehood. Dis-information. At this very moment, I am being held in my house by the ISI and the police. Yes, the Rangers were removed two days ago. When I heard the CNN story, I sent a message to the ISI colonel outside asking if I was free. He sent back a message saying "We have no instructions to release you." So I guess I am not released. This is a very difficult situation. And I see no end to this. It is shameful that the state is holding judges of the Supreme Court captive.

I want to know why I and my other colleagues at the Supreme Court are under house arrest. I want to know what we've done, what my family has done and what my two-and-a half year-old grandson has done that he is not allowed to go to school? Are we terrorists? Have we done anything illegal? This country has been taken back to a medieval time. Judges are being arrested and humiliated for being fair.





Khalilur Rehman Ramday, deposed Supreme Court judge. © 2007 Tanveer Shahzad

### **On Musharraf's allegations that the Supreme Court abetted terrorism**

Some, in the government say we the judiciary are responsible for the emergency. Let me tell you something. General Pervez Musharraf has been misdirected and misinformed. I heard his speech on the day he imposed the emergency and was shocked when he said that the judges had given orders for the release of 61 terrorists. If that is the case we would like to see the release orders since it is a public document. Please show us that order which states the release of such people. Or any terrorist! The law is the law and we have to uphold it. And I'm sorry for the government that meant we had to judge in ways and on things that did not suit the government. But that is our job. And



I would do exactly the same again because neither I nor my colleagues did anything that was illegal or beyond the law.

And as for the idea that the Supreme Court order on the *Lal Masjid* [Red Mosque] case was abetment of terrorism, it is ironic that the case was being heard by Justice Fakir Muhammad Khokar and Justice Nawaz Abbasi. They were the first ones to take oath under the PCO. I took an oath to uphold the constitution and now my conscience does not allow me to take oath under the PCO. Justice Fakir Mohammad Khokhar, a judge who took oath under the PCO came to see me early on. I was not able to meet him.<sup>71</sup>

Justice Ramday's wife, son, daughter-in-law, and two-and-a-half-year-old grandson remained under house arrest with him until November 15. They are now allowed free movement. Ramday himself can only go out for midday prayers on Friday and receive government-approved visitors. He remains under house arrest.

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<sup>71</sup> Human Rights Watch interview with Justice Khalil-ur-Rehman Ramday, Lahore, November 21, 2007.

## VIII. Conclusion

Pakistan's federal ministry for law, justice and human rights announced the forced retirement of 37 judges from the Supreme Court and other high courts including ousted Chief Justice Iftikhar Mohammad Chaudhry on December 5, 2007. A day before he "restored" the constitution, Musharraf arbitrarily passed the "Constitution (Second Amendment) Order," which removed all legal challenges to his presidency and gave "constitutional cover" to his forced retirement of all judges who had refused to take oath under his Provisional Constitution Order. It stated:

A Judge including the Chief Justice, of the Supreme Court, a High Court or Federal Shariat Court who had, not been given or taken oath under the Oath of Office (Judges) Order, 2007, had ceased to hold office on and with effect from the 3rd day of November, 2007;<sup>72</sup>

It also "legalized" the status of the judiciary unilaterally appointed by him:

A Judge including the Chief Justice, of the Supreme Court, a High Court and Federal Shariat Court appointed and/or continued as such Judge or Chief Justice by virtue of the Oath of Office (Judges) Order, 2007, shall, on revival of the Constitution, take oath as set out in the Third Schedule and shall be deemed to have been appointed, and/or shall continue to hold office, under the Constitution.<sup>73</sup>

By this time, the newly appointed judges had already proved their loyalty to Musharraf.

Declan Walsh, Pakistan correspondent for *The Guardian* described the scene in the purged Supreme Court as it dismissed the last legal challenge to Musharraf's presidential bid on November 22:

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<sup>72</sup> Constitution (Second Amendment) Order, [http://www.app.com.pk/en/index.php?option=com\\_content&task=view&id=23544&Itemid=2](http://www.app.com.pk/en/index.php?option=com_content&task=view&id=23544&Itemid=2) (accessed December 16, 2007).

<sup>73</sup> Ibid.

President Pervez Musharraf's hand-picked judges peered wearily from the bench of the half-deserted supreme court.... “Dismissed,” declared the chief justice, Abdul Hameed Dogar, his voice echoing between the marble walls. And so Musharraf secured his strange victory—at considerable cost to his reputation and Pakistan's democracy.

Many believe ensuring the supreme court would validate his re-election was at the heart of the decision to impose emergency rule... a move that triggered mass arrests and television blackouts and plunged the nuclear-armed nation into crisis... ... he was taking no chances.

The supreme court resembled a makeshift prison, ringed by barriers, barbed wire and hundreds of police. Entry was by invitation and just a handful of journalists made it in. An intelligence agent kept watch on the door, propelling visitors into a Kafkaesque bureaucratic maze before they could reach the court. “Sorry,” he apologised with a wan smile. “But you know this is emergency time.” The court was presided over by 10 judges whom many Pakistanis believe to be puppets of the regime. A few streets away Iftikhar Muhammad Chaudhry, the independent previous chief justice sacked by Musharraf remained under house arrest, along with ten other judges...<sup>74</sup>

Walsh went on to describe a hearing on the legality of the suspension of the constitution and the imposition of emergency rule:

[The] petition was followed by a case challenging the legality of emergency. The debate had a manufactured air. The attorney general, Malik Qayyum, cited precedents in American and British law. “Even the English courts say that if the security of the state is threatened you must act,” he said.

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<sup>74</sup> “Case dismissed: behind barbed wire, judges back Musharraf,” *The Guardian*, November 23, 2007, <http://www.guardian.co.uk/international/story/0,,2215728,00.html> (accessed December 16, 2007).

Irfan Qader, a lawyer arguing the other side, also leaned his argument towards Musharraf. “The president owes his first allegiance to Pakistan,” he said in conclusion. “In extreme circumstances, he can act.”

The judges listened to the near theatrical performances, stroking their chins. It was over by lunchtime.

The burlesque show was a far cry from the glory days of the supreme court earlier this year, when whooping lawyers leapt over the seats following a series of anti-government rulings that stunned Musharraf and threatened, ever so briefly, to change Pakistan's tortured system of governance.<sup>75</sup>

It took Musharraf's judges no more than 24 hours from this hearing to validate the suspension of Pakistan's constitution and the imposition of emergency rule and to thereby end Pakistan's fleeting experience of an independent judiciary administering the rule of law.<sup>76</sup>

The leaders of the lawyers' movement, some of the most experienced legal experts in the country, remain under house arrest. Though scores remain in detention, authorities have released thousands of lawyers, political activists, human rights defenders, academics, and students from prison. But the fear of being re-arrested hangs over them as charges under the Anti-Terrorism Act remain on file against thousands. Under the restored constitution lawyers have to contend with the possibility of being banned from their profession should they earn the governments ire and all government opponents face the very real possibility of finding themselves in “legal” military custody under the amended Army Act.

Yet even as the mainstream opposition political parties turn their attentions away from the lawyers and judges to elections scheduled for January 8, Pakistan's lawyers

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<sup>75</sup> Ibid.

<sup>76</sup> “Emergency validated,” *The Nation*, November 24, 2007, <http://www.nation.com.pk/daily/nov-2007/24/index3.php> (accessed December 16, 2007).

are still boycotting the courts and protesting on the streets insisting that their movement for the restoration of constitutional rule will not end until it succeeds.

## **IX. Recommendations**

### **To the Government of Pakistan**

- Repeal all arbitrary laws and constitutional amendments in effect since November 3, 2007, and restore the Constitution in its entirety as it stood on November 3, 2007.
- Release and reinstate Chief Justice Iftikhar Mohammad Chaudhry and all other judges who have refused to take oath under the November 3 Provisional Constitution Order.
- Release all arbitrarily detained lawyers, political activists and opponents of the government. Provide prompt and appropriate redress to those arbitrarily detained.
- Withdraw all cases filed under the Anti-Terrorism Act, the sedition law or other sundry provisions of the law for acts protected under international human rights law or are otherwise not cognizable criminal offenses.
- Immediately lift all restrictions in violation of international law on the rights to freedom of expression, association and, assembly.
- End efforts to coerce or intimidate judges and lawyers from exercising their legal functions and the rights to freedom of expression and assembly.

### **To the international community**

- Human Rights Watch urges the international community, particularly the United States and United Kingdom, as President Musharraf's principal supporters, to press Musharraf to take the above actions. The US and UK should make clear that parliamentary elections Musharraf has announced for January 8, 2008 cannot be free or fair unless he does so.
- Human Rights Watch also calls on the United States to suspend all non-humanitarian assistance to the government of Pakistan and impose a travel ban on senior military and government officials until Pakistan returns to the constitution as it stood on November 3 2007, releases from house arrest and reinstates all dismissed judges including Chief Justice Iftikhar Mohammad Chaudhry, and restores full media freedoms.

## **X. Acknowledgements**

This report was researched and written by Ali Dayan Hasan, South Asia researcher for the Asia division at Human Rights Watch.

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# Destroying Legality

## Pakistan's Crackdown on Lawyers and Judges

On November 3, 2007, President General Pervez Musharraf, acting in his capacity as army chief, suspended the constitution and declared a state of emergency in Pakistan. Musharraf said he had been forced to act in order to combat terrorism and Islamist extremists. Yet, in effect, he mounted a coup against Pakistan's civil society. Musharraf's target was an energized, principled lawyers' movement calling for genuine respect for independence of the judiciary and the rule of law.

The government deposed and arrested Supreme Court judges along with thousands of lawyers, human rights activists, opposition political party members, journalists, students, and academics. The emergency ended on December 15, but scores of people, including lawyers, remain in prison across the country. The leaders of the lawyers' movement and senior judges of the Supreme Court remain under house arrest. Thousands more have been released, but many have terrorism charges pending against them as well as reason to fear re-arrest.

Under the revised constitution, unilaterally amended by Musharraf, the government has new powers to disbar lawyers involved in anti-government activities, and the military can now try civilians for a wide range of offenses previously under the purview of the country's judiciary, including charges as vague as causing "public mischief."

*Destroying Legality: Pakistan's Crackdown on Lawyers and Judges* presents eyewitness accounts of police violence, arbitrary arrests, and mistreatment of detained lawyers across Pakistan since November 3, 2007. It is the most detailed account, to date, of what happened during the November crackdown and ensuing events.

*Policemen beat a lawyer outside  
the provincial high court in Lahore  
November 5, 2007.*

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