



SENATE SECRETARIAT

Report No. 59

REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE



“THE CONSTITUTION (AMENDMENT) BILL, 2017 (AMENDMENT OF ARTICLE 51)”

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, 2017 (AMENDMENT OF ARTICLE 51)"

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 51)" introduced by Senator Col. (R) Syed Tahir Hussain Mashhadi, in the Senate sitting held on 18th December, 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 Ms. Ayesha Raza Farooq	Member
7.	Senator Nawabzada Saifullah Magsi	Member
8.	Senator Dr. Muhammad Ali Khan Saif	Member
9.	Senator Mrs. Zahida Khan	Member
10.	Senator Syed Asif Saeed Kirmani	Member
11.	Senator Barrister Murtaza Wahab	Member
12.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 9th January and 6th February, 2018, under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 6th February, 2018, which was attended by the following members:-

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- i. **Senator Muhammad Javed Abbasi**
 - ii. Senator Saleem Zia
 - iii. Senator Zahida Khan

4. Senator Col. (R) Syed Tahir Hussain Mashhadi, mover briefed the Committee that democracy is based on mandate of people through their elected representatives elected by eligible voters entered in the electoral rolls of the constituencies. Voters are only entitled to elect their representatives during the General elections or for filling of casual vacancies. However, there is a great number of disparity of number of votes for different constituencies as there are different number of votes for different constituencies in different provinces, areas or territories of Pakistan. Due to this reason there is disproportionate representation of people or voters belonging to different Provinces, areas or territories becoming cause of concern and frustration and having the seedlings of mutual distrust of people of Pakistan. Article 25 of the Constitution provides for equality but same principle of equality is not being applied for division of votes into electoral constituencies.

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

There are two prevailing systems of representation in modern democracies: (a) representation by population (rep-by-pop); and (b) representation by area (rep-by-area). In some countries a mix of the two is also being practiced like Canada and Australia. No system of constituencies is based strictly on parity of voters although rep-by-pop system aims to achieve the same goal. In all democracies following Westminster model of Parliamentary system, constituencies are predominantly carved/ delimited based rep-by-pop system. Some system is being followed in Pakistan in delimitation of National and Provincial Assemblies constituencies. Further, demographic changes take place on daily basis but delimitation takes place after a decade while elections are held every 4 to 5 years.

In representative system, the elected representative not only represents the voters but also the non-voters living in his constituency including children and non-citizens. Theory of descriptive representation of elected representative makes it incumbent upon him to also represent descriptive characteristics of the constituency including geographical area, occupations, ethnicity, gender, fauna and flora.


6. Election Commission did not support the Bill and informed that the matter was also discussed in the meetings of the sub-committee of the Parliamentary Committee on Electoral Reforms, wherein, Members belonging to various political parties did not support the proposal. The Additional Secretary, ECP, further stated that if approved, this principle will have to be applied to the constituencies of the Provincial Assembly as well, which will create confusions.

7. Members of the Committee were of the considered opinion that the legislative proposal being put forward by Senator Col. (R) Syed Tahir Hussain Mashhadi is good but not practical at this stage, therefore, the ECP may explore the possibility of delimitation of constituencies on the basis of equal number of vote as far as practical and possible in future.

8. The Member-in-Charge endorsed the view point of the Members and the Election Commission of Pakistan and accordingly acceded to withdraw the instant Bill.

9. Accordingly, the Committee recommends that the House may grant leave to Senator Col. (R) Syed Tahir Hussain Mashhadi to withdraw "The Constitution (Amendment) Bill, 2017 (Amendment of Article 51)", 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

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 51 of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, in Article 51, for clause (5), the following shall be substituted, namely:-

“(5) The seats in the National Assembly shall be allocated to each Province, the Federally Administered Tribal Areas and the Federal Capital on the basis of population in accordance with the last preceding census officially published subject to the condition that each constituency shall be based on equal number of votes as entered in the electoral rolls prepared by the Election Commission under Article 219 of the Constitution.”

STATEMENT OF OBJECTS AND REASONS

Democracy is based on mandate of people through their elected representatives elected by eligible voters entered in the electoral rolls of the constituencies. Voters are only entitled to elect their representatives during the General Elections or for filling of casual vacancies. However, there is a great number of disparity of number of votes for different constituencies as there are different number of votes for different constituencies in different provinces, areas or territories of Pakistan. Due to this reason there is disproportionate representation of people or voters belonging to different Provinces, areas or territories becoming cause of concern and frustration and having the seedlings of mutual distrust of people of Pakistan. Article 25 of the Constitution provides for equality but same principle of equality is not being applied for division of votes into electoral constituencies.

2. The Bill seeks to achieve the above said objective.