**Constitutionality questions**

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By the end of the Second World War, many liberal democracies ceded power to the judiciary for the enforcement of human rights. The framers of our constitution had intended the same to empower our superior courts to assure civil liberties. For this purpose, Chapter 1 of Part II of the Constitution of the Islamic Republic of Pakistan, 1973 guarantees the Fundamental Rights, which are widely known as the “conscience of our constitution.”

To ensure the enforcement of fundamental rights, the founding fathers of the constitution empowered the judiciary specifically by incorporating Article 199 for approaching a High Court, and likewise, Article 184(3) for the Supreme Court (SC) in case of an infringement of any fundamental rights. However, the exercise of the Supreme Court’s original jurisdiction under Art 184(3) is contingent on matters of “public importance” involving any violation of the fundamental rights of the citizens. The Court under the said Article is additionally equipped to take notice of a matter on its own, without the need for a formal complaint or petition to be filed, which is called Suo Motu.

[India says border tensions 'eroded entire basis' of bilateral ties with China](https://www.nation.com.pk/28-Apr-2023/india-says-border-tensions-eroded-entire-basis-of-bilateral-ties-with-china)

The plain reading of the said Article doesn’t enunciate to show who has the right to approach the Supreme Court, which broadens the court’s original jurisdiction among the judiciaries in the South Asian region. For instance, any party may petition in the Pakistani Supreme Court, under Art 184(3), whereas Art 126 of Sri Lanka, and Art 102(1) of the constitution of Bangladesh only allow petitions by aggrieved parties. The provisions also allow the Supreme Courts in these jurisdictions to take Suo Motu notices in matters of public importance. In all these countries including India, the judiciary is under heavy fire, owing to the misuse of Suo Motu’s powers. This often happens, when the court exercises power to promote its own agenda, rather than merely being interested in dispensing justice.

In Pakistan, the rise of suo motu under Art 184(3) started with the advent of Iftikhar Muhammad Chaudhry, the former chief justice, who exercised unbridled judicial powers under the umbrella of Suo Motu, which eventually threatened the rule of law. His successor, Saqib Nisar took it to another level, while many other chief justices preferred a restraint.

[Election symbols awarded to Punjab assembly candidates](https://www.nation.com.pk/28-Apr-2023/election-symbols-awarded-to-punjab-assembly-candidates)

For a long time, there have been rising concerns and fears amongst the bureaucracy, legislatures, and other power brokers of the country that the judiciary is overstepping its legal boundaries by taking regular Suo Motu cognizance, which is based more on political vendetta rather than on a bona fide legal interpretation of matters of “public importance.” Critics—favouring the incumbent government—of SC are of the view that the court has been favouring PTI by taking suo motu notices by denying a right to a fair trial and due process to the members of PML-N. Take for instance the “disqualification” judgments of the PML-N supremo.

The Parliament came up with an infamous solution at a critical time when the country is already battling with political, economic, and terrorism issues to enact the Supreme Court (Practice & Procedure) Bill, 2023, which will require a three-member bench consisting of a CJ, and the two most senior judges of the apex court to decide whether to take up the Suo motu matters, which is a bar on the prerogative of the Chief Justice.

[Sudan's army agrees to extend current truce for 72 hours](https://www.nation.com.pk/28-Apr-2023/sudan-s-army-agrees-to-extend-current-truce-for-72-hours)

The SC has barred the parliament from enforcing this proposed law. However, it seems quite revolting on the part of parliament that is transgressing on the rights of the SC enshrined under Art 191, mandating the court to formulate its own rules to regulate its practice and procedure.

For instance, what if the court takes up the matters of parliamentary rules and procedures, and starts dictating to parliament on conducting its affairs? So let the SC amend its own rules. Concerning the misuse of Suo Motu powers of the SC, both parliaments and judiciary should try to address this concern collectively by consenting to rules that allow the exercise of Suo Motu power in a transparent manner, however, they should only come from within the SC.