

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



**“THE CONSTITUTION (AMENDMENT) BILL, 2016”**

**Report No. 24**

**PRESENTED BY**

**SENATOR MUHAMMAD JAVED ABBASI  
CHAIRMAN**



## SENATE SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CONSTITUTION (AMENDMENT) BILL, 2016"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Constitution (Amendment) Bill, 2016", introduced by Senator Karim Ahmed Khawaja on 25<sup>th</sup> July, 2016. 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.	<b>Senator Muhammad Javed Abbasi</b>	<b>Chairman</b>
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Dr. Muhammad Ali Khan Saif	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Nehal Hashmi	Member
7.	Senator Ms. Ayesha Raza Farooq	Member
8.	Senator Nawabzada Saifullah Magsi	Member
9.	Senator Saeed Ghani	Member
10.	Senator Zahcer ud Din Babar Awan	Member
11.	Senator Mrs. Zahida Khan	Member
12.	Senator Farooq Hamid Naek	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 15<sup>th</sup> August, 23<sup>rd</sup> August, 1<sup>st</sup> September, and 3<sup>rd</sup> October, 2016.

4. In the meeting dated 15<sup>th</sup> August, 2016, consideration of the instant Agenda Item was deferred due to absence of the Mover.

#### Synopsis of deliberations held during meeting dated 23<sup>rd</sup> August, 2016.

5. Senator Karim Ahmed Khawaja briefed the Committee that it is responsibility of all political powers and Government to transmit to future generations their histories, languages, oral traditions, writing systems and literatures. Language is the most important element of life for preserving everything of historical importance e.g. local culture, art, traditions, poetry, stories, music, letters, theatrical performances, ceremonies, special events, rituals and family values.




Promotion of regional languages is therefore important for preserving such vital components of local life. As the major mother tongues of Pakistan which are Balochi, Balti, Brahvi, Punjabi, Pushto, Shina, Sindhi, Siraki, these languages contain generations of wisdom e.g. child rearing skills, curing illnesses, acquiring food and settling disputes. If a language is lost, much of the knowledge it contains will also be lost. Therefore, the Government must implement successful programs to promote local languages and protect them from disappearing. The Bill is designed to achieve all these objectives.

6. Minister for Law and Justice opposed the Bill on following grounds:-

- i. The Bill seeks to substitute Article 28 of the Constitution of the Islamic Republic of Pakistan which deals with preservation of language, script and culture and says that the State shall take appropriate measures for promotion of regional languages and ensure their protection and any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same and subject to law establish institutions for that purpose.
- ii. In this way the Bill seeks to combine clause (3) of Article 251 with Article 28 which says that without prejudice to the status of national language, a Provincial Assembly may by law prescribe measures for the teaching, promotion and use of a provincial language in addition to the national language.
- iii. It appears that the mover has not been able to truly appreciate the concept of State as defined in Article 7 of the Constitution which says that the State means inter alia the Federal Government, Majlis-e-Shoora (Parliament), a Provincial Government and a Provincial Assembly. The existing provisions of Article 28 and clause (3) of Article 251 fully meet the requirement. The Bill does not appear to serve any purpose. As the matter has already been comprehensively dealt with by the Constitution.

7. Senator Farooq H. Naek supported the principles of the Bill, however, stated that the instant amendment needs to be re-drafted after giving a conjunctive reading to Articles 28 and 251 of the Constitution, 1973. Senator Aitzaz Ahsan, Leader of the Opposition in the Senate, stated that 'regional languages' will have to be defined in order to make this amendment comprehensive. Senator Ayesha Raza Farooq supported the principle of the Bill but stressed the need to re-draft the same. Senator Nehal Hashmi lauded the concept/idea behind the instant Bill.





**Synopsis of deliberations held during meeting dated 1<sup>st</sup> September, 2016.**

8. Senator Karim Ahmed Khawaja, Mover of the Bill, briefed the participants of the meeting regarding historical perspective of languages and urged that the State should promote the languages of provinces and other parts of the country. Minister for Law and Justice read Articles 28, 251 and 7 of Constitution of Pakistan whereby he defined the word "State" in terms of Article 7 of the Constitution and opposed the amendment. Senator Farooq H. Naek suggested that appropriate amendment in the said Bill should be made. Senator Zaheer-ud-Din Babar Awan was of the view that the said Bill contains only few languages; whereas, a number of languages have been missed out. He further suggested that necessary amendment may be made in the said Bill; hence the agenda item was deferred.

**Synopsis of deliberations held during meeting dated 3<sup>rd</sup> October, 2016.**

9. Final consideration of the instant Bill was held in the meeting dated 3<sup>rd</sup> October, 2016, wherein, following Members and Mover attended the meeting:-

- i. Senator Syed Muzafar Hussain Shah
- ii. Senator Ayesha Raza Farooq
- iii. Senator Saeed Ghani
- iv. Senator Nawabzada Saifullah Magsi

10. Senator Karim Ahmed Khawaja, Mover of the Bill, presented an amended draft of the Bill before the Committee. The amendment proposed omission of following words from the proposed amendment in Article 28 of the Constitution, 1973 (as originally introduced in the Senate vide the instant Bill):-

"the State shall take appropriate steps for the promotion of regional languages and ensure their protection,"

11. Due to divergence of opinion between the Members of Committee, the Bill was put to vote:

Following Members voted in opposition/ against the Bill:-

- i. Senator Syed Muzafar Hussain Shah
- ii. Senator Ayesha Raza Farooq

Following Member voted in favour of the Bill:-

- i. Senator Saeed Ghani
- ii. Senator Nawabzada Saifullah Magsi



12. In terms of rule 182 of the Rules of procedure and Conduct of Business in the Senate, 2012, which provides that *"The Chairman of a Committee or the person presiding in his absence shall, in the event of the equality of votes, have a casting vote"*, the Chairman Committee voted in opposition of the Bill

13. In view of the above-mentioned, the Committee recommends that the "The Constitution (Amendment) Bill, 2016" introduced by Senator Karim Ahmed Khawaja on 25<sup>th</sup> July, 2016, may not be passed by the Senate. (Copy of Bill annexed)



(RABEEA ANWAR)  
J.S / Secretary Committee



( SENATOR MUHAMMAD JAVED ABBASI)  
Chairman



## [AS 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 purpose hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Constitution (Amendment) Act, 2016.

(2) It shall come into force at once.

**Amendment in Article 28 of the Constitution.**- In the Constitution of the Islamic Republic of Pakistan, Article 28, be amended as follows:-

“Subject to Article 251, any section of citizens or province having a distinct language or script including Balochi, Brahvi, Hindko, Pashto, Sindhi, Siraiki or culture shall have the right to preserve and promote the same and subject to law, establish instructions for that purpose.

### **Statement of Objects and Reasons**

It is the responsibility of political powers and Government to transmit to future generations their histories, languages, oral traditions, writing systems and literatures. Language is the most important element of life for preserving everything of historical importance e.g. local culture, art, traditions, poetry, stories, music, letters, theatrical performances, ceremonies, special events, rituals and family values. Promotion of regional languages is therefore important for preserving such vital components of local life.

As the major mother tongues of Pakistan which are Balochi, Balti, Brahvi, Hindko, Punjabi, Pashto, Shina, Sindhi, Siraiki, these languages contain generations of wisdom e.g. child rearing skills, curing illnesses, acquiring food and settling disputes. If a language is lost, much of the knowledge it contains will also be lost. Therefore, the Government must implement successful programs to promote local languages and protect them from disappearing.



Senator Karim Ahmed Khawaja  
Member In-charge