

## Recalibrating Pakistan's Constitutional Order? A Comparative Analysis of the Eighteenth and Twenty-Seventh Constitutional Amendments

Alizeh Khakwani <sup>1</sup>, Muqadas Saleem <sup>2</sup>, & Dr. Muhammad Mudabbir Malik <sup>3</sup>

### Abstract

The Constitution (Twenty-Seventh Amendment) Act, 2025 represents one of the most significant constitutional developments in Pakistan since the enactment of the Eighteenth Constitutional Amendment in 2010. While the Eighteenth Amendment restored parliamentary democracy, strengthened federalism and reformed judicial appointments, the Twenty-Seventh Amendment introduced far-reaching changes to Pakistan's judicial architecture through the establishment of the Federal Constitutional Court and the redistribution of constitutional jurisdiction. Despite the importance of these reforms, limited scholarship has examined the constitutional relationship between the two amendments. This study addresses that gap by undertaking a comparative constitutional analysis to assess the extent to which the Twenty-Seventh Amendment preserves, modifies or departs from the constitutional framework established by the Eighteenth Amendment. The research adopts a qualitative doctrinal methodology based on a comparative examination of the constitutional text of both amendments, relevant constitutional provisions, judicial reforms and leading scholarship in comparative constitutional law. The analysis is informed by theories of constitutional evolution, judicial independence and institutional design, allowing the reforms to be evaluated within both Pakistan's constitutional context and broader comparative constitutional practice. The findings demonstrate that the Twenty-Seventh Amendment does not constitute a wholesale departure from the constitutional settlement created by the Eighteenth Amendment. Instead, it selectively recalibrates Pakistan's constitutional framework by introducing a specialised Federal Constitutional Court, redistributing constitutional jurisdiction, strengthening judicial governance mechanisms and refining aspects of constitutional administration while preserving the underlying principles of judicial independence, constitutional supremacy and parliamentary democracy. The study concludes that the relationship between the two amendments is characterised by institutional innovation alongside constitutional continuity. By conceptualising these reforms as a process of constitutional recalibration, the article contributes to scholarship on Pakistan's constitutional development and offers broader insights into constitutional change in hybrid democracies, where institutional adaptation often occurs without replacing the underlying constitutional order.

### Article History

Received 30 August 2026

Accepted 31 August 2026

Published 01 September 2026

### OPEN ACCESS

### Keywords

Twenty-Seventh  
Constitutional Amendment;  
Eighteenth Constitutional  
Amendment; Federal  
Constitutional Court;  
constitutional reform;  
constitutional governance;  
judicial independence;  
comparative constitutional  
law; Pakistan.

<sup>1</sup> alizehkhakwani97@gmail.com – MPhil Public Administration, Department of Political Science Bahauddin Zakariya University Multan.

<sup>2</sup> muqadassaleemlaghari@gmail.com – MPhil Public Administration, Office Coordinator Bloomfield Hall School Multan Cantt

<sup>3</sup> mudabbirmalik@gmail.com – Faculty member Department of Political Science Bahauddin Zakariya University Multan

## Introduction

Constitutions aren't meant to stay frozen. As political systems change, they need amending to keep pace with new governance challenges and shifting public expectations. Amendments often do more than tweak legal language — they redraw the boundaries of institutional power and shape where a democracy is headed (Elkins, Ginsburg, & Melton, 2009).

Pakistan is a clear case in point. Since the 1973 Constitution took effect, one amendment after another has reshaped the country's institutional landscape — usually not in calm conditions, but amid political uncertainty and institutional conflict (Newberg, 1995). Each round has redistributed power among Parliament, the executive, the judiciary, and the provinces, nudging the constitutional balance further from what the original framers had in mind.

The Eighteenth Amendment of 2010 stands out as the biggest turning point. Passed after years of military dominance over civilian institutions, it pulled power back toward Parliament, curbed executive overreach, and handed provinces significantly more autonomy — reinforcing federalism and restoring much of the balance the 1973 Constitution had originally envisioned (Adeney, 2012). Because it passed with broad political consensus, it's still regarded as one of the most ambitious democratic reforms in the country's history. Fifteen years later, the Twenty-Seventh Amendment opened a new chapter — this time centered on the judiciary. Its centerpiece was the creation of the Federal Constitutional Court, along with changes to constitutional jurisdiction and judicial appointments. It's since sparked heated debate over what it means for judicial independence and the broader balance of power among state institutions.

Yet scholars have largely treated these two amendments as separate stories. Research on the Eighteenth Amendment focuses on federalism and provincial autonomy (Adeney, 2012; Waseem, 2010); work on the Twenty-Seventh zeroes in narrowly on the new court. Almost no one has asked how the two connect — whether the later reform builds on, undercuts, or simply ignores the settlement reached in 2010. That gap matters. Constitutional change isn't a series of one-off events — each amendment interacts with what came before it. Reading the Twenty-Seventh Amendment against the Eighteenth is the only way to tell whether Pakistan's constitutional principles have held, shifted, or been quietly overturned.

This study takes up that comparison directly. Rather than assuming the newer amendment strengthens or weakens the 2010 settlement, it works from the constitutional text itself and the practical effects of each reform — aiming to map out what's changed, what's held steady, and what that says about where Pakistan's constitutional order is headed.

## Central Research Question

**To what extent does the Twenty-Seventh Constitutional Amendment alter the constitutional framework established by the Eighteenth Amendment?**

## Research Objectives

1. To examine the constitutional and institutional changes introduced by the Eighteenth Constitutional Amendment, 2010.
2. To examine the major reforms introduced through the Twenty-Seventh Constitutional Amendment, 2025, with particular focus on judicial organisation and constitutional governance.

3. To compare the two amendments with regard to judicial independence, constitutional adjudication, Parliament's constituent powers, and institutional governance.
4. To determine whether the Twenty-Seventh Constitutional Amendment maintains, changes, or moves away from the constitutional arrangements established by the Eighteenth Amendment.

## **Research Hypothesis**

**The Twenty-Seventh Constitutional Amendment does not completely replace the constitutional framework established by the Eighteenth Amendment. Instead, it retains some of its key principles while introducing significant changes to constitutional adjudication and judicial governance in Pakistan.**

## **Significance of the Study**

The Twenty-Seventh Constitutional Amendment is a major constitutional development in Pakistan following the Eighteenth Amendment of 2010. While the Eighteenth Amendment has been widely studied, limited research has examined the Twenty-Seventh Amendment and its effect on the constitutional arrangements introduced in 2010. This study addresses this gap by examining both amendments together.

The study is significant because it compares the two amendments rather than treating them as separate constitutional events. It examines whether the Twenty-Seventh Amendment maintains, modifies, or changes the institutional arrangements established by the Eighteenth Amendment, particularly in relation to judicial independence, constitutional jurisdiction, and institutional governance.

The research also contributes to the study of constitutional change in Pakistan. It examines how successive amendments can change the functioning of state institutions without replacing the Constitution as a whole. This provides a basis for understanding the direction of Pakistan's constitutional development.

Practically, the study examines major reforms introduced by the Twenty-Seventh Amendment, including the Federal Constitutional Court, changes in judicial administration, and the redistribution of constitutional jurisdiction. Its findings may be useful to legal scholars, policymakers, and researchers studying constitutional and institutional reform.

Finally, the study has relevance to Public Administration because constitutional changes can affect institutional coordination, accountability, decision-making, and the functioning of public institutions. This connects constitutional reform with broader questions of governance and administration in Pakistan.

## **2. Literature Review**

### **2.1 Constitutional Reforms in Pakistan**

Pakistan hasn't had one defining constitutional moment — just a long string of amendments, each responding to whatever political fight was happening at the time. Most of them boil down

to the same tension: who holds power, the executive, the legislature, the judiciary, or the provinces (Newberg, 1995).

The 1973 Constitution set Pakistan up as a federal parliamentary democracy built on representative government and separation of powers. That didn't last undisturbed. Military takeovers and constitutional suspensions kept reshaping it, and many amendments existed less to improve governance than to legally paper over whoever was in charge (Khan, 2017).

Broadly, reform in Pakistan has come in three waves. First, the military-era amendments — especially under Zia-ul-Haq and Musharraf — which boosted presidential power at Parliament's expense. The Eighth Amendment is the clearest example: it gave the President authority to dissolve the National Assembly, a power that fueled the repeated collapse of elected governments through the 1990s (Waseem, 2010).

The second wave started after democracy returned in 2008, culminating in the Eighteenth Amendment of 2010. It reversed the earlier trend — restoring Parliament's authority, cutting back presidential power, scrapping the Concurrent Legislative List, and shifting a wide range of subjects to the provinces (Adeney, 2012). Because it passed with rare cross-party agreement, it's widely seen as a high point of democratic consolidation (Adeney, 2012; Waseem, 2010).

Now Pakistan appears to be in a third phase. The Twenty-Seventh Amendment isn't about federalism or executive power at all — it's about the judiciary. Its main feature is the new Federal Constitutional Court, along with changes to judicial appointments and constitutional jurisdiction. That shift suggests today's constitutional debates are less about who runs the government and more about how constitutional disputes get decided.

Scholars generally treat amendments as standalone events, but Elkins, Ginsburg, and Melton (2009) make the case that constitutional change is cumulative — each amendment reshapes how the ones before it are read and applied. That's especially true here, where one reform after another has altered the same institutional relationships.

Most existing research on Pakistan's Constitution zeroes in on individual amendments — the Eighth, Seventeenth, and Eighteenth in particular (Adeney, 2012; Khan, 2017; Newberg, 1995; Waseem, 2010). What's missing is work connecting them — specifically, how the institutional vision behind the Eighteenth Amendment holds up against what the Twenty-Seventh actually does. That's the gap this study tries to fill: not just what changed in the text, but what that says about the trajectory of Pakistan's constitutional order.

## 2.2 Federalism and the Eighteenth Amendment

Federalism has been a live argument in Pakistan since independence — how much power the center should hold versus the provinces. That balance has swung back and forth depending on the political climate, and constitutional amendments have often been the tool used to reset it (Adeney, 2012; Waseem, 2010).

The 1973 Constitution split legislative authority between a Federal List and a Concurrent List, letting both levels legislate on shared subjects — but federal law won out whenever the two clashed, which steadily pulled power toward the center (Khan, 2017). Military rule made this worse, further hollowing out provincial authority and fueling resentment, especially in the smaller provinces who felt the federal system envisioned in 1973 was being quietly dismantled (Adeney, 2012). That resentment is a big part of what drove the political consensus behind the 2010 reforms.

The Eighteenth Amendment was the biggest overhaul of Pakistan's federal structure since 1973. Drafted through the Parliamentary Committee on Constitutional Reforms with buy-in across the political spectrum, it aimed to restore Parliament's role and correct the center's overreach (Waseem, 2010).

Its centerpiece was abolishing the Concurrent Legislative List — handing subjects like education, health, labour, and local government entirely to the provinces, on the logic that governance works better closer to the people it affects (Adeney, 2012). It also gave real teeth to the Council of Common Interests, requiring regular meetings and expanding its role in resolving federal-provincial disputes — turning it, in the view of several scholars, into one of the country's key federal institutions (Khan, 2017).

Fiscal reform backed this up. The Seventh NFC Award, negotiated alongside the amendment, boosted financial transfers to the provinces and strengthened their capacity to actually govern (Adeney, 2012). Combined, the legislative and fiscal shifts marked a real break from the old centralized model.

That said, the Amendment isn't without critics. Some argue the rapid handover of powers outpaced provincial governments' administrative capacity, especially in technical or highly regulated sectors, leading to gaps in expertise and inconsistent implementation (Khan, 2017). But even critics tend to attack the execution, not the underlying principle of provincial autonomy.

On the whole, the literature treats the Eighteenth Amendment as a genuine landmark — it redrew the legislative map, empowered intergovernmental institutions, and gave the provinces real constitutional weight (Adeney, 2012; Waseem, 2010). That makes it the natural benchmark for this study: a fixed point against which to measure whether the Twenty-Seventh Amendment carries forward, walks back, or simply ignores the federal principles Pakistan settled on in 2010.

### **2.3 Judicial Independence and Constitutional Adjudication**

Judicial independence is core to any constitutional democracy — courts free from outside pressure can protect rights and keep the legislature and executive within constitutional bounds. In doing so, they act as a check on the rest of the state (Ginsburg, 2003), which is why debates over judicial reform usually spill into bigger questions about separation of powers and rule of law.

In Pakistan, judicial independence has moved in cycles rather than in a straight line. Under military rule, PCOs and forced oaths repeatedly undermined the superior judiciary's autonomy, eroding public trust in the courts (Newberg, 1995).

That changed after 2008. The Lawyers' Movement — sparked by Chief Justice Iftikhar Chaudhry's suspension in 2007 — started as a push to reinstate deposed judges but grew into a broader fight for constitutional supremacy and rule of law (Khan, 2017). It reshaped how the public saw the judiciary and helped drive the reforms that followed.

The Eighteenth Amendment answered that pressure directly, creating the Judicial Commission of Pakistan and adding parliamentary review of judicial nominations — an attempt to balance judicial input with democratic oversight rather than leaving appointments to the executive alone (Adeney, 2012). The Nineteenth Amendment fine-tuned this after judges raised

objections, and together the two amendments built a framework meant to hold judicial independence and democratic accountability in balance (Khan, 2017).

Alongside these reforms, the Supreme Court took on a bigger role through suo motu powers under Article 184(3), increasingly wading into governance, accountability, and electoral disputes. Supporters saw this as a needed check on power; critics worried the Court was drifting from adjudication into governance itself (Hirschl, 2004).

This mirrors a wider global pattern. Hirschl (2004) and Stone Sweet (2000) both point to a broader "judicialisation of politics," where constitutional courts take on issues once left to elected bodies — strengthening oversight, but raising real questions about democratic legitimacy. Pakistani scholars split along similar lines: some credit judicial activism with holding institutions accountable during unstable periods (Newberg, 1995); others argue it's strained relations between the judiciary, Parliament, and the executive (Khan, 2017). Either way, judicial independence can't be judged on institutional autonomy alone — it has to be read against the wider constitutional division of labor.

The Twenty-Seventh Amendment raises the stakes on this debate. By creating the Federal Constitutional Court and rewriting rules on jurisdiction and judicial appointments, it reshapes constitutional adjudication in Pakistan — but understanding what that actually means requires reading it against the judicial framework the Eighteenth Amendment built. This study treats judicial independence as something still evolving, and asks whether the Twenty-Seventh Amendment continues that framework, adapts it, or breaks from it.

## 2.4 Constitutional Courts in Comparative Perspective

Specialised constitutional courts have become common worldwide as constitutional disputes — over rights, power-sharing, and institutional conflict — have grown more complex. Unlike general supreme courts, their job is narrower: reviewing legislation, settling institutional disputes, and keeping public authority within constitutional limits (Kelsen, 1942).

The idea traces back to Hans Kelsen, who argued constitutional supremacy is best protected by a single specialised body with exclusive authority over constitutional review, rather than spreading that power across every court. Kelsen's model — adopted in various forms across Austria, Germany, Italy, Spain, South Africa, and other democracies — was meant to deliver more consistent interpretation and legal certainty.

But these courts don't look the same everywhere. Germany's Federal Constitutional Court sits entirely outside the ordinary court hierarchy and has shaped German constitutional law for decades (Kommers & Miller, 2012); Italy and South Africa run similar standalone models. The common thread: these courts work well when their powers, independence, and appointment processes are deliberately well-designed — not just because the institution exists on paper.

Their success also depends heavily on context. Ginsburg (2003) notes constitutional courts often emerge during democratic transitions, when new systems need institutions to manage uncertainty and prevent power grabs — but their long-term credibility rests on independence and political buy-in, not just constitutional design. Tushnet (2024) makes a similar point: legitimacy comes from public confidence in impartiality, which depends on transparent appointments and the court's ability to resist political pressure — especially in polarized societies.

Stone Sweet (2000) frames the broader trend as the judicialisation of politics: as constitutional litigation grows, courts gain more influence over policy and institutional design, which strengthens accountability but blurs the line between law and governance. Hirschl (2004) pushes back harder, warning that concentrating this power in specialised courts risks turning judges into political actors — a risk that grows if appointments look politically motivated.

The takeaway from comparative research: a constitutional court's value isn't automatic. It depends on whether it strengthens institutional coherence and works well alongside the existing judicial system, not simply on whether it exists (Ginsburg, 2003).

That's the lens for evaluating Pakistan's Federal Constitutional Court, created under the Twenty-Seventh Amendment — one of the biggest judicial shake-ups since 1973. International models offer useful comparisons, but they can't just be dropped into Pakistan's context wholesale. So rather than assuming the new Court is good or bad by design, this study assesses it on its own terms — asking whether it continues, revises, or breaks from the constitutional principles set out by the Eighteenth Amendment.

## **2.5 Constitutional Change in Hybrid Democracies**

Constitutional amendments aren't purely legal events — they're products of politics. In many developing states, reform gets triggered by crises, power shifts, or institutional turf wars, not tidy legal planning (Elkins, Ginsburg, & Melton, 2009).

This is especially true in hybrid democracies — systems with real elections and constitutions, but also weaker institutional checks and a tendency for power to concentrate (Levitsky & Way, 2010). Unlike mature democracies where constitutions stay largely fixed, these systems tend to keep amending as institutions renegotiate power.

Pakistan fits this pattern. Since 2008, Parliament, the executive, and the judiciary have cycled between cooperation and open conflict, and the constitution has evolved through repeated reform rather than one clean run of democratic consolidation (Khan, 2017; Newberg, 1995).

Landau (2013) argues amendments in these systems can't be read simply as "democracy improving" or "democracy backsliding" — some strengthen accountability, others just redistribute power within the same democratic frame. What matters is the cumulative effect, not any single amendment in isolation.

Elkins, Ginsburg, and Melton (2009) frame constitutions as living frameworks that develop through amendment, judicial interpretation, and political practice — each change building on what came before. Dixon and Landau (2021) and Roznai (2024) add that borrowed institutional models rarely transplant cleanly; countries adapt them to local politics, often producing very different outcomes than the original. That's a reminder to judge Pakistan's reforms on their own terms, not against a foreign blueprint.

There's also the question of constitutional endurance: constitutions survive by adapting without abandoning their core principles. Too rigid, and they can't absorb political change; amended too often or incoherently, and they create confusion about who holds what power (Elkins et al., 2009). The real question for any amendment isn't "good or bad" but whether it reinforces existing principles, shifts institutional relationships, or redirects where the system is headed (Ginsburg, 2003; Landau, 2013).

That's the frame this study uses. The Eighteenth Amendment reorganized Pakistan's institutions around parliamentary democracy and provincial autonomy; fifteen years later, the Twenty-Seventh reorganized the judiciary. Reading them together — rather than as separate stories — makes it possible to ask whether the later reform preserves, modifies, or recalibrates what the earlier one set up. This study takes no side going in on whether amendments are inherently good or bad for democracy; it simply traces how successive reforms have reshaped Pakistan's constitutional order, and places that story within the broader literature on constitutional change in hybrid democracies.

## 2.6 Synthesis of Literature and Research Gap

The Eighteenth Amendment dominates the literature for good reason — it reshaped how Pakistan's core institutions relate to each other, through provincial autonomy, a stronger Parliament, and judicial appointment reform (Adeney, 2012; Waseem, 2010). It's become the default reference point for any discussion of Pakistani constitutionalism.

There's also a solid body of comparative work on constitutional courts and how they protect constitutional supremacy and institutional balance (Ginsburg, 2003; Kommers & Miller, 2012; Stone Sweet, 2000), alongside a broader theoretical push to treat constitutional development as continuous rather than episodic (Elkins et al., 2009).

But two real gaps remain. First, Pakistani scholarship mostly studies amendments one at a time — their background, provisions, immediate effects — with little attention to how they interact or build on each other. Second, and more specifically, the limited work on the Twenty-Seventh Amendment focuses narrowly on the Federal Constitutional Court and judicial governance, without asking how it relates to the constitutional philosophy the Eighteenth Amendment established.

Both gaps matter for the same reason: amendments don't just replace old provisions, they reshape how earlier ones are read and applied. Understanding that requires looking at reforms together, not one at a time.

This study fills that gap by comparing the Twenty-Seventh Amendment directly against the constitutional framework the Eighteenth Amendment built — not clause-by-clause, but across broader themes: federalism, judicial independence, adjudication, separation of powers, and institutional governance. The study makes three contributions: it treats constitutional development as an ongoing process rather than a set of isolated amendments; it offers a comparative framework for reading successive reforms against each other; and it adds to the broader literature on how hybrid democracies reshape institutions through amendment while still maintaining constitutional continuity.

## 3. Methodology

This study uses a qualitative doctrinal approach with comparative constitutional analysis to examine how the Eighteenth Amendment (2010) and Twenty-Seventh Amendment (2025) relate to each other, working primarily from the constitutional text itself and the relevant provisions of the 1973 Constitution.

The doctrinal analysis focuses on judicial organisation, constitutional jurisdiction, judicial appointments, institutional governance, and the distribution of constitutional authority — comparing the two amendments to see whether the Twenty-Seventh preserves, modifies, or departs from the principles the Eighteenth established.

Comparative scholarship on constitutional courts, judicial independence, and constitutional evolution frames the analysis, situating Pakistan's reforms within broader debates on constitutional change in hybrid democracies. This is interpretive work, not empirical — it doesn't assess how the Twenty-Seventh Amendment plays out in practice, but examines its constitutional design and legal significance as written into the text. That gives a systematic basis for evaluating continuity and change in Pakistan's constitutional order.

### **Primary data sources**

Primary sources are the official constitutional texts: the Constitution of the Islamic Republic of Pakistan, 1973, the Constitution (Eighteenth Amendment) Act, 2010, and the Constitution (Twenty-Seventh Amendment) Act, 2025 — all drawn from official Government of Pakistan publications and the Pakistan Code maintained by the Ministry of Law and Justice, to ensure the text used is authentic and accurate.

## **4. Comparative Constitutional Analysis**

### **4.1 Creation of the Federal Constitutional Court: A Structural Reorganisation of Pakistan's Judicial Architecture**

The most significant change in the Twenty-Seventh Amendment Act, 2025 is the creation of the Federal Constitutional Court (FCC). Clause 21 inserts a new Chapter 1A (Articles 175B–175L) into the Constitution, carving out a specialised court to handle constitutional disputes that previously sat with the Supreme Court. It's the first major restructuring of Pakistan's superior judiciary since 1973 — a real break from the setup that had held for over fifty years.

The Eighteenth Amendment took a completely different approach. It improved existing institutions rather than building new ones — Article 175A created the Judicial Commission and Parliamentary Committee to reform how judges get appointed, aiming for more transparency without touching the judicial hierarchy itself. The Supreme Court stayed the top constitutional authority throughout.

The Twenty-Seventh Amendment breaks from that philosophy entirely. Article 175B establishes the FCC as a superior court in its own right — with a Chief Justice, judges as Parliament decides, based in Islamabad but able to sit elsewhere when needed. By writing this directly into the Constitution, the amendment puts the FCC on the same constitutional footing as the Supreme Court and High Courts — not a statutory tribunal, but a co-equal institution.

This follows a well-worn path in comparative constitutional law. Hans Kelsen argued constitutional interpretation works best in the hands of a dedicated court rather than a general apex court (Kelsen, 1942), a model since adapted in Austria, Germany, Italy, and South Africa (Kommers & Miller, 2012).

But creating a constitutional court doesn't automatically fix constitutional governance. Ginsburg (2003) makes the point that what actually matters is clear jurisdiction, real independence, transparent appointments, and public trust — not just the court's existence on paper. So the real significance of Article 175B isn't that Pakistan now has another superior court — it's that constitutional authority has been redistributed, and constitutional disputes will now be resolved through a fundamentally different channel. Set against the Eighteenth

Amendment, the scale of the shift is clear. 2010 strengthened institutions within a single, Supreme-Court-centered hierarchy. 2025 goes further — it doesn't refine that hierarchy, it rebuilds it, inserting an entirely new constitutional organ with its own defined powers. In short: the Eighteenth Amendment improved the system that existed. The Twenty-Seventh Amendment replaced part of it. Whether that redesign actually strengthens Pakistan's constitutional governance will come down to implementation — how the FCC's powers are used in practice, not just how they're written into the text.

**Comparative Constitutional Evaluation Matrix**

| Evaluation Criterion                           |                                                                                                                                                                                                                                                                                     | Assessment |
|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Amendment Clause                               | Clause 21 of the Constitution (Twenty-Seventh Amendment) Act, 2025.                                                                                                                                                                                                                 |            |
| Constitutional Articles Inserted               | Chapter 1A comprising Articles 175B–175L.                                                                                                                                                                                                                                           |            |
| Specific Article Analysed                      | Article 175B – Establishment and Composition of the Federal Constitutional Court.                                                                                                                                                                                                   |            |
| Constitutional Principle                       | Judicial Organisation and Constitutional Adjudication                                                                                                                                                                                                                               |            |
| Position after the Eighteenth Amendment (2010) | The Supreme Court remained Pakistan's sole apex constitutional court. Judicial reforms introduced through Article 175A strengthened appointments and judicial independence but did not alter the institutional structure of the superior judiciary.                                 |            |
| Twenty-Seventh Amendment Reform                | Establishes the Federal Constitutional Court as a constitutionally recognised superior court composed of a Chief Justice and such number of judges as determined by Parliament, with its principal seat at Islamabad and authority to sit elsewhere through constitutional benches. |            |
| Institutional Consequence                      | Introduces a new superior constitutional institution and transforms Pakistan's previously unified judicial hierarchy into a dual-apex judicial structure.                                                                                                                           |            |
| Constitutional Consequence                     | Separates constitutional adjudication from the traditional institutional framework of the Supreme Court through the creation of a specialised constitutional court.                                                                                                                 |            |
| Comparative Constitutional Perspective         | Reflects the Kelsenian model of specialised constitutional adjudication adopted in several constitutional democracies (Kelsen, 1942; Kommers & Miller, 2012).                                                                                                                       |            |
| Relationship with the Eighteenth Amendment     | Represents a structural redesign of the judicial architecture established after the Eighteenth Amendment rather than a direct reversal of its commitment to judicial independence.                                                                                                  |            |
| Nature of Constitutional Change                | Institutional Reconfiguration                                                                                                                                                                                                                                                       |            |
| Overall Comparative Assessment                 | Major Constitutional Innovation                                                                                                                                                                                                                                                     |            |

**Governance Implications**

From a Public Administration lens, Article 175B matters for more than just adding a new court — it changes how constitutional justice actually gets administered and how constitutional responsibility is distributed across the judicial system, with knock-on effects for governance as a whole. Splitting off a dedicated constitutional court could genuinely help: it frees the Supreme Court to focus on appellate work while giving constitutional disputes to a forum built specifically for them, which could mean more consistent rulings and better-managed caseloads. But that only pays off if the jurisdictional lines between the two courts stay clear and well-coordinated.

The flip side is that having two apex courts creates real coordination risk. Without clear authority lines and solid case management, you get overlapping jurisdiction, conflicting rulings, or outright institutional rivalry. So the reform can't be judged on its design alone — its real test is how the two courts work together in practice, and whether that arrangement ends up making Pakistan's constitutional governance more coherent and accountable, or less.

## **4.2 Appointment of Judges and the Chief Justice of the Federal Constitutional Court: Continuity and Institutional Adaptation**

Setting up the FCC meant building a separate appointment framework for its judges and Chief Justice. Clause 21 does this through new Articles 175C and 175D — and how these are written tells us whether the Twenty-Seventh Amendment breaks from the appointment model the Eighteenth Amendment set up, or just adapts it.

The Eighteenth Amendment was a turning point on this front: Article 175A created the Judicial Commission of Pakistan and a Parliamentary Committee to oversee appointments, replacing what had been heavy executive influence — a longstanding source of constitutional controversy — with a shared process involving the judiciary, executive, and Parliament. The Twenty-Seventh Amendment keeps that model rather than scrapping it. Article 175C puts FCC appointments through the same Judicial Commission, preserving the core idea that appointments shouldn't be an executive call alone — though the Commission's makeup and functions are adjusted to handle a system that now has two apex courts instead of one.

Article 175D adds something new: a procedure for appointing the FCC's own Chief Justice. Previously there was only one head of the superior judiciary — the Chief Justice of Pakistan. Now there are two distinct offices, splitting constitutional adjudication off from the Supreme Court's broader responsibilities — a real structural shift in the judicial hierarchy.

This split is backed up by supporting amendments that weave the new court into the rest of the Constitution: Article 209 now includes the FCC's Chief Justice and senior judges in the Supreme Judicial Council's accountability process; Article 260 redefines "Chief Justice" and "Chief Justice of Pakistan" as two separate constitutional roles; and the Third, Fourth, and Fifth Schedules are updated to cover the FCC's oaths, administration, and judges' terms of service. Together, these show the amendment isn't just creating a court — it's doing the groundwork needed to make that court actually function within the system.

Comparative practice shows specialized constitutional courts often use different appointment procedures than ordinary supreme courts — but what tends to separate functioning systems from dysfunctional ones is transparency, insulation from political pressure, and protected judicial independence (Ginsburg, 2003), not the specific mechanics. That's the real test for Articles 175C and 175D. Measured against that test, the Twenty-Seventh Amendment looks more like continuity than rupture. It adjusts the appointment framework to fit the new court,

but doesn't abandon the 2010 philosophy — the Judicial Commission stays central, and the underlying principle of checking unilateral executive control over appointments still holds.

In short, Articles 175C and 175D are adaptation, not departure. They keep the core commitment to constitutionally governed appointments while reshaping the mechanics for a judiciary that now has two apex courts — building on the Eighteenth Amendment's foundations rather than tearing them down.

Comparative Constitutional Evaluation Matrix

| Evaluation Criterion                           | Assessment                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Amendment Clause                               | Clause 21 of the Constitution (Twenty-Seventh Amendment) Act, 2025.                                                                                                                                                                                                                                                                                                                    |
| Constitutional Articles Inserted               | Articles 175C and 175D.                                                                                                                                                                                                                                                                                                                                                                |
| Constitutional Principle                       | Judicial Appointments and Judicial Independence                                                                                                                                                                                                                                                                                                                                        |
| Position after the Eighteenth Amendment (2010) | Article 175A established the Judicial Commission of Pakistan and Parliamentary Committee, replacing executive dominance in judicial appointments with an institutional appointment mechanism.                                                                                                                                                                                          |
| Twenty-Seventh Amendment Reform                | Articles 175C and 175D extend the Judicial Commission's role to the appointment of judges and the Chief Justice of the Federal Constitutional Court while recognising a distinct constitutional leadership for the new court. Consequential amendments to Articles 209 and 260 and the Third, Fourth and Fifth Schedules integrate the Court into Pakistan's constitutional framework. |
| Institutional Consequence                      | Expands the constitutional appointment framework from one apex court to two constitutionally recognised superior courts.                                                                                                                                                                                                                                                               |
| Constitutional Consequence                     | Preserves the principle of institutional judicial appointments while adapting it to a dual-apex judicial system.                                                                                                                                                                                                                                                                       |
| Comparative Constitutional Perspective         | Consistent with comparative constitutional systems in which specialised constitutional courts possess constitutionally protected appointment procedures designed to safeguard judicial independence (Ginsburg, 2003).                                                                                                                                                                  |
| Relationship with the Eighteenth Amendment     | Extends, rather than replaces, the appointment philosophy established by Article 175A by applying similar institutional safeguards to the Federal Constitutional Court.                                                                                                                                                                                                                |
| Nature of Constitutional Change                | Institutional Adaptation                                                                                                                                                                                                                                                                                                                                                               |
| Overall Comparative Assessment                 | Constitutional Continuity with Structural Expansion                                                                                                                                                                                                                                                                                                                                    |

From a Public Administration angle, Articles 175C and 175D aren't just appointment rules — they're the institutional scaffolding for Pakistan's restructured judiciary. By putting the FCC through the same constitutionally prescribed process, the amendment keeps both apex courts on a common standard and reduces the risk of appointment practices diverging across the superior judiciary.

But having two apex courts also creates new coordination demands — appointments, disciplinary oversight, administration, and communication all need to work in sync so the courts complement rather than compete with each other. The related changes to Article 209, Article 260, and the constitutional schedules show this isn't just about creating a court; it's about building the machinery to integrate it into the wider system. In the end, how well this works comes down to transparent appointments, clearly defined roles, and real cooperation between the two courts — all while keeping their independence intact.

### **4.3 Constitutional Jurisdiction: Transfer of Constitutional Adjudication to the Federal Constitutional Court**

Creating the FCC is the most visible part of the Twenty-Seventh Amendment, but the real weight of the reform is in what it takes away from the Supreme Court — not just adding a new court, but reassigning core constitutional functions to it entirely.

The Eighteenth Amendment never touched this balance. Article 175A reformed how judges get appointed, but the Supreme Court kept all its constitutional functions intact — original jurisdiction under 184(3), appeals under 185, advisory opinions under 186, and federal-provincial disputes under 184(1). Institutionally reformed, but structurally unchanged.

The Twenty-Seventh Amendment breaks that pattern. The new Chapter 1A (Articles 175B–175L) doesn't just redistribute caseload — it separates constitutional adjudication from the Supreme Court's ordinary appellate role entirely, restructuring the judiciary itself.

Article 175E is the core of this shift: it gives the FCC exclusive original jurisdiction over federal-provincial and inter-provincial disputes — matters the Supreme Court used to hear — with the text explicitly excluding every other court from that authority. It also gives the FCC jurisdiction over fundamental-rights petitions of public importance, transfers all pending relevant cases from the Supreme Court, and lets the Court call up records from any proceeding raising a major constitutional question.

Article 175F extends this to appeals — cases can reach the FCC through statutory right, High Court certification of a substantial constitutional question, or leave to appeal from Article 199 judgments — and again, all pending matters in this category move over to the new Court. Articles 175G and 175H round this out: the FCC can review its own judgments, and it inherits the Supreme Court's advisory jurisdiction under Article 186, meaning the President now seeks advisory opinions from the FCC directly.

Taken together, these provisions make the FCC the primary forum for interpreting the Constitution — pulling Pakistan closer to Kelsen's model of centralized constitutional review, where a dedicated court handles constitutional questions rather than a supreme court juggling both constitutional and ordinary appeals (Kelsen, 1942). Germany and Austria run similar setups (Kommers & Miller, 2012).

But as Ginsburg (2003) points out, splitting a judiciary into two apex courts doesn't guarantee good governance on its own — it works only with clear jurisdictional lines, coherent interpretation, and real coordination between the courts. Without that, you risk overlapping authority and inconsistent rulings.

Bottom line: this isn't a procedural reshuffle. It's a genuine restructuring of judicial authority in Pakistan — arguably the biggest since 1973. Whether it actually strengthens constitutional governance will hinge less on the text itself and more on how the FCC and Supreme Court actually work together in practice.

**Comparative Constitutional Evaluation Matrix**

**Evaluation Criterion    Assessment**

|                                                          |                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Constitutional Principle</b>                          | Constitutional Jurisdiction                                                                                                                                                                                                                                                                                                                |
| <b>Relevant Constitutional Provisions</b>                | <b>Articles 175E, 175F, 175G and 175H</b> , inserted through <b>Clause 21</b> of the Twenty-Seventh Constitutional Amendment.                                                                                                                                                                                                              |
| <b>Position after the Eighteenth Amendment (2010)</b>    | The Supreme Court exercised original constitutional jurisdiction, appellate constitutional jurisdiction, advisory jurisdiction and jurisdiction concerning enforcement of Fundamental Rights within a unified judicial hierarchy.                                                                                                          |
| <b>Change Introduced by the Twenty-Seventh Amendment</b> | Constitutional jurisdiction over inter-governmental disputes, constitutional appeals, constitutional review, advisory opinions and specified Fundamental Rights petitions is transferred to the Federal Constitutional Court through Articles 175E–175H. Pending constitutional proceedings before the Supreme Court are also transferred. |
| <b>Immediate Constitutional Effect</b>                   | Creates an exclusive constitutional forum exercising original, appellate, review and advisory jurisdiction in constitutional matters.                                                                                                                                                                                                      |
| <b>Institutional Impact</b>                              | Separates constitutional adjudication from the Supreme Court and establishes a dual-apex judicial structure.                                                                                                                                                                                                                               |
| <b>Comparative Constitutional Perspective</b>            | Reflects the Kelsenian model of centralised constitutional review adopted in several constitutional democracies (Kelsen, 1942; Kommers & Miller, 2012).                                                                                                                                                                                    |
| <b>Relationship with the Eighteenth Amendment</b>        | Represents a significant institutional departure from the unified judicial model preserved under the Eighteenth Amendment while maintaining constitutional review within the superior judiciary.                                                                                                                                           |
| <b>Nature of Constitutional Change</b>                   | <b>Structural Redistribution of Constitutional Jurisdiction</b>                                                                                                                                                                                                                                                                            |
| <b>Comparative Assessment</b>                            | <b>Major Constitutional Reconfiguration</b>                                                                                                                                                                                                                                                                                                |

**Governance Implications**

From a Public Administration perspective, the transfer of constitutional jurisdiction to the Federal Constitutional Court represents a major redistribution of responsibilities within Pakistan's judicial system. By assigning original, appellate, review, and advisory constitutional functions to a specialized institution, the amendment seeks to create a clearer division of labour within the superior judiciary. In principle, this arrangement may improve institutional

efficiency by allowing the Supreme Court to concentrate on its appellate role while constitutional disputes are handled by a court specifically established for that purpose. The reform, however, also introduces new administrative and governance challenges. The transfer of pending constitutional cases, together with the existence of two apex judicial institutions, requires precise jurisdictional boundaries and effective institutional coordination to avoid duplication of functions or conflicting constitutional interpretations. From a governance standpoint, the long-term success of the reform will therefore depend not only on the constitutional allocation of powers but also on the ability of both courts to cooperate within a coherent administrative framework. Without clear operational coordination, the intended benefits of judicial specialisation may be offset by increased institutional complexity and uncertainty.

#### **4.4 Judicial Administration and Constitutional Accountability: Integrating the Federal Constitutional Court into Pakistan's Constitutional Framework**

Creating the FCC under Chapter 1A is just the headline reform. Building a new constitutional court also means rewriting the surrounding rules on administration, accountability, staffing, and finances — which is what Clauses 39 to 56 do, weaving the FCC into the existing constitutional structure rather than leaving it standing alone.

One key change: Clause 41 rewrites Article 200 so the President can only transfer a High Court judge on the Judicial Commission's recommendation — and High Court Chief Justices now sit on that Commission. A judge who refuses a transfer can face the Supreme Judicial Council under Article 209. Where the Eighteenth Amendment focused narrowly on appointment transparency, this one extends constitutional regulation into transfers and ties them directly to accountability.

Clause 42 also restricts High Court constitutional jurisdiction to designated Constitutional Benches rather than any bench hearing Article 199 matters. Combined with the FCC's new jurisdiction under Articles 175E–175H, the pattern is clear: the amendment is pushing constitutional justice toward specialization across the board.

A batch of further clauses puts the FCC on equal constitutional footing with the Supreme Court. Clause 43 extends contempt jurisdiction (Article 204) to cover the FCC; Clauses 44 and 47 let it run its own administrative establishment (Article 208), using Supreme Court rules as a stopgap until it writes its own. Clauses 45 and 46 extend the existing rules on judges' resignation, retirement, and post-retirement restrictions to FCC judges too — keeping ethical and professional standards uniform across both apex courts rather than creating a separate track.

The biggest structural change here is Clause 48's overhaul of the Supreme Judicial Council. Article 209 now brings in the Chief Justices of both apex courts, their next-senior judges, one jointly nominated judge, and the two most senior High Court Chief Justices — plus new rules on temporary replacements and disciplinary procedure. In effect, the Council goes from overseeing one apex court to policing accountability across a dual-apex system.

The rest is administrative housekeeping that still matters: Clause 49 updates how the judiciary's expenses are handled (Article 210); Clause 53 adds constitutional definitions for the FCC's Chief Justice and judges (Article 260); Clause 54 gives the new Court its own oaths (Third Schedule); Clause 55 adds it to Entry 55 of the Fourth Schedule alongside the Supreme Court; and Clause 56 extends the same salary and service protections to FCC judges (Fifth Schedule).

Together, these fully absorb the FCC into the existing system rather than leaving it as a bolt-on institution.

The contrast with 2010 is telling. The Eighteenth Amendment mainly refined institutions that already existed, focused on appointments. The Twenty-Seventh Amendment does something bigger: having built a brand-new institution, it then rewrites the surrounding framework — administration, discipline, staffing, terminology, finances — so that institution can actually function. This isn't just a new court. It's a comprehensive rebuild of the constitutional machinery governing Pakistan's superior judiciary.

**Comparative Constitutional Evaluation Matrix**

| <b>Evaluation Criterion</b>                           | <b>Assessment</b>                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Amendment Clauses</b>                              | <b>Clauses 41–49 and Clauses 53–56</b> of the Constitution (Twenty-Seventh Amendment) Act, 2025.                                                                                                                                                                                                                                                   |
| <b>Constitutional Provisions Amended</b>              | <b>Articles 200, 202A, 204, 205, 206, 207, 208, 209, 210, 260, Third Schedule, Fourth Schedule (Entry 55), and Fifth Schedule.</b>                                                                                                                                                                                                                 |
| <b>Constitutional Principle</b>                       | Judicial Administration and Constitutional Accountability                                                                                                                                                                                                                                                                                          |
| <b>Position after the Eighteenth Amendment (2010)</b> | Judicial administration remained centred on the Supreme Court and High Courts. Constitutional provisions governing judicial transfers, discipline, administration and remuneration did not contemplate the existence of a separate Federal Constitutional Court.                                                                                   |
| <b>Twenty-Seventh Amendment Reform</b>                | Integrates the Federal Constitutional Court into Pakistan's constitutional framework by revising provisions relating to judicial transfers, constitutional benches, contempt jurisdiction, administrative establishments, judicial service, the Supreme Judicial Council, constitutional definitions, judicial oaths and financial administration. |
| <b>Institutional Consequence</b>                      | Expands Pakistan's constitutional framework from a single-apex judicial administration to a dual-apex judicial structure supported by corresponding administrative and accountability mechanisms.                                                                                                                                                  |
| <b>Constitutional Consequence</b>                     | Ensures that the Federal Constitutional Court operates within the same constitutional guarantees of independence, accountability and institutional protection applicable to the Supreme Court.                                                                                                                                                     |
| <b>Relationship with the Eighteenth Amendment</b>     | Extends the constitutional commitment to institutional judicial governance while adapting the constitutional framework to accommodate a newly established superior court.                                                                                                                                                                          |
| <b>Nature of Constitutional Change</b>                | <b>Institutional Integration and Administrative Reorganisation</b>                                                                                                                                                                                                                                                                                 |
| <b>Overall Comparative Assessment</b>                 | <b>Comprehensive Structural Integration of the Federal Constitutional Court into Pakistan's Constitutional System</b>                                                                                                                                                                                                                              |

**Governance Implications**

From a Public Administration angle, these consequential amendments matter just as much as creating the FCC itself. A new institution only works if it's backed by clear administrative structures, accountability mechanisms, and financial arrangements that let it actually function.

The changes to Articles 200–210, Article 260, and the constitutional schedules together provide that scaffolding, making the FCC a genuine part of the superior judiciary rather than a bolt-on.

This shows the Twenty-Seventh Amendment treats institutional design comprehensively — through judicial transfers, disciplinary oversight, staffing, administrative autonomy, tenure, and finances, it's building a coherent framework that supports both independence and continuity.

But a dual-apex judiciary brings its own governance risk. Long-term success will hinge on real coordination between the Supreme Court and the FCC — especially on administration, accountability, and constitutional interpretation. So the reform's fate rests less on the text itself and more on whether both courts can actually operate within a coordinated, transparent system that protects judicial independence while keeping constitutional governance consistent.

#### **4.5 Constitutional Supremacy and the Reconfiguration of Executive–Judicial Relations**

Beyond the FCC, the Twenty-Seventh Amendment also touches Parliament, the executive, and the armed forces — Clauses 50, 51, and 52 amend Articles 239, 243, and 248, extending the reform well past the judiciary.

Clause 50 is the standout: it rewrites Article 239 to declare that constitutional amendments can't be challenged in any court on any ground, and explicitly affirms Parliament's unrestricted power to amend any part of the Constitution in its constituent capacity. Judicial review of amendments was already limited before this — now it's made explicit and comprehensive.

This taps into a real debate in comparative constitutional law. India's Supreme Court famously developed the Basic Structure Doctrine, letting courts strike down amendments that alter the Constitution's essential features (*Kesavananda Bharati v. State of Kerala*, 1973). Pakistan is moving the opposite direction — doubling down on parliamentary supremacy over judicial oversight of amendments. Whether that trade-off pays off in stability or costs something in constitutional safeguards is something only future practice will settle.

Clause 51 amends Article 243 to formally recognize the Chief of Defence Staff — previously only the Army, Navy, and Air Force Chiefs had constitutional standing, despite the CDS role's growing importance for joint military coordination. This just catches the Constitution up with how defence administration actually works; it doesn't touch the existing principle that overall command sits with the Federal Government, exercised through the President and Prime Minister — civilian control stays intact.

Clause 52 revises Article 248, expanding immunity for the President and Provincial Governors: no criminal proceedings can be brought or continued against them while in office, with clearer procedural rules for civil cases too. Immunity already existed — this just sharpens its scope. Together, these three clauses show the amendment isn't just about the judiciary — it reinforces Parliament's amending power, formally recognizes the CDS, and tightens executive immunity, reshaping parts of the relationship between Parliament, the executive, and other institutions. Compared to the Eighteenth Amendment, though, this reads as adjustment rather than transformation. 2010 was about restoring parliamentary democracy, judicial independence, and provincial autonomy after years of centralization. 2025 is narrower — it

tweaks specific provisions to fit new institutional arrangements rather than rewriting the federal, democratic structure the Eighteenth Amendment built. The balance shifts in places, but the underlying framework holds.

**Comparative Constitutional Evaluation Matrix**

| <b>Evaluation Criterion</b>                           | <b>Assessment</b>                                                                                                                                                                                                                                                        |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Amendment Clauses</b>                              | <b>Clause 50 (Article 239), Clause 51 (Article 243) and Clause 52 (Article 248).</b>                                                                                                                                                                                     |
| <b>Constitutional Provisions Amended</b>              | <b>Articles 239, 243 and 248 of the Constitution of Pakistan.</b>                                                                                                                                                                                                        |
| <b>Constitutional Principles</b>                      | Parliamentary Constituent Power, Civil–Military Constitutional Framework, Executive Immunity                                                                                                                                                                             |
| <b>Position after the Eighteenth Amendment (2010)</b> | The Eighteenth Amendment restored parliamentary democracy and strengthened constitutional institutions but did not create the office of the Chief of Defence Staff or revise the scope of Articles 239 and 248 in the manner introduced by the Twenty-Seventh Amendment. |
| <b>Twenty-Seventh Amendment Reform</b>                | Reinforces Parliament's constituent authority under Article 239, constitutionally recognises the Chief of Defence Staff under Article 243, and broadens constitutional immunity provisions under Article 248.                                                            |
| <b>Institutional Consequence</b>                      | Clarifies constitutional relationships among Parliament, the executive and constitutionally recognised state institutions while updating the constitutional framework governing executive offices and defence administration.                                            |
| <b>Constitutional Consequence</b>                     | Strengthens constitutional certainty regarding Parliament's amendment power, formally incorporates the Chief of Defence Staff into the constitutional framework, and revises the constitutional protection afforded to the President and Governors.                      |
| <b>Relationship with the Eighteenth Amendment</b>     | Represents targeted constitutional modifications that operate within, rather than replace, the democratic constitutional framework established by the Eighteenth Amendment.                                                                                              |
| <b>Nature of Constitutional Change</b>                | <b>Institutional Consolidation and Constitutional Clarification</b>                                                                                                                                                                                                      |
| <b>Overall Comparative Assessment</b>                 | <b>Selective Constitutional Recalibration Beyond the Judiciary</b>                                                                                                                                                                                                       |

**Governance Implications**

From a Public Administration angle, Clauses 50–52 show this amendment reaches well beyond the judiciary. Strengthening Parliament's constituent authority under Article 239 aims to settle the question of amending power once and for all, cutting down future disputes over an amendment's validity — a move toward more predictability, though how much that actually plays out depends on how courts interpret it going forward. Formally recognizing the Chief of Defence Staff under Article 243 is a similar kind of catch-up — folding an already-existing coordination role into the Constitution, sharpening clarity in defence administration while leaving civilian control untouched. The revised immunity rules under Article 248 do something trickier: they redraw the protections available to the President and Governors, which means continuing to balance institutional stability against public accountability.

Put together, these reforms confirm the Twenty-Seventh Amendment isn't just judicial restructuring — it's also updating how Parliament, the executive, and other institutions relate to each other. Whether that update actually improves coordination, stability, and accountability — without upsetting the balance among the state's main organs — will come down to implementation, not just the text.

## **5. Discussion**

### **5.1 Continuity and Constitutional Change**

The relationship between the two amendments doesn't fit either extreme people tend to reach for — total rupture or harmless housekeeping. What the evidence actually shows is recalibration: some of what the Eighteenth Amendment built stays intact, while the institutions carrying it out get redesigned.

Judicial independence is where continuity is strongest. The Eighteenth Amendment replaced executive discretion in judicial appointments with a constitutionally defined process under Article 175A. The Twenty-Seventh Amendment doesn't walk that back — Articles 175C and 175D extend the same regulated-appointment philosophy to the new FCC. The institution changed; the underlying commitment didn't.

Constitutional adjudication is the opposite story — this is where the real change happened. The Supreme Court used to be the sole apex forum for original, appellate, review, and advisory constitutional jurisdiction. Chapter 1A hands that role to the FCC instead. Judicial review itself hasn't gone anywhere — it's just exercised by a different institution now, which is a structural shift, not a minor reshuffling of caseload.

The reform also goes further than just building the FCC. The consequential changes in Section 4.4 — to Articles 200, 202A, 204–210, 260, and the schedules — show the new Court being woven into the existing administrative and constitutional system, not left to operate on its own terms. That's a deliberate choice to integrate rather than create a standalone body.

And the amendment's reach isn't limited to the judiciary. Changes to Articles 239, 243, and 248 touch parliamentary authority, defence administration, and executive immunity. These are narrower than the judicial overhaul, but they still show the amendment revisiting relationships among core institutions — without replacing the democratic, federal framework the Eighteenth Amendment restored.

This lines up with the broader idea that constitutions evolve through gradual adaptation, not sudden replacement (Albert, 2019) — core principles hold steady while the institutions enforcing them get reshaped. That's exactly the pattern here: the Twenty-Seventh Amendment doesn't preserve the 2010 settlement untouched, nor does it overturn it. It creates the FCC, reallocates jurisdiction, and adjusts judicial governance and administration — while keeping the underlying constitutional commitments intact. In short: continuity and change, both at once, which is the direct answer to this study's research question.

## 5.2 Judicial Reform and Constitutional Governance

The judicial reforms go well beyond just standing up the FCC — they touch appointments, jurisdiction, accountability, and administration together, which points to a coordinated redesign rather than a pile of unrelated tweaks. Chapter 1A sits at the center of this, moving constitutional adjudication to a specialized court — a model with real comparative precedent, since concentrating constitutional expertise in a dedicated institution tends to improve interpretive consistency (Kelsen, 1942; Kommers & Miller, 2012). But as Ginsburg (2003) notes, a court's constitutional status alone doesn't guarantee it works — independence, credibility, and integration into the wider system matter just as much. That's where the consequential amendments come in — Articles 200, 202A, 204–210, 260, and the schedules give the FCC the administrative backbone (transfers, discipline, staffing, finances) to actually function as part of the judiciary rather than a bolt-on institution. Good constitutional adjudication needs institutional support, not just jurisdiction on paper.

The jurisdictional shift itself is significant: original jurisdiction, constitutional appeals, advisory opinions, and rights cases move from the Supreme Court to the FCC — splitting apart a unified model that had survived even the Eighteenth Amendment. But judicial review as a principle hasn't shrunk — only the forum exercising it has changed. That distinction matters: this is about reorganizing judicial power, not diminishing it. Running two apex courts side by side raises real coordination questions — jurisdictional boundaries, case allocation, disciplinary oversight. The changes to Articles 209 and 210 build much of the needed framework, but text alone won't guarantee it works — that depends on implementation and whether the two courts actually develop consistent jurisprudence together.

Notably, the amendment keeps one core piece of the 2010 settlement intact: appointments to the superior judiciary still run through constitutionally prescribed procedures, not unchecked executive discretion. Articles 175C and 175D create a separate mechanism for the FCC, but it's built on the same philosophy as Article 175A. This isn't a scattershot set of changes — it's a coherent program of judicial reorganization. The FCC, the jurisdictional transfer, the administrative rebuild, and the preserved appointment safeguards all reshape how constitutional governance actually gets exercised in Pakistan, while keeping the core principles from 2010 in place.

## 5.3 Constitutional Governance and Institutional Balance

This amendment isn't just judicial reform. Beyond the FCC, it touches parliamentary authority and executive governance too — and taken together, the changes read as an attempt to adjust how existing institutions function, not rewrite the democratic framework the Eighteenth Amendment restored.

The core finding here: this is evolution, not transformation. The Eighteenth Amendment was a genuine settlement — restoring parliamentary democracy, expanding provincial autonomy, overhauling judicial appointments. The Twenty-Seventh Amendment is narrower in kind: it reorganizes institutions that already exist rather than replacing the system built after 2010.

The changes to Articles 239, 243, and 248 back this up. Strengthening Parliament's constituent power, formally recognizing the Chief of Defence Staff, redefining presidential and gubernatorial immunity — none of this redistributes power among Parliament, the executive, and the judiciary. It clarifies how they operate, without shifting who holds authority.

That fits a broader pattern in constitutional scholarship: systems typically evolve through incremental adjustment, not wholesale replacement (Albert, 2019). Established democracies tend to modify institutions to meet new demands while keeping the underlying order intact — and that's exactly what's happening here. The judicial changes are structurally significant, but they still operate within the parliamentary democratic framework set by 1973 and reaffirmed in 2010.

It's also worth remembering that text alone doesn't determine outcomes. How these reforms actually play out — whether the FCC improves efficiency, whether institutions cooperate, whether norms hold — depends on implementation, not just the provisions themselves. Constitutions set the framework; the institutions operating within it determine whether it works (Elkins, Ginsburg, & Melton, 2009).

So the throughline is adaptation, not rejection: the amendment keeps the Eighteenth Amendment's core commitment to parliamentary democracy and constitutional governance, while changing the institutional machinery that carries it out. That's continuity in principle, change in structure — which is why "constitutional recalibration" is the right way to describe what's happening between these two amendments.

Ultimately, the Twenty-Seventh Amendment's significance isn't in any one provision — it's the cumulative effect: a new constitutional court, reallocated jurisdiction, restructured judicial administration, and refined executive and parliamentary rules, all reshaping how the system operates while preserving its core identity. Not a break from 2010, but the next step in Pakistan's ongoing constitutional development.

## 6. Recommendations

The Twenty-Seventh Amendment brings real institutional change without fully breaking from the framework the Eighteenth Amendment built. To make these reforms work in practice, the following steps are recommended.

**1. Define the Supreme Court–FCC jurisdictional split clearly.** Splitting constitutional adjudication into a separate court only works if the boundary between the two apex courts is precise. Clear procedural rules would head off overlapping authority, conflicting rulings, and institutional friction before they start.

**2. Keep judicial appointments transparent and merit-based.** The FCC's legitimacy rests as much on how its judges are chosen as on its constitutional powers. The Judicial Commission should keep prioritizing constitutional expertise, competence, integrity, and independence — that's what builds public trust in the Court.

**3. Strengthen coordination across the superior judiciary.** A second apex court raises the stakes on cooperation. Regular consultation between the FCC, Supreme Court, Judicial Commission, and Supreme Judicial Council would keep interpretation and administration consistent and cut down on procedural disputes.

**4. Build out procedural rules early.** The FCC needs clear rules on petitions, appeals, advisory references, reviews, and case transfers from day one — otherwise legal uncertainty and delays will pile up before the Court even finds its footing.

**5. Review the amendment's impact periodically.** It's early days for the Twenty-Seventh Amendment, so its real effects are still unclear. Parliament, constitutional bodies, and academics should check in regularly on whether it's meeting its goals and where it might need adjustment.

**6. Support further research.** This amendment opens up plenty of ground for study — how the FCC actually functions, how its jurisprudence develops, what it means for democratic governance. Universities and policy institutes should keep that research going.

**7. Keep future reforms consensus-driven and inclusive.** Constitutional change works best when it's built on broad political agreement, solid legal analysis, and real public input — building on existing principles rather than overturning them. That's what earns lasting institutional trust.

**8. Run constitutional impact assessments before major reforms.** Before Parliament passes amendments that reshape state structure, it should systematically weigh the likely effects on judicial independence, accountability, and separation of powers — drawing on comparative experience and expert input. That kind of foresight helps ensure future amendments strengthen the constitutional order instead of quietly undermining it.

## 7. Conclusion

This study set out to determine whether the Twenty-Seventh Amendment (2025) preserves, modifies, or breaks from the constitutional framework the Eighteenth Amendment (2010) established. The answer is neither extreme: it's constitutional recalibration — core principles held, key institutions redesigned.

The biggest development is the Federal Constitutional Court. Chapter 1A (Articles 175B–175L) gives Pakistan a specialised court with clearly defined original, appellate, review, and advisory jurisdiction over constitutional matters — a real departure from the Eighteenth Amendment's approach, which strengthened judicial independence by reforming appointments (Article 175A) rather than restructuring who decides constitutional cases. The supporting changes to judicial administration, accountability, terminology, and the Supreme Judicial Council confirm this: the FCC was built into the existing judiciary, not set up as a separate body outside it.

Still, continuity runs deep. The core commitments from 2010 — an independent judiciary, regulated judicial appointments, and judicial review itself — all survive. Jurisdiction moved between institutions, but the underlying goal of protecting constitutional governance through an independent judiciary didn't change. Similarly, the changes to Articles 239, 243, and 248 adjust constitutional administration without touching the parliamentary democratic structure the Eighteenth Amendment restored.

So the real significance of the Twenty-Seventh Amendment isn't replacing the post-2010 settlement — it's adapting it. It reorganizes the judiciary in meaningful ways while keeping the constitutional identity built under 1973 and reinforced in 2010 intact. Continuity in values, innovation in structure — that's the relationship between the two amendments, and it's a more accurate read than calling this either a reversal or a mere administrative tweak.

More broadly, this fits a pattern seen in other hybrid democracies: constitutional change doesn't always mean replacing structures — sometimes it means adapting institutions to new demands

while keeping the underlying principles intact. Pakistan's experience shows continuity and transformation can happen in the same reform.

A few limits worth noting: this analysis is based on the constitutional text and its institutional consequences, and since the amendment is so recent, its long-term effects on jurisprudence and practice are still unknown. Future work should track how the FCC actually exercises its powers, how the new framework functions day to day, and whether it delivers on its stated goals — comparative studies with other hybrid democracies running specialised constitutional courts would add useful context too.

In the end, the Twenty-Seventh Amendment reads as another stage in Pakistan's ongoing constitutional development, not a break from its foundations — retaining what the Eighteenth Amendment established while reshaping specific institutions to meet current needs. Its lasting significance will come down to how these provisions are interpreted and applied in practice over the years ahead.

## References

- Adeney, K. (2012). *A step towards inclusive federalism in Pakistan? The politics of the 18th Amendment*. *Publius: The Journal of Federalism*, 42(4), 539–565.
- Albert, R. (2019). *Constitutional amendments: Making, breaking, and changing constitutions*. Oxford University Press.
- Dixon, R., & Landau, D. (2021). *Abusive constitutional borrowing: Legal globalization and the subversion of liberal democracy*. Oxford University Press.
- Elkins, Z., Ginsburg, T., & Melton, J. (2009). *The endurance of national constitutions*. Cambridge University Press.
- Ginsburg, T. (2003). *Judicial review in new democracies: Constitutional courts in Asian cases*. Cambridge University Press.
- Government of Pakistan. (1973). *The Constitution of the Islamic Republic of Pakistan, 1973*.
- Government of Pakistan. (2010). *The Constitution (Eighteenth Amendment) Act, 2010 (Act X of 2010)*.
- Government of Pakistan. (2025). *The Constitution (Twenty-Seventh Amendment) Act, 2025*.
- Hirschl, R. (2004). *Towards juristocracy: The origins and consequences of the new constitutionalism*. Harvard University Press.
- Kelsen, H. (1942). *Judicial review of legislation: A comparative study of the Austrian and the American Constitution*. *The Journal of Politics*, 4(2), 183–200. <https://doi.org/10.2307/2125770>
- Khan, H. (2017). *Constitutional and political history of Pakistan* (3rd ed.). Oxford University Press.
- Khosla, M. (2020). *India's founding moment: The Constitution of a most surprising democracy*.
- Kommers, D. P., & Miller, R. A. (2012). *The constitutional jurisprudence of the Federal Republic of Germany* (3rd ed.). Duke University Press.
- Landau, D. (2013). *Abusive constitutionalism*. *UC Davis Law Review*, 47(1), 189–260.
- Levitsky, S., & Way, L. A. (2010). *Competitive authoritarianism: Hybrid regimes after the Cold War*. Cambridge University Press.

- Newberg, P. R. (1995). *Judging the state: Courts and constitutional politics in Pakistan*. Cambridge University Press.
- Roznai, Y. (2017). *Unconstitutional constitutional amendments: The limits of amendment powers*. Oxford University Press.
- Stone Sweet, A. (2000). *Governing with judges: Constitutional politics in Europe*. Oxford University Press.
- Waseem, M. (2010). *Federalism in Pakistan*. Forum of Federations.
- Khosla, M. (2020). *India's founding moment: The Constitution of a most surprising democracy*. Harvard University Press