

NATIONAL ASSEMBLY SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON THE CONSTITUTION (TWENTY-SIXTH AMENDMENT) BILL, 2017

I, the Chairman of Standing Committee on Law and Justice, have the honor to present this report on the Bill further to amend the Constitution of the Islamic Republic of Pakistan [The Constitution (Twenty-sixth Amendment) Bill, 2017] referred to the Committee on 08th March, 2017.

2. The Committee comprises the following: -

1)	Chaudhry Mahmood Bashir Virk	Chairman
2)	Justice (Retd.) Iftikhar Ahmad Cheema	Member
3)	Chaudhary Muhammad Ashraf	Member
4)	Rana Muhammad Afzal Khan	Member
5)	Mr. Muhammad Moeen Wattoo	Member
6)	Mr. Muhammad Raza Hayat Harraj	Member
7)	Sardar Muhammad Amjad Farooq Khan Khosa	Member
8)	Ms. Kiran Haider	Member
9)	Syed Imran Ahmad Shah	Member
10)	Ms. Asiya Naz Tanoli	Member
11)	Mr. Rajab Ali Khan Baloch	Member
12)	Syed Naveed Qamar	Member
13)	Mr. Muhammad Ayaz Soomro	Member
14)	Ms. Shagufta Jumani	Member
15)	Mr. Shahab-ud-Din Khan	Member
16)	Eng. Ali Muhammad Khan Advocate	Member
17)	Dr. Arif Alvi	Member
18)	Mr. S.A Iqbal Quadri	Member
19)	Moulana Muhammad Khan Sherani	Member
20)	Ms. Aisha Syed	Member
21)	Minister for Law and Justice	Ex-officio Member

3. The Committee considered the Bill placed at Annex-A in its meetings held on 05-04-2017, 02-05-2017 and 16-10-2017 and recommends that the Bill may be passed by the Assembly. Notes of dissent of Mr. S.A Iqbal Quadri, Engineer Ali Muhammad Khan Advocate and Ms. Aisha Syed, Hon. MNAs are placed at Annexures B, C and D.

Sd/-
(JAWAD RAFIQUE MALIK)
Secretary
Islamabad, the 8th December, 2017

Sd/-
(CHAUDHRY MAHMOOD BASHIR VIRK)
Chairman Standing Committee on Law and Justice

[AS REPORTED BY THE STANDING COMMITTEE]

A

BILL

further to amend the Constitution of the Islamic Republic of Pakistan

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

It is hereby enacted as follows:-

1. Short title and commencement.— (1) This Act may be called the Constitution (Twenty-sixth Amendment) Act, 2017.

(2) It shall come into force at once.

2. Amendment of Article 90 of the Constitution.— In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 90, in clause (2), after the word "Ministers" the words "or Ministers of State" shall be inserted.

3. Amendment of Article 99 of the Constitution.— In the Constitution in Article 99, for clause (3) the following shall be substituted, namely:-

"(3) The Federal Government shall also make rules for the allocation and transaction of its business and may for convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it."

4. Amendment of Article 139 of the Constitution.— In the Constitution, in Article 139, for clause (3), the following shall be substituted, namely:-

"(3) The Provincial Government shall also make rules for the allocation and transaction of its business and may for convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it."

STATEMENT OF OBJECTS AND REASONS

The Supreme Court of Pakistan vide its judgment in Messrs Mustafa Impex Vs Government of Pakistan (CA No.1428 and CA No.1429/2016 dated 18.08.2016) (PLD 2016 SC 908) has *inter alia*, held that "The Federal Government is the collective entity described as the Cabinet constituting the Prime Minister and Federal Ministers". The expression "Federal Government" occurs in various laws, rules, regulations and statutory instruments. It is therefore, necessary that the Federal Government may for convenient transaction of its business delegate any of its functions to the officers or authorities subordinate to it. For that purpose amendment is required in Article 99(3) of the Constitution and, for purpose of Provincial Governments, in Article 139(3) of the Constitution. Both these Articles were amended by the Constitution (Eighteenth Amendment) Act, 2010. Delegation of any of its functions by the Federal Government to its officers or authorities subordinate to it as it existed in originally enacted Article 99 and Article 139 of the Constitution 1973 is being restored through the proposed amendment. Article 90(2) is being amended to include State Ministers.

The Bill is designed to achieve the aforesaid objects.

Minister for Law and Justice

NOTE OF DISSENT

The Honorable Chairman,
Standing Committee Law & Justice,
National Assembly of Pakistan,
ISLAMABAD

Subject:- Opposition to the Constitution (Twenty-Sixth Amendment) Bill, 2017

I hereby submit my objections to such Bill, 2017 as under;

- (i) That no explanation has been disclosed as to why in the constitution XVIII its amendment delegation power was taken away.
- (ii) That the amendment in Art. 99 and Art. 139 is not reasonable as it is very vast and unlimited power and jurisdiction which is against the constitution and the spirit of parliamentary democracy.

Sd/-
(S.A Iqbal Qadri)
MNA (NA-241)

Dated: - 16/X/2017.

NOTE OF DISSENT

(786)

The Honorable Chairman,
Standing Committee on Law & Justice,

Dear chairman, shall I have strong reservation to delegation of powers of the Cabinet. It is against the spirit of Democracy. It will reduce the powers of Cabinet & will further curtail the oversight of Cabinet on the working of various Ministers. On behalf of PTI I oppose this amendment.

Sd/-
(Ali Muhammad Khan)
MNA (NA-10)
Dated: - 16-10-17

اختلافی نوٹ

26 ترمیم میں ہمارا موقف یہ ہے کہ قوانین کو اتنا جلدی جلدی پاس نہ کیا جائے۔ اگر تمام سٹیک ہولڈرز اور تمام پہلوؤں کا جائزہ نہ لیکر قوانین بنانے میں انگلیاں اٹھیں گئیں۔
اگر یہ پہلے قوانین میں موجود تھا تو ہٹایا کیوں گیا اس کو دیکھا جائے۔

دستخط/-

(محترمہ عائشہ سید)

ایم این اے (NA-329)