



SENATE SECRETARIAT

Report No. 23

**REPORT OF THE
SENATE STANDING COMMITTEE ON LAW AND JUSTICE**



**“THE CONSTITUTION (AMENDMENT) BILL 2018”
(AMENDMENT OF ARTICLE 27)**

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" (AMENDMENT OF ARTICLE 27)"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Constitution (Amendment) Bill 2018" (Amendment of Article 27)" introduced by Senator Mian Raza Rabbani in the Senate sitting held on 18th December, 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 Ghous Muhammad Khan Niazi	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 Mustafa Nawaz Khokar	Member
10.	Senator Sana Jamali	Member
11.	Senator Walid Iqbal	Member
12.	Senator Zeeshan Khanzada	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 14th January, 2019, 12th February, 2019, 5th March, 2019, 4th April, 2019, 18th April, 2019, 16th May, 2019, 17th July, 2019, 19th September, 2019, 28th November, 2019, 22nd January, 2020 and 13th February, 2020, under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 13th February, 2020, which was attended by the following members:-

- i. Senator Muhammad Javed Abbasi
- ii. Senator Ghous Muhammad Khan Niazi
- iii. Senator Siraj ul Haq
- iv. Senator Syed Muzafar Hussain Shah
- v. Senator Zeeshan Khanzada
- vi. Senator Sana Jamali

4. Senator Mian Raza Rabbani, Member-in-Charge briefed the Committee that the quota system prescribed in the Constitution of the Islamic Republic of Pakistan, 1973 to ensure representation of underdeveloped provinces, expired on August 13, 2013. This amendment aims at providing 20 years extension to the time period prescribed for quota in the proviso of Article 27 of the Constitution. The objective is to provide a cover to the appointments made from August, 2013 and reservation of quotas for further recruitments by the Federal or Provincial Governments.

5. The Secretary, Ministry of Law and Justice informed the Committee that the Supreme Court in its decision in 2016, has interpreted Article 27 of the Constitution and declared that the expiry of time period for quota provided in the first proviso of said Article does not need any further extension as the third proviso of same Article empowers the Parliament to enact a law to redress under representation of any class or area in the services of Pakistan. Hence the provisions of the Federal Public Service Commission Act and Rules made thereunder sufficiently address the issue of representation by people of under privileged areas in Pakistan. However, if the parliament so desires, an exclusive legislation can be enacted in terms of third proviso to Article 27 of the Constitution.

6. Senator Syed Muzafar Hussain Shah endorsed the proposal of Senator Mian Raza Rabbani and argued that the objective of amendment under consideration is justified as the underprivileged and underrepresented areas and classes persist in Pakistan as yet. He further added that period of forty years was given to the State/Governments to ensure a mechanism for adequate representation of all classes and areas in the service of Pakistan, however, if the Governments have been failed to fulfill their constitutional obligations then this failure shall not affect the representation of people belonging to less developed and underrepresented areas of Pakistan. While comparing the merit system of Pakistan with other states in the world, he deliberated that Pakistan has its own peculiar circumstances, hence the quota should remain intact till the conditions change in the country.

7. Senator Ghous Muhammad Khan Niazi did not support the amendment and opined that it would be unjust for the people of underprivileged areas to be recruited or given representation on the basis of quota as it is against the essence of competition. He further added that it will adversely affect the capacities of such people by getting a position without merit.

8. Senator Zeeshan Khanzada opposed the Amendment by endorsing the stance of Ministry of Law and Justice.

9. Senator Siraj ul Haq deliberated against the proposal of extension in time period for the provision of quota in instant Bill. He was of the view that State shall take all steps to provide enabling environment to the people of the underdeveloped areas and provision of quota will not serve the purpose.

10. The Committee also took note that the Federal Shariat Court in its judgment given in 1992 has declared the quota system as against the Islamic concept; however, the Government had filed an appeal in the Supreme Court against the said judgment; status of which is still unknown.

11. The Chairman Committee put the Bill to vote of the Committee, wherein all Members present except Senator Syed Muzafar Hussain Shah voted against the Bill.

12. The Committee recommends that "The Constitution (Amendment) Bill 2018" (Amendment of Article 27)", as introduced in the Senate, may not be passed by the Senate of Pakistan. (Copy of Bill is annexed).



(RABEEA ANWAR)
J.S / Secretary Committee



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

[AS INTRODUCED IN THE SENATE]

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further to amend the Constitution of 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, 2018.

(2) It shall come into force at once.

2. Amendment of Article 27 of the Constitution.- In the Constitution of Islamic Republic of Pakistan, 1973, in Article 27, in clause (1), in the first proviso, for the expression "forty" the expression "sixty" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The quota system prescribed in the Constitution of the Islamic Republic of Pakistan, 1973 to ensure representation of underdeveloped Provinces, expired on August 13, 2013. This amendment aims at providing 20 years extension to the time period prescribed for quota in the proviso of Article 27 of the Constitution. The objective is to provide a cover to the appointments made from August, 2013 and reservation of quotas for further recruitments by the Federal or Provincial Governments.

SENATOR MIAN RAZA RABBANI
Member-in-Charge