

**OFFICIAL SPECIAL CASES - AN OUTLINE OF ARTICLE 248**

Mumtaz Haider  
University of Karachi

**Abstract:**

What are the exceptions of the President or any other state official under the Constitution? Before mentioning them, it is important to see if there are any exceptions that are being claimed or pleaded, in any section or clause of the Constitution, like two and two four, in a clear and unambiguous manner? Doesn't require a judicial interpretation or interpretation? And if there is no provision in the Constitution which expressly or impliedly implies such an exception or immunity, then is there any affected person or any other person (even if he is the lawyer of the affected person)? Can he refuse to comply with a court order by self-prescribing such an exception or protection? Or can it force the court to justify its explicit denial by recognizing the interpretation of the constitution as it is doing?

**Keywords:** Constitution, Article 248

**Introduction:**

The whole argument of the Prime Minister and his lawyer, all the interpretations and all the interpretations are, in essence, out of the scope and scope of Article 248. The order of the Supreme Court was simply that

... The Prime Minister wrote a letter to the Swiss authorities.

The Prime Minister was bound to comply with this order of the Supreme Court under Article 190 of the Constitution, which states unequivocally and unequivocally:

190. All the officials of Pakistan, working and judiciary, will support the Supreme Court.

It was also necessary for them to do so because they have taken an oath under Article 91 (4) of the Constitution, among others, to:

As the Prime Minister of Pakistan, I will carry out my duties and duties with integrity, with utmost competence and loyalty, in accordance with the Constitution and law of the Islamic Republic of Pakistan, and always for the sake of Pakistan's sovereignty, integrity, stability, welfare and prosperity. , ...

In addition to discharging its duties and functions in accordance with the Constitution and the law, the Prime Minister, in addition to being a member of the Assembly, is subject to the observance of Article 63 of the Constitution, which states:

(63 1) A person shall be disqualified from being elected or to be elected as a member of Majlis-e-Shura (Parliament) and to remain a member, if ...

The attitude of the Prime Minister towards these three articles of the Constitution is outrageous. There is no provision or provision of the Constitution behind the position taken by him (or his lawyer) with regard to the exception of the President. If not, then any interpretation of Article 248 is acceptable only in the case of a court decision, because the interpretation of the Constitution is not the job of the President, the Prime Minister, Parliament or any other body, it is the job of the High Court only. The judiciary can not only interpret but also strike down any such legislation) but there are clear constitutional provisions regarding their denial. There are those who do not need any interpretation. When a person repeatedly and clearly states that he will not comply with the order of the Supreme Court (and by giving his arguments for this denial, he seals his denial and affirms his position). So he signs his disqualification certificate himself and the job of the Election Commission, in such a case, is not to make any inquiry but merely to disqualify him. Verification is to be issued.

The two arguments that have been put forward regarding the President's immunity, instead of affirming them, negate the exemption. The stupidity of these arguments is evident from the fact that (1) the Constitution does not guarantee any such thing, and (2) any such guarantee, even if it is supposed to exist or can be presumed, is international. Against the law Pakistan is bound by international law but no other country is bound by the constitution or laws of Pakistan. If there is a case against President Zardari in the International Court of Justice, like Omar al-Bashiri, will Pakistan take the position that there is no such thing in our constitution?

A man named Syed Yousuf Raza Gilani, who holds the post of Prime Minister of Pakistan, has submitted his written statement in the contempt of court case in the Supreme Court, among others, stating that ...

... The decision not to write a letter to the Swiss authorities has been made in light of the constitutional exemption granted to the president. The president cannot be thrown before a foreign magistrate. The bench which had ordered the Swiss authorities to write a letter should be withdrawn

Three things are important in this statement of the Prime Minister:

- (A) The President has an exemption under the Constitution, therefore a letter cannot be written,
- (B) The President may not be thrown before a foreign magistrate, and
- (C) The President cannot be prosecuted in a foreign court.

Now take a look at Article 248, this article says:

248 (1). President, any Governor, Prime Minister, any Federal Minister, Any Minister of State, Chief Minister and any Provincial Minister for exercising the powers of his respective office and performing his official duties, or for any act which he has done while exercising these powers and performing his official duties. Will not be held accountable before a court of law, provided that this clause implies an impediment to a person's right to take appropriate legal action against the federation or province. Will not be

() No criminal cases shall be instituted or continued in any court against the President or any Governor during his term of office.

() No order shall be issued by any court for his arrest or imprisonment during the term of office of the President or any Governor.

() Any civil case against the President or any Governor, whether before or after assuming office, in his personal capacity, for any act during his tenure, If the rope is wanted, it will not be set up, unless at least sixty days have elapsed before a written notice has been given to it or it has been sent in the manner prescribed by law. The reason, the name, condition and place of residence of the party from whom the lawsuit is to be filed and the judgment which the party claims, should be recorded.

With reference to the review of the said article, the book of Muhammad Salahuddin Shaheed. Fundamental Rights It would be helpful to quote from:

## **(2) Accountability by court**

The head of the Islamic State has no immunity compared to the judiciary. He can be summoned to court like ordinary citizens and an ordinary citizen can file a case against him.

A dispute arose between Hazrat Omar and Hazrat Abi Bin Ka'b, the Caliph of the Muslims. He appeared but neither the witness nor the plaintiff was present. According to the rules, Hazrat Umar (RA) had to swear. Hazrat Abi (RA) saw that Hazrat Umar (RA) was ready for it. So he withdrew his claim.

When Hazrat Ali (RA) saw a Christian selling his armor in the bazaar, he said to him: The armor is mine. He could not present it. Therefore, the verdict was pronounced in favor of the Christian and Hazrat Ali (RA) himself accepted it and said: Shariah, you have made the right decision. Hearing the verdict, the Christian was astonished and said: This is prophetic justice that Amir al-mu'minin also has to come to the court and he also has to hear the verdict against himself. The fact is that the armor belongs to Amir al-mu'minin, it fell from his camel, I picked it up.

This status of the judiciary remained even in the Umayyad period. Atabi says that I was sitting next to Qazi Madinah Muhammad bin Imran when the head of the bodyguard of Caliph Hisham bin Abdul Mulk brought Ibrahim bin Muhammad with him and said that Amir In a dispute between him and Ibrahim, the believers have appointed me as their lawyer and sent me to your

court. Have I misrepresented? The judge said softly, this is not a matter, it is a matter of law, no decision can be given until there is evidence. He went and informed Khalifa Hisham. Given against

In another case, a summons was issued in the name of Khalifa Mansoor by the court of Qazi Muhammad bin Imran. Otherwise go to court! The caliph appeared before an open court in the Masjid al-Nabawi and the judge ruled in favor of the camel owners and against caliph Mansoor.

It is clear from these precedents that a common man in an Islamic state can file a case in a court of law and bring the highest official of the government to justice and get his due. It can strengthen its grip on the administration so much that the mere fear of being sued in court would serve as an effective ombudsman and the rights of the people would be in jeopardy. (Pages 223 to 225, Fundamental Rights Edition)

Pakistan is a so-called state under Article 2 of the Constitution, for which there is no scope for non-adherence to or deviation from the paradigm stated in the above quotation and Article 2A blocks all such avenues. -

While interpreting Article 248, we have to see what are the requirements and demands of Articles 2 and 2A? In their light, the principle of equality in the eyes of the law, in the case of the head of the Islamic state (whose first head, the Prophet (peace be upon him) said, is a beacon for the Day of Judgment, If Fatima bint Muhammad (peace be upon her) also stole, I would have cut off her hand (will have to be suspended)? ) Get?

Both of the above articles not only constitute the basic fictions of the Constitution, but also govern and if any clause or clause of the constitution contradicts them, then it is directly contradictory to the constitution.

Under sub-section 1 of this article, the president, governor, ministers, etc. are exempted from being accountable to the court for exercising their powers, but a person has the right to take appropriate legal action against the federation or the province in any case. The clear implication of this sub-section is that the above-mentioned officials, while exercising their powers, put the Constitution behind them, tainted the dust of laws, but they are not personally accountable to the court. And.. The federation and the province concerned will have to answer for their misdeeds and deeds and they will be the ones to suffer the punishment! Accountability, representation and responsibility are inseparable, the people elect their representatives under the constitution and not the dictatorship! -

Sub-section 2 is even more ridiculous than the one mentioned above, if any president or governor was involved in murder, theft, robbery and widespread looting before he was elected and he blindfolded the Election Commission and He threw dust in the eyes of the people and got elected on the strength of money and then (unfortunately for the country and the nation) he got such positions. Will be What a beautiful intention of the constitution that I should rob a bank and loot

ten crores or ten billion, I would be prosecuted, I would still fight elections, win, spend the same amount to buy votes and become president ... No lawsuit will be filed against me, I have been washed, cleansed! Now I am free, to rob the whole country and deposit my wealth in foreign banks, I am not accountable to any court! The inclusion of such a clause in the constitution is a shame even for the constitution itself!

The third sub-clause of this article states that no court may order the arrest or imprisonment of a president or governor as long as he is president or governor. In other words, when an ordinary citizen commits a crime, he should be arrested and imprisoned at the same time. But don't say anything to this heavenly creature. He should have been hanged later! If accountability had been provided during his tenure, Mr. Bhutto would never have been hanged!

The fourth sub-clause is also strange that any affected person should first inform the President or the Governor that Holy Prophet! If you don't mind, I want to file a civil lawsuit against you! Give this information sixty days in advance! So that another case can be added in the case of missing persons!

### **Conclusion:**

The four sub-sections of Article 248 do not in any way conform to the basic tenets of the Constitution but are clearly contradictory and contradictory to them and in case of their implementation all citizens are exempted from the Constitution because Allah There is no obedience to the Almighty and the courts are bound to ignore and implement such provisions or clauses. In any case, they have the power to declare them unconstitutional and contradictory. Yes, they have to find it in international law, if there is a provision in international law that the president of a country cannot be thrown before a magistrate of another country or be tried in a court of another country. If it can be run, then Pakistan must not only respect but also abide by any such international law, but if it does not (and certainly not) then it has to comply with the court order and also write a letter. - And.. If he wants to be martyred again, then the successor has to do the same, except that the whole government or all concerned should be dismissed under Article 63. Contempt of court proceedings are a long way off.

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