

SENATE OF PAKISTAN



REPORT NO. 35

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



“THE CONSTITUTION (AMENDMENT) BILL, 2020”

(Amendment of Article 140)

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, 2020"

I, Senator Muhammad Javed Abbasi, Chairman Standing Committee on Law and Justice, have the honor to submit, on behalf of the Committee, this report on "The Constitution (Amendment) Bill, 2020" (Amendment of Article 140), introduced by Senator Muhammad Javed Abbasi, in the Senate sitting held on 13th July, 2020 and referred to the Committee for consideration and report.

2. The composition of the Committee is as under:-

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

3. The Committee considered the Bill in its various meetings and held conclusive discussion in the meeting on 28th December 2020, under the chairmanship of Senator Muhammad Javed Abbasi. However, at the time of consideration of the Bill, Senator Muhammad Javed Abbasi recused himself from presiding the meeting and Senator Walid Iqbal occupied the Chair as acting Chairman, with the following in attendance:

1. Senator Walid Iqbal	Acting Chair
2. Senator Sana Jamali	Member


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| 3. | Senator Zeeshan Khanzada | Member |
| 4. | Senator Sirajul Haq | Member |

4. Senator Javed Abbasi explained the amendment proposed in the Constitution and deliberated that the appointment of the Advocate General in Islamabad is made by the executive despite the fact that it is a constitutional post as prescribed for the provinces. Advocate General is the representative of state related matters. Based on that analogy, he noted that similar provisions and procedure should be applied for the appointment of Advocate General of Islamabad as adopted for other provinces. The Senator regarded it a Constitutional glitch that is ought to be rectified through amendment in Article 140. Senator Walid Iqbal explained that there are two levels of territorial jurisdiction of Islamabad *inter* within Islamabad Capital Territory and outside Islamabad for the issues pertaining to the federal organizations or departments. This amendment may be justified for the former but not for the latter jurisdiction as the Attorney General in that case is authorized to represent the federal government. Senator Sana Jamali endorsed the amendment proposed by Senator Javed Abbasi. On the other hand, Senator Zeeshan Khanzada opposed the Bill with the view that in case of the proposed amendment, the right of speech conferred under Article 111 to the Advocate Generals of provinces would also apply to the Advocate General of Islamabad. In such case the status of Attorney General would be confused. Ministry of Law & Justice while deliberating its opinion explained that the provision for different matters including appointment of Advocate General for territories such as ICT is already provided in Article 258 of the Constitution, hence there is no need of further amendment.

5. On the comment by Ministry of Law and Justice that views from Ministry of Interior were still awaited and with representative from Ministry of Interior informing that the matter was under consideration at their end, the Committee expressed displeasure that despite passage of six months even detailed comments on the matter had not been offered. Noting that the bill had been pending for a very long time, the Committee decided to put the Bill to vote whereupon it was passed with majority vote, except Senator Zeeshan Khanzada, who abstained.

6. The Committee recommended that "The Constitution (Amendment) Bill, 2020" (Amendment of Article 140) as introduced in the Senate may be passed by the Senate of Pakistan. The Committee also gave approval for presentation of this report to the House. Copy of the Bill is annexed.


(Haris Rehman)
DS / Secretary Committee


(Senator Muhammad Javed Abbasi)
Chairman, Standing Committee on Law and Justice

As

[TO BE INTRODUCED IN THE SENATE]

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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, 2020.

(2) It shall come into force at once.

2. Amendment of Article 140 of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, in Article 140,-

- (i) for the marginal note "Advocate General for a Province", the "Advocate General for the Islamabad Capital Territory and Provinces" shall be substituted; and
- (ii) in clause (4) for the full-stop "." occurring at the end a colon ":" shall be substituted and thereafter the following provisos shall be added, namely:-

"Provided that there shall be an Advocate General for the Islamabad Capital Territory, who shall be appointed by the President and may by writing under his hand addressed to the President resign from his office:

Provided further that the other terms and conditions laid down in this Article shall also apply to the Advocate General for the Islamabad Capital Territory, and in their application to the Islamabad Capital Territory and shall have effect as if the references therein to the Governor and Provincial Government, were references respectively to the President and the Islamabad Capital Territory Administration."

STATEMENT OF OBJECTS AND REASONS

The Islamabad Capital Territory (ICT) is a separate administrative unit. It has its own High Court and Bar Council. Bar Councils are statutory bodies headed by the Advocate General of every province as Ex-officio Chairman of the respective Council. Advocate General is a Constitutional post and there is no provision in the Constitution for the Advocate General exclusively for Islamabad Capital Territory. An Advocate General of a province cannot perform dual responsibilities in one time due to practical limitations and at times due to conflict of interest. Appointment of Advocate General in Islamabad Capital Territory is a Constitutional and legal requirement to represent ICT in Islamabad High Court and to complete formation of Islamabad Bar Council.

Therefore, this Bill seeks to provide for the appointment of Advocate General Exclusively for the Islamabad Capital Territory.

SENATOR MUHAMMAD JAVED ABBASI
Member-in-Charge