



SENATE SECRETARIAT

Report No. 09

REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE



“THE CONSTITUTION (AMENDMENT) BILL, 2018”

PRESENTED BY

**Senator Muhammad Javed Abbasi
Chairman
Standing Committee on Law and Justice**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CONSTITUTION (AMENDMENT) BILL, 2018"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Constitution (Amendment) Bill, 2018" (Omission of Clause (2) of Article 30) introduced by Senators Sirajul Haq and Mushtaq Ahmed in the Senate sitting held on 21st January, 2018. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee on Law and Justice is as under:-

1.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Mian Raza Rabbani	Member
3.	Senator Farooq Hamid Naek	Member
4.	Senator Mir Hasil Khan Bizenjo	Member
5.	Senator Siraj ul Haq	Member
6.	Senator Syed Muzafar Hussain Shah	Member
7.	Senator Ayesha Raza Farooq	Member
8.	Senator Muhammad Ali Khan Saif	Member
9.	Senator Musadik Masood Malik	Member
10.	Senator Dr. Ghous Muhammad Khan Niazi	Member
11.	Senator Mustafa Nawaz Khokar	Member
12.	Senator Sana Jamali	Member
13.	Senator Walid Iqbal	Member
14.	Senator Sitara Ayaz	Member
15.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 12th February, 2019, 5th March, 2019, 4th April, 2019, 18th April, 2019 and 16th May, 2019, under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 16th May, 2019, which was attended by the following members:-



- i. Senator Muhammad Javed Abbasi
- ii. Senator Farooq Hamid Naek
- iii. Senator Siraj ul Haq
- iv. Senator Muhammad Ali Khan Saif
- v. Senator Dr. Ghous Muhammad Khan Niazi
- vi. Senator Mustafa Nawaz Khôkar
- vii. Senator Sana Jamali
- viii. Senator Sitara Ayaz

4. Senator Siraj ul Haq, Member-in-Charge briefed the Committee that "the Principles of Policy Articles cover different aspects of national life such as; promotion of Islamic way of life; local government institutions; discouragement of parochial and other prejudices; enabling women's participation in national life; protection of family and minorities; promotion of social justice and eradication of social evils and promotion of socio-economic well-being of citizens and eradication of Riba; participation of people in armed forces, strengthening bonds with Muslim world and promotion international peace. The object of the amendment is to remove any type of doubt that whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State is in accordance with the law or not.

5. Secretary Law and Justice briefed that the impact of this amendment will be that the principles of policy which are non-justiciable will become justiciable. There is rationality in making principles of policy non-justiciable. Their fulfillment is dependent upon a lot of issues like availability of resources, capacity, necessity etc. Further the principles of policy prescribe ideal standards which have to be achieved by the Government ultimately. It will not be appropriate that ideal principles shall be made justiciable.

6. The Committee discussed the Bill at length and also examined relevant excerpts from the Constitution making debate held during the consideration and passage of the Constitution of Pakistan, 1973, to look into the intent of the legislature. The Committee while examining the statement of the then Minister for Law and Justice noted that non-justiciability of principles of policy was deliberate and being conscious

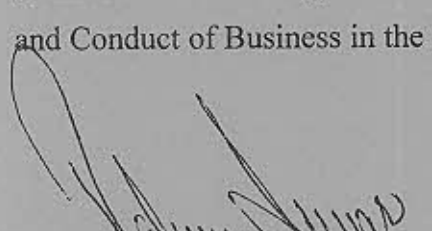
of significance of these principles, the then law makers provided parliamentary oversight as the federation is bound to lay a report before the National Assembly on the observance and implementation of the principles of policy and later on through 18th Amendment the said report is also required to be laid before the Senate. The Committee opined that the amendment would affect the overall scheme of the Constitution and a lot of other changes would need to be brought in. The Committee stressed the need to maintain harmony in the interpretation of the Constitution.


7. Members of the Committee were of the considered opinion that the legislative proposal being put forward by Senator Siraj ul Haq is good but not practical at this stage.

8. Senator Siraj ul Haq contended that certain provisions of the principles of policy have been interpreted by the Courts as fundamental rights in terms of Article 9 of the Constitution. If the Committee so desires an amended Bill can be introduced to make such specific provisions part of the fundamental rights instead of making general principle of policy justiciable.

9. Members of the Committee supported the contention of the Member-in-Charge and recommended that the instant Bill be withdrawn and the Member-in-Charge may bring forward a new legislative proposal in terms of his contention at para No. 8 above.

10. Accordingly, the Committee recommends that the House may grant leave to Senator Siraj ul Haq to withdraw "The Constitution (Amendment) Bill, 2018 (Omission of Clause (2) of Article 30)", in terms of rule 115 of the Rules of Procedure and Conduct of Business in the Senate, 2012. (Copy of Bill is annexed).


(RABEEH ANWAR)
J.S / Secretary Committee


(SENATOR MUHAMMAD JAVED ABBASI)
Chairman
Standing Committee on Law & Justice

[TO BE INTRODUCED IN THE SENATE]

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further to amend the Constitution of the Islamic Republic of Pakistan, 1973

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan, 1973 for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Constitution (Amendment) Act, 2018.

(2) It shall come into force at once.

2. Amendment of Article 30 of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, in Article 30, clause (2), shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Clause (2) of Article 30 which is proposed to omit is as under;

"The validity of an action or of law shall not be called in question on the ground that it is not in accordance with the Principles of Policy, and no action shall lie against the state, any organ or authority of the state or any person on such ground."

The Principles of Policy Articles cover different aspects of national life such as; promotion of Islamic way of life; local government institutions; discouragement of parochial and other prejudices; enabling women's participation in national life; protection of family and minorities; promotion of social justice and eradication of social evils and promotion of socio-economic well-being of citizens and eradication of Riba; participation of people in armed forces, strengthening bonds with Muslim world and promoting international peace.

The object of the aforesaid amendment is to remove any type of doubt regarding the deciding whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State is in accordance with the law or not?

The Bill is aimed to obtain the above-cited objectives.

**SENATOR SIRAJUL HAQ
SENATOR MUSHTAQ AHMED
Members-in-Charge**