

An Army of Lawyers in Pakistan – Would We Do as Much?

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This week the world has been inspired by the courage of an army of lawyers, fighting for the rule of law. These lawyers are fighting not in the stuffy confines of the courtroom with legal arguments and briefs, but on the streets, with fists and stones, for the restoration of the rule of law.

On November 3, 2007, President Gen. Pervez Musharraf of Pakistan declared a state of emergency. In addition to imposing sweeping restrictions on opposition parties and the media, Musharraf suspended the Constitution, dissolved the Supreme Court and the four Provincial High Courts, and detained eight members of the Supreme Court. On November 5, 2007, thousands of attorneys took to the streets of several Pakistani cities, protesting these actions by Musharraf and demanding the restoration of the rule of law.

This is not the first time that Pakistani attorneys have demonstrated en masse to defend the rule of law. In March of 2007, the suspension, detention and attempted dismissal of the chief justice by President Gen. Musharraf gave rise to large but peaceful demonstrations by attorneys in several cities. Unfortunately, the government did not allow the November 5 demonstrations to remain peaceful.

Instead, the demonstrating lawyers were attacked by large numbers of police officers in several cities, demonstrating an orchestrated plan to silence the attorneys. Attorneys were beaten with batons, sprayed with teargas, beaten with fists, and arrested by the thousands. Opposition groups estimate that 3500 were arrested on the first day of protests alone. The Musharraf government puts the number at over 2000.

In some locations, the attorneys fought back. Witnesses described fierce battles, with attorneys throwing stones at the police who attempted to break up the protests. But in the end, thousands of beaten and bleeding attorneys were literally dragged to police vans and taken away.

On November 5, 2007, photographs of the bloody clashes between police in riot gear and attorneys in business attire ran in virtually every media outlet in the world. But the demonstrations were not over, nor were the lawyers deterred by the beatings and mass arrests. On November 6, 2007, the suspended former Chief Justice of Pakistan urged the attorneys to continue their protests. Again, thousands of lawyers took to the streets. Again, violent clashes with police resulted in several cities. More than fifty attorneys were arrested in a single city on November 6, 2007, adding to the toll from November 5, 2007. By some media estimates, one-fourth of all of Pakistan's lawyers were imprisoned by the end of the day of November 6, 2007. No courts were open for the lawyers to petition for release. But the demonstrations continue.

The courageous stand for the rule of law by Pakistan's lawyers, in the face of physical attacks and arrests, has galvanized opposition to the General Musharaff's emergency decrees within Pakistan and around the world. Leaders of many nations have demanded the reinstatement of a constitutional government. American Bar Association President William H. Neukom issued a statement that "the [government's] actions in Pakistan are a threat to the rule of law, and especially to an independent bar and judiciary, everywhere. . . . An independent bar and judiciary are a cornerstone of all lawful societies. It is essential, at a time when lawyers and the rule of law are under attack in Pakistan, that we work together to respond in a forceful and effective manner."

The impact on society from attacks on an impartial and independent judiciary have long been known. Alexander Hamilton wrote that “[t]he independence of the judges once destroyed, the constitution is gone, it is a dead letter; it is a vapor which the breath of faction in a moment may dissipate.” Attacks on the impartiality and independence of the judiciary are evident and increasing in this country and this state. That which is required of our bar to address the current threats to judicial impartiality is far less than what the lawyers of Pakistan have faced so bravely. Yet, Hamilton might have been speaking directly to the lawyers of Pakistan when he wrote that “[t]here is no motive which induced me to put my life at hazard through our revolutionary war, that would not now as powerfully operate on me, to put it again in jeopardy in defence of the independence of the judiciary.”

The actions of these Pakistani lawyers provoke fundamental questions that every American lawyer should ask of himself or herself: What are you doing to support and bolster the rule of law and the freedom and impartiality of the courts against the current assaults? What would you do if the Constitution were suspended and the courts closed in this nation? Do you have the courage of that bloodied band of Pakistani lawyers? Or, with apologies to Edmund Burke, would you choose to do nothing and let evil prevail?