

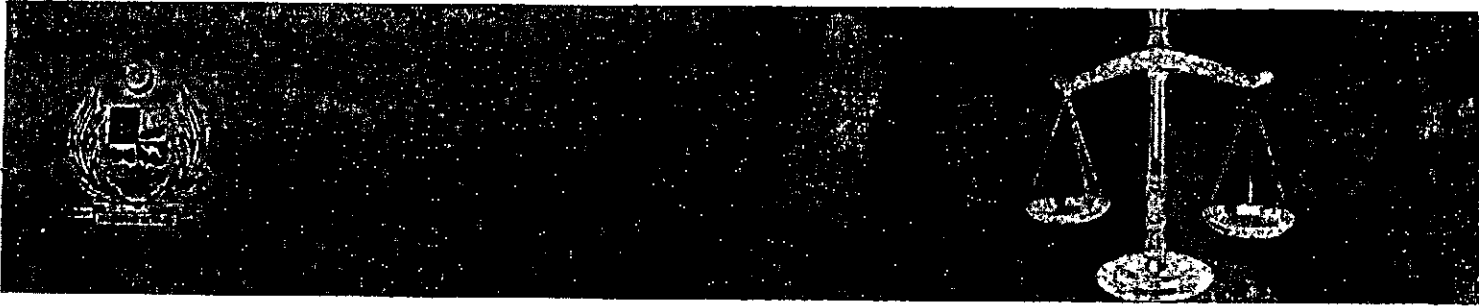
SENATE OF PAKISTAN

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REPORT NO. 12

REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE



“THE CONSTITUTION (AMENDMENT) BILL, 2021”

(Amendment of Articles 111, 140, 260 and 275)

PRESENTED BY

Senator Syed Ali Zafar

Chairman

Standing Committee on Law and Justice

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CONSTITUTION (AMENDMENT) BILL, 2021"

I, Senator Syed Ali Zafar, Chairman Standing Committee on Law and Justice, have the honor to submit, on behalf of the Committee, this report on "The Constitution (Amendment) Bill, 2021" (Amendment of Articles 111, 140, 260 and 275) moved by Senator Shahadat Awan, in the Senate sitting held on 15th November, 2021 and referred to the Committee for consideration and report.

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

1. Senator Syed Ali Zafar	Chairman
2. Senator Syed Shibli Faraz	Member
3. Senator Azam Nazeer Tarar	Member
4. Senator Mian Raza Rabbani	Member
5. Senator Farooq Hamid Naek	Member
6. Senator Syed Muzafar Hussain Shah	Member
7. Senator Kamran Murtaza	Member
8. Senator Muhammad Azam Khan Swati	Member
9. Senator Walid Iqbal	Member
10. Senator Manzoor Ahmed Kakar	Member
11. Senator Musadik Masood Malik	Member
12. Senator Samina Mumtaz Zehri	Member
13. Senator Mustafa Nawaz Khokhar	Member
14. Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its various meetings previously and held conclusive discussion in the meeting on 9th March, 2022, under the Chairmanship of Senator Syed Ali Zafar, with the following in attendance:

1. Senator Farooq Hamid Naek	Member
2. Senator Manzoor Ahmed Kakar	Member
3. Senator Kamran Murtaza	Member
4. Senator Shahadat Awan	Member-in Charge



4. In the previous meetings of the Committee, Senator Shahadat Awan briefed that the intention to propose amendments in Articles 111, 140, 260 and 275 of the Constitution was to bring Prosecutor General at par with Advocate General and Attorney General by including him among the exceptions given in the definition of Service of Pakistan. However, the Ministry of Law & Justice opposed the proposed amendments in the Constitution by deliberating that every province of Pakistan had a dedicated statute defining and prescribing the appointment and other terms for Prosecutor General therein. Hence, there was no need for such amendment in the Constitution. On the other hand it was unanimously proposed by the committee in its sitting on 9th March, 2022, that the amendment in Article 260, may be retained in the Bill by omitting the rest, to which the Honorable Member-in-Charge agreed. After thorough deliberations as aforesaid, following amendments were proposed in the Bill:

In the Constitution (Amendment) Bill, 2021;

- i. Clause 2 and 3 , shall be omitted, and the clauses occurring thereafter shall be renumbered accordingly; and
- ii. The renumbered clause 3, shall be omitted.

5. After discussion, the Chairman Committee put the Bill to vote. With the above amendments, the Bill was passed unanimously. The Committee recommended that "The Constitution (Amendment) Bill, 2021" as reported by the Committee may be passed by the Senate of Pakistan. The Committee also gave approval for presentation of this report to the House.

6. The Bill as reported by the Committee is at Annex-A, and the Bill as introduced in the Senate is at Annex-B.


(Hammad Khan Marri)
DS / Secretary Committee


(Senator Syed Ali Zafar)
Chairman, Standing Committee on Law and Justice

[AS REPORTED BY THE COMMITTEE]**A****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, 2021.

(2) It shall come into force at once.

2. Amendment of Article 260 of the Constitution. - In the Constitution of the Islamic Republic of Pakistan, in Article 260, in clause (1), in paragraph (b), in the definition of expression "service of Pakistan", after phrase "Advocate-General," , the phrase "Prosecutor-General," shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Prosecutor General is the head of the Prosecution Service. The Prosecution Service has the right of representation and audience on behalf of the Government in all courts including the Supreme Court, the Federal Shariat Court and the High Courts of the respective provinces through special law enacted by the respective Provincial Assemblies. Any person, qualified to be appointed as Judge of the High Court or has for a period of, or for the periods aggregating, not less than ten years, being an advocate of the High Court, can be appointed as a Prosecutor General under the relevant legislations.

The establishment of prosecution department in the provinces, and consequently the appointment of Prosecutor Generals in the provinces is on equal stature of Advocate General office. However, no such provisions regarding the appointment or powers of the Prosecutor Generals are provided in the Constitution. This amendment aims at defining the status of Prosecutor General of Provinces similar to that of Advocate General in the Constitution.

SENATOR SHAHADAT AWAN
Member in charge

(INTRODUCED ON 15-11-2021)

[AS 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, 2021.

(2) It shall come into force at once.

2. Amendment of Article 111 of the Constitution. - In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 111,-

(a) after the phrase "Advocate-General", the phrase "and Prosecutor-General" shall be inserted; and

(b) for the phrase "he may be named a member", the phrase "they may be named members", shall be substituted.

3. Amendment of Article 140 of the Constitution. - In the Constitution, in Article 140,-

(a) in the marginal note, after the phrase "Advocate-General", the phrase "and Prosecutor-General" shall be inserted;

(b) in clause (1), after the phrase "Advocate General", the phrase "and Prosecutor-General", shall be inserted;

(c) for the existing clauses (2) and (3), the following shall be substituted namely:-

"(2) It shall be the duty of Advocate-General or Prosecutor-General, as the case may be, to give advice to the Provincial Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to anyone of them by the Provincial Government.

(3) The Advocate-General and Prosecutor-General shall hold office during the pleasure of the Governor and shall not engage in private practice so long as they hold the office of Advocate-General or Prosecutor General, as the case may be." ; and

(d) in clause (4), after the phrase "Advocate General", the phrase "or Prosecutor-General", shall be inserted.

4. Amendment of Article 260 of the Constitution. - In the Constitution, in Article 260, in clause (1), in paragraph (b), in the definition of expression "service of Pakistan", after phrase "Advocate-General," , the phrase "Prosecutor-General," shall be inserted.

5. Amendment of Article 275 of the Constitution.- In the Constitution, in Article 275, in clause (2), in paragraph (f), after the phrase "Advocate General", the phrase "and Prosecutor-General", shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Prosecutor General is the head of the Prosecution Service. The Prosecution Service has the right of representation and audience on behalf of the Government in all courts including the Supreme Court, the Federal Shariat Court and the High Courts of the respective provinces through special law enacted by the respective Provincial Assemblies. Any person, qualified to be appointed as Judge of the High Court or has for a period of, or for the periods aggregating, not less than ten years, being an advocate of the High Court, can be appointed as a Prosecutor General under the relevant legislations.

The establishment of prosecution department in the provinces, and consequently the appointment of Prosecutor Generals in the provinces is on equal stature of Advocate General office. However, no such provisions regarding the appointment or powers of the Prosecutor Generals are provided in the Constitution. This amendment aims at defining the status of Prosecutor General of Provinces similar to that of Advocate General in the Constitution.

SENATOR SHAHADAT AWAN
Member in charge