

## Evaluating the Impacts of Judicial Suo Moto Actions in Pakistan: Judicial Overreach or Necessary Oversight



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**Abstract:** *This Article explores the necessity and excesses of Suo moto actions within the judicial function in Pakistan. This research traces the historical trajectory of Suo moto powers through an unprecedented comprehensive review from their constitutional origins to contemporary exercise of such powers in Pakistan as compared with global counterparts, to decipher the context of their development. Drawing on case studies of specific verdicts, this piece illustrates how such judicial interventions have changed governance and societal aspects - mainly human rights and corruption. However, the study will also consider the criticism of judicial overreach i.e. whether the Suo moto actions are supposed to overstep into the legislative or executive realm thereby leading to the checks and balance of powers which is one of the hallmarks of democracy but also simultaneously resulting in impotence of the entire system. The paper synthesizes views of legal scholars, civic bodies and public opinion, to the end that both good and bad of Suo moto impetus can be examined. Suo moto powers Refinement of the exercise of Suo motu powers, suggesting more specific legal guidelines and more judicial accountability. Through this research, I aim to add to the contemporary debate on the optimization of judicial intervention in Pakistan by following true spirit of justice deeds, but by not conflicting with the balance of the governed regulated system, further the structure should be well-maintained.*

**Keywords:** Suo Moto Action, Constitution, Pakistan, Jurisdiction

### Introduction

The Court must also reflect on its own sui moto functions which have been both the cornerstone and the bane of judicial intervention its legal system in Pakistan. Featuring the power to take cognizance of matters itself and act Suo moto without waiting for a formal complaint, this is meant to take prompt measures to right blatant injustices that offend the very idea of justice, to preserve the rule of law, and to maintain in force the rights of citizens under the Constitution. However, while Suo moto actions for their part have been praised for drawing attention to

important matters that need urgent attention, they have also raised questions around judicial overreach and the separation of powers in a democratic context (Aslam, 2019).

Under the Constitution of Pakistan, Suo moto powers are vested with the higher judiciary comprising the Supreme Court and the High Courts which empower the judges to take notice of matters of public significance. The origin of this power is embedded inside the Constitution of Pakistan and our Constitutive document provides the judicial branch with this necessary lever to ensure that justice is done, particularly

when procedural limitations may render the aggrieved without the remedy that in good conscience he is entitled to. It has intervened in one of the widest range of matters - environmental hazards, human rights abuses, corruption, and even government negligence - taking up its own initiative and even monitoring the progress of implementation of the orders passed by it. Because of their wide range, the exercise of these powers is inside somewhat controversial, with accusations of judicial activism - which is exactly when the judiciary plays other roles beyond an impartial referee over the law as a part of the legislative and executive power structures (Hamid, 2022.)

### **Purpose of Study**

It is an effort to split the two views regarding *Suo moto* actions in Pakistan. It, on the one hand, acknowledges the need for them in dispensing justice as well as, in plugging governance gaps— a counterpoise to state organs that fail citizens and their rights. But there is a fear that they may begin to blur into a form of governance - and into policy-making - which would stray beyond the traditional domains of the elected branches of government. This complexity requires a detailed scrutiny to assess whether *Suo moto* interventions result from judicial overreach or judicial review. This analysis is broader in scope than previous work, looking at the factors that led to such actions taking place, constitutional justification in similar countries, the constitutional framework surrounding *Suo moto*, and key cases that have influenced the evolution of *Suo moto* jurisdiction and what the policy consequences of these actions are in Pakistan. This paper will therefore strike a balance by scrutinizing these two areas - it will evaluate how *Suo moto* powers have been used by the judiciary as well as the effects of such resort to judicial authority on the politics and jurisprudential parameters in the country.

### **Thesis Statement**

The main argument of this paper falls in line with the idea that while *Suo moto* actions have certainly been integral in remedying blatant injustices and governance failures in Pakistan,

their indiscriminate and unlimited use exposes the judiciary to numerous pitfalls of judicial overreach. This overreach may upset the harmonium of powers that are required for a democracy to function. This paper analyses how such *Suo moto* Powers can be brought in conformity with the ideas of justice and democratic governance without intruding into the domains of the other organs of the government.

### **Historical Context and Constitutional Basis of *Suo Moto* Powers in Pakistan**

*Suo Moto* powers in Pakistan judiciary progress over the years (1947 - 2020) In the beginning the judiciary did not have the power of *Suo moto* cases. For over a decade after independence, the judiciary was, by and large, reactive, deciding cases brought before it. Nevertheless, with the evolution of a more complex political landscape in Pakistan and an increase in challenges of governance, there was an apparent transition towards a more active judiciary role.

The real change occurred when the 1973 Constitution was adopted, under which the basic framework of our legal and judicial system was laid down. Constitution did not provide *Suo motu* powers to SC initially but over the years SC through several decisions finely molded its perimeter. Specifically, the 1980s, and 1990s saw considerable judicial activism and the courts often asserting themselves into areas where they believed the legislative or executive had not covered thoroughly. Over time, Supreme Court refined and tested the contours of *Suo moto* powers with changing legal interpretations and amendments to gradually strengthen and assert its necessary role in protection public interest and ensuring justice. This era defined the judiciary as an enforcer of constitutional rights and as a principled refuge of justice; albeit one that had the ability to act on its volition, specifically, in matters related to fundamental rights and flagrant injustice (Shah, 2021).

### **Constitutional Framework**

The constitutional basis for *Suo moto* actions in Pakistan is rooted in the broad interpretation of several provisions of the Constitution. The most

significant of these is Article 184(3) of the Constitution, which grants the Supreme Court the authority to enforce fundamental rights. This article allows the Supreme Court to exercise its jurisdiction in cases of public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter 1, Part II of the Constitution (Ahmed, 2021).

This provision has been interpreted to empower the Supreme Court to initiate *Suo moto* cases, particularly when issues of wide public significance arise, and where the state's response has been inadequate or where there is an immediate need to rectify a grave injustice. Additionally, the High Courts, under Article 199 of the Constitution, possess similar powers to issue directives for the enforcement of fundamental rights at a provincial level. While these articles do not explicitly mention '*Suo moto*' actions, their interpretations by the judiciary over the years have led to an accepted practice where the courts can independently take notice of issues that impinge on public welfare and fundamental rights. This judicial interpretation has been both lauded for filling critical governance vacuums and critiqued as an overreach into domains traditionally reserved for elected representatives.

### **Analysis and Interpretation**

The *Suo Moto* powers exercised by the judiciary of Pakistan have always been a controversial issue which scores of legal analysts, politicians and the people even to this day argue with. Advocates claim that *Suo Moto* acts are necessary to enforce human rights and to keep public officials to meet the responsibility of their office, where the imposition of the government is non-existent for reasons elsewhere. Detractors argue that these powers have the potential to place a strain on the separation of the three branches, the judiciary surpassing the executive and legislative roles. This tension brings out the fine line needed in exercising *Suo moto* powers (Chaudhry, 2023). While they play an indispensable role when it comes to resolving societal issues of public importance and enforcing the basic rights, there is a continuing necessity of judicial censorship for making certain that the judiciary does not usurp the

constitutional functions or intrude into the domain of the other two branches of the government. *SUO MOTO* is the basis of powers of historical development through the ages and the Constitution Na Pakistan show a court responding dynamically with the needs of justice and governance. But the real conundrum is to ensure judicial independence and objectivity while making sure that such powers are not misused. While Pakistan finds its bearings and inches it way up the complex landscape of its politics and law, *Suo moto* actions find themselves in a position to be a subject of ongoing debate, to be legally refined and to be cautiously employed.

### **Comparative Insights: *Suo Moto* Actions in Pakistan and Other Jurisdictions**

*Suo motu* actions, where the judiciary takes cognizance of matters on its own, is not a novel concept for Pakistan. Most legal systems provide comparable powers to their courts with varying degrees and circumstances. It is perhaps in comparison to *Suo Moto* actions in other jurisdictions that the approach of Pakistan can generate valuable insights on the utility and challenges of such judicial powers.

#### **India**

The judiciary, particularly the Supreme Court and High Courts, both have *Suo moto* jurisdiction and they can inarguably initiate those cases. That power is often employed within their expansive constitutional role as protectors of basic rights. Many times, Indian judiciary utilized *Suo moto* actions to deal with matters of pressing concern which have widespread public ramifications like environmental degradation, human rights violation, and instances of corruption. Like in Pakistan, even the Indian judiciary attracts criticism for judicial overreach and the blurring of the separation of government branches

#### **United States**

The West do not have *Suo moto* actions as in Pakistan, India, USA. The material time US courts, operating on the requirement of case or controversy, are without an initiative to bring up any issues regarding any cases for consideration,

but have to wait until these cases are taken to court (Batool, 2020). It emerged from a fairly formal approach to the judicial function, underpinned by a kind of strict separation of powers conception under which courts were designed to be exclusively in the dispute-settling business and not the governing business, as defined by the Constitution.

### **Philippines**

The recognition of *Suo moto* powers is also found prevalent in The Philippines. The Supreme Court of The Philippines has exercised *Suo moto* powers in number of high-profile cases, more so in cases related to governmental abuse and corruption. In contexts where political landscapes change frequently, the judiciary's proactive approach is thought to be important to protect democratic values and human rights. As in Pakistan, the controversy has led to debates about the independence of the judiciary versus judicial activism.

### **South Africa**

South Africa's Constitutional Court has limited *Suo moto* powers but can be petitioned directly in cases involving human rights violations. This direct access is significant in a country where protecting post-apartheid democratic gains is crucial. The court's approach is more restrained compared to Pakistan, focusing on constitutional mandates and rights protection without broadly initiating cases on its own.

### **Analysis**

*Suo moto* actions are used differently in different areas, reflecting different legal traditions, constitutional frameworks, and views of the role of judicial systems. Thus, in countries like Pakistan, India *Suo moto* actions are considered as a necessary tool to have judicial activism to reduce the public injustices and to fill governance vacuums. By contrast, in jurisdictions like the United States, the existence of such powers is debated, and can lead to the loss of judicial restraint and separation of powers. All these differences underscore the need to strike a balance between an active judicial approach in matters concerning great public concern and the doctrines of separation of

powers and judicial restraint. *Suo moto* actions, while beneficial in addressing urgent and important issues, come with the inherent danger of sidelining the hierarchical nature of the legislative/executive system and instead lending itself to governance by judicial process, thereby seriously undermining the governance by elected representatives. Like *Suo moto* because that Pakistan applies this power even if it is a bit controversial, other countries to exercise their quasi-judicial powers for benefit of public at large by taking notice of such matters taking place in society which are contrary to the rule of laws. These disparate systems provide distinct benefits and obstacles that reflect broader policy, and judicial governance + philosophies, respectively. This visage offers a global context to consider whether or not *Suo moto* actions may be the litmus touchstone as opposed to the nebulous context-authored judicial interventions in relative terms.

### **Case Studies of *Suo Moto* Actions in Pakistan**

In Pakistan, *Suo moto* actions have been pivotal for taking up matters of national importance - from governance failures to human rights abuses. This section will look at the *Suo moto* cases of the Supreme Court of Pakistan and analyze the background, judicial reasoning, and results of each.

#### **Case Study 1: The Karachi Law and Order Case (2011)**

It was followed by a Supreme Court plea take *Suo moto* notice of the bad law and order situation in Karachi with killings. That violence involved ethnic, political and sectarian conflict and subsequently was having a direct effect on life in the city. The High Court argued that the state had reneged on its constitutional duty to ensure life and property of its citizens and that is why it had to step in (Ali & Khan, 2022). The judiciary aimed to compel the federal and provincial governments to fulfil their duties in restoring peace. The case resulted in a detailed judgment that directed law enforcement agencies to crackdown on criminal activities irrespective of the political affiliations of the perpetrators. This intervention brought temporary peace and highlighted several

underlying issues, such as political patronage of criminal gangs.

### **Case Study 2: The Clean Water Case (2018)**

Responding to severe public complaints regarding the lack of access to clean drinking water in various regions, including Sindh and Punjab, the Supreme Court initiated a *Suo moto* case. Court viewed access to clean water as a fundamental human right, essential to life and health, which the government must provide (Mahmood, 2022). The action was taken under the purview of ensuring the government's accountability in fulfilling its constitutional obligations to the public. The intervention led to the creation of committees to investigate the causes of water pollution and shortages. While the case raised awareness about the critical water situation, tangible improvements have been slow, and the effectiveness of the outcomes remains mixed.

### **Case Study 3: The Hajj Corruption Case (2010)**

The PPP-led Sindh government reportedly took notice of the living conditions during the Haj and decided to take *Suo moto* action following allegations of corruption in the arrangement of accommodation for Pakistani pilgrims in Saudi Arabia. The Court was petitioned on charges of corruption and mismanagement by state officials which penalized the religious rights and general well-being of the millions of Muslims who perform the annual ritual. After the Supreme Court intruded in this matter the Minister of Religious Affairs resigned and that a deeper inquiry is launched to investigate corruption within the Ministry. The case brought to light the judiciary's role in fighting corruption and defending the right of citizens to religious worship.

### **Case Study 4: The Disappearance of Quetta's Hazaras (2018)**

After a spate of targeted killings as well as removal of Hazaras from public transport in Quetta, the SC took *Suo moto* after it appeared the state was unable to protect this minority community. The intent of community court was to deal with the gravity of human rights

violations and the obligation for the protection of all its citizens in the eyes of the state --- irrespective of color or creed. The *Suo moto* action created a great opportunity for the LEAs to declare their support for the general public. While at a time it helped increase security measures and reduced violence against the Hazaras, in the long term it is a real worry for security.

These case studies are reflective of the wider role of the Pakistani supreme court in deploying *Suo moto* actions as a tool to address pressing social, environmental and governance challenges the country is facing. Most of the cases have different results, but all of them show how proactive the Court is in situations of executive or legislative branch ineffectiveness or apathy. Yet these interventions also flag questions about power and the risks of judicial overreach into territories traditionally presided over by other arms of the government. While the powerful intervention through use of *Suo moto* powers remains a subject of intense campaign, it has increased the debate as to what is Judiciary and what powers it has or should have in the democratic framework of Pakistan.

### **Themes and Patterns in *Suo Moto* Actions**

Most of *Suo moto* actions by the Supreme Court of Pakistan touch the issues directly related to the public welfare; the things related to the governance of the society. A breakdown of these cases reveals common themes that highlight what the judiciary prioritizes while using *Suo moto* powers.

#### **Common Themes**

1. **Human Rights:** Generally, *Suo moto* actions revolve around the protection of basic human rights on the grounds that in plenty of cases other branches of the government refuse to intervene. This entails rights to life, security, non-discrimination, and access to basic goods such as water.
2. **Corruption and Mismanagement:** *Suo moto* interventions gain grounds with many cases where there is corruption at stake within the various departments of the government. These are usually cases of

corruption which cut of through large segments of the society such as maladministration in public service delivery, or financial corruption which depletes the national wealth.

3. **Public Safety and Security:** Suo moto actions have been taken on the issues more closely related to public safety including law and order situations, and the protection of the vulnerable groups across the country. Such interventions usually take place in the wake of violence, ethnic conflict, and when minority communities are being intentionally targeted.
4. **Environmental Concerns:** Suo moto notices have also been taken on account of environmental degradation and the poor enforcement of environmental regulations. Typically, these cases involve pollution, hazardous waste disposal, and risks to human health based on environmental noncompliance
5. **Government Accountability:** The judiciary also sat on Suo moto once the government officials abdicated in their functions reflecting a public grievance or endangering public interest.

### Impact Assessment

The effects of Suo moto actions, however, are diverse in nature which mainly depends on the type of cases enforced, how quickly the state and public respond and how positively the role of court that public sees.

### Immediate Impacts

- **Greater Accountability:** The immediate change in the way the government works, thanks to Suo moto actions were not taken so quickly before that. Public officers are prodded to set things right due to fears of legal sanction.
- **Alerting the public:** These cases often reflect hidden issues and bring them into the public debate, where they can trigger public debate and occasionally civil society action;
- **Previous Cases:** Many times, they establish or influence a legal precedent or document a

new legal standard that will guide future judiciary and government further down the line; shaping the legal landscape of law and policy in Pakistan

### Long-term Impacts

- **Judicial Activism Critiques:** In the beginning Suo moto actions are perceived as expansion of reach of judiciary, but in long term it is perceived as breach of Judicial Limit, this may raise concerns in legitimacy of Judiciary and this Trends is potential to affect Judiciary-Executive relationship as Judiciary has been interfering in working on the parliament as well as executive and sometimes it also makes sure of undermine the reaches of Judiciary over the other departments of Govt.
- **Policy Changes:** This in a way has led to some of the cases being Suo moto in nature and directly addresses the reasons why the matter has come up in the judiciary and has led to some immense policy changes with new legislations being brought in place to address the root cause of the matter.
- **Civic Trust and Engagement:** The judiciary stepping in proactively to address pressing public issues can boost civic trust in legal institutions, but it could also distort public expectations to believe that the courts are the appropriate forum for all public grievances to be ventilated rather than the legislature or the executive. The themes, and effects, of Suo motto actions in Pakistan illustrate a heavily involved judiciary where national interest is concerned and also the difficulties associated with such interventions. Though these actions reflect the judiciary following through on its commitment to justice and accountability, they also show the humidification of public power, including the competing tensions of judicial intervention and respect for the jurisdictional domains of other government branches. Continual analysis and discussion are necessary to solve that the Suo moto powers are being properly exercised and benefit to the democratic and legal development in Pakistan

## **Analysis of Judicial Overreach in Suo Moto Actions**

Constitutional mandate is overruled when the judiciary secures the judiciary power excessively; implying that the judiciary provides one form of jurisdiction more than the other completed forms of jurisdiction as ruled by the constitution thereby infringing the legislature or the executive. The entire issue of whether the powers balance in a democratic system is the core of the concern.

### **Definition and Criteria for Identifying Judicial Overreach**

The term that describes what a court does when it oversteps its bounds of interpreting the law, and gets to making law or enforcing law, is, of course, judicial legislation or judicial administration, respectively. Judicial overreach blurs the principle of separation of powers and results in the concentration of power into the judiciary.

### **Criteria for Identifying Overreach in Suo Moto Actions:**

1. **Scope of Intervention:** Interventions that address issues typically resolved through policy decisions or executive actions.
2. **Frequency of Actions:** Repeated Suo moto interventions in areas consistently linked to policy-making or executive administration.
3. **Impact on Legislative or Executive Functioning:** Actions that lead to significant alterations in legislation or executive procedures without prior legislative or executive input.

### **Evidence of Overreach in Suo Moto Actions**

Suo moto actions, while often well-intentioned, have sometimes been criticized for overstepping judicial boundaries, particularly in Pakistan where the judiciary has played an increasingly prominent role in addressing national issues.

#### **1. Karachi Law and Order Case:**

The Supreme Court's intervention in Karachi's law and order situation involved directing executive agencies on specific operational matters typically reserved for the police and

local government. The judiciary prescribing detailed administrative actions and overseeing their implementation, roles generally executed by the executive branch.

#### **2. Hajj Corruption Case:**

The Suo moto action against corruption in the management of Hajj affairs led to direct judicial involvement in administrative matters of the Religious Affairs Ministry. The judiciary's direct role in the administrative restructuring and oversight of a governmental ministry typically overseen by the executive, extending beyond judicial review to administrative management (Hasan & Qureshi, 2019).

#### **3. Clean Water Case:**

The intervention aimed at addressing the water crisis across various provinces involved the judiciary in issues typically handled by environmental and public health agencies. Directives issued for the establishment of new infrastructure and oversight mechanisms which are usually the purview of executive planning and policy-making.

### **Arguments Supporting and Critiquing Judicial Overreach**

#### **Supporting Arguments:**

- **Necessity in Crisis:** Proponents argue that in situations where the executive and legislative branches fail to protect fundamental rights or manage crises effectively, judicial intervention is not only justified but necessary.
- **Protection of Rights:** Judicial actions are often in response to urgent needs to safeguard public interests and fundamental rights, fulfilling the judiciary's role as a protector of constitutional mandates.

#### **Critiquing Arguments:**

- **Criticism of Judicial Overreach:** Critics argue that judicial overreach constitutes undemocratic encroachments of the political processes, whereby the judicial branch appoints itself as a "super-legislature", thereby diminishing the responsibility and structure of the other two branches.

- **Impact on Long-Term Governance:** External judicially-imposed solutions may not be sustained in the long run without some sort of consensus or buy-in, that is eventually achieved by a political solution. Although *Suo moto* actions by Pakistan judicial system have served needs, with considerable success in addressing several issues of substance and injustice, they also carry potential to imperil judicial overreach that can affect a balance of powers among the government branches. The judiciary must always strike a judicious balance, whereby any solution that it may impose should not in any way impinge upon the structure of democracy, and at the same time prevent the third estate from over-stepping their constitutional limitations. An evergreen reevaluation and recalibration of what lies within the bounds of judicial justification is necessary to arrest judicial overreach and yet retain judicial efficacy in governance and rights protection.

### **Critiques and Concerns Regarding Judicial Overreach in *Suo Moto* Actions**

The use of *Suo moto* by courts in Pakistan was met with mixed criticism from legal experts, politicians, and the common people. While the prospect of highest court of the land has been hailed for taking up topics of great importance, there is another side to it where there is a worry regarding what many describe as judicial overreach, which ends up disturbing the balance between the three powers of the state.

#### **Critiques from Legal Scholars**

In the past, legal scholars have been amongst the most vocal critics of the utility of the judiciary exercising pith and substance through *Suo moto* powers preferring it to be decided through the traditional judicial review on constitutional grounds.

**1. Violation of rule of Law :** It is also argued by some scholars that frequent judicial interventions in administrative and policy matters undermines the rule of law in itself. They argue that the actions can establish precedents that can in turn embolden the judiciary to assume functions that are

traditionally and constitutionally the province of the legislature and executive.

**2. Loss of Judicial Neutrality:** Time and again the courts have involved themselves in *Suo moto* actions thereby undermining the neutral fabric of the judiciary. Rooms In some highly politicized contexts, this would provide a smear of bias, or political motives.

**3. The air of subjectivity and vagueness -** Critics point out that the criteria for initiating *Suo moto* actions are vague leaving it open to inconsistent application and making the judiciary's decisions appear arbitrary.

#### **Political Perspectives**

*Suo moto* actions also make the politicians and government officials jittery, especially when such interventions intervene in the governance and the smooth electoral political processes as well.

**1. Interference in Governance:** Politicians generally criticize *Suo moto* actions indicating the encroachment on the executive function to govern. They contend that such interventions interfere with the very implementation of policies and also that such a development could lead to judicial overreach with the judiciary adopting the mantle of the executive.

**2. Political Stability:** This impacts on a rule of law as some of the political proponents argue that the judicial interventions especially the ones which concern directly to decisions or the policies made by government may also obstruct the political stability, and can also be deterrent to long term planning and development etc.

**3. Potential for Political Manipulation:** *Suo moto* powers have obviously been a cause of concern, they can be misused or appear to be misused for political gain depending on how cases are chosen to be investigated, or who has picked up the case.

#### **Public Opinion**

*Suo moto* actions a grey area in the judicial realm The public opinion about *Suo moto* actions varies from positive to negative opinions, depending on the context and the matter in which they are being utilized

1. **Public Support for Accountability:** Most members of the public that appreciate *Suo moto* actions tend to be those directly affected by the miscarriage of justice, corruption, or failure of governance in question. These backers view the judiciary as the final retreating touchdown protector of public interests and rights when other branches drop the ball.
2. **Concerns About Overreach:** Lately, however, the public has been catching on, and they have started to worry more than a bit about judicial overreach. These suspicions are often based on instances where the upshots of *Suo moto* action have culminated in considerable political or administrative maelstrom with no visible sustainable good.
3. **Desire for Balance:** Even those who are in favor of judicial activism still demand there be a happy median, one which only puts the judiciary to the rescue when there is a constitutional disaster and the other two branches have gone into hiding. The criticism of the *Suo moto* actions draw attention to the tightrope that is walked with these judicial powers and the cautions that must accrue with them. But, for as much as they can be a vital form of justice and accountability, it seems clear that they must have clear parameters and limits to uphold their function in the Pakistani democratic system as tools of justice and ensure that the judiciary remains an impartial arbiter. A more detailed and Constitutionally-bound dialogue among the legal fraternity, the political establishment and general citizens may help streamline the usage of *Suo moto* powers to support the functions of all the organ of the government.

#### **Analysis of Necessary Oversight: The Justifications and Success Stories of *Suo Moto* Actions in Pakistan**

Many who say that though *Suo moto* actions might be controversial, and seen as a threat to judicial overreach, have heaped praise on the way it has been employed by the judiciary in Pakistan as an essential tool in the name of

justice and governance (Khan, 2021). It is widely recognized that judicial intervention of this type is necessary when the Legislative and Executive branches are unable or unwilling to solve the most pressing issues and where it is up to the Judiciary to continue to play their part sustaining the rule of law and protecting public interest.

#### **Justifications for *Suo Moto* Actions**

##### **1. Ensuring Justice in Governance Vacuums:**

In many circumstances, *Suo moto* actions are taken when it appears that governance has failed - and neither we as citizens accept the judiciary as the first resort, nor shall the executive and legislation take action in the public welfare. These are the kind of cases where the judiciary believes that it cannot be a silent spectator as this may lead to miscarriage of justice and it is literally the sentinel on the qui vive, which prevents or remedies incursion upon rights and policies of a socio-economic character in terms of cataclysmic attitudinal variances.

##### **2. Protection of Fundamental Rights:**

One of the main reasons behind the *Suo moto* actions is the securing of basic rights. The Pakistani Constitution entrusts the judiciary with the protection of these rights and the doctrine of celebrity *Suo moto* enforcement is held to be a natural extension of this duty, especially in conditions where there are obvious and significant slits in the public along with the other two branches of the government have overlooked or worse still have failed to attend.

##### **3. Immediate Response to Public Crises:**

*Suo moto* actions are at all times justified by the necessity of an instant judicial response to crises that current a pressing menace to public wellbeing, security or welfare. The Court has taken these actions since it believes that they provide a way for it to remedy problems that were otherwise only resolved through the ordinary legislative or executive processes, while time is of the essence.

##### **4. Strengthening Rule of Law:**

The Judiciary strengthens the Rule of Law By *Suo moto*, in cases where illegal practices have already in

place and widespread, in such circumstances the judiciary takes a *Suo Moto* notice. These interventions are interventions that must demonstrate clearly; a concept of the rule of law and an independence of the judiciary and its application in every sphere of government and society.

### **Success Stories of *Suo Moto* Interventions**

**1. Clean Water Initiatives:** Covering this issue, the *Suo Moto* action taken by the Supreme Court due to acute pollution and other parameters of water which do not meet standards in some regions, it has changed the general perspective towards water infrastructure and legislation in government and society. The intervention not just sensitized the Investigative Agencies but a significant amount of legislation and polity response including attempt to secure the clean water to yet above the Supreme Court level), fetched substantial public health benefits - whereby we demonstrate the dividends of *Suo moto* actions which is a powerful argument to advocate with the Government to get, - in place, - its systems of responsiveness for public health queries.

**2. Protection of the Hazara Community:** The *Suo moto* case regarding the security of the Hazara community in Quetta exposed the inefficiency of the government in providing adequate protection to the Hazara Community suffering from targeted sectarian violence. Some of the rest stemmed from judiciary's stepping in, which been responsible for most of the increased vigilance and state accountability, including a (partial) trickle down in attacks and more public discussion and policy consideration for the protection of minorities.

**3. Crackdown on Corruption:** This quirky but rather paradoxical *Suo moto* action against corruption in the Hajj arrangements did expose and (partly) correct some considerable mismanagement and corruption by the minions within the Ministry of Religious Affairs. This judgement was significant not just in setting right some wrongs but also in setting an example of the judiciary in effectively fighting corruption and opening the system for everyone to see.

**4. Environmental Conservation:** *Suo Moto* is

a judicial intervention in cases of environment degradation; illegal deforestation & metropolitan pollution; such steps are not only activated the enforcement of environmental laws but also yields some actions by the govt to address ecological concerns, showing the judiciary play a role in environmental advocacy. It is true that using *Suo moto* powers by the judiciary in Pakistan come with its own ills of overreach, but they have served important public purposes like governance vacuum filling, fundamental rights protection, public crises response and rule of law enforcing quickly. Success Cases of *Suo-Moto* actions are a strong proof on its capacity to save and system correction. However, maintaining a careful balance in terms of how these powers are exercised remains crucial to upholding the integrity and equilibrium of the judicial process.

### **Support from Legal and Civic Bodies for the Use of *Suo Moto* Powers in Pakistan**

While some segments of the legal fraternity and civil society welcome the exercise of *Suo moto* powers by Pakistan's judiciary, there are others around who consider it a dangerous course. These stakeholders often consider *Suo moto* actions instruments of accountability and justice, especially where other branches of government fail to address issues of great public importance.

### **Support from Legal Associations**

*Suo moto* actions are also supported by many in the legal community, especially human rights and public interest litigation lawyers, strongly as they can help expedite the legal process in urgent matters where immediate judicial intervention is required. The bar councils have been demanding judicial proactivity where protection of fundamental rights and the guarantees under the Constitution with respect to the enforcement of the rights of citizens are concerned. A sizeable number of law academicians come out in favor of these *Suo moto* powers, especially as a part of research and debate the subject. They will contend that there is a potential for overreach and that in many instances the *Suo moto* initiative of the courts works to bring into sharper focus neglected areas of law and

governance, forcing these issues onto the legislative calendar and thereby draw attention to areas of necessary legal reform.

### **Support from Civic Organizations**

Suo moto has found favor often among non-governmental organizations, particularly dealing with human rights and environmental matters. In instances where the inaction or active assistance of government makes it impossible to protect the rights and well-being of vulnerable populations, these organizations have come to rely on the judiciary as an important ally. Suo moto interventions are also sought by the civic groups and more often the groups that claim to represent the minorities and the economically weaker sections of the society. Such groups see these actions as necessary in the face of systems issues they believe will typically fall between the cracks in political and legal processes.

### **Support from Other Legal Entities**

Suo moto powers are typically popular with law firms and legal aid organizations that take on public interest cases, as they precisely mean that there is no procedural or financial barrier for individual or community to seek redress. Also, some of the former judges and justices, who have themselves been a part of the judiciary, do support the use of Suo moto powers, especially the ones who have seen and experienced the benefits of such interventions during their time. They contend that Suo moto action increases the role of judiciary as a vibrant sentinel on the qui vive( vigilant) in protecting the Constitution and public interest.

### **Discussion of Support**

Supporters for this argue that Suo moto actions are required where other branches of government have neglected or mishandled the issue, and are needed to address urgent issues in situations where the normal process would be too slow. In a state such as Pakistan, where bureaucratic inertia and corruption can substantially postpone or impede justice, their proactive stance is not just helpful but essential, they say. Work on Suo moto actions also gives primacy of educational role attached with the process (Iqbal & Javed, 2020). When the

judiciary does so, it brings problems out into the open, and in the process educates the public and the policymakers to the urgency of the issues at hand, often leading to changes in the law or policy. Consequently, the Suo moto cases in the public domain gives a certain degree of transparency and accountability, which in turn puts increased pressure on the other pillars of state machinery to act Aswell. This broad understanding of the need for Suo moto powers to address critical societal problems is reflected in the diverse support from legal and civic entities. While acknowledging the danger of judicial overreach, these stakeholders understand the proactive deployment of judicial powers as one of the most organic features of any living law justice system, to be resorted to, particularly when other institutions could be deficient in effectively protecting public welfare and rights. While it is important for Suo moto powers to be exercised and add value to the rule of law and democratic governance, continuous dialogue and evaluation is even more crucial.

### **Balancing Judicial Powers and Governance in Pakistan**

In Pakistan, the exercise of Suo motu jurisdiction of the judiciary, albeit an essential tool for securing justice and responding to civic matters, has constituted a cause for concern often going to the extent of being characterized as judicial activism. Between this and maintaining separation of powers too much from needed judicial interventions lies the only path towards a healthy democratic system. Here the recommendations and reforms that are suggested in order to obtain this balance.

### **Recommendations for Balancing Powers**

1. **Clearer Legal Guidelines for Suo Moto Actions:** The legal framework of Supreme court in Suo-motu cases needs clear legal guidelines in conditions when Suo moto power can be invoked. The guidelines should clarify what is a question of basic public importance and detail what kind of situations give rise to judicial intervention. This will help in enhancing the judicial quality and at the same time restrict the use of Suo motto action simply for notoriety in

a way demonstrate failure on other branches of government.

2. **Regular Judicial Reviews of Sua Moto Powers:** A mechanism in which a panel within the judiciary periodically reviews Sua moto decisions would go a long way in ensuring these powers are not misused. Such a panel could examine whether the decisions to exercise Sua-moto powers were legally justified under the pre-established lawful criteria, and if so, what outcomes were achieved in terms of the objectives of justice or public interest.
3. **Increased Transparency and Public Involvement:** The Court sending a notice to the State and asking the State to respond took as long as 5 to 20 years if something came out in a general discussion, so in the public debate, this matter was not ripe and there was no report.. The public hearings and publication of detailed rationales for Sua moto actions must be the order of the day. In addition, regular consultations and feedback mechanisms with civil society organizations and the public can enhance oversight and input.
4. **Development of a Sua Moto Regulatory Framework:** The judiciary in conjunction with legal experts and legislators should make a formal regulatory framework for the exercise of this power, and it is definitely not baton the piece of the statute. This structure needs to have procedural safeguards, accountability measures, and transparency provisions to make sure those powers are not abused.

#### **Proposed Reforms to Enhance Accountability**

1. **Establishment of a Judicial Oversight Committee:** Constitution of a Judicial Oversight Committee Independent committee consisting of honourable retired judges, eminent legal scholars and civil society representatives should be constituted to review and evaluate the use of the power under Article 32 of the Constitution. This committee would oversee its own because its own talk of systemic changes, and its own

efforts to improve the Sua motu actions from the perspective of the larger legal as well as moral standards.

2. **Legislative Review and Input:** A greater adherence to compliance with the Sua moto ability should be observed, with due deference as judicial independence is supreme, but there has to be some check and balance where the judicial function of Sua moto is in question. This might include annual reports to the legislature which would be debated in Parliament, allowing elected representatives to comment on the exercise of these powers by the judiciary.
3. **Professional Development and Training:** Capacity building Training on definition of Sua moto powers can be in respect of definition and when & how to exercise it as judicially employed for the furtherance of doing justice to administer it in judicial discretion. Strict ethical norms -Judges and other court officials should be reminded of the importance of behaving more justly, impartially and ethically. Brandon Garrett writes: They could emphasize the value of the restrained, deliberative use of the investigative powers, the dangers of overreach, and the range of other tools that police have to address their problems that do not involve the courts.

**Public Awareness Campaigns:** Implement public awareness campaigns for popularizing the judicial process and Sua moto actions (Ghani & Rahman, 2018). Democratic engagement and accountability require the public to know what their rights are, what the various branches of government do, and how their engagement with these processes translates into substantive change. Judges have to perform a fine balancing act-as they need to decide when and how to step into a case, so as not to be accused of overreach, whereas protecting their constitution obligation to keep a check on the actions of the executive and the parliament and preserve the inviolability of the democratic process in Pakistan. Pakistan can ensure judicious and sparing use of Sua moto powers by putting in place clearer guidelines, increasing transparency, establishing oversight mechanism and promoting public

involvement. They will help in keeping judiciary as a defender of rights and justice and also maintain the required checks and balances in a democratic system.

### **Future Research Directions**

To better understand *Suo moto* actions and its consequences, some research areas need to be analyzed in future:

**1. Comparative International Analysis:** The future studies could be the comparative analysis of the use of *Suo moto* powers in Pakistan with other countries having similar judicial provisions. This comparative approach would assist in finding both the best practice and the ticking bomb, and it would lead to insights about how different judicial systems around the world seek to strike that fine balance between proactive governance and judicial restraint.

**2. Longitudinal Impact Studies:** Comprehensive longitudinal research is required that explore long-term effects of *Suo moto* actions on legal and political systems of Pakistan. Research emanating from such studies could concentrate on the ongoing nature of changes triggered by the *Suo motu* interventions and how they influence public trust and governmental accountability in the longer term.

**3. Quantitative Analysis of Judicial Outcomes:** If we can engage in the quantitative analysis of Judicial Outcomes then we could probably estimate similar outcomes of *Suo moto* action with enough empirical evidence of an efficacious system. This information structural analysis may help elucidate types of intervention that do not succeed or evidence success, providing an improved stable purposive toolbox to judicial actors.

**4. Studies of Public Perception:** Research regarding the opinions of the general people on *Suo-Moto* action might inform us about the social face of judicial interventions. The judiciary should know the public sentiment that would help it maintain a balance between proactive approach and public expectation.

**5. Research on policy development:** Studies that investigate policy development may consider how legal frameworks can be designed

to protect effective judicial review and guard against overreach. And research of this sort would be useful in designing laws to promote systemic transparency and accountability within the judiciary.

Paradoxically though *Suo moto* actions are an inescapable part of Pakistan's judicial system, the manner they are exercised and enforced needs to happen with measured care so that no adversarial excess is committed. This continued interaction of judicial necessity and judicial restraint is an essential component serving the organic change in governance and maintenance of democratic integrity within Pakistan.

### **Conclusion**

this paper critically analysed the use of *Suo moto* actions in the judicial system of Pakistan, examining arguments for and against it due to social impact it carries and how biased judicial behaviour towards it, are justifiable or not. The paper has provided an array of understanding on *Suo moto* actions; constitutional foundations, genesis, thematic patterns of *Suo motto* interventions, and their implications on society and governance. The study also found that the *Suo moto* actions have played significant role in addressing both emergent as well as major issues affecting public welfare, especially where the other branches of government have not functioned effectively. These steps had more often than not resulted in instant relief in cases of extreme distress, also, inviting the role of the judiciary as the custodian of the foundational principles of the rule of law and protection of fundamental rights in this context. But there has also been criticism of the exercise of *Suo moto* powers for being at the level of interfering with the separate and distinct functions of the executive and legislative branches of government, tending hence to disturb the delicate balance in the working of a democracy. The study underlines the argument that *Suo moto* actions are essential in dealing with blatant injustices and governance defaults, besides signalling the dangers of judicial overreach intrinsic to that which might prevent shifting of respective powers. The evidence presented makes a case for responsible use of *Suo moto* powers; where while the Judiciary acts as the

sentinel on the qui vive for rights and justice, it also honours the works and locus of other branches of government. The complex dichotomic nature of Suo moto actions demands a thorough introspection on their consequence for democratic processes as well as the idea of a healthy judicial restraint.

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