[**Not a victory for rule of law**](https://www.dawn.com/news/1640220/not-a-victory-for-rule-of-law)

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HOW many of us feel proud when the chief justice takes suo motu notice on issues of women empowerment, building and master plan violations, horrendous fundamental rights abuses, or even things as mundane as traffic violations? In anticipation of a judicial system which continues to function in slow motion, the news of instant relief is often soothing, if not downright cathartic.

But are suo motu actions really that worthwhile? Do they actually resolve the issues they set out to address? Are they necessary to dispense justice? Can they be considered an important cog in the larger wheel of justice, or are they merely a manifestation of a judicial system which is not delivering?

Although suo motu powers are a legal reality, in our conversations regarding it, it is important that we step away from the notion that as suo motu powers are inherently good, the only thing left to discuss is how to regulate them. In doing so, we tend to shift the focus away from the reality of what suo motu actions represent, and concentrate simply on further institutionalising them by giving them greater legitimacy via established processes and procedures.

It can be said that suo motu actions, for all their perceived good, are inherent illustrations of the failure of the judicial system to dispense justice in a durable and swift manner. There would be no need for the Supreme Court to short-circuit and jolt the entire judicial process to address an injustice if the normal judicial processes enshrined in the law were effective enough to address the grievances of parties.

Do suo motu actions actually resolve the issues they set out to address?

A case in point is the recent suo motu notice being taken by the Supreme Court regarding building violations and master plan deviations in Karachi. Here, despite various matters pending in the courts already, the Supreme Court felt compelled to take action not because there was no other remedy available under the law, but because all those remedies, for all practical purposes, had essentially failed.

**Editorial**: [*Overuse of suo motu*](https://www.dawn.com/news/1387113)

This systemic failure stems from the delays in adjudication via normal court processes as well as the flagrant disregard of court orders by parties. In relation to the former, many parties will either ensure that the case never proceeds, or if it does, creates so many competing interests or complications that it would become practically impossible to conclude the matter. In relation to the latter, the perceived inability of the courts to have their orders implemented has significantly contributed to parties feeling as though there are no consequences for breaches, and if any consequences do arise, that the benefits of violating court orders far outweigh any such possible repercussions. As such, in many instances, despite court orders, parties can be seen to be openly violating the directions of the court.

The capacity issues of the system in delivering on its own have often been cited as a reason for the Supreme Court’s intervention in various matters over the decades, whether it is the [gang rape of Mukhtaran Mai](https://www.dawn.com/news/46710/gang-rape-2-more-held), combating the Covid-19 pandemic, the [demolition of a temple](https://www.dawn.com/news/1638816), or some other issue impacting the national psyche. However, whichever matter is focused on, the suo motu actions in question consistently revolve around pushing individual cases towards a desired logical conclusion, which may be good for publicity and educating the public on a cause, but which are inadequate for building capacity and ensuring that the need for suo motu notices in future cases of similar import is minimised.

Hence, despite the suo motu notice of the Mukhtaran Mai gang rape case, which received much attention, the Supreme Court has repeatedly had to intervene in other rape cases that came up later because of the lack of any macro-level change in the overall system in place. This is because the suo motu proceedings never actually addressed the institutional issues that required the Supreme Court to bypass the normal judicial processes in the first place.

In a similar manner, although the Supreme Court was compelled to take suo motu notice of the killing of Sarfaraz Shah in 2011 by Rangers personnel in a public park in Karachi on account of the horrific nature of the deed and the various difficulties arising from the crime, the said notice did not make the situation much better for any of the other purported victims of law-enforcement agencies, who arguably continue to run from pillar to post facing the same issues that the family of Sarfaraz Shah would have had to endure had the Supreme Court not intervened at the time.

Similarly, the suo motu actions against building violations and master plan deviations address merely the consequences of a flawed system which is struggling to deliver. As such, it may be argued that they only focus on removing as many violations as possible without addressing the factors which continuously permit and allow for such deviations and violations to be tolerated, encouraged, and regularised by various stakeholders. Hence, it is not surprising that many feel that once the focus of the top court shifts to another issue, it will once again be business as usual in the building sector.

Hence, suo motu actions should not be celebrated as a victory for the rule of law, but rather be seen as an implicit admission of the judicial system’s lack of capacity and inability to provide swift justice as envisioned under the Constitution. If more people viewed the exercise of such powers in this light, we would be less jubilant and more worried with every successive suo motu notice being taken. It seems that the increasing use of such powers reflects nothing but the ever-increasing gap between the demand for justice and the judiciary’s ability to deliver it.

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