



The 27th Amendment and its Impact on the Strength of Democracy and Federalism in Pakistan

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ABSTRACT

The paper provides an in-depth analysis of the 27th Constitutional Amendment of Pakistan that took place in 2025 and its implications on the principles of a democratic government and the federal system. Article 51(5) and 106(2) are amended by the amendment, which is a procedural reform, with substantive (although mainly indirect) effects on electoral legitimacy and provincial representation, primarily aimed at making it easier to delimit constituencies, following the 2025 Digital Census. By applying a two-pronged methodology, i.e. a legal analysis and a comparative policy analysis, the paper places the amendment in the context of apportionment and unequal distribution of resources between Pakistani inter-provincial units that Pakistan has been facing. As practices have shown, procedural, the amendment strengthens democratic values by requiring the drawing of electoral boundaries based on the present demographic realities, thus maintaining the objectivity of the principle of one person one vote. Such a realignment is specifically crucial in responding to the high urbanization and demographic changes that are witnessed in some provinces like Sindh and Khyber Pakhtunkhwa. The resultant correspondence of constituency boundary to the current population statistics is a decisive move towards eliminating voter inequity. Through federalist view, the amendment revitalizes the federalist agreement that required that the distribution of seats in the National Assembly should be based on the most recent population estimates of the federating units. Working openly on the basis of census-derived data, the state, in addition to strengthening the legitimacy of the federal arrangement, maintains mutual trust between the central government and the provincial governments. This recalibration of the procedure fortifies the formal mechanisms in which the federal bargain is based upon. The research also finds however, that the effectiveness of the amendment is limited to the procedural domain; it does not involve substantive changes to the electoral systems or structural reforms to support the long-term democratic consolidation or fiscal federalism. Therefore, although the amendment is an essential administrative trick, it does not amount to a massive restructuring of the constitution.



Introduction

The constitutional path that Pakistan has been following has been defined by the struggle between democratic solidification and institutional misuse, a nexus that largely guides the federal design of the country. The Constitution of 1973, which was the brainchild of the federation in its charter, has passed through a succession of acts of amendment, each marking the balance of power permanently. Proposed within the current legal context in the form of the subsequent change of the Constitution (Twenty-Seven Amendment), 2025 which focuses on the restructuring of the judicial and military systems, the constitution itself will become a fundamental turning point in the ongoing transformation of this progression. In contrast to other technical amendments, the 27th Amendment, as it was drafted, fundamentally reorganized major pillars of the state, the judiciary, the executive, and the military command structure. This piece of legislation requires a stringent intellectual examination of its long term effects on the two pillars of the Pakistani polity that are democracy and federalism. The concept of Pakistan-based democracy is based on the separation of power and the responsibility of the state bodies to the civilian leadership. The 27th Amendment is proposed to make far reaching changes but the most notable one is that it has introduced a Federal Constitutional Court (FCC) with exclusive powers in the interpretation of constitutional interpretation and basic rights and has therefore reduced the scope of the Supreme court by a large measure. At the same time, the Amendment aims to adjust judicial appointment and transfer processes, give the executive the possibly broader role, and change Article 248 to give the President and senior military officials lifetime immunity against criminal charges. These provisions cast deep reservations about the rule of law, and the fundamental concept of equality before the law, especially in the context of a strong democracy, critical constitutive provisions. Critics claim that this will institutionalize centralized power and can protect some of the major actors in the state against judicial and civilian control. Besides, the Amendment has significant, but indirect, implications to federalism. Federalism in Pakistan does not only exist within the allocation of legislative and fiscal prerogatives, as captured by the 18 th Amendment and National Finance Commission (NFC) Awards, but it is also present in the judicial resolution of inter-provincial matters. The suggested FCC, endowed with exclusive powers to adjudicate on federal-provincial issues, might be faster; but critics are concerned that a court biased to executive views may undermine the impartiality zone that the Supreme Court has traditionally held in settling between the centre and the federating units. Moreover, the threat to re-establish the provincial quota in the NFC Award, and a possible re-devolution of provincial jurisdiction, including education and population planning, to the federal, makes a direct threat to the administrative and fiscal independence assured by the 18th Amendment. This centralization risks to defederalize the authority and create disunity in the federal system hence disrupting the provincial peace.

Therefore, the study is an attempt to critically analyze the text of the constitution of the 27th Amendment with reference to the democratic theory and federalist principles established in Pakistan. It aims to find out how the altered institutional balance, especially the concentration of executive and military power at the cost of judicial independence and provincial self-governance will impact the stability and vitality of civilian democracy and the further direction of inter-provincial relations in the federation.

Literature review

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Analysis of Democratic Erosion: Judicial Subordination and Impunity

The current analysis poses the key questions of how the Constitution (Twenty-Seventh Amendment) Act of 2025 is promulgating a substantive danger to the democratic structure to Pakistan. The focus is put on the systematic undermining of judicial autonomy, the application of administrative tools that are used to pressure and the controversial constitutionalization of impunity of the executive and military elite-which are the core of accountability and the separation of powers doctrine.

Reconfiguration the Jurisdiction of the Supreme Court

The most significant institutional impact of the Amendment lies in the conscious surgical removal of the ultimate role of the Supreme Court: the role of the ultimate judge of the constitutional law.

The creation of the Federal Constitutional Court (FCC):

The establishment of the Federal Constitutional Court is one of the most important institutional engineering acts (Shah, 2025). By giving the FCC the exclusive power to decide in issues involving constitutional interpretation and the foundational rights, the 27th Amendment will practically leave the Supreme Court without the final and fundamental power in the constitutional domain. This re-calibration of structure downgrades the Supreme Court to an appellate judge in non-constitutional proceedings, which reduces its importance as the final protector of the Constitution of 1973 (Siddique, 2024).

The change reflects a change in the conventional unitary legal system to a specialized constitutional court system. The critics argue that such an adoption has political reasons with a view of eliminating constitutional review in a supreme court that has been known to have a well-established institutional independence and judicial review jurisprudence. The new specialized court, tasked with the task of interpreting the Constitution, becomes the place of power, and its structure and loyalty then takes the supreme significance in the future of democratic government (IBAHRI, 2024).

How the Process of FCC Appointment affects the Independence of Judicial Review:

The proposed appointment mechanism of the Federal Constitutional Court undermines the integrity of the latter. According to the Amendment, the President will appoint the first Chief Justice and judges of the FCC, with the recommendation of the Prime Minister, thus avoiding much of the established albeit imperfect process of the Judicial Commission of Pakistan (JCP) which used to need a lot of consultation and consensus among judges (Shah, 2025).

It is a centralized system of appointment that will give the executive a direct and unprecedented impact on the makeup of the supreme constitutional interpreter of the constitution. It is in the law that judicial independence is ensured, partly through separating the appointing procedure off the interference of the executive (IBAHRI, 2024). The Amendment jeopardizes the principle of separation of powers by making the FCC an instrument of political will instead of an independent control over state power by placing judges, who are inclined to the policy goals of the executive, on the bench (Siddique, 2024).

Administrative Coercion and High Court Autonomy

On top of the structural reforms at the apex level, the Amendment presents certain procedural changes that would make people obey and reduce the autonomy of the judges of the High Court, thus, making sure that the executive power enters the judicial pyramid.

Amendments to the Transfer Provisions (Article 200) Analysis

Article 200 is also altered by the Amendment to allow High Court judges to be transferred without their consent and possibly without constructive consultation with the Chief Justice of Pakistan or the relevant Chief Justices (Shah, 2025). Historically, judicial approval and consultation was seen as necessary protection against transfers as an instrument of political power or repression.

This re-engineered transfer provision forms a mechanism of administrative coercion in reality. The judges who prove to be institutionally independent or give decisions that are unfavorable to the political executive or establishment interests may now be threatened of being involuntarily transferred to distant or less powerful judicial posts. This compromises the security of tenure and office which are the basic conditions to independence of the judiciary as embedded in the domestic precedent as well as international legal norms (IBAHRI, 2024). According to the literature, such punitive administrative levers can be viewed as a vintage strategy that is used by weak democracies to make the judiciary subservient to the executive branch (Siddique, 2024).

Constitutionalization of Impunity (Article 248)

The most scandalous and ethically dubious clause of the Amendment is the radical extension of constitutional immunity that directly attacks the democratic right of equality before the law and accountability.

The Proposal to Grant Lifetime Immunity to the President:

Article 27 revises 248 to provide the sitting President with life immunity against criminal charges and all forms of civil actions, an immunity that was previously limited to the current term of office (Khan, 2024). Relatively, the majority of well-established democracies accord a limited immunity to the Head of State when they are in office to avoid political harassment. Lifetime immunity is something that is not common in operating democracy and is highly criticized by legal theorists as an institutionalization of favoritism (IBAHRI, 2024).

In essence, this provision violates the democratic principle according to which no individual is superior to the law (Article 4 of the Constitution of Pakistan). The Amendment undermines the people's trust by establishing a constitutionally guaranteed category of current and former political leaders, therefore, establishing the trend towards a system of governance where the representatives of the state can no longer be held accountable for their decisions and actions (Siddique, 2024).

Professionalizing the Military Influence and Accountability Exemptions of Top-tier officials:

To further weaken democracy, the Amendment grants analogous lifelong immunity, rank, and privileges to the holders of a five-star military rank (e.g. Field Marshal), which practically means that some high-ranking unelected officials will not be scrutinized by the law throughout their lifetime (Shah, 2025).

Pundits view this move as the constitutionalization of military superiority in the civil system (Khan, 2024). The Amendment makes the military institution an entrenched impunity institution by giving its leaders lifelong immunity as an influential institution. This constitutional protection hinders every avenue of criminal responsibility and judicial review of the activity of the top military command, which kills the system of civilian control and concentrates an executive-military model of command, which is fundamentally hostile to the principles of democracy (IBAHRI, 2024).

Analysis of Federal Stress: Centralization and Fiscal Autonomy

This article criticizes the constitutional perils of the Constitution (Twenty-Seventh Amendment) Act, 2025, on fundamental federalism principles in Pakistan. It is about legislative processes that aim to centralise judicial power, weaken fiscal accords, and may even undo the administrative devolution brought about by the 18th Amendment.

Organizational policy centralization: The company can reduce the number of court cases by setting up a centralized system for settling disputes.

The federation of Pakistan relies on mutual trust and the existence of a neutral judicial court that will be able to solve the conflicts between the federal centre and the provinces. The Twenty-Seventh Amendment essentially upsets this basic framework.

1. The FCC Role in settling federal-provincial disputes:

The Twenty-Seventh Amendment places the newly established Federal Constitutional Court (FCC) in charge of the hearing of inter-provincial and federal-provincial cases (Shah, 2025). This is an essential role traditionally played by the Supreme Court of Pakistan, which resolutely provided a neutral and generally agreeable legal space in which to settle disputes arising out of the complex federal bargain, including disputes over water distribution or regulatory jurisdiction.

2. Assessment of the Effect of Provincial Trust and Legal Recourse:

The elimination of the Supreme Court as the final determinant of federal controversies serves to undermine provincial trust in the judicial system to protect constitutional rights. The effectiveness of federalism depends on the presence of inter-unit constitutional trust, when the main entity that will enforce the constitutional deal is re-aligning under questionable conditions, provinces will consider the new system as a channel through which the central authority will usurp their powers (IBAHRI, 2024).

This sense of bias may reduce the provinces readiness to acquiesce with unfavorable judicial rulings, and may trigger a wave of more intense political competition and resorting to extra-constitutional or political means of resolving conflicts. These dynamics compromise the rule of law in the federal system and increase the tension between the provinces and the centre, which worsens the spirit of cooperative federalism (Khan, 2024).

Fiscal federalism threats (The NFC Award)

The National Finance Commission (NFC) Award is the major force control of fiscal federalism, or the fair distribution of national revenue. The Twenty-Seventh Amendment suggests the possibility of repealing the fiscal freedom guaranteed by the Eighteenth Amendment.

1. Provisions Analysis Bearing on the Provincial Share of the Federal Revenue:

The Eighteenth Amendment significantly reinforced provincial autonomy by ensuring that there is a minimum provincial quota of the federal divisible pool and by maintaining the stability of the NFC Award framework. However, the Twenty-Seventh Amendment presents procedures that make the process of reviewing and revising the NFC Award more susceptible to the will of the federal executive (Shah, 2025).

Although the Constitution also provides a regular examination of the NFC, the new regulations seem to open a channel through which the federal government can vigorously seek a decrease in the vertical distribution formula that is the provincial portion of the divisible pool. This shift may be achieved through reassigning some of the social-spending functions to the federation or by coaxing the FCC to approve interpretations that are favourable to the federal treasury (Siddique, 2024). Any reduction of the guaranteed provincial share would directly narrow the financial room of the provinces, hence restricting their ability to fund devolved services including health and education. This would be a clear contravention of the fiscal spirit that is at the basis of the Eighteenth Amendment (Khan, 2024).

2. Case Study: Fiscal Gains Possibly Reversed after 18th Amendment;

The provision of fiscal devolution in the Eighteenth Amendment produced a historic rise in provincial ownership and expenditure duties. A notable case study is the possible contribution to Sindh and Khyber Pakhtunkhwa (KP) whose provinces have taken more responsibility in a range of sectors and therefore, depend heavily on their assured portion of the NFC Award (Khan, 2024).

The possibility of a reversal of fiscal benefits would result in the federal government knowing back part of its money, or even the reimbursement of conditional grants that limit provincial expenditure discretion. This is essentially reversing devolution, as the provinces become financially reliant on the central government, which thus concerns the independence that they were allowed (Siddique, 2024). The threat highlights the precarious nature of federalism that its fiscal underpinnings are vulnerable to hypothetical constitutional manipulation thus fueling inter-provincial animosity (IBAHRI, 2024).

Administrative Devolution under consideration

The final aspect of federal stress relates to the administrative domination over the major legislative topics- the sphere where the Eighteenth Amendment has already attained a high level of decentralization.

1. Recommended Repatriation of Provincial Subjects

The Twenty-Seventh Amendment is in a way a constitutional change that enables specific legislative topics that were earlier on re-centralised in the provinces to be re-centralised like Education and Population Planning (Shah, 2025). According to academic reports and commentaries, these topics are the main contenders to be re-included in the federal list of legislation (Khan, 2024).

This re-transfer would be a direct attack on provincial government administrative autonomy. Education and population planning are very important areas requiring policies that vary in terms of region, language and culture. By reclaiming control over these areas, the federal government can be able to impose policies, curriculum, and spending in the entire country regardless of the provincial demands or inclinations (Siddique, 2024). This action is viewed by the provincial leaders as a direct effort to subvert the legislative devolution that was realized 10 years ago (IBAHRI, 2024).

2. Evaluating the Effect on the Administrative Independence of provincial governments

The compounded impact of a centralized dispute resolution, a loss of fiscal independence, and the future re-sharing of major administrative topics is a significant loss of provincial administrative autonomy. In this respect, autonomy is further expanded beyond the limits of legislative control to the independent management and funding of the policy implementation.

The Institutional Precedents of Power Consolidation

1. A comparison of the 27th amendment and the 18th Amendment

The sub-section that follows takes a stringent comparative evaluation of the concentration of power as it is in the 27th Amendment. It will present arguments that the two instruments use constitutional prerogatives to consolidate the executive power at the expense of the institutional checks and balances that protect pluralism (Siddique, 2024). A specific focus will be put on the institutionalization of the provisions of the martial law in the 8th Amendment, yet the 27th

Amendment is aimed at the attempts to legalize a long-term institutional superiority (IBAHRI, 2024).

2. Doctrine of Constitutional Subversion by Law:

This text presents the legal-political thesis according to which the process of democratic erosion may not happen by direct military corruption, but rather through the jurisprudential, gradual erosion of institutional protections (Khan, 2024). An example of this doctrine, which focuses on the structural organization (FCC) and accountability mechanisms (Impunity) of the judiciary, is the 27th Amendment, where two thirds of parliament members supermajority produces an authoritarian legal result (Shah, 2025). In this connection, the 27th Amendment can be viewed as being a part of a protracted institutional pathology.

Federalism and the Tendency towards the Unitary State:

The threats to federalism in a wider political-science paradigm by highlighting the resulting effects of centralization.

1. The Pakistani Drift towards a Quasi-Federal Organization:

The sub-section will use modern political-science reasoning to argue that the accumulated effect of the centralizing principles of the 27 th Amendment (FCC control, NFC vulnerability, subject transfer) is driving Pakistan to a quasi-federal structure or even to a unitary disposition (Siddique, 2024). It will focus on the systematic undermining of post-18th Amendment devolution through legal and fiscal centralization (Khan, 2024).

2. Political and Economic Implications of Re-centralization of Resources:

This will examine the future political retaliation that will arise out of provinces like the Sindh and the Balochistan which feel that the re-centralization of the NFC award and administration subjects is an existentialist danger to them. The economic consequences (that is, the narrowing of the provincial fiscal space which may hamper the provision of devolved services like health and education) will be evaluated. Arguably, this failure will further contribute to the disillusionment that the federal model already enjoys among the populace (Shah, 2025).

The Future Impact of the 27th Amendment on Pakistani Democracy

The institutional corruption and the rule of law The long-term impacts of the Constitution (Twenty-Seventh Amendment) Act, 2025, on Pakistani democracy are estimated to be devastatingly corrosive. The Amendment is set to transform the existing model of governance of the nation entrenching the system where institutional authority overpowers popular sovereignty (Siddique, 2024).

1. Authoritarian Legalism Entrenchment

The main potential implication is the Authoritarian Legalism institutionalization (Zia, 2025). The Amendment provides a legal fig-leaf to the undemocratic practices by authorizing the undermining of the democratic checks in a constitutionally sanctioned manner, i.e., by the Federal Constitutional Court (FCC) and the transfers of the judicial power, by a two-thirds majority of the parliament. Accordingly, any threat to executive or institutional overreach will face a weakened judicial structure (the FCC), whose objectivity is already doubtful since it is executive-affected in its appointment system (Shah, 2025). This position will ensure that the judiciary which is meant to serve the purpose of protecting democracy will find it hard to execute their constitutional role making accountability an exception and not the norm.

2. Normalization of Impunity

The long-term negative impact of the Amendment is the normalized impunity. Article 248 of the provision which grants lifetime immunity to the President and top military officers sends an unambiguous message that an altar of power occupiers is permanently exempted out of criminal and civil law (IBAHRI, 2024). This does not only infringe the democratic principle of equality but also makes further transition into actual civilian control very hard. The future of democracy is directly connected to the fact that the people have trusted the idea of accountability among their leaders; by protecting them through the law, the Amendment guarantees that the trust will keep declining leading to the increase in political alienation and uncertainty (Hassan, 2025).

3. Weakness in the Federal Counter-Balance

Democracy in Pakistan depends on whether its federal institutions will have a counter-check in the centralized federal government in the future. Nonetheless, the concentration of fiscal authority (NFC threat) and judicial adjudication (FCC control) erodes the provincial governments (Khan, 2024). This will in the long run lead to:

Greater provincial dissatisfaction. The provincial political parties will lack their judicial and fiscal protection, and will therefore be forced to engage in extra-parliamentary/confrontational politics to demand their rights and disrupt the overall democratic process.

Poorer quality of governance. The failure to provide efficient services will reduce the effectiveness of provincial governments as they lose their jurisdiction over areas of critical importance like education and health, and see their own effectiveness in providing services at all diminish, which will increase the disillusionment of the electorate with the effectiveness of democratic federalism itself (Ahmar, dentry).

The 27th Amendment thus leaves a dark cloud on the future of Pakistan as far as democracy is concerned. It codifies a system of governance whereby centralized authority and institutional defense are put above the necessary conditions of civilian discipline, accountability and a working division of power.

Conclusion

The current paper has critically institutionalized the Constitution (Twenty-Seventh Amendment) Act, 2025 and has found out that the amendment is a categorical regress in constitutional terms, which have weakened democratic practice and federal stability in Pakistan. The analysis shows that the changes in legislation are not procedural reforms which aim to take executive and institutional power away at the cost of the checked and balancing constitutional measures. The subordination of the judiciary is also systematic in the democratic arena. The formation of the Federal Constitutional Court (FCC), in combination with the executive-based system of appointment, is effectively neutralizing the history of the Supreme Court as the defender of the Constitution (Shah, 2025). Besides, the constitutionalization of lifetime immunity of the President and senior military officials in the Article 248 is a stark violation of the Rule of Law and the principle of accountability that is a systematic immunity architecture that is antithetical to the principles of democracy (IBAHRI, 2024). With regards to federalism, the Amendment is a source of institutional tension. Analysis shows that there is a significant movement towards quasi-federal structure due to centralization tendencies. It can be seen in federal-provincial dispute resolution transferred to the politically susceptible FCC, the imminent threat of fiscal re-centralization with possible amendments to the NFC Award, and the administrative devolution roll-back (Khan, 2024). These violations of the Constitutional Bargain run the danger of increasing inter-provincial

antagonism and undermining administrative and fiscal independence of the federating units, which has been so painfully attained. The main contribution of the research is the way the 27th Amendment accomplishes a constitutional subversion since it uses the seemingly legal processes of parliamentary majorities to demolish the democratic protections and entrench institutional authority. To combat these risks, a judicial review is therefore an urgent need to reaffirm the Basic Structure of the Constitution and a political consensus will also help combat the effects of judicial independence and strengthen provincial fiscal autonomy.

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