

## A CRITICAL ANALYSIS OF THE 27TH CONSTITUTIONAL AMENDMENT IN THE CONSTITUTION OF PAKISTAN 1973: ITS IMPACT ON JUDICIAL AUTONOMY, CENTRALIZATION OF MILITARY POWER, AND DEMOCRATIC ACCOUNTABILITY

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### ABSTRACT

*The 27th Constitutional Amendment of Pakistan IS considered as one of the most important major constitutional amendments in the country's recent history. By introducing fundamental changes to the judicial system, restructuring military command structures, and enlarging the authority of the executive, the amendment has restructured the balance of power among the institutions of the state. This research paper examines critically the 27th Amendment with main objective on its consequences for judicial independence, centralization of military power, and democratic responsibility. It emphasized that while the amendment is presented as an effort to enlarge efficiency and governance, it raises serious constitutional issues regarding separation of powers, rule of law, and checks and balances on the institutions. The paper concludes that the 27th Amendment shows concern regarding undermining democratic concept of constitution by concentrating executive the authority and military domains at the danger of judicial autonomy and parliamentary supervision. By using a **qualitative doctrinal research method**, along with **critical analysis**, this paper analyzes primary legal sources such as the Constitution of Pakistan and landmark case law. It also incorporates secondary sources, including scholarly articles, reports, and expert commentary, to evaluate the impact of 27<sup>th</sup> Amendment. **Comparative analysis and constitutional theory** are applied to critically assess implications for judicial autonomy, military centralization, and democratic accountability.*

## INTRODUCTION

The amendments in the constitution play a vital role in changing the political and legal dynamics of a country. In Pakistan, amendment in the constitution have mostly shown transformation in dynamics involving authority rather than mutual democratic changes among authorities. (Hussain, A. 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.

The 27<sup>th</sup> amendment has given a way to intense debate among experts, the member of the parliament and civil society. The supporters of the amendment argue that it upgrades the (the governance system, simplifies the process of decision-making, and enhances the national security Pakistan Today. (2025). But the critics argues that it has weakens the independence of judiciary, organizes the power or military, and has weakens the democracy. This paper mainly focuses to analyze critically these conflicting assertions by analyzing the legal and constitutional consequences of the 27th Amendment in the constitution of Pakistan (IBAHRI, 2025).

## BACKGROUND

(Khan, H. (2012). 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. The Supreme Court of Pakistan was the principal interpreter of the Constitution and the guardian of fundamental rights prior to the 27<sup>th</sup> amendment as we have seen in (Al-Jehad).

Prior to 27th Amendment, the Supreme Court of Pakistan given the role of primary interpreter of the Constitution and guardian of fundamental rights (Al-Jehad Trust V. Federation of Pakistan, 1996; Sindh High Court Bar Association v. Federation of Pakistan, 2009). Military command was constitutionally structured to maintain institutional balance among the armed forces (Constitution of Pakistan, 1973, Art. 243). Executive immunity, though present, was limited in scope and duration (Constitution of Pakistan, 1973, Art. 248). The 27th Amendment departs from these traditions by introducing structural and substantive changes that significantly reshape the constitutional order (Shifting the Scales, 2025).

## IMPACT ON JUDICIAL AUTONOMY

### Restructuring of the Judicial System

The most significant characteristics of the 27th Amendment is the reconstruction of constitutional decisions through the making of a whole separate court known as constitutional court. This moves in true sense decreases the Supreme Court's core role in the interpretation of constitution and enforcement of fundamental right (Pakistan Journal of Social Sciences Review (PJSSR).



While with the establishment of constitutional courts exists in contrasting constitutional framework, the Pakistan's context highlights major issues due to the appointment's manner, jurisdictional disintegrational, and influences of the executive body. The shift of constitutional jurisdiction power took away from the Supreme Court might increase risks of institutional weakening and judicial disintegrational (dawnnews.tv/news).

### **Judicial Appointments and Transfers**

This amendment expands the involvement of executive in appointment of judicial officers and transfers, especially the posts concerning the High Court judges. This elevated privacy weakness security of tenure, a core foundation of judicial independence. The potential of transfers which are forced or retirements which are premature may/put an indirect pressure on judges, miserable decisions that might challenge authority of the military and executive body.

### **Consequences for Fundamental Rights**

The independence of the judiciary is linked closely to the fundamental rights protection. A suppressed judiciary may be not that much capable of exercising effective the mechanism of judicial review, specifically in case which involves political body and are sensitive which includes action of the executive or affairs of the military as a result, citizens' accessibility to constitutional remedies/solutions may be curtailed substantially.

## **CENTRALIZATION OF MILITARY POWER**

### **Reconfiguration of Military Command**

The newly adopted 27th Constitutional Amendment in the constitution of Pakistan introduces a centralized command of military structure by combining the authority to a single top military leadership, which leads to the abolishment of previous structures which includes Chairman Joint Chiefs of Staff Committee. This amendment sets away from the conventional unified command system, which was organized to maintain the institutional balance among the Army, Navy, and Air Force, and stops singular decision-making by only a single branch. (Shifting the Scales 2025).

If we look at constitutionally, enhancing this centralization give rise to serious issues about the overabundance of military power concentration, particularly as the top military leader now holds unlimited authority over strategic, operational, and administrative decisions across all armed forces. The Analysts emphasized that such a goals risks establishing a military hierarchy that is constitutionally insulated from the supervision of the civilian disturbing the sensitive balance mentioned in Articles 243–245 of the Constitution (Khan, H. (2012).

### **Civil–Military Relations**

The constitutional framework of Pakistan by tradition is rooted in supremacy of the civilian over the military, making sure that the ultimate policy decisions rests under the government supervision. However, by providing a lifetime tenure security, enlarges the privileges of the executive, and expanded the authority of the constitution to the top military leadership, the



27th Amendment successfully established the dominance of military within the state machinery.

## DEMOCRATIC ACCOUNTABILITY AND EXECUTIVE POWER

### Parliamentary Oversight

Although the Parliament of Pakistan has formally passed the amendment, the changes content restricts parliament's ability to oversee matter in the future. The focus of power in the executive and military reduces the power of parliamentary checks, shifting the Parliament into a justification rather than an institution that can control.

### Impact on the Rule of Law

The responsibility of democratic body is rooted in the rule of law, which needs that all the individuals and institutions should stay a subject to legal examination. By providing insulation to powerful actors from responsibility, the amendment risks establishing a hierarchical legal order which is not consistent with constitutional democracy (Rizvi, H. A. (2000).

### Critical Evaluation

If we look from the perspective of constitutional theory, the 27th Amendment defines an intentional change which is away from the principle of *separation of powers* given by *Montesquieu's* toward power division between the executive and military leadership. The traditional theory of the constitution highlights how authority is distributed among the independent institutions of the state to safeguard the abuse of power, make sure responsibility, and safeguard the rights of citizens (fundamental rights). By amalgamating authority in a few offices, the amendment brought down the institutional checks, possibly allowing a method of arbitrary decision-making and reduced the ability of courts and legislative body to give insights which are meaningful (Montesquieu, C. L. de S. (1748/1989)

While the supporters including **Government (PML-N led)** emphasized that such centralization will make sure or improves efficiency of the administrative body, coherence in strategy, and stability, these kinds of objectives must be kept in mind against the likes of normative principles of constitutional theory A secure and healthy constitutional order depends not only on efficiency but on self-control, predictability, and the rule of law. The institutional balance between the organ of the state makes sure that none of the branch or office can have the authority to dominate policy-making, the command of the military, or legal interpretation. By excluding/reducing these checks, the amendment produces risks creating a system in which democracy is subordinated to expediency, possibly easing executive and military dominance at the danger of institutional independence being curtailed (Parliamentary debate 2025).

In comparison the constitutional scholars like (Raja, S. A. 2024). says that the 27<sup>th</sup> Amendment is a **threat to the constitution** shows that any systems which has weaken the independence of judiciary and has centralize military authority mostly experiences democratic regression, exclusion of civil liberties, and lower down validity of administration

that are elected. In such a system, force becomes self-sustaining: the judiciary which is a core unit of a state is unable to review the action of executive or military openly, parliaments and parliamentarians are sidelined, and citizens' legal remedies are reduced or constrained (Raja, S. A. 2024).

In the end, the constitutional theory suggests that when the governing body of a democratic system is measured less by its effectiveness and more by the power, independence, and responsibility of its institutions. Any amendment which is made that prioritizes concentration of power over balance of the institutions should be carefully examined closely to prevent long-term democratic regression.

## **KEY FINDINGS**

### **Erosion of Judicial Autonomy**

The 27th Constitutional Amendment has majorly weakened judicial independence by reformation of constitutional decision making and increased the influence of executive over judicial appointments and their transfers. This threatens the security of tenure and produces indirect pressure on the judges, which results in judiciary's capacity to act as an effective check on executive and military power is diminished.

### **Centralization of Military Power**

The amendment has constitutionally centralized military command, merging the authority in senior military leadership. This shift ends from a principle which is established for balance of institution to collective command. This concentration runs a risk of strengthening military supremacy inside the constitutional framework and eliminating civilian oversight.

### **Weakening of Democratic Accountability**

By enlarging executive and institutional protections, the amendment has limited the scope of parliament responsibility. The major people of the state are placed beyond the examination check of judiciary, which has weakened the principle of equality before the law. This development speaks a serious challenge to accountability and democratic government.

### **Undermining of the Rule of Law**

The overall effect of judicial reorganization, expanded immunities, and the authority being centralized removes/curtailed the rule of law. The check and balance of the constitution is weakened while the authority of the executive and military command has expanded. This produces conditions pleasing to constitutional imbalance and democratic relapse.

## **RECOMMENDATIONS**

### **Restoration of Judicial Independence**

Judicial independence should be strengthened by limitize the involvement of executive in the appointment of judicial offices, transfers and tenure decisions. A clear, merit-based process should be ensured through a judicial commission which is independent. This is key to safeguard public confidence and supremacy of the constitution.



### **Strengthening Civilian and Parliamentary Oversight**

The structure of military command should remain firmly under the civilian control and parliamentary examination. Parliamentary committees must be given the power to look defense and policies made for the security of the state. This will help in restoring constitutional balance and democratic responsibility.

### **Limiting Executive and Institutional Immunities**

The Executive and institutional immunities should be narrowly defined, time-bound, and subject should be subject to judicial review. No constitutional office should enjoy permanent or complete exemption from their legal responsibility. This is very important for maintaining the rule of law.

### **Ensuring Constitutional Safeguards in Amendments**

The Future constitutional amendments should be under the direction by representative cooperation and principle of constitution rather than efficiency. Improved judicial review of amendments affecting fundamental structures should be established. This will safeguard the misuse of constitutional amendment powers.

## **CONCLUSION**

The 27th Constitutional Amendment provides significant changes of the framework of constitution of Pakistan. While presented as a reform-focused measure, its effect on judicial independence, military centralization, and democratic responsibility raises serious constitutional issues. This research paper concludes that the amendment regards concerns, under-shadowing the rule of law, weakening the independence of judiciary, and institutionalizing power which is imbalances. For Pakistan's constitutional democracy to flourish, the future reforms in the constitution must put honesty first, responsibility, and respect for institutional independence rather than quick concentration of authority.

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