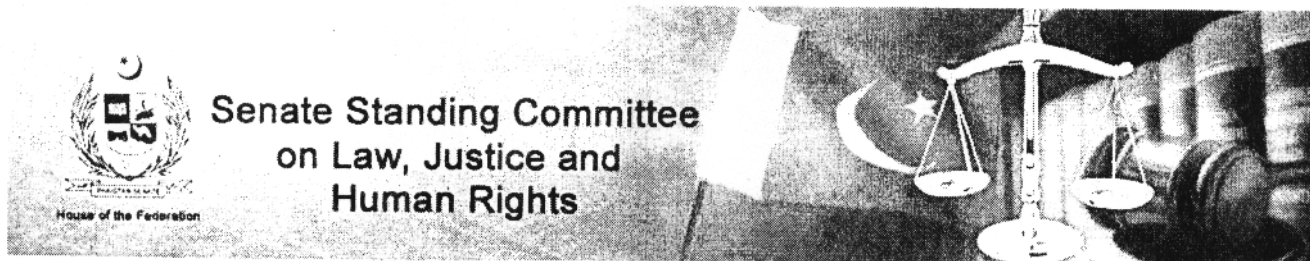


REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS



**“THE CONSTITUTION (AMENDMENT) BILL, 2015.
(OMISSION OF CLAUSE (2) OF ARTICLE 248)”**

**Report No. 04
(Thirteenth Parliamentary Year)**

PRESENTED BY

**SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS ON "THE LEGAL PRACTITIONERS AND BAR COUNCILS (AMENDMENT) BILL, 2015 (OMISSION OF CLAUSE (2) OF ARTICLE 248)"

I, Chairman of the Standing Committee on Law, Justice and Human Rights, have the honour to present report on "The Constitution (Amendment) Bill, 2015 (Omission of clause (2) of Article 248)" introduced by Senator Hafiz Hamdullah, on 9th March, 2015. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee on Law, Justice and Human Rights is as under:-

1. Senator Muhammad Javed Abbasi	Chairman
2. Senator Raja Muhammad Zafarul Haq	Member
3. Senator Mrs. Zahida Khan	Member
4. Senator Dr. Muhammad Farogh Naseem	Member
5. Senator Syed Muzafar Hussain Shah	Member
6. Senator Ms. Ayesha Raza Farooq	Member
7. Senator Nawabzada Saifullah Magsi	Member
8. Senator Saeed Ghani	Member
9. Senator Zaheerud Din Babar Awan	Member
10. Senator Aitzaz Ahsan	Member
11. Senator Farooq Hamid Naek	Member
12. Senator Saleem Zia	Member
13. Minister for Law, Justice and Human Rights	Ex-officio Member

3. The Committee considered the Bill in its meetings held on 12th June and 1st July, 2015.

4. "The Constitution (Amendment) Bill, 2015. (Omission of clause (2) of Article 248)" seeks to amend the law is the same for everyone; it should be applied in the same way to all. The rule of law, also called supremacy of law, means that no one is above the law. Whether governor or governed, rulers or ruled, no one is above the law.



no one is exempted from the law, and no one can grant exemption to the application of the law. This is very unfortunate that every leader in Pakistan has misused the law. It is about time that this unjust law must be removed to bring all as equal before the law whether it's a leader or common person.

5. Secretary, Ministry of Law, Justice and Human Rights opposed the Bill on the following grounds:-

- a. The Constitution (Amendment) Bill, 2015 seeks to omit clause (2) of Article 248 of the Constitution of the Islamic Republic of Pakistan which provides immunity to the President or Governor from institution of criminal proceedings in any Court during their term of office. This is personal immunity from legal action to the President who is symbol of the unity of the Federation or a Governor.
- b. This is not a blanket immunity as this is available only during the term of their office. Once holders of these prestigious offices cease to hold office this immunity vanishes.
- c. The provisions of equality occurring in Article 4 and Article 25 of the Constitution of the Islamic Republic of Pakistan were quite in view of the founding fathers when they enacted the Constitution of the Islamic Republic of Pakistan.
- d. The equality provisions referred to as aforesaid do not affect the provisions of Article 248 because it is settled principle of interpretation that the later provision to the extent to inconsistency supersedes the former provision.

6. The Committee held extensive discussions and supported the view point provided by the Ministry of Law, Justice and Human Rights.

7. The Committee recommends that the "The Constitution (Amendment) Bill, 2015. (Omission of clause (2) of Article 248)" may not be passed by the Senate.
(Copy of Bill annexed)



(RABEEA ANWAR)
D.S / Secretary Committee



(SENATOR MUHAMMAD JAVED ABBASI)
Chairman

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[~~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, 2015.

(2) It shall come into force at once.

2. Amendment of Article 248 of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, in Article 248, clause (2) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The law is the same for everyone; it should be applied in the same way to all. The rule of law, also called supremacy of law, means that no one is above the law. Whether governor or governed, rulers or ruled, no one is above the law, no one is exempted from the law, and no one can grant exemption to the application of the law. This is very unfortunate that every leader in Pakistan has misused the law. It is about time that this unjust law must be removed to bring all as equal before the law whether it's a leader or common person.

SENATOR HAFIZ HAMDULLAH
Member-in-Charge

**ORIGINAL ARTICLE OF THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN, 1973, WHICH THE CONSTITUTION
(AMENDMENT) BILL, 2015, SEEKS TO AMEND [MOVED BY
SENATOR HAFIZ HAMDULLAH]**

248. Protection to President, Governor, Minister, etc. (1) The President, a Governor, the Prime Minister, a Federal Minister, a Minister of State, the Chief Minister and a Provincial Minister shall not be answerable to any court for the exercise of powers and performance of functions of their respective offices or for any act done or purported to be done in the exercise of those powers and performance of those functions:

Provided that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Federation or a Province.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President or a Governor in any court during his term of office.

(3) No process for the arrest or imprisonment of the President or a Governor shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President or a Governor shall be instituted during his term of office in respect of any thing done or not done by him in his personal capacity whether before or after he enters upon his office unless, at least sixty days before the proceedings are instituted, notice in writing has been delivered to him, or sent to him in the manner prescribed by law, stating the nature of the proceedings, the cause of action, the name, description and place of residence of the party by whom the proceedings are to be instituted and the relief which the party claims.

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