

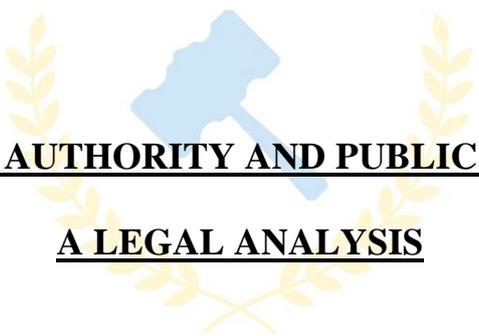
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SUO MOTO AUTHORITY AND PUBLIC INTEREST:
A LEGAL ANALYSIS

INTRODUCTION

In India, there have been various occasions when Indian courts have taken Suo Moto cognizance of matters based on a letter or a report and issued decisions in the public good. Suo Moto action by the courts has given the general people hope that the courts will redress the wrongs done to the public at large by taking Suo Moto Cognizance. Article 131 of the Indian Constitution grants the Supreme Court the power of suo moto. Suo Moto has ensured that justice is served in both civil and criminal situations in India. Suo Moto has long been acknowledged in the Indian Constitution, and the Indian judiciary has repeatedly demonstrated its strength by taking up Suo Moto cases.

WHAT IS SUO MOTO?

A Suo Moto cognizance is a Latin phrase that refers to a government agency, court, or other central authority acting on its own suspicions. When a court receives information concerning a violation of rights or breach of duty through the media or a third-party notification, it takes Suo Moto Cognizance of the case. Article 32 of the Indian Constitution and Article 226 of the Indian Constitution, respectively, establish the procedures for filing Public Interest Litigation (PIL) in India's Supreme Court and High Courts. As a result, the court now has the authority

to take legal action upon receiving notice of a situation. Article 32 of the Indian Constitution and Article 226 of the Indian Constitution, respectively, establish the procedures for filing Public Interest Litigation (PIL) in India's Supreme Court and High Courts. As a result, the court now has the authority to take legal action upon receiving notice of a situation. Suo Moto actions by Indian courts are a manifestation of judicial activism, and the general public has been intrigued by the courts' fast delivery of justice. Suo Moto matters are usually heard by India's Supreme Court. For the past few years, the Indian judiciary has unquestionably carried the democratic baton. Several High Courts and the Supreme Court have risen to the occasion in the past by taking sole cognizance of a legal issue and delivering fast justice. Various Indian courts have launched legal actions on their own, based on media reports, telegrams, and letters from aggrieved parties, and have taken Suo Moto notice of the matter. Suo Moto action is when a High Court or Supreme Court on its own take control over the matter or the case.

INSTANCES WHERE COURTS EXERCISE SUO MOTO POWER

Contempt of Court: Contempt of court refers to disobedience to the court's rules and regulations, as well as a lack of knowledge of the court's code of conduct and ethics. In most cases, the court will file a Suo Moto contempt case against an official who interferes with the delivery of justice or jeopardises the court's dignity.

The Supreme Court initiated suo moto criminal contempt proceedings against Advocate Prashant Bhushan and Twitter India, on the basis of two tweets posted by Bhushan on the social media platform.¹

Reopening Old Cases: If new and substantial evidence is uncovered after a case has been closed, the courts have the authority to take Suo Moto action and reopen the case so that it can be tried again.

Order a New Case Inquiry: If a court believes that an aggrieved person or a group of people is being treated unfairly, the court can order a probe at any level by any government entity, police department, the CBI, etc. The court may also take such action after receiving a letter from the affected section of people or on the basis of any news, documentary or media source.

¹ SUO MOTU CONTEMPT PETITION (CRL.) NO.1 OF 2020

IN WHAT CASES CAN THE SUPREME COURT EXERCISE SUO MOTO?

The scope of the courts' *Suo Moto* action has not been established in any statute or act, hence there are no occasions when the courts can take *Suo Moto* cognizance. It has evolved as a result of judges' judicial activism in considering the public's intent. *Suo Moto* jurisdiction can be exercised by the court anywhere it sees suitable. However, it has been observed throughout time that the court has taken *Suo Moto* cognizance in cases where basic human rights have been violated, or where government policies have been violated, or where religious rights or other fundamental rights have been violated, or when India's fundamental duties have been violated, among other things.

One such instance is when the Supreme Court took *Suo Moto* action against Delhi's air pollution. The courts in a number of instances have also taken *Suo Moto* cognizance of contempt of court, where ever the dignity of the court has been challenged or where someone had tried to obstruct the delivery of justice. The Court has the *Suo Moto* power to bring a matter into its own jurisdiction if it believes there has been significant injustice committed; the Unnao rape case is an example of this. The powers provided to courts under Articles 226 and 32 of the Indian Constitution are so broad that a complete list of situations in which the court can take *Suo Moto* cognizance is impossible.

SUO MOTO COGNIZANCE BY SUPREME COURT

The Supreme Court also issued a *Suo Moto* Cognizance, ordering the Central Government to collaborate with businesses such as Google, Yahoo, Facebook, and WhatsApp to develop a list of keywords to prohibit explicit movies depicting rape, gang rape, and child pornography.

In 2015, Prajwala, an NGO, mailed the Chief Justice of India a letter and a pen drive with two videos. The letter requested that the court take appropriate action against the perpetrators of gang rape in a video. The letter was turned into a PIL by the Supreme Court.

The Supreme Court and the High Courts have begun to take a leading role in publicising numerous social ills and taking rapid judicial action against them on their own. By taking an

interest in society's primary importance and instituting legal actions against the state's inability to defend and protect its citizens' rights, the courts have become chief social activists.

RECENT INSTANCES WHERE HIGH COURT EXERCISED SUO MOTO

The recent gas leak in Vizag, which resulted in the regrettable death of several people and the damage of many more, was investigated by three distinct judicial bodies: the High Court of Andhra Pradesh, the National Green Tribunal in New Delhi, and the National Human Rights Commission in New Delhi. These fora have issued interim directives and constituted committees to investigate the situation and file a compliance-fact-finding report independently.

Another instance of suo motu cognizance that comes to mind is the one involving banners erected on the roadway in Lucknow, which was decided by the High Court of Judicature in Allahabad. The High Court stated that the matter was “undertaken by the court on its own,” and that the Chief Justice directed the High Court Registry to register a petition and issue advance notice to the Commissioner of Police and District Magistrate, Lucknow, based on several news items in the newspapers reporting the installation of banners.

The Court noted in its order “where there is gross negligence on part of public authorities and government, where the law is disobeyed and the public is put to suffering and where the precious values of the constitution are subjected to injuries, a constitutional court can very well take notice of that at its own.”

In yet another case titled *Suo Motu v. State of Gujarat & Ors*², the High Court of Gujarat at Ahmedabad, vide order dated May 11, makes specific reference to the news items published in the two leading newspapers of the state, which the Court found to be “very disturbing, painful and heartbreaking”. The Division Bench was also pleased to observe, “We would not like to interfere with the day- to- day functioning of the State Government in this regard, but, at the same time, we should ensure that that the situation does not go from very bad to worst.”

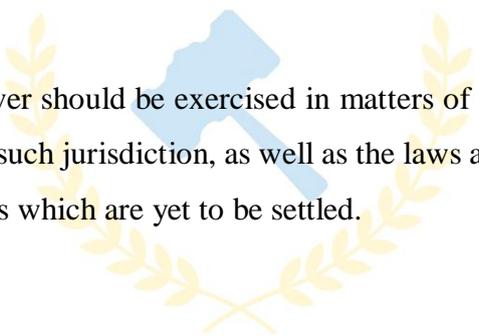
CONCLUSION

Without a question, the courts act with the best of intentions, with the goal of alleviating the victims' pain and plight. However, in some circumstances, a preference for more judicial action could be discerned. It's also clear that when the courts take note of a situation based on press reports, it means they're quite concerned about it.

² C/WPPIL/42/2020

Suo motu jurisdiction, from a legal standpoint, is analogous to a situation in which the complainant/petitioner is both the judge and the jury. It also erodes public trust in elected governments, whether central or state-level. The courts should not be perceived as eager to intervene in the executive branch. It's also arguable to what extent the public interest is served if authorities enjoined to ensure and look after peace and order, as well as the health of the populace, are forced to rush to lawyers' offices to file affidavits and status reports, especially in these trying circumstances. When the subject involves the dignity of the court, contempt of court, and/or a violation of any order or decision of the Court, suo motu cognizance is unquestionably appropriate.

However, whether such power should be exercised in matters of day-to-day governance - the scope and subject-matter of such jurisdiction, as well as the laws and regulations that govern it - these are some of the issues which are yet to be settled.



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