

THE CRITICAL ANALYSIS OF THE 27TH AMENDMENT AND ITS IMPACT ON THE JUDICIARY

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Abstract

Constitutional amendments significantly influence the institutional structure and democratic governance of a state. This study critically examines the proposed 27th Constitutional Amendment to the Constitution of Pakistan, 1973, with particular emphasis on its impact on the judiciary, judicial independence, and the constitutional balance of powers. Using a qualitative doctrinal legal research methodology, the study analyzes the amended constitutional provisions alongside relevant judicial principles and contemporary scholarly literature. The analysis demonstrates that the amendment introduces a Federal Constitutional Court, redistributes constitutional jurisdiction, restructures judicial appointment and accountability mechanisms, and alters the traditional relationship between the judiciary, executive, and legislature. While these reforms may improve specialization in constitutional adjudication and reduce the workload of the Supreme Court, they also raise significant concerns regarding judicial autonomy, executive influence, constitutional supremacy, and the rule of law. The study concludes that the long-term constitutional success of the amendment will depend upon transparent implementation, institutional independence, and continued adherence to democratic constitutional principles.

INTRODUCTION

Any democratic state, political, administrative and representative structures are largely shaped by constitutional amendments. In Pakistan the 1973 constitution has gone through many changes over the year, each introduced to address new challenges and adjust the relationship between the federation, provinces and state institutions. These amendments also show how

country's political needs and governance issues evolved with time. Because they directly impact the exercise of power and the representation of individuals in the political system, several adjustments have pulled specific attention in recent years (Muzaffar & Choudhary, 2017).

The amendments in the constitution play a vital role in changing the political and legal dynamics of a country (Akhtar et al., 2025). In Pakistan,

amendments in the constitution have mostly shown transformation in dynamics involving authority rather than mutual democratic changes among authorities (Hussain, 2025). The 27th Amendment in the constitution of Pakistan is no different, as it symbolizes a shifted moment, as it modifies the formation of the judiciary, reorganizes the command of military, and extends the authority of executive in unprecedented ways (Arif, 2026).

In November, Pakistan adopted its 27th Constitutional Amendment through one of the fastest and most contentious processes in its recent history. By creating a Federal Constitutional Court, expanding executive's control over judicial appointments, granting lifelong immunity to the President and military leadership, and strengthening the army's influence, the amendment represents the most significant restructuring of Pakistan's judicial and executive powers under its 1973 Constitution. Amid growing public protests, ongoing legal challenges, and mounting pressure on its democratic institutions, Pakistan is facing a pivotal moment (Malik, 2025).

The Twenty-seventh Amendment to the Constitution of Pakistan was passed on 13 November 2025 (Peltier, 2025). This package was introduced by the federal government under Prime Minister Shehbaz Sharif in late 2025, aimed at revising key articles governing judicial appointments, the defense command structure and federal-provincial relations. The bill, presented in the Senate by Law Minister Azam Nazir Tarar, created a new Federal Constitutional Court of Pakistan, changed the process of transferring judges, amended Article 243 of the Constitution of Pakistan relating to the control of the armed forces and reviewed the fiscal and administrative autonomy of the provinces. While the ruling coalition claimed that the reforms were necessary to modernize governance and strengthen national security, opposition parties and legal experts said that the amendment threatened provincial autonomy and judicial independence (Malik, 2025).

The 27th Amendment of the Constitution of Pakistan was a turning point in the political

history of the country as it signified a great change in the political system of governance and the organization of the institutions. This constitutional reform has caused a heated debate and discussion among the citizens as well as other wider issues of representation, accountability and the rule of law. It is imperative to understand the aspect of political communication on this amendment especially on the dynamic political environment in Pakistan which is highly polarized and mediated through media and social media as the twitter medium has become the major front in public discourse and political issues. Political communication is a key factor in the formation of the popular perspectives; it has an impact on the results of the policy and promotes participatory governance. Within the framework of the 27th Amendment, various stakeholders, such as government authorities, anti-government figures, media outlets, civil society actors, and regular citizens, have relied on Twitter to generate, spread, and dispute reforms discourse. These accounts do not only indicate conflicting ideals of how Pakistan ought to be governed politically but also point to the difficulties of maneuvering through democratic governance in society where political instability is the norm, institutional competition is the order of the day and media ecosystems are changing (Akram, 2025).

Historical Background

The history of Pakistan's history reflects a persistent tension between democratic establishment and coordinated centralized authority. The independence of judiciary in this country has frequently been challenged through influence of executive, provisional order made through changes made in the constitution, and selective constitutional amendments, as similarly the relation between civil-military relation have remained skewed, with the thought that military is frequently putting forth unwanted efforts beyond the limits provided by the constitution (Khan, 2012).

The Constitution of the Islamic Republic of Pakistan (1973) has been amended several times to adjust the balance of powers between the

federation and the provinces, redefine institutional roles, and respond to changing political and security realities. The 27th Amendment follows the 26th Amendment, which was passed in October 2024 (Baloch & Ellis-Petersen, 2024). After gaining a parliamentary majority, the second Shehbaz Sharif government proposed the 27th Amendment to address a set of issues, i.e., judicial structure (including the formation of the Constitutional Court), federal-provincial relations, military command arrangements (particularly the revision of Article 243), and top appointments in the armed forces (Dawn News, 2026).

1. Research Questions

1. What are the potential long-term consequences of the 27th Amendment for the rule of law and democratic governance in Pakistan?
2. To what extent does the 27th Amendment affect the independence of the judiciary under the Constitution of Pakistan, 1973?
3. How does the 27th Amendment influence the principle of separation of powers among the legislature, executive, and judiciary?

4.

2. Research Gap

As the 27th Constitutional Amendment is a recent development, limited academic literature is available on its impact on Pakistan's judiciary. Most existing discussions focus on describing the amendment and the political debates surrounding its passage. There remains a need for a concise legal analysis examining how the amendment may affect judicial independence, judicial structure, and the relationship between the judiciary and other state institutions. This study aims to address this gap by critically analyzing the provisions of the 27th Amendment and their implications for the judiciary in Pakistan.

3. Research Methodology

This study adopts a doctrinal legal research methodology based on a qualitative approach.

The research primarily relies on the analysis of primary and secondary legal sources. Primary sources include the Constitution of the Islamic Republic of Pakistan, 1973, particularly the provisions introduced through the 27th Constitutional Amendment, relevant constitutional provisions, and judicial decisions where applicable. Secondary sources include scholarly articles, books, research papers, reports, newspaper articles, and other academic materials related to constitutional law and judicial independence.

The study critically examines the provisions of the 27th Amendment and evaluates their implications for the judiciary, judicial independence, and the constitutional framework of Pakistan. Through analytical and descriptive methods, the research assesses the legal and constitutional significance of the amendment and its potential impact on the administration of justice and the balance of powers among state institutions.

4. Literature Review

Primary Legal Source

Article 6 (High Treason)

Before the 27th Amendment, clause (2A) of Article 6 stated that an act of high treason shall not be validated by any court, including the Supreme Court and a High Court. After the amendment, the words "Federal Constitutional Court," have been inserted after the word "the", so that the clause now reads "including the Federal Constitutional Court, the Supreme Court and a High Court." This change adds the newly created Federal Constitutional Court to the list of courts that cannot validate an act of high treason.

Article 10 (Safeguards as to Arrest and Detention)

Before the 27th Amendment, Explanation I of clause (4) referred to a Board appointed by the Chief Justice of Pakistan. After the amendment, the words "Supreme Court of" have been inserted before "Pakistan", so that the Board is now appointed by the Chief Justice of the Supreme Court of Pakistan. This clarifies that it is the

Chief Justice of the Supreme Court, not the new Federal Constitutional Court, who appoints the Review Board for preventive detention matters.

Article 17 (Freedom of Association)

Before the 27th Amendment, clause (2) provided that when the Federal Government declares a political party prejudicial to the sovereignty or integrity of Pakistan, the matter shall be referred to the Supreme Court for final decision. After the amendment, the words "Supreme Court" have been substituted by "Federal Constitutional Court of Pakistan". Consequently, jurisdiction over political party disputes has been transferred from the Supreme Court to the newly established Federal Constitutional Court.

Article 59 (The Senate)

Before the 27th Amendment, Article 59 contained no provision standardizing the expiration date of a Senator's term. After the amendment, a new Explanation has been added after clause (3), which states that the term of a Senator, notwithstanding the date of his election, shall expire on the eleventh day of March of the year of the completion of the term for which he is elected. This change ensures that all Senators' terms now end on a uniform date, March 11th, regardless of when each individual Senator was elected.

Article 63A (Disqualification on Grounds of Defection)

Before the 27th Amendment, clause (5) provided that any party aggrieved by a decision of the Election Commission on defection may prefer an appeal to the Supreme Court. After the amendment, the word "Supreme" has been substituted by the words "Federal Constitutional". Therefore, an appeal now lies to the Federal Constitutional Court instead of the Supreme Court, transferring defection appeal jurisdiction to the new court.

Article 68 (Restriction on Discussion in Parliament)

Before the 27th Amendment, Article 68 stated that no discussion shall take place in Parliament

with respect to the conduct of any Judge of the Supreme Court or of a High Court. After the amendment, the words and comma "the Federal Constitutional Court," have been inserted after the word "of" (occurring for the second time). The article now also restricts discussion on the conduct of Judges of the Federal Constitutional Court, extending parliamentary privilege protections to judges of the new court.

Article 78 (Federal Consolidated Fund)

Before the 27th Amendment, clause (2)(b) provided that moneys received by or deposited with the Supreme Court or any other court shall be credited to the Public Account of the Federation. After the amendment, the words and comma "the Federal Constitutional Court," have been inserted after the word "with". Thus, moneys received by or deposited with the Federal Constitutional Court are also credited to the Public Account.

Article 81 (Expenditure Charged upon Federal Consolidated Fund)

Before the 27th Amendment, paragraph (a)(i) referred to the remuneration of Judges of the Supreme Court, and paragraph (b) referred to administrative expenses of the Supreme Court, the Judicial Commission, and the Supreme Judicial Council. After the amendment, the words and comma "the Federal Constitutional Court," have been inserted in both paragraphs (a)(i) and (b) after the word "of". Consequently, the remuneration of Federal Constitutional Court Judges and the administrative expenses of that Court are now expenditure charged upon the Federal Consolidated Fund.

Article 93 (Advisers)

Before the 27th Amendment, clause (1) stated that the President may appoint not more than five Advisers on the advice of the Prime Minister. After the amendment, the word "five" has been substituted by the word "seven". The Prime Minister may now appoint up to seven Advisers instead of five.

Article 100 (Attorney-General for Pakistan)

Before the 27th Amendment, clause (1) required the Attorney-General to be a person qualified to be appointed as a Judge of the Supreme Court. After the amendment, the word "Supreme" has been substituted by the words "Federal Constitutional". The Attorney-General must now be qualified to be a Judge of the Federal Constitutional Court, raising the qualification benchmark.

Article 105 (Governor to Act on Advice)

Before the 27th Amendment, clause (3)(b) simply stated that the Governor shall appoint a care-taker Cabinet. After the amendment, the expression "in accordance with the provisions of Article 224 or, as the case may be, Article 224A" has been inserted after the word "Cabinet". This change adds a specific cross-reference to the constitutional provisions governing the appointment of care-taker cabinets, removing any ambiguity on the procedure.

Article 114 (Restriction on Discussion in Provincial Assembly)

Before the 27th Amendment, Article 114 stated that no discussion shall take place in a Provincial Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court. After the amendment, the words and comma "the Federal Constitutional Court," have been inserted after the word "of" (occurring for the second time). Provincial Assemblies are now also restricted from discussing the conduct of Judges of the Federal Constitutional Court.

Article 130 (The Cabinet in a Province)

Before the 27th Amendment, clause (6) provided that the total strength of the Cabinet shall not exceed fifteen members or eleven percent of the total membership of the Provincial Assembly, whichever is higher, followed by a proviso regarding the effective date of the amendment. After the amendment, the word "fifteen" is substituted by "seventeen", and the word "eleven" is substituted by "thirteen", and the proviso is omitted entirely. Provincial Cabinets may now be larger, with no delayed implementation.

Furthermore, before the amendment, clause (11) stated that the Chief Minister shall not appoint more than five Advisers. After the amendment, the word "five" is substituted by "seven", allowing up to seven Advisers at the provincial level as well.

Article 146 (Power of Federation to Confer Powers on Provinces)

Before the 27th Amendment, clause (3) provided that disputes over extra costs of administration shall be determined by an arbitrator appointed by the Chief Justice of Pakistan. After the amendment, the word "Pakistan" has been substituted by the words "Federal Constitutional Court". The arbitrator is now appointed by the Chief Justice of the Federal Constitutional Court

Article 152 (Acquisition of Land for Federal Purposes)

Before the 27th Amendment, Article 152 provided that disputes over the terms of land transfer between the Federation and a Province shall be determined by an arbitrator appointed by the Chief Justice of Pakistan. After the amendment, the word "Pakistan" has been substituted by the words "Federal Constitutional Court". The arbitrator is now appointed by the Chief Justice of the Federal Constitutional Court.

Article 159 (Broadcasting and Telecasting)

Before the 27th Amendment, clause (4) provided that questions regarding the lawfulness of conditions imposed on a Provincial Government shall be determined by an arbitrator appointed by the Chief Justice of Pakistan. After the amendment, the word "Pakistan" has been substituted by the words "Federal Constitutional Court". The arbitrator is now appointed by the Chief Justice of the Federal Constitutional Court.

Article 165A (Power of Parliament to Tax Certain Corporations)

Before the 27th Amendment, Article 165A contained provisions validating laws relating to taxation of income of corporations established by

or controlled by the government. The 27th Amendment, through its own clause 18, makes amendments to Article 165A, though the specific changes are not fully detailed in the provided text of the 27th Amendment. The amendment indicates that changes are being made to this article, but the exact nature of those changes requires reference to the full text of the amending act beyond the provided extract.

Article 175 (Establishment and Jurisdiction of Courts)

Before the 27th Amendment, clause (1) stated that there shall be a Supreme Court of Pakistan, a High Court for each Province and a High Court for the Islamabad Capital Territory, and such other courts as may be established by law. After the amendment, after the word "be" (occurring for the first time), the words and comma "a Federal Constitutional Court of Pakistan, hereinafter referred to as the Federal Constitutional Court" have been inserted, and after the word "Pakistan", the words "hereinafter referred to as the Supreme Court" have been inserted. This is a fundamental structural change, creating a new Federal Constitutional Court alongside the existing Supreme Court (which is now formally referred to simply as "the Supreme Court").

Article 175A (Appointment of Judges)

Before the 27th Amendment, Article 175A governed the appointment of Judges to the Supreme Court, High Courts, and the Federal Shariat Court, with the Judicial Commission headed by the Chief Justice of Pakistan. The 27th Amendment makes extensive changes to this article. After the amendment, the marginal note now includes "the Federal Constitutional Court". Clause (1) now includes the Federal Constitutional Court in the list of courts for which judges are appointed. Clause (2), which defines the Commission for appointing Supreme Court Judges, is completely restructured: the Chief Justice of the Federal Constitutional Court and the Chief Justice of the Supreme Court are now members, with their seniority determining the Chairperson. New nomination procedures

for joint appointments are introduced. Clause (3), regarding the nomination of the Chief Justice, now applies separately to the Chief Justice of the FCC and the Chief Justice of the Supreme Court. The provisos dealing with the first appointment of the FCC Chief Justice and Judges are added. The requirement for the Commission to make rules for performance evaluation is made mandatory (from "may" to "shall"). Provisions regarding High Court Constitutional Benches and the transfer of judges are also adjusted. In essence, the entire judicial appointment process is overhauled to support a two-top-court system.

New Chapter 1A (Articles 175B to 175L) – The Federal Constitutional Court

Before the 27th Amendment, this chapter did not exist. After the amendment, an entirely new Chapter 1A is inserted in Part VII, comprising Articles 175B through 175L, which establish the Federal Constitutional Court in detail. Article 175B provides that the FCC shall consist of a Chief Justice and other Judges, with equal representation from each Province and at least one Judge from the Islamabad High Court. Article 175C sets the qualifications for FCC Judges: they must be or have been a Supreme Court Judge, have five years of High Court Judge service, or have twenty years of practice as a High Court advocate. Article 175D prescribes the oath of office. Article 175E vests the FCC with exclusive original jurisdiction over inter-governmental disputes and fundamental rights enforcement (transferred from the Supreme Court). Article 175F gives the FCC appellate jurisdiction over cases involving constitutional interpretation and High Court writ judgments. Article 175G grants the FCC review power over its own judgments. Article 175H gives the FCC advisory jurisdiction on Presidential references. Article 175I sets the retirement age for FCC Judges at 68 years (compared to 65 for Supreme Court Judges), with a three-year term for the Chief Justice. Articles 175J, 175K, and 175L deal with acting Chief Justice, acting Judges, and the seat of the Court, respectively.

Article 176 (Constitution of Supreme Court)

Before the 27th Amendment, Article 176 stated that the Supreme Court shall consist of a Chief Justice to be known as the Chief Justice of Pakistan and so many other Judges. After the amendment, after the word "Justice" (occurring for the second time), the words "of Supreme Court" are inserted, and a proviso is added stating that until a Judge of the Supreme Court is appointed as the Chief Justice of the Federal Constitutional Court, he shall continue to serve as a Judge of the Supreme Court. This renames the head of the old Supreme Court to "Chief Justice of Supreme Court" to distinguish him from the new Chief Justice of the FCC, and addresses transitional appointments.

Article 177 (Appointment of Supreme Court Judges)

Before the 27th Amendment, Article 177 stated that the Chief Justice of Pakistan and each other Judge of the Supreme Court shall be appointed by the President in accordance with Article 175A. After the amendment, the word "Pakistan" has been substituted by the words "Supreme Court". The article now refers to the appointment of the Chief Justice of the Supreme Court and other Judges of the Supreme Court.

Article 178 (Oath of Office of Supreme Court Judges)

Before the 27th Amendment, Article 178 required the Chief Justice of Pakistan to make oath before the President, and other Supreme Court Judges before the Chief Justice. After the amendment, the word "Pakistan" has been substituted by the words "Supreme Court". The oath is now made by the Chief Justice of the Supreme Court.

Article 179 (Retiring Age of Supreme Court Judges)

Before the 27th Amendment, Article 179 provided that a Judge of the Supreme Court shall hold office until the age of 65 years, with a proviso that the term of the Chief Justice of Pakistan shall be three years or until age 65, whichever is earlier. After the amendment, the

word "Pakistan" (occurring twice) has been substituted by the words "the Supreme Court". The article now applies to the Chief Justice of the Supreme Court and clarifies that the retirement age for the old Supreme Court remains 65.

Article 180 (Acting Chief Justice of Supreme Court)

Before the 27th Amendment, Article 180 provided that when the office of Chief Justice of Pakistan is vacant, the President shall appoint the most senior of the other Judges of the Supreme Court to act as Chief Justice. After the amendment, the word "Pakistan" (occurring three times) is substituted by "the Supreme Court", and the words "the most senior" are substituted by "one". The President now appoints "one" of the other Judges (not necessarily the most senior) to act as Chief Justice of the Supreme Court.

Article 182 (Appointment of Ad-hoc Judges of Supreme Court)

Before the 27th Amendment, Article 182 allowed the Chief Justice of Pakistan to request former Supreme Court Judges or sitting High Court Judges to attend sittings of the Supreme Court as ad-hoc Judges. After the amendment, the word "Pakistan" is substituted by the words "Supreme Court". The power now belongs to the Chief Justice of the Supreme Court.

Article 183 (Seat of the Supreme Court)

Before the 27th Amendment, clause (2) allowed the Supreme Court to sit in other places as the Chief Justice of Pakistan may appoint, and clause (3) provided an alternative seat until Islamabad was established. After the amendment, in clause (2), the word "Pakistan" is substituted by "Supreme Court", and clause (3) is omitted entirely. The Supreme Court's permanent seat is confirmed as Islamabad, with the transitional provision removed.

Article 184 (Original Jurisdiction of Supreme Court)

Before the 27th Amendment, Article 184 gave the Supreme Court original jurisdiction in inter-governmental disputes and fundamental rights

enforcement. After the amendment, Article 184 is omitted entirely. This jurisdiction is now vested exclusively in the Federal Constitutional Court under new Article 175E.

Article 185 (Appellate Jurisdiction of Supreme Court)

Before the 27th Amendment, Article 185 gave the Supreme Court broad appellate jurisdiction from High Court judgments. After the amendment, the entire article is substituted with a new version. While the new Article 185 retains some appellate jurisdiction (e.g., criminal appeals where acquittal is reversed, contempt cases, certain property disputes), a critical new proviso is added to clause (3): "Provided that no appeal shall lie to the Supreme Court in cases to which clause (1) of Article 175F applies." Since Article 175F(1) gives the Federal Constitutional Court appellate jurisdiction over cases involving constitutional interpretation and High Court writ judgments, the Supreme Court is now barred from hearing such appeals. The Supreme Court's appellate jurisdiction is substantially curtailed.

Article 186 (Advisory Jurisdiction of Supreme Court)

Before the 27th Amendment, Article 186 allowed the President to refer questions of law of public importance to the Supreme Court for its opinion. After the amendment, Article 186 is omitted entirely. This advisory jurisdiction is now transferred to the Federal Constitutional Court under new Article 175H.

Article 186A (Power of Supreme Court to Transfer Cases)

Before the 27th Amendment, Article 186A allowed the Supreme Court to transfer cases from one High Court to another or to itself. After the amendment, Article 186A is omitted entirely. This power is implicitly transferred to the Federal Constitutional Court as part of its supervisory jurisdiction.

Article 187 (Issue and Execution of Processes of Courts)

Before the 27th Amendment, Article 187 gave the Supreme Court power to issue directions for doing complete justice. After the amendment, the marginal heading now includes "Federal Constitutional Court and". In clause (1), after the figure "175,", the words "the Federal Constitutional Court and" are inserted, and in the proviso, after the word "by", the same words are inserted. Both the FCC and the Supreme Court now have this power.

Article 189 (Decisions Binding on Other Courts)

Before the 27th Amendment, Article 189 stated that any decision of the Supreme Court shall be binding on all other courts in Pakistan. After the amendment, the article is substituted with a new version. New clause (1) states that any decision of the Federal Constitutional Court shall be binding on all other courts in Pakistan including the Supreme Court. New clause (2) states that any decision of the Supreme Court shall be binding on all other courts in Pakistan except the Federal Constitutional Court. This establishes a clear hierarchy, with the FCC as the supreme judicial authority on matters within its jurisdiction.

Article 190 (Action in Aid of Courts)

Before the 27th Amendment, Article 190 required all executive and judicial authorities to act in aid of the Supreme Court. After the amendment, the marginal note and the text now include "the Federal Constitutional Court and" before "the Supreme Court". Authorities must now act in aid of both the FCC and the Supreme Court.

Article 191 (Rules of Procedure)

Before the 27th Amendment, Article 191 allowed the Supreme Court alone to make rules regulating its practice and procedure. After the amendment, the article is substituted to state that, subject to the Constitution and Act of Parliament, the Federal Constitutional Court and the Supreme Court may make rules regulating their respective practice and procedure. Both courts now have independent rule-making power.

Article 191A (Constitutional Benches of the Supreme Court)

Before the 27th Amendment, Article 191A established Constitutional Benches of the Supreme Court to exercise original, constitutional appellate, and advisory jurisdiction. After the amendment, Article 191A is omitted entirely. With the creation of the separate Federal Constitutional Court, the need for Constitutional Benches within the Supreme Court has been eliminated.

Article 192 (Constitution of High Court)

Before the 27th Amendment, Article 192 contained clauses (1) through (5). After the amendment, the reference to clause (5) is substituted with a reference to clause (4), reflecting the omission of certain provisions elsewhere in the Constitution (likely related to the removal of Article 191A).

Article 193 (Appointment of High Court Judges)

Before the 27th Amendment, clause (3) defined "District Judge" for the purposes of the article. After the amendment, clause (3) is omitted entirely.

Article 199 (Jurisdiction of High Court)

Before the 27th Amendment, clause (4A) contained a proviso stating that an interim order made by a High Court questioning the validity of a law relating to State property or public revenues shall cease to have effect after six months, and the matter shall be finally decided within that period. After the amendment, the proviso is substituted with a new proviso allowing an interim order to be extended, for reasons to be recorded, for a further period up to six months. Additionally, in clause (5), after the word "the" (occurring for the fourth time), the words "Federal Constitutional Court or the" are inserted, so that the definition of "prescribed law officer" now also refers to the FCC in relation to applications affecting the Federal Government.

Article 200 (Transfer of High Court Judges)

Before the 27th Amendment, Article 200 allowed the President to transfer a High Court Judge with

his consent and after consultation with the Chief Justice of Pakistan and the Chief Justices of both High Courts. After the amendment, the entire article is substituted with a new version. The President now transfers a Judge on the recommendation of the Judicial Commission of Pakistan. The Commission may hear the Judge before making a recommendation. Seniority on transfer is reckoned from the date of initial appointment, but a Judge cannot be transferred to a High Court where he would become senior to that Court's Chief Justice. Crucially, a Judge who does not accept a transfer shall be proceeded against under Article 209 (Supreme Judicial Council) within thirty days and shall not perform his functions until the Council renders its decision. Non-acceptance of a transfer is thus treated as a potential ground for removal.

Article 202A (Constitutional Benches of High Courts)

Before the 27th Amendment, clause (3) stated that no Bench of a High Court other than a Constitutional Bench shall exercise jurisdiction under sub-paragraph (i) of paragraph (a) and paragraph (c) of clause (1) of Article 199 (i.e., certain writ jurisdictions). After the amendment, clause (3) is substituted to state that no Bench of a High Court other than a Constitutional Bench shall exercise jurisdiction vested in the High Court under all of Article 199. The exclusive jurisdiction of High Court Constitutional Benches is expanded to cover the entire writ jurisdiction of the High Court.

Article 204 (Contempt of Court)

Before the 27th Amendment, clause (1) defined "Court" for the purposes of contempt as the Supreme Court or a High Court. After the amendment, the words "Federal Constitutional Court or the" are inserted after the word "the". The definition of "Court" now includes the Federal Constitutional Court.

Article 205 (Remuneration of Judges)

Before the 27th Amendment, Article 205 stated that remuneration of Judges of the Supreme Court or of a High Court shall be as provided in

the Fifth Schedule. After the amendment, the words "the Federal Constitutional Court or" are inserted after the word "of" (occurring for the third time). The article now applies to Judges of the FCC as well.

Article 206 (Resignation)

Before the 27th Amendment, clause (1) allowed a Judge of the Supreme Court or High Court to resign to the President. Clause (2) provided that a High Court Judge who does not accept appointment as a Supreme Court Judge shall be deemed to have retired. After the amendment, in clause (1), the words "Federal Constitutional Court or of the" are inserted, allowing FCC judges to resign as well. Clause (2) is substituted to now cover a High Court Judge who does not accept appointment as a Judge of the Federal Constitutional Court or the Supreme Court, and a Supreme Court Judge who does not accept appointment as a Judge of the Federal Constitutional Court. In either case, they are deemed to have retired.

Article 207 (Judge Not to Hold Office of Profit)

Before the 27th Amendment, clause (1) prohibited a Judge of the Supreme Court or High Court from holding another office of profit. Clause (3) prohibited a former permanent Judge of the Supreme Court from pleading in any court, a former High Court Judge from pleading within that High Court's jurisdiction, and a former Judge of the High Court of West Pakistan from pleading within that court's jurisdiction. After the amendment, in clause (1), the words "Federal Constitutional Court or of the Supreme Court" replace the words "Supreme Court". In clause (3), paragraph (c) (referring to the High Court of West Pakistan) is omitted entirely, and the remaining paragraphs are adjusted accordingly.

Article 208 (Officers and Servants of Courts)

Before the 27th Amendment, Article 208 allowed the Supreme Court, Federal Shariat Court, and Islamabad High Court to make rules for their officers and servants (with Presidential approval), and High Courts to do so (with Gubernatorial

approval). After the amendment, the words "Federal Constitutional Court, the" are inserted at the beginning, so the FCC is now included. A new proviso states that until the FCC makes its own rules, the Supreme Court's rules shall apply mutatis mutandis to FCC officers and servants.

Article 209 (Supreme Judicial Council)

Before the 27th Amendment, the Supreme Judicial Council consisted of the Chief Justice of Pakistan, the two next most senior Supreme Court Judges, and the two most senior Chief Justices of High Courts. After the amendment, the composition of the Council is completely overhauled. New clause (2) provides that the Council shall consist of: (a) the Chief Justice of the FCC, (b) the Chief Justice of the Supreme Court, (c) one next most senior Judge each of the FCC and Supreme Court, (d) a Judge jointly nominated by the two Chief Justices, and (e) the two most senior High Court Chief Justices. The seniority between the CJ of FCC and CJ of SC determines the Chairperson. New clause (3) provides for alternate members if a Council member is under inquiry. Clause (5) is amended to add a reference to Article 200, so that the Council can act on a Judge's failure to accept a transfer. Clause (6) now requires the Council to inquire within thirty days in cases of transfer refusal, and adds "or does not accept transfer under Article 200" as a ground for a removal report. A new clause (10) requires the Council to make its rules within sixty days of the commencement of this amendment.

Article 210 (Power of Council to Enforce Attendance)

Before the 27th Amendment, clause (1) gave the Supreme Judicial Council the same power as the Supreme Court to secure attendance of persons. Clause (2) applied Article 204 (contempt) to the Council as it applies to the Supreme Court and High Court. After the amendment, in clause (1), the words "the Federal Constitutional Court or the Supreme Court" replace the words "Supreme Court" (occurring twice). In clause (2), the words "Federal Constitutional Court, the Supreme Court" replace the words "Supreme Court". The

Council now draws its enforcement powers from both the FCC and the SC.

Article 239 (Amendment of Constitution)

Before the 27th Amendment, clause (5) stated that no amendment of the Constitution shall be called in question in any court on any ground whatsoever. After the amendment, clause (5) is substituted with a stronger version: "Notwithstanding anything contained in the Constitution and any judgment of any court, no court shall have jurisdiction to call in question any amendment to the Constitution on any ground whatsoever." This explicitly overrides any past or future court judgments and bars any court from exercising jurisdiction over constitutional amendments.

Article 243 (Command of Armed Forces)

Before the 27th Amendment, clause (4) required the President, on the advice of the Prime Minister, to appoint the Chairman of the Joint Chiefs of Staff Committee, the Chief of the Army Staff, the Chief of the Naval Staff, and the Chief of the Air Staff. After the amendment, clause (4) is substituted to remove the Chairman, JCSC, and instead appoint the Chief of the Army Staff concurrently as the Chief of the Defense Forces. New clauses (5) through (11) are added: The office of Chairman, JCSC is abolished effective November 27, 2025. The Prime Minister appoints the Commander of the National Strategic Command on the Army Chief's recommendation. The ranks of Field Marshal, Marshal of the Air Force, and Admiral of the Fleet are created; such officers retain rank, privileges, and uniform for life, are declared national heroes, cannot be removed except by impeachment under Article 47, and enjoy the same protections under Article 248 as the President. Upon completion of their command term, the Federal Government determines their responsibilities.

Article 248 (Protection to President, Governor, etc.)

Before the 27th Amendment, clause (1) provided that the President and Governor shall not be

answerable to any court. Clause (2) stated that no criminal proceedings shall be instituted or continued against the President or a Governor during his term of office. Clause (3) stated that no process for arrest or imprisonment shall issue against the President or a Governor during his term. After the amendment, clause (1) now begins with "Notwithstanding any judgment of any court, the", overriding any contrary judicial ruling. Clause (2) is substituted to grant the President immunity from criminal proceedings for his life, while a Governor's immunity is only during his term. Clause (3) is substituted to grant the President immunity from arrest for his life, with a proviso that this lifelong immunity does not apply if the President holds a public office after ceasing to be President.

Article 260 (Definitions)

Before the 27th Amendment, Article 260 defined "Chief Justice" in relation to the Supreme Court or a High Court, and "Judge" in relation to the Supreme Court or a High Court. After the amendment, the definition of "Chief Justice" now includes the Federal Constitutional Court. A new definition of "Chief Justice of Pakistan" is inserted, meaning the senior-most between the Chief Justice of the FCC and the Chief Justice of the Supreme Court. The definition of "Judge" now includes a person acting as a Judge of the FCC. The definition of "service of Pakistan" now includes the word "President" after "as". A new definition of "technocrat" is added, meaning a person with sixteen years of education and fifteen years of experience in his field.

Impact on Judiciary

The proposed 27th Constitutional Amendment would fundamentally reshape the judiciary by introducing a separate Federal Constitutional Court (FCC) and redistributing powers that have historically been concentrated in the Supreme Court of Pakistan. By transferring jurisdiction over constitutional interpretation, enforcement of fundamental rights, advisory opinions, inter-governmental disputes, and appeals arising from constitutional questions to the FCC, the amendment seeks to establish a specialized

institution dedicated exclusively to constitutional adjudication. This restructuring could enhance judicial efficiency and doctrinal consistency by allowing the Supreme Court to focus primarily on ordinary civil and criminal appellate matters, while constitutional disputes are handled by judges possessing specific expertise in constitutional law. The creation of an independent constitutional court may also contribute to the development of a more coherent body of constitutional jurisprudence and provide clearer institutional boundaries within the judicial system.

However, the amendment also raises profound concerns regarding judicial independence and the traditional balance of power within the judiciary. By making decisions of the FCC binding even upon the Supreme Court, altering the composition of the Judicial Commission and the Supreme Judicial Council, expanding executive influence in acting appointments and judicial transfers, and explicitly barring judicial review of constitutional amendments under Article 239, the proposal significantly changes the existing judicial hierarchy. Critics may argue that these provisions weaken the Supreme Court's historic role as the ultimate guardian of the Constitution and reduce the judiciary's ability to check constitutional excesses by other branches of government. Consequently, while the amendment has the potential to modernize and specialize Pakistan's judicial framework, its long-term impact would depend on whether the new institutional arrangements strengthen constitutional governance or inadvertently undermine the independence and authority of the judiciary.

Secondary Sources

Literature review

Constitutional amendments play a central role in shaping democratic governance, but their impact is not always positive. While they can strengthen democratic institutions and improve governance, they may also be used to concentrate power and weaken democratic checks and balances. According to Malik et al. (2026), the outcome of constitutional amendments depends largely on

the political environment, institutional strength, and the objectives behind the proposed reforms. Drawing upon theories of new institutionalism, democratic consolidation, and constitutionalism, the study examines constitutional developments in Pakistan, particularly the 18th, 26th, and 27th Amendments, alongside Turkey's 2017 presidential reforms. The authors argue that constitutional amendments are more likely to support democratic governance when they are adopted through transparent procedures, enjoy broad political consensus, preserve judicial independence, and uphold fundamental constitutional rights.

Similarly, Haider et al. (2026) emphasize that the Constitution of Pakistan is designed to evolve in response to changing political and governance needs through constitutional amendments. Their study critically evaluates the proposed 27th Constitutional Amendment and its likely implications for federalism, judicial independence, parliamentary authority, and civil-military relations. By examining both institutional and public responses through a qualitative legal approach, the authors conclude that constitutional amendments in Pakistan have historically produced mixed outcomes. While some reforms have improved governance and institutional efficiency, others have generated concerns regarding excessive concentration of power and institutional imbalance. The study therefore recommends careful constitutional scrutiny of the 27th Amendment to ensure that its implementation strengthens democratic governance, protects the rule of law, and preserves the constitutional balance among state institutions.

Arif et al. (2026) examine the 26th and 27th Constitutional Amendments of Pakistan to assess their implications for governance and institutional development. Using a qualitative doctrinal research approach, the study analyzes constitutional provisions, parliamentary debates, and relevant academic literature to understand how these amendments reshape power distribution, institutional structures, and political representation. The authors find that the amendments introduce significant legal and

structural changes affecting federal relations, institutional balance, and the overall governance framework. Although the reforms are intended to address existing constitutional and administrative challenges, their effectiveness ultimately depends on proper implementation and sustained political commitment. The study concludes that constitutional reforms can achieve their intended objectives only when they are implemented in accordance with democratic principles and constitutional norms.

Akram et al. (2025) explore the political discourse surrounding the 27th Constitutional Amendment by examining discussions on Twitter during different stages of the amendment process. Employing qualitative thematic and discourse analysis, supported by Framing and Agenda-Setting theories, the study investigates how various political actors shaped public narratives about the proposed reforms. The findings identify two competing perspectives: the government's narrative portraying the amendment as a democratic and institutional reform, and the opposition's narrative expressing concerns over constitutional integrity and democratic accountability. The authors conclude that Twitter served not only as a platform for sharing information but also as an important space where political legitimacy was constructed, challenged, and negotiated, highlighting the growing influence of social media in political communication within transitional democracies..

Iqbal and Sanjrani (2025) critically examine the 27th Constitutional Amendment and its implications for Pakistan's constitutional framework, particularly its impact on judicial independence, executive authority, and military influence. Using a qualitative doctrinal research methodology, the study evaluates both primary constitutional provisions and relevant scholarly literature through the lens of constitutional theory and comparative analysis. The authors argue that although the amendment has been presented as a means of improving institutional efficiency and governance, it raises serious constitutional concerns regarding the separation of powers, the rule of law, and the system of checks and balances. The study concludes that

the concentration of authority within the executive and military institutions may undermine judicial independence, weaken parliamentary oversight, and pose challenges to democratic governance.

Similarly, Saeed et al. (2025) analyze the effects of the 27th Constitutional Amendment on Pakistan's judicial system, with particular focus on judicial review, judicial independence, and the changing role of the Supreme Court. The study explains that the establishment of the Federal Constitutional Court transfers constitutional jurisdiction away from the Supreme Court, while expanded executive involvement in judicial appointments creates concerns about the erosion of judicial autonomy. Through a comparative analysis of constitutional reforms in other jurisdictions, the authors argue that although the amendment may improve administrative efficiency and reduce the Supreme Court's workload, it also presents significant risks to judicial accountability, democratic governance, and constitutional checks and balances. The study ultimately recommends legal and institutional safeguards to ensure that judicial independence remains protected within Pakistan's constitutional framework.

The Twenty-Seventh Constitutional Amendment to the Constitution of Pakistan aims to establish a Federal Constitutional Court (FCC) with broad jurisdictions, while eliminating certain Supreme Court powers. This paper critically analyzes the amendment, highlighting potential benefits like reduced Supreme Court workload but warns of risks including judicial fragmentation and politicization. Concerns arise from changes to judicial appointments under Article 175A, which may compromise judicial independence. The study compares international practices and concludes the amendment undermines constitutional stability rather than promoting democratic governance. Recommendations include reconsidering the dual apex court structure and restoring the Supreme Court's jurisdiction to uphold the rule of law (Nawaz & Bexci, 2026).

5. Discussion

The process through which the 27th Constitutional Amendment was introduced has generated considerable political and legal debate. Constitutional reforms of such significance generally require broad political consensus, transparent parliamentary deliberations, and meaningful public participation to ensure their democratic legitimacy. Comparative constitutional experience demonstrates that the legitimacy of constitutional amendments depends not only on the substance of the proposed reforms but also on the fairness, transparency, and inclusiveness of the process through which they are adopted. In this context, the long-term success of the 27th Constitutional Amendment will largely depend on the independence of the newly established Federal Constitutional Court, continued adherence to constitutional principles, and an unwavering commitment to the rule of law in Pakistan (Shafiq et al., 2022; Stone Sweet, 2000).

Although the amendment introduces several institutional reforms that may improve judicial efficiency, it also raises significant concerns regarding judicial independence. The restructuring of the Judicial Commission of Pakistan, the reconstitution of the Supreme Judicial Council, and the expanded role of the executive in judicial appointments and transfers have prompted questions about the extent to which judicial autonomy can be preserved. An independent judiciary remains a cornerstone of every constitutional democracy, requiring judges to decide cases free from political influence or institutional pressure. Previous research has consistently shown that executive interference and institutional conflicts have weakened judicial independence in Pakistan and have adversely affected public confidence in the administration of justice (Hagan et al., 2010; Kalhan, 2013; Rehman et al., 2023).

The amendment also introduces a fundamental change to Pakistan's judicial hierarchy by making decisions of the Federal Constitutional Court on constitutional matters binding upon the Supreme Court. Traditionally, the Supreme Court has served as the final authority on constitutional

interpretation, and this shift represents a significant departure from the existing constitutional framework. While the establishment of a specialized constitutional court may promote greater consistency and expertise in constitutional adjudication, it may also create transitional uncertainty and jurisdictional conflicts between the superior courts. Comparative constitutional scholarship suggests that specialized constitutional courts function most effectively when their jurisdiction is clearly defined and supported by strong institutional coordination and constitutional clarity (Pakistan & Munir, 1967; Kumm, 2005; Stone Sweet, 2000).

The proposed amendment is also likely to influence Pakistan's federal structure by centralizing constitutional jurisdiction within the newly established Federal Constitutional Court. Such a shift may have important implications for provincial autonomy, the distribution of constitutional authority, and the resolution of future disputes between the federation and the provinces. Given Pakistan's constitutional evolution, maintaining an appropriate balance between federal and provincial powers has remained essential for preserving constitutional stability and democratic governance. Any constitutional reform that affects this balance should therefore be implemented with careful consideration of its long-term consequences for the federal system (Khan, 2001).

As one of the most significant constitutional developments in recent years, the proposed 27th Constitutional Amendment has attracted considerable public and political attention. However, despite its importance, scholarly research examining its legal and constitutional implications remains limited. Most of the available literature consists of media reports, political commentary, and public debate, with relatively few studies providing a detailed constitutional analysis of the amendment itself. In particular, there is a noticeable lack of academic research evaluating how the proposed reforms may reshape the judiciary, alter the constitutional balance of power, and affect judicial independence under the Constitution of

the Islamic Republic of Pakistan, 1973. This gap highlights the need for further doctrinal and comparative legal research to better understand the amendment's potential long-term constitutional consequences.

Another major gap is a lack of comparative legal analysis. While many countries have functioning constitutional courts, little research has been conducted to assess if the proposed Federal Constitutional Court of Pakistan adheres to internationally recognized standards regarding judicial independence, constitutional supremacy, and separation of powers. Also, little to no research has been done on the possible constitutional implications of establishing the Federal Constitutional Court as superior in terms of constitutional issues over the Supreme Court of Pakistan.

This research examines the proposed text of the 27th Constitutional Amendment with respect to its legal basis (or lack thereof) and impact on Pakistan's judiciary by conducting a doctrinal legal analysis of its provisions and examining how those provisions could enforce or limit basic principles in Pakistan's legal system. This research was not intended to offer descriptive political commentary regarding the amendment; rather, it offers a critical analysis of the amendment within the larger context of constitutionalism, judicial independence, separation of powers, and the rule of law. In addition, this article will contribute to the development of literature on Pakistan's constitutional advancement, as well as serve as a foundation for future academic research concerning the amendment's implementation and long-term constitutional consequences.

6. Results

I. The 27th Constitutional Amendment fundamentally restructures Pakistan's judicial system by establishing a separate Federal Constitutional Court (FCC).

II. The amendment transfers constitutional interpretation, fundamental rights jurisdiction, advisory jurisdiction, and inter-governmental disputes from the Supreme Court to the FCC.

III. The jurisdictional redistribution may improve judicial specialization and reduce the Supreme Court's constitutional workload.

IV. The restructuring of the Judicial Commission and the Supreme Judicial Council significantly changes the judicial appointment and accountability framework.

V. Granting binding authority to FCC decisions over the Supreme Court establishes a new judicial hierarchy unprecedented in Pakistan's constitutional history.

VI. Expanded executive involvement in acting appointments, judicial transfers, and institutional administration raises concerns regarding judicial independence.

VII. The omission of Articles 184, 186, 186A, and 191A substantially reduces the constitutional authority traditionally exercised by the Supreme Court.

VIII. The amendment's prohibition on judicial review of constitutional amendments under Article 239 weakens constitutional checks and balances.

IX. Comparative constitutional experience indicates that specialized constitutional courts function effectively only where institutional independence and constitutional safeguards are adequately protected.

X. The amendment presents both opportunities for constitutional specialization and risks of institutional imbalance, making its long-term success dependent upon impartial implementation and respect for the rule of law.

7. Conclusion of Paper

The proposed 27th Constitutional Amendment represents one of the most significant constitutional reforms in Pakistan's recent legal history by fundamentally transforming the structure and jurisdiction of the superior judiciary. Through the establishment of the Federal Constitutional Court, redistribution of constitutional jurisdiction, and modification of judicial appointment and accountability mechanisms, the amendment introduces a new constitutional framework intended to specialize constitutional adjudication and improve institutional efficiency. At the same time, the

concentration of constitutional authority within a newly created court, coupled with increased executive influence over judicial administration and restrictions on judicial review, raises important constitutional questions concerning judicial independence, separation of powers, and the preservation of constitutional supremacy.

Although the amendment possesses the potential to modernize Pakistan's constitutional adjudication system, its ultimate success will depend upon its implementation in accordance with democratic values, institutional independence, and the rule of law. Constitutional reforms should strengthen rather than weaken the judiciary's ability to act as an impartial guardian of the Constitution. Therefore, maintaining judicial autonomy, ensuring transparent appointment mechanisms, and preserving effective constitutional oversight remain essential to safeguarding democratic governance and public confidence in Pakistan's constitutional order.

8. Recommendations

I. The independence of the Federal Constitutional Court should be constitutionally protected through transparent and merit-based judicial appointments.

II. Executive influence over judicial appointments, transfers, and acting appointments should be minimized to preserve judicial autonomy.

III. The jurisdictional boundaries between the Supreme Court and the Federal Constitutional Court should be clearly defined to avoid institutional conflicts.

IV. Judicial review of constitutional amendments should be preserved to maintain constitutional supremacy and democratic accountability.

V. The Judicial Commission and Supreme Judicial Council should include broader judicial representation with limited executive participation.

VI. Comprehensive legislation should be enacted to regulate the functioning, procedures, and jurisdiction of the Federal Constitutional Court.

VII. Constitutional reforms should be preceded by broad parliamentary consensus, stakeholder consultation, and public participation.

VIII. Comparative constitutional models should be carefully studied before implementing structural judicial reforms.

IX. Regular constitutional and judicial impact assessments should be conducted to evaluate the practical effects of the amendment.

X. Future constitutional reforms should prioritize judicial independence, separation of powers, and the protection of fundamental rights over institutional or political considerations.

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