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Judicial Power and the Enforcement of Fundamental Rights in Pakistan: From Article 184(3) to the Federal Constitutional Court

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Abstract

*Judicial enforcement of fundamental rights forms a cornerstone of constitutional democracy, positioning courts as the ultimate custodians of citizens' liberties against arbitrary state action. This paper undertakes a doctrinal examination of the constitutional mechanisms through which the judiciary in Pakistan has protected and enforced fundamental rights, tracing their historical development, procedural evolution, and interpretive trajectory across landmark judicial pronouncements. The analysis centers on four principal instruments: the supremacy clause under Article 8, which renders any law inconsistent with fundamental rights void to the extent of such inconsistency; the Supreme Court's original jurisdiction under Article 184(3), whose expansive interpretation in *Benazir Bhutto v. Federation of Pakistan* catalyzed the rise of public interest litigation and judicial activism; the writ jurisdiction of the High Courts under Article 199, which furnishes prerogative remedies for individualized rights violations; and the broader doctrine of judicial review as exercised across both executive and legislative domains. The paper argues that this constitutional architecture, while historically instrumental in curbing martial law, safeguarding civil liberties, and expanding access to justice through mechanisms such as suo motu cognizance, has simultaneously attracted sustained criticism for procedural inconsistency, absence of appellate recourse, and susceptibility to judicial overreach. Particular attention is given to the most consequential recent development in this trajectory: the Twenty-Sixth Constitutional Amendment's erosion of institutional independence in the exercise of suo motu powers, followed by the Twenty-Seventh Constitutional Amendment of November 2025, which abolished the Supreme Court's original jurisdiction under Article 184 and transferred it to a newly established Federal Constitutional Court under Article 175E. The paper concludes that the long-term efficacy of fundamental rights enforcement in Pakistan will depend on the institutional integrity, procedural discipline, and constitutional independence demonstrated by this new apex forum.*

Keywords: Fundamental Rights, Constitution of Pakistan 1973, Suo Motu Jurisdiction, Federal Constitutional Court, Twenty-Seventh Amendment, Judicial Review.

1. Introduction

In a constitutional democracy, judiciary is a key and irreplaceable part, the watchdog of the Constitution, the last line of defense of individual rights and liberties (Perry, 2009). It serves as an independent and impartial arbitrator between the state and its citizens, between different state bodies, provides legality, ensures accountability and emphasizes the constitution. Government systems based on the rule of law and constitutionalism are built on the principle that nothing done by government is beyond the reach of the courts. The check and balance system can be used to serve as a watchdog to the power structure and the freeze-out of civil liberties. This includes a respect for fundamental rights, the constitutional protection of which is inviolable guarantees of citizens' dignity, equality and freedom (Chaskalson, 2000). However, these rights do not automatically protect themselves, there needs to be strong enforcement mechanisms, particularly in societies where infringement of the rights is commonplace and the state institution could be arbitrary.

The function of judicial review, which protects and enforces fundamental rights, is envisioned in the Constitution of Pakistan in several powers vested in the judiciary, namely, the appellate jurisdiction to correct injustice through a hierarchical judicial system, the writ jurisdiction for High Courts under Article 199 and the original jurisdiction of the Supreme Court under Article 184(3) (Zehra et al., 2025). These powers, in turn, do not only provide remedies to individuals wronged by others, but also create constitutional jurisprudence and enhance democratic governance. Fundamental rights as guaranteed by the Constitution serve as a check to protect any person, citizen or not, from arbitrary or unconstitutional government (Butt et al., 2025). These rights are constitutional in nature, meaning that no law, customs, or usage can abrogate or derogate from them, and any such law, customs, or usage that infringe on any of these rights is subject to judicial review by any court of competent jurisdiction, and a declaration that the law is null and void. This judicial mechanism makes the constitutional guarantees more effective than the ordinary law, and which cannot be eliminated by ordinary law because otherwise the purpose for which they are contained in the constitution would be defeated.

This paper looks in detail at these judicial powers, tracing their constitutional history, their design and development of procedure, and the varying interpretation of these powers in high-profile judicial decisions. It critically explores how these mechanisms have been applied in practice in Pakistan for the protection of fundamental rights, and what are the challenges to the full implementation of these mechanisms, particularly the removal of the Supreme Court's original jurisdiction to enforce fundamental rights in Pakistan by the Twenty-Seventh Constitutional Amendment of 2025 and its transfer to the newly created Federal Constitutional Court (Tariq et al., 2025).

2. Methodology

The methodology used in this study is qualitative research, which is used to critically analyses the judicial enforcement of constitutional rights in the Constitution of Pakistan. The research is primarily doctrinal and analytical, based on text of the Constitution, scholarly commentaries, and precedent from the courts. The relevant constitutional provisions (Articles 8, 184, 199 of the Constitution of Pakistan and after the issuance of the Twenty-Seventh Amendment, Article 175E of the Constitution of Pakistan) have been used as main sources along with the relevant landmark Supreme Court and High Court judgments and applicable statutory provisions. The doctrinal analysis is complemented and contextualized by secondary sources such as legal journals, academic commentaries, law commission reports and expert opinion (Bhaghamma, 2023). The study focuses on the main judicial processes of the enforcement of rights in Pakistan, namely, the original jurisdiction, the writ jurisdiction, judicial review, the appellate jurisdiction and public

interest litigation. As the constitutional context for this paper has also evolved substantially over the period of the research this is reflected in an accompanying documentary survey of the constitutional amendment texts and the contemporary legal literature which is incorporated into the analysis to provide a context for the doctrinal results. This qualitative method allows for an understanding of the interaction between judicial philosophy, institutional capacity and constitutional design to influence the actual implementation of fundamental rights (Dobinson & Johns, 2017).

3. Supremacy of Fundamental Rights under Article 8 of the Constitution

Article 8 of the 1973 Constitution is the 'supremacy of fundamental rights' clause, which provides that any law or custom that is inconsistent with the fundamental rights guaranteed in Part II, Chapter 1 of the Constitution is void to the extent of the inconsistency (Khan et al., 2025). It is of great significance as it is the basis on which the basic rights enshrined in the Constitution of Pakistan are supreme and any legislation inconsistent with its provisions is rendered null and void; thus, it highlights the citizens' fundamental freedoms and dignity. The non-approvability of these rights is reiterated in Article 8(5) which states that the fundamental rights are indestructible and inviolable and may only be abridged in the manner provided for by the Constitution (Ahmed, 2021). They are not privileges, but rather a barrier which must be impenetrable and always upheld, one which is of the very essence of the dignity and freedom of the people and must not be influenced by the political climate.

However, the Constitution does make exceptions about military, police, and other disciplinary personnel (under Article 8(3)(a), in which case their conduct is governed by a separate military and other disciplinary law that is established to maintain discipline, morale and operational efficiency. Article 8(3)(a) does not apply fundamental rights to the situation where there are members of the armed forces and/or members of the disciplinary forces and where the matter is directly connected to the exercise of their duties or to the maintenance of order. In *Dawood Yamaha Ltd. v. Government of Baluchistan* (PLD 1988 Quetta 148) it is observed that Article 4 of the Constitution guarantees every person the right to be treated according to law (Ali & Rehman, 2021).

4. Original Jurisdiction of the Supreme Court under Article 184(3): Doctrine and Development

The role of the judge as a "fiduciary of the constitutional text" and of fundamental rights is both explicit and implicit in the constitutional text. The Supreme Court's starting jurisdiction under Article 184(3) was always to directly hear cases of "public importance having reference to the enforcement of Fundamental Rights", which bypassed the ordinary judicial hierarchy (Nadeem et al., 2023). This was a special power which has greatly contributed to the rise of public interest litigation and judicial activism in Pakistan. Article 184(3) required a question of public importance, as well as a connection to the protection of fundamental rights. It was both conditions in Article 184(3) that were cumulative a public interest question and a connection to the protection of fundamental rights. Over time, the Supreme Court stretched the meaning of "public importance" to its farthest limits, broadly defining it to include a wide range of social, economic, political and environmental challenges that affected large portions of society, including issues having to do with equality, life and dignity, and access to justice (Hassan et al., 2024). But this general interpretation style created longstanding debate about the potential for judicial overreach, as "public importance" is a subjective term.

The best example of such a jurisprudence is the case of *Benazir Bhutto v. Federation of Pakistan* (PLD 1988 SC 416). In 1988, Benazir Bhutto challenged the amendments of the Political Parties Act, 1962 and the Freedom of Association Order, 1978 on the ground that they infringed upon her fundamental rights under Articles 17 and 25 of the Constitution

(Munir, 2007). The significance of the case was not substantive in nature, but because it ushered a new paradigm by liberating the procedural requirement of Article 184(3), which is that the case must be considered before an eleven-judge bench of the Supreme Court comprising Chief Justice Muhammad Haleem. The Court also concluded that the standing of "aggrieved party" was met even if there was only potential harm, ruling that the fundamental rights need not be violated, but that it was sufficient that the legislature or executive action threatened to violate them. The Court highlighted that the article 184(3) does not identify the interested party that can approach the Supreme Court, nor does it define the manner of their approach; it would not be limited to the protection of rights that have been violated but would serve the rights of classes or groups that have been threatened.

The impact of this jurisprudence on the constitutional law and PIL law of Pakistan has been significant. Article 184(3) of the Constitution enabled the Supreme Court to accept cases related to electoral fraud and corruption, environmental degradation, police brutality, healthcare crisis etc. and its suo motu powers under the same article enabled the court to take cognizance of matters reported in the media or brought to its notice by the people without a petition even being filed. But this was particularly pronounced under the leadership of Chief Justice Iftikhar Muhammad Chaudhry (2005-2013), when the Supreme Court regularly stepped into the areas normally occupied by the executive, turning itself into a key player in the nation's life and occupying a vacuum created by weaker and less accountable institutions (Cheema, 2016). Jurisdiction caused serious concerns about "procedural fairness" and "institutional checks": proceedings under Article 184(3) did not follow the ordinary rules of evidence or trial procedure; there was no right of appeal against orders issued under it; the lack of codified criteria for what constituted a matter of "public importance" brought inconsistency into its use. The Supreme Court had the dual functions of being a court of first instance and ultimately a court of appeal, in such cases, which further reduced the possibilities for internal review. It was also observed that the number of Article 184(3) cases, and especially Suo motu notices, were becoming a strain on the Supreme Court's ordinary business, which sometimes made it difficult to distinguish between judicial and executive functions through the issuance of orders which were more like administrative directions than any judicial pronouncements (Hassan et al., 2024). The advocates, on the other hand, contended that restricting access for justice, lack of accountability of government and immaturity of democratic institutions indicated the need for a powerful and assertive judiciary as a bulwark for the protection of fundamental rights, but recognized that such an argument could be effective only if the jurisdiction was applied "consistently, transparently and impartially". Over time, proposals for reform were embraced, such as establishing internal appellate benches to hear challenges against Article 184(3) orders, procedural rules clarifying the concept of 'public importance' and increased transparency in the selection and disposal of suo motu matters, all aimed at enhancing the Court's power rather than diminishing it, and with a view to institutionalizing the practice of the Court and to fostering public confidence in the process of justice (Cheema, 2018).

5. The Twenty-Sixth Amendment and the Erosion of Suo Motu Independence

The concept of separation of powers forms one of the basic tenets of Pakistan's constitution and has direct implications on the scope and nature of judicial authority (Soomro & Masudi, 2023). According to this doctrine, the government has three independent branches: the legislative, the executive and the judiciary, each of which acts within its own sphere of authority, and the role of the judges is to interpret the law and to ensure that the actions of the other branches of government comply with the Constitution (Sultana, 2012). Separation of powers also allows the judiciary to review the legality and constitutionality

of actions taken by the executive and legislative branches, which is important to protect citizens from any arbitrary or unlawful action by the state.

The Twenty-Sixth Constitutional Amendment introduced several changes in Pakistan's judicial organization which had an impact on the suo motu powers of the Supreme Court (Khan, 2025). One of its most notable changes was the reconstitution of the Judicial Commission of Pakistan (JCP) by adding members from the National Assembly, the Senate and nominees from the Speaker of the National Assembly along with the existing judicial members, which resulted in the judges' loss of majority on the Commission and thus opened the door for political interference in judicial and legal appointments and promotion to benches where matters are likely to be taken suo motu. The amendment also changed the process for the appointment of the Chief Justice of Pakistan from one based on seniority to one where he or she is appointed by a Special Parliamentary Committee from among the three most senior judges without any constitutional criteria, while also adding a vague ground for the removal of judges, "inefficiency", to the existing grounds of incapacity or misconduct, which collectively were interpreted as limiting judicial powers and autonomy, especially in relation to suo motu powers.

6. The Twenty-Seventh Amendment and the Transfer of Original Jurisdiction to the Federal Constitutional Court

The most important development to which the above underlying doctrinal analysis refers is that of the subject matter of this paper. The Twenty-Seventh Constitutional Amendment was signed on 13 November 2025, ushering in the most comprehensive reform of Pakistan's judicial structure since the promulgation of the Constitution of 1973. The key component of the amendment is the establishment of a new top-level forum, the Federal Constitutional Court (FCC) outlined in a new Article 175E. In doing so, the FCC, after the Supreme Court, is granted original jurisdiction with respect to constitutional interpretation, intergovernmental conflicts, and enforcement of basic human rights. In fact, the original jurisdiction of the Supreme Court as provided in Article 184(3) and inherited from Benazir Bhutto in the preceding parts of this paper, has now been taken from the Supreme Court and given to the newly established FCC, which is now the highest constitutional court in the country. The Supreme Court has ordinary appellate and other jurisdiction but is no longer the forum of first and final resort for issues involving "fundamental rights" that are of "public importance" (Tariq et al., 2025).

This consolidation has ramifications that go beyond docket assignment. As outlined in the commentary on the amendment, the FCC's judges are to be appointed with the President and Prime Minister on the recommendations of parliamentary committee and judicial commission of Pakistan, the number of judges is to be determined by Parliament, the provinces are to be equally represented on the new court, and the Chief Justice of the FCC will serve a term of 3 years set by arrangements that critics say give a forum that is designed, appointed, and structured in a significant way by the executive in charge of jurisdiction, that has long sat in the Supreme Court. The jurisprudential effects of the amendment, most notably the FCC's willingness to emulate, limit, or go beyond the Supreme Court's originalist agenda of the past several decades, should be closely and continuously studied in the coming years as the agency's future trajectory is determined (Awan & Mushtaq, 2025).

7. Writ Jurisdiction of the High Courts under Article 199

Article 199 of the Constitution regulates the writ jurisdiction of High Courts and continues to be a potent weapon for the protection of Fundamental Rights and for controlling administration (Qureshi et al., 2023). Unlike the Supreme Court's original jurisdiction which was considered to have jurisdiction of cases of "public importance", Article 199 empowers the aggrieved to go before the High Courts directly to secure redress when their

fundamental rights are violated on a personal level making the High Courts an important layer in the chain of constitutional remedies. There are five traditional prerogative writs, each of which is a constitutional remedy for the enforcement of fundamental rights: habeas corpus, mandamus, prohibition, certiorari and quo warranto. Habeas corpus is related directly with the right to liberty enshrined in Article 9 which allows the court to act as soon as it comes to the knowledge that the person is being detained or he is being forced to disappear, and the state must explain the reasons behind the deprivation of personal liberty; it is not restricted to cases of actual detention but also covers those instances when the person's personal liberty is being wrongfully deprived. Mandamus will not issue when the right claimed is purely private, (PLD 1980 Lah.) but it will do so when the right claimed is legal or statutory, and the state's inaction constitutes a denial or infringement of it, provided that such inaction is not on the petitioner's own behalf, but on his behalf as an aggrieved party who has a right to demand it of the public functionaries. Where the underlying right is of a complex fact nature (PLD 1964 SC 636) or where the factual investigation is complex (609). The right to due process is guaranteed by prohibition and certiorari, which restricts the jurisdiction of inferior courts and tribunals from exceeding their jurisdiction and/or issuing illegal or arbitrary orders; quo warranto can be invoked by anyone, whether they were personally aggrieved. (Khan & Bashir, 2022).

Miss Asma Jilani v. Government of Punjab (PLD 1972 SC 139) is the most prominent writ jurisdiction defence of fundamental rights case that has been heard before the Supreme Court as a habeas corpus petition against the detention of the petitioner's father during General Yahya Khan's administration under martial law (Munir, 2007). In its entirety, the Court declared the martial law regime unconstitutional and ruled that the Constitution is the supreme law of the land, to which no authority, military or otherwise, may appeal. The judgment changed the attitude of the judiciary from a passive observer to a constitution protector and provided the doctrine that paved the way for the further development of PIL. In Muhammad Nawaz Sharif v. President of Pakistan (PLD 1993 Lah. 670, the Lahore High Court, also used mandamus and certiorari to cope with unconstitutional executive decision making in constitutional administration.

The cumulative effect of these writs has been to make the judiciary become players in the ongoing functioning of the state and to make it an active enforcer of constitutional rights which, of course, depend on judicial independence, access to justice, and institutional receptiveness. The regime of these writs is regularly and equitably enforced but an increasing number of concerns over political interference, the selective use of these writs and the delay in court proceedings have led to question their regular and impartial enforcement; constitutional instruments provide robust mechanisms for rights enforcement, but they are not working effectively due to institutional weakness, excessive executive enforcement and lack of public awareness. An interesting doctrinal evolution is the acceptance of the concept of "constructive standing" by the courts, which allows NGOs, lawyers, and human rights activists to file public interest litigation on behalf of others, thereby expanding access to justice and, as some have pointed out, muddying the distinction between judicial review and policymaking. The procedural process for writ petitions (under Article 199) is comparatively simple if compared to normal civil or criminal proceedings, as there is no detailed documentary evidence required before the hearing and the petitioner's rights are challenged based on the legality of the action complained (Amir et al., 2024). The pressures on the institutions remain however overburdened High Courts, lack of uniformity in procedures across provinces, and the delay in court hearings still hinder the timely delivery of justice; moreover, the use of writ petitions to resolve routine service and contractual issues has reportedly taken the focus of judges away from real issues of rights violations.

8. Judicial Review in Pakistan

One of the cornerstones of the separation of powers and one of the hallmarks of constitutionalism is the power of the higher courts to assess the legality and constitutionality of the legislative and executive action, under the fealty to the Constitution, which is the supreme law of the land under the Articles 5 and 8 (Cheema, 2018). The doctrine's early application in Pakistan can be seen in the case of the Maulvi Tameez ud Din, where the Sindh High Court successfully pitted itself against the dissolution of the Constituent Assembly by the Governor-General but the Federal Court (on appeal) found the underlying statute constitutional (Naseer, 2024). Although the intellectual genesis of judicial review can be traced back to the American experience in 1803 with *Marbury v. Madison*, in Pakistan it has been constitutionally fixed and entangled in the following Articles of the 1973 Constitution: Article 184 (3), Article 199 and Article 175. In Pakistan, judicial review has a dual function, meaning it applies to executive and legislative actions: Judicial review of executive action involves having to determine the legality, reasonableness and procedural propriety of executive action and invalidate acts which are arbitrary, acts which involve an abuse of discretion on the part of the executive, acts which are ultra vires. Judicial review of legislation involves having to determine whether there is a violation of constitutional rights, or whether the laws made under structural provisions of an authority of particular importance and significance, such that a majoritarian legislature poses a threat to the rights of minorities, judicial autonomy, or the very basis of federalism (Haider et al., 2025).

The most important case of judicial review in the history of the Pakistan's Constitution is the case of *Sindh High Court Bar Association v. Federation of Pakistan* (PLD 2009 SC 879), wherein the judges of the superior court judges did not take oath under the Provisional Constitutional Order of 3 November 2007 and were dismissed and replaced by General Pervez Musharraf (Faqr & Islam, 2016). The emergency period and everything done during it was ruled unconstitutional and void ab initio, restoring the ousted judges and nullifying any appointments made during the emergency period, to re-establish the constitutional supremacy and independence of the judiciary and to affirm that no organ of the state, executive or military, can override the Constitution.

Judicial review in Pakistan has, however, been criticized longstanding, for its selective and uneven application, as the courts have at times been very 'restrained' (especially during military rule) and sometimes very 'activist' (as during the Chaudhry Court) and that their actions have sometimes seemed to follow political agendas or public opinion rather than legal logic (Khokhar, 2025). On this point, courts have in some instances encroached on issues of policy, administration and economic regulation which have traditionally been outside their jurisdiction, sometimes for constitutional reasons, raising a complaint that they were interfering with the democratic processes and that they were diminishing the power of other institutions. The related issue is the lack of procedural discipline when reviews are conducted under original jurisdiction without a trial record or evidentiary hearing and there is no appellate remedy; judgments are final without internal accountability. Notwithstanding the fact that judicial review is an essential and fundamental pillar of constitutionalism during the reign of democracy, its legitimacy as constitutional tool rests upon its consistent, transparent and doctrinally disciplined application as a judge that vacillates between judicial restraint and judicial activism undermines its credibility and the fragile balance of power upon which judicial review is designed to operate.

9. Judicial Activism and Public Interest Litigation

Important means by which the judiciary has guaranteed fundamental rights, brought accountability of the state organs to the fore and provided justice to the underprivileged

have been judicial activism and public interest litigation (PIL) (Ahmad et al., 2025). PIL also allows the courts to hear a petition by any individual or group in the public interest who is not directly affected, a change from the earlier view that locus standi is required which started gaining momentum in Pakistan in the post Lawyers' Movement period (2007-2009) when the Supreme Court was hearing newspaper reports, letters and news items as PILs under Article 184(3) rather than formal lawyers, thus increasing access to justice for people who do not have formal lawyers at the center (Shafqat, 2018). It was a time when suo motu powers were exercised on various issues such as corruption, environment, police brutality, election irregularities, enforced disappearances, and many other issues, with very little adversarial litigation, which was closely associated with the tenure of Chief Justice Iftikhar Muhammad Chaudhry. One of the most well-known cases is Pakistan Steel Mills case (Watan Party v. Federation of Pakistan, PLD 2006 SC 697) where the Supreme Court declared the privatization of a national asset unconstitutional on the basis of lack of transparency and procedural irregularities, even though there was no petitioner with any direct personal interest and the Missing Persons cases which, even without a petitioner having any direct personal interest, the Supreme Court took suo motu cognizance of disappearances and summoned security and intelligence officials that have long operated outside of meaningful law (Waseem & Hussain, 2019).

Judicial activism in Pakistan has brought about a continuous debate in the academic and legal and political community. In a state of weak institutions, political instability and corruption, it is argued that the judiciary has a role to play in protecting the constitutional rights and serve as a counter-majoritarian check against the parliament and executive branches, and its use of PIL and suo motu actions has in most cases brought relief to those who otherwise would have been ignored by the government. Those who oppose the initiative, however, have raised alarm about the dangers of unchecked activism that the Supreme Court has been setting itself up as an arbitrator of issues like sugar prices, fuel adjustment charges, or local government structure is an infringement on the boundaries of the Constitution, and the informality of suo motu proceedings without a petitioner, a detailed evidentiary process, and, crucially, no right of appeal is an issue of due process and judicial accountability. But activism can be selective and populist, more responsive to pressure from the media than to established legal principle, as the courts' relative assertiveness in corruption and rights cases illustrates, and their relative reluctance to take a stand in matters involving the military or intelligence services, critics charge, reveal institutional inequities even within judicial assertiveness. The key issue for the judiciary is how to be both active and restrained: how to promote constitutional values and guarantee rights while not displacing, or undermining, the constitutional space of the executive and legislative powers; to be active and to promote, not supplant, or undermine, democratic accountability. The recommendations made for reforms to bring in clarity of procedures for suo motu action, transparency in case selection and the presence of internal appellate mechanism within the Supreme Court are aimed to ensure that judicial activism only complements and never replaces democratic accountability in the functioning of judiciary and that judiciary doesn't become a parallel government while it aims to be the sentinel of the Constitution.

10. Conclusion and Recommendations

This paper has outlined the constitutional processes whereby the judiciary of Pakistan has strived to safeguard and enforce fundamental rights, namely the supremacy clause in Article 8, the original jurisdiction of Supreme Court (Article 184(3)), the writ jurisdiction of the High Courts (Article 199), judicial review and judicial activism. In every instance, these have enabled the judiciary to play a role as the real check on the excesses of executive authority and the overreach of authoritarianism, ranging from the overturning of martial

law in Asma Jilani to the rise of judicial independence in the Sindh High Court Bar Association case. Both, however, have been fair game for criticism of the judiciary for lack of integrity, uniformity, and encroachment upon the legislative and executive branches. The most important lesson that can be learned from this study, however, is that the constitutional foundation that supports the entire jurisprudence has undergone a radical turnaround and just recently. The Twenty-Sixth Amendment took away the institutional independence required in the exercise of suo motu jurisdiction, and the Twenty-Seventh Amendment of November 2025 eliminated the Supreme Court's original constitutional jurisdiction entirely replacing it with a new constitutional jurisdiction in a newly established Federal Constitutional Court under Article 175E. The purpose of this paper was to examine the doctrine, which was introduced by a purposive, rights-protective reading of "public importance" in Benazir Bhutto which the Supreme Court no longer finds itself in. What the Federal Constitutional Court will do with this jurisprudence is yet an open and pressing question and a topic of interest in the field of Pakistani constitutional law. It is undeniable that the effectiveness of fundamental-rights-enforcement of these rights in Pakistan will continue to rely on the integrity of the institutions, the discipline in the procedures and the constitutional stability of the country, just as always before; and that the country's latest apex forum, which was appointed and organized with a high level of executive participation, will need to prove itself to be independent and rights-aware not just on paper, but in practice if it is to sustain the protective role its predecessor established over some 30 years of jurisprudence.

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