

AMNESTY INTERNATIONAL WEB FEATURE

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Pakistan judges under the hammer Lawyers demonstrate against President General Pervez Musharraf

One of the key targets under attack in Pakistan's state of emergency, imposed by General Musharraf on 3 November, has been the country's increasingly active judiciary.

As part of his charge sheet used to justify emergency rule, Musharraf blamed the judiciary for "working at cross purposes with the executive and legislature in the fight against terrorism and extremism". He also accused the judiciary of having "weakened the writ of the government."

Following the declaration of the state of emergency, Musharraf summarily dismissed the Chief Justice Iftikar Choudhry, along with 11 other Supreme Court judges - a move flagrantly breaching the country's constitution and core provisions of the UN Principles for the Independence of the Judiciary. Only those judges who were invited to resume their position and agreed to take an oath to uphold the Provisional Constitutional Order (PCO) were allowed to continue in their post. The PCO has suspended fundamental rights - including safeguards to arrest and detention, freedom of association and assembly - and provides full immunity for all government actions taken during emergency rule.

To date only five of the original 17 Supreme Court Justices have taken the oath. In addition, six newly hand-picked judges have been sworn in. The Supreme Court, normally comprising 17 judges, is likely to be reduced to 12.

The majority of the deposed Supreme Court judges, including Chief Justice Iftikar Choudhry, are under de facto house arrest. Other senior lawyers have been arrested and imprisoned, some are being held by Pakistan's intelligence agencies.

Sources have informed Amnesty International that a number of lawyers have been ill-treated while in detention. These include Syed Hassan Tariq, a prominent human rights lawyer and member of the executive committee of the district Bar Association in Nawabshah of Sindh Province, and Munir Mallik, former president of the Supreme Court Bar Association. On Friday 23 November, Munir Mallik was released from detention and admitted to hospital following a severe deterioration in his health.

In the months prior to the emergency, the Supreme Court and other higher courts had increasingly challenged the legality of a range of government actions and apparent misuse of executive powers. In particular, Chief Justice Iftikar Choudhry had taken a tough stance on the cases of enforced disappearances and found against the government in several rulings.

The Supreme Court's recent insistence that the government take concrete action to halt enforced disappearances, and provide information on the fate and whereabouts of the many hundreds of Pakistanis who have "disappeared" in the past six years, only served to increase Musharraf's ire.

In an attempt to subdue the judiciary, Musharraf suspended Choudhry from his post in March. This move triggered a vibrant lawyers' movement across Pakistan, supported by civil society groups and political parties, outspoken and critical of Musharraf's government.

Following a successful four-month campaign, Chief Justice Choudhry was reinstated in July by a full bench of the Supreme Court. With public confidence restored in the Court, there have been a flurry of petitions. One of the most controversial petitions relates to the legality of Musharraf contesting the presidential elections on October 6, while at the same time holding the office of Chief of the Army.

It is widely believed that Musharraf declared the state of emergency as a measure to pre-empt a Supreme Court ruling that was to determine his eligibility to contest the election in October. Musharraf's term as President was due to expire on November 15. Many of the lawyers who were at the forefront in protesting against Musharraf's candidacy, including President of the Supreme Court bar association Aitzaz Ahsan, Ali Ahmed Kurd, Munir Mallik and retired Justice Tariq Mahmood, were immediately arrested following the declaration of the state of emergency.

As anticipated, the new and apparently subservient court has dismissed all legal challenges to Musharraf's October re-election, and has endorsed the state of emergency and the PCO. This move has enabled General Musharraf to step down as Chief of the Army and be appointed as a civilian President, in effect conferring power from himself under one hat to himself under another.

The assault on the judiciary comes at a critical time in its history. The traditionally compliant Supreme Court had begun to assert its independence, not least in challenging the government's human rights violations. These actions triggered growing support among the legal community and those within Pakistan civil society who hope for improved access to justice and greater respect for human rights and the rule of law in Pakistan. These hopes have now been seriously undermined.

Read more:

New arrests of journalists overshadow Pakistan releases (News, 20 November 2007)

Pakistan: Fatal erosion of human rights safeguards under emergency (Report, 23 November 2007)

United action for human rights in Pakistan (Feature, 16 November 2007)

Women protesters face police batons (News, 14 November 2007)

Bailed Pakistani activists at risk of re-arrest (News, 13 November 2007)

Hopes dashed for Pakistan's disappeared (Feature, 13 November 2007)

Crackdown intensifies in Pakistan (News, 12 November 2007)

Take action!

Help the judges: please send appeals immediately to diplomatic representatives of Pakistan accredited to your country.

An Independent Judiciary, free of government interference, is crucial for the protection of human rights and the rule of law. The Chief Justice and all other deposed judges must be re-instated immediately.

- call on President Musharraf to repeal the emergency orders, including those amending the Constitution, and to restore the Constitution;
- call on the Pakistan authorities to re-instate all deposed judges so that the judiciary can fully exercise its independent role,
- call on the Pakistan authorities to release all judges, lawyers and others arbitrarily detained under the state of emergency;
- call on the Pakistan authorities to abide by the UN Basic Principles on the Independence of the Judiciary;
- call on the Pakistan authorities to repeal the amendment to the 1952 Army Act which allows civilians to be tried in military courts;
- call on the Pakistan authorities to ensure, through legislative and other measures, that in the future neither the President nor the Chief of Army is authorized to suspend or amend the Constitution, dismiss and appoint judges unilaterally or take any emergency steps which do not accord with international law and standards.

Please send appeals to:

Ambassador of the Islamic Republic of Pakistan in your country

Please write to the embassy of the Islamic Republic of Pakistan in your country