

# ISAS Brief

No. 7 – Date: 16 May 2007 (All rights reserved)

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## **Pakistan's Constitutional Crisis – What's Next For Musharraf?**

**Dr Marie Lall<sup>1</sup>**

The last three days have seen some of the worst violence in Karachi for the last decade. On 12 May 2007, suspended Chief Justice Iftikhar Muhammad Chaudhry arrived at the airport to address a rally. The lawyers of the city had gathered in the High Court to wait for him. However, the Chief Justice never managed to enter in the city as the roads had been blocked. Nine hours later, he flew back to Islamabad. Down town at the courthouse, the lawyers were prevented from leaving the building. Two of the three entrances were physically blocked and, at the third, a gang of armed Mohajir Qaumi Movement (MQM) supporters stood guard, not letting anyone in or out.

In the meantime, street battles ensued between armed MQM supporters and protesters, with the former showing its support for the Musharraf government and the latter demanding his resignation. The police was conspicuously absent. Over 30 people were killed on that day alone. The violence continued on 13 May 2007 and shoot on sight orders were issued the following day as a strike engulfed the city. The government has blamed the Chief justice for the violence, making it clear that he had been warned not to travel to Karachi. As of 14 May 2007, Article 144 has been enforced, banning the meeting of over four people, bar for weddings or funerals. Strangely enough, schools and courts were operating on 14 May 2007, as the calls for more strikes grew louder.

This is Pakistan's latest constitutional crisis and Musharraf's biggest challenge since he took over in 1999. The background to the crisis lies in the suspension of Chief Justice Chaudhry in March 2007 on unprecedented charges of 'misuse of authority' levelled in a reference filed by President General Pervez Musharraf with the Supreme Judicial Council for his dismissal from service.

His suspension amounts to a dismissal as his successor was immediately sworn in. Chaudhry was to be questioned by the Supreme Judicial Council under article 209 of the Constitution on charges which have not been made public but which many believe are base on a letter

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written by Advocate Naeem Bokhari complaining about the Chief Justice's misconducts which include his insistence on pomp, his son's training in the police academy and the issue of issuing different oral and written judgements in court.

Despite these allegations, Justice Chaudhry is known for bringing a marked improvement in the Supreme Court's performance, especially with regard to clearing a huge backlog of pending cases which, during his 20-month tenure were reduced from 38,000 cases to around 10,000. Besides this, free legal aid was provided to un-represented jail petitioners who could not afford to hire the services of a lawyer.

The Chief Justice also took interest in a number of human rights violations, including the cases of people who had disappeared as part of the war on terror. A large number of detainees who were picked up by intelligence agencies were ordered to be released under his tenure. His suo moto action resulted in quick relief to the common man. The Supreme Court during his tenure also stopped the privatisation of Pakistan Steel Mills. In short, the Chief Justice had done a number of things which did not endear him with the administration.

However, the crisis has to be seen in light of the larger issues facing Pakistan today – the planned elections in the autumn 2007 and the desire for President Musharraf to remain in uniform whilst holding the presidential office. Wider domestic issues related to the problem are the violence in Balochistan and the war on terror with American forces operating throughout Pakistan's western border provinces. The Chief Justice had made it abundantly clear on several occasions that he was not going to endorse Musharraf as both the head of armed forces as well as president if he won the elections. Holding the elections was therefore inviting not only the risk of a large scale Baloch insurgency, but also the risk of a showdown between the Chief Justice and the president. Removing the chief justice solved at least one of the two issues.

However the Pakistani government seems to have miscalculated the effects of such a move as lawyers who for the most part had not been too fond of Chaudhry, rallied behind him insisting on an independent judiciary. Domestically the crisis has wide-ranging effects as all opposition parties have come together despite their differences calling for Musharraf to step down. Those of the public who supported Musharraf have now largely withdrawn their support.

Economically, Pakistan will face further direct and indirect financial losses as foreign direct investments stay away. Besides, an estimated 20 billion rupees were lost in the three-day long weekend violence that has left 48 persons dead and over 150 injured. The risk of further violence on ethnic lines is increasing as the International Crisis Group confirms, especially since the MQM draw its support from the Mohajirs who make up around 50 percent of Karachi's population. Historically, they have always been pitched against the Sindhis whose capital Karachi is.

The international consequences are not to be dismissed either. The government seems reluctant to call for a state of emergency as it would go down badly with the American allies. The situation between the United States and Pakistan has become increasingly tense over the last few months not least with regard to Pakistan-Afghani relations and the war on terror. India, on the other side of the border, watches these developments with apprehension as the peace process hinges largely on promises made by Musharraf.

The violence has left Musharraf very much between a rock and a hard place as he has to try and find a solution to the crisis. The re-instating of the Chief Justice would go a long way. However, this would strengthen Chaudhry's position who will probably insist that Musharraf shed his uniform after the elections. It might already be too late for that now.

The government seems to be waiting for the riots to run out of steam, yet this does not seem likely as over the past two months the movement has increased in momentum. The last alternative is declaring an emergency, cancelling the elections and jeopardising international relations. It is at this point not clear which way Musharraf will turn. However, whichever way he turns, it will be at a high cost, both domestically and internationally.

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