**[A bogus law](https://www.dawn.com/news/1781021/a-bogus-law)**

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ON March 1, 2023, the Supreme Court of Pakistan [upheld the single most crucial time-limit](https://www.dawn.com/news/1739739) provided for in the Constitution: provincial polls in 90 days. To any reasonable person — forget any person born in a land that’s seen four dictatorships and two emergencies — the only response would be to hold elections.

Instead, the public saw the opposite: terrified of any outcome in which a citizen exercised his right to vote, the unity regime rushed to declaw the court, as well as the same suo motu power that had ordered elections in the first place. The result was the Supreme Court (Practice and Procedure) Act — passed that same month on March 29, and upheld by the court this past week. (Another, cruder result was Maulana Fazl’s boys storming the Red Zone when the 90-day review was being heard.)

That’s the first thing to remember about this law: it wasn’t passed after the billion-dollar disasters of Iftikhar Chaudhry (see [Reko Diq](https://www.dawn.com/news/1726807)), nor the excesses of Saqib Nisar, nor the court’s sighs over traffic jams. It was passed because the judges had ordered elections in half the provinces. We know this because the ruling party said so.

Moments after the bill was tabled, prime minister Shehbaz Sharif endorsed a resolution: “This House believes the unnecessary intrusion of the judiciary in politics is the main cause of political instability. This House supports the decision and opinion of four judges [sic] in the suo motu [on elections….]”

We’ll leave aside the magical realism for now, skip as it does over a 3-2 verdict for a 4-3 fantasy scorned by all serious lawyers (to say nothing of the fact that not one of those four dissenters said elections weren’t mandated in 90 days).

The law was passed by a rump Assembly fearful of the popular will.

Nor is there much point in mentioning how a bill meant to stress collective wisdom was passed via none: it was put up by a panicked cabinet in the dead of night, bounced through the standing committee that morning, and then approved by a minority government that spent its precious minutes bashing the court instead of debating the bill.

Nor, even, that a law meant to regulate the court’s procedure was passed in a mockery of parliament's own: Rule 123 of the Rules of Procedure and Conduct of Business in the National Assembly requires ‘two clear days’ to mull over a bill after it reaches the members’ hands. In sum, a law that was hailed as a win for parliament was passed by a rump Assembly fearful of the popular will.

But push on we must: first, it’s a basic legal principle that bad intentions can’t be attributed to the legislature — what motivates our lawmakers is beside the point.

Second, Pakistan is a parliamentary system, rooted in the will of the people. It’s why we vote: so that elected reps get to say what the law is — including on court procedure. And it doesn’t help, as razor-witted legal eagle [Moiz Jaferii](https://www.dawn.com/authors/8249/abdul-moiz-jaferii) has said, that the court refused to regulate itself, allowing outsiders to breach the fort.

But per their own process, amending the Constitution requires a two-thirds majority. And the new law is, in every way, an amendment: it’s for a reason that the Constitution lends the Supreme Court three clear and distinct jurisdictions — original, appellate, and advisory.

What this bill does is forklift an entirely new floor of appeal on top of original — in a land of already never-ending litigation — without changing a word of the text.

Plus, as Justice Ayesha Malik pointed out, there’s the obvious absurdity that no “larger bench” can possibly hear an appeal from an original full bench. (Of note in the short order, the consistently independent-minded justice Yahya Afridi has dissented against providing an appeal, and — in a bare-bones 8-7 split — against gifting it to past cases.)

Not least, the law also neuters the suo motu power by diffusing it across a random committee of three judges. It’s un­­explained why this isn’t five or seven or nine, all of which still displaces the rest of their lordships.

Finally, for all of the unity regime’s sermons, this bill does not do a thing to hinder martial law. Consider: every single judgement that embraced dictatorship — ‘Dosso’, ‘Nusrat Bhutto’, and ‘Zafar Ali Shah’, the latter two under Article 184(3) — was decided by a full bench, and each one by unanimous glee.

By the logic of this bogus law, the same judges would have heard those same cases again, and barring some chemical imbalance, likely decide the same way again. Of course, when Dosso was overturned, no round-and-round appeal was required: the court just threw it out when Asma Jilani’s case was heard in 1972. In fact, if the actual record is anything to go by, neither full courts nor endless appeals stop the gloved hand; a sleepy conscience still finds a way.

If this Supreme Court really does want to affirm democracy, it would be best to just affirm democracy: elections in 90 days — rather than uphold laws born to sidestep them.

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