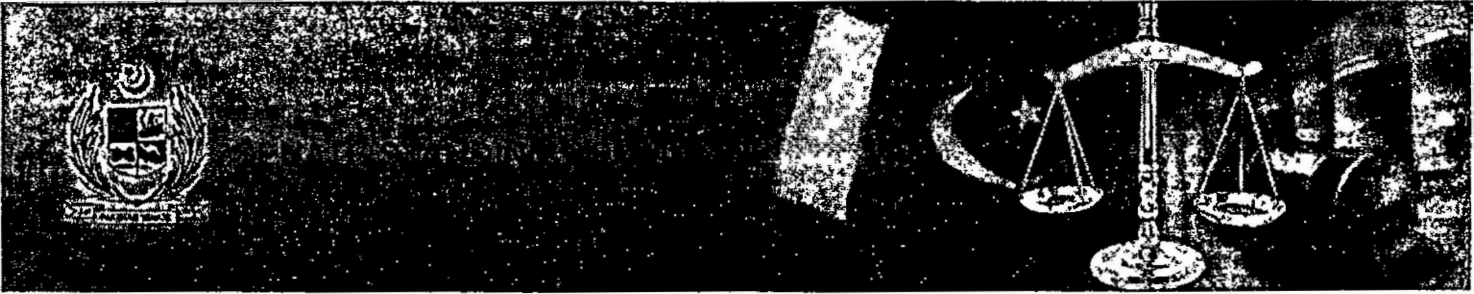


# SENATE OF PAKISTAN



**REPORT NO. 18**

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



**“THE CONSTITUTION (AMENDMENT) BILL, 2021”**

**(Amendment of Article 160)**

**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 Article 160) moved by Senator Mian Raza Rabbani, in the Senate sitting held on 12th July, 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 11<sup>th</sup> May, 2022, under the Chairmanship of Senator Syed Ali Zafar, with the following in attendance:

1. Senator Mian Raza Rabbani	Member/ Member In-Charge
2. Senator Manzoor Ahmed Kakar	Member
3. Senator Musadik Masood Malik	Member

4. Senator Mushtaq Ahmed Khan

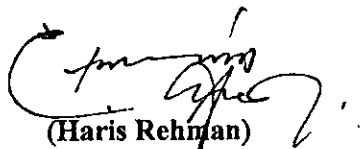
Member In-Charge

5. Minister for Law and Justice

Ex-Officio Member

4. While discussing the Bill under consideration, Senator Mian Raza Rabbani informed the committee that he seeks amendments in Article 160 of the Constitution of Pakistan, which call for enhancement of powers and effectiveness of Senate. In this regard, resolutions no. 275, 294, 305 dated 5<sup>th</sup> August 2016, 19<sup>th</sup> December 2016 and 13<sup>th</sup> February 2017 were passed by Senate, in which it was unanimously approved that Senate's role must be enhanced through Constitutional amendments and more financial powers must be delegated to the Senate. During this process, correspondence with provinces was also done. All of these proceedings were recorded in Minutes of House Business Advisory Committee. In the meeting held on 11<sup>th</sup> May, 2022, the honorable Senator shared a letter (Attached as annexure-A) with the honorable Members, addressed to the Chairman Committee and the Minister for Law and Justice. The Senator also read out the letter with permission of the Chair, stating therein that in view of ongoing Constitutional violations and crisis in the country, his proposal for Constitutional amendments may be withdrawn. He asserted that it is the need of hour to defend the Constitution rather than amend it. The Chairman, Minister for Law and Justice and Members of the Committee appreciated efforts made by Senator Mian Raza Rabbani in drafting the bill and tried to convince him to reverse his decision, to which honorable Member respectfully refused.

5. At this, the Committee decided that the Bill under consideration may be withdrawn and recommended that the Senate may grant leave to Senator Mian Raza Rabbani to withdraw "The Constitution (Amendment) Bill, 2021" (Amendment of Article 160). Copy of the Bill is annexed (Attached as annexure-B).

  
(Haris Rehman)  
Principal Secretary to Chairman Senate /  
Secretary Committee

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



**Senator Mian Raza Rabbani**

Chairman  
Standing Committee  
Inter-Provincial Coordination  
Senate of Pakistan

Senator Syed Ali Zafar,  
Chairman,  
Senate Standing Committee on Law and Justice,  
Senate of Pakistan,  
Islamabad.

Dated: 11<sup>th</sup> May, 2022.

Sir,

I have moved the following amongst other Bills;

- i) The Constitution (Amendment) Bill, 2021, amendment to Articles 57, 62, 72, 73, 86, 89, 126, 159, 160, 162 and 166.
- ii) The Constitution (Amendment) Bill, 2021, amendment to Article 160.
- iii) The Constitution (Amendment) Bill, 2020, amendment to Article 89.
- iv) The Constitution (Amendment) Bill, 2021, amendment to Article 89.
- v) The Constitution (Amendment) Bill, 2022, amendment to Article 27.

The above all, Bills pertain to amendments in the Constitution, 1973, which is a sacred document and is the fiber which holds the federation together. Such amendments pertain to and deal with enhancing the powers of the Senate, which in a federal structure is the linchpin, structuring discretion of the Federal Government of promulgating Ordinances, enhancing the share of the Provinces if the NFC Award is not issued within the timeframe prescribed under the Constitution, 1973.

Constitutional amendments need to be passed with the broadest political consensus in which all stakeholders have been consulted and their point of view

accommodated. As the Constitution is not the property of a political party but belongs to the people, who must rise to defend and protect it from adventures.

In the given circumstances when offices functioning under the Constitution are willfully violating the Constitution, 1973, moving amendments in the said document, when it, itself is struggling to survive, seems inappropriate. When misinterpreting and or violating the Constitution, 1973, or bringing into disrepute institutions working under the Constitution, seems to have a premium. I do not wish to burden the record of the Senate Standing Committee on Law and Justice and the Senate with the aforesaid Bills.

These are times when the Constitution, 1973, must be preserved and protected if the federation is to survive, rather than bringing amendments. This is a battle for the survival of the Constitution, 1973.

Therefore, I as the mover of the said Bills, exercise my prerogative under Rule 115, Rules of Procedure and Conduct of Business in the Senate, 2012, and hereby declare my intention to move for the withdrawal of the said Bills.

In this sea of unconstitutionality and lack of rule of law, this withdrawal is a mark of protest on behalf of the overwhelming majority of Pakistanis, against the game of power politics, which is tearing and polarizing our society, bringing severe strains on national security and indeed the federation itself.

Thanking you,

Yours truly,

  
(SENATOR MIAN RAZA RABBANI)  
NI

Cc.

✓ 1. The Federal Minister for Law and Justice, Islamabad.

AS  
[TO BE INTRODUCED IN THE SENATE]

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 160 of the Constitution.** - In the Constitution of the Islamic Republic of Pakistan, in Article 160, after clause (3B), the following new clause (3C) shall be added, namely:-

"(3C) The Senate shall send its observations on the Reports to the Federal Finance Minister and the Provincial Finance Ministers within two months of the Report being laid in the House. The observations shall also be laid in the respective Provincial Assembly."

**STATEMENT OF OBJECTS AND REASONS**

Clause (3B), Article 160, Constitution, 1973, provides that the Federal Finance Minister and Provincial Finance Ministers shall monitor the implementation of the Award biannually and lay their Reports before Parliament and the Provincial Assemblies. This command of the Constitution is not being followed. Therefore, a new clause (3C) is proposed to be added whereby the Senate can make observations on the implementation of the Award at the Federal and Provincial levels. This will bring parliamentary oversight to the implementation of the NFC Award and become a vehicle for the enforcement of clause (3B), Article 160, Constitution, 1973.

**SENATOR MIAN RAZA RABBANI  
MEMBER-IN-CHARGE**