

FCC: Article 199 Cannot Bypass Statutory Limitation

The Federal Constitutional Court held that a litigant cannot avoid a missed statutory remedy and its limitation period merely by recasting the dispute as an Article 199 fundamental-rights case.

Judgment analysis | Published 9 September 2026 | Shahbaz Shah, Advocate High Court

Case: Muhammad Abdul Qadoos and connected petitioners v. Province of Punjab and others

Proceedings: F.C.P.L.A. No. 507 of 2025 and six connected C.P.L.A.s

Court: Federal Constitutional Court of Pakistan | Appellate Jurisdiction

Bench: Justice Aamer Farooq and Justice Syed Arshad Hussain Shah

Decision: Petitions dismissed and leave refused on 25 February 2026 | Approved for reporting

What the Federal Constitutional Court decided

The Federal Constitutional Court of Pakistan has held that constitutional jurisdiction cannot be used to revive a challenge after a litigant allows the prescribed statutory remedy to become time-barred. Describing the dispute as a fundamental-rights case does not, by itself, displace an adequate remedy that the relevant statute provides.

In Muhammad Abdul Qadoos and connected petitioners v. Province of Punjab and others, the Court considered seven connected petitions concerning action against publications and other material under section 99-A of the Code of Criminal Procedure, 1898 and section 19 of the Press, Newspapers, News Agencies and Books Registration Ordinance, 2002.

The two-member bench comprised Justice Aamer Farooq and Justice Syed Arshad Hussain Shah. Justice Aamer Farooq authored the consolidated judgment dated 25 February 2026. The judgment is approved for reporting. The Federal Constitutional Court's official index records that it was uploaded on 8 September 2026.

The ruling in one sentence

Where a statute supplies a competent forum that can decide questions of fact, law and fundamental rights, a party who does not use that remedy within time cannot ordinarily bypass the resulting limitation bar through a delayed petition under Article 199.

The challenged publication and press-law actions

Muhammad Abdul Qadoos challenged Punjab Home Department Notification No. SO (IS-III) 6-15/2010 dated 25 June 2014. The notification was issued under section 99-A CrPC and banned a publication titled Rohani Khazayeen, Volumes 1 to 23, ordering forfeiture of its copies. The connected petitioners challenged similar action against literature or material described in the judgment as seditious.

Tahir Mehdi Imtiaz Ahmad Warraich challenged a show-cause notice dated 11 February 2012 issued by the District Coordination Officer, Chiniot under section 19 of the 2002 Press Ordinance. His matter had reached the Lahore High Court through Press Appeal No. 225 of 2012, while the remaining matters arose from writ petitions decided at Lahore and the Multan Bench.

The petitioners argued that the restrictions interfered with the freedom to profess, practise and propagate religion protected by Article 20 of the Constitution. They maintained that executive action could not curtail a fundamental right and that the statutory route under section 99-B CrPC did not exclude a constitutional petition where fundamental rights were involved.

The Province relied on two procedural objections: the petitioners had not used the remedies provided by the governing statutes within time, and their later constitutional petitions were barred by laches.

The statutory remedies were capable of deciding the real dispute

Section 99-B CrPC gives a person aggrieved by a forfeiture order made under section 99-A a remedy before the High Court. Section 20 of the 2002 Press Ordinance likewise provides an appeal against action taken under section 19.

The Court treated those remedies as substantive, not formal. It held that the High Court acting under section 99-B, or in an appeal under section 20, could decide both law and fact and examine any impropriety, irregularity or illegality attributed to the Government. A forum empowered to decide questions of law could also address the pleaded fundamental-rights issue.

This answer was central to the case. The Court did not accept the proposition that adding an Article 20 argument automatically made the statutory route inadequate. The petitioners had an available legal process through which they could challenge the orders, place the disputed publications and supporting material on the record, and ask the High Court to test the action against the Constitution.

Article 199 is not a device for escaping limitation

The petitioners did not invoke section 99-B CrPC or section 20 of the 2002 Press Ordinance within the periods prescribed by those statutes. They instead filed constitutional petitions after substantial delay without offering a cogent explanation.

The judgment records delays of five months and twenty-one days, eleven months, one year in two matters, and two years and seven months in another. Although Article 199 itself does not

prescribe a fixed limitation period, the Court held that an inordinate and unexplained delay may make a writ petition untenable on the ground of laches.

The Court's formulation is direct: limitation and laches are not empty technicalities. A party cannot avoid a statutory deadline by presenting the same time-barred dispute as a constitutional claim. On the facts before it, that course amounted to an abuse of the process of law.

The decision does not impose one universal limitation period upon all constitutional petitions. It instead requires the court to examine the statutory scheme, the remedy that was allowed to lapse, the extent of delay, the explanation offered, any change in position, and the discretionary character of relief under Article 199.

A fundamental-rights allegation does not automatically displace an adequate remedy

The judgment is especially important for the relationship between alternative remedies and fundamental-rights claims. It rejects a mechanical rule at either extreme.

The mere availability of another remedy does not erase the High Court's constitutional jurisdiction. Equally, a litigant cannot make every statutory dispute directly maintainable under Article 199 merely by referring to a fundamental right. The practical question is whether the statutory forum is competent to grant effective relief and decide the legal and constitutional objections actually raised.

Here, the Court found that the statutory proceedings before the High Court were capable of examining legality as well as the claimed infringement of Article 20. The petitioners' failure to use those proceedings within time therefore had consequences that could not be neutralised by changing the label of the case.

The source of public power mattered more than the identity of the official

The petitioners also relied on *Mustafa Impex v. Government of Pakistan*, PLD 2016 SC 808, and argued that the impugned decisions had not been taken by the Government of Punjab but by the Home Department.

The Federal Constitutional Court rejected that objection. It held that authority had been delegated under the Punjab Rules of Business, 2011 and that the Home Department was competent to act in matters of this nature. The record also showed that an Ulema Board had considered the material and formed the view that it could cause hatred among the Muslim community.

The Court then drew a broader constitutional distinction. The legality of state action does not turn only on whether the person taking it belongs to the executive. The court must identify the legal source of the power. An act based on bare executive discretion is different from an act undertaken under authority conferred by statute or valid delegated legislation.

On the record before it, the impugned measures were traceable to section 99-A CrPC and the 2002 Press Ordinance. The Court therefore declined to treat them as unsupported executive action merely because executive officials had carried them out.

That conclusion does not mean that every action bearing a statutory label is valid. The existence of a legal source begins the inquiry; it does not end it. The action must still remain within the statute, comply with required procedure, rest on relevant material, and conform to constitutional limits.

Article 4 and the principle of legality

The Court described Article 4 as the foundational guarantee underlying the scheme of fundamental rights. It secures the right of every individual to be dealt with in accordance with law and requires exercises of public power to be anchored in a lawful source.

Relying on *Chief Secretary, Government of Balochistan v. Bayazid Khan Kharooti*, CPLA No. 217-Q of 2023, the Court reiterated the principle that state action of any kind must be traceable to law. The decisive inquiry is therefore not the official's designation but the authority under which the official acted.

This part of the judgment supplies a useful analytical sequence for judicial review: identify the actor, locate the claimed source of power, determine the limits and conditions attached to that power, and then test the particular act against the Constitution and the statutory record.

Why the Court did not conduct a full merits review under Article 20

Article 20 protects religious freedom subject to law, public order and morality. The Court also referred to the need to balance individual rights with legitimate community interests. But the judgment did not conduct a complete substantive review of every banned publication or finally define the permissible limits of section 99-A.

The reason was evidentiary and procedural. The actual material necessary to assess the validity, strength and reasoning of the bans was not before the Court. According to the judgment, this absence resulted from the petitioners' failure to use the proper statutory remedies, where the material and factual record could have been examined.

The Court therefore rejected the Article 20 claim in the facts and circumstances before it. This is a narrower holding than a general declaration that any publication ban is constitutionally valid. Future litigation involving a timely statutory challenge, the complete publication, the Government's recorded reasons, and evidence addressing public order may present a materially different record.

The Article 175E(5) jurisdiction test

One connected matter, C.P.L.A. No. 1461-L of 2024, arose from an order in a statutory press appeal rather than a judgment delivered in Article 199 jurisdiction. The Court therefore explained why it could take up that matter under Article 175E(5) of the Constitution.

Following its decision in the *Matracon* case, reported as PLD 2026 FCC 127, the Court stated that Article 175E(5) gives it constitutional authority to intervene where a substantial question of law concerning interpretation of the Constitution arises.

The judgment identifies three connected features of such a question:

- A constitutional provision must genuinely be involved.

- The interpretive issue must be reasonably capable of attracting differing judicial views.
- Its consequences should extend beyond the immediate parties and affect the wider constitutional or legal framework.

The disagreement need not already appear in the judgment under challenge. The focus is on the character and wider importance of the constitutional question. Applying that test, the Court assumed jurisdiction over C.P.L.A. No. 1461-L of 2024 and decided it with the connected petitions.

What the judgment does not hold

The decision does not hold that:

- every alternative remedy is automatically adequate;
- Article 199 jurisdiction disappears whenever a statute creates an appeal or application;
- every delay defeats a constitutional petition regardless of explanation or continuing illegality;
- the use of statutory power immunises executive action from judicial review;
- every order under section 99-A CrPC is constitutionally valid; or
- the Court completed a document-by-document merits assessment of the publications involved.

Its operative reasoning is narrower. These petitioners had competent statutory remedies, allowed the prescribed time to pass, brought delayed writ petitions without a satisfactory explanation, and did not place the material needed for a full rights-based review before the Court.

Practical significance for constitutional litigation

For counsel challenging a forfeiture notification under section 99-A CrPC, the first task is to preserve the statutory remedy under section 99-B. The application should be filed within the governing period and should include the notification, the complete publication, the stated grounds of forfeiture, the Government's supporting record where obtainable, and every constitutional and statutory objection.

For a challenge under the 2002 Press Ordinance, the section 20 appeal should be treated with the same urgency. Counsel should not assume that a later writ petition will cure a missed deadline merely because religious freedom, expression, due process or another fundamental right is pleaded.

Where Article 199 is nevertheless invoked, the petition should explain why the statutory remedy is unavailable, ineffective or inadequate on the particular facts. Any delay should be pleaded with dates, supporting documents and a legally relevant explanation. A general assertion of continuing hardship is not a substitute for confronting the missed remedy.

For public authorities, the decision is not permission to act through unsupported discretion. The record should identify the empowering provision, lawful delegation, competent

decision-maker, procedural steps, material considered and reasons connecting the statutory ground to the action taken.

Final outcome

The Federal Constitutional Court found no error of law or jurisdiction in the Lahore High Court decisions requiring interference. All seven petitions were dismissed, leave to appeal was refused, and the pending applications were disposed of.

The lasting procedural lesson is clear: constitutional language cannot be used as a substitute for timely litigation. Where the legislature has created an effective route capable of deciding both legality and fundamental rights, that route must ordinarily be used before its limitation period expires.

Judgment source and verification note

This analysis is based on the official 14-page consolidated judgment in F.C.P.L.A. No. 507 of 2025 and connected petitions, decided on 25 February 2026 and listed by the Federal Constitutional Court as uploaded on 8 September 2026. The supplied copy is approved for reporting but does not state a reported citation.

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