

Guarding the Rule of Law



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Every lawyer has a memory of at least one law-school class in which a professor, maybe to highlight the broader goal of memorizing oddities like the Rule Against Perpetuities and *Palsgraf v Long Island Railroad*, reminded us of the importance of the rule of law. We, as new lawyers, were about to become standard-bearers for the system that forms the backbone of our society; “a government of laws and not of men.” We were reminded that the rule of law erased the arbitrary power of kings and limited government intrusion into individual lives. The result was a society with a free exchange of ideas and more than two centuries of peaceful governance. Laws also created predictable systems for solving problems between citizens and their government, and among citizens themselves. Without the rule of law, the professorial voice intoned, we would settle disputes with swords, not briefs.

Under the daily pressures of practicing law, we have perhaps become too com-

fortable with this system and our place in it. Have you asked yourself what it would be like if one day you showed up to the office and learned that the president had shut down the Supreme Court? What if the president then suspended the Constitution? How would it affect your practice, and more importantly, your life? What would you do about it?

Thousands of lawyers in Pakistan faced these questions in 2007 when President Pervez Musharraf suspended the national constitution, detained eight members of the Supreme Court, and arrested thousands of Pakistani lawyers who were peacefully protesting the dismantling of their legal system. President Musharraf justified his emergency rule by citing the threat of terrorism.

On November 14, 2007, I, along with numerous Michigan lawyers and others across the United States, stood in silence near local courthouses to show solidarity and support for our counterparts in Pakistan. This demonstration was not a political stance; it was not a campaign for Benazir

Bhutto over Musharraf, or the Pakistan People's Party over the Pakistan Muslim League. This demonstration was about standing up for the rule of law. Without it, a free society becomes weak, and contrary to Musharraf's assertions, terrorism thrives. Without an independent judiciary and an unbiased court system, swords, not briefs, rule the day.

Lawyers are the guardians of the rule of law, and their role is never more important than when the very survival of the rule of law is at risk. We must find space in our lives as lawyers to remember this role. There is much to be done to guard the rule of law abroad, as the example of Pakistan has shown us. But we must also guard the rule of law at home in this country. Think about it: a government of laws only works insofar as all members of society generally support their application. This occurs if an independent judiciary applies those laws reasonably and predictably to everyone. If large segments of society are excluded from this system because of race or socioeconomic status, the rule of law is undermined. Thus, in our country, supporting the rule of law becomes an access to justice issue.

We need to breathe life again into the lawyer's role as guardian of the rule of law. Please join me by finding some way this year to stand up for the rule of law, whether it be in your community, in your bar association, or in the voting booth. ■

Note: Because of a typographical error in my January 2008 column, Hon. Harold Hood and Richard D. McLellan were inadvertently misidentified. Hon. Harold Hood, Detroit, is a retired Michigan Court of Appeals judge. Richard D. McLellan, Lansing, is a former member of the Board of Commissioners and current chair of the Michigan Law Revision Commission.