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Open Letter to General Pervez Musharraf, President of Pakistan

Dear General Musharraf

The Council of Australian Law Deans is the peak body of Australian law schools. Like other law schools around the world, Australian law schools educate young lawyers for a life in legal practice, advising and helping others to live their lives and organise their affairs in an orderly and predictable way, within a transparent framework of properly made rules and regulations.

These students learn and internalise, from the moment they set foot in law school (and if they are lucky can then take for granted) the importance of the 'rule of law': a stable system of knowable laws, duly made by the people through their democratically elected representatives, administered by a secure and independent judiciary, and incorporating basic human rights and freedoms, fought for and developed over many centuries of human civilisation. These universal rights and freedoms include the right of a person accused of a criminal offence, and thus exposed to punishment by the state, to a fair trial.

Australia and Pakistan share these deep values. Indeed, Australians have a strong affection for the sub-continent and its peoples, based not only on our common humanity but more specifically on our shared colonial heritage, our common use of the English language, our belief in democratic government, and our great rivalry in the game of cricket. How much more distressing is it, therefore, for Australians to witness your suspension of the rule of law in Pakistan, and your attack on the very class of people who strive to uphold it, namely, the lawyers.

The Council of Australian Law Deans condemns your interference with the Pakistan judiciary, including your removal of Chief Justice Chaudhry and other Justices, and your replacement of them with other judges thought to be (but, as lawyers, never guaranteed to be) more compliant with your personal aspirations; your harassment and arbitrary detention of lawyers and academics, which we know about from their personal stories and communications with us; and your intimidation of anyone else who has had the courage to speak out against your actions, including the much-admired former Pakistan cricket captain and world figure Imran Khan.

ANU College of Law, Australian National University; School of Law, Bond University; Faculty of Law, Charles Darwin University; School of Law, Deakin University; School of Law, Flinders University of South Australia; Griffith Law School; School of Law, James Cook University of North Queensland; School of Law and Legal Studies, La Trobe University; Division of Law, Macquarie University; Faculty of Law, Monash University; School of Law, Murdoch University; Faculty of Law, Queensland University of Technology; School of Law and Justice, Southern Cross University; Faculty of Law, University of Adelaide; School of Law, University of Canberra; Faculty of Law, University of Melbourne; School of Law, University of New England; Faculty of Law, University of New South Wales; Faculty of Law, University of Newcastle; School of Law, University of Notre Dame, Australia; TC Beirne School of Law, University of Queensland; School of Law, University of South Australia; Faculty of Law, University of Sydney; Law School, University of Tasmania; Faculty of Law, University of Technology, Sydney; Law School, University of Western Australia; Faculty of Law, University of Western Sydney; College of Law and Business, University of Western Sydney; Faculty of Law, University of Wollongong; School of Law, Victoria University

The Council of Australian Law Deans calls upon you to act quickly to restore the rule of law in Pakistan. It is never too late. Your announcement of an election to be held in January 2008 is a good first step. But your harassment of the lawyers must stop. It is not just a matter of their basic rights as individuals. You need an independent class of lawyers and judges to facilitate a fair and just society, and to retain the confidence of the civilised world. The eyes of the world are upon you.

We know what you are thinking. 'How do any of these distant outsiders know anything about the problems I face?' 'How can you have civil rights and freedoms without law and order?' 'How can I fight the terrorists without extraordinary powers?' 'How can anyone be trusted to lead Pakistan except me?' 'Why should I care what the rest of the world thinks?'

The point is that the rule of law is needed most when civil society seems most under threat from forces dedicated to destroying it. Civilisation is built not just on securing our safety and physical security and ensuring that we have food and shelter. It is built on the dignity and resilience of the human spirit. We entrust the powers of governance to those who will respect that dignity, let the human spirit soar, and govern within the bounds of their legitimacy—as defined by duly made laws, expounded expertly by well-trained lawyers and interpreted authoritatively by independent judges. You have usurped and therefore undermined the rule of law by suspending normal processes. If you have done so genuinely believing that special circumstances require special measures, you have unwittingly achieved what the opponents of civil society have been striving for: destruction of the very rights and freedoms that underpin and define that society. Yet if the reports of maltreatment of those held in arbitrary detention are true, we could not extend to you even this benefit of the doubt. You would then have been complicit, not only in an unwitting breach of the rule of law, but also in having created the conditions in which the rule of law is inevitably replaced with brute force and lack of respect for human dignity.

The respected lawyers of Pakistan have committed no crime by being true to their calling. Every civil society needs them. You need them. They are the wheels that turn the machinery of good government. They facilitate rather than impede. If you do not respect them, if you seek to remove them, you are setting yourself up as above the law. No one is above the law—that is the fundamental premise of the rule of law. That is why dictators never succeed ultimately in squashing the human spirit, which the rule of law—indeed, the very idea of law—nourishes and vindicates.

The Council of Australian Law Deans calls on you to secure the future of Pakistan as a democratic, peace-loving nation by ending your imposition of emergency rule, restoring the dismissed or suspended judges to their rightful positions, and ceasing your harassment of the lawyers. The lawyers are merely the messengers, so please turn your attention to their message. The message is simple: the rule of law is indispensable to a civilised society.

Yours sincerely



Professor Michael Coper
Chair