

SENATE OF PAKISTAN



REPORT NO. 30

REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE



“The Constitution (Amendment) Bill, 2023”

PRESENTED BY

Senator Syed Ali Zafar

Chairman

Standing Committee on Law and Justice

SENATE SECRETARIAT

Subject:- REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE PUBLICATION OF LAWS OF PAKISTAN (AMENDMENT) BILL, 2022"

I, Senator, Syed Ali Zafar, Chairman Standing Committee on Law and Justice, have the honour to submit, on behalf of the committee, this report on "The Constitution (Amendment) Bill, 2023", moved by Senator Sania Nishtar, in the Senate sitting held on 24th July, 2023, and referred to the Committee for consideration and report (Attached as annexure-A).

2. The Composition of the Committee is as under:-

1. Senator Syed Ali Zafar	Chairman
2. Senator Syed Muzafar Hussain Shah	Member
3. Senator Farooq Hamid Naek	Member
4. Senator Mian Raza Rabbani	Member
5. Senator Manzoor Ahmed Kakar	Member
6. Senator Musadik Masood Malik	Member
7. Senator Samina Mumtaz Zehri	Member
8. Senator Walid Iqbal	Member
9. Senator Syed Shibli Faraz	Member
10. Senator Muhammad Azam Khan Swati	Member
11. Senator Kamran Murtaza	Member
12. Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its sitting held on 6th December, 2022, at Old PIPS Hall, Parliament Lodges, Islamabad, with the following in attendance:

1. Senator Syed Ali Zafar	Chairman
2. Senator Farooq Hamid Naek	Member
3. Senator Kamran Murtaza	Member
4. Minister for Law & Justice	Ex-officio Member
5. Senator Sania Nishtar	Member-in-Charge
6. Senator Gurdeep Singh	Mover

4. Senator Sania Nishtar apprised the Committee that the Bill under consideration is aimed at the 18th Constitutional Amendment in 2010 that undertook and successfully completed a major exercise of devolution of political, administrative, and financial powers from the Federation to the Provinces. A new Article 140A was inserted that obligated each province to establish local government system and devolve political, administrative, and financial responsibility and authority to the elected representatives of the local governments,

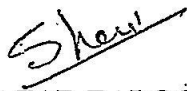
but did not provide a basic constitutional framework to achieve the objective of devolution from the Provincial to local level as conceived in the original Article 140A at the time of 18th Constitutional Amendment. Thus, the proposed constitution amendment bill provides for the mechanism to devolve powers from provincial to local government. She added that the amendment also seeks to provide a roadmap or guidance to the provinces as to how they may delegate their powers to the local bodies in an effective way, as presently, the centralization of power by the provincial government is rampant.

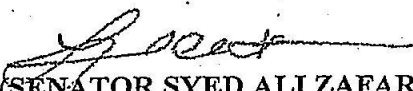
5. After due deliberations, the above-cited bill has been extensively discussed, and passed unanimously with following amendments:

- i. **Amendment of Articles 140-A (1), (2) and (3) of the Constitution of Islamic Republic of Pakistan, 1973:** In clause (2) of the bill, in sub-clauses (1), (2) and (3) of Article 140-A, no amendments have been proposed by the Committee.
- ii. **Amendment of Articles 140-A (4) of the Constitution of Islamic Republic of Pakistan, 1973:** In the said clause, for sub-clause (4), the following shall be substituted:

"140A. Local Government
(4) (a) The term of office of each tier of the local government system shall be four years.
(b) The term shall not be reduced except by dissolution as laid down in the constitution or for reasons stated and approved by Parliament or the concerned Provincial Assembly.
- iii. **Amendment of Articles 140-A (5) of the Constitution of Islamic Republic of Pakistan, 1973:** In the said clause, for sub-clause (5), for the phrase "Parliament" the phrase "National Assembly" shall be substituted. And after the phrase "Local Governments" the phrase "as per their requirements" shall be inserted.
- iv. In the Bill "Addition of the Sixth Schedule in the Constitution" shall be **Omitted:** The Sixth Schedule of the bill, shall be omitted.

6. The Committee unanimously passed the Bill with certain modifications, as referred by the House. The Bill as referred by the House and Passed and amended by the Committee is annexed at 'B'.


(MIR SHAI MAZAR BALOCH)
DG/Secretary Committee


(SENATOR SYED ALI ZAFAR)
Chairman
Senate Standing Committee on Law and Justice

INTRODUCED ON 24.07.2023.

[AS INTRODUCED IN THE SENATE]

**A
Bill**

further amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act may be called the Constitution (Amendment) Act, 2023.

(2) It shall come into force at once.

2. Substitution of Article 140A of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, for Article 140A, the following shall be substituted, namely:-

"140A. Local Government. (1) The Federation and each Province shall by law establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments in relation to programs, plans and schemes for provision of civic services, economic development and social justice in the matters listed in the Sixth Schedule.

(2) Elections to the local governments shall be held by the Election Commission of Pakistan who shall ensure election of each tier of the local government system thirty days prior to the expiry of the prescribed tenure of that tier, and within sixty days of the premature termination, for whatever cause, of such tenure.

(3) The Federal and Provincial Governments shall be bound to provide the sums required by the Election Commission of Pakistan for the conduct of local government elections and such sums shall be treated as charged expenditure within the meaning of Article 81 of the Constitution.

(4) The term of office of each tier of the local government system shall not be less than four years and shall not be reduced by dissolution, suspension or other means except for reasons stated and approved by Parliament or the concerned Provincial Assembly.

(5) The Federation and each Province shall by law establish independent finance commissions to make recommendations on the allocation of revenues to the local governments for the effective performance of the responsibilities entrusted to them and the recommendations of these commissions shall be approved by Parliament and the concerned Provincial Assemblies with such modifications as may be mandated by availability of resources."

3. **Addition of Sixth Schedule in the Constitution.**- In the Constitution, after fifth Schedule, the following new schedule shall be added, namely:-

"SIXTH SCHEDULE

[Article 140A]

1. Roads, bridges, streets and culverts but not including National and Provincial Highways.
2. Street lights.
3. Parks, gardens, nurseries and sports complexes but not including those declared by the competent government to be of national importance.
4. Museums, art galleries and libraries.
5. Fire-fighting services and civil defence facilities.
6. Traffic regulation and management.
7. Removal of encroachments.
8. Sanitation and collection and disposal of refuse.
9. Public health and hygiene including latrines and urinals.
10. Stray animals and animal trespass and cattle and animal pounds.
11. Drainage and sewerage.
12. Water supply.
13. Slaughter houses.
14. Primary, middle and secondary schools.
15. Public transport.
16. Brick kilns, potteries and cottage industries.
17. Epidemic control measures.
18. Relief for orphans, widows and disabled and distressed persons.
19. Rural health centres and basic health units and veterinary centres.
20. Fairs, festivals and local markets.
21. Protection of food stuffs and prevention of adulteration.
22. Plantation of trees and greenery.
23. Regulation of dangerous and offensive trades.
24. Burial places and cremations.
25. Registration of births, marriages, divorces and deaths.
26. Regulation of dangerous buildings and structures.
27. Town planning and building control.
28. Emergency relief measures including first-aid centres.
29. Sign boards and street advertisements.
30. Conciliation, mediation and Panchayati services.
31. Environment control.
32. Fair market practices.
33. Chowkidara and local police.
34. Promotion of inter-faith harmony.
35. Social welfare.
36. Local taxes and fees and other charges in connection with facilities and services provided."

STATEMENT OF OBJECTS AND REASONS

Pakistan undertook and successfully completed a major exercise of devolution of political, administrative, and financial powers from the Federation to the Provinces through 18th Constitutional Amendment in 2010. A new Article 140A (Local Governments) was also inserted in the Constitution of Pakistan through the 18th Amendment which obligated each province to establish local government system and devolve political, administrative, and financial responsibility and authority to the elected representatives of the local governments. The proposed constitutional amendment expands the original Article 140A to provide a basic constitutional framework to achieve the objective of devolution from the Provincial to local level as conceived in the original Article 140A at the time of 18th Constitutional Amendment.

**SENATOR SANIA NISHTAR
MEMBER IN CHARGE**

AS AMMENDED BY THE COMMITTEEA
BILL

Further amend the Constitution of the Islamic Republic of Pakistan.

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. – (1) This Act may be called the Constitution (Amendment) Act, 2023.

(2) It shall come into force at once.

2. Substitution of Article 140A of the Constitution. – In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, for Article 140A, the following shall be substituted, namely:-

“140A. Local Government. (1) The Federation and each Province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments in relation to programs, plans and schemes for provision of civic services, economic development and social justice..

(2) The term of office of each tier of the local government system shall be four years unless dissolved earlier as prescribed by law.

(3) Elections to the local governments shall be held by the Election Commission of Pakistan who shall ensure election of each tier of the local government system thirty days prior to the expiry of the prescribed tenure of that tier, and within sixty days of the dissolution.

(4) The Federal and Provincial Governments shall be bound to provide the sums required by the Election Commission of Pakistan for the conduct of local government elections and such sums shall be treated as charged expenditure within the meaning of Article 81 of the Constitution.

(5) The Federation for Islamabad Capital Territory and each province shall allocate an appropriate portion of grant to the local government for the effective performance of their functions. Provided that the allocations made by the Federation and Province shall be approved before disbursement by the National Assembly and the concerned Provincial Assemblies, as the case may be, with such modifications as may be mandated by availability of resources.