

# REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



## “THE CONSTITUTION (AMENDMENT) BILL, 2017 (AMENDMENT OF ARTICLE 101)”

**Report No. 41**

**PRESENTED BY**

**SENATOR MUHAMMAD JAVED ABBASI  
CHAIRMAN**



## SENATE SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON “THE CONSTITUTION (AMENDMENT) BILL, 2017”

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on “The Constitution (Amendment) Bill, 2017(Amendment of Article 101)” introduced by Senator Mohammad Azam Khan Swati on 6<sup>th</sup> March, 2017. 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.	<b>Senator Muhammad Javed Abbasi</b>	<b>Chairman</b>
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Dr. Muhammad Ali Khan Saif	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Nehal Hashmi	Member
7.	Senator Ms. Ayesha Raza Farooq	Member
8.	Senator Nawabzada Saifullah Magsi	Member
9.	Senator Saeed Ghani	Member
10.	Senator Zaheer ud Din Babar Awan	Member
11.	Senator Mrs. Zahida Khan	Member
12.	Senator Farooq Hamid Naek	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meeting held on 27<sup>th</sup> March, 2017, under the Chairmanship of Senator Muhammad Javed Abbasi, which was attended by the following hon’ble Members:-

- i. Senator Syed Muzafar Hussain Shah
- ii. Senator Ms. Ayesha Raza Farooq
- iii. Senator Nawabzada Saifullah Magsi
- iv. Senator Saeed Ghani





4. Senator Mohammad Azam Khan Swati, mover briefed the Committee that the Constitution of the Islamic Republic of Pakistan in its Article 101 prescribes the appointment and qualifications for appointment as Governor of a Province. In Article 101, in clause (2) of the Constitution, apart from other qualifications, the condition of registered voter and resident of the concerned Province is also a requirement for appointment as Governor of that Province. Since Federally Administered Tribal Areas (FATA) and Islamabad Capital Territory are not part of any Province, therefore the residents and registered voters of these two areas are deprived from their right to be appointed as Governor of a Province. Through this amendment, the registered voters and residents of FATA will become eligible for appointment as Governor of Khyber Pakhtunkhwa, and the registered voters and residents of Islamabad Capital Territory will become eligible for appointment as Governor of the Punjab Province.

5. Ministry of Law and Justice opposed the Bill on the following grounds:-

- 1) Article 101 of the Constitution was last amended by Constitution (Eighteenth Amendment). Before the Eighteenth Amendment, the eligibility for appointment as Governor was to be qualified as Member of National Assembly and his age not less than thirty-five years. After the Eighteenth Amendment, it was added that the person to be appointed as Governor should be a registered voter and resident of the Province concerned. The honorable Senator is of the view that the people of Islamabad Capital Territory and FATA are being deprived of their right to be candidates for Governor. It has, therefore, been proposed that the registered voters and residents of Federal Capital shall be eligible for appointment as Governor Punjab and the registered voters and residents of FATA shall be eligible for appointment as Governor KPK.
- 2) Policy decision of the Honorable Minister/ Cabinet/ Parliament is required for this Constitutional amendment. However, this point needs to be discussed that ICT resident/ voter shall be eligible only for Governor of the Punjab.

6. In view of the statement given by the Minister, Senator Mohammad Azam Khan Swati, mover of the Bill, stated that he does not intend to press the instant Bill further, therefore, he will withdraw the same in the House as per the rules.



7. Accordingly, the Committee recommends that the House may grant leave to Senator Mohammad Azam Khan Swati to withdraw "The Constitution (Amendment) Bill, 2017 (Amendment of Article 101)", in terms of rule 115 of the Rules of Procedure and Conduct of Business in the Senate, 2012. (Copy of Bill is annexed).



(RABEEA ANWAR)  
J.S / Secretary Committee



( SENATOR MUHAMMAD JAVED ABBASI)  
Chairman



[TO BE INTRODUCED IN THE SENATE]

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BILL

*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 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, 2017.

(2) It shall come into force at once.

**2. Amendment of Article 101 of the Constitution.-** In the Constitution of the Islamic Republic of Pakistan, in Article 101, in clause (2), for the full stop occurring at the end a colon ":" shall be substituted and thereafter the following new provisos shall be inserted, namely:-

"Provided that a person, who is a registered voter and resident of the Federal Capital and, is otherwise qualified, shall be eligible for appointment as Governor of the Punjab Province;

Provided further that a person, who is a registered voter and resident of the Federally Administered Tribal Areas and, is otherwise qualified, shall be eligible for appointment as Governor of the Khyber Pakhtunkhwa Province."

**STATEMENT OF OBJECTS AND REASONS**

The Constitution of the Islamic Republic of Pakistan in its Article 101 prescribes the appointment and qualifications for appointment as Governor of a Province. In Article 101, in clause (2) of the Constitution, apart from other qualifications, the condition of registered voter and resident of the concerned Province is also a requirement for appointment as Governor of that Province. Since Federally Administered Tribal Areas (FATA) and Islamabad Capital Territory are not part of any Province, therefore the residents and registered voters of these two areas are deprived from their right to be appointed as Governor of a Province. Through this amendment, the registered voters and residents of FATA will become eligible for appointment as Governor of Khyber Pakhtunkhwa, and the registered voter and residents of Islamabad Capital Territory will become eligible for appointment as Governor of the Punjab Province.

The Bill is designed to achieve the aforesaid objectives.

**SENATOR MOHAMMAD AZAM KHAN SWATI**  
Member-in-Charge