

## **Lawyers' movement and social movement theory: A critical Analysis**

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### **Abstract**

This research concerns a critical analysis of the Lawyers' Movement (2007-2009) in Pakistan through the lens of a social movement theory (SMT). The Lawyers' Movement represents the joint struggle by the legal fraternity for the restoration of the deposed Chief Justice of the Supreme Court of Pakistan by the then General/President Pervez Musharraf. The paper finds that as an unprecedented event in the political history of Pakistan, the lawyers' community was not only able to organize itself as a united pressure group, but also successfully mobilized public support from various sections of society. The study argues that within the constitutional provisions of freedom of expression, the legal fraternity amicably converted a purely legal-professional issue into an organized social movement. The deposed Chief Justice and other judges of the apex court were restored. Methodologically, this research analyses the lawyers' movement using a social movement theory approach. The study thus makes a humble methodological contribution, and further enriches our understanding of social movements in developing societies like Pakistan.

**Keywords:** Lawyers Movement, Theory, Social Movement, Pakistan

### **Introduction**

Individuals in the legal profession and their associations refused to accept the dictation of Gen Musharraf asking the CJ to resign. On 9 March 2007, the then President and Chief of Army Staff General Musharraf called on the Chief Justice of Supreme Court and asked him to resign. This was the starting point of the LM. The *suo motto* actions of the CJ, specially the cases of Pakistan Steel Mills' privatization and the missing persons, became the major reasons for his abrupt removal. Concurrently, whereas the Court also started

hearing the cases in order to probe the maltreatment of power or misuse of authority including large-scale investigations in politically controversial cases, which angered the ruling regime and became the major reasons for extra-constitutional steps of General Musharraf. After removal of the CJ, a legal reference was filed against him with Supreme Judicial Council (SJC) in the hope that the superior judiciary will fall in line and give legal cover to an essentially political decision. Legal proceeding of the SJC began on 13 March 2007. The full court bench comprising of 13 judges restored the CJ on 20 July 2007. However, an emergency was imposed on 3 Nov 2007 and constitution was suspended. (Anwar 2009; Khan 2010: 17-18). For the first time, lawyers kept aside their political affiliations and supported the cause of independent judiciary. (see various news stories on the LM, for example, see, James Traub, *The Lawyers' Crusade* published in New York Times, June 1, 2008) Although the movement was peaceful but the military regime did not tolerate this challenge and the lawyers faced police brutality so much so that some fifty judges were injured. (The News, March 18, 2007) In Karachi some street fights took place between supporters of the CJ and pro-government political activists which resulted in the death of forty persons and injured another hundred. (Dawn, May 13, 2007) The media remained actively involved in the lawyers' movement. Even Geo News went off air as a consequence of governmental ban, and faced direct police attack on its headquarter in Islamabad. (NYT, June 1, 2008; Khan 2007) The tragic death of Benazir Bhutto in 2007 added another dimension to the struggle. Resultantly, General Elections were held in Feb 2008 in which two political parties, PPP and PML-N, received together a majority vote and formed coalition government at Federal level. Gen. (R) Musharraf was forced to resign first from the army chief post and later as president. The newly elected president, Asif Ali Zardari also showed reluctance to restore judges and offered fresh oath to the deposed judges. The CJ and other five judges were restored on March 16, 2009 amid a grand protest rally organized by PML-N.

After brief introduction, the remainder of the study is organized as follows. Section two briefly discusses review of literature, and section three elaborates social movement theory. An analysis of the LM is provided in the fourth section. The final section concludes the paper.

### **Review of Literature**

A look at the media reports, and academic and semi-academic studies show that the LM has not been studied using SMT approach. The central focus of recent scholarship has been on the judicial independence and rule of law. Most of the literature looks at the issue from a top-down process dictated by the rational self-interest of political elite. In his study, Abdullah Fareed Khan (2010), covers some of the literature on the roots of judicial power and its impact upon Pakistani political culture, as well as the use of new technology of communication during the LM. James Traub discusses the major role of barrister Aitzaz Ahsan who organized the crowds and the bar associations. Pakistan's constitutional history was described as "a series of elaborate jurisprudential efforts to vindicate and facilitate military interventions into democratic politics." (NYT, June 1, 2008) In his article Farooq Tariq, highlighted the response of CJ (as Chaudhry's "No") was a landmark in the history of the judiciary. Every previous military coup had been legitimized by the country's top judges. The writer has covered all phases of the movement and stated that the most important aspect of the movement was its clearly chalked out demand in which the Musharraf's dictatorship is clearly seen as a brutal regime trying to curb the rising consciousness of independent judicial system. (March 7, 2008, accessed at: <http://links.org.au/node/305/611>) Azmat Abbas and Saima Jasam (2009:3) mentioned the subservient nature of judiciary to executive for almost 60 years. Historically, the inaction of the members of the superior judiciary, for vested interests, impeded reforms in the lower courts. The Lawyers' Movement was labelled with different titles such as: "Pakistan's Black Revolution," "road to stability," "the right direction," and "the rebirth of Pakistan." (ibid) Susanne Mahrwald (Aug 26, 2009) discussed landed gentry's domination in politics and state institutions, hampering rule of

law and democracy. The writer analyses the LM in relation to weak democratic structure and rule of law in Pakistan. She specifically highlighted the mistakes on part of the higher judiciary of supporting the military regimes. Given this historical context, the CJ's resistance to a military dictator was considered as landmark that spurred the LM.

### **Methodology and Theoretical Perspectives**

Overall, this research is qualitative in nature. Due to lack of academic literature available on the subject, the study mostly focuses on the media coverage of the movement as well as the op-ed content of the local and international newspapers. The Social movements (SMs) are group action focusing on specific social or political issue. More often, SMs are supposed to be carried out in advanced democratic societies. However, some may be observed in military regimes having democratizing effects. Pakistan's Lawyers' Movement (LM) is one such case in point organized in the era of a military dictator.

### ***Social Movement Theory***

The theory of liberal-individualism essentially focuses on individual as maximizer of his self-interest. The theory of social action, as proposed by Mancur Olson (1965), states that individual rationality lies at the center of all social movements. His philosophical foundations also provided basis for the resource mobilization theory (RMT). The RMT approach is generally explained within the broader context of resource mobilization perspective. The main focus is on the utilization of human, economic, cultural and political resources by the movement. The RMT considers rational consideration of individuals with reference to different costs and benefits, linked with movement participation. The everyday decisions especially by the leaders of social movements are the starting point for RM theorists. In order to appeal to the existing political and ideological orientations of potential sympathizers before they could calculate their costs and benefits of movement participation, social movement organizations usually work at framing protest issues. Thus

ideological predispositions can completely influence an individual's attraction to, and support for, a given protest movement. Empirical examples of numerous social mobilizations show that collective identities and not cost-benefit analysis play a determining role. (1995: 248)

The framing approach to social movements is associated with the work of David Snow, William Gamson and Todd Gitlin. The concept of *frame*, according to Erving Goffman (1974), refers to the interpretive schemes that individuals take up so as to make sense of the world around them and to place themselves within it. The main reason of creating frames by the social movements is to attract new participants targeted for mobilization. Media exerts significant influence on individuals' collective action frames. The success or failure of modern social movements can be related to media. For Gitlin, media frames are "principles of selection, emphasis, and presentation (which are) composed of little tacit theories about what exists, what happens and what matters." (1980: 47) The framing processes include three separate, though not mutually exclusive constituents:

1. The diagnostic frame is used to describe the problem: what is the problem that the social movement participants are targeting?
2. The prognostic frame involves identification of the desirable solution to the problem.
3. The motivational frame suggests and motivate the potential participants/activists to get ready for the solution of the problem.

The political opportunity approach works as a bridge between macro and micro levels of analysis for the study of social movements. Sidney G. Tarrow defines political opportunities and constraints as, "dimensions of the political struggle that encourage people to engage in contentious politics." (2011: 19-20) The structural focus of Charles Tilly's (2012) work is a common feature of the political opportunity approach and according to him, the political opportunities are exterior resources for mobilizing groups which means that they are not created by social movements. There are different variables in determining the access to political space that may impact social movements either by "opening or closing possibilities for activism." According to Gamson

and Meyer (1996: 275-90), movement responses are dependent upon recognition and interpretation of opportunities and threats.

### **The Lawyers' Movement through the Lens of SMT**

#### ***Framing***

The framing perspective associate the success of a social movement to the development of an injustice frame which is an ensemble of ideas and symbols that highlight not only the significance of the problem but also the role of the social movement to overcome it. "We do not see the frame directly, but infer its presence by its characteristic expressions and language. Each frame gives the advantage to certain ways of talking and thinking, while it places others out of the picture." (Ryan and Gamson, 2006: 14)

The LM gave birth to frames that motivated, inspired, and demanded loyalty. It successfully framed its support as a moral obligation such that the people perceived it a struggle for "justice". So the support of public became easy under the banner of "justice" as this is one of the most crucial and sensitive aspects of ordinary Pakistanis. The LM showed the desire to form a society ruled by the state constitution by legitimately elected civilian government. Likewise, the diagnostic frames were used to blame the ever increasing influence of the military over civilian institutions for an extensive range of social ills, which includes rising unemployment, paralyzing political institutions and insecurity stemming from the war on terrorism. The rule of law and social justice were associated with rights secured, which would be the foundation for solving all other socio-economic problems. (Anwar 2009)

#### ***Symbols and Slogans***

The incident of grabbing the Chief Justice by hair, was framed as the degradation of the "law" itself and generally it was perceived that if the Chief Justice of the country is not safe then nobody would be safe here as he symbolized dignified civility, and rule of law. It seriously captured public attention and ultimately the CJ became the symbol of unity for general public. Lawyers and media played a remarkable role for highlighting the symbolic

importance of Chief Justice, which enthused vigor not only in the movement but also motivated all segments of society. One particular image captured the public imagination. The newspapers also published "an iconic photograph of the scene." (Khan 2010:1713). Many of the lawyers' demonstrations opened with a poem by the late Leftist poet Faiz Ahmed Faiz. In addition to rallies intended to demonstrate opposition to the military action, protesters utilized other tools of dissent, like placards denouncing the regime's decision "Go, Musharraf Go!" and Members of an armed police unit, wearing T-shirts that read "No Fear," walking briskly showing that "the movement was peaceful." (NYT, June 1, 2008) Banners proclaiming support for the movement as "only an independent judiciary is the guarantee of the survival of Pakistan.

### **Resource Mobilizing Structure**

#### ***The Role of Leadership***

The SM's success mainly depends upon the reputation of the leadership responsible for communicating the frame. In the case of LM, this role was best played by leaders like barrister Aitzaz Ahsan, Munir A. Malik, and Ali Ahmed Kurd. The role of Aitzaz Ahsan, Pakistan's leading constitutional lawyer, was remarkable who led the movement successfully. The LM leadership remained united throughout the movement, despite many differences they may have on other issues. For example, though affiliated with different political parties – Aitezaz Ahsan with PPP, for instance, they have ensured relative autonomy from outside influences. This has not only made them credible in the eyes of their supporters but also provided consistency to the effort without much interruption. (NYT, June 1, 2008) Their continuous mass interaction and motivational speeches appealed to public, and made the issue worthwhile. After the election, the lawyers returned to the streets, declaring a "black flag" week to push their demand for the restoration of the judges. (ibid) Barrister Aitzaz Ahsan made the final decision of "long march" when civilian government showed reluctance in CJ's restoration. The LM did not merely rely on a single leader but on a constellation of committed individuals who also managed to rally a number of political leaders behind their cause. Such

coalitions ensure a much higher ratio of success as compared to those who personalized and confined power to themselves. The strategic coordination of the movement can also be observed in its campaign for international support in which, the efforts and the persistence of CJ was remarkable. He personally wrote letters to officials in the UK and USA, requesting for their support. (Open letter from the CJ of Pakistan, posted on HRCP blog, Jan 31, 2008) He was awarded with the honorary membership of the New York City Bar Association and "medal of Freedom" from Harvard Law School. The LM gained international recognition creating greater pressure upon the government, and contributed towards internationalization of the movement.

### ***The Role of Lawyers' Organizations***

Most of the research highlights the importance of organizational resources in the case of LM where the SCBA and PBC not only organized the activities all over the country but also used social interactions with local communities. The Lawyers' National Action Committee (LNAC) made all the central decisions for the movement with the involvement of the PBC and through the local bar councils. (cited in Jordyn Phelps, in NYT, Aug 12, 2009) Effective mobilization could be possible due to communication networks. The LM remained self-reliant as societal force in the form of civil society organizations, and so it withstood pressures. The LM provides an example of how civil society organizations can impact Pakistani politics. (NYT, June 1, 2008) The LHCBA carried out a 10 million signature movement, which aimed at getting signatures on a large white cloth to be presented to the parliament at the end of long march in March, 2009. Political activists and lawyers participated in the campaign and signed the petition. (ibid) Political parties could foresee some future political gains as well, thus catering support.

### ***Collective Identity***

Participation in protest activities also reinforced collective identity of the protestors. According to Gamson (1992: 53-76), a collective identity emerges when individuals' "sense of who they are becomes engaged with a



definition shared by co-participants in some effort at social change.” For instance, many lawyers related the LM to resistance against illegitimate state authority, and also resembled it to the struggle for independence. An analogy was also drawn between the LM and the lawyer Jinnah. For inspiration and motivation, the activists referred to Gandhi, Jinnah and Nehru. Furthermore, the resistance of lawyers against Z.A. Bhutto and General Zia were also recalled.

Even the "judges" of lower courts seemed to have taken on and preferred their "professional identities" more in a relational fashion. Protests by common people also motivated many deposed judges to continue their struggle. The retired judges appreciated protesters' hardships. The superior court judges including the CJ was echoing this sentiment when he said that it “was an easy decision to resign” based on the orders of his “conscience.” and that “[The protesters] gave [him] the courage to continue on.” (CJ's 2008 interview cited in Khan, 2010) The lawyers collaborated their efforts with social networks and informal institutions. Numerous studies "highlight the importance of social networks for movement recruitment, particularly where social ties provide bonds of trust and solidarity and encourage movement." (McAdam 1986: 64-90)

### ***Civil Society and Students' Associations***

According to resource mobilization theory, human resource as workers and participants is essential. Student associations like Students for Restoration of Democracy in Pakistan and Pakistan Youth Alliance participated in mass mobilization using social media. Threats, beatings, and arrests by the state physical apparatuses further strengthened the will of students.

### ***The Role of Electronic Media***

Success and failure of a social movement largely depends upon content and symbolic projections by the media. The supportive role of mass media contributed to LM's objectives. The lawyers' organizations and media started having closer ties when media faced restrictions after the declaration of

emergency in 2007. The electronic media played its real role by showing its severe tenacious resistance against the order of blockage to information. The media was also trying to frame the public opinion and exposed many facts which were not formally accessible, especially the messages of lawyers were emphasized and publicized through lengthy transmissions and also covered the LM persistently for two years. Special debate sessions were held with the help of proponents and opponents of the lawyers' movement. It also presented the standpoints and validity claims of pro-restoration and anti-restoration. On the other hand, regime showed its dissatisfaction with media coverage and charged it of exaggerating and misrepresenting facts. With the support of media, it became easy for lawyers to bring a professional issue of lawyers' private sphere into wider public sphere. Because of all the services that media was providing to lawyers' movement, it had to pay a price. The and the very first restriction which it faced was in June 2007 when PEMRA amendment ordinance was enforced, which banned media from live coverage of the lawyers protests rallies put a ban on media from the live coverage of the lawyers' protest rallies. This ordinance provided another chance opportunity to lawyers and journalists to start a joint protest against it and at last government backtracked on the ordinance. Such a joint protest was helpful in raising the institutionalized public sphere for the lawyers' movement. The process of restriction continued by the regime; like after the emergency, the private TV channels were banned. Talk shows of popular anchors of different private TV channels were also closed. The enforcement of emergency was followed by crackdown specifically on lawyers and media in order to contain their joint efforts but it could not stop them from spreading the message of justice. In fact, it brought them on the same platform. Such coercive means speeded up the efforts of lawyers and media towards achieving the goals of the movement.

The current age of globalization and information revolution makes it easy for messages to get across and mobilize the people. So Pakistani electronic media took to alternative methods to continue with banned programs and their viewers intact. When the programmes were banned on cable network, free access to live streaming through internet and satellite antenna was provided.

This also followed crackdown on satellite antenna sellers in major cities, but the channels did not stop reporting of the news and broadcasted their programmes in routine manner, with stronger critical content against the regime.

Another distinctive approach was that the TV talk shows were arranged on footpaths, press clubs, and at premises of bar associations. These were the institutions which arbitrated critical thinking of public sphere, the same way the saloons, coffee houses, and theatre were institutions of public sphere in Habermas' description. (1987) In these talk shows the anchors and the participants, mostly lawyers and journalists criticized, reasoned, and purposefully debated on the government policies more openly.

The relationship between media and legal fraternity was based upon trust and confidence. Press remained very receptive and full of appreciation of the public interest proceedings even before the start of lawyers' movement under the *suo moto* actions taken by the CJ. With an extensive media coverage, the shift became visible in the CJ posture from government loyalist to a public figure. The publicity was demanding more actions from the CJ in terms of more public interest court cases which meant more media coverage. The regime clearly disliked this trend as evident in the reference filed against CJ in March 2007, where one charge was media savvy approach of the CJ one of the charges was based on the media.

Every case implicating public authority got commendable support from media and legal public sphere, which lead to favorable public opinion of CJ, like the construction safety and urban planning case 2005, the privatization of steel mill's case in 2007, and the missing persons' case in 2007 which accused the army and intelligence agencies and lastly, the presidential election in 2008 implicating a president in military uniform. In each case, CJ was acting against more powerful officials than the previously observed ones and media was full of appreciation and encouragement for the CJ. The same media continued its support even at the time when CJ was deposed. The price they paid was crackdown on media outlets, ban on private media channels, and crackdown on journalists.

### ***The Role of the Political Parties***

In addition to such organizational support, lawyers' associations welcomed the services of political parties for mobilizing the general public in order to muster their opinion in favor of the issue while political parties had some underlying interests as well. Many political parties like the PML(N), Pakistan Tehreek-e-Insaf, Jamaat-e-Islami and others carried out their support and participated in the Long March for restoration of judges despite a ban on protests and rallies under Section 144 by the government.

### **Conclusion**

The analysis presented in this paper shows that the lawyers' movement in Pakistan can be explained through the lens of social movement theory. The SMT explains the LM from its emergence to mobilization to networking to its final outcome. The SMT's explanation enriches our understanding of the movement. Social movements are not restricted to Western societies only, these can be organized in developing countries like Pakistan where the military has dominated politics for more than three decades in intervals, and where judiciary remained a rubber stamp in the hands of the powerful executives for the most of its time. These societies can have Western style non-violent social movements. It reveals the strength of judiciary as an institution to protect itself against any external encroachment, and to organize such a mass movement around its cause. This research also reveals the existence of strong institutions in Pakistan under the role of judiciary and media, which is unusual especially in the third world countries. The most important result of the LM is the "National Judicial Policy" formed in March 2009, which aimed at bringing about radical reforms in judicial institutions. The policy precipitated the understanding that the Parliament should stick to legislative matters because they have the role of political leadership which will be supported by the lawyers in future. (Mahrwald, Aug 26, 2009) The struggle of judiciary for its independence in Pakistan presents at least some proof that "judicial power has

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a popular currency and an ability to open up new forms of political engagement and new arenas of political power." (Khan 2010)

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