



MR. JUSTICE SYED MANSOOR ALI SHAH
SUPREME COURT OF PAKISTAN

The Hon'ble Chief Justice of Pakistan
Supreme Court of Pakistan
Islamabad

8 November 2025

Subject: *Urgent Institutional Consultation Regarding the Proposed Twenty-Seventh Constitutional Amendment*

Sir,

I write to you in your capacity as Head of the Judiciary—the custodian of its independence and the guardian of the separation of powers—to express grave concern over reports that the Government is poised to introduce the *Twenty-Seventh Amendment to the Constitution of Pakistan*. The said amendment, as reported, contemplates a fundamental restructuring of the country's judicial architecture through the creation of a separate *Federal Constitutional Court* and the relegation of the Supreme Court to a purely appellate body.

Such a far-reaching change in the structure of the judiciary cannot be undertaken unilaterally by the Executive or the Legislature. The judiciary—by which I mean not merely the Chief Justice but the collective body of judges of the constitutional courts—must be formally and meaningfully engaged. You, as the Head of the Judiciary, are the trustee of this institution. It is therefore your constitutional and moral duty to ensure that no amendment affecting the judiciary proceeds without the judiciary's considered, collegial, and recorded response. To permit otherwise would be to allow the judiciary to be restructured without its own participation, violating both constitutional propriety and the principle of separation of powers.

It must also be remembered that what is being proposed is a change to the Constitution itself, not to a statute. Constitutional amendments alter the framework within which the State operates; their gravity demands inter-institutional dialogue. The Supreme Court, as the guardian of the Constitution, cannot remain a passive observer to changes that may redefine its own place in the constitutional hierarchy.



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For the reasons set out below, I am of the considered view that a detailed and institutional consultation with the judiciary is indispensable before any attempt is made to introduce the proposed *Twenty-Seventh Constitutional Amendment* which entails a major restructuring of the country's judiciary through the creation of a separate Federal Constitutional Court and the consequent relegation of the Supreme Court to a purely appellate body.

1. Has the judiciary been meaningfully consulted?

The necessity of judicial engagement and deliberation in constitutional reform is well recognised across democratic systems. International standards make clear that no redesign of the judiciary should proceed without structured consultation with the judiciary itself, and that such consultation must be institutional and collegial, embracing the collective voice of judges of the constitutional courts—not confined to the Chief Justice alone. The *Magna Carta of Judges (2010)* affirms that “the judiciary shall be involved in all decisions which affect the practice of judicial functions.” The *Venice Commission's Rule of Law Checklist* insists that all law-making affecting the judiciary be transparent, accountable, inclusive, and participatory, while the *Commonwealth (Latimer House) Principles on the Three Branches of Government (2003)* require that matters concerning the organisation or resources of the judiciary be undertaken only after consultation between the Head of the Judiciary and the Executive or Legislature.

In the United Kingdom, the creation of the Supreme Court under the *Constitutional Reform Act 2005* followed a formal Concordat between the Lord Chief Justice and the Government, institutionalising regular consultation on matters affecting the courts. Kenya's 2010 Constitution emerged from the work of the Committee of Experts after extensive dialogue with the judiciary and civil society. In South Africa, the 1996 Constitution was certified by the Constitutional Court itself to ensure conformity with principles of judicial independence and separation of powers. Conversely, the Venice Commission and the European Commission condemned the judicial overhaul in Poland for bypassing consultation with the judiciary, treating it as a breach of the rule of law.



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These global examples collectively establish a constitutional ethos: any amendment affecting the judiciary's composition, jurisdiction, or independence must be preceded by a meaningful, collegial dialogue with the judiciary. Has such a dialogue taken place in Pakistan? Have the judges of the constitutional courts—the Supreme Court, the Federal Shariat Court, and the High Courts—been invited to deliberate on the proposed amendment and record their institutional response? If not, the process stands stripped of constitutional propriety and democratic legitimacy. History does not easily forgive such abdications of duty; it records them as constitutional failures of leadership and moments when silence within institutions weakened the very edifice they were meant to guard.

2. Why proceed when the challenge to the Twenty-Sixth Amendment is pending before the Court ?

Another question arises: can a new constitutional amendment be advanced while the validity of the previous one—already under challenge—remains undecided? Petitions challenging the Twenty-Sixth Constitutional Amendment, which was itself criticised for striking at the heart of judicial independence, are still pending. The challenge to the Twenty-Sixth Amendment goes to the very legitimacy of the current regime and to the current leadership of the present Supreme Court. Until those questions are conclusively settled, any further attempt to alter the judicial architecture risks camouflaging unresolved constitutional infirmities and casting further doubt on the credibility of both the amendment process and the constitutional order.

3. Does the argument of “pendency” justify restructuring the apex court?

It has been suggested that the proposed amendment of establishing a Constitutional Court aims to reduce case backlog. Yet this premise is unsupported by Pakistan's own data and experience. According to the Law and Justice Commission's 2023 Judicial Statistics, Pakistan had 2.26 million pending cases, of which nearly 82 percent were before the district judiciary, while the Supreme Court accounted for less than 3 percent of the total. The overwhelming burden of delay lies at the base, not at the apex, of the judicial pyramid. Despite the creation of constitutional benches under the Twenty-Sixth Amendment, national pendency has remained



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The proposed Federal Constitutional Court does not arise from any genuine reform agenda; it is, rather, a political device to weaken and control the judiciary. Its judges will be appointed without any constitutional parameters as is the case with the Constitutional Bench. Such an arrangement vests decisive power in the executive and invites manipulation of the judicial process. A court born of executive will cannot be independent. A controlled constitutional court may serve transient political interests, but it will permanently damage the Republic. The independence of the judiciary is not a privilege of judges—it is the people's protection against arbitrary power. This moment demands that you, as Head of the Institution, raise the alarm before the independence of the judiciary is irretrievably lost.

7. What steps should now be taken?

In light of the foregoing, I urge you to formally engage with the Executive and make it unequivocally clear that no amendment affecting the judiciary should proceed without prior consultation with the judges of the constitutional courts. A Full Court meeting of the Supreme Court, or preferably a joint convention of all constitutional court judges—including those of the Federal Shariat Court and the High Courts—should be convened immediately to deliberate on the implications of the proposed amendment and to articulate the judiciary's collective stance.

You hold your office not merely as its administrator but as its guardian. This moment demands leadership, transparency, and institutional resolve. If such consultation is not initiated under your stewardship, it will inevitably be seen as acquiescence and an abdication of the trust reposed in your office. I therefore urge you to act with foresight and conviction to safeguard the dignity of the Supreme Court and, with it, the constitutional order of the Islamic Republic of Pakistan.

Syed Mansoor Ali Shah
Justice, Supreme Court of Pakistan

CC: Hon'ble Judges of the Supreme Court of Pakistan