SENATE SECRETARIAT
Islamabad, the 3rd June, 2019

No. F. 24(54)/2018-Legis.—Pursuant to sub-rule (4) of rule 194 of the Rules of Procedure and Conduct of Business in the Senate, 2012, the following reports of the Standing Committee presented to the Senate on 31st May, 2019, are published for information:—

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON “THE CONSTITUTION (AMENDMENT) BILL, 2018”

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on “The Constitution (Amendment) Bill, 2018” (Omission of Clause (2) of Article 30) introduced by Senators Sirajul Haq and Mushtaq Ahmed in the Senate sitting held on 21st January, 2018. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

(1131)

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2. The composition of the Standing Committee on Law and Justice is as under:—

1. **Senator Muhammad Javed Abbasi**  
   **Chairman**

2. Senator Mian Raza Rabbani  
   **Member**

3. Senator Farooq Hamid Naek  
   **Member**

4. Senator Mir Hasil Khan Bizenjo  
   **Member**

5. Senator Siraj ul Haq  
   **Member**

6. Senator Syed Muzafar Hussain Shah  
   **Member**

7. Senator Ayesha Raza Farooq  
   **Member**

8. Senator Muhammad Ali Khan Saif  
   **Member**

9. Senator Musadik Masood Malik  
   **Member**

10. Senator Dr. Ghaus Muhammad Khan Niazi  
    **Member**

11. Senator Mustafa Nawaz Khokar  
    **Member**

12. Senator Sana Jamali  
    **Member**

13. Senator Walid Iqbal  
    **Member**

14. Senator Sitara Ayaz  
    **Member**

15. Minister for Law and Justice  
    **Ex-Officio**

   **Member**

3. The Committee considered the Bill in its meetings held on 12th February, 2019, 5th March, 2019, 4th April, 2019, 18th April, 2019 and 16th May, 2019, under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 16th May, 2019, which was attended by the following members:—

   i. Senator Muhammad Javed Abbasi

   ii. Senator Farooq Hamid Naek

   iii. Senator Siraj ul Haq

   iv. Senator Muhammad Ali Khan Saif

   v. Senator Dr. Ghaus Muhammad Khan Niazi
vi. Senator Mustafa Nawaz Khokar
vii. Senator Sana Jamali
viii. Senator Sitara Ayaz

4. Senator Siraj ul Haq, Member-in-Charge briefed the Committee that “the Principles of Policy Articles cover different aspects of national life such as; promotion of Islamic way of life; local government institutions; discouragement of parochial and other prejudices; enabling women’s participation in national life; protection of family and minorities; promotion of social justice and eradication of social evils and promotion of socio-economic well-being of citizens and eradication of Riba; participation of people in armed forces, strengthening bonds with Muslim world and promotion international peace. The object of the amendment is to remove any type of doubt that whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State is in accordance with the law or not.

5. Secretary Law and Justice briefed that the impact of this amendment will be that the principles of policy which are non-justiciable will become justiciable. There is rationality in making principles of policy non-justiciable. Their fulfillment is dependent upon a lot of issues like availability of resources, capacity, necessity etc. Further the principles of policy prescribe ideal standards which have to be achieved by the Government ultimately. It will not be appropriate that ideal principles shall be made justiciable.

6. The Committee discussed the Bill at length and also examined relevant excerpts from the Constitution making debate held during the consideration and passage of the Constitution of Pakistan, 1973, to look into the intent of the legislature. The Committee while examining the statement of the then Minister for Law and Justice noted that non-justiciability of principles of policy was deliberate and being conscious of significance of these principles, the then law makers provided parliamentary oversight as the federation is bound to lay a report before the National Assembly on the observance and implementation of the principles of policy and later on through 18th Amendment the said report is also required to be laid before the Senate. The Committee opined that the amendment would affect the overall scheme of the Constitution and a lot of other changes would need to be brought in. The Committee stressed the need to maintain harmony in the interpretation of the Constitution.

7. Members of the Committee were of the considered opinion that the legislative proposal being put forward by Senator Siraj ul Haq is good but not practical at this stage.
8. Senator Siraj ul Haq contended that certain provisions of the principles of policy have been interpreted by the Courts as fundamental rights in terms of Article 9 of the Constitution. If the Committee so desires an amended Bill can be introduced to make such specific provisions part of the fundamental rights instead of making general principle of policy justiciable.

9. Members of the Committee supported the contention of the Member-in-Charge and recommended that the instant Bill be withdrawn and the Member-in-Charge may bring forward a new legislative proposal in terms of his contention at para No. 8 above.

10. Accordingly, the Committee recommends that the House may grant leave to Senator Siraj ul Haq to withdraw “The Constitution (Amendment) Bill, 2018 (Omission of Clause (2) of Article 30)”, in terms of rule 115 of the Rules of Procedure and Conduct of Business in the Senate, 2012. (Copy of Bill is annexed).

RABEEA ANWAR, SENATOR MUHAMMAD JAVED ABBASI, 
J.S / Secretary Committee.       Chairman.
Standing Committee on Law & Justice

[AS INTRODUCED IN THE SENATE]

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further to amend the Constitution of the Islamic Republic of Pakistan, 1973

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan, 1973 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, 2018.

   (2) It shall come into force at once.

2. Amendment of Article 30 of the Constitution.—In the Constitution of the Islamic Republic of Pakistan, in Article 30, clause (2), shall be omitted.
STATEMENT OF OBJECTS AND REASONS

Clause (2) of Article 30 which is proposed to omit is as under;

“The validity of an action or of law shall not be called in question on the ground that it is not in accordance with the Principles of Policy, and no action shall lie against the state, any organ or authority of the state or any person on such ground.”

The Principles of Policy Articles cover different aspects of national life such as; promotion of Islamic way of life; local government institutions; discouragement of parochial and other prejudices; enabling women’s participation in national life; protection of family and minorities; promotion of social justice and eradication of social evils and promotion of socio-economic well-being of citizens and eradication of Riba; participation of people in armed forces, strengthening bonds with Muslim world and promoting international peace.

The object of the aforesaid amendment is to remove any type of doubt regarding the deciding whether any action of an organ or authority of the State, or of a person performing functions on behalf of an organ or authority of the State is in accordance with the law or not?

The Bill is aimed to obtain the above-cited objectives.

SENATOR SIRAJUL HAQ,  
SENATOR MUSHTAQ AHMED,  
Members-in-Charge.

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON “THE CAPITAL DEVELOPMENT AUTHORITY (AMENDMENT) BILL, 2019”

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on “The Capital Development Authority (Amendment) Bill, 2019”, introduced by Senator Abdul Rehman Malik in the Senate sitting held on 29th April, 2019. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee on Law and Justice is as under:—
1. Senator Muhammad Javed Abbasi **Chairman**

2. Senator Mian Raza Rabbani **Member**

3. Senator Farooq Hamid Naek **Member**

4. Senator Mir Hasil Khan Bizenjo **Member**

5. Senator Siraj ul Haq **Member**

6. Senator Syed Muzafar Hussain Shah **Member**

7. Senator Ayesha Raza Farooq **Member**

8. Senator Muhammad Ali Khan Saif **Member**

9. Senator Musadik Masood Malik **Member**

10. Senator Dr. Ghaus Muhammad Khan Niazi **Member**

11. Senator Mustafa Nawaz Khokar **Member**

12. Senator Sana Jamali **Member**

13. Senator Walid Iqbal **Member**

14. Senator Sitara Ayaz **Member**

15. Minister for Law and Justice **Ex-Officio**

**Member**

3. The Committee considered the Bill in its meeting held on 16th May, 2019, under the Chairmanship of Senator Muhammad Javed Abbasi, which was attended by the following members:—

   i. Senator Muhammad Javed Abbasi

   ii. Senator Farooq Hamid Naek

   iii. Senator Siraj ul Haq

   iv. Senator Muhammad Ali Khan Saif
v. Senator Dr. Ghaus Muhammad Khan Niazi  
vi. Senator Mustafa Nawaz Khokar  

vii. Senator Sana Jamali  

viii. Senator Sitara Ayaz  

4. Senator Abdul Rehman Malik, Member-in-Charge briefed the Committee that “the Capital Development Ordinance, 1960, does not specify the qualification for the Members of the Board of Directors (BoD) from whom one of the Members shall be considered for appointment as Chairman, CDA. The existing procedure does not bar appointment of a private person as Chairman CDA. This practice is creating anomaly in the administration of the Authority as a number of senior Government servants are working under it. The Capital Development Authority is one of the department working under the administrative control of the Ministry of Interior. The appointment of a private person as Chairman, CDA is also contrary to the practice being followed in the similar provincial development authorities as well. The Bill shall ensure appointment of a serving Government officer in BPS-20 or above as Chairman CDA, to avoid anomaly in the overall administrative matters.”  

5. Senator Farooq H. Naek referred to the preamble to the Ordinance, 1960 and pointed out that the most important function to be performed by the Authority is “Planning and Development” therefore, there is no rationale in placing /appointing only Civil Servants on the Board rather the Board Members should be amongst the architects, town planners and engineers to maintain beauty of the Federal Capital.  

6. Member Admin, CDA informed the Committee about the Order of the Islamabad High Court dated 22-09-2017 in Writ Petition No.3481/2016 and briefed that steps are being taken for implementation of said order. He further informed that amendment, if any to be made, will be required in Section 8 of the Ordinance which provides disqualifications particularly clause (f) of the said Section and not in Section 6.  

7. All Members were of the view that the Member-in-Charge may withdraw the instant Bill and bring forward legislative proposal in view of the position explained by Senator Farooq H. Naek and CDA. The Member-in-Charge endorsed the view point of the Members and accordingly acceded to withdraw the instant Bill.
8. Accordingly, the Committee recommends that the House may grant leave to Senator Abdul Rehman Malik to withdraw “The Capital Development Authority (Amendment) Bill, 2019”, in terms of rule 115 of the Rules of Procedure and Conduct of Business in the Senate, 2012. (Copy of Bill is annexed).

RABEEA ANWAR, SENATOR MUHAMMAD JAVED ABBASI,
J.S / Secretary Committee. Chairman.

Standing Committee on Law & Justice

[AS INTRODUCED IN THE SENATE]

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further to amend the Capital Development Authority Ordinance, 1960

WHEREAS it is expedient further to amend the Capital Development Authority Ordinance, 1960 (XXIII of 1960) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Capital Development Authority (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of Section 6, Ordinance No. XXIII of 1960.—In the Capital Development Authority Ordinance, 1960 (Ordinance No. XXIII of 1960), in section 6, for sub-section (1), the following shall be substituted, namely:—

“(1) The Board shall consist of not less than three Members, who shall be the serving Government Officers in BPS-20 or above, to be appointed by the Federal Government.”

STATEMENT OF OBJECTS AND REASONS

The Capital Development Authority Ordinance, 1960, does not specify the qualification for the Members of the Board of Directors (BoD) from whom
one of the Members, shall be considered for appointment as Chairman, CDA. The existing procedure does not bar appointment of a private person as Chairman CDA. This practice is creating anomaly in the administration of the Authority as a number of senior Government servants are working under him. The Capital Development Authority is one of the Department working under the administrative control of the Ministry of Interior. The appointment of a private person as Chairman, CDA is also contrary to the practice being followed in the similar provincial development Authorities as well. The Bill shall ensure appointment of a serving Government officer in BPS-20 or above as Chairman CDA, to avoid anomaly in the overall administrative matters.

This Bill Seeks to achieve the above objectives.

SENATOR ABDUL REHMAN MALIK,
Member-in-Charge.

MUHAMMAD ANWAR,
Secretary.