

Civil Society and the Lawyers' Movement of Pakistan

Sahar Shafqat

This article examines the conditions under which judiciaries become politicized under authoritarian regimes, focusing on the 2007–2009 lawyers' movement of Pakistan. The prodemocracy movement arose after the sacking of the Supreme Court Chief Justice by General Musharraf, and was remarkably successful in removing Musharraf and restoring the sacked judges. Although the conventional wisdom is that such judiciaries are quiescent, I argue that judicial actors can play important roles in democratization, but only under certain conditions. In the case of Pakistan, civil society actors were vital in helping the judiciary become politicized and in linking the lawyers' movement to the larger cause of democratization. I argue that, otherwise, the lawyers' movement could not have headed the movement that eventually led to the restoration of democracy. Specifically, I argue that civil society played a crucial role, framing the movement as broad, national, and prodemocracy, which enabled it to overthrow the authoritarian regime.

INTRODUCTION

This article examines the 2007–2009 lawyers' movement in Pakistan in order to explore the conditions under which judiciaries become politicized under authoritarian regimes. The conventional wisdom on judicial politics has tended to exclude judicial actors as agents of democratization, but there is a growing body of work that recognizes that courts and lawyers can play a democracy-affirming role even in authoritarian regimes (e.g., Moustafa 2007; Ginsburg 2012; Massoud 2015). The lawyers' movement arose in March 2007 in response to General Pervez Musharraf's unconstitutional sacking of the Pakistan Supreme Court Chief Justice Iftikhar Chaudhry. Remarkably, the movement, which was led by lawyers but also included citizen groups, students, women's rights activists, religious groups, and political parties, was able to challenge the Musharraf dictatorship successfully. Although it is referred to as the "lawyers' movement," it was a prodemocracy movement that came to represent the multiple and sometimes competing goals of judicial independence, antimilitary dictatorship, and civilian electoral democracy. It played a crucial role in the return of democratic politics, the eventual ouster of Musharraf, and the

Sahar Shafqat is an Associate Professor of Political Science at St. Mary's College of Maryland and may be contacted at sshaqat@smcm.edu. This research was conducted partially thanks to a sabbatical leave from St. Mary's College of Maryland; the author also gratefully acknowledges Habib University for providing a professional base for some of this research. The author received IRB approval from St. Mary's College of Maryland to conduct interviews. The author thanks Salahuddin Ahmed, Rob Bohrer, Jinee Lokaneeta, and the anonymous reviewers of *Law & Social Inquiry* for their helpful comments and guidance. The author is especially indebted to the many activists who were interviewed for this article, without whose generosity and passion this article could not have been completed.

reinstatement of the Chief Justice in 2009. Pakistan's case provides an opportunity to examine the ways in which judiciaries become politicized in authoritarian regimes, and the role that lawyers and judges can play in assisting the democratization process. As Ginsburg (2012, 724) notes, such cases are rare because "there are many reasons that we should not expect courts to be at the very forefront of democratization"—and in the case of Pakistan, it was the bench that led the way by being the first to resist the dictatorship before the bar followed. The mobilization of lawyers and judges against the Musharraf dictatorship is even more remarkable given that the Pakistani judiciary has historically provided judicial cover to military dictators (see, e.g., Ginsburg and Moustafa 2008).

This article argues that under the right conditions judicial actors can play an important role in the democratization process. In the case of the Pakistani lawyers' movement, several conditions helped embolden an erstwhile proestablishment judiciary under the authoritarian regime. When the regime attacked the judiciary, the lawyers' community organized to defend the interests of the legal community, but it was not until the regime imposed an Emergency that the legal community joined forces with other civil society actors to push for democratization. Civil society, defined here as nonlawyer citizen activist groups, played a vital role in helping the judiciary become politicized, and in linking the lawyers' movement to the larger political cause of democratization. By helping to position the movement as a broad national prodemocracy movement rather than a movement narrowly focused on the professional interests of the legal community, civil society played a crucial role in helping the Pakistani lawyers' movement succeed. I argue that without this important factor, the lawyers' movement would have been unable to act as the vanguard of the movement to oust the dictatorial regime of General Pervez Musharraf, which eventually led to the restoration of democracy.

The article begins with a discussion of previous scholarship on the judicialization of politics, the Pakistan lawyers' movement, and civil society and democratization. It then offers a detailed account of the movement, drawn from the author's experiences as part of the movement during 2007–2008, as well as interviews with movement participants. This section shows the ways in which the Pakistani judiciary became mobilized against the Musharraf regime, and looks especially at the role of civil society actors in helping make this mobilization broad and popular. The article concludes with some thoughts on the legacy of the lawyers' movement.

JUDICIAL POLITICS IN AUTHORITARIAN REGIMES

To understand better how the Pakistani legal community embarked on the lawyers' movement, we have to turn to the work of scholars examining judicial politics in authoritarian regimes. A useful example is the judicialization of politics in Egypt, especially since the country offers some parallels to Pakistan in the enlarged role of the military in the political sphere. Tamir Moustafa (2003) examines the factors that led the Egyptian authoritarian regime to allow the existence of an empowered Supreme Constitutional Court. Moustafa argues that the authoritarian regime tolerated the court because the court served an important purpose: to help it

attract foreign investment to help stabilize the Egyptian economy by guaranteeing property rights. However, the court expanded its power beyond the preservation of property rights, and became a major institutional player in the pursuit of a progressive political agenda (Moustafa 2003, 885).

The Egyptian case clearly demonstrates that the judicialization of politics is possible under authoritarian regimes (see also Moustafa 2007; Ginsburg and Moustafa 2008). As I argue below, a similar process was at work in Pakistan, where the authoritarian regime of General Musharraf allowed the Pakistani Supreme Court some latitude because it was interested in pursuing a liberalization policy—and this may have produced the unintended effect of empowering both civil society and the judiciary, which was in turn able to play a decisive role in overthrowing the regime.

How is it, though, that judicial actors can actually become so empowered and politicized that they can confront, challenge, and overthrow the authoritarian regime, as happened in Pakistan? Ginsburg (2012) examines the role that courts can play in the democratization process, and distinguishes between two different kinds of roles: upstream, or predemocratization, and downstream, or postdemocratization. Although Ginsburg offers the possibility that judiciaries can play upstream roles that can actually help trigger the democratization of an authoritarian regime, he argues that “there are many reasons that we should not expect courts to be at the very forefront of democratization” (Ginsburg 2012, 727). Nevertheless, “in very rare instances, courts play a central role in triggering democratization” (724), and it is this unusual possibility that the Pakistani case helps illuminate, as I show below. First, however, I turn to a discussion of the existing scholarship on the Pakistani lawyers' movement.

Existing Scholarship on the Pakistani Lawyers' Movement

Scholarship on the Pakistani lawyers' movement has tended to neglect the role of civil society actors. For example, Ghias's (2010) excellent work on the lawyers' movement does not contain any references to the role of civil society. The Asian Human Rights Commission, describing in detail the actions of various participants in the movement—including lawyers and journalists—simply states: “Civil society also participated” (Asian Human Rights Commission 2008).

A student note in the *Harvard Law Review* points out that “the lawyers eventually began branching out and accepting the support of other civil society groups” (2010:1713), but does not explain why. The student's treatment of civil society mobilization tells the story of a spontaneous uprising among nonlawyers on the one hand, and of a hapless civil society segment that had been eagerly awaiting orders from the lawyers on the other. For example, the note describes a prominent activist writing a letter to a newspaper that alone was sufficient to launch a group simply known as “Civil Society” (1714). On the other hand, the note describes established civil society groups such as trade unions, political parties, and trade organizations responding to the lawyers' invitation to join the protests by asking: “Why didn't you call us sooner?” (1714). It quotes former Supreme Court Justice Ramday as

saying: “People became mesmerized, as if they’d always been longing for some gesture for our entire sixty years. The moment it came along, people jumped out of their seats” (1713).

None of the aforementioned narratives about civil society are satisfactory. Clearly, civil society actors were an important component of the lawyers’ movement; indeed, the participation of these actors conferred an important degree of legitimacy on the movement (as I discuss below). On the other hand, when the role of civil society is acknowledged, civil society mobilization is treated something like a black box, both instant and belated at the same time, automatic, and always only reactive. As a result, there is little discussion of the strategic motives of civil society groups, and civil society activists are shown simply to react to events without any independent considerations of their own. For example, the *Harvard Law Review* note argues that the media played a pivotal role in mobilizing civil society and the public at large:

One particular image captured the public imagination: that of the police grabbing [Chief Justice] Chaudhry and dragging him by the hair into a police vehicle on the morning of his first appearance before the SJC [Supreme Judicial Council]. The events were broadcast live via Pakistan’s electronic media outlets, and newspapers published an iconic photograph of the scene. For Pakistanis accustomed to corrupt and arbitrary police practices, these images had a particular resonance. Such use of force against the country’s Chief Justice seemed to reflect a degradation of “the law” itself. “That photograph did it for a lot of people, and it did it for me,” explained Ghazala Minallah, a civil society activist in Islamabad. “That just launched us into protest mode.” (2010, 1713)

This account suggests an emotional response on the part of civil society activists: the singular image of a defiled Chief Justice so incensed activists that they had no choice but to rise up. Of course, there is no doubt that powerful images can have a catalyzing effect on movements, but this account ignores the important longstanding commitments of civil society activists toward social justice causes and their strategic calculations to join the movement.¹

Anil Kalhan’s (2013) work focuses on the critical role of lawyers in ousting Musharraf, and argues that political parties played an important role both during and especially after the movement in attempting to fashion a new civil-military balance in Pakistan. Zahid Ahmed (2010) does include the role of civil society, but does not spend any time explaining *why* civil society became involved in the movement. Instead, he focuses on the role of nonviolence in the movement.

This leaves us with little understanding of the critical role that civil society played in the lawyers’ movement, and why it participated in the movement in the first place. It is patently clear that lawyers had strong material interests in defending the independence of the judiciary—many of the lawyers I spoke with said this very

1. Indeed, several of my *lawyer* respondents mentioned the incident when the Chief Justice was grabbed by the hair as an especially galling moment, but none of the civil society respondents mentioned the incident at all.

plainly.² It is, after all, no surprise that lawyers rose up against the dictatorship to protect their professional interests, but the question remains: Why did civil society rise up too? And what effect did civil society's involvement have on the movement?

Civil Society

A major lacuna in the literature on the judicialization of politics is a serious treatment of civil society actors, which this article aims to redress. Civil society is a complex term, but it is generally meant to refer to "the realm of private voluntary association, from neighborhood committees to interest groups to philanthropic enterprises of all sorts" (Foley and Edwards 1996, 38; see also Diamond 1994; Carothers 1999).

This article defines civil society as a sphere of activity that is independent of the state and can mount an oppositional challenge to the state—most noteworthy is the ability of civil society to mount such a challenge against an authoritarian regime (see Foley and Edwards 1996). Not surprisingly, many scholars have examined the relationship of civil society to democratization. Most scholars of democratization distinguish between liberalization, democratic transition, and democratic consolidation (see, e.g., O'Donnell and Schmitter 1986). The dominant perspective is that civil society can play an important role in triggering democratization (see Diamond 1994; Carothers 1999).

This article makes an important distinction between different kinds of civil society actors, and uses the term "civil society" as a shorthand to focus specifically on the role of nonstate and nonlawyer citizen groups, especially as they interacted with lawyers and judges who were leading the prodemocracy movement. According to many definitions of civil society, lawyers and their bar associations, which were such an important source of agitation in Pakistan, are also a part of civil society, but the focus of this article is on the role that *nonlawyers* played in the lawyers' movement, especially since the existing literature assumes that their involvement was important but does not subject this relationship to careful scrutiny. This distinction also recognizes the structural difference between lawyers and nonlawyer activists in the movement, both in terms of their access to resources and their potential gains in the event that the movement would succeed. Finally, during the movement, lawyers did not perceive themselves as part of civil society and took pains to distinguish themselves from other citizen groups, in part because they saw their role in society as functionally distinct.³

The real strength of an autonomous civil society is its ability to challenge the power of the state, and this challenge can be democracy affirming when it takes place in authoritarian contexts. In Pakistan, as I discuss later in this article, civil society actors had become relatively empowered under the Musharraf regime's

2. Various interviews conducted in Karachi and Lahore, February–April 2015.

3. This is based on various interviews with lawyers active in the movement in Karachi and Lahore, February–April 2015.

policies of liberalization, and this provided a powerful actor to partner with the judiciary and lawyers to challenge the Musharraf regime. It is true that the strength of civil society has been uneven in Pakistani history (see Weiss and Gilani 2001), but it was sufficiently organized, and clear enough about its strategic interests, that when the judiciary launched a challenge to the Musharraf regime in 2007, this challenge was adopted by civil society actors as their own cause. This involvement of civil society made the crucial difference between a movement that was narrowly focused on the specific material interests of lawyers and one that became broadly concerned with the state-citizen relationship and the autocratic nature of the regime.

THE MOVEMENT

The Pakistan lawyers' movement can be divided into five phases: mobilization, confrontation, resistance, reorientation, and revival.⁴

Phase I: Initial Mobilization (March–July 2007)

The first phase of the movement took place after General Musharraf placed Chief Justice Iftikhar Chaudhry under suspension (against procedural norms), following a legal reference against him. Both the act itself and the imagery of the moment served to inflame the legal community and arouse public opinion against the Musharraf regime (see *Harvard Law Review* 2010, 1713).⁵ Although Musharraf's intention was clearly to remove Chaudhry from the bench altogether, the Chief Justice and the legal community joined forces and insisted on following due process. Consequently, the bench was successful in constituting a Supreme Judicial Council to investigate the charges against Chaudhry. This period saw the beginning of the legal community's popular mobilization, with the advent of the Chief Justice's tour to various bar associations around the country and a regular strike by lawyers; both were highly successful modes of protest that helped unify the legal community and would continue throughout the movement. The Supreme Judicial Council eventually restored Chaudhry to his office in July 2007.

Phase II: Confrontation (July–November 2007)

The period after Chaudhry's initial restoration was a period of increasing confrontation between the Musharraf regime and the judiciary. The fulcrum of this tension was Musharraf's decision to contest the election for the presidency.⁶ The

4. This section draws heavily on Siddiqui (2008).

5. The young lawyer and movement participant Salahuddin Ahmed put it this way: "[The idea] that any chief justice, whether he is a bold chief justice or not, was to be fired in that way, and to be caught by the collar and thrown off and arrested, was really difficult to square up with any idea of judicial independence, so that's what got most lawyers going" (interview with Salahuddin Ahmed 2015).

6. In Pakistan's parliamentary system, the president is elected by an Electoral College consisting of the Senate, the National Assembly, and the Provincial Assemblies.

Pakistani Constitution places limits on military personnel holding public office. Since 2002, Musharraf had held the dual offices of Chief of the Army Staff (a military post) and president (constitutionally, a civilian political post). Musharraf had managed to do this by passing amendments to the Constitution, and the Supreme Court, consistent with its historically proestablishment role, upheld these changes, but now, Musharraf indicated that he would run for another five-year term when his term was up in October 2007. Lawyers, civil society groups, and opposition political parties filed legal petitions against Musharraf's eligibility to run for office. The court was about to rule against Musharraf on November 3 when he imposed the Emergency, sacked all the members of the higher judiciary, and demanded that they take a fresh oath of office under a new Provisional Constitutional Order (PCO). Two-thirds of the judges refused, and were placed under arrest and replaced with new, compliant judges.⁷

Phase III: Emergency and Active Resistance (November 2007–February 2008)

The Emergency measures Musharraf imposed targeted more than just members of the judiciary; the regime also began arresting thousands of lawyers and issued a crackdown on the media, especially the electronic media, which he had found so nettlesome. This presented an opportunity for civil society activists to mobilize against the regime, and this renewed attack also convinced the lawyers' leadership that independence of the judiciary was now possible only with the removal of Musharraf and a return to civilian rule: in other words, democratization. For example, Munir Malik, one of the main lawyers leading the movement, noted that:

After the 20th of July, when the Chief was restored, there was a section [of lawyers] which said OK, [Chaudhry] has been restored, the movement is over. But we said no. We should look at what has caused this in the first place. That was the lack of constitutionalism, the lack of civilian supremacy. (interview with Munir Malik 2015)

Thus, the mobilization of lawyers and civil society activists intensified. The main political parties became louder in their opposition to Musharraf. Protest activity, tentative at first, became bolder, especially as it became clearer that even Musharraf's external patron, the United States, was alarmed at his actions and his seeming inability to transition smoothly to a "guided democracy." Bar associations began mobilizing, organizing protests and rallies, and lawyers refused to appear before the PCO judges, viewing them as illegitimate. Meanwhile, the Chief Justice and his advisors tested the regime by continuing his tours at local bar associations. These tours quickly turned into opportunities for protest activity, as both lawyers and civil society activists would march with the Chief Justice's caravan for miles as it made its journey around the country. Other judges made similar tours and were

7. These judges came to be known as the PCO judges.

often showered with rose petals by admirers (see Traub 2008; Harvard Law Review 2010).

A few events during this period helped catalyze important political shifts. First, there was the assassination of former Prime Minister Benazir Bhutto in December 2007, which shocked the nation and also threw previous political deals into turmoil. Second, Musharraf was pressured not just by movement activists, but also by his supporters in the army as well as in the United States, to step down as Chief of the Army in order to remain president, to retain at least some semblance of constitutionality. Musharraf resigned his military post in late November 2007, which was a great victory for the movement.

Phase IV: Pivot and Reorientation (February–August 2008)

Elections were held in February 2008, and the Pakistan People's Party (PPP), which was now chaired by Bhutto's widower Asif Ali Zardari, was swept into power on a sympathy wave. Zardari was not held in high esteem by some in the party and in the country, and people focused their anger on a deal between Bhutto and Musharraf, which had been formalized in the National Reconciliation Order (NRO). The NRO was deeply unpopular among Pakistanis and was being challenged in the courts. A truly independent judiciary that might challenge the NRO on constitutional grounds posed a danger to Zardari as well as to some other PPP leaders,⁸ so the PPP government resisted taking action on this matter.

The postelection situation was confusing at best for movement leaders, and cracks began to show within the lawyers' community, as well as between lawyers and their civil society compatriots (Malik 2015). The movement had directly helped force Musharraf to resign as army chief and enabled democratic elections to go forward; however, it was one thing to oppose a military dictator; but another entirely to go against an elected civilian government.

In June 2008, as the PPP government continued to resist restoring the judiciary, the lawyers leading the movement decided to hold a Long March culminating in a dharna (sit-in) in Islamabad to demand the restoration of the high court judges to their positions, and the removal of the PCO judges. As a logistical matter, the Long March was a much more ambitious project than anything the movement had planned before, and was a remarkable feat made possible by the infrastructure of the bar (see below). As many as 100,000 demonstrators converged onto Islamabad, intent on staging a sit-in until their demands were met. The dharna began with great enthusiasm but after only a few hours, the lawyers' leadership called off the dharna.⁹ This proved to be a highly unpopular and controversial decision, and it destabilized the movement by taking the wind out of its sails. The leadership insisted that it had the safety of the protesters in mind, but movement activists had taken the call of a dharna till restoration seriously, and were angry at having to go

8. Indeed, a legal challenge to the NRO was a threat to other politicians as well.

9. This decision is widely attributed to Aitzaz Ahsan, although Munir Malik insisted that it was taken jointly by the five main lawyer leaders of the movement (interview with Munir Malik 2015).

back home empty-handed.¹⁰ The PPP government agreed in principle to restore the judges, but it continued to stall on delivering on its promise (see Oldenburg 2016).

Phase V: Retreat and Revival (August 2008–March 2009)

After the failure of the 2008 Long March, many movement activists privately believed that restoration was a lost cause. Meanwhile, the main political parties continued to press for Musharraf's resignation, and in August 2008, he did so. In a transition heavy with symbolism, Zardari replaced Musharraf as president.

The movement might well have died there, save for some serious miscalculations by the PPP government. In February 2009, Zardari dismissed the elected government in Punjab using his powers as president, providing the catalyst that the PMLN needed to oppose the PPP openly and to throw its weight behind the lawyers' movement. Movement leaders, emboldened by this fresh infusion of energy into the movement, scheduled another Long March in March 2009 to make a new demand for restoration. This time, the politics of the moment put the PPP government squarely in the cross-hairs of the movement, and although Zardari made furious attempts to prevent the march from taking place, he was eventually forced to accept the demands of the movement and restored all the judges who had been sacked under the Emergency, although in a compromise they had to serve truncated terms (see Oldenburg 2016).

THE JUDICIALIZATION OF POLITICS: THE LAWYERS' MOVEMENT

How did a legal community that had historically been supportive of dictatorial regimes come to challenge an authoritarian regime and ultimately overthrow it? This is the central question that we must answer. One might have expected the legal community to have accepted Musharraf's actions, as courts had done so many times before in Pakistan's history (see Oldenburg 2016), but by coming out on to the streets and engaging in direct protest against the regime, the lawyers had for the first time taken on an oppositional role set on pressuring from *outside* the system, rather than within. This was a remarkable move, especially since, as Ginsburg (2012) reminds us, courts very rarely play any role in "upstream," or democratizing, politics. So how did this happen? While it is clear that there were vital interests driving the legal community, it was the involvement of civil society actors that proved to be a critical factor.

Below, I demonstrate the following. First, there were several factors that had allowed for both the judiciary and civil society actors to acquire greater autonomy under the Musharraf regime, due to the regime's liberalization policies. This not only gave these actors greater flexibility and power vis-à-vis the regime, but it also

10. One of the main slogans of the Long March 2008 was "jeena ho ya marna hoga, dharna hoga dharna hoga," which means, "whether we live or die, the dharna will go on," which had clearly raised expectations among movement participants.

raised expectations in these quarters that the Musharraf regime was a “different” kind of dictatorial regime.¹¹ When the regime acted to preserve its power, the judiciary responded by attempting to preserve the autonomy that it had become accustomed to and, in the process, found itself challenging the regime directly.

Second, while the judiciary’s challenge was initially narrowly confined to legal community members (notably a few prominent lawyers), as the confrontation with the regime became more and more direct, prodemocracy civil society actors joined the effort because they had long opposed the authoritarian regime but had lacked a popular base to launch any challenge. Civil society actors did so because they were pursuing their own strategic interests, but also because many of them had preexisting links with members of the legal community (many of the leaders of the movement were erstwhile “vanguard” cause lawyers, such as Ahmed Ali Kurd and Aitzaz Ahsan, who had been critical of the regime on a variety of issues). Finally, the effect of civil society actors joining forces with the lawyers’ movement was to enlarge the appeal of the movement and make it a broad effort that a large majority of Pakistanis could ultimately support.

The Structure of Upstream Politics

The Pakistani Military Establishment

The broader context for the lawyers’ movement includes Pakistan’s military establishment, or what Siddiq (2007) called the “deep state.” Pakistan has been dominated by its military establishment since its creation in 1947.¹² The problem of finding mechanisms to restrain military establishments exists in all postcolonial societies, but Pakistan’s experience suggests an especially overdeveloped military, with concomitantly weak civilian institutions. Pakistan has been under direct military rule for over half its existence. Even during periods of civilian rule, the military has exercised a great deal of control over policy and resource allocation. The military especially asserts control over defense and foreign policy, but it has made security concerns very expansive, so that even policy domains that may not normally be considered security related become matters over which the military asserts control. As opposed to traditional militaries, Pakistan’s military has also defined domestic security as part of its mandate by linking it to national security, especially in the aftermath of the 1971 civil war that led to the secession of erstwhile East Pakistan to form Bangladesh (see Jalal 2014).

Ayesha Siddiq (2007) has written about the dominance of the Pakistani military establishment, especially focusing on its vast financial interests, and Siddiq argues that the military’s frequent interventions into politics are explained by its need to protect its vast business empire. The result has been military penetration

11. Massoud (2015) suggests that authoritarian rulers sometimes signal that they will be bound by constitutional rules, especially to pursue economic interests, which then raises expectations among judicial actors that the rule of law will be followed.

12. Indeed, the joke goes that while most countries have an army, the Pakistan Army has a country (see, e.g., Economist 2014).

into virtually every sphere of public life, including the bureaucracy and the media, with almost no role for civilian institutions, including the judiciary. This overdeveloped military dominates Pakistani society, working through allies in such a way as to control decision making very broadly both directly and indirectly, and it has come to be known as the deep state (Siddiqi 2007).

Kalhan (2013) frames this military dominance as a civil-military imbalance, and argues that Pakistan has alternated between two constitutional models: the vice-regal model, derived from British colonial policies, which favors centralization and presidential power, and the parliamentary model, which favors federalism and supremacy of a democratically elected civilian parliament (Kalhan 2013, 14). Although the deep state exerts control under both conditions, it favors the vice-regal model, and historically the judiciary has enabled military subversion of democratic rule using such dubious legal mechanisms as the “doctrine of state necessity” (Kalhan 2013, 24; see also Oldenburg 2016). The most recent judicial legitimization of military intervention occurred in 1999, with General Musharraf’s overthrow of Prime Minister Nawaz Sharif. It is notable that Chief Justice Iftikhar Chaudhry was one of the members of the Supreme Court that had legitimated Musharraf’s coup in the Zafar Ali Shah case (2000), but by early 2007, the judiciary was no longer willing to be as compliant as it had been earlier. This was due to liberalization policies that Musharraf had instituted, creating new opportunities that opposition actors were able to exploit, as discussed below.

Liberalization Under Musharraf

In the latter part of his rule, Musharraf engaged in a series of actions that helped liberalize the political system. These policies were designed to take Pakistan in a more liberal direction, especially in response to the War on Terror and Western pressure, which raised expectations among the liberal base. However, these policies also had the unintended effect of creating cracks in the establishment that the opposition could exploit.

There was little popular resistance to Musharraf’s coup in 1999, as many observers had become alarmed by Sharif’s rightward move (Hussain 1998).¹³ Musharraf was perceived by many to be a more benevolent figure than dictators past, and he sought to project himself as a champion of civil rights and liberties. Especially in contrast to Sharif’s conservative orientation, to the previous military dictator General Zia ul Haq, and crucially, to rising fundamentalism in Pakistan, Musharraf appeared to be a liberal champion. Musharraf consciously fashioned himself after Kemal Ataturk, the secular reformist of Turkey, and aggressively sought to project a liberal image (Nasr 2004).¹⁴

Musharraf began a process of liberalization, partly to increase his domestic legitimacy, and partly to accommodate intense external pressure (especially

13. Ironically, Sharif’s actions also included orchestrating a mob attack on the Supreme Court in 1997.

14. Musharraf famously posed with his dogs in one of his earliest postcoup public photos, and he was widely known to enjoy drinking and gambling (Nasr 2004, 201). See also Musharraf (2004).

from the United States). Distinct from democratization, political liberalization involves an easing of civil liberties restrictions within the framework of authoritarianism (O'Donnell and Schmitter 1986; see also Stepan 1988). In the case of Pakistan, the Musharraf regime's liberal reforms were hailed by many (especially civil society activists) as progressive and forward looking (see Zaidi 2008).

First, Musharraf promised to crack down on militant jihadi groups and to implement curriculum reform in the network of madrassas that had become sources of radicalism (Ali 2004; Nasr 2004). Second, Musharraf reformed Pakistan's notorious Hudood laws, which governed sexual behavior, which especially bolstered Musharraf's liberal credentials with women's rights activists (see Sarwar 2006; Weiss 2012). Third, Musharraf engaged in economic liberalization, especially manifested in an aggressive program of privatization of state-owned enterprises (see Khan and Bari 2004). Fourth, Musharraf patronized the arts and instituted the deregulation of electronic media, which resulted in the proliferation of dozens of private television and radio broadcasters.

Musharraf's liberal reforms increased expectations among many quarters that his rule was different from previous dictatorships, especially from General Zia ul Haq's harsh Islamization regime, and that he was sincere in his commitment to liberal values, but the logic of Musharraf's dictatorial rule was wearing thin. All dictators rely to some degree on performance legitimacy (see Huntington 1991), which is an appeal to suspend democratic norms in order to tackle a perceived crisis. However, as dictatorial rule wears on, and the crisis appears to be unresolved, people grow restive about having traded their civil rights and liberties for a dictatorship that seems unable to tackle the very problem for which it had given itself a mandate. In the case of Musharraf, the main rhetorical appeal of his rule had been that army rule was necessary to tackle the problem of terrorism and economic crisis, but as time went on, these problems not only failed to ease, but even grew in scale and scope.

In addition, there were some discordantly illiberal moments for the Musharraf regime, perhaps most noteworthy among them being the high-profile gang-rape case of Mukhtar Mai. The case became internationally famous, which put tremendous pressure on the government to take action. Although the Musharraf regime took a few steps to bring Mukhtar's rapists to trial, the government was also displeased at the negative publicity her case was bringing to Pakistan, and barred Mukhtar from traveling outside Pakistan (see Jahangir 2004; Saleem 2011).

The case aroused a furious backlash among women's rights activists in Pakistan, and directly contradicted the liberal image that Musharraf had carefully cultivated both at home and abroad (see Hussain 2007). Although he remained popular in some quarters, by the time the lawyers' movement began in March 2007, Musharraf was on the defensive. When Musharraf suspended the Chief Justice in March 2007, his actions angered a powerful constituency that had previously been supportive of his regime. When Musharraf declared the Emergency in November 2007, even some who had been his most vocal defenders thought that he had made a serious error in judgment and turned against him, ultimately providing a powerful opportunity to lawyers to bring him down.

The Rise of the Middle Class

An important backdrop to the lawyers' movement is the rise of the middle class in Pakistan. Pakistan is a low-income and largely agrarian society, but the 2000s saw the rise of a small but rapidly growing urban middle class. By one measure, between 2002–2011, the middle class grew from 32 percent to 55 percent of all households (Ghani 2014). The factors contributing to this rise have been debated, but what is more pertinent is that this class has the potential to shift political discourse in Pakistan, and it was this urban middle class that gave the lawyers' movement its heaviest support.

The crucial role of the middle class in fostering democracy has been widely noted by modernization theorists (see Moore 1966; Huntington 1991). Whether the middle class in Pakistan will be key to sustaining democracy remains to be seen, but we can certainly see a shift in the way that urban middle classes engage with the state, and in the kinds of political demands that they make. Historically, Pakistani politics have been dominated by the feudal sector. The relationship of rural people to the state is necessarily tenuous, since their access to state resources and processes is not direct, but is instead contingent on regional landowners who form alliances with governing parties and the establishment. In such a milieu, rural Pakistanis cannot hope to exercise any direct demands on the state; instead, they must hope for material rewards based on their demonstrated loyalty to regional feudal landowners. However, the politics of an urban middle class are dramatically different. Ghani describes middle-class values as “optimism and confidence regarding the future, a preference for moderation and stability,” and a desire to invest in the long-term future of their country (2014, 1). An appeal to the rule of law would be particularly resonant with this class.

This class had benefited from some of Musharraf's liberal economic policies, and it was this class that eventually turned against him, primarily in the form of lawyers who are professional and middle class. However, the appeal of the lawyers' movement resonated beyond the legal community to other sections of the middle class, and this was demonstrated in the fact that the most active members of the movement were urban constituencies such as students, human rights activists, media workers, and other urban professionals such as doctors. To be clear, these groups likely felt an attachment to the rule of law much earlier, but the great expansion of this class made its demands much more influential. It is therefore not a coincidence that whereas previous challenges to military dictatorships had come from the rural sector, this time it was a movement led by urban, middle-class professionals.

The Mobilization of Social Networks

Ginsburg notes that “in very rare cases, courts may make crucial decisions that turn out to be focal points for broader oppositional coalitions to mobilize” (2012, 727). In the case of Pakistan, this was the Supreme Court's crucial decision to bar Musharraf from running for president, and the broad oppositional coalition included lawyers, student groups, citizen groups, unions, and others. This coalition was able

to mobilize in part thanks to the considerable resources that the legal community enjoyed, as well as the social linkages that connected lawyers and civil society actors. Finally, civil society actors were able to draw on social linkages among themselves in order to mobilize a broad coalition against the regime.

Bar Associations

The lawyers' community had a vast in-built network that could be easily mobilized for collective action in the bar association infrastructure—what Tarrow calls “connective structure” (2011, 29). All lawyers are governed by the Pakistan Bar Council, which is regulated by the Legal Practitioners and Bar Councils Act of 1973. The Bar Council oversees the provincial bar councils (Sindh, Punjab, Khyber Pakhtunkhwa, Balochistan, and Azad Kashmir), as well as the Supreme Court Bar Association. Each provincial bar council oversees the bar associations of its respective cities and districts. The bar associations are organized on a district level, then aggregating up to the provincial level, and then the national level. The bar councils regulate membership in the profession and determine the level at which lawyers are allowed to practice law. Each district has a bar association office, and it was these bar offices that became the backbone of the movement. They provided the infrastructure for planning activities, for generating resources, and for strategic and tactical discussions.

Because the bar associations are professional entities, they were able to enjoy a degree of autonomy that civil society activists were often unable to do. Significantly, many of the leaders of the legal community already enjoyed a high social and political stature, especially Aitzaz Ahsan, Ahmed Ali Kurd, Hamid Khan, Munir Malik, and Tariq Mehmood, who led the movement formally through the formation of the National Action Committee of Lawyers (NACL), which issued orders through the bar associations (see Z. S. Ahmed 2010, Figure 1; see also Ghias 2010).¹⁵ The real value of this network was its ability to connect the national and provincial leadership to rank-and-file lawyers at the local level. Table 1 lists the various district bar associations across the provinces of Pakistan.

This well-organized structure provided an incredibly powerful network to mobilize lawyers around a single goal. As a young lawyer put it:

[The bar infrastructure] played an essential role, because you had a ready-made [organization], and that's something that takes political parties years to achieve: an organization in every district. Here you had an executive body that you could call on everywhere. The president of the bar, more so in smaller cities, is usually a relatively well-connected person. He's known in their society, so it's not very difficult for him to get other people together. In both Long Marches, we would just be in touch with our representatives, in whichever district we would be staying overnight, and the district bar president or the high court bar president would make

15. As aforementioned, many of these leaders were well known to civil society actors as lawyers who advocated social and political change, and in that sense could be said to perform a vanguard role (see Hilbink 2004).

TABLE 1.
Pakistan Bar Associations

Province	District Bar Associations	
Azad Kashmir	Bagh	Mirpur
	Bhimber	Muzaffarabad
	Hattian Bala	Neelum
	Kahutta	Rawalakot
	Kotli	Sudhnuti
Balochistan	Data unavailable	
Khyber-Pakhtunkhwa	Shangla	Abbottabad
	Peshawar	Lakki Marwat
	Bannu	D. I. Khan
	Mingora	Kohat
	Timergara	Karak
	Chitral	Swabi
	Bathkhela/Buner	Mardan
	Mansehra	Charsadda
Punjab	Haripur	Nowshera
	Bahawalpur	Lahore
	D. G. Khan	Multan
	Faisalabad	Rawalpindi
Sindh	Gujranwala	Sargodha
	Larkana	Mirpurkhas
	Hyderabad	Sukkur
	Karachi	

Source: Compiled by the author.

arrangements. And he would organize a big reception over there of all the political parties in that city, he would be able to organize sleeping arrangements and eating arrangements for thousands of people. So it was quite easy to coordinate nation-wide strikes, or nation-wide rallies. . . . So the structure, the hierarchy, I think that was very important. (interview with Salahuddin Ahmed 2015)

Ghias (2010) has shown that this network had already been unified around a common vision earlier, starting in 2005. He notes that there had been a struggle within the Pakistan Bar Council between 2005 and 2006, which was manifested in bar elections; by 2007, an anti-Musharraf faction was firmly in control of the bar network.

As Z. S. Ahmed notes: "The lawyers' nation-wide infrastructure and decentralized character (albeit with a centralized leadership) strengthened the movement's organization and communication, enhanced unity of effort, and made it very difficult for the regime to suppress the lawyers' activities" (2010, 503). But a critical additional factor that provided unity for the movement was that lawyers perceived that Musharraf was directly threatening their *material* interests. A young lawyer member of the movement explained it thus:

The main reason for me to participate [in the movement] was that I had joined a profession which had this ability to pass an order, to give you a

piece of paper by which you can exercise your right. Now, if I know that tomorrow the value of that piece of paper will be nothing, if people can go around buying it easily, any other institution can just simply come in and take over this institution, then my career, my profession will just go down the drain. (interview with Tahmasp Rizvi 2015)

Even when lawyers did not frame their motives in material terms, they often spoke about their reasons for joining the movement as being very narrowly focused on the institution of the courts. For example, movement leader Anwar Kamal said that “the military government had outlived its welcome” and that

[w]e were not concerned about the whys and the wherefores. We lawyers were concerned about the fact that *our institution* had been attacked. *Our institution*, in our eyes, had been destroyed, and it was just a moral obligation, a duty, to resist that. (interview with Anwar Kamal 2015, emphasis in the original)

The appeal of material and institutional interests explains why the movement managed to sustain itself, even when it faced some serious obstacles from the democratic Zardari government in Phases IV and V (see above). Especially after the aborted dharna in June 2008, the lawyer community was despondent, and many (especially young lawyers) had lost their confidence in the movement’s leadership:

We protested very loudly, we shouted slogans against the lawyers’ leadership for calling off the dharna at that point, because throughout, the message had been that we were going to go there, and there was going to be a dharna, and we’ll just sit there until the Chief Justice is restored. I think after the dharna was called off, at least as far as the young lawyers were concerned, that kind of broke the back of the enthusiasm for lawyers. I don’t think after June 2008 we were ever able to recapture the kind of enthusiasm. We still went out, we still marched, we still participated in rallies, but that enthusiasm was gone. . . . So tactically that was handled quite badly. It was a stroke of luck, perhaps, that things still happened to work out the way they did. After the failure of the first long march, and I would call it a failure, I think not even the leaders of the lawyers’ movement believed that the Chief Justice would be restored. (interview with Salahuddin Ahmed 2015)

But material and professional interests continued to push the movement forward. In addition, critical roles were played by civil society activists, as well as some politicians, and I discuss these below.

Civil Society

Civil society actors were motivated by different interests than lawyers (which sometimes caused friction within the movement). Within civil society, there was a huge diversity of ideological interests, including those of women activists, labor

unions, students, Islamist groups, professional associations including those of doctors, leftist groups, and others. Activist groups were explicitly formed in the urban centers to advocate for the cause of restoration of the judiciary; in Karachi, for example, the citizen's group People's Resistance formed within hours of the Emergency, bringing together civil society activists and ordinary citizens, some of whom had become politically active for the first time in their lives. Many others in the group were seasoned activists and could draw on past experience. Similar activity took place in Lahore and Islamabad (see Siddiqi 2008).

Although movement participants agreed on the single-point agenda of the restoration of the judiciary, the motives of the lawyers and civil society groups differed greatly. Whereas lawyers were primarily interested in maintaining the autonomy of the judiciary as a professional interest, civil society actors were motivated by the opportunity to topple a dictatorship and restore democracy. Most civil society actors already had an ideological commitment to democratic governance, but the erstwhile proestablishment lawyers' community had become convinced to target Musharraf only after its interests had been directly attacked (see, e.g., earlier quote from Munir Malik). So, while both lawyers and civil society activists agreed that the removal of Musharraf was necessary, they saw his removal as a means to *different* ends. For lawyers, the removal of Musharraf was a means to restoring the judiciary. However, for many civil society activists, the removal of Musharraf was a means to restoring democracy, and for many others it was only the starting point for deeper structural reform of society.¹⁶ A civil society activist put it this way:

Primarily it was an anti-Musharraf movement for me. When Musharraf's coup took place in 1999, the following day, there were only fifteen people standing outside the Press Club, protesting against Musharraf—I was one of them—but that's it. And we kept going back, and it never took off. No one was protesting. And a lot of people bought into the fact that for instance, Nawaz Sharif was about to declare himself Amir ul Momineen. . . . And at that time Nawaz Sharif had also done a crackdown on NGOs across Pakistan. . . . So there was this general sigh of relief that, well, this guy we'd gotten rid of. So at that time, I remember having a very severe reaction. . . . For me, I think, there was a lot of pent-up frustration at people not reacting to Musharraf. For me, it was all foreshadowed by Zia ul Haq . . . and for me there were all these fears that how can we allow a system like this to take root again? So I think there was a lot of, for me, angst over this, that why hadn't there been a movement against Musharraf? And the lawyers' movement was probably the first broad cross-section of one to emerge, against Musharraf. That did draw me to it. (interview with Nazish Brohi 2015)

Many civil society activists were already convinced of the illegitimacy of the Musharraf regime (as opposed to the judiciary, which had, after all, legalized

16. This difference in motives was usually kept well concealed, but on a few occasions it did become exposed, especially in the angry reaction to the leadership's decision to call off the June 2008 dharna. This contradiction also had consequences for the legacy of the movement.

Musharraf's coup in 1999). They saw Musharraf's attack on the judiciary not as a new and isolated incident, but as part of a pattern of the abuse of power and, indeed, as an expected outcome of allowing an illegitimate military government to continue to rule. A prominent civil society activist, Naeem Sadiq, put it this way:

As a citizen of this country, I have always been looking at this country developing on civilized democratic lines. The person who ordered the dismissal of the judiciary was a military dictator. I, as a citizen, had personally been campaigning, through my newspaper writings, that he ought to not be the head of the country, and the country should get a normal democratic system. *Somewhere around that time, he made that big mistake of dismissing the judiciary, which came as a last straw on the camel's back.* When that happened, not just me but thousands of other people in Pakistan felt absolutely miserable by seeing that such a grotesque thing had happened, and that there was a need for people to raise their voice. (interview with Naeem Sadiq 2015, emphasis added)

Some civil society activists saw the restoration of the judiciary as *secondary* to the goal of restoring democracy and, indeed, some activists abandoned the movement after institutional negotiation moved to the partisan arena:

The political leadership was out of the country. None of them could come back in. Benazir was not here, Nawaz Sharif was not here: the two main political parties. PTI didn't exist, MQM was sitting in Musharraf's lap, and the MMA government Musharraf escorted into power. So for me it was also that the initial draw to the lawyers' movement was that there actually wasn't a political opposition in the country... Although I will say that in the middle of all this, Benazir came back too. And when she came back, I just moved away from the movement, from the lawyers' movement. Because I thought, hey, politics is back. Don't need the lawyers anymore... After Musharraf resigned, I thought the movement should have disbanded. (interview with Nazish Brohi 2015)¹⁷

Many activists noted that they were excited by the lawyers' movement because it showed that people could bring about change. Students in particular were an important constituency that provided moral legitimacy to the movement (see Bolognani 2011). Student activists at Lahore University of Management Sciences (LUMS), an elite institution, were especially active in the movement, and their participation was an important signal that Musharraf had lost the support of his liberal elite base.

When we started doing this ... Musharraf really did not anticipate that this would happen at LUMS. Because LUMS is a private institution ...

17. PTI = Pakistan Tehreek-i-Insaf, now Pakistan's third largest party in parliament; MQM = Mutta-hida Qaumi Movement, a Karachi-based ethnic party for the Muhajir community that has its roots in pre-Partition India; MMA = Muttahida Majlis-i-Amal, a coalition of Islamist parties that had come into power in provincial governments under the Musharraf regime.

and also, LUMS is a very elite institution, we are the children of the establishment. (interview with Sundas Hoorain 2015)

Many civil society activists also saw the potential of the lawyers' movement to mobilize people for other causes, especially outside a liberal NGO framework. A civil society activist said the following about why he joined the movement:

I had only one motivation. . . . My point of view was that we [civil society activists] should all join the movement because this was a unique opportunity that we could exploit to do outreach to the masses. . . . Those of us in NGOs cannot reach the masses, which we don't do even though that is our mandate. So this would be good, since all of our work is non-political, and this would be one opportunity to do political work, to reach out to the masses and share our ideological point of view with them, using the movement as an excuse. (interview with Wali Haider 2015)

This perspective is particularly resonant in light of the widespread perception within Pakistan that there has been a long-term weakening of civil society. As another example, protests would often be attended by activists holding signs that highlighted other causes such as Balochistan (see Figure 1).

The lawyers' movement also demonstrates the value of social networks in movements. While the social linkages among lawyers were very dense and strong, there were also preexisting linkages between lawyers and civil society activists. Several lawyers were well known to civil society activists and there had been interactions between the two prior to the movement (interview with Nazish Brohi 2015; interview with Anwar Kamal 2015). Indeed, the NACL included at least one civil society activist among its ranks (interview with Diep Saeeda 2015), and the movement leadership made great efforts to reach out to civil society when organizing events and rallies (interview with Salahuddin Ahmed 2015). The great advantage was that these actors could be mobilized fairly easily given their deep experience as activists, and the movement could broadly claim to be striving for social justice and not just for the narrow restoration of the status quo for lawyers. Lawyer Salahuddin Ahmed noted that the support of civil society gave the movement "great validation" (interview with Salahuddin Ahmed 2015).

Munir Malik, a movement leader, acknowledged the critical role that civil society played:

We couldn't do it alone. We had to create that consciousness in the masses. We had to change mindsets within the judiciary. We had to give the judiciary the feeling that the people are with you. . . . Civil society played its major role in sensitizing the masses. . . . *Without them we would have been a footnote in history.* (interview with Munir Malik 2015, emphasis added)

However, there remained a clear demarcation between the lawyers and the civil society activists. For example, civil society activists were not allowed into bar



FIGURE 1.

Sign from Protest in Hyderabad, February 2008 [Color figure can be viewed at wileyonlinelibrary.com]

Source: Author's personal photo.

offices (since nonlawyers could not enter), which served to maintain both the autonomy of the bar and a divide within the movement. The leadership of the movement also remained firmly in the hands of the lawyers, and indeed within the very small group of elite lawyers (Aitzaz Ahsan et al.). Although neither rank-and-file lawyers nor civil society activists minded this hierarchical structure, this did act to keep the focus of the movement very narrowly on the interests of the legal community, and did not easily allow the movement to take on other reforms, as civil society activists wanted.

The lawyers' movement remained inspired and led by lawyers, and they provided much of the material and organizational infrastructure that enabled the movement to be successful. However, civil society was key to the movement, *precisely* because the presence of these actors helped dilute the self-interested image of the movement. Therefore, even though civil society activists were much fewer in number than lawyers, they were nevertheless absolutely vital to the success of the movement, especially in terms of projecting a democratic and social justice message to the larger society. Civil society was the reason the lawyers' movement came to be seen as a people's movement, and helped to frame the narrative for movement leaders.

Political Parties

Finally, it is necessary to note the crucial role played by politicians in helping propel the movement to its successful end. In a crucial series of events, the struggle for restoration entered the partisan sphere. First, Asif Ali Zardari of the PPP maneuvered to force Musharraf to step down from the presidency. Next, Nawaz Sharif of the PMLN entered the fray to force Zardari to restore the judiciary. These developments had much to do with the interparty jockeying for power that acquired intensity after it was clear that Musharraf was a lame duck who was no longer supported by the army or the United States.

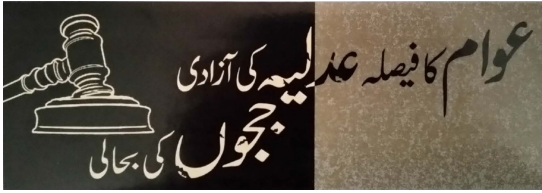
Neither of the main political parties was willing to take a clearly oppositional stance in 2007 as the Musharraf regime attempted to stage a managed transition to democratic politics. This dynamic changed when Musharraf imposed the Emergency, and the resultant popular movement shifted the calculus for both parties. As both major parties backed away from making any deals with Musharraf, they turned increasingly to their own popular bases and to preparing for elections. This left Musharraf increasingly fragile and helped make his resignation inevitable.

The PPP's ascent to power in 2008 further changed the political dynamic. As noted earlier, it put the PPP in an awkward position since it was publicly committed to restoration by that point, but it also had strong incentives to resist restoration. This shift in dynamic allowed the PMLN to take continually bolder stances in favor of restoration (indeed, disagreement over restoration was one of the main factors for the PMLN leaving the grand coalition in May 2008).

However, the failure of the 2008 Long March to achieve restoration created a slump in the movement, and even the PMLN appeared to put its efforts toward restoration on hold. But the PPP overplayed its hand, as discussed earlier, which provided an opportunity for the PMLN to use the issue of restoration for direct political advantage, since electoral power was now at stake. If it had not been for the PMLN's full backing of the movement, it is unlikely that the lawyers' leadership would have called for the second Long March in March 2009 (interview with Salauddin Ahmed 2015).

Popular Imagery of the Lawyers' Movement

Lawyers and civil society activists jointly produced a compelling rhetorical narrative for the lawyers' movement that had popular appeal. The lawyers' movement had a long tradition of tactics and rhetorical imagery to draw upon. Pakistan has a robust tradition of antidictatorial movements, despite the best efforts of antidemocratic forces. Although Pakistan has been governed by military regimes for more than half its existence, it is also true that most of those regimes have been ousted (at least in part) by popular democratic movements that have pushed for a restoration of civilian rule. Many lawyers' movement leaders had experience with past protests (indeed, Muneer Malik had helped lead a Long March in 2002 against Musharraf, but that attempt did not gain any traction). However, the popular imagery of the movement enabled the lawyers to appeal to constituencies beyond their own narrow profession (see Figures 2 and 3).



The People's Verdict:
Independence of Judiciary
Restoration of Judges

FIGURE 2.

Car Bumper Sticker [Color figure can be viewed at wileyonlinelibrary.com]

Source: Author's personal photo.

As discussed earlier, by 2007 the Musharraf regime was weakening, and many of the government's actions had served to undermine Musharraf's liberal image. This provided a rhetorical opening for his opposition, and the appeal of the rule of law was particularly resonant with the new urban middle class. Juxtaposed against the equally dictatorial and hapless figure of Musharraf was Chief Justice Iftikhar Chaudhry, who had started acquiring a reputation for being the "people's judge" in 2005 (interview with Salahuddin Ahmed 2015; Cheema and Gilani 2015). Aiding this reputation were some well-publicized cases in which the Supreme Court under Chaudhry's direction appeared more and more willing to challenge the regime. The two most noteworthy cases in this regard were the *Pakistan Steel Mills* case and the *Missing Persons* case (see Ghias 2010; Oldenburg 2016), but also included others that effectively expanded the use of public interest litigation. Ghias (2010) has argued that these cases were part of a larger judicial response to the anxieties produced by economic liberalization, and all this served to lionize the Chief Justice even further. Movement leader lawyer Anwar Kamal noted that even before Musharraf demanded his resignation, Chaudhry "had become a symbol of justice, because he had been calling in state functionaries and questioning various actions or inactions. . . . [H]e had become a symbol of justice for the downtrodden" (interview with Anwar Kamal 2015). The actions of the Chief Justice created a new sense of faith in the judicial process as a means of redressing economic anxieties,



Release All Judges and Lawyers!
The People's Mandate: Restore the
Judiciary!
9 March: Send Musharraf Packing!

People's Resistance (Karachi)

FIGURE 3.

Banner from Protest in Karachi, March 2008 [Color figure can be viewed at wileyonlinelibrary.com]

Source: Author's personal photo.

which particularly resonated with the urban middle class, and the appeal of the rule of law was greatly strengthened (Oldenburg 2016).

The imagery of the movement had a readymade element of drama, since lawyers would march in their customary black coats, making the rallies immediately recognizable as linked to the movement. The media played a valuable part by televising movement activities and by framing the contest between Musharraf and Chaudhry as “a question of Musharraf’s authority to suspend the chief justice as opposed to the question of Chaudhry’s alleged misconduct” (Ghias 2010, 1003). Many movement participants I spoke to readily acknowledged the helpful role played by the media, since it took a decisive position against Musharraf. The media also had a vested interest in targeting Musharraf, since a crackdown on the media had been one of his first acts when instituting the Emergency.

The main slogans that the movement deployed helped amplify the contrast between the dictatorial Musharraf and the people’s hero Chaudhry, and helped popularize the concept of the rule of law beyond the legal community. One such slogan was “Restore the Independent Judiciary,”¹⁸ which directly appealed to the image of the Chief Justice as a bold advocate for the common person (even if, in fact, the judiciary had been less than independent for most of its existence). Another slogan celebrating the Chief Justice was “Dear Chief, your loyalists are uncountable,” and yet another was “Go, Musharraf, Go.” Slogans that framed the movement as one of national import included “We have set out to save the country, come march with us.” Indeed, the rhetorical appeal drew on Pakistani cultural traditions. For example, as Z. S. Ahmed (2010) has noted, protests often included renditions of the popular revolutionary song “Hum Dekhein Ge” (“We Shall Be Vindicated”) by Marxist poet Faiz Ahmed Faiz, and also drew on the work of popular Sufi mystics. Finally, the music band Laal produced revolutionary popular music, which helped attract students and young people to the movement and helped sustain popular participation in the movement (Z. S. Ahmed 2010, 506–07).

CONCLUSION

The lawyers’ movement was remarkably successful in its stated aim of removing General Musharraf and restoring the deposed judges of the higher judiciary. This success was enabled by a mobilized lawyers’ community that combined with civil society activists to make appeals to the general public on the basis of the rule of law. These appeals were particularly resonant with a newly empowered urban middle class, and Musharraf’s liberalization gave the movement an opening that it was able to exploit successfully. The Pakistani case also suggests that not only can judiciaries under authoritarian regimes become politicized, they can also become mobilized against the existence of the regime itself, if they are able to partner with civil society actors.

What does this movement tell us about the larger relationship between lawyers and society? Certainly, in the case of Pakistan, and probably globally, this was a

18. These and many of the other slogans were mostly chanted in Urdu and have been translated into English by the author. Many of them sound more poetic and elegant in the original Urdu.

remarkable engagement for a profession that, despite some notable exceptions, usually remains cloistered within the courtroom, and the historic nature of that engagement cannot be overestimated. This is especially true since the judiciary in Pakistan has historically been proestablishment and has typically provided legal cover for dictatorships and the deep state in general.

After the restoration of the judiciary, the lawyers' leadership demobilized, which frustrated some civil society activists. They had seen the promise of using the courts to push for social reforms and were disappointed when it appeared that neither lawyers nor the judges were willing to continue mass mobilization with the goal of extending democratic consolidation, especially to challenge the deep state and rectify what Kalhan (2013) calls institutional imbalance.¹⁹ Access to the courts remains uneven and trials are lengthy. Further, since as many as 80 percent of disputes are handled outside the judiciary (often by traditional forms of dispute resolution), the promise of an independent judiciary guaranteeing the rule of law in a robust democracy has been elusive (see Dawn 2015; Oldenburg 2016). Will lawyers and judges be willing to undertake reforms within their own ranks, which would enable better and quicker access to justice? Thus far the record has been disappointing. It remains to be seen whether the lawyers will be willing to undertake such reforms in the future.

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19. Indeed, the restored Chief Justice appeared to embark on a vendetta against the PPP government, which had the effect of potentially destabilizing a fragile democracy and emboldening the military.

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