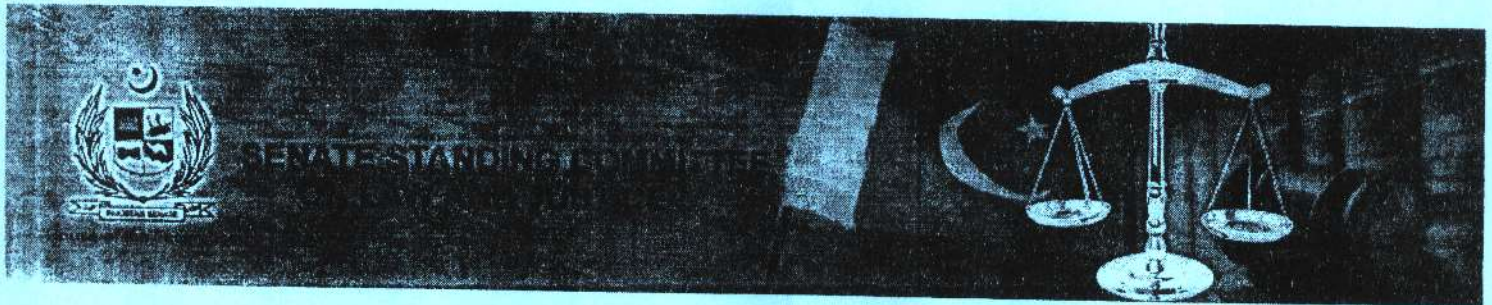




SENATE SECRETARIAT

Report No. 62

REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE



**“THE CONSTITUTION (AMENDMENT) BILL, 2017
(*SUBSTITUTION OF ARTICLE 251*)”**

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, 2016"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Constitution (Amendment) Bill, 2016 (Substitution of Article 251)" introduced by Senator Sassui Palijo on her behalf and on behalf of Senator Mukhtiar Ahmed Dhamarah @ Aajiz on 19th December, 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.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Farooq Hamid Naek	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Ms. Ayesha Raza Farooq	Member
7.	Senator Nawabzada Saifullah Magsi	Member
8.	Senator Dr. Muhammad Ali Khan Saif	Member
9.	Senator Mrs. Zahida Khan	Member
10.	Senator Syed Asif Saeed Kirmani	Member
11.	Senator Barrister Murtaza Wahab	Member
12.	Minister for Law and Justice	Member

3. The Committee considered the Bill in its meeting held on 2nd January, 2017, 19th January, 2017, 20th February, 2017, 27th March, 2017, 28th April, 2017, 10th May, 2017, 4th July, 6th September, 12th January, 2018, 6th February, 2018, 28th February, 2018 and 8th March, 2018 under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 8th March, 2018, which was attended by the following members:-

- i. **Senator Muhammad Javed Abbasi**
- ii. Senator Saleem Zia
- iii. Senator Syed Muzafar Hussain Shah
- iv. Senator Barrister Murtaza Wahab

4. During the course of meetings, the Members-in-charge of the Bill briefed the Committee that since, Balochi, Pushto, Punjabi and Sindhi languages of Federating units, have not been given there due status in the Constitution of Pakistan and a number of movements are going on in the country demanding grant of national status to these Languages, therefore, it has become imperative to give those languages the status of national languages of Pakistan. Additionally it is important that all these national languages are developed through a Federal level fund as well as provincial sources. Their main argument was that in order to promote the regional languages and to eliminate the sense of deprivation amongst the small provinces, it is appropriate to give their languages a Constitutional cover. They argued that doing so would strengthen the Federation and would boost the confidence of the federating units

5 The Committee held extensive consultations with all stake holders including the Ministry of Federal Education and Professional Training, National History and Literary Heritage Division, National Language Development Department, Pakistan Academy of Letters, Provincial Education Departments, Sindhi Language Authority and Balochi Language Academy.

6. Ministry of Law and Justice opposed the Bill on the following grounds:-

- i. As far as Pakistan is concerned the existing provision in the Constitution describes Urdu as national language of Pakistan because Urdu is lingua franca that is the language which is adopted as common language between the speakers whose local languages are different.
- ii. Article 343 of the Indian Constitution which says that official language for the Union (Federation) shall be Hindi in Devanagiri script. Article 345 of the aforesaid Constitution empowers the legislature of a State (in our case a Provincial Assembly) to adopt any one or more language in use in the State or Hindi as language or languages to be used for official purposes of the State.
- iii. The Indian Constitution nowhere declares regional languages as national languages. As regards regional languages like Punjabi, Sindhi, Balochi, Pashto and Siraiki., clause (3) of Article 251 empowers the Provincial Assembly by law to prescribe measures for teaching, promotion and use of a provincial language in addition to the national language.
- iv. Article 251 of the Constitution cannot be read in isolation. It is inter-connected with Article 28 of the Constitution which is reproduced as below:-

Article 28. Subject to Article, 251 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.

- v. Article 28 provides for establishment of institution subject to law for any section of citizens having a distinct language. Whenever, a law is to be enacted under the Constitution, it is always subjected to legislative list. Since there is no entry in the Federal Legislative List, therefore, the Provincial Assembly is to make law for this purpose.
- vi. In other words even if Article 251 is amended, the legislative and the Executive Authority would still rest with the Provinces in respect of Provincial / Regional languages.
- vii. In the past, similar Bill moved by (late) Senator Haji Adeel was also disapproved by the Senate Standing Committee in its meeting held on 19-02-2015.
- viii. Yet another similar Bill moved by Ms. Marvi Memon, MNA and eight others was disapproved by the National Assembly Standing Committee in its meeting held on 16-07-2014.

7. The Committee also held a public hearing on 20th February, 2017, wherein literary scholars and people/organizations working for the promotion of regional languages were invited to give input and participants unanimously supported the Bill.

8. Ministry of Federal Education and Professional Training and National History and Literary Heritage Division were also invited to seek their input. Minister for Federal Education and Professional Training did not support the Bill in its present form and proposed that the Member-in-Charge may pend the proposal till the completion of census being carried out in the country as it will provide a clear picture as to the percentage of languages being spoken in the country. After which a criteria may be developed that a language being spoken by five, ten, fifteen or twenty percent of the population of the country may be declared as a national language.

9. Mr. Irfan Siddiqui, Advisor to the Prime Minister on National History and Literary Heritage opposed the Bills and stated that in terms of Article 251, Constitution, 1973, Urdu is our national language and this becomes all the more important given the fact that Urdu has become the 6th largest language of the world. Further, there is no denial of the fact that regional/provincial languages need to be promoted and preserved for which a mechanism is already given in the Constitution and provincial assemblies have been mandated to legislate in this respect. Declaring only few languages as national languages will promote sense of deprivation amongst the society. Urdu is national language and represents our national identity.

10. Mr. Iftikhar Arif, Director General, National Language Promotion Department (NLPD), opposed the Bills and stated that all languages mentioned in the Bills are "Pakistani Languages", however, choosing few as national languages will lead to serious crisis in the country.

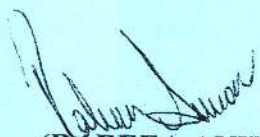
11. Dr. Muhammad Qasim, Chairman Pakistan Academy of Letters, apprised the Committee that a Symposium was organized by the Pakistan Academy of Letters wherein experts of almost all languages were present. At the end of the symposium, a resolution was passed wherein it was acknowledged almost 74 languages are being spoken in the country out of which thirteen languages including Urdu, English, Balochi, Pashto, Sindhi, Punjabi, Hindko, Shina, Gojri, Siraiki, Brahvi, Broshski and Balti be given the status of national languages. It was further resolved that for this purpose the Parliament shall constitute a National Language Commission to oversee and promote such matters. He stated that whatever step is required to be taken for such languages, including giving national status, should be done by the National Language Commission, which shall be constituted through a Constitutional Amendment.

12. Mr. Taj Joyo, Secretary Sindhi Language Authority, supported the Bill introduced by Senator Sassui Palijo and termed it a long standing demand of the provinces which is essential for national solidarity.

13. The members were of the considered view that this amendment will preserve and promote the languages of the federating units and will address sense of deprivation amongst the smaller provinces; Senate, House of the Federation shall take steps to protect the interests and rights of federating units including their languages.

14. All Members present supported the amendment and voted in favour of the Bill.

15. Accordingly, the Committee recommends that "The Constitution (Amendment) Bill, 2017 (substitution of Article 251)", as introduced in the Senate, may be passed. (Copy of Bill is annexed).


(RABEEA ANWAR)
J.S / Secretary Committee


(SENATOR MUHAMMAD JAVED ABBASI)
Chairman

INTRODUCED ON 19-12-2016
[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 purposes hereinafter appearing;

It is hereby enacted as follow:-

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

(2) It shall come into force at once.

2. Substitution of Article 251 of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, for Article 251, the following shall be substituted, namely:-

"251. National Languages.- (1) The National languages of Pakistan are Urdu and the languages of federating units, namely; Balochi, Pashto, Punjabi and Sindhi.

(2) The official language of Pakistan shall be English until arrangements are made for Urdu to come at par with it.

(3) The Federal Government shall establish a fund for the development and promotion of national languages.

(4) Provincial Assemblies may, by law, prescribe measures for the teaching and promotion of any language in addition to the national languages."

STATEMENT OF OBJECTS AND REASONS

Since, Balochi, Pushto, Punjabi and Sindhi languages of Federating units, have not been given there due status in the Constitution of Pakistan and a number of movements are going on in the country demanding grant of national status to these Languages, therefore, it has become imperative to give those languages the status of national languages of Pakistan. Additionally it is important that all these national languages are developed through a Federal level fund as well as provincial sources.

**SENATORS SASSUI PALIJO AND
MUKHTIAR AHMED DHAMRAH @
AAJIZ**

Members In Charge