

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



“THE CONSTITUTION (AMENDMENT) BILL, 2017 (AMENDMENT OF ARTICLE 63A)”

Report No. 53

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 63A)" introduced by Senator Farhatullah Babar, on 21st August, 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.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Farooq Hamid Naek	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 Dr. Muhammad Ali Khan Saif	Member
10.	Senator Mrs. Zahida Khan	Member
11.	Senator Syed Asif Saeed Kirmani	Member
12.	Senator Barrister Murtaza Wahab	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meeting held on 2nd October and 19th October, 2017, under the Chairmanship of Senator Muhammad Javed Abbasi, which was attended by the following hon'ble Members:-

- i. Senator Saleem Zia
- ii. Senator Nehal Hashmi
- iii. Senator Mrs. Zahida Khan
- iv. Senator Farooq Hamid Naek

4. Senator Farhatullah Babar, Mover briefed the Committee that the Supremacy of the Constitution is the basis of Pakistan's Constitutional and political system. Parliament exercises supremacy within the jurisdiction assigned to it by the Constitution. The existing provision under sub-paragraph (iii) of paragraph (b) of clause (1) of Article 63A, does not allow members of the Parliament to vote in according with their conscience on a matter of Constitutional amendment. It negates the spirit of the Constitution and the supremacy of the Parliament and needs to be amended.

5. The Ministry of Law and Justice gave following input on the Bill:-

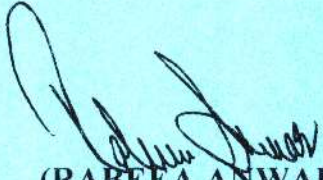
- 1) The instant Constitutional (Amendment) Bill is for the purpose of empowering the Members with regards to voting or abstaining from vote on bills relating to a constitutional Amendment or a money Bill, against the policy of party heads. According to him, it is against parliamentary democracy that a Member cannot exercise vote according to his own wisdom.
- 2) However, one more fact has to be kept in mind that Article 63A ibid was inserted vide Article 22 of the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010) owing to its importance that the Constitution provides basic structure of the state and its amendment, like a money Bill, plays an important role in formulation of policy by a political party.

6. The Committee also took note of former Senator S.M. Zafar's email sent to the Committee members on another Bill, wherein, he also raised this issue in the following terms:-

"May I request the learned Chairman and the Members of the Law Committee to kindly examine Article 63(A) (b)(iii) which deprive the independence of their conscious and make them subservient to the direction of the head of the party. Supremacy of Parliament and the conscience of the members is surrendered in favour of a single person whose mandate will be superior to the spirit of the Constitution."

7. All Members presented voted in favour of the Bill.

8. Accordingly, the Committee recommends that "The Constitution (Amendment) Bill, 2017 (Amendment of Article 63A)", as introduced in the Senate, may be passed. (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 63A of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, in Article 63A, in clause (1), in paragraph (b), in sub-paragraph (iii), the words "or a Constitution (Amendment) Bill" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Supremacy of the Constitution is the basis of Pakistan's Constitutional and political system. Parliament exercises supremacy within the jurisdiction assigned to it by the Constitution.

2. The existing provision under sub-paragraph (iii) of paragraph (b) of clause (1) of Article 63A, does not allow members of the Parliament to vote in according with their conscience on a matter of Constitutional amendment. It negates the spirit of the Constitution and the supremacy of the parliament and needs to be amended. Hence the need for this amendment.

SENATOR FARHATULLAH BABAR
Member-in-Charge