

12 December 2025

LAWASIA STATEMENT OF CONCERN ON THE 27TH CONSTITUTIONAL AMENDMENT AND THE CREATION OF THE FEDERAL CONSTITUTIONAL COURT IN PAKISTAN

LAWASIA expresses concern about aspects of the 27th Constitutional Amendment in the Islamic Republic of Pakistan which introduces significant changes to the judicial framework of the country. The Amendment, which was passed by the Parliament of Pakistan on 13 November 2025, has led among others to the creation of the Federal Constitutional Court (FCC).

The FCC will exclusively adjudicate constitutional matters, including disputes between governments, either between the federal government and a state government, or between two states.¹ It will further adjudicate issues concerning the enforcement of fundamental rights. The decisions of the FCC will be binding on all courts, including the Supreme Court of Pakistan. The FCC will not be bound by any earlier decisions of the Supreme Court.

The first Chief Justice of the FCC, and judges of the court, will be appointed by the President.² Subsequently, the appointment of FCC judges will be made on the recommendation of the Judicial Commission of Pakistan (JCP), while the Chief Justice will be appointed by a Special Parliamentary Committee.

In this regard, it may be noted that by the 26th Constitutional Amendment in 2024, the composition of the JCP has been changed to include two members of the National Assembly, two members of the Senate and one woman or non-Muslim member, to be nominated by the Speaker of the National Assembly. In addition, the Law Minister, the Attorney-General of Pakistan, and a representative of the Bar were already members of the JCP. Only 5 out of thirteen members of the JCP are now required to be judges. The amendment also creates a Special Parliamentary Committee (consisting of eight members of the National Assembly and four members of the Senate) which has the power to nominate the Chief Justice of Pakistan from among the three most senior Supreme Court judges.³

¹ <https://www.dawn.com/news/1955038>

² <https://www.bbc.com/news/articles/c9d6w1glz3qo>

³ <https://www.dawn.com/news/1866480>

The amendment further grants lifelong immunity to the President and individuals holding the titles of Field Marshal, Admiral of the Fleet and Marshal of the Air Force.⁴

LAWASIA notes that the 27th Amendment has received a mixed response. The Pakistan Bar Council and the Supreme Court Bar Association have issued a statement in support of the creation of the FCC on the basis that it will strengthen the Federation.⁵ On the other hand, Justice Syed Mansoor Ali Shah has resigned as a judge of the Supreme Court of Pakistan, strongly criticizing the 27th Amendment, stating that it *'dismantles the Supreme Court of Pakistan, subjugates the judiciary to executive control, and strikes at the very heart of our constitutional democracy - making justice more distant, more fragile, and more vulnerable to power'*.

LAWASIA also notes the statements issued by the International Bar Association Human Rights Institute (IBAHRI)⁶ and the International Commission of Jurists (ICJ)⁷ which are both critical of the Amendment. The IBAHRI considers that the Amendment *'represents a structural assault on the independence of the judiciary, with long-term consequences for constitutional governance and the protection of fundamental rights'* whilst the ICJ considers that the Amendment will *'significantly impair the judiciary's ability to hold the executive accountable and protect the fundamental human rights of the people of Pakistan'*.

LAWASIA notes that the independence of the judiciary is essential for the functioning of the justice system and the rule of law. The judiciary and judicial appointments must be free from political interference and political pressure. In this regard, LAWASIA finds it relevant to recall the *Basic Principles on the Independence of the Judiciary*⁸:

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

⁴ <https://www.aljazeera.com/news/2025/11/11/how-would-pakistans-27th-amendment-reshape-its-military-and-courts>

⁵ <https://www.arabnews.com/node/2622650/pakistan>

⁶ <https://www.ibanet.org/IBAHRI-condemns-Pakistans-27th-Constitutional-Amendment-as-flagrant-attack-on-judicial-independence-and-the-rule-of-law>

⁷ <https://www.icj.org/pakistan-dismantling-justice-a-full-frontal-assault-on-the-rule-of-law/>

⁸ <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary>

10. Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.

LAWASIA calls upon the Government of Pakistan to urgently address the concerns arising from the 26th and 27th Amendments to the Constitution in accordance with the *Basic Principles on the Independence of the Judiciary*, ensure there is completely no interference with the judiciary and to respect and adhere to the rule of law.

A handwritten signature in black ink, appearing to read 'Yap Teong Liang', with a stylized flourish at the end.

Yap Teong Liang

President LAWASIA, The Law Association for Asia and The Pacific