



ROLE AND POWERS OF SENATE



Senate of Pakistan



House of the Federation

Senate of Pakistan

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Preface

“Let us have Bicameral Legislature - two Houses of Parliament – In the Senate we will have equal representation and in the National Assembly there should be representation according to population. Senate should only have delaying powers but matters which are not federal in character, but have something to do with the provinces, should be decided in the event of difference of opinion between the Senate and the National Assembly by a joint sitting of parliament which would considerable dilute the minority of the National Assembly.”

Mr. Abdul Hafeez Pirzada

*The National Assembly of Pakistan (Constitution Making)
Debate (Vol. II) No. 1-11, February 17, 1973, Page No. 56*

Senate of Pakistan came into existence on August 6, 1973, when members took oath of the office and signed the roll of members. The Upper House was created as a result of a national consensus in view of the unique features of Pakistan's federation giving equal voice to all provinces.

The drafters of the Constitution of Islamic Republic of Pakistan, 1973, conceived a bicameral Legislature, wherein, the Senate was given the role of a territorial Chamber representing and protecting the rights of the federating units. A journey through history reveals that at the time of discussion on the draft Constitution Bill, in the year 1973, most Members were concerned with the nature and scope of the powers to be given to the House of Federation. Some Members of the then National Assembly raised questions: “What should be powers of the Senate?” “In my view Senate should be given further powers. Senate should be made more effective and more empowered”. Another Hon’able Member of the then National Assembly stated, “The question is whether Senate has been given taxation and budgetary powers or not? If no, then such powers must be given.” It is interesting to note that in the very first Session of

Senate held in its new Hall 1973, the then Leader of the Opposition in the Senate raised the matter regarding enhancement of Powers of Senate to which the then Minister for Law, late Mr. Abdul Hafeez Pirzada replied “this is a point of initiation, let it work, it will gain its role and powers within the due course.”

The aspirations of the drafters were met, to some extents, vide the 18th Constitution Act, 2010, wherein, the Prime Minister along with his cabinet was made responsible to the Senate, report of Auditor General of Pakistan relating to the Accounts of the Federation to be laid before the Upper House, number of seats were increased, NFC was made responsible to the Parliament and many other important amendments increased the role and powers of Senate. However, actual representation of provinces in finance and other matters is yet to be achieved.

The Members of the Senate of Pakistan representing the four Provinces/Federating Units and Federal Territories, organizations working for the cause of 'federalism', various provincial entities/bodies and intellectuals writing/working in the field of democracy and federalism have been demanding a review of the Constitutional scheme vis-à-vis the powers of the Upper House of Parliament. Recently the Struggle has led to the formations of a Public Accounts Committee (PAC) comprising of Members from the Senate and National Assembly. This is a historic move in which the role of the Senate in financial matters has been accepted to some extent. The inclusion of Senators in the PAC has not been achieved in a smooth manner rather systematic and consistent endeavors have remained a steering factor in the formation of the Joint Committee on Public Accounts. This book contains a chronological history of decisions resulting in Senate's role in the PAC.

Pursuant to March, 2015, when the new Chairman Senate took oath of office, the Upper House has witnessed a conjunctive and systematic policy line by all Members of Senate reflected in the decisions

of House Business Advisory Committee to empower the Senate so that it can play its role more effectively as a House of Federation. Excerpts from the Debates of Hon'ble Senators made during 249th/Budget Session of the Senate are also provided in this book in order to reflect the sentiments of Members.

In view of the demand of Members, the House Business Advisory Committee has approved a road map/scheme regarding "Role and Powers of Senate" which is part of this publication. Furthermore, an article written by Mr. Rasul Bakhsh Rais is also included in this book to reflect the prevailing opinion of political scientists and people working for the spirit of federalism.

Amjed Pervez Malik

Secretary Senate

Senate: the Guarantor of National Unity

By Rasul Bakhsh Rais

The state and nation building in ethnically diverse society like Pakistan requires careful crafting of national political institutions so that no part of the country is left without adequate representation in the state institutions. The reason is without representation, empowerment and participation in the national political process, the diverse communities that represent pluralistic societies feel a sense of deprivation. It is this feeling of being left out that promotes deeper sense of ethnicity, leading to alienation from the national streams they are formally part of. In essence building a nation is about settling the primary issue of politics, which means, "who gets what and how". The answer to this question is in a social contract among the constituent regions, based on consent of all about sharing sovereignty.

The idea of a federation, which Pakistan has been since its independence, is how to share national sovereignty. This sharing is done at two levels. One is at the level of territoriality in the form of national government and provincial governments. The 1956 and 1962 constitutions divided the national power between the two levels of governments, but in both cases, power became formally and informally centralized in the national government. Both the constitutions ignored the basic principles of creating a federation. First, provincial boundaries and identities of the four provinces that now constitute Pakistan were merged into a single unit, called West Pakistan in order to create a territorial 'parity' with the East Pakistan. Strangely the one-unit scheme was dubbed as creating 'unity'. Even a layman with some knowledge of history of federalism and nation building process wouldn't taken such a self-destructive step, as the framers of the two previous constitutions did.

It denied rights, identity and existence to the provinces in West Pakistan that had deeper sense of their history and came into the fold of Pakistan as equal members of the unit. Second, the East Pakistan was denied the basic principle of democracy—one-man-one-vote. Making such blunders rested on false assumptions about the idea of nationalism and state formation. The result was alienation of East Pakistan and rise of Bengali nationalism. The flawed nation building reflecting false ideas also created a deeper sense of deprivation in the rest of Pakistan that has yet to completely fade off, even after some path correction that has been done since the adoption of the 1973 Constitution.

Before I get to progress on federalism and the role of the Senate, let me briefly discuss a critical issue of representation in generating national solidarity. In ethnically or territorially diverse societies, representation takes place at two levels because there have to be two different categories of representations. First are the people, and second are the territories or units. These issues were well debated in the remarkable constitutional debates in the framing of the Americana Constitution in 1787, and in the debate on its ratification. Had the authors of our first two constitution been slightly aware of the history, philosophy and ideas that shaped and continue to influence the American federation, the first ever created, they might have avoided the big mistakes. Even culturally, linguistically and with a much stronger sense of American nationalism were unwilling to write a document that would not allow the states—federating units—equality.

It is the second principle of federalism—equality among the federating units that created the Senate. Let us make it clear that principle of majority is important for creating a legitimate government but represents only the people not the units, and majoritarianism, meaning since we have the majority, we can make any law and policy argument works both against the spirit of democracy, and against the rights of the federating units. In a federation with multiple regions and ethnicities the

principle of majority rule has to be balanced with the equal rights of the units disregard to the size of the population, territorial endowment or resources.

Senate in Pakistan represents the federating units on equal basis. Learning from the East Pakistan debacle, the framers of the 1973 Constitution was cognizant of the fact that diversity had to be recognized, accommodated and respected. It was the belief in the equality of the provinces that Senate, an upper chamber of the Legislature was created. Just the existence of the Senate is never a guarantee that the rights of the federating units are protected. It involves two more principles. First is the distribution of power between the two houses of the legislature. Since the peoples representation weigh heavier in democratic framework, the house, like the National Assembly would get greater powers. This is a universal principle of federalism. However there is no set standard according to which powers between the two are distributed. It depends on national circumstances, history, interests of the political elites and the general political process.

Second, principle to ensure rights of the federation is through vertical distribution of powers between the federal governments and the provinces. Federalism and federations change over time through experience, bargaining more rights of shifts of the balance of power either way depending on which level of the government can address the national issues better. History of Pakistan's federalism reflects this flexibility, the principle of 'living constitution'.

Overtime, the political parties despite ideological differences and several deadly bouts of confrontational politics have worked out political compacts that have contributed to immensely to constitutional development in Pakistan. The first is restoring the parliamentary character of the Constitution with remarkable unanimity. They purged the Constitution of semi-presidential amendments that the last two military dictators had introduced to empower themselves. Second, they have re-

written the social contract between the federal government and the provinces by providing greater autonomy to the provinces under the 18th Amendment. There is no comparable federation in the developing world with so much devolution of powers to the provinces.

Finally, the Senate of Pakistan, which is a symbol of national solidarity, has gained greater powers than were given to it when the 1973 Constitution was framed. Since it is the voice of the federating units, it carries their will on equal basis. The parliamentary democracy has further contributed to representation of diversity, as smaller regional parties can get representation in the Senate according to the electoral principle of proportional representation for the elections of Senate.

Although the role of the Senate has grown over time, the balance of power is heavily loaded in favor of the National Assembly. And when we compare the Legislature, both the houses included, the power appears to be concentrated in the Executive branch. In the current scheme of distribution of powers, the Senate is grossly at disadvantage, and that means weaker representation of the federating units in the federal governments. Some further steps are necessary to empower the house of the units. First, it must have a voice in the passage of the money bills, like in the U.S. Senate. The bills like this originate in the House or Representatives, but it must have approval of the Senate. We may follow the same principle. It would strengthen the federation because of the power of the Senate, as representative of the provinces. Second, all treaties with the foreign countries must also have to be ratified by the Senate. Thirdly, in the formation of national councils, commissions or boards where the National Assembly has a role, the Senate of Pakistan must have an equal say. This can be done with the creation of a bipartisan committee of both the houses. Finally, a candidate for senatorial position must have been a resident of a province at least for five years from where he contests elections. These reforms if carried through will enhance the power and prestige of the Senate, actually ensure that the voice of

provinces in allocation of resources is heard and accommodated. Powers that satisfy the provinces and keep a balance with the effective national government are best guarantee of national unity. Further reforming the Senate will exactly do that.

Historical Demands and Voices

Excerpts from Speeches

Mr. Abdul Hafeez Pirzada

The National Assembly of Pakistan (Constitution Making)

Debate (Vol. II) No. 1-11, 31st December, 1972

Sir, it has been provided that there shall be a federal structure – there shall be two Houses – to be called Parliament. The Lower House shall be the National Assembly which will be the House of the People elected by direct adult franchise by secret ballot in accordance with delimited constituencies on the basis of the last census report and the National Assembly shall consist of 200 members. For a period of ten years 10 seats have been reserved additionally for women. Representation has also been given to the Federally Administered tribal areas and to the Federal Capital Area both in the Senate as well as in the Assembly. The election to the Senate shall be by indirect franchise. That is to say the Senate Members shall be elected by the Provincial Assembly because the Senate is the representative of the Provinces. Therefore, Senate has to be elected by the Provincial Assembly and by a single transferable vote. This is also in accordance with the Constitutional Agreement which was arrived at that there must be representation of the parties in the Senate in the same proportion as they are represented in the Provincial Assembly. Therefore, by the single transferable vote the Senate shall comprise all parties represented in the Provincial Assembly. Sir, the strength of the Senate for the four Provinces of West Pakistan and the Federally Administered Tribal Areas and the Federal Capital area has been fixed at 60; each province has been given 14 seats and then two have been given to Centrally administered tribal areas and two to the Federal Capital area.

Abdul Wali Khan

NA Debates, March 2, 1973

The purpose of that Senate is that they should have representative from the federating units sitting there as having equal representation, so that they could safeguard the interests of their own Provincial units. Now, in order to safeguard them that Senate must have some power, but if it is a Senate without a power, then how is that Senate going to solve the problems? You could call it a debating society, you could call it an advisory board, give it any name you like, but it is certainly not there to ensure or assure the Federal structure of this Constitution.

Dr. Abdul Hayee Baloch

NA Debate, 19th, March, 1973

Sir, The amendment I have presented to the House is a simple amendment. It requires the changing of name only. I have an objective behind this amendment. As I have been telling august House that different nations are residing in this state who have their own language and culture; democracy is for everyone, therefore, I want that ethnic and cultural groups, no matter how Senate number of population they constitute be spared from all kind of exploitation. Their languages and cultures should be protected. Since Senate represents the cultural and ethnic Units, therefore, it should be acknowledged that it constitutes of four nations, and there are four units and Senate is a representative organizations of the same, this acknowledgment would make it comprehensible. Here the words used are "House of Nationalities" which should be placed within brackets, so that it may define that there are four nations. This is the sole purpose behind this amendment.

Zulfikar Ali Bhutto

Senate Debates, April 2, 1974.

If you are to have federal constitution taking into account the composition of Pakistan, taking into account the geographical shape of Pakistan, taking into account the historical forces in Pakistan, it is absolutely

necessary to have an Upper House to give it its necessary respect, its necessary due, its necessary place; and in this connection the Upper House is not competing with the Lower House. There is no rivalry between the two. If this mentality develops, it will do injury and harm to the federal structure.

Mr. Abdul Hafeez Pirzada

The National Assembly of Pakistan (Constitution Making)

Debate (Vol. II) No. 1-11, 31st December, 1972

Sir, with regard to the amendment of the Constitution, the Senate and the National Assembly have been given equal powers. Either the Senate or the National Assembly can veto. The National Assembly has to consider the Bill if it is passed by the National Assembly and sent to the Senate and the Senate rejects the Bill, that is the end of the matter. However, we have provided for reconsideration if the Senate proposes certain amendments, but if those amendments are again not accepted by both the Houses, then the Constitution cannot be amended. And majority, absolute majority of 2/3rds of the total strength of the National Assembly is needed to pass a Bill, any amendment of the Constitution, and an absolute majority of the total strength of the Senate is needed for passing the Constitution Bill.

Senator Zahr-ul-Haq

Senate Debates, August 6, 1973

We should not be led by sentiments or emotions to lose the significance of the task for which we have been made representatives of the smaller units or the larger units. The functions of the senate are entirely different and I suppose that if we have a dispassionate, non-emotional, non-sentimental approach to the various propositions which are likely to crop up in course of time, we will be performing the duties for which confidence has been reposed in us.

Mr. Abdul Hafeez Pirzada

The National Assembly of Pakistan (Constitution Making)

Debate (Vol. II) No. 1-11, February 17, 1973

Let us have Bicameral Legis lecture - two Houses of Parliament – In the Senate we will have equal representation and in the National Assembly there should be representation according to population. Senate should only have delaying powers but matters which are not federal in character, but have something to do with the provinces, should be decided in the event of difference of opinion between the Senate and the National Assembly by a joint sitting of parliament which would considerable dilute the minority of the National Assembly.

Habibullah Khan, Chairman Senate***Senate Debates, April 2, 1974***

For ensuring fullest participation of the provinces in national affairs in the Federation and to create a judicious balance between the three organs of Government, the Senate has a positive role to play in furthering the cause of Parliamentary democracy and protecting the interests of the federating units.

Mr. Abdul Hafeez Pirzada***The National Assembly of Pakistan (Constitution Making)******Debate (Vol. II) No. 1-11, February 17, 1973***

Senate is the most important introduction in this Constitution to provide for a truly and genuinely Federal form or Federal Constitution in the country notwithstanding the tremendous disparity in the population of various provinces ranging from 1.5 or 1.6 million in one province to 33 or 34 million people in the largest province. We have accepted the status of the provinces. The federating units are equally represented in the Upper House.

Muhammad Hashim Gilzai***Senate Debates, April 2, 1974.***

My objective is that bi-cameral legislatures across provide for equal powers for both houses. Law empowers us to amend the rules in future to have the same powers for Senate as are currently for the National Assembly.

Mr. Abdul Hafeez Pirzada

The National Assembly of Pakistan (Constitution Making)

Debate (Vol.II) No. 1-11, February, 19, 1973

In case of proclamation of emergency resulting from financial or economic crisis the period of emergency has been considerable reduced by amendment of the constitution. We have provided that a majority of two thirds of the National Assembly and absolute majority of the Senate is necessary in that case; and there also we have given equal power to the Senate. Even in the case of a Bill amending the Constitution, more power has been given to the Senate. Although, as a matter of fact, it is a question of two-thirds majority; absolute majority of the National Assembly is required to send it to the Senate. But Senate can reject by a simple majority or accept it by a simple majority so that no constitutional amendment can be brought unless Senate by majority decides that Constitution needs to be amended. Here also the interest of the province has been safeguarded and respected which is a well-known principle that the Constitution is an agreement between the people living together and agreement also is arrived at in amendment of that Constitution.

Qamar Zaman Shah

Senate Debates, April 2, 1974

If Pakistan had a Senate right from the beginning, many of our problems could have been solved and many of our tragedies could have been avoided. Anyway, since the Senate has come into existences, let us prove its usefulness.

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Majority

MOST IMMEDIATE
BY SPECIAL MESSENGER

SENATE SECRETARIAT

R.D.No.1-33/91-QAF.

14th May, 91.

DEPUTY SECRETARY
Tele:No.829772.

My Dear Joint Secretary,

During its sitting held on 12th May, 1991, the Senate passed the following resolution moved by Senator Prof. Khurshid Ahmad:-

"This House recommends that Annual Budget be laid before the Senate for discussion and recommendations and suitable amendments be made in the relevant Articles of the Constitution authorizing the Senate to discuss and pass Money Bills. The Senate further recommends that the Prime Minister may form a Committee of the Parliament to examine this question and formulate necessary amendments to the Constitution to achieve the above objectives.

2. The Ministry of Finance are requested to take all necessary steps for the implementation of the resolution passed by the Senate in letter and spirit, and also keep this Secretariat informed of the progress made in the matter from time to time.

(AMIR AHMED KHAN)

The Ministry of Finance,
(Mr. Javed Ahmad Noel),
Joint Secretary,
Government of Pakistan,
Islamabad.

2. Copy to the Prime Minister Secretariat, Mr. Zahid Sarfras, Secretary Prime Minister Secretariat for information and necessary action as may be deemed called for in the light of the resolution of the House.

ai
(AMIR AHMED KHAN)
Deputy Secretary.

Please issue

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جنوبیہ اسلامیہ ریاست

SENATE SECRETARIAT



DEPUTY SECRETARY
Tele: No. 812367.

R.D.No. 5-27/90-QAP.

ISLAMABAD.

The 21st August, 1990.

My Dear Additional Draftsman,

During its sitting held on 19th August, 1990 the Senate unanimously passed the following resolution moved by Senator Prof. Khurshid Ahmad:-

"The Senate of Pakistan views with grave concern the failure of successive governments in Pakistan in implementing effectively the quantum of Provincial autonomy as provided in the 1973 Constitution and their inability to activate institutions like the National Finance Commission and the Council of Common Interests. It recommends that the Government may ensure the effective implementation of the quantum of provincial autonomy provided in the 1973 Constitution, inter alia, by appointing a monitoring Committee consisting of 8 members from the Senate and 12 from the National Assembly (with equal representation from all the four provinces) so that proper devolution of power, in accordance with the 1973 Constitution, is achieved within the shortest period of time.

2. The Law and Justice Division are requested to make arrangement for implementation of the resolution passed by the Senate in letter and spirit, taking such measures as may be necessary in that behalf and also keep this Secretariat informed of the progress made in the matter from time to time and the steps the Government has taken in this regard, intimating also when the resolution has been ^{fully} implemented if not the reasons for not implementing the resolution within a shortest period of time as may be possible.

With regards,

Yours sincerely,

M. Amin
(RAJA MUHAMMAD AMIN)

Law & Justice Division,
(Mir Muhammad Ali),
Additional Draftsman-I,
Government of Pakistan,
Islamabad.

Please issue
S
21/8/90

R/S Branch
21/8/90

Empowerment through 18th Constitutional Amendment

The Eighteenth Amendment to the Constitution of Pakistan can be termed as a turning point in the Constitutional and Political history of Pakistan. The instant Amendment redefined institutional boundaries within the ambit of parliamentary democracy and cooperative federalism and has, to some extent, addressed the long standing demand of various segments of society regarding enhanced powers of Senate. A gist of amendments, leading to increase in powers of Senate, is as under:-

Article 48: Previously, this Article provided discretionary role/power to the President to hold the referendum on matters of national importance, however, given the sorehead experience of the two referendums being misused by people or dictators for having themselves elected; this power was given to the Prime Minister, however, he is obligated to refer the matter to a joint sitting of the Majlis-e-Shoora (Parliament) and if it is approved in a joint sitting, the Prime Minister may cause such matter to be referred to a referendum. Role of Senate; House of Federation has been provided to reflect the spirit of federalism.

Article 59: The number of seats in the Senate were increased, minorities were added hence providing a composition of 104 members for Senate.

Article 61: Senate working days have been increased from 90 to 110. This was done with the explicit purpose that the Federal Legislative List Part-II has been expended and that the work of the Senate would then subsequently increase and 90 would not be sufficient and, therefore, the number of days was increased to 110.

Article 70-71: Article 70 was amended, Article 71 was omitted to delete the mediation committee which was to consider the Bill which has not been passed by either of the two Houses within a period of 90 days. The Constitution has been restored to its original position and now a joint

sitting of Parliament has been empowered to consider such Bills.

Article 73: Senate's role to make recommendations to the money Bill including the Finance Bill has been increased as the number of days to consider and make recommendations to a Money Bill has been increased from 7 days to 14 days for making Recommendations.

Article 89: Article 89 was also amended to provide that an Ordinance cannot be issued or promulgated when the Senate is in Session, No. 2, that it can be renewed only once through a resolution. The unfettered power of the Executive to continuously renew an Ordinance has been curtailed. Now it can only be renewed once. The Principle is that an ordinance eventually has to find its way to the floor of Parliament, so that law can be scrutinized and that law can come under the purview of Parliament. Therefore, only one extension is provided and that too have been provided by the Parliament, either of the two Houses can pass the resolution.

Article 91: The Cabinet together with the Ministers of State shall be collectively responsible to the Senate and the National Assembly.

Article 175A: Equal membership of Senate and National Assembly in the Parliamentary Committee for the appointment of the Judges. The said Committee, comprising of Members of Senate only, will continue to be in existence even after the dissolution of National Assembly

Article 213: 1/3 membership of the Senate in the Parliamentary Committee for the appointment of the Chief Election Commissioner.

Article 232: A proclamation of emergency will first require a resolution from the Provincial Government before the proclamation of emergency can be given effect too. And where, if the President acts in his discretion and goes ahead and invokes Article 232 without a resolution of the Provincial Assembly, then in those circumstances he will be required to place the resolution within ten days before both the Houses. Previously, Article 232 provided that it will go before a joint sitting; which was a questionable exercise as one party which is presumably in

Government and has invoked Governor's Rule through its majority could confirm the same. So this was another attempt to try and bring about as much of transparency as possible to guard the rights of the Federating Units and to give the Senate a role that subscribes it to defending the rights of the Provinces. So, Article 232 was amended accordingly.

Article 233: After the proclamation of emergency suspension of the fundamental rights contained in Articles 15, 16, 17, 18, 19 and 24 was earlier placed before the Joint Sitting for approval will now be placed before the Senate and the National Assembly separately.

Article 234: Proclamation of emergency in case of failure of Constitutional machinery in a Province. Earlier it was provided that such a proclamation shall be placed before a Joint Sitting now it shall be placed before each House.

Reports: A number of Reports which earlier were placed only before the National Assembly will now also be placed before the Senate of Pakistan:

Article 29: Report on principles of policy.

Article 153: Report of Council of Common Interests.

Article 156: NFC responsible to Parliament and Reports to both Houses.

Article 171: Report of Auditor General of Pakistan relating to the Accounts of Federation.

Senate's Role in the Public Accounts Committee (PAC) - a recent success

In a landmark development of the Parliamentary history of the country, Senate on 28th July, 2016, adopted a motion, approving amendments for giving representation to members of the Upper House of Parliament in the Public Accounts Committee (PAC) which previously comprised Members of the National Assembly only. Six members of Senate one from each province, one from FATA and one from Islamabad Capital Territory (ICT), out of which three shall be from treasure and three from opposition benches will represent the House of Federation in the PAC.

The motion was moved by Leader of the House in Senate Raja Zafar-ul- Haq, on his behalf and on behalf of Senator Aitzaz Ahsan, Leader of the Opposition in Senate, for amendment in the rules, after a policy statement by Finance Minister Senator Mohammad Ishaq Dar who announced that Prime Minister Nawaz Sharif had agreed to the inclusion of Senate members in PAC.

This move has a long trail of struggle for implementation of the Constitutional Scheme, wherein, the Auditor General of Pakistan is under obligation to lay the Annual Report relating to the Accounts of the Federation. The said Report was being scrutinized by a committee of one House only i.e. the Standing Committee on Public Accounts of the National Assembly. Moreover, there has been long standing demand from various segments of society that Senate being the House of Federation should have role and say in financial matters. Therefore, Senate of Pakistan, itself, took a lead to fight the case of 'inclusion of members of senate in the Public Accounts Committee'. In this regard efforts made support provided by Senator Muhammad Ishaq Dar, Minister for Finance cannot be overlooked. It was due to his commitment and endeavours that the Senate of Pakistan was being able to get its due

role.

A Chronology of the decisions which led to formation of Joint Committee on Public Accounts to include Six Members from the Senate of Pakistan, is as under:-

- On 15th March, 2013, the then Chairman Senate of Pakistan wrote a letter to the Prime Minister of Pakistan for Constitution of Joint Parliamentary Committee including PublicAccounts Committee.
- On 2nd June, 2013, after the new Prime Minister took oath of his office, a letter was written by the then Chairman Senate to reiterate the earlier proposal regarding formation of a joint committee on Public Accounts and other such committees to ensure effective oversight and better performance based on collective wisdom vide P.M. office U.O. Note dated 28th August, 2014 views of Law, Justice and Human Rights Division, Parliamentary Affairs Division and National Assembly Secretariat were shared with the Senate Secretariat, which were as under:-

Law Justice and Human Rights Division

endorsed the proposal and supported the inclusion of Senate in the Public Accounts Committee on the basis that “it will ensure effective Parliamentary oversight having representation from both the Houses in particular after the Constitution Amendment Act, 2010 when the Senate role has been accepted in as much as it can make recommendations with respect to a Money Bill, including Finance Bill containing Annual Budget Statement and the National Assembly shall consider these recommendations.

Parliamentary Affairs Division

stated that presently there is no such provision in the Senate or National Assembly Rules, however, if it is essential to make such amendments then an introductory resolution will have to be moved

by one of the Houses and to be endorsed by the other.

National Assembly Secretariat

proposal was regretted in view of the decision of the National Assembly's House Business Advisory Committee (HBAC).

- On 13th April, 2015, a letter was received from National Assembly informing the Senate that appropriation accounts of the Senate Secretariat will be discussed during the meeting of the PAC.
- On 15th June, 2015, in the meeting of HBAC constitutional scheme regarding two Houses of Parliament was discussed and it was decided that “in view of the amended Article 171 of the Constitution of Pakistan, 1973, both Houses of the Parliament can examine, review and make recommendations on the report of Auditor General of Pakistan containing audit paras. Therefore, either independent Standing Committees on Public Accounts of both Houses can separately examine the reports of Auditor General or a Parliamentary Committee on Public Accounts can be constituted for the said purpose. All members supported the option of constituting a Parliamentary Committee on Public Accounts instead of duplicity of work by two separate Committees”. The said meeting authorized the Chairman Senate to write a letter in this regard to the Speaker National Assembly.
- On 11th August, 2015, after approval from the House Business Advisory Committee, Senate Finance Committee, Council of Chairman and the House, the Chairman Senate wrote a letter to the Speaker National Assembly, with a copy to the Chairman, Public Accounts Committee, Minister for Finance and Minister of State for Parliamentary Affairs for formation of joint Committee on Public Accounts. **(Copy of letter**

annexed as “B”)

- In the meeting dated 14th September, 2015, the HBAC reviewed the implementations status of earlier recommendations of the Committee, wherein it was informed that response on the letter written to the Speaker National Assembly is awaited.
- The matter again came up in the meetings of HBAC dated 5th October, 2015 and 10th February, 2016, however the status remained the same.
- On 22nd March, 2016 a letter was received from Speaker National Assembly with the proposal to convene a meeting in the second week of April for deliberating upon the matter, however, the said could not take place.
- On 31st May, 2016, the HBAC decided that in view of the national circumstances and conditions decisive action in the constitutional matter may be withheld till two weeks after full resumption of functions by the Prime Minister/Leader of the House in the National Assembly.
- During the discussion on Finance Bill 2016-17 almost all Members of Senate raised the issues of formation of Senate's Public Accounts Committee. (Excerpts from the Senate Debate are annexed as “A”)
- On 10th June, 2016, Senator Sherry Rehman, on her behalf and on behalf of members of all parliamentary parties, moved a petition in the House that the “Senate of Pakistan shall constitute its Public Accounts Committee”. **(Copy of petition annexed as “C”)**
- On 16th June, 2016, Report of the Standing Committee of Finance on the Finance Bill 2016-17 was laid and adopted by the House in which the Committee recommended formation of Public Accounts Committee. **(Relevant excerpts from the**

Report annexed as “D”)

- On 18th July, 2016, the House Business Advisory Committee passed/approved the draft amendment in the Senate rules for constitution of Public Accounts Committee, however, it was decided that as per earlier decision the Prime Minister has returned to Pakistan, therefore, two weeks' time is given to Government for conveying decision regarding joint Parliamentary Committee on PublicAccounts.
- On 28th July, 2016, Senator Muhammad Ishaq Dar, Minister for Finance, apprised the House that the Prime Minister of Pakistan, Leader of the House in the National Assembly, has approved the inclusion of Members of Senate in the Public Accounts Committee.
- In same sitting of 28th July, 2016, Senate of Pakistan has made a landmark amendment in the Senate Rules providing that “the Senate shall elect six members for the Committee on Public Accounts, one from each Province, Islamabad Capital territory and the Federally Administered Tribal Areas, out of which three shall be from the Treasury Benches and three from the Opposition Benches.”
- The National Assembly has also ammended its Roles on 1st August, 2016, to provide provision in this regard.

Role and Powers of Senate – a Road Map

Role and Powers of Senate – a Road Map

(Approved by the House Business Advisory Committee)

The HBAC, keeping in view the demands made by the Members at various times/forums, especially during the Budget Session and the voices being raised from the Provinces, has approved a road map/scheme to enhance/increase the Role and Powers of the Senate of Pakistan. The said road map/scheme is as under:-

Linkages with the Federating Units

- (i) Senate is a territorial Chamber which reflects the will and aspirations of the federating units through their chosen representatives. There are concerns amongst certain quarters regarding election of such members from a certain province/unit who are not actual residents of that area. Therefore, paragraph (c) of clause (1) of Article 62 of the Constitution, 1973, shall be amended to provide that a person shall be qualified to be elected as a Member of Senate if he is a “resident of the Province concerned for not less than five years”.
- (ii) Internationally, Upper Chambers, where they represent territories, have active linkages (including speaking rights for the Members) with their electoral colleges i.e. State Assemblies; German Bundestag is one of such examples. In our context, there is no institutional/structural linkage between the Members and their electors, therefore, it is proposed that the Chief Ministers shall be given right to speak in the Senate (Article 57 to be amended and Clause (2) of Article 60 of the Constitution, 1973, shall be amended accordingly).
- (iii) In clause (2) of Article 72 of the Constitution, 1973, the words “or Chairman Senate” shall be added in order to enable the Chairman Senate to preside a joint sitting of Parliament.

- (iv) In clause (4) of Article 72, Constitution, 1973, which provides that “all decisions at a joint sitting shall be taken by the votes of the majority of the members present and voting”, the concept of equality of votes in the Senate and the National Assembly needs to be included i.e. according to the present strength 3.28 votes of the National Assembly will be equal 1 vote of the Senate. This concept of equality is essential for the following amongst other reasons;
 - a) That when a Federal and Provincial Government is dissatisfied with a decision of the CCI, then under clause (7) of Article 154, the same is referred to a Joint Sitting.
 - b) Similarly, a decision by the CCI in terms of Article 155 i.e. complaints as to interference with water supplies and Article 157 electricity, any decision of the CCI can be referred to a Joint Sitting, where this imbalance in numbers will work to the determinant of the Provinces.

Senate's role in Money Bill and Public Sector Development Programme (PSDP)

- (i) The Money Bill including Finance Bill as provided vide paragraphs (b) to (g) of clause (2) of Article 73 of the Constitution, 1973, shall also be passed by the Senate as in case of other Bills.
- (ii) Consequently, the Annual Budget Statement as relates to other expenditure shall also be submitted to the Senate in the form of demands for grants, and the Senate shall have power to assent to, or to refuse to assent to, any demand, or to assent to any demand, (amendment in Article 82, Constitution of Pakistan, 1973); the authenticated schedule of authorized expenditures shall be laid before the Senate (amendment in Article 83 , Constitution of Pakistan, 1973); the Senate shall also have power to make any grant in advance in respect of the estimated

expenditure for a part of any financial year, as provided in Article 85, Constitution of Pakistan, 1973 and the Senate shall authorise expenditure when Assembly stands dissolved (amendment in Article 86, Constitution of Pakistan, 1973).

- (iii) Ordinances containing provisions dealing with all or any of the matters specified in clause (2) of Article 73, shall also be laid in the Senate (Amendment i Sub-para (i) of para (a) of clause (2) of Article 89 of the Constitution, 1973).
- (iv) The Public Sector Development Programme (PSDP) is the main instrument for providing budgetary resources for development projects and programmes. PSDP shall be passed by the Senate as there are serious concerns, apprehensions and reservations of the Provinces especially smaller ones in proper distribution of development finances among Federating Units.

Equal provincial representation in various Policy and Administrative Board/Councils

The Senate Functional Committee on Devolution made a report to the House on matter of “oversight or review by the Senate regarding nominations to various policy and Administrative boards, councils envisaged under various Acts of Parliament for ensuring that equal representation is given to all provinces” on 9th July, 2015. Said report was adopted by the House, in terms of rule 196, Rules of Procedure and Conduct of Business in the Senate, 2012, however, the Executive did not implement the recommendations. The Senate, being the protector of rights of the federating units, will make endeavor to ensure that following recommendations are implemented in letter and spirit for giving due representation to the Province:-

- (i) All policy and Administrative boards, councils, bodies, etc. envisaged under various Acts of Parliament or established/constituted by an executive order shall be reconstituted in order to ensure that equal representation is given to all provinces.

- (ii) The nominations shall be based on the following principles:-
 - a. All nominations shall be strictly based on merit;
 - b. The principles of 'conflict of interest' shall be strictly adhered to;
 - c. Professionals, subject specialists and relevant persons shall be nominated to the technical Boards, Councils, Bodies, etc.
- (iii) Senate shall constitute a permanent bipartisan committee to oversee and ratify nominations to such Boards, Councils, Bodies, etc.
- (iv) All nominations to various policy and Administrative boards, councils, bodies, etc., flowing or originating from subjects falling under Federal Legislative List Part-I in the Fourth Schedule to the Constitution of Pakistan, 1973, shall be placed, by the Government, before the Senate bipartisan Committee for ratification.
- (v) All nominations to various policy and Administrative boards, councils, bodies, etc., flowing or originating from subjects falling under Federal Legislative List Part-II in the Fourth Schedule to the Constitution of Pakistan, 1973, shall be placed in the form of summary before the Council of Common Interests and after approval, shall be placed before the Senate bipartisan Committee for ratification.
- (vi) Permission of privatization of bodies in the Federal Legislative List Part I and II to be taken from the Senate.

Protection of Interests of Federating Units

- (i) The Prime Minister of Pakistan shall take Vote of Confidence from the Senate as well, as it will reflect the confidence of all federating units in the Chief executive of the country. Therefore, in clause (4) after the 2 provisos, a third proviso shall be added in Article 91 of the Constitution, 1973, that a vote of confidence will

be taken within 3 months from the Senate.

- (ii) Senate shall be empowered to authorise expenditure when Provincial Assembly stands dissolved. Article 126 of the Constitution, 1973, shall be amended to provide that instead of authorization of expenditure by the Federal Government, the Provincial Government will make a recommendation to the Senate for authorization of expenditures.
- (ii) If any question arises whether any conditions imposed on any Provincial Government are lawfully imposed, or whether any refusal by the Federal Government to entrust functions is unreasonable, the question shall be referred to the Senate for adjudication. (amendment in (4) of Article 159 of the Constitution, 1973)
- (iii) Article 160 of the Constitution, 1973, if National finance Commission (NFC) Award could not be announced within constitutional period of five years, the Federal Government shall take the permission of the Senate to extend it for a period specified. (The Senate in case it gives permission, it may increase the overall NFC by 5%).
- (iv) A Bill or amendment which imposes or varies a tax or duty the whole or part of the net proceeds whereof is assigned to any Province, or which varies the meaning of the expression "agricultural income" as defined for the purpose of the enactments relating to income-tax, or which affects the principles on which under any of the relevant constitutional provisions moneys are or may be distributable to Provinces, shall be introduced or moved in the Senate (amendment in Article 162 of the Constitution, 1973).

Enhanced Role / Powers to both Houses

- (I) In order to provide transparency, accountability and oversight, borrowing agreement entered into by the Federal Government

shall be ratified by the both Houses of Parliament (amendment in Article 166 of the Constitution, 1973)

- (ii) In line with international Parliamentary practices, International Treaties, except Cultural Pacts, shall be ratified by the both Houses of Parliament.

Annexures

Excerpts from the Debates of Hon'ble Senators made during 249th/Budget Session of the Senate

During the last few years, voices regarding enhanced role and powers of Senate have echoed at various forums, including the floor of the House, however, during the 249th/Budget Session of the Senate these voices have transformed into a structured line of arguments taken by almost every Member in the House. Some portion of the Debate are as under:-

Senator Syed Muzafar Hussain Shah (PML-F)

Friday, June 10, 2016, (249th Session)

For the last three years I have been making recommendations primarily pertaining to the agricultural sector but they were all basically an exercise in futility and not one out of those recommendations were accepted. In fact as a mark of protest, I have not made any recommendation this year at all because I feel that this is a futile exercise. As the Chairman of the Senate once has stated a fact that we are witnessing today, is a marginalized House. The Upper House which is in a theory called the Upper House but in reality, it is a marginalized House. I would draw your attention to Article 50 of the Constitution of the Islamic Republic of Pakistan which states that:

“There shall be a Majlis-e-Shoora (Parliament) of Pakistan consisting of the President and two Houses to be known respectively as the National Assembly and the Senate of Pakistan.”

Now when we say that the budget has been passed by Parliament, it is a misnomer, it is totally a misnomer because it is not being passed by Parliament. In fact it is half the Parliament or one third of the Parliament that passes this budget. Therefore, it is a clear violation of

Article 50 which basically lays down as the Parliament shall consist of two Houses.

Now sir, let me point out to you that at least the constitutional structure in Pakistan is that of a federal structure. I would like to state that federalism, I think we Senators when we talk about the budget, what are we talking about because this has been converted into a debating society, it is like a symposium or a seminar being held by the Chamber of Commerce and Industry or it a university or a shopkeepers convention. What is the purpose basically of going through this exercise where Senators are being called upon to go through 15 to 20 books, then sit down in the midnight toil and make recommendations, send them to the Finance Committee and not one of them basically is accepted. Federalism, if Pakistan is to be a true federal state then the units of the federation which are represented in this House basically and which form the House of the federation. The Senators who are elected to this House or elected from the representatives of the Units of the Federation. If the Senators in the Upper House are unable to protect the interests of the provinces then this House becomes totally irrelevant. It becomes redundant; I mean the Senators would be failing in their duty, if they are unable to protect the fiscal and financial responsibilities of the units that they represent in the federation here. Therefore, serious soul searching is necessary, for political parties, for parliamentary groups, for constitutional experts within Pakistan which is actually a federal state or we just put a stamp of federalism and this is a federal state. Now for example, I represent the province of Sindh, I have been elected by the members of the Provincial Assembly of Sindh. I have no say in determining whether the fiscal and the financial allocation made to the Province of Sindh in accordance with the law, in accordance with equity and in accordance with the requisite formulas of distribution of income. So, then what I am doing in the Upper House, it is redundant and I would seriously urge upon the leaders of the political parties who have

representation in the Senate. Please consider! Why you should make recommendations when you know very well that what is fate of those recommendations. If in one year or two years, the Senate does not make any recommendations, perhaps they might be a knock on the door of federalism, it might wakeup and open the doors for fiscal and for financial responsibility to be conferred upon the federation. Why is it the Auditor General presents his report to the two Houses and this House is helpless, we can't vote upon it, we only debate, what is the use of debating it, when there is absolutely nothing going to come out of it. Then the expenditure like I said Article 50, talks about the question of the Parliament consisting of two Houses. I mean demands for grants have been authorized by Parliament, no, they have not been authorized by Parliament. The Senate is not a party to it. Now when those demands have been accepted according to the present structure, why can the Senate not be in position to oversee that an expenditures should be in accordance with law, what we call the audit paras, we have no say and why when we are equal in status, these two Houses under Article-50 why should the Senate be deprived of the right of having a Public Accounts Committee representation. The Senate must have the representation in the Public Accounts Committee, otherwise we are not playing any role in the Federal State and not only should we have a separate Federal Accounts Committee but till a committee is formed, sir, I would say that you have taken the initiative. We need to complement you on ensuring that you have protected the interest of the upper House. I would go to the extent of saying by no means we are Federal State unless the upper House has financial and fiscal authority. We do not want to participate in a debating society or in a convention or a symposium. Therefore, I think the structural changes in the Constitution are necessary. We need to bring about changes so that the true spirit of Article-50 is actually represented in the distribution of authority and in the exercise of authority.

Now, sir I would like to point out to you that amongst the

recommendations that we have seen, one of the major point is the public sector developmental programmes, the PSDP which has actually a reflection of the expenditure incurred by the Federal Government on Public Sector Developmental Programmes. We have absolutely no authority in part to be in a position to see as to whether allocation has been made either on the basis of population or on the criteria laid down in the National Finance Commission Award. In fact the criteria has been determined for allocation of resources to the units of the Federation. Therefore, my submission would be that PSDP should be brought to the Senate, this House should be given full authority to determine whether allocations have been made in the spirit of the Federation or otherwise. Otherwise, we would be totally irrelevant in relation to representing the units in the Federation and the interests of the units that have elected us to this House.

Sir, then I would also make a point that how we will actually convert ourselves into a federal state and bring about the true spirit of federalism. Those political parties that are represented here, you have played a pivotal role in the passage of those nine bills that have been transmitted to the National Assembly of Pakistan. I would suggest that the Parliamentary Leaders in the Senate should be taken into confidence and if a constitutional amendment is necessary, we should initiate a constitutional amendment with the heads of political parties as movers, as we did in the other bills which are lying there, let the Senate like under your leadership sir take the initiative into converting Pakistan into truly a federal state, I may say, it is not federal state at all, it is misnomer.

There is a violation of above Article of the Constitution, we have no fiscal and financial authority and we are unable to protect the interests of the provinces that have elected us. We make fiery speeches, thunder and lightning of no consequence. So, the Senate has been made irrelevant and redundant, it is the responsibility of the Senate to revitalize its role in the Federation of Pakistan. We are the protectors of interests of

the provinces that is why people elected us. If we are unable to protect those interests and I think, the recommendations that we make are totally irrelevant, we should not make recommendations because it is a loss of the dignity of this House, I mean, we make 100 and 150 recommendations to the National Assembly, one or two are accepted, no reasons are assigned for their rejection.

Senator Usman Khan Kakar (PMAP)

Tuesday, June 07, 2016, (249th Session)

جناب والا! اگر ملک کو صحیح کرنا ہے تو پارلیمنٹ کی بلاذتی کو تسلیم کرنا ہوگا۔ سینیٹ کو مالیاتی اختیارات دینے ہوں گے۔ اگر آپ یہ ملک صحیح کرنا چاہتے ہیں تو قوموں کو برابری کے حقوق دینے ہوں گے، دولت کی مساوی تقسیم کرنی ہوگی۔ اگر آپ اس ملک کو صحیح کرنا چاہتے ہو تو صدر سے لیے کر چیف جسٹس پاکستان تک قانون کی صحیح حکمرانی ہونی چاہیے۔ وزیراعظم سے لے کر چیف آف آرمی سٹاف تک، GHQ تک، سب پارلیمنٹرین کو آئین و قانون کی پابندی کرنی چاہیے۔ عوام کر رہے ہیں، ہم اور آپ نہیں کر رہے۔ اگر آپ اس ملک کو خوشحال دیکھنا چاہتے ہو تو فوج اور انٹیلی جنس اداروں کو سیاست سے توبہ کرنی چاہیے۔

Senator Saeed Ghani (PPPP)

Tuesday, June 07, 2016

(249th Session)

صوبہ سندھ آپ کو سب سے زیادہ revenue, gas and petrol دیتا ہے لیکن اس کے باوجود بھی آپ نے اس کے 26 منصوبے شامل نہیں کیے۔ آپ نے 800 ارب کی PSDP میں اس کے لیے صرف 12 ارب روپے رکھے ہیں۔ آپ مذاق کر رہے ہیں۔ ہمیں یہ چیز اس بات پر مجبور کرتی ہے کہ یہاں debate ہونی چاہیے کہ کیا بجٹ میں سینیٹ کا role ہونا چاہیے یا نہیں؟ کیا ہمیں صرف اس طرح recommendations بھیجوا دینی چاہئیں جو وہاں پر قومی اسمبلی میں ہمارے بھائی، ہم ان کا احترام اور عزت کرتے ہیں، وہ براہ راست منتخب ہوئے لوگ ہیں، وہ قدامتداری میں ہم سے شاید اونچے ہوں گے لیکن جب ہم اس Federal Pakistan, Federalism, federation کی بات کریں تو کیا چھوٹے صوبے جن کی اسمبلی میں اکثریت نہیں ہے، آپ تینوں صوبے ملا بھی لیں تو وہ اقلیت میں ہیں، کیا وہاں پر کوئی ان کے حقوق کی بات کرنے والا ہے؟ اگر ان کے حقوق سلب ہو رہے ہیں تو ہمارے پاس اس کو روکنے کا کوئی طریقہ ہے؟ ہمارے پاس کوئی طریقہ نہیں ہے۔ اگر ہم یہاں کھڑے ہو کر بات کرتے ہیں تو ہمیں یہ اختیار ہونا چاہیے کہ جس

صوبے نے ہمیں منتخب کر کے یہاں بھیجا ہے، اس کے حقوق پر کوئی قدغن نہ لگے اور اس کے آئینی حقوق پر کوئی کٹوتی نہ ہو۔ میں یہاں تقریر کروں اور recommendations بھیج دوں اور وہ اٹھا کر پھینک دیں کہ آپ کون ہوتے ہیں، آپ تو سینیٹر ہیں، آپ کی حیثیت کیا ہے؟ جناب! یہ بڑا serious issue ہے خاص طور پر اٹھارھویں ترمیم کے بعد جب آپ کہتے ہیں کہ ہم نے federation کو مضبوط کرنا ہے تو federation باتوں سے نہیں آپ کے عمل سے مضبوط ہوگی۔ آپ کو ثابت کرنا پڑے گا کہ آپ ان چھوٹے صوبوں کے ساتھ زیادتی نہیں کر رہے جن کے حقوق کے آپ ٹھیکیدار بننے کی کوشش کرتے ہو۔ یہ کام ایسے نہیں ہوگا، ہمیں کچھ نہ کچھ کرنا پڑے گا۔ آئین میں تبدیلیاں ہوتی رہتی ہیں، اگر بائیسویں ترمیم آئی ہے تو تیسویں، چوبیسویں اور پچیسویں بھی آئے گی۔ اس کا مطلب یہ ہے کہ آئین میں بہتری کی گنجائش ہر وقت موجود رہتی ہے اور اگر کوئی غلطی یا کوتاہی رہ گئی یہاں حالات تبدیل ہو گئے ہیں تو ان تبدیلیں شدہ حالات کے اندر آپ کو آئین میں کچھ تبدیلی کی بات کرنی پڑے گی اور یہ بہت ضروری ہے۔ میں بجٹ میں خاص طور پر ترقیاتی schemes کی بات کروں گا تو اس میں چھوٹے صوبوں کے حقوق کی ذمہ داری، ان کا تحفظ کرنا ہمارے فرائض میں شامل ہے۔ اگر ہم یہ نہیں کر سکتے تو ہم اپنی اس بنیادی ذمہ داری سے انحراف کر رہے ہیں جس کو ادا کرنے کے لیے صوبوں نے ہمیں یہاں بھیجا ہے۔ میں سمجھتا ہوں کہ یہ سب کی ذمہ داری ہے۔

جناب! ہم نے پہلے بھی Public Accounts Committee کی بات کی تھی۔ آئین میں اٹھارھویں ترمیم ہوئی ہے کہ Auditor General کی report دونوں Houses کے سامنے آتی ہے۔ اگر اس House کے سامنے آئے تو ان کے پاس ایک forum موجود ہے جس میں بات کر سکتے ہیں، رائے دے سکتے ہیں اور اپنی report دے سکتے ہیں لیکن ہمارے سامنے report آئے تو ہم اس report کو صرف پڑھ سکتے ہیں یعنی سوائے پڑھنے کے کچھ نہیں کر سکتے۔ کوئی ایسا طریقہ کار ہونا چاہیے اور میں نے پہلے بھی گزارش کی تھی کہ بجائے ہم اس بات میں پڑیں کہ وہاں پارلیمانی لیڈر سے بات کریں، وہ مانتے ہیں یا نہیں، چار مانیں گے، چار نہیں مانیں گے، مٹئیں، ترلے کریں کہ ہمیں بھی لے لو، میں سمجھتا ہوں اس کی ضرورت نہیں ہے۔ ہمیں اپنے rules میں ترمیم کر کے اپنی Public Accounts Committee بنانی چاہیے۔ جب ہمارے پاس Auditor General کی report آئے، ہم اس پر بات کریں، بحث کریں اور اس پر اپنی report دے دیں۔ اس کے کیا نتائج نکلتے ہیں، یہ میری اور آپ کی ذمہ داری نہیں ہے۔ یہ ان لوگوں کی ذمہ داری ہے جو آپ کو، ہمیں یا سینیٹ کو اس کمیٹی کے اندر آنے سے روکنا چاہتے ہیں۔ وہ روکیں، خوش رہیں، اللہ ان کو خوش رکھے، وہ اپنا کام کریں، ہم اپنا کام کریں۔ اگر وہ اپنا کام کرنے میں آزاد ہیں تو آئین اور ہمارے rules ہمیں اس بات کی اجازت دیتے ہیں کہ ہم اپنا کردار آئینی اور قانونی طور پر ادا کرتے رہیں۔ ہمیں جو ذمہ داریاں ادا

کرنی ہیں، ان ذمہ دار یوں کو ادا کرنے سے کوئی روک سکتا ہے اور نہ ہمیں خود رکنا چاہیے۔ اگر ہم رکیں گے تو اپنے ساتھ، اس ادارے اور اپنے صوبوں کے ساتھ زیادتی کریں گے اور اپنی ان بنیادی ذمہ داریوں سے انحراف کریں گے جن کو ادا کرنے کے لیے ہم یہاں بیٹھے ہوئے ہیں۔

Senator Dr. Jehanzeb Jamaldini (BNP-M)

Tuesday, June 07, 2016

(249th Session)

جناب چیئرمین! ہم تو شروع سے کہہ رہے ہیں کہ سینیٹ کے اختیارات ہونے چاہئیں۔ 18th Amendment کے حوالے سے ہم آپ اور آپ کی team کی قدر کرتے ہیں لیکن یہ نامکمل ہے، سینیٹ کے پاس equal اختیارات ہونے چاہئیں جیسے قومی اسمبلی کے پاس ہیں۔ اگر قومی اسمبلی یہاں بجٹ بھجواتی ہے تو سینیٹ اس کی approval نہیں دیتا یہ واپس چلا جاتا ہے، میں تو کہتا ہوں کہ سینیٹ میں صوبوں کو veto کا اختیار ہونا چاہیے تاکہ ان کے مفادات کے خلاف کسی بھی بجٹ کو واپس بھیجا جاسکے۔ جب تک Senate strong نہیں ہوگا، صوبے strong نہیں ہوں گے، صوبوں کی ضروریات پوری نہیں ہوں گی۔

Senator Sheher Bano Sherry Rehman (PPPP)

Tuesday, June 07, 2016

(249th Session)

جو وفاقی بجٹ ہوتا ہے اس میں حکومت اپنے سب سے بڑے tax collector کو سب سے زیادہ reward کرتی ہے۔ یہ ساری دنیا میں رواج ہے۔ پھر وہ poverty کو دیکھتی ہے، پھر وہ دوسرے indices کو دیکھتی ہے جس کی بنیاد پر آپ کا NFC Award نکالیں۔ federation to province transfers delay کیے جاتے ہیں۔ میٹنگ تین تین سال نہیں بلائی جاتی۔ Artificial surpluses دکھائے جا رہے ہیں۔ 13% artificial surplus صوبوں کو force کیا جا رہا ہے۔ پھر اس طرح سے آپ کے پورے NFC Award کو، اٹھا رہیں ترمیم کے پورے edifice کو، پوری عمارت کو یہ chip away کیا جا رہا ہے، erode کیا جا رہا ہے backdoor سے کہ یہ service tax, sales tax بھی نکالا جائے جو اس Finance Bill میں آیا ہے۔ اسی لیے تمام دوستوں کا اور فاضل colleagues کا یہ مطالبہ بجا ہے کہ یہ Finance Bill this House of Federation میں بھی آئے اور جب تک سارے صوبے اس سے مطمئن نہیں ہوں گے، بجٹ پاس نہ ہو۔ یہ کس طرح کا بجٹ ہے کہ صرف ایک صوبے کے لیے اس کی تفویض ہے یا صرف Federal Capital کو دیتا ہے۔ کس

صوبے کی اس میں بات سنی گئی ہے۔ اس سینیٹ سے آپ نے کوئی submission لی ہے۔ مجھے تو سن کر shock ہوتا ہے کہ یہ جو recommendations آتی ہیں، یہ اتنی lightly لی جاتی ہیں۔ میں نے 02 terms National Assembly میں گزاری ہیں، وہاں تو cut motions بن رہے ہوتے ہیں۔ بات کی جارہی ہوتی ہے، ہر demand programme کی۔ کیا یہ صوبوں کا House legitimate Parliamentary body نہیں ہے؟ اگر آپ کے پاس یہ اختیار بھی نہیں ہے کہ آپ Finance Bill پر vote کریں، آپ کے پاس یہ اختیار نہیں ہے کہ آپ کے پاس جو اتنی بڑی کتاب رکھی ہے، اس پر cut motions نہیں بن رہی ہیں۔ کون سی کمیٹی بنا رہی ہے۔ وہاں تو پورے ہفتے cut motions نہیں کی، cut motions کی بنیاد پر، ہر grant depending on the Ministries, 08 to 10 Ministries, Opposition and Government both will agree on that and will make a debate. ایک ایک روپے کی cut ہوگی یا پورے بجٹ کی cut ہوگی۔ بات تو یہ ہے کہ آپ کا کچھ تو حق بنتا ہے۔ یہاں ہم بس یہی کر رہے ہیں، خانہ پوری کر رہے ہیں اور میرے خیال میں یہ چیز change ہونی چاہیے۔ بہت valuable contributions ہیں۔ اب اکائیوں کا اور ریاست کا رشتہ بدل چکا ہے۔ یہ نہ صرف سینیٹ میں بدلنا چاہیے according to the new framework بلکہ وفاقی structure بھی بدلنا چاہیے۔ اس بجٹ میں بھی نظر آنا چاہیے جو نہیں نظر آ رہا ہے۔ یہ devolution کو بالکل deny کر رہی ہے اور اس کو rollback کرنے کے تمام آٹا نظر آ رہے ہیں۔

Senator Farhatullah Babar (PPPP)

Tuesday, June 07, 2016

(249th Session)

جناب والا! اگر فلاحی بجٹ ہو تو اس بجٹ میں صوبوں کا خیال رکھا جائے Federation because this consists of the provinces اور یہ House of the Federation ہے لیکن اس وقت جو بجٹ بن رہا ہے اور بجٹ بننے کا طریقہ کار یہ ہے کہ قومی اسمبلی میں بجٹ تیار ہوتا ہے، pass ہوتا ہے، سینیٹ جو House of the Federation ہے، اس کا بجٹ کی formulation میں کوئی عمل دخل نہیں ہے۔ قومی اسمبلی کی composition میں ایک صوبے کی اکثریت ہے that means that practically the budget is made by one province of the country and it is also imposed on other provinces of the country، اس لیے ایسا بجٹ فلاحی نہیں ہو سکتا۔

جناب والا! میری گزارش ہے کہ پہلے تو اس issue کو address کیا جائے کہ یہ House of the

Federation ہے یہ budget formulation میں کس حد تک کردار ادا کر سکتا ہے؟ اس وقت اس کا کردار zero ہے، کم از کم اتنا تو ہونا چاہیے کہ PSDP کے projects Senate کی منظوری کے بغیر adopt نہیں ہونے چاہئیں۔ جناب والا! یہی وجہ ہے کہ آج سندھ یہ کہتا ہے کہ ہمارے 27 or something projects میں سے ایک بھی adopt نہیں ہوا۔ چند دن پہلے خیر پختونخوا نے احتجاج کیا تھا کہ ان کے projects جن کا تعلق CPEC سے ہے وہ بھی PSDP میں نہیں ڈالے گئے۔ میری تجویز ہے کہ اگر سینیٹ نے as a House of the Federation اپنا کردار ادا کرنا ہے، the first thing that it must do is to address this issue. اس کے ساتھ ہی جب آپ بجٹ میں allocation کرتے ہیں تو پارلیمنٹ کا دوسرا کام یہ ہے کہ وہ دیکھے کہ وہ اخراجات کیسے ہوئے ہیں اور پارلیمنٹ کی کمیٹی جو اس کام کو دیکھتی ہے وہ Public Accounts Committee ہے and the Public Accounts Committee میں سینیٹ کی کوئی نمائندگی نہیں ہے۔ چونکہ سینیٹ کی therefore, this House of the Federation cannot oversee how the allocations made were actually spent? 18th Amendment ہوں کہ اب وقت آ گیا ہے کہ instead of dithering on this issue, آپ اپنے rules میں ترمیم کریں، ایک Public Accounts Committee of the Senate بنے، ہمیں اس سے کوئی غرض نہیں ہونی چاہیے کہ قومی اسمبلی کی Public Accounts Committee کسی چیز کے بارے میں کیا رپورٹ دیتی ہے، ہمیں اپنے کام سے غرض ہونی چاہیے۔ قومی اسمبلی Bill pass کرتی ہے، یہاں سے Bill reject بھی ہو جاتا ہے، یہاں سے Bill میں ترمیم بھی ہو جاتی ہے۔ اس لیے ہو سکتا ہے کہ قومی اسمبلی کی PAC میں report کچھ اور ہو، ہماری report کچھ اور ہو اور let the people decide, let the people judge for themselves, whose report, whose observations on the PAC report carries weight. اس میں سمجھتا ہوں کہ اس کا فائدہ یہ ہوگا کہ آپ نے جو خط لکھا تھا، اس پر جلد عملدرآمد ہو جائے گا اور اگر نہیں ہوگا تو آپ نے اپنی کمیٹی بنائی ہوگی۔ میری یہ دو ابتدائی گزارشات ہیں کہ PSDP کی adoption میں سینیٹ کا role ہو اور اب سینیٹ کی Public Accounts Committee بن جانی چاہیے۔ جناب چیئرمین! ہم to all the federating units and We should not brook further delay.

Senator Syed Shibli Faraz (PTI)

Tuesday, June 07, 2016

(249th Session)

میں specially PSDP کے تمام figures کے بارے میں کہوں گا کہ اس میں ہوتا یہ ہے کہ بجٹ پاس تو ہو جاتا ہے لیکن بعد میں اس کے supplementary budgets ministry level or Secretary level پر ہی آتے ہیں اور بغیر پارلیمنٹ میں لائیوہ اس میں پر بلکہ میں تو کہوں گا کہ بعض اوقات ایک سیکشن آفیسر کے level پر ہی آتے ہیں اور بغیر پارلیمنٹ میں لائیوہ اس میں changes لے آتے ہیں۔ میں تو یہ suggest کروں گا کہ جیسے دوسرے ممالک میں ہوتا ہے کہ یہ change upward or downward ہو، چاہے اس میں کٹوتی ہو یا اس کو آپ بڑھانا چاہیں، اگر یہ amount original amount سے پندرہ فیصد اوپر یا نیچے ہو تو اس کو واپس پارلیمنٹ میں لانا چاہیے، اس کی approval لینی چاہیے اور اس کی ratification ہونی چاہیے۔

Senator Sardar Muhammad Azam Khan Musakhel (PMAP)

Tuesday, June 08, 2016

(249th Session)

جہاں تک سینیٹ کے اختیارات کا تعلق ہے تو اسے مکمل اختیارات دیے جائیں، اگر سینیٹ کو اختیارات نہیں دیے گئے تو اس ملک کو چلانا بہت مشکل ہوگا۔

Senator Abdul Rehman Malik (PPPP)

Wednesday, June 08, 2016

(249th Session)

میری ایک اور گزارش ہوگی کہ ہمیں سینیٹر تو بنادیا، آپ کو چیئرمین کی سیٹ پر بھی بٹھادیا لیکن فنانس بل کو touch کر نیکی اجازت سینیٹر کو نہیں ہے، کیوں؟ because we will be criticizing. یہ سچتا ہوں کہ یہ بھی ایک زیادتی ہے۔ جس طرح سینیٹ کو undermine کیا جا رہا ہے میرا خیال ہے ایسا نہیں ہونا چاہیے۔

Senator Gul Bashra (PMAP)

Tuesday, June 08, 2016

(249th Session)

ملک کی معاشی ترقی، موجودہ سیاسی موضوعات اور سیاسی مسائل کو حل کرنا چاہیے، قوموں کے اپنے وسائل پر ان کے اپنے اختیارات ہونے چاہئیں اور قوموں کی برابری لازمی ہے۔ اٹھارہویں ترمیم پر مکمل عملدرآمد ہونا چاہیے۔ دہشت گردی کے

خاتمے کے لیے National Action Plan پر عملدرآمد ہونا چاہیے اور سینیٹ کو قومی اسمبلی کے برابر اختیارات ملنے چاہئیں۔ سینیٹ کی اپنی Public Accounts Committee بنانی چاہیے اور دولت کی منصفانہ تقسیم اور خواتین کے حقوق کی پاسداری ہونی چاہیے۔

Senator Kalsoom Parveen (PML-N)

Wednesday, June 08, 2016

(249th Session)

بجٹ ہر سال پیش ہوتا ہے اور اس پر تقاریر بھی ہوتی ہیں۔ بجٹ کے حوالے سے سینیٹ میں سفارشات بھی مرتب ہوتی ہیں لیکن اس تمام کارروائی کا نتیجہ کچھ نہیں نکلتا کیونکہ بجٹ سازی میں سینیٹ کا کوئی کردار نہیں ہے۔ اس لیے یہ امر زیر غور ہے کہ ایوان بالا کا بجٹ سازی میں آئینی کردار ہونا چاہیے اور Public Accounts Committee میں بھی سینیٹ کی نمائندگی ہونی چاہیے تاکہ ایوان بالا ان تمام چیزوں میں شرکت کر سکے جو کہ عوام کی requirement ہے۔

Senator Nisar Muhammad (PML-N)

Thursday, June 09, 2016

(249th Session)

اگر دیکھا جائے آرٹیکل 73 کے تحت یہ مالیاتی بجٹ پیش کیا جا رہا ہے اور پھر اس کے ساتھ ساتھ جن آرٹیکلز میں بجٹ کے متعلق ذکر آیا ہے، اس میں آرٹیکل 78 ہے، 80 ہے، 82 ہے اور 83 ہے۔ ان تمام آرٹیکلز میں بجٹ کے متعلق ذکر کیا گیا ہے۔ اگر ہم ان آرٹیکلز کو دیکھیں تو ان میں ہمیں صرف اور صرف قومی اسمبلی کا ذکر نظر آتا ہے۔ اس میں پارلیمنٹ یا سینیٹ کا کوئی ذکر نہیں ہے بلکہ یہاں تک کہ آرٹیکل 78 جس کے تحت یہ بجٹ پیش کیا جاتا ہے، اگر اسے ہم دیکھیں تو وہ کچھ یوں ہے: ”بل قومی اسمبلی میں پیش کیا جائے گا تو اس کے ساتھ اس کی نقل سینیٹ کو بھیجی جائے گی جو 14 دن کے اندر اس کے بارے میں سفارشات قومی اسمبلی کو دے گی۔ قومی اسمبلی، سینیٹ کی سفارشات پر غور کرے گی اور اس کے بعد اسمبلی کی طرف سے بل، سینیٹ کی سفارشات کو شامل کر کے یا شامل کیے بغیر، منظوری کے لیے صدر کو پیش کیا جائے گا۔“

لہذا، میرے خیال میں جسے ہم ایوان بالا کہتے ہیں، بہت معذرت کے ساتھ، اس آرٹیکل کے حوالے سے خاص طور پر اس کے بارے میں پتا چلتا ہے۔ میں جب پورے آئین کو پڑھ لیتا ہوں اور پھر جہاں پر مجھے نظر آ رہا ہے کہ ہمارا یعنی سینیٹ کا role کیا ہے تو وہ ان آرٹیکلز کے ساتھ ساتھ آرٹیکل 63 کو اگر آپ دیکھ لیں تو وہاں پر money bill کے حوالے سے disqualification کی بات آ رہی ہے، جس میں ہمارا role نہیں ہے، سینیٹ کا role ہی نہیں ہے

لیکن پھر بھی اگر آپ ہاں میں ہاں نہیں ملا تے، صرف ڈیک نہیں بجا سکتے تو آپ کو disqualify کیا جائے گا۔ میرے خیال میں یہ ایک عجیب سی صورتحال ہے، دوسرے لوگوں نے بھی اس بارے میں بات کی ہوگی لیکن یہ ایک عجیب سی صورتحال ہے اور اس بارے میں سینیٹ میں غور کیا جانا چاہیے۔

Senator Karim Ahmed Khawaja (PPPP)

Friday, June 10, 2016

(249th Session)

میں چاہوں گا کہ سینیٹ میں آپ جہاں چیئر مین ہیں اور جو دوسرے Seasoned Senators بیٹھے ہوئے ہیں ان کو دو اختیارات ضرور ملنے چاہئیں۔ ایک تو Money Bill کا اختیار ملنا چاہیے کیونکہ Upper House ہے اور دوسرا Public Accounts Committee کا right بھی ہمیں ملنا چاہیے۔ اس پر قانون سازی ہونی چاہیے۔ یہ چیزیں ہوں گی تو سینیٹ کا وقار بڑھے گا۔

Senator Khalida Parveen (PPPP)

Friday, June 10, 2016

(249th Session)

لیکن ہم یہ ایک فقط روایت پوری کر رہے ہیں کیونکہ اس فورم پر ہمیں کوئی اختیارات حاصل نہیں ہیں کہ ہم اپنی تجاویز دیں اور ہماری تجاویز پر کوئی عمل درآمد بھی کرے۔ جیسا کہ دیگر سینیٹرز نے اس پر بات کی ہے کہ یہ House جو federation کا نمائندہ House ہے اس کو مالی معاملات میں اختیارات دیے جائیں۔ اس کو فقط ایک debating forum نہ رکھا جائے بلکہ اس کو واقعی ایک وفاق کا نمائندہ ایوان بنایا جائے۔ اس کے لیے اگر House کو جو بھی قانونی ترمیم کی ضرورت ہے اس کو پوری طور پر کیا جائے۔ دوسری بات یہ ہے کہ Public Accounts Committee میں بھی سینیٹ کے اراکین کو شامل کیا جائے۔

Senator Gianchand (PPPP)

Friday, June 10, 2016

(249th Session)

یہ محسوس ہو رہا ہے کہ اس House کی رائے کو کوئی اہمیت نہیں دی جا رہی، یہ House debating club بن چکا ہے۔ House of Federation, Senate کو آئین کا حصہ بنایا جا رہا تھا تو اس کے پیچھے ایک سوچ تھی کہ پاکستان جو multi national country ہے، ایسا نہ ہو کہ majority کی بنیاد پر کوئی ایک قوم باقی قوموں کے حقوق غصب کر لے یا قانون سازی میں ان کے ساتھ زیادتیاں ہوں تو check and balance کے لیے اس

House کو بنایا گیا تھا لیکن آج ہم دیکھتے ہیں کہ کسی ایک آدھ Bill پر voting کرنے کے علاوہ وسائل پر ان کی کوئی authority نہیں ہے۔ یقیناً اس Federation کو بچانے کے لیے authority دینی پڑے گی تاکہ وہ Federation کے وسائل اور قانون سازی کے اختیارات پر check رکھ سکے۔

Senator Muhammad Daud Khan Achakzai Advocate (ANP)

Monday, June 13, 2016

(249th Session)

میں چند تجاویز آپ کے سامنے رکھ رہا ہوں، مجھ سے پہلے بھی سینیٹر حضرات بات کر چکے ہیں۔ ہم ان تمام مسائل کو اس وقت address کر سکتے ہیں جب سینیٹ کے اختیارات بڑھائے جائیں گے۔ اس سلسلے میں فاروق نائیک صاحب نے جو تجاویز دی ہیں، ان کی میں مکمل طور پر حمایت کرتا ہوں، اگر سینیٹ کو باختیار بنانے کے لیے قانون سازی کرنی پڑے rules میں ترامیم کرنی پڑیں یا آئینی ترمیم کرنی پڑیں تو ہماری پارٹی ہر طرح کا تعاون کرنے کے لیے تیار ہے۔

Senator Zaheer-ud-Din Babar Awan (PPPP)

Monday, June 13, 2016

(249th Session)

کہ یہاں پر بہت دوستوں نے دردمندی کے ساتھ یہ نکتہ اٹھایا اور میں بھی یہ نکتہ آپ کی اجازت سے آئین سے اٹھانا چاہوں گا۔ کیا یہ debating club ہے، جی نہیں میں اس اتفاق نہیں کرتا کہ House of Federation is not a debating club at all. دو آئینی ترامیم کر دیں، میں سارے Senators کی توجہ چاہتا، میں ساری پارٹیوں کو مخاطب کر کے کہہ رہا ہوں، میں پورے ایوان کے ضمیر کو اجتماعی ضمیر کو اپیل کر کے یہ بات کہہ رہا ہوں اور میں پوری ذمہ داری سے بات کہہ رہا ہوں کہ آپ اس پاکستان کے آئین میں دو ترامیم کر دیں۔ آپ دیکھیں گے کہ پاکستان میں کوئی صوبہ شکایت نہیں کرے گا، آپ دیکھیں گے، سینیٹ کی شان اور آئین بڑھے گی اور پاکستان کے لوگوں کے لیے governance کی efficiency بڑھے گی۔

ترمیم آپ کے اجازت سے میں پورے ادب سے تجویز کرتا ہوں کہ Finance Act آئین کی روح اور اس کے internal structure کے مطابق، میں basic بھی نہیں کہتا، اس کے internal structure کے مطابق، یہ آئینی ترمیم نہیں ہے کہ ہم 238 میں جائیں گے، یہ آئینی ترمیم نہیں ہے کہ ہم 239 میں جائیں گے، یہ آئینی ترمیم نہیں ہے جناب Finance Act is just an act like any other act تو جب تک وہ پارلیمنٹ کے upper House سے منظور نہ ہو Finance Act آئین کے مطابق نہیں ہے۔ جناب! میں اس لیے کہتا ہوں کہ

یہ بجٹ آئین کے مطابق نہیں ہے۔ میں یہاں پر موقع کی مناسبت سے یہ کہنا چاہتا ہوں کہ میں نے ذاتی حیثیت سے ایک آئینی ترمیم تیار کی ہے، میں وہ سینیٹ کے سامنے لا رہا ہوں، آپ سب اس کو دیکھ لیں، درست کر لیں، اس کی نوک پلک سنوار لیں، آپ کی جو مرضی اس میں آپ اور amendment لائیں لیکن ایک less privileged House کی حیثیت سے ہمارا آئین میں کوئی role نہیں ہے۔ ہمارا role برابر ہے، ہم پارلیمنٹ کا برابر کا حصہ ہیں۔ جناب چیئرمین! میں آخری بات اس پر یہ کہتا ہوں کہ میں نے اس دن آپ کے سامنے پورا اس دن احتجاج کیا، اس دن پوری Opposition نے احتجاج کیا، ہم بانیسویں آئینی ترمیم منظور نہیں کرنا چاہتے تھے۔ جناب! ہمارا ساتھ وعدہ ہوا کہ اگلی مرتبہ ہماری بات سنی جائے گی، میں یہ سینیٹ کے اجتماعی ضمیر پر چھوڑتا ہوں کہ کیا اپنی عزت اور پاکستان کی governance بہتر بنانے کے لیے یہ دو ترمیم منظور کریں گے یا مسترد کریں گے، مجھے فیصلہ منظور ہوگا۔

Senator Kamil Ali Agha (PML)

Tuesday, June 14, 2016

(249th Session)

میں سمجھتا ہوں کہ وہ بات جو اس سینیٹ میں کئی سالوں سے جاری و ساری ہے اور آپ بھی اس میں share کرتے رہے ہیں کہ بجٹ کے معاملے میں سینیٹ کا کردار بڑھانا ہوگا اور یہ آئین کی منشا بھی ہے لیکن کیا رکاوٹ ہے؟ خدا بہتر جانتا ہے۔ اس میں ہمیں آگے بڑھنا چاہیے، جرات کا مظاہرہ کرنا چاہیے اور کم از کم اگر ہم اس ملک سے کرپشن کا خاتمہ چاہتے ہیں اور پوری دنیا اس وقت اس بات پر متفق ہے کہ کرپشن کسی ملک کی ترقی کی راہ میں سب سے بڑی رکاوٹ ہے۔ اگر ہم کرپشن کا خاتمہ چاہتے ہیں، اور آپ یہ پورا بجٹ اٹھا کر دیکھ لیں کسی جگہ کرپشن کے خاتمے کے لئے کوئی کاوش نظر نہیں آ رہی بلکہ میں تو سمجھتا ہوں کہ اگر یہ کہا جائے کہ یہ ایک کرپٹ بجٹ ہے تو یقینی طور پر درست ہوگا کیونکہ اس کے اندر تو بہت ساری چیزیں ہیں۔ بارہ ارب روپے کا خسارے کا بجٹ ظاہر کیا گیا ہے۔

Senator Shehar Bano Sherry Rehman-Petition to Constitute Public Accounts Committee of Senate (PPPP)

Friday, June 10, 2016

(249th Session)

میں نے کل آپ کے Chamber میں ہر پارٹی کی طرف سے ایک signed petition آپ کی خدمت میں پیش کی ہے۔ اس ایوان میں جو debates ہوئی ہیں، ان کے مطابق آپ کو request کرتے ہیں کہ آپ مطالعہ کریں اور آپ کسی طریقے سے اس House of Federation کو اور فعال بنانیکے لیے پارلیمنٹ کے کلیدی function کو بروئے کار لانے کے لیے ہمیں ایک public accounts committee بنانے کی اجازت دی

جائے اور طریقہ کار دیا جائے۔ جناب چیئر مین صاحب! سارے بجٹ میں یہ discuss ہوا ہے کہ سینیٹ کا کیا role ہے، اس کی حدود کیا ہیں اور اب ہم public کی امیدوں پر پورا اترنے کے لے as public representatives کیا کر سکتے ہیں۔ یہ ایک statutory body ہے، میں نے اس کی definition دیکھی ہے کہ National Assembly میں اس کا یہ کام ہے کہ it means to examine the expenditures, administration, delegated legislation, public petitions and policies of the Ministry concerned and its associated public bodies based on the Accountant Generals report and it keeps on corresponding to them. Mr. Chairman, it is the primary function of the Parliament other than upholding the values of the Constitution and making laws and amending them as per public need, to be the main locus of and platform for public accountability. آپ نے یہ بھی دیکھا ہے کہ اس وقت پانا پیپرز کا اتنا crisis ہے لیکن پورے ملک میں ایک تاثر ہے کہ ہمارے public representatives corruption and governance کی وجہ سے جو پیسا ہمارے system میں haemorrhage کرتا ہے، اس کے بارے میں کچھ نہیں کرتے یا اس میں ہمارا عمل ناکافی ہے۔ ہر حکومت میں اس طرح کی bleeding ہوتی ہے، اس طرح کی hemorrhaging ہوتی ہے لیکن اس ایوان اور ہم سب کو اس پر اتفاق ہے اور آپ کا ایک record ہے کہ آپ نے، rules and procedures اور institutional mechanisms and instruments کو کافی فعال کیا ہے، آپ ان کو اوپر لے کر آ رہے ہیں۔ سب پارٹیوں نے including the members of (N) League sign کئے ہیں کہ یہ body institute ہونے سے ایسا نہیں ہوگا کہ 2 reports پر دو مطالعے ہو رہے ہیں۔ ہم دوسری کمیٹیوں پر reports کرتے ہیں، ہماری standing committees یہی کام کرتی ہیں۔ میں سمجھتی ہوں کہ اس وقت عوام کا بڑا حوصلہ بڑھے گا، اگر Senate جیسا House اور ادارہ corruption کے حوالے سے خود اپنے آپ کا احتساب کرے گا اور حکومتوں کا کرے گا، اس میں elected representatives شامل ہوتے ہیں۔ یہ خود initiate کریں، اگر آپ کی Chairmanship میں ہو سکے کیونکہ آج کل دنیا میں ہوا چلی ہے، America سے لے کر، پانا ما سے لے کر یہاں تک چلی ہے۔ پاکستان میں assessment ہوئی ہے کہ 2.2 billion rupees کا روزانہ corruption

جسم ہے اور یہ ہمارے public system and taxpaying system سے جاتا ہے۔ 8 billion dollar سالانہ assessment ہوئی ہے کہ پاکستان کے system کو corruption کی وجہ سے آٹھ ارب dollar سالانہ loss ہوتا ہے۔

جناب! ان ساری باتوں کو سامنے رکھتے ہوئے، public mood کو سامنے رکھتے ہوئے، میں سمجھتی ہوں کہ اس میں کوئی قباحت نہیں ہوگی کہ Senate اپنے rules بنا کر فوری طور پر ایک public accounts committee institute کرے۔ ہم اس میں بہت کچھ کر سکتے ہیں اور میں نے لوگوں سے جتنی بھی بات چیت کی ہے، سب کی توقعات یہی ہیں کہ سینیٹ کی body شاید بہتر کام کرے گی، ہمارے lower House National Assembly سے بہتر کرے گی کیونکہ سینیٹ کے اراکین اور آپ کی ذات میں کچھ confidence زیادہ ہے۔ میری گزارش ہوگی کہ accountability and general questioning ہوتی ہے، اس کا دل اصل میں standing committee ہی ہوتی ہے، جہاں پر آپ litigate میں جاسکتے ہیں اور بہت سے کام ہو سکتے ہیں۔ جناب چیئر مین صاحب! جب تک ہمارا جمہور اس طرف نہیں بڑھے گا، ہم اپنے اداروں کو فعال نہیں کریں گے، اگر ایک system صحیح کام نہیں کر رہا، democracy is a journey, it has work and progress، تو اس میں مستقل ترمیم لاتے رہنا ہوگا، ہم جب ایک mature non transitional democracy کہلائیں گے۔ ہم سر اٹھا کر کہہ سکیں گے کہ ہم سب سے پہلے اپنا بھی احتساب کرتے ہیں اور دوسروں کا احتساب کرنے کے لیے public bodies، public money bodies اور public money پر ڈالتا ہے۔ Public money کا خرچہ اور اس کا صحیح استعمال، اس کی lapsing، اس کا صحیح account میں جانا، اس پر ministry کے vision کا کس طرح استعمال ہے اور بجٹ کے بعد کس طرح use ہوتا ہے۔ جناب چیئر مین صاحب! بہت سے اداروں میں 40% and 50% under spend ہو رہا ہے، ہم PSDP مانگتے ہیں، PSDP میں under spend آتا ہے۔ اپریل تک سب ministries اپنی بڑی بڑی گاڑیاں اور A/Cs خریدنا شروع ہو جاتی ہیں تاکہ وہ spending ہو جائے۔ میں سمجھتی ہوں یہ بہت ضروری ہے، بہت سی اور examples ہیں۔ اس وقت پاناما پیپرز بڑا مسئلہ ہے، ہم سے عوام کو کچھ تقویت چاہیے اور آپ اس کو جلد از جلد کر دیں، we will all grateful! جناب!

Senator Mushahid Hussain Sayed (PML)

Sir, under your leadership this House has assumed the role of

preserving, protecting and promoting the rights of the voiceless, of the dispossessed, whether its people or provinces or even institutions.

ابھی مظفر حسین شاہ صاحب بات کر رہے تھے National how this institution was saved, Agriculture Research Council جو ایک اہم ادارہ ہے۔ کل عثمان کا کٹر صاحب نے بہت زبردست motion پیش کیا تھا on the issue of ID cards جس پر ہم نے کہا تھا کہ لسانی اور تعصبات کی بنیاد پر کوئی تقسیم نہیں ہونی چاہیے اور آج آپ نے دیکھا ہے کہ DAWN میں بھی سنواری آئی ہے کہ how they have compared favorably the functioning of the Senate viz-a-viz the National Assembly and I think this is extremely important conclusions are inescapable. That in a first Federal ایک ہفتہ ہوا ہے اس میں تین structure the equality of both the Houses of Parliament, especially the Upper House which is the House of Federation has to be established, both in letter and spirit by implementing the Constitution. Secondly that the financial powers should be bestowed on the Senate and reference has already been made to the PSDP and third and very very important is the issue of Public Accounts Committee. You had raised this issue a year ago, unfortunately there was a very tardy response from the other effective, remedial action. So giving that side and there is still we know context, I think the time has come that the Senate establish its own Public Accounts Committee. We have concurrent Committees working in both Houses i.e. Foreign Affairs, Defence other Committee also. So, no heaven will fall, if the Senate has its own Committee, but in fact it will be good for parliamentary functioning and good governance, because there will be healthy competition, which Public Accounts Committee is functioning better, more efficient and more effectively. So

giving that thing, I think the sense of the House is very clear and Insha-Allah after Eid we should go through with this.



CHAIRMAN
SENATE OF PAKISTAN

F. 5(13)/1998-99/F&A

MIAN RAZA RABBANI
Parliament House Islamabad

Dated.....11th August 2015

The Speaker,
National Assembly of Pakistan,
National Assembly Secretariat,
Parliament Building,
Islamabad.

Subject: THE CONSTITUTIONAL SCHEME WITH REFERENCE TO TWO HOUSES OF PARLIAMENT AND THEIR COMMITTEES.

The Senate of Pakistan, in terms of rule 157 of the Rules of Procedure and Conduct of Business in the Senate, 2012, is in the process of discussing the Reports to be laid before the House in pursuance of the mandatory constitutional provisions, i.e., Articles 29, 155, 156, 160, 171 and 230 of the Constitution of the Islamic Republic of Pakistan (hereinafter referred to as the "Constitution, 1973"). Discussion and consequential proceedings have already taken place on the annual Report of the Council of Common Interests, laid in the Senate in terms of clause (4) of Article 153 of the Constitution, 1973 and the annual Report on the observance and implementation of the Principles of Policy in relation to the affairs of the Federation, laid in the Senate in terms of clause (3) of Article 29 of the Constitution, 1973.

2. That the annual report of the Auditor General relating to the accounts of the Federation, for the year 2013-14, as laid in the Senate in terms of Article 171 of the Constitution, 1973 is due to be taken up for discussion and consequential proceedings. As the said Article has been amended by the 18th Amendment to the Constitution, 1973, the rules, practices and traditions that flow, therefrom, need to be modified, changed or amended accordingly. Article 171 of the Constitution, 1973, provides that, "the reports of the Auditor-General relating to the accounts of the Federation shall be submitted to the President, who shall cause them to be laid before the both Houses of Malls-e-Shoora (Parliament) and the reports of the Auditor-General relating to the accounts of a Province



shall be submitted to the Governor of the Province, who shall cause them to be laid before the Provincial Assembly." (emphasis provided). Prior to the enactment of the Constitution (Eighteenth Amendment) Act, 2010, the reports were required to be laid before the National Assembly only; however, the said Amendment substituted the words "National Assembly" with the words "both Houses of Majlis-e-Shoora (Parliament)". As a consequence distinctly separate and corresponding powers have been bestowed upon both Houses of Parliament to examine, discuss, scrutinize and make recommendations on the reports of the Auditor General containing audit paras. Presently reports of the Auditor General are being examined by the Standing Committee of one House only i.e. the National Assembly Standing Committee on Public Accounts.

3. This anomaly has been compounded by a letter from the PAC Wing, National Assembly Secretariat, dated 30th April, 2015, informing the Senate that the appropriation accounts of Senate Secretariat for the year 1998-99, will be discussed during the meeting of PAC on 29th May, 2015, the Secretary of the Senate being the Principal Accounting Officer, is required to attend the said meeting.

4. That with reference to para No. 3 above, I address you herein as under, on the constitutional scheme:-

- (i) Clause (b) of Article 81 of the Constitution, 1973, provides that, "the administrative expenses, including the remuneration payable to officers and servants, of the Supreme Court, the Islamabad High Court, the department of the Auditor-General, the Office of the Chief Election Commissioner and of the Election Commission and the Secretariats of the Senate and the National Assembly", shall be expenditure charged upon the Federal Consolidated Fund.
- (ii) Clause (1) of Article 82 of the Constitution, 1973, provides that "So much of the Annual Budget Statement as relates to expenditure charged upon the



Federal Consolidated Fund may be discussed in, but shall not be submitted to the vote of, the National Assembly." Clause (c) of rule 190 of the Rules of Procedure and Conduct of Business in the National Assembly, 2007, provides that any notice for cut motion relating to expenditure charged on the Federal Consolidated Fund shall be inadmissible.

- (iii) Article 87 of the Constitution, 1973, provides for establishment of separate Secretariats for each House of Parliament.
- (iv) Article 88 of the Constitution, 1973, provides that the expenditure of the National Assembly and the Senate within authorised appropriations shall be controlled by the National Assembly or, as the case may be, the Senate acting on the advice of its Finance Committee.
- (v) Clause (2) of Article 170 of the Constitution, 1973, states that "the audit of the accounts of the Federal and of the Provincial Governments and the accounts of any authority or body established by, or under the control of, the Federal or a Provincial Government shall be conducted by the Auditor-General, who shall determine the extent and nature of such audit." (emphasis provided)

5. That a conjunctive perusal of the aforementioned constitutional position, provides for financial autonomy to each House of Parliament, wherein, separate Parliamentary Secretariats have been established under Article 87 of the Constitution, 1973, clause (b) of Article 81 of the Constitution, 1973, provides that the "administrative expenses" of these Secretariats (established under Article 87, Constitutions, 1973), i.e. Senate Secretariat and National Assembly Secretariat, shall be expenditure charged upon the Federal Consolidated Fund. The term "administrative expenses" includes all expenses related to the organization/institution. This meaning is substantiated from the



language used in clause (b) of Article 88 of the Constitution, 1973, wherein it states, "that the administrative expenses, includes the remuneration payable to officers and servants,.....".

6. That Article 88 of the Constitution, 1973, provides a mechanism for controlling the expenditures of the Secretariats i.e. by the Senate or the National Assembly, as the case may be, acting on the advice of its Finance Committee. The word "control", used in the said Article, as a noun means, the power or authority to manage, direct or oversee, as a verb it means, to regulate or govern. No other institution, even the institutions charging expenditures upon the Federal Consolidated Fund, has been given this financial autonomy and authority under the Constitution, to control its expenditures as has been given to both Houses of the Parliament.

7. That clause (2) of Article 170 of the Constitution, 1973, confers powers on the Auditor General of Pakistan to audit the accounts of the Federal and of the Provincial Governments and the accounts of any authority or body established by, or under the control of, the Federal or a Provincial Government. There is a deliberate exclusion of Parliament and Parliamentary Secretariats in the said Article.

8. That the practice of controlling and reviewing all expenditures of the Senate by its Finance Committee is in line with international practices. In the House of Commons, United Kingdom, the same function is being performed by the House of Commons Commission. Under the Commission, there is a mechanism of internal audit through two audit committees, namely, the Administration Estimate Audit Committee and the Members Estimate Audit Committee which correct and streamline the process. The final tier is the National Audit Office which provides the external audit. Reference may also be made to the Parliament of Canada, where, the Board of Internal Economy (BOIE) is the governing body of the House of Commons. In this capacity, the Board makes decisions and provides directions on financial and administrative matters of the House of



Commons. On the directions of the BOIE, through a competitive process, the House of Commons hires an independent accounting firm to conduct an annual audit of its Financial Statements. Thus the concept of internal management and audit by Parliaments is not a concept to be found in the Constitution, 1973 only.

9. That notwithstanding the fact that clause (2) of Article 170 of the Constitution, 1973, is not applicable to Parliamentary Secretariats, the Senate, in order to ensure transparency and accountability, decided to place the accounts of its Secretariat for audit by the Audit General, which continues till date and such shall continue.

10. That, the constitutional scheme discussed hereinabove, gives rise to the question of the jurisdiction of the Public Accounts Committee to discuss the accounts of Senate. Article 50 of the Constitution, 1973, provides for a Parliament consisting of two independent and equal Houses i.e. the Senate and National Assembly, and the President. Articles 81(b), 82(1), 87 and 88 of the Constitution, 1973, provides for Parliamentary Secretariats with charged expenditure to Federal Consolidated Fund, controlled by the two Houses through their respective Finance Committees. The deliberate exclusion of Parliament from Article 170(2) and Article 88 of the Constitution, 1973, provides for internal audit by each House. In this legal scenario, the Public Accounts Committee which is a Standing Committee of the National Assembly, constituted and working under rules 202 to 205 of the Rules of Procedure and Conduct of Business in the National Assembly, 2007, being the Standing Committee of one House, cannot impinge up on the financial autonomy of the other House that flows from the Constitution. It is also against the principles of equity, transparency and natural justice that the Standing Committee of the same House should examine the accounts of its own House.

11. Therefore, in the present dispensation under the rules and the Constitution, 1973, there is no legal justification of subjecting the accounts of the Senate of Pakistan or



its Secretariat before the Public Accounts Committee, being a Standing Committee of the National Assembly.

12. That under the existing provisions of the Constitution, 1973, more particularly Article 171 of the Constitution, 1973, which requires the annual Report of the Auditor General to be laid in both Houses, one of two procedures can be adopted, either independent Standing Committees on Public Accounts of both Houses separately examine the reports of Auditor General containing audit paras or the Parliament (Joint Sitting) Rules, 1973, more particularly rules dealing with Committees, be amended in terms of clause (3) of Article 72 of the Constitution, 1973, for constituting a Parliamentary Committee on Public Accounts, hence, creating a rationale for the Senate for submitting accounts before the Public Accounts Committee (being Committee of both Houses) and meeting the requirements of Article 171 of the Constitution, 1973.

Yours truly,

A handwritten signature in black ink, appearing to read 'Mian Raza Rabbani'.

MIAN RAZA RABBANI
NI

C.C.

1. The Chairman, Public Accounts Committee, National Assembly.
2. Minister for Finance, Revenue, Economic Affairs, Statistics and Privatization.
3. Minister of State for Parliamentary Affairs.

SENATOR SHERRY REHMAN



Date: June 9, 2016

To the Chairman Senate,
The Hon. Mian Raza Rabbani,

Dear Chairman,

I am taking the liberty of writing to you in order to raise a matter of public importance with regard to the development of institutional mechanisms for improving the functions of parliament, and in this case specifically, the august House of the Federation.

Pakistan's fractured experience with democracy needs the building of public confidence in its parliament. The primary function of parliament is to uphold the values that are enshrined in the Constitution, to enact and amend laws in accordance with the public good, and to hold the government accountable for its executive actions, decisions, operations and deeds.

As discussed and debated exhaustively in the Senate, there is a number of members who feel that the Upper House must play a more active role in holding governments to account via institutional mechanisms that exist within parliament, modelled on forums such as the National Assembly's Public Accounts Committee. Given that the Senate is bound by its mandate to represent the interests and protect the rights of the provinces that constitute our federation, it is of vital and timely importance that the House amend and/or create the necessary rules that govern its procedural functions to create a Public Accounts Committee of the Senate.

Given that you have personally championed the cause of transparent governance and the importance of public audits through its elected representatives I hope that you will support this request and take urgent and immediate steps to take it forward.

I look forward to a positive response.

Sincerely Yours,

Sherry Rehman

PPPP

Islamabad: 051 9100066 | 0345 2000375 | Karachi: 021 35804563-4 | 0300 8222881 | office@sherryrehman.com

Annexure-D**Relevant excerpts from the report of Standing Committee on Finance on the Finance Bill 2016-17**

“The Committee also remained cognizant of the views expressed by the Members in the House during discussion on the Finance Bill 2016-17. Following important issues, emanated from the speeches during the debate from 3rd June till 14th June, 2016:-

1. Members are of the view that formulation and giving recommendations to the National Assembly is a futile exercise as the said recommendations are not implemented. The House and Committee sit for extended hours and make valuable contributions to the Finance Bill to improvise the same and ensure that the spirit of federalism is reflected in the federal budget. However, such serious recommendations are dependent upon the vote of the other House, no reasons are assigned for their rejection and even the one's which are agreed are implemented or otherwise. This undermines the role and contributions of the House of Federation.
2. In view of Article 171 of the Constitution of Pakistan, 1973, the Members were one voiced regarding the role of Senate in the Public Accounts Committee. A petition signed by all political parties present in the Senate was also received urging the Senate to amend the Senate Rules in order to constitute a Public Accounts Committee. The matter has been kept pending in view of the decision of the House Business Advisory Committee (HBAC), wherein it has been decided that decisive action in the matter regarding representation of Senate of Pakistan in the Joint Parliamentary Committee on Public Accounts or to establish Senate's own PAC will be withheld for two weeks till resumption of functions by the Prime Minister/Leader of the

House in the National Assembly. However, in the meantime, the HBAC was asked to undertake the process of amending the Senate Rules for constitution of Senate Public Accounts Committee.

3. Budget proposals regarding items in the Federal Legislative List Part-II shall be approved by the Council of Common Interests and not by the Cabinet.
4. The PSDP should be brought to the Senate, this House should be given full authority to determine whether allocations have been made in the spirit of the Federation or otherwise. This syncs with the spirit of federalism as the Provinces, who have elected the Senators, have legitimate expectancy that their grievances will be raised in and by the House of Federation.
5. Article 50 of the Constitution of the Islamic Republic of Pakistan states that "There shall be a Majlis-e-Shoora (Parliament) of Pakistan consisting of the President and two Houses to be known respectively as the National Assembly and the Senate of Pakistan". When it is said that the budget has been passed by Parliament, it is a misnomer, because it is not being passed by Parliament. In fact it is half the Parliament or one third of the Parliament that passes this budget. Therefore, it is a clear violation of Article 50.
6. The constitutional structure in Pakistan is of a federal character. If Pakistan is to be a true federal state then the units of the federation which are represented in the House of the federation should be protected by the House in the financial and fiscal matters, which are most important rights of the Federating units. The Senate of Pakistan should have fiscal and financial authority in order to enable the House to protect the interests of the provinces that have elected us.
7. For reasons to be recorded, the claim 'that Senate is an indirectly

elected House, therefore, it cannot have role in the financial matters' is rejected. This argument is self-contradictory as there are many international examples wherein the indirectly elected House has role and authority in the financial matters.”



Senate of Pakistan
Parliament House, Islamabad