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PAKISTAN: TWENTY-SEVENTH CONSTITUTIONAL AMENDMENT ATTACKS INDEPENDENCE OF JUDICIARY

Twenty-seventh amendment to the Constitution poses a grave threat to the independence of the judiciary and the rule of law in Pakistan by creating a Federal Constitutional Court that lacks independence, erodes judges' security of tenure of and insulates the president and heads of the naval, armed and air forces from accountability. Despite its far-reaching consequences, the amendment was steamrolled through parliament with no consultation with civil society and opposition parties. On the day the Act became law, two senior judges of the Supreme Court resigned in protest.¹ Two days later a judge of the Lahore High Court also resigned.²

The amendment further erodes judicial independence – already weakened by last year's twenty-sixth constitutional amendment – by granting the president and prime minister authority to appoint the first chief justice and initial judges of the Federal Constitutional Court, increasing executive influence over the judiciary.

The twenty-sixth amendment was passed with similar haste, in less than 24 hours, in October 2024. The amendment changed the composition of the Judicial Commission of Pakistan (JCP), the body responsible for appointment of judges of the supreme and high courts, adding members of parliament which, as the International Commission of Jurists (ICJ) notes, reduced the judicial members of the commission to a minority.³ In its 2024 Concluding Observations, the UN Human Rights Committee noted that the amendment had an impact “on the independence of the judiciary and on the process of judicial appointments”.⁴ The change in composition to include the legislature of the JCP risks politicization of the process.⁵

The twenty-sixth amendment also empowered the Supreme Judicial Council (SJC), the body responsible for inquiring into cases against judges, to remove judges on grounds of “inefficient in the performance of the duties”.⁶ This was in addition to the existing powers under Article 209 to remove judges due to “physical and mental incapacity” and for “misconduct”.⁷ The twenty-sixth amendment further created a Constitutional Bench of the Supreme Court, comprising of judges of the Supreme Court as nominated by the new JCP, and gave it powers previously exercised by the Supreme Court to hear cases involving “the constitutionality of any law or a substantial question of law as to the interpretation of the Constitution”.⁸ The amendment transferred the Supreme Court's original jurisdiction – the authority to hear cases at its own initiation – and advisory jurisdiction – authority to provide opinion on significant questions of law or public importance referred by the President – to the newly created Constitutional Benches. These benches were constituted at both the Supreme Court and high courts and had exclusive jurisdiction for cases that dealt with interpretation of the Constitution. A little over a year after the Constitutional Benches were constituted, the twenty-seventh amendment abolished the bench at the Supreme Court level⁹ and replaced it with a separate court – the Federal Constitutional Court.

¹ Dawn, “Two judges quit as amendment ‘hollows out’ SC”, 14 November 2025, <https://www.dawn.com/news/1954958/two-judges-quit-as-amendment-hollows-out-sc>

² Dawn, “Another judge quits over 27th Amendment”, 16 November 2025, <https://www.dawn.com/news/1955381/another-judge-quits-over-27th-amendment>

³ ICJ, “Pakistan: 26th Constitutional amendment is a blow to the independence of the judiciary”, 21 October 2024, <https://www.icj.org/pakistan-26th-constitutional-amendment-is-a-blow-to-the-independence-of-the-judiciary>

⁴ Human Rights Committee, Concluding observations on the second periodic report of Pakistan, 2 December 2024, CCPR/C/PAK/CO/2, para. 40.

⁵ Human Rights Council, Promotion and Protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, 24 March 2009, A/HRC/11/41, para. 25.

⁶ Pakistan, Constitution (Twenty-sixth Amendment) Act, 2024, Section 21.

⁷ Pakistan, Constitution of Pakistan, Article 209(5).

⁸ Pakistan, Constitution (Twenty-sixth Amendment) Act, 2024, Section 14 [inserting Article 191A into the Constitution].

⁹ Pakistan, Constitution (Twenty-seventh Amendment) Act, 2025, Section 37.

These successive changes were introduced amid larger concerns regarding attacks on the judiciary. In the past two years, various judges have raised concerns over interference with the judiciary as well as threats to judges deciding key cases involving the ruling coalition and military. In March 2024, six judges of the Islamabad High Court wrote an open letter addressed to the then-chief justice of the Supreme Court detailing intimidation by military's Inter-Services Intelligence (ISI), abduction of family members of judges and surveillance in the judge's private homes as tactics to pressurize them regarding ongoing cases, particularly those related to the former Prime Minister Imran Khan.¹⁰ Subsequent to this letter, the case was taken up by the Supreme Court which sought replies from various high courts. The Peshawar High Court stated in its reply to the Supreme Court that interference in judicial matters by the executive was an "open secret". It also stated that judges of the Peshawar High Court also faced threats from intelligence agencies while hearing "political cases".¹¹ Judges are also subject to threats online and physically. In April 2024, dozens of judges of the high courts and Supreme Court received letters containing "suspicious white powder".¹² The same month, an online campaign was launched maligning Justice Babar Sattar of the Islamabad High Court, one of the judges who had written the open letter.¹³ In March 2024, an anonymous complaint was filed¹⁴ against another author of the open letter, Justice Mohsin Akhtar Kayani, accusing him of "bias"¹⁵ and "favouritism".¹⁶ It was subsequently not adjudicated upon by the SJC. Another signatory to the letter, Justice Tariq Mehmood Jahangiri, was removed as a judge of the Islamabad High Court in December 2025 after a case against him alleging that his law degree was invalid.¹⁷ Justice Jahangiri had raised concerns regarding his trial arguing that it bypassed the procedure for removal of judges in the Constitution¹⁸ and that the bench hearing his case had conflict of interest¹⁹ as it included the Chief Justice Sarfraz Dogar, against whom Justice Jahangiri had filed a case at the Supreme Court challenging his eligibility as chief justice.²⁰

HASTY PROCEEDURE

The Constitution (Twenty-seventh Amendment) Act, 2025 became law on 13 November after being passed by two-thirds majority in the National Assembly and assented by the President on the same day. This was five days after a draft of the constitutional amendment was introduced as a bill in the Senate. The UN High Commissioner for Human Rights Volker Türk referred to the amendment as "hastily adopted" and "without broad consultation and debate with the legal community and wider civil society".²¹ The Human Rights Commission of Pakistan also expressed concerns with the

¹⁰ Guardian, "Pakistani judges say intelligence agency threatened them over Imran Khan", 3 April 2024, <https://www.theguardian.com/world/2024/apr/03/pakistani-judges-say-intelligence-agency-threatened-them-over-imran-khan>

¹¹ Express Tribune, "PHC also admits spy agencies 'interfere' in cases", 1 May 2024, <https://tribune.com.pk/story/2464698/phc-also-admits-spy-agencies-interfere-in-cases>

¹² Al Jazeera, "More than a dozen Pakistani judges receive letters with 'toxic' powder", 4 April 2024, <https://www.aljazeera.com/news/2024/4/4/more-than-a-dozen-pakistani-judges-receive-letters-with-toxic-powder>

¹³ Dawn, "IHC condemns 'malicious' social media campaign against Justice Babar Sattar", 28 April 2024, <https://www.dawn.com/news/1830190/ihc-condemns-malicious-social-media-campaign-against-justice-babar-sattar>

¹⁴ Dawn, "Islamabad Bar Council slams move against Justice Kayani", 10 April 2025, <https://www.dawn.com/news/1826771>

¹⁵ Express Tribune, "Complaint against Justice Kayani pending in SJC", 27 March 2024, <https://tribune.com.pk/story/2460656/complaint-against-justice-kayani-pending-in-sjc-1>

¹⁶ Dawn, "IHC set to take up anonymous complaint against senior judge Mohsin Kayani", 3 May 2024, <https://www.dawn.com/news/1831133/ihc-set-to-take-up-anonymous-complaint-against-senior-judge-mohsin-kayani>

¹⁷ Express Tribune, "IHC removes Justice Jahangiri over invalid law degree", 18 December 2025, <https://tribune.com.pk/story/2582806/ihc-removes-justice-jahangiri-over-invalid-law-degree>

¹⁸ Dawn, "Embattled IHC judge fired over 'invalid degree'", 19 December 2025, <https://www.dawn.com/news/1961938/embattled-ihc-judge-fired-over-invalid-degree>

¹⁹ Business Recorder, "Justice Jahangiri objects to IHC chief justice's hearing degree case", 15 December 2025, <https://www.brecorder.com/news/40397532>

²⁰ The News, "Five IHC judges move SC against acting CJ amid seniority row", 21 February 2025, <https://www.thenews.com.pk/print/1285016-five-ihc-judges-move-sc-against-acting-cj-amid-seniority-row>

²¹ Office of High Commissioner for Human Rights, "Pakistan: Türk concerned by constitutional amendments and immunity provisions", 28 November 2025, <https://www.ohchr.org/en/press-releases/2025/11/pakistan-turk-concerned-constitutional-amendments-and-immunity-provisions>

manner in which the amendment was passed, in “the absence of any meaningful consultation with the political opposition, the wider legal fraternity and civil society”.²²

Amnesty International notes that there was no consultation with civil society and the draft was made public only on 8 November when it was presented in the Senate, mere hours after approval from the Federal Cabinet.²³ The bill was approved in a joint meeting of the Senate and the National Assembly’s law and justice standing committees on 9 November with only “minor changes”.²⁴ It was then passed by the Senate the next day amid a walk out by opposition parties. The same bill was presented in the National Assembly on 11 November and passed with small edits on 12 November.²⁵ Given the minor changes to the bill, it was sent back to the Senate which approved the new version on 13 November. At no point in this process were civil society and other stakeholders consulted or given an opportunity to provide feedback on the draft amendment.

CONTESTED MAJORITY

Pakistan’s Constitution requires a two-thirds majority in both houses of parliament to pass any constitutional amendment.²⁶ This amendment was passed at a time when opposition leaders in both houses had been disqualified²⁷ after their convictions²⁸ by anti-terrorism courts for alleged involvement in protests²⁹ following the arrest of Tehreek-e-Insaf (PTI) leader Imran Khan on 9 May 2023. Further, the PTI, under its affiliate party Sunni Ittehad Council (SIC), was denied its share of the total 70 reserved seats for women and religious minorities in the National Assembly, allowing the ruling coalition of the Pakistan Muslim League-N (PML-N) and Pakistan People’s Party (PPP) to gain two-thirds majority. The dispute over reserved seats emerged after the Supreme Court barred PTI³⁰ from contesting under its electoral bat symbol and thus party members ran as independent candidates in the 2024 general elections held on 8 February 2024. After the elections, PTI’s elected candidates joined the SIC to be eligible for reserved seats in the national and provincial assemblies. A 13-member bench of the Supreme Court in July 2024 ruled that the PTI was entitled to its share of reserved seats as it never ceased to be a party despite being stripped of its electoral symbol.³¹ The majority opinion of the judgment was written by Justice Mansoor Ali Shah, who would later resign in protest after the passage of the twenty-seventh amendment. He was in line to become the chief justice of the Supreme Court later that year before the twenty-sixth amendment changed the rules of appointment of chief justice to deny him the position. Had the 2024 judgment been implemented, the PTI-SIC bloc would have been the single largest party with 114 seats in the National Assembly.³² The verdict, however, was challenged at the constitutional bench after the twenty-sixth constitutional amendment was adopted, and the bench ruled in June 2025 that the party was ineligible for the reserved seats.³³ PTI’s reserved seats were then distributed among three parties, PML-N, PPP and Jamiat Ulema-i-Islam-Fazl (JUI-F), effectively giving the ruling coalition a two-third majority in the National Assembly.³⁴

²² Dawn, “HRCP deplores haste in tabling 27th Amendment”, 10 November 2025, <https://www.dawn.com/news/1954147>

²³ Dawn, “27th Amendment rushed to Senate amid Opp outcry”, 9 November 2025, <https://www.dawn.com/news/1954035/27th-amendment-rushed-to-senate-amid-opp-outcry>

²⁴ Dawn, “Ruling allies green-light 27th Amendment draft”, 10 November 2025, <https://www.dawn.com/news/1954194/ruling-allies-green-light-27th-amendment-draft>

²⁵ Dawn, “NA stamps approval on 27th Amendment”, 13 November 2025, <https://www.dawn.com/news/1954725/na-stamps-approval-on-27th-amendment>

²⁶ Pakistan, Constitution of Pakistan, 1973, Article 239.

²⁷ Dawn, “Main opposition leaders ‘booted’ from parliament”, 6 August 2025, <https://www.dawn.com/news/1928963>

²⁸ Dawn, “May 9 riots: Faisalabad ATC sentences Omar Ayub, Shibli Faraz and other PTI leaders to 10 years in jail”, 31 July 2025, <https://www.dawn.com/news/1927802>

²⁹ Amnesty International, “Pakistan: Authorities must show restraint and lift internet restrictions immediately”, 11 May 2023, <https://www.amnesty.org/en/latest/news/2023/05/pakistan-authorities-must-show-restraint-and-lift-internet-restrictions-immediately>

³⁰ Dawn, “PTI bat-tered, loses iconic electoral symbol as SC restores ECP order”, 13 January 2024, <https://www.dawn.com/news/1805488>

³¹ Dawn, “Major win for PTI as Supreme Court rules party eligible for reserved seats,” 12 July 2024, <https://www.dawn.com/news/1845359/major-win-for-pti-as-supreme-court-rules-party-eligible-for-reserved-seats>.

³² Dawn, “SC gives PTI its groove back”, 13 July 2024, <https://www.dawn.com/news/1845531/sc-gives-pti-its-groove-back>

³³ Dawn, “SC dismisses PTI petitions, making party ineligible for reserved seats”, 27 June 2025, <https://www.dawn.com/news/1946149>

³⁴ Dawn, “Ruling coalition given two-thirds majority as ECP distributes reserved seats”, 2 July 2025, <https://www.dawn.com/news/1921643>

ATTACK ON JUDICIAL INDEPENDENCE

The amendment adds Articles 175B-175L to the constitution to establish a new court, the Federal Constitutional Court, whose decisions will bind all other courts, including the Supreme Court which previously was the highest court in the country. Additionally, the Federal Constitutional Court will not be bound by any judgment of the Supreme Court, past or present.³⁵ Further, the Federal Constitutional Court usurps the original and advisory jurisdiction of the Supreme Court. All pending cases before the Supreme Court or its now-defunct Constitutional Benches are to be transferred to the Federal Constitutional Court. These changes have profound implications for access to justice and human rights as cases relating to the application of fundamental rights under the constitution shall now lie with the new court. The Human Rights Council has noted that “integrity of the judicial system, together with its independence and impartiality, is an essential prerequisite for the protection of human rights”.³⁶ More directly, powers of the Supreme Court to validate and review bans on political parties imposed by the federal government – under Article 17, which guarantees the right to freedom of association – have been transferred to the Federal Constitutional Court.³⁷ This has severe implications as the government has publicly made statements intending to ban its largest opposition party, PTI, in the past³⁸ and the Punjab Assembly has passed a resolution to ban the PTI for being a “national security threat”.³⁹ The absence of clear rules delineating jurisdiction between the Supreme Court and the Federal Constitutional Court creates significant confusion on which forum would hear particular cases. The ambiguity is likely to cause procedural delays, to the detriment of litigant’s access to justice. Moreover, there is possibility of further confusion regarding interpretation of the constitution since the new court is not bound by past precedent of the Supreme Court.

The process for appointing judges to the new Federal Constitutional Court raises concern regarding its independence. Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which Pakistan ratified in 2010, states that all persons “shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”⁴⁰ and Article 10 of the Universal Declaration of Human Rights says that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.” General comment no. 32 of the Human Rights Committee notes that any “tribunal” must be “independent of the executive and legislative branches of government or enjoys in specific cases judicial independence in deciding legal matters in proceedings that are judicial in nature.”⁴¹

The first batch of judges to the Federal Constitutional Court and its chief justice are to be appointed by the President on the advice of the Prime Minister,⁴² bypassing the JCP process under Article 175A of the Constitution. These initial appointments raise concerns regarding direct political interference by the executive branch. Concerns persist for future appointments given the composition of the JCP after the twenty-sixth amendment, as members of parliament outnumber the judicial members and can thus dictate all future appointments. The Special Rapporteur on the independence of judges and lawyers has noted that “there is a risk of court capture when laws establish that political branches should be involved in selecting judges to hear certain politically sensitive cases.”⁴³ Additionally, the President also has powers to determine the number of judges for the new court, allowing the ruling government to change the composition of the court if certain judges are deemed unfavourable.

These apprehensions deepened when the chief justice and first four judges of the Federal Constitutional Court were sworn in on 14 November, less than 24 hours after the amendment became law.⁴⁴ No criteria or justification for the

³⁵ Pakistan, Constitution of Pakistan, 1973, Article 47.

³⁶ Human Rights Council, Integrity of the judicial system, resolution 25/4, A/HRC/25/L.5, 27 March 2014.

³⁷ Pakistan, Constitution (Twenty-seventh Amendment) Act, 2025, Section 4.

³⁸ Al Jazeera, “Pakistan government announces move to ban Imran Khan’s PTI”, 15 July 2024, <https://www.aljazeera.com/news/2024/7/15/pakistan-government-says-moving-to-ban-imran-khans-pti>

³⁹ Dawn, “Punjab Assembly adopts resolution to ban PTI, Imran for being ‘anti-state’”, 9 December 2025, <https://www.dawn.com/news/1960136>

⁴⁰ International Covenant on Civil and Political Rights, Article 14(1).

⁴¹ HRC, General comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial, 2007, para. 18.

⁴² Pakistan, Constitution (Twenty-seventh Amendment) Act, 2025, Section 20.

⁴³ Human Rights Council, Safeguarding the independence of judicial systems in the face of contemporary challenges to democracy, Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, 21 June 2024, A/HRC/56/62, para. 24.

⁴⁴ Dawn, “Federal Constitutional Court begins work amid row over selection criteria”, 15 November 2025, <https://www.dawn.com/news/1955219/federal-constitutional-court-begins-work-amid-row-over-selection-criteria>

appointments were provided. The UN Basic Principles on the Independence of the Judiciary state that the method of judicial selection should “safeguard against judicial appointments for improper motives”.⁴⁵

The amendment also alters the process for transfer of high court judges under Article 200 of the Constitution. Previously no judge of the high court could be transferred from one high court to another without their consent nor without consultation with the chief justice of the supreme court and the chief justices of both high courts. The amendment to the article removes the requirement and gives the President absolute powers to make transfers, subject merely to recommendation from the JCP.⁴⁶ The arbitrary and executive-heavy nature of this power now opens the possibility of transfer used as a punitive measure against judges who rule against the Pakistani authorities. The amendment also adds that any judge who refuses transfer will be suspended and their case will be reviewed by the Supreme Judicial Council, which now has powers to remove them for refusal of transfer under Article 209. This is in direct violation of the Basic Principles that state that removal of judges must only be for reasons of “incapacity or behaviour that renders them unfit to discharge their duties”.⁴⁷

ABSOLUTE AND LIFETIME IMMUNITY

In addition to restructuring the higher judiciary, the twenty-seventh amendment introduces major revisions to Article 248, which governs immunity from criminal and civil proceedings. Under these changes, the President now enjoys lifetime immunity from criminal prosecution and arrest, extending the protection previously limited to their term in office.

This expanded immunity, not limited to actions related to functions of the office of the President, shields the President from any form of criminal accountability. The immunity appears to have retrospective scope as Article 248(1) now bars any civil or criminal proceedings related to the execution of official duties “notwithstanding any judgment of any court” and Article 248(2) states that no criminal proceedings can be “initiated or continued” against the President, rendering any previous or ongoing order or judgement without any legal effect.

Further, changes to Article 243 have extended the newly expanded Presidential immunity to the ranks of Field Marshal, Marshal of Air Force and Admiral of the Fleet.⁴⁸ The amendment also states that military officials with these ranks are “national heroes” and “shall not be removed from office except on the ground or charges and in the manner provided under Article 47”,⁴⁹ which deals with the removal and impeachment of the President who can only be removed on grounds of “physical or mental incapacity”, for violating the Constitution, or “gross misconduct” as well as a resolution by two-thirds or more of the membership of parliament.⁵⁰ It bears noting that the current Chief of Army Staff, was appointed as field marshal after the conflict with India in May 2025, and stands to benefit directly from these protections.⁵¹

The wide-ranging nature of the immunity violates the fundamental principle of equality before the law enshrined in Article 26 of the ICCPR. It further violates the right to remedy under Article 2(3) for anyone pursuing legal recourse under criminal law for actions done by these officials. Under international law, while immunity for state officials is permissible, there are limits to the immunity, particularly in cases of war crimes and major violations. Article 27 of the Rome Statute of the International Criminal Court “immunities or special procedural rules” does not bar individuals from being tried for genocide, crimes against humanity and war crimes. The International Court of Justice has also held that that immunity only extends for “officials acts”, and serious international crimes cannot be regarded as official acts.⁵² The extension of wide-ranging and absolute lifetime immunity for such important positions paves the way for unchecked and arbitrary use of power and disregard for the rule of law.

CONCLUSION

Amnesty International concludes that the twenty-seventh constitutional amendment is the crescendo of a concerted and sustained attack on the independence of the judiciary, right to fair trial and the rule of law in Pakistan. The amendment

⁴⁵ UN Basic Principles on the Independence of the Judiciary, 1985, Principle 10.

⁴⁶ Pakistan, Constitution (Twenty-seventh Amendment) Act, 2025, Section 41.

⁴⁷ UN Basic Principles on the Independence of the Judiciary, 1985, Principle 18.

⁴⁸ Pakistan, Constitution (Twenty-seventh Amendment) Act, 2025, Section 51(9).

⁴⁹ Pakistan, Constitution (Twenty-seventh Amendment) Act, 2025, Section 51(8).

⁵⁰ Pakistan, Constitution of Pakistan, 1973, Article 47.

⁵¹ Al Jazeera, “Pakistan promotes army chief Asim Munir to field marshal: Why it matters”, 21 May 2025, <https://www.aljazeera.com/news/2025/5/21/pakistan-promotes-army-chief-asim-munir-to-field-marshal-why-it-matters>

⁵² International Court of Justice (ICJ), Concerning The Arrest Warrant of 11 April 2000 (*Democratic Republic of the Congo v Belgium*), 14 February 2002, para. 85.

violates international human rights law, particularly undermining the independence of the judiciary, right to fair trial and justice and accountability.

Amnesty International therefore calls for an urgent review of the twenty-seventh constitutional amendment and to ensure that all its provisions fully comply with Pakistan's international human rights law obligations and commitments. The Pakistani authorities must immediately take all appropriate measures to safeguard the impartiality, independence and safety of judges, ensuring that they can carry out their judicial functions without any inappropriate or unwarranted interference and any restrictions, improper influences, pressures and threats, direct or indirect, from any quarter or for any reason.

Pakistani authorities must uphold their international human rights obligations, effectively protect the human rights of everyone in the country, and ensure access to justice and effective remedies for victims as well as respect separation of powers and the rule of law.