

REPORT

Pakistan has had a chequered constitutional history. It took the country nine years after independence to frame the first Constitution. This was one of the longest periods taken for this purpose by any country. In 1954 the Assembly was dissolved by the Governor General without any constitutional mandate leading to instability in the political system. The Constitutions of 1956 and 1962 were abrogated. The Constitution of 1962 violated the democratic principle of one-man one-vote as well as adult franchise and finally, being a centralized federation with a unicameral legislature, it was a flawed Federal structure. The result was the tragic event of the separation of East Pakistan.

2. The 1973 Constitution was enacted in this back-drop of loss of a part of the country and consequent disillusionment and frustration. The nation salutes Shaheed Zulfikar Ali Bhutto and all other political leaders and personalities both inside and outside parliament whose struggle contributed to the framing of the 1973 Constitution. This document, despite two military interventions, has stood the test of time and could not be abrogated. The essential features of 1973 Constitution are that it would be based on Islamic principles and be a Federal Parliamentary system with Provincial Autonomy in which fundamental rights and the independence of the Judiciary would be ensured.

3. Unfortunately the Constitution of 1973 was not implemented in letter and spirit and the democratic system got derailed at different times. The non-democratic regimes that took power sought to centralize all

authority and introduce various provisions which altered the basic structure of the Constitution from a parliamentary form to a quasi Presidential form of Government through the 8th and 17th constitutional Amendments. Thus, the equilibrium established by the Constitution of 1973 was disturbed which weakened the democratic institutions and *inter alia* deprived the Provinces of their legitimate constitutional rights in governance and in utilization of their natural resources. It also resulted in the absence of rule of law, lack of confidence in the judicial system and distance between Provinces and Federation.

4. It was in this background that the Charter of Democracy was signed between Mohtarma Benazir Bhutto Shaheed and Mr. Muhammad Nawaz Sharif on 14th May, 2006. Subsequently an All Parties Conference was held in London and all the democratic forces continued their historic struggle for the democratic system and Provincial Autonomy. The dictators abortive attempt to retain power through extra-constitutional measures against the Judiciary was thwarted by the historic "rule of law" movement which enjoyed universal support at home and abroad. The momentum thus created led to the elections of February, 2008 and the eventual exit of Gen. (Retd) Pervez Musharraf.

5. The demands of amendments in the Constitution were raised by all political forces from time to time, in particular, it was stressed that there was a need for giving the Provinces autonomy, ensuring an independent and impartial Judiciary and equality in sharing of resources between Provinces and the Federation.

6. Therefore, with this objective in mind, the President of the Islamic Republic of Pakistan, Mr. Asif Ali Zardari, in his address to both Houses of Majlis-e-Shoora (Parliament) assembled together on 28th March, 2009, asked the Speaker, National Assembly of Pakistan, to constitute a Committee of both the Houses of Parliament, with representatives of all political parties and independent groups in both the Houses, for the purpose of proposing amendments in the Constitution in the light of Charter of Democracy (CoD).

7. Thereafter, the President wrote a letter to the Prime Minister on 9th April, 2009 calling upon the Government to take appropriate steps in this regard.

8. As a consequence, the National Assembly in its sitting held on 10th April, 2009, passed a Motion for constituting an All Parties Special Committee to recommend amendments in the Constitution in the light of the Charter of Democracy. The Motion also authorized the Speaker, National Assembly, to consult leaders of all Parliamentary Parties in this process and to provide guidelines to the Committee.

9. Similarly, the Senate of Pakistan in its sitting held on 29th April, 2009, passed a Motion authorizing the Chairman Senate to consult leaders of all Political Parties in the Senate to make nominations of such members to the said Committee being constituted by the Speaker, National Assembly.

10. In pursuance of the Motions adopted by the National Assembly on 10th April, 2009 and the Senate on 29th April, 2009, the Speaker, National Assembly, constituted the Special Committee of Parliament in consultation with the Parliamentary Leaders consisting of the following Members:

S.N.	MEMBER	Party	S.N.	MEMBER	Party
1	Senator Mian Raza Rabbani	PPPP	14	Senator Mr. Afrasiab Khattak	ANP
2	Raja Pervez Ashraf, MNA Minister for Water and Power	PPPP	15	Senator Haji Muhammad Adeel	ANP
3	Syed Naveed Qamar, MNA Minister for Petroleum & Natural Resources	PPPP	16	Maulana Fazal-ur-Rehman, MNA	JUI(F)
4	Senator Dr. Zaheeruddin Babar Awan Minister for Law, Justice and Parliamentary Affairs	PPPP	17	Senator Mr. Rehmatullah Kakar Minister for Housing & Works	JUI(F)
5	Senator Nawabzada Mir Haji Lashkari Raisani	PPPP	18	Senator Justice (Retd) Abdul Razzaq A. Thahim, Minister for Local Government & Rural Development	PML(F)
6	Senator Mr. Muhammad Ishaq Dar	PML(N)	19	Senator Mir Israr Ullah Khan Zehri, Minister for Postal Services	BNP(A)
7	Sardar Mehtab Ahmed Khan, MNA	PML(N)	20	Senator Prof. Khurshid Ahmed	JIP
8	Ch. Ahsan Iqbal, MNA	PML(N)	21	Senator Dr. Abdul Malik	NP
9	Senator Mr. Wasim Sajjad Leader of the Opposition	PML(Q)	22	Mr. Aftab Ahmed Khan Sherpao, MNA	PPP(S)
10	Senator Mr. S.M. Zafar	PML(Q)	23	Mr. Ghulam Murtaza Jatoi, MNA	NPP
11	Mr. Hamayun Saifullah Khan, MNA	PML(Q)	24	Senator Mr. Abdul Rahim Khan Mandokhel	PKMAP
12	Dr. Muhammad Farooq Sattar, MNA Minister for Overseas Pakistanis	MQM	25	Senator Mr. Shahid Hassan Bugti	JWP
13	Syed Haider Abbas Rizvi, MNA	MQM	26	Mr. Munir Khan Orakzai, MNA	IND

The Circular for the constitution of the Committee dated 23rd June, 2009 is attached at "Annexure-A".

From time to time, when permanent Members could not attend, the following Members of the Senate and the National Assembly assisted the Committee:

Senator Mr. Zahid Khan (ANP); Ms. Bushra Gohar, MNA (ANP); Dr. Nadeem Ehsan, MNA (MQM); Mr. Iqbal Mohammad Ali Khan, MNA (MQM); Senator Ms. Kalsoom Perveen (BNP-Awami); Senator Prof. Ibrahim Khan (JIP); Ms Anusha Rehman Khan, MNA (PML-N) and in particular Mr. Zahid Hamid, MNA (PML-N).

11. The Committee held its first meeting on 25th June, 2009 wherein it took the following amongst other decisions, namely;

- (1) Unanimously elected Senator Mian Raza Rabbani as its Chairman.
- (2) Renamed itself as the Parliamentary Committee on Constitutional Reforms, and proceeded to frame its Rules of Procedure.
- (3) The Committee finalized its Rules of Procedure on 29th June, 2009 which are attached at "Annexure-B".

12. In the light of the Motions passed by the National Assembly and the Senate of Pakistan, the Committee formed its Terms of Reference as under:

"The Committee shall propose amendments to the Constitution keeping in view the 17th Amendment, Charter of Democracy (CoD) and provincial autonomy, in order to meet the democratic and islamic aspirations of the people of Pakistan."

13. The Committee in its meeting dated 29th June, 2009, decided to invite suggestions/proposals and amendments from the public at large through the press with a cut-off date of 1st of August, 2009, which was subsequently extended by the Committee to 10th August, 2009. The Committee received a total number of 982 recommendations/proposals and amendments through this process.

14. The Committee in its meeting dated 28th July, 2009, asked its members, who represented various political parties to submit their proposals for amendments to the Constitution by 10th August, 2009.

15. During the course of the meetings certain Private Member's Bills pertaining to amendments in the Constitution, introduced in the Senate of Pakistan, were also referred to the Committee by the House. The total number of such amendments was 91.

16. During the various meetings of the Committee certain important issues related to and pertaining with, the Terms of Reference of the Committee came up for discussion. It was agreed that in these matters constitutional amendments were not required, but that they needed either amendments in the law or were policy issues, therefore, the Committee decided to make Recommendations to the Federal Government. A total number of 11 Recommendations have been made by the Committee which are attached at "Annexure-C".

17. That while examining the various constitutional amendments moved by the Members and received through other sources, the Committee endeavored to find a consensus within its Members. The decisions of the Committee have been taken by consensus, however, in certain cases where a particular Party or Parties were not in a position to resile from their stated positions, but in order to develop a consensus agreed not to oppose the Committee's decision, it was decided that in such a case the Party or Parties would reiterate their stated position without prejudice to the Committee decision, through a note to be called, "a Note of Reiteration" a total number of 11 Notes of Reiteration from various parties, were submitted which are attached at "Annexure-D".

18. The Committee in addition to its Terms of Reference, while examining the various provisions of the Constitution, 1973, kept in view the following amongst other criteria:-

- (1) Transparency in system.
- (2) Minimizing individual discretion.
- (3) Strengthening Parliament and Provincial Assemblies.
- (4) Provincial Autonomy.
- (5) Independence of the Judiciary.
- (6) Further strengthening fundamental rights.
- (7) The question of merit.
- (8) Good governance.
- (9) Strengthening of Institutions.

19. The Committee has proposed to declare the LFO and its subsequent amendments as being without lawful authority and of no legal effect, the 17th Amendment has been repealed, while certain provision pertaining to the increase in the number of seats of Parliament and the Provincial Assemblies, reserved seats for minorities and women, lowering of the voters age and joint electorate.

20. The Committee has also proposed amendments in various Articles of the Constitution dealing with Federal-Provincial relations. The intent of these amendments is to further strengthen the concept of federalism as enunciated in the Constitutional Accord of 1973 which subsequently finds expression as one of the basic principles of the 1973 Constitution along with provincial autonomy.

21. On the questions of Federalism and Provincial Autonomy, the Committee has built on the basic idea of the 1973 Constitution, in terms of Article 153 i.e. the Council of Common Interests, in order to promote joint supervision of Federal resources and collective dispute management, while providing a collective leadership to further strengthen the Federation.

22. The Committee held a total number of 77 meetings, with each meeting at an average lasting 5 hours, thus the Committee has spent about 385 hours during its deliberations. In the light of the above, the Committee has proposed amendments to 97 Articles in the Constitution of the Islamic Republic of Pakistan, such amendments are contained in the proposed, Constitutional (Eighteenth Amendment) Bill, 2010, which is at "Annexure-E".

23. That the Committee expresses its special gratitude and acknowledges the work done by Mr. Karamat Hussain Niazi, Secretary, National Assembly, Raja Muhammad Amin, Secretary, Senate, Ms. Najma Siddiqi, Joint Secretary, National Assembly who meticulously maintained the minutes of the meetings, Mr. Mehboob Ali, Joint Secretary, Senate who compiled the proposals/recommendations/amendments received from civil society and all the other staff members who were associated or affiliated with the Committee during this period.

24. The Committee also expresses its gratitude to Malik Hakam Khan, Senior Legislative Adviser/Draftsman, Ministry of Law, Justice and Parliamentary Affairs, Government of Pakistan for his efforts in drafting the proposed amendments and also to Senator Mr. S.M. Zafar, Senator Mr. Wasim Sajjad and Mr. Zahid Hamid, MNA.

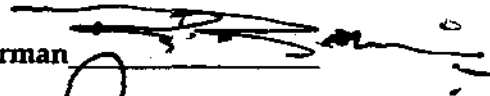
25. The Committee also expresses gratitude to the media in general for being understanding and accommodative, in particular to all those journalists belonging to the electronic and print media who waited for hours outside the Committee Room in order to provide accurate coverage.

26. The Committee decided in its meeting on 18th August, 2009 that all its proceedings will be in-camera and that no press release of its functioning shall be issued unless specifically allowed by the Committee. The intent and purpose of this decision was to provide the Committee members an open, free and frank atmosphere to discuss issues pertaining to the Constitution, on which public debate has already taken place, so as to provide its Members an opportunity to take decisions based on their expertise and rising above party considerations.

27. As this Report will become a part of history, therefore, in my capacity as Chairman of this Committee, it is my responsibility and duty to bring on record the individual contribution of each member of this Committee. Without their farsightedness, political maturity, sagacity and rising above party affiliation, while keeping the greater national interest in view, the unanimity in decision making could not have been achieved, and thus the Constitution (18th Amendment) Bill, 2010 which is a unanimous proposal would have eluded Parliament and the Nation.

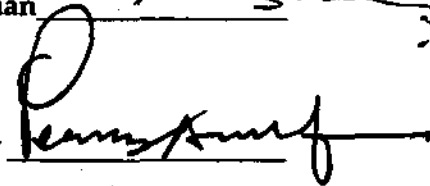
1. Senator Mian Raza Rabbani, (PPPP)

Chairman



2. Raja Pervez Ashraf, MNA (PPPP)
Minister for Water & Power

Member



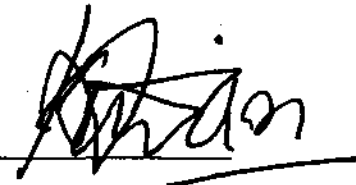
3. Syed Naveed Qamar, MNA (PPPP)
Minister for Petroleum and NR

Member



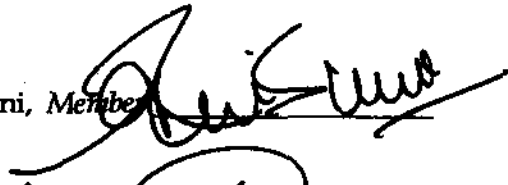
4. Senator Dr. Zaheer-ud-Din Babar Awan, (PPPP)
Minister for Law, Justice and Parliamentary Affairs

Member



5. Senator Nawabzada Mir Haji Lashkari Raisani, (PPPP)

Member



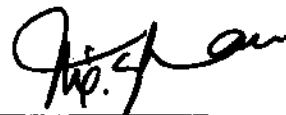
6. Senator Mr. Muhammad Ishaq Dar, (PML-N)

Member



7. Sardar Mehtab Ahmed Khan, MNA (PML-N)

Member



8. Senator Mr. Wasim Sajjad, (PML-Q)
Leader of Opposition in the Senate Member Wasim Sajjad
9. Senator Mr. S. M. Zafar, (PML-Q) Member S. M. Zafar
31/3/2010
10. Mr. Humayun Saifullah Khan, MNA (PML-Q) Member H. S. Khan
31/3/2010
11. Dr. Muhammad Farooq Sattar, MNA (MQM)
Minister for Overseas Pakistanis Member Dr. Farooq Sattar
31/3/2010
12. Syed Haider Abbas Rizvi, MNA (MQM) Member Syed Haider Abbas Rizvi
13. Senator Afrasiab Khattak, (ANP) Member Afrasiab Khattak
14. Senator Haji Muhammad Adeel, (ANP) Member Haji Muhammad Adeel
15. Maulana Fazal-ur-Rehman, MNA (JUI-F) Member Maulana Fazal-ur-Rehman
16. Senator Mr. Rehmatullah Kakar, (JUI-F)
Minister for Housing & Works Member Rehmatullah Kakar
17. Senator Justice (R) Abdul Razzaq A. Thahim
(PML-F) Member Justice (R) Abdul Razzaq A. Thahim
Minister for Local Government & Rural Development
18. Senator Mir Israr Ullah Zehri, (BNP-A)
Minister for Postal Services Member Mir Israr Ullah Zehri

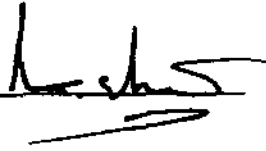
19. Ch. Ahsan Iqbal, MNA (PML-N)

Member



20. Senator Prof. Khurshid Ahmed, (JIP)

Member



21. Mr. Ghulam Murtaza Jatoi, MNA (NPP)

Member



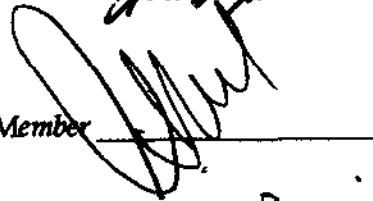
22. Senator Dr. Abdul Malik, (NP)

Member



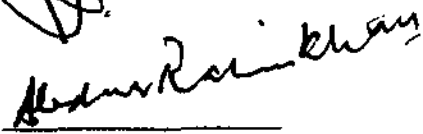
23. Mr. Aftab Ahmed Khan Sherpao, MNA (PPP-S)

Member



24. Senator Mr. Abdul Rahim Khan Mandokhel
(PKMAP)

Member



25. Senator Mr. Shahid Hassan Bugti, (JWP)

Member



26. Mr. Munir Khan Orakzai, MNA (IND)

Member



From Secretariats

1. Raja Muhammad Amin, Secretary Senate



2. Mr. Karamat Hussain Niazi
Secretary, National Assembly.



Dated: Islamabad the 31st March, 2010

(Senator Mian Raza Rabbani)
Chairman

31/3/10

NATIONAL ASSEMBLY SECRETARIAT

No.F.25 (2)/2009-Com-I

Islamabad, the 23rd June, 2009

CIRCULAR

Subject **SPECIAL COMMITTEE OF THE PARLIAMENT ON CONSTITUTIONAL REFORMS.**

In pursuance of the motions adopted by the National Assembly on 10th April, 2009 and the Senate on 29th April, 2009, the Honourable Madam Speaker has been pleased to constitute a Special Committee of the Parliament in consultation with the Parliamentary Leaders comprising the following members:-

1.	Senator Mian Raza Rabbani	Member
2.	Raja Pervez Ashraf, MNA Minister for Water & Power	Member
3.	Syed Naveed Qamar, MNA Minister for Privatization	Member
4.	Senator Dr. Zaheer-ud-din-Babar Awan Minister for Parliamentary Affairs	Member
5.	Nawabzada Mir Haji Lashkari Raisani, Senator	Member
6.	Ch. Nisar Ali Khan, MNA Leader of the Opposition in the National Assembly	Member
7.	Mr. Muhammad Ishaq Dar, Senator	Member
8.	Sardar Mehtab Ahmed Khan, MNA	Member
9.	Ch. Ahsan Iqbal, MNA	Member
10.	Senator Mr. Wasim Sajjad Leader of Opposition in the Senate	Member
11.	Senator Mr. S.M. Zafar	Member
12.	Mr. Humayun Saifullah Khan, MNA	Member
13.	Dr. Muhammad Farooq Sattar, MNA Minister for Overseas Pakistanis	Member
14.	Syed Haider Abbas Rizvi, MNA	Member
15.	Mr. Asfand Yar Wali, MNA	Member
16.	Senator Haji Muhammad Adeel	Member
17.	Maulana Fazal-ur-Rehman, MNA	Member
18.	Senator Mr. Rehmatullah Kakar Minister for Housing & Works	Member
19.	Senator Justice (Retd) Abdul Razzaq A. Thahm Minister for Local Government & Rural Development	Member
20.	Senator Mir Israr Ullah Zehri Minister for Postal Services	Member
21.	Senator Prof. Khurshid Ahmed	Member
22.	Senator Dr. Abdul Malik	Member
23.	Mr. Aftab Ahmed Khan Sherpao, MNA	Member
24.	Mr. Ghulam Murtaza Jatui, MNA	Member
25.	Senator Mr. Abdul Rahim Khan Mandokhel	Member
26.	Senator Mr. Shahid Hassan Bugti	Member
27.	Mr. Munir Khan Orakzai, MNA	Member

2. The Committee shall elect its Chairman at its first meeting.
3. The Committee may invite any Minister/person whenever their presence is considered necessary.
4. The Speaker, in consultation with irrespective Parliamentary Leader, may change the membership of that party.
5. The Parliament (Joint Sittings) Rules, 1973 shall apply to the proceedings of the Committee.

Sd/-
(Karamat Hussain Niazi)
Secretary

Copy forwarded to:

1. All Members of the Special Committee.
2. Secretary General to the President, Islamabad.
3. Principle Secretary to the Prime Minister, Islamabad.
4. All Governors/Chief Ministers.
5. Federal Ministers/Advisors, Government of Pakistan.
6. Attorney General of Pakistan, Islamabad.
7. Auditor General of Pakistan, Islamabad.
8. Accountant General of Pakistan, Islamabad.
9. Secretary, Senate Secretariat, Islamabad.
10. Secretaries, all Ministries/Divisions, Government of Pakistan.
11. Secretary to Speaker National Assembly of Pakistan, Islamabad.
12. PS to Deputy Speaker National Assembly of Pakistan, Islamabad.
13. PS to Chief Whip, National Assembly of Pakistan, Islamabad.

Sd/-
(QUDSIA QAZI)
Joint Secretary (Committees)

**RULES OF PROCEDURE FOR THE PARLIAMENTARY
COMMITTEE ON CONSTITUTIONAL REFORMS**

PRELIMINARY

1. **Short title and commencement.**- (1) These rules may be called the Rules of Procedure for the Parliamentary Committee on Constitutional Reforms.

(2) They shall come into force at once.

2. **Definitions.**- (1) In these rules, unless there is anything repugnant in the subject or context.

“Assembly” means the National Assembly of Pakistan

“Chairman” means Chairman elected under these rules or any person who is presiding at that sitting of the Committee;

“Committee” means the Parliamentary Committee on Constitutional Reforms constituted under the Motions adopted by National Assembly on 10th April 2009 and Senate on 29th April, 2009.

“Constitution” means the Constitution of the Islamic Republic of Pakistan.

“Gazette” means the Gazette of Pakistan;

“Member” means a member of the Committee;

“Secretary” means the Secretary of the Senate or the National Assembly and includes any person for the time being performing the duties of the Secretary to the Committee.

“Senate” means the Senate of Pakistan;

“Sitting” means a meeting of the Committee;

“Speaker” means the Speaker of the Assembly; and

“Sub-Committee” means a Sub-Committee constituted by the Committee for such purpose (s) as it may deem fit.

(2) The words and expressions used but not defined in these rules shall, unless the context otherwise requires, have the meaning assigned to them in the Rules of Procedure and Conduct of Business in the National Assembly, 2007.

3. **Composition of the Committee.-** (1) The Committee shall consist of such members as have been notified in the National Assembly Secretariat Circular No. F.25(2)/2009-Com-I dated 23rd June, 2009.

(2) The Speaker in consultation with the Parliamentary Leader of Parliamentary Party may replace the member (s) of that party and duly notify the change.

4. **Functions of the Committee.-** The Committee shall propose amendments to the Constitution keeping in view of the 17th Amendment, Charter of Democracy and Provincial Autonomy, in order to meet the democratic and Islamic aspirations of the people of Pakistan.

5. **Powers of the Committee.-** (1) The Committee shall have powers to summon or invite any Minister, Official or any other person to carry out functions of the Committee and call for any Government record including classified record, information and assistance from any Government or Agency in that regard.

(2) The Committee may constitute sub-committee (s) in furtherance of its objectives and in doing so, may define its functions and delegate such powers as it may deem fit.

GENERAL PROVISIONS

6. **Chairman of the Committee.-** (1) The Chairman of the Committee shall be elected by the Committee from amongst its members and the Secretary shall cause the notification to be published in the Gazette;

(2) If the Chairman is not present at any sitting, the Committee shall choose one of its members present to act as Chairman for that sitting.

7. **Quorum of a meeting.-** The quorum to constitute a sitting of the Committee shall be fourteen members.

8. **Sittings of Committee.-** (1) The Committee shall sit at such place, on such day and at such hour as the Chairman may, in consultation with the Committee fix.

(2) The Committee shall meet at least once in a month.

(3) The sittings of the Committee shall be held in camera unless otherwise decided by the Committee.

(4) The Secretary shall maintain the minutes of the meetings of the Committee.

9. **Adjournment of a sitting of the Committee.-** (1) If, at the time fixed for any sitting of the Committee, the number of members present is less than the quorum and if pointed out by a member, the Chairman of the Committee shall either suspend the sitting for a time not exceeding one hour or adjourn the sitting.

(2) After the suspension of sitting for an hour if the quorum is not complete, the meeting shall be adjourned.

10. **Decision in the Committee.-** (1) All questions at a sitting of the Committee shall be decided with consensus.

(2) In case the consensus is not possible the question shall be decided by a two-third majority of the total membership of the Committee.

11. **Information to be kept secret.-** Any information tendered before the Committee shall be treated as secret, unless the Committee, in the public interest decides otherwise.

12. **Restriction on publication etc. of proceedings.-** The proceedings of the Committee shall be treated as confidential and shall not be open to inspection except with the permission of the Committee.

13. Agenda and notices of meetings of Committee.- The time table of business of the Committee and the agenda for each meeting of the Committee shall be determined by the Chairman in consultation with the Members.

14. Procedure of the Assembly to apply.- In all matters not specifically provided for in these rules, the procedure of the Assembly shall apply with such modifications and variations as the Chairman may consider necessary.

RECOMMENDATIONS TO THE GOVERNMENT

The Parliamentary Committee on Constitutional Reforms in its meetings unanimously decided to make the following Recommendations to the Government of Pakistan for consideration and implementation:

RECOMMENDATION NO. 1 DATED 06-10-2009

The Federal Government through the Ministry of Defence shall provide equal opportunities for recruitment to all Provinces, including FATA, so as to ensure uniformity in the recruitment policy of the Armed Forces.

RECOMMENDATION NO. 2 DATED 05-01-2010

Article 225: The Government may specify a period of 90 days for the Tribunal to complete the trial in the Representation of Peoples Act, 1976 and that a consequential penalty on the Parties be imposed for any delay.

RECOMMENDATION NO. 3 DATED 07-01-2010

Article 247: It proposed that the Government should take immediate steps to implement the reforms announced by the President in respect of FATA, particularly, about major changes in the FCR and providing opportunities to the National Political Parties to organize their activities in that area. The Government may also associate other parties who are stake holders in the on-going consultations regarding administration of Tribal Areas.

RECOMMENDATION NO. 4 DATED 14-01-2010

Article 9: The Government should make appropriate laws regarding “security of person”.

RECOMMENDATION NO. 5 DATED 15-01-2010

Article 192: The Appointing Authority should bear in mind that the appointment of Judges to the Islamabad High Court should include Judges from all the Provinces and the Islamabad Capital Territory.

RECOMMENDATION NO. 6 DATED 01-02-2010

The Government may ensure that the Federal Secretary Finance is not appointed as the Auditor General of Pakistan.

RECOMMENDATION NO. 7 DATED 24-02-2010

Concurrent Legislative List (Fourth Schedule): The Government should constitute an Implementation Commission for the devolution process and transition as a consequence of abolition of the Concurrent List.

RECOMMENDATION NO. 8 DATED 23-03-2010

Article 161(1): The Government may expeditiously provide infrastructure for the utilization of water in the Provinces, where it does not exist.

RECOMMENDATION NO. 9 DATED 23-03-2010

Item 11 of Federal Legislative List: The Committee recommends that in view of a major devolution of powers and responsibilities to the Provinces in the constitutional reforms package, it is imperative that the extent of and modalities for distribution of work between the Federal Public Service Commissions, Provincial Public Service Commissions and the respective services be reworked and the services reorganized as to ensure provincial autonomy and good governance. It is also recommended that adequate indigenization of the services should also take place as part of this reform.

RECOMMENDATION NO. 10 DATED 31-03-2010

The Committee recommended that the Islamabad High Court be conferred original civil jurisdiction in cases of the value of Rupees five million or above or such other amount as may be determined by an Act of Parliament.

RECOMMENDATION NO. 11 DATED 31-03-2010

To promote harmony, stability and goodwill between the Baloch, Pakhtun and all the communities in the Province of Baluchistan, the Committee recommended that equity be maintained in all spheres of life till the structural problems involved are resolved by mutual dialogue and consensus. It is further recommended:-

- (1) that the Federal Government will keep in mind the traditions being followed in the appointments of Constitutional offices in the Province
- (2) that the Provincial Government will strictly follow and enforce the zonal employment scheme.
- (3) that the allocation of development funds in the Province will be done in a manner wherein regional disparities and backwardness are given priority.

From: **Senator S.M. Zafar**
 302-G, Parliament Lodges,
Islamabad

Re: Concurrent List (N.R. of Reiteration)

- (1) The impression that there was any commitment by the founders of 1973 Constitution to omit concurrent list altogether on or after ten years is not borne by any historical record including Parliamentary reports - neither expressly nor otherwise.
- (2) Almost all the known and functional federations in existence since the last over 200 years have successfully and satisfactorily operated within the frame work of three lists of subject with concurrent list including substantial items of subjects.
- (3) Pakistan and India inherited similar political culture and federal regime since 1935 which *interalia* provided for concurrently held subjects.

India since 1950, having framed its Constitution has maintained three lists, with concurrent list containing 47 subjects. In fact through later Constitutional amendments subjects from Provincial lists have been transferred to concurrent list such as Forest, Trade in Commerce, particularly in the production, supply and distribution of Food stuffs, cattle fodder etc.

Likewise, Pakistan has throughout its federal history inspite of adopting three different constitutions, maintained the same pattern.

Omitting concurrent list altogether shall confront the country with innumerable problems including the over burdening of CCI, converting it into a Government within the Government; besides, conflict of interest between the Provinces on matters such as pollution and drugs etc.

- (4) Due to our chequered and unfortunate Constitutional history democracy did not get a chance to mature and it is too early to take a *quantum jump*. And to depend upon the good will of four Provinces to work out between themselves and the Federation some sort of convention is a noble thought but seems to be a piquis wish on which the federation cannot be risked.

- (5) Not providing the linkage (between the Federation and the Provinces) in respect to the following subjects would require *allocating* them to the federal list:-
- (i) Criminal Law (Item No.1 in the Concurrent List)
 - (ii) Bankruptcy and trusts (No.7 and No.10)
 - (iii) Arbitration (No.8)
 - (iv) Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in the Federal Legislative List (No.12)
 - (v) Removal of persons and accused persons from one Province to another Province (No.13)
 - (vi) Persons subject to preventive detention under Federal authority (No.15)
 - (vii) Measures to combat certain offences committed in connection with matters concerning the Federal and Provincial Governments and the establishment of a police force for that purpose (No.16)
 - (viii) Prevention of the extension from one Province to another of infectious or contagious diseases or pests affecting men, animals or plants (No.22)
 - (ix) Environmental pollution and ecology (No.24)
 - (x) Population Planning and Social Welfare (No.25)
 - (xi) Boilers (particularly in relation to heavy industries including nuclear installation) (No.29)
- (6) It will be in national interest, consistent with our need for *evolution* of Federalism to retain essential items in Concurrent List and to continue with mechanism envisaged by Articles 142, 143 and 144 of the Constitution, as in future like what happened in case of other federations, concurrent list may be needed, or, and subjects may have to be shifted to the concurrent list from the federal list.

I therefore strongly feel that though some subjects can be transferred and *should* be transferred from Concurrent List to the Provincial List yet complete omission of the former will be inappropriate, impolitical and risky; and violative of one of the basic structures on which the 1973 Constitution was founded.


(S. M. Zafar)

Parliamentary Committee on Constitutional Reforms



Leader of the Opposition

SENATE OF PAKISTAN

Parliament House
Islamabad

No.LOP/Sen/31-10

31.03.2010

Subject: **NOTE OF REITERATION.**

Dear Mr. Chairman,

In the meeting held today i.e. 31.03.2010, the Parliamentary Committee on Constitutional Reforms (PCCR) was informed that PML (N) and ANP had come to an understanding for the renaming of the province of N.W.F.P. The name agreed upon is Khyber-Pakhtoonkhwa.

PML (Q) has not been involved in the discussions between the two parties. It has been our consistent stand that any change of name should reflect the aspirations of all segments of society in the N.W.F.P. The name suggested does not come up to the aspirations of the people of N.W.F.P. and is therefore, not acceptable to PML (Q).

It is our proposal that the province be named as The Province of SARHAD. This is for record.

With regards,

Yours Sincerely,

(Wasim Sajjad)

Mian Raza Rabbani,
Chairman,
Parliamentary Committee on Constitutional Reforms,
Parliament House,
Islamabad.

(HUMAYUN SAIFULLAH
Khan)

31.03.2010

Subject: NOTE OF REITERATION.

Dear Mr. Chairman,

Article 239,-

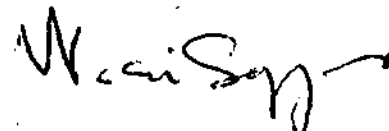
The procedure in the Constitution for creation of a new province is cumbersome. The procedure should be much simpler which may allow the parliament to change the boundaries of a province and the name in the more simpler and expeditious manner. I had suggested this as in future the redistribution of provinces into more provinces would be in the interest of Pakistan and the Federation but it was not agreed upon. ^{For} ~~the~~ purpose of record, I would like to place this note of reiteration on record.

With regards,

Yours Sincerely,


(S.M. Zafar)

Mian Raza Rabbani,
Chairman,
Parliamentary Committee on Constitutional Reforms,
Parliament House,
Islamabad.


HAZ
Humayun Saifullah
Member

Awami National Party

Notes of Reiteration on the Constitutional Reform Package

Articles 246 & 247: Re: Tribal Areas and Administration of Tribal Areas

The Awami National Party in its written proposals to the Committee on Constitutional Amendments had recommended that articles 246 and 247 regarding Federally Administered Tribal Areas and Provincially Administered Tribal Areas be omitted so that the afore mentioned Tribal areas could be integrated into the mainstream and opened to legislation by the Parliament and governed under regular laws of the land.

The Party wants to reiterate its position and will continue struggling for it until this goal is achieved.

Articles 28: Preservation of languages, script and culture

The Party had proposed that in Article 28 "Subject to Article 251" should be deleted and would like to reiterate this position.

Articles 251: National Languages

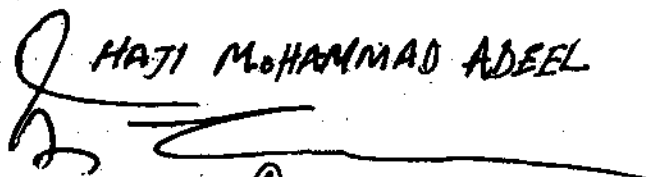
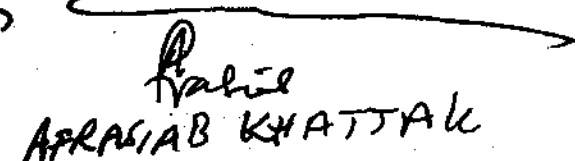
Similarly in Article 251 in clause 1 the Party reiterates its recommendation that the article should be amended as follows and will continue to take the matter up till it achieves this objective:

"As lingua franca Urdu is the National language, and arrangements shall be made for its being used for official and other purposes while similar measures will simultaneously be taken for other National languages spoken in the country with in 15 years from the commencing day"

Article 73: Procedures with respect to Money Bill

The Party strongly upholds that the basis of any federation is participation of the federating units in policy formation especially in Money Bills. The elite of the most populous unit has dominated the federation right from its inception. This strangle hold must now be loosened by amending the procedures with respect to Money Bill so that all Money Bills including foreign assistance, raising of debt and monetary expansion are subject to mandatory approval of the senate in the way that the interest of all the Federating Units are protected.

Therefore, the Party reiterates its position on the recommendations it has given vis-à-vis Article 73.


 HAJI MOHAMMAD ADEEL

 AFRASIAB KHATTAK

Awami National Party

Notes of Reiteration on the Constitutional Reform Package

Article 1: The Republic and its Territories

Additionally, the Party endorses all three options given by the Pakhtoonkhwa Milli Awami Party in its proposed constitutional amendments and a subsequent detailed position paper to ensure protection of equal rights of the Pakhtun's in Baluchistan to social, political and economic development.

Article 2 A: The Objectives Resolution to form part of substantive provisions

The Party had in its recommendations proposed that Article 2 A be deleted as its insertion by a Military dictator has damaged the spirit and intent of the 1973 Constitution. The Party reiterates its stated position and would continue to struggle for reverting the 1973 Constitution to its original form.

Articles 62 & 63: Qualification and Disqualification of Membership to Majlis e Shoora (Parliament)

The Party had in its recommendations proposed the following amendments in the said articles and reiterates its stated position:

Article 62, shall be amended as follows:-

Sub clause (b) change age of eligibility for National Assembly to 30 years.

Sub clause (b) (i) shall read "any part of Pakistan, for election to a general or a special seat."

Sub Clause (b) (ii) shall be omitted

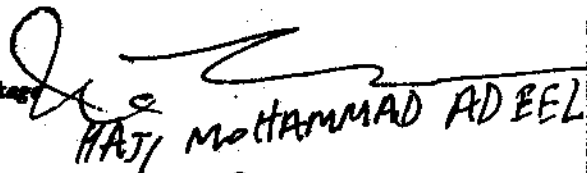
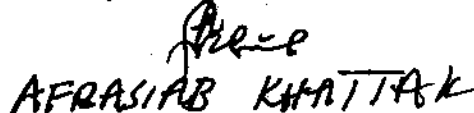
Sub Clause (c) raise age of eligibility from minimum 30 years to minimum 40 years for Senate.

Sub Clause (g) shall be amended as follows, "he has not been convicted for a crime involving moral turpitude." Delete the rest.

Sub Clauses (d), (e), (f), (h) shall be omitted.

Article 63, shall be amended as follows:-

Sub clause (c) should read "He ceases to be a citizen of Pakistan." Remove the rest.


HAJI MOHAMMAD ADEEL

AFRASIAB KHATTAK

Awami National Party

Notes of Reiteration on the Constitutional Reform Package

Sub-Clauses (g), (l), (m), (p), (s) shall be omitted.

Amend sub clause (q) by replacing amounts Rs. 2 million with Rs. 10 million and 1 year with 2 years.

Amend sub clause (r) to read as follows:- " he or his spouse or any of his dependents has defaulted in payment of government dues."

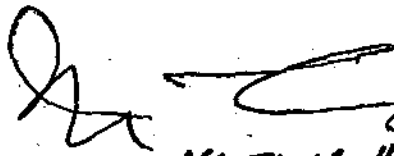
Article 41: The President


The Party had in its recommendations proposed the following amendments in the said articles and reiterates its stated position and pledges to continue its struggle to ensure equality of rights for citizens:

Clause (1) shall be substituted with the words, namely:-

"There shall be a President of Pakistan who shall be elected on rotational basis from all Federating Units of the country beginning from the numerically smaller Federating Units. He shall be the Head of State and shall represent the unity of the Federation".

Clause (2), remove the word "Muslim"


HATI MOHAMMAD ADEEL


AFRASIAB KHATTAK

Note by
Justice (R) Abdul Razak A. Thahim of PML (Functional)

While reviewing of the Constitution in the earlier meetings I suggested that Article 182 of the Constitution be deleted. The views of the Honourable were taken but matter was differed by Chairman. Now it has been observed in draft of 18th Amendment of the Constitution placed before the Committee this matter has not been taken care and once again on 20-03-2010 I again reminded the Chairman to consider this matter which has already been discussed.

The Provision under Article 182 is with regard to appointment of ad-hoc Judges in Supreme Court, if at any time when it is not possible for want of quorum of Judges of Supreme Court or any other reason necessary to increase temporarily number of judges of the Supreme Court. The Adhoc Judge to be appointed who retired as judge of Supreme Court.

197. At any time when –

- (a) the office of a Judge of a High Court is vacant, or
- (b) a Judge of High Court is absent or is unable to perform the functions of
- (c) for any reason it is necessary to increase the number of judges of High Court, the President may, in the manner provided in clause (1) of Article 193, appoint a person qualified for appointment as a Judge of the High Court to be additional judge of the court for such period as the President may determine, being a period not exceeding such period, if any, as may be prescribed by law.

In that case no provision to appoint retired judge of High Court as Additional Judge. No Additional Judge in High Court could be appointed who is not qualified.

20/3/2010

Let me refer to Article 181 of the Constitution which reads as under:-

181. (1) At any time when –

- (a) **the office of a Judge of the Supreme Court is vacant; or**
- (b) **a Judge of the Supreme Court is absent or is unable to perform the functions of his office due to any other cause.**

The President may, in the manner provided in clause (1) of Article 177, appoint a Judge of a High Court who is qualified for appointment as a Judge of the Supreme Court to act temporarily as a Judge of the Supreme Court.

Taking into consideration of both provisions of Article 181 and 182 that in case of shortage of Judges in the Supreme Court the Article 182 is invoked to appoint retired Judges of Supreme Court as ad-hoc Judges to be appointed. The same purpose could be served under Article 181 which also states that if Judge of Supreme Court is absent and to unable to perform his office due to any other cause the President may appoint sitting Judge of High Court qualified for appointment of Judge in the Supreme Court to act temporarily as a Judge of the Supreme Court.

In this case this purpose of shortage of the Supreme Court judges for want of the quorum will be served under Article 181 of the Constitution therefore Article 182 is redundant.

This matter was examined by the Supreme Court in Al-Jihad Trust Case in detail and in case of short order it is decided as under:-

Para IV

That no adhoc judge can be appointed in Supreme Court while permanent vacancy exists.

It was further decided in short order that

In concluding part it has been decided

“(d) That ad-hoc Judges working at present in the Supreme Court either be confirmed against permanent vacancies in terms of Article 177 of the Constitution within the sanctioned strength or they should be sent back to their respective High Courts in view of above conclusion of the court.”

In this case the ad-hoc Judges can not be appointed.

The Supreme Court immediately on announcement of judgment dated 20th March, 1996 took immediate action with regard to the 06 ad-hoc Judges out of which 02 Judges Mr. Justice Munir Ahmed Khan and Justice Mir Hazar Khan Khoso of the Supreme Court were not allowed to perform judicial duties:-

“Whereby other Ad-hoc judges of the Supreme Court were asked by the Chief Justice not to perform their judicial duties till further order.

Out of the six Ad-hoc Judges, two judges Justice Munir Ahmed Khan and Justice Mr. Hazar Khan Khoso remained present in the premises of the Supreme Court but did not perform their judicial duties. The remaining four ad-hocjudges, Justice Shaikh Riaz Justice Bashir Jehangiri, Justice Mamoon Kazi and Justice Afrasiab did not turn up in the Supreme Court and some were sent to their respective High Courts and same were confirmed against permanent vacancies.”

*A.
27/3/21*

It may be further noted Article 179 of the Constitution whereby the Judges of Supreme Court hold office until he attains the age of 65 year or unless re resign from the office.

In that case the appointment of retired Supreme Court Judge after 65 years impliedly is re-employment which is not approved by Supreme Court in the Judges Case of Al-Jihad Trust. The Supreme Court in case of necessity do so with many options.

- (a) The sitting judges of High Court qualified to be judges Supreme Court as mentioned in Article 181 of the Constitution be taken rather reappointed retired Supreme Court Judge in Supreme Court.
- (b) The matter has already been settled in Judges case Al-Jihad Trust that no Ad-hoc Judges to be appointed. This judgment of Supreme Court is still hold in the field and not reviewed.
- (c) It is also in the interest of the judiciary that re-employment of Supreme Court Judges should be discouraged after retirement. If this however there is necessity the strength of judges of Supreme Court should be increased as laid down in Article 176 of the Constitution.

The President can increase the strength till passed the act of Parliament.

For the reasons stated above I once again reiterate that for future this provision under Article 182 be deleted.

Handwritten signature and date:
22/3/2010

Note by
Justice (R) Abdul Razak A. Thahim of PML (Functional)

President Pervez Musharraf on the 27th October, 2002 issued Chief Executive Order No. 24 of 2002 known as "LEGAL FRAME ORDER 2002. According to this order amendments were made in article 51, 58, 59, 62, and 63-A, 70, 71, 73, 75, 101, 106, 112, 171, 193, 195, 199, 203-C, 209, 218, 224, 243, 260, 268, and 270-A, 270-B and some articles were added to the 6th schedule Constitution. According to this LEGAL FRAME ORDER the elections were held.

Subsequently Majlas-e-Shora passed 17th amendment. It is reported in Gazette of Pakistan in December, 31st 2003, it became the act of the Parliament.

In this 17th amendment article 41, 58, 112, 152-A, 179, 195, 243, 268 and 270-AA were passed.

This entire situation has been reviewed by the Parliament Committee and it has been suggested that these articles in the Constitution which were amended be repealed.

By discussion some of the members were of the view that first of all amended articles to be repealed. Now in the draft of amendments of the 18th Constitution, some articles, which are the part of the Constitution and passed out the Majlas-e-Shora, have been repealed. Though in so many articles action already taken in reality that increase Members of National Assembly, Members of Provincial Assembly and Senate Members were have become part of the Constitution. I can not understand that the ego of the first these amendments as provided in 17th of Constitution amendments to be repealed and against same provisions to be enacted. The same articles have been introduced. This ego is against the spirit of the democracy that first identical article, which have been part of the present Constitution to be repealed and against same article to be introduced in 18th Amendments Bill 2010.

This will create so many complications and problems. The numbers of seats in Senate and Assemblies be first decreased and again introduced. There is no sense by doing this.

22/2/2010



ANNEX-D-IV

Dr. Muhammad Farooq Sattar

Federal Minister
Overseas Pakistanis

Deputy Convener, MQM
Parliamentary Group Leader of MQM
in the National Assembly of Pakistan

Ref: _____

Date: 23.03.10

Amendment in Article 27 of the Constitution.

**The first proviso in Clause (i) of Article 27 in the
Constitution be deleted.**

Syed Haider Abbas Rizvi
23-03-2010.

*Syed Haider Abbas Rizvi
NA - 253.
Deputy Parliamentary Leader
for MQM in the NA of Pakistan.*

23.03.10.

*Dr. Mohammed Farooq
Sattar. NA 249 MQM.
Parliamentary Leader for
MQM in the NA of Pak.*



Dr. Muhammad Farooq Sattar

Federal Minister
Overseas Pakistanis

Deputy Convener. MQM
Parliamentary Group Leader of MQM
in the National Assembly of Pakistan

of: _____

23/03/10

Sattar
23/03/10

Date. 23-03-10

Note of Dissent / Re-iteration.

In my capacity as Deputy Convener, Parliamentary Group Leader of Mutahida Qaumi Movement in the National Assembly of Pakistan and member of the Constitutional Reforms Committee, I request that following note of dissent/reiteration may kindly be brought on record on behalf of party representatives of MQM:-

- 1) The Mutahida Qaumi Movement is of the considered view that the salvation of Pakistan lies in a provincially autonomous system of federalism, so as to achieve the objectives stated above.
- 2) While we record our note of dissent/reiteration, in respect of all amendments which have not been made in line with the proposals which have already been submitted by us and discussed from time to time, in particular the items mentioned below, it needs to be stressed without any ambiguity that in the larger interest of the country and good governance we have agreed to the proposals finalized by the committee on constitutional proposals, which have been brought about through consensus building.
- 3) The following items are worthy of mention:-
 - a) It is correct that sales tax on services have been reserved for the provinces. but that was in fact provided within the

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scheme of the original constitution. The ethos of a federal constitution based upon a true provincial autonomy would imply creating fiscal and financial autonomy for the provinces in the true sense. This would have required the levy of sales tax on goods (Item 49 of the Federal Legislative List) to have been transferred to the provinces as was the case under the then Government of India Act 1935, so also under the present Indian Constitution. Mutahida had even gone to the extent to agreeing to contribute a fixed percentage to the federation of the revenue derivable from sales tax on goods by the province of Sindh, so as to meet major expenditures. And in this regard Mutahida was even agreeable to provide for a substantive clause in the constitution, provided parity was maintained between the provinces with regard to consumption and production for the purposes of sales tax revenue on goods. Despite Mutahida's stance on sales tax on goods, the committee has decided to leave the power to raise revenue in this regard with the federation;

- b) Article 25 of the constitution debars discrimination. Article 2-A of the constitution has made the Quran/Islamic Shariyah to be a substantive part of the constitution, which in turn prohibits discrimination, in keeping with the salutary principles of equality, the first part of Article 27 provides for distribution and allocation of state employment on merit without being influenced by any religious or cultural ethnicity. However, the proviso to the said Article 27 provides that for a particular time limit there could be discrimination in respect of state employment so as to facilitate people from backward

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classes/areas. Unfortunately, respective governments have extended the time limits provided in the proviso to Article 27 from time to time. This has given rise to the use of the said proviso to provide for the quota systems on exploitative lines, crushing the paradigms of merit and have also resulted in conflicting decisions of the Supreme Court of Pakistan. Mutahida is of the considered view that the time has come that the substantive provisions of Article 27 should no longer be dispensed with and the proviso to the said Article 27 be deleted with finality, so that all state employments are filled on merits, which is rather the need of the hour;

A new third proviso being proposed in the same article is also discriminatory and will only add another potential tool of exploitation in the hands of the executive of the country. Hence we oppose it also.

- c) Under the present dispensation excise duty on both services and goods are leviable by the federation, (Item 44 of the Federal Legislative List) ideally, like sales tax on both services as well as goods, the authority to impose excise duty both on services as well as goods should also be conferred upon the provinces, however, at least for the time being suitable amendments arrangements are required to be made so that excise duty on services are imposable by the provinces rather than the federation.
- d) Item 21 on Major Ports in Federal Legislative List.

MQM is for complete Provincial Autonomy, as prescribed by the Pakistan Resolution passed on March 23rd 1940 by the forefathers of Pakistan.

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Keeping the above view in mind MQM considers the item 21 of the Fourth Schedule, Federal Legislative List Part 1 should be devolved to the lowest level of the government.

21st Century is the century of empowerment of people. Devolution is the only solution. In the modern concepts of good governance, the developed countries have devolved almost all subjects upto the level of local governments and have opted the role of regulator rather than the role of executer or the implementer. MQM wants all the Ports devolved to the provinces initially and then onwards upto the level of local governments.

Though some headway is being made through the 18th Amendment to shift major parts from Part I of the Federal Legislative List to Part II of the Federal Legislative List, but we believe this is still very far from satisfactory from the point of view of the aspirations of our constituents and our stated position on this issue.

e) Amendment in Article 37.

The principle that a person is innocent unless proved guilty is a universally accepted norm and all civilized countries have adopted this principle as a part of its criminal jurisprudence.

Human Rights Charter of United Nations, European Charter of Human Rights and many similar charters insist for such rights being included in the laws or the Constitutions.

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Recently United Kingdom has in its Human Rights Act of 2006 have contained the same provision. We agreed to add Clause (d) to Article 37 in the chapter on STATE Policy, which was unanimously accepted.

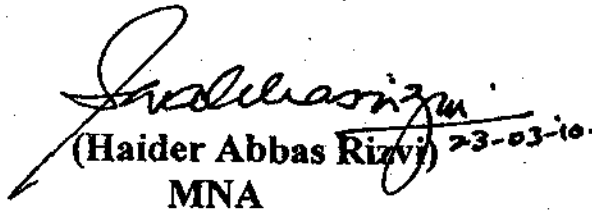
Later on the amendment was tried to be compromised through another amendment and ultimately withdrawn which shows a lack of political will on part of our Committee on this very important subject so this note of reiteration on this withdrawal.

- f) The role of overseas Pakistanis in economic growth in Pakistan is unavoidable. To involve overseas Pakistanis into our national development, it is essential to restore their confidence in our system. And to make this happen it is absolutely important to involve them in the political and democratic process in Pakistan. Thus there is a need to create a few seats for the overseas Pakistanis in the lower house of the Parliament as well as in four provincial legislatures through making amendments in Article 51 and 106.

MQM moved an amendment to this effect but the same was turned down.

MQM's faith in the potential of overseas Pakistanis in steering Pakistan towards progress and prosperity compels its representative in Constitutional Reforms Committee (CRC) to move a note of reiteration of its policy on this.

So this note of reiteration is offered to be made a part of the Parliamentary record.


(Haider Abbas Rizvi) 23-03-10

MNA


(Dr. Muhammad Farooq Sattar) 23.03.10

Member Constitutional Reforms Committee, from M.A.M.

21-3-10
PROF. KHURSHID AHMAD
Member Senate of Pakistan

Block-19, Markaz F-7, Islamabad-44000 Pakistan)
Tel: 051-9223961, 2650971-3, Fax: 051-2650704
E-mail: khurshid@ips.net.pk

NOTE OF REITERATION

Senator Prof. Khurshid Ahmad (Jamaat-i-Islami Pakistan)

I would like to place on record my profound appreciation and gratitude to all the members of this Committee and particularly its Chairman, Senator Mian Raza Rabbani for their constructive role and cooperative spirit. The recommendations of this Committee are of a historic nature and I fully endorse them. However, there are a few points where I was not able to convince my colleagues, and as such record them here in this note of reiteration:

- i. Article 25: A new clause has been added to acknowledge education as a Constitutional Right. This is a very positive addition of far-reaching consequences. However I wanted a time-limit (10 years) for the initial implementation of this right. I want to reiterate that this clause of the constitution should be implemented with fullest commitment and it must not remain a mere directive principle of state policy.
- ii. I had moved for the deletion of Article 45, or at least the addition of the following proviso:

"Provided that the President would not exercise this power in cases of punishments awarded under Hudood or Qisas"

There is a clear command of the Shariah in respect of punishments given under Hudood and Qisas, and as such no remission can be given in respect of these by any human authority.

- iii. **Article 51:** The addition of reserved seats for Non-Muslims in the Senate, in my view, is against the principles of fair representation. Members of the Senate are elected by the Provincial Assemblies on the basis of proportionate representation. There is no reason why Non-Muslims can not be elected through this process. Presently Senate has two members of the minority community. Any one can be elected on Senate's general, technocrat's or women's seats.

The constitution, as it stood on 12th October, 1999 gave representation to the minorities on the principle of separate electorate. But on the insistence of the minorities this was changed, as they wanted to be elected on the basis of the system of joint electorate. Once this principle was accepted there can not be any justification for separate representation of minorities on the basis of reserved seats. In fact, under the system of separate electorate Non-Muslims had the right to elect their own representatives. Under the reserved seat system Non-Muslims are not selecting their own representatives. This only gives extra representation to major parties in the name of minorities. Once the principle of joint electorate is adopted there can not be any justification for giving dual representation to any particular community. These seats cannot be claimed by the minorities on the basis of the "deprived group argument". They are not. They are equal citizens and must not seek a privileged position. They cannot have their cake and eat it too.

- iv. **Articles 89 and 128:** While I endorse the amendment in these articles, in principle, I am opposed to the very concept of legislation by ordinance. Executive does not enjoy this power in most of the democratic countries of the world. It is a legacy of the colonial rule and we should put an end to it.

- v. **Article 91 (Clause 4):** The Cabinet, Governors and Ministers of State should be collectively responsible to the National Assembly and the Senate. I wanted "the Senate" to be added after National Assembly and I re-affirm that in the best interests of the federal character of our state, the Prime Minister and the Cabinet must be responsible to the Senate as well.

- vi. Article 175 A. I very strongly feel that the Attorney General's inclusion in the Judicial Commission is totally uncalled for. The Law Minister is already there. Attorney General is the highest law officer of the Government. He has to appear before the Courts to represent the Government. He cannot be a neutral player as is required in a Commission like this. I, therefore, place on record my disagreement to this part of the recommendation.
- vii. Article 240. I had raised the issue of constitutional Guarantee in case of civil servants as was available in the 1956 Constitution. Its removal has made the civil service more vulnerable to political pressure. De-politicization of the civil services is a must for good governance. This calls for a total change in the attitude and mind-set of the political leadership who has been primarily responsible for politicization of the civil services. A constitutional guarantee can at least strengthen the position of those civil servants who want to honestly follow the Constitution, the law of the land and the rules of business in letter and spirit, maintaining professional integrity and political neutrality.
- viii. Article 243: I had moved that the four key appointments under this article should be non-renewable. In fact, I had proposed that all tenured appointments whether for civil authorities e.g. Chairman and Members of the Public Service Commissions, Chief Election Commissioner etc. or Chiefs of the Armed Services should not be renewable. The duration of their tenure could be revisited e.g. it may be increased to four years; but it should not be extendable. This would ensure greater integrity and transparency in these institutions.
- I hope the Parliament will consider this issue in the future.
- ix. In the revised Federal Legislative List (Part 2), I had moved that CCI should play a coordinating role to promote a uniform system of education in the country. This is important to ensure National identity and solidarity amongst all the members of the Pakistani society. For this purpose uniform national curriculum is a must. The provinces should play a role in the formulation of educational policy and curriculum, but uniformity of national education is

crucial to national solidarity. Education must remain a provincial subject, but there should be effective coordination and harmonization, in the best interests of national solidarity and quality of education, without, in any way, impairing genuine diversity.

I place this on record in the hope that the CCI may through mutual consultation and agreement take care of this important dimension.

x. I had moved that in Article 251 the following should be added:

"Strict implementation of this Article should be achieved within the next five years with yearly implementation report to the two Houses of the Parliament"

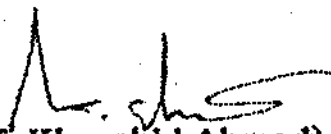
This is essential to remedy the criminal neglect shown by all the Governments in the past by not seriously and sincerely implementing the introduction of the national language as official language at all levels as laid down in this article.

ix. There are four more points that I would like to place on record, as I raised them during the discussion but we could not arrive at consensus thereon:

- a. In my view Senate should be a directly elected body. This election should take place on the basis of proportional representation. The Senate should have equal role in the election of the Prime Minister, and the Government should be responsible to both the houses of the Parliament. The Senate should also have equal role in the adoption of the finance Act and money bills.
- b. I proposed that appointments to major public corporations and federal authorities as well as appointment of non-career diplomats should be ratified by a Parliamentary Committee consisting of 08 members of the Parliament, 04 from the National Assembly and 04 from the Senate, and 04 each representing Government and the Opposition.
- c. I had also moved that all International Treaties, Agreements and Conventions should be ratified by the Parliament (both Houses) or at least by the Senate.

- d. I think appropriate amendments are needed to ensure that no person shall be given in foreign custody from Pakistani soil, citizen or visitor, in the custody of a foreign country without the permission of the High Court of the province. This should be a constitutional guarantee, over and above any provision in the extradition law.
- e. I raised the issue of oath for Advisors appointed under the Constitution as Advisors to the Prime Minister. These Advisors have access to all official secrets. They also attend the meetings of the Cabinet and can participate in the proceedings of both the Houses of the Parliament. Every member of the Cabinet and every member of the Parliament work under oath. Not these advisors. This is a major lacuna in the Constitution and must be rectified by prescribing the same oath for these Advisors as is provided in the Constitution for the Ministers.

This may be incorporated in Article 10 or at other appropriate place.



(Prof. Khurshid Ahmad)

March 25, 2010.

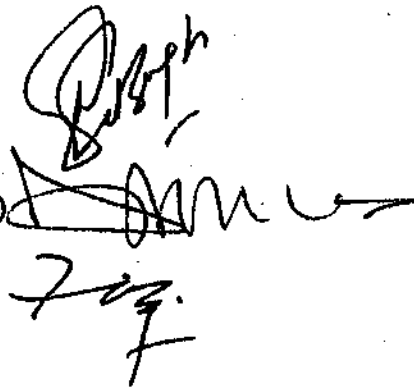
Note of Reiteration

- 1) Entry 21 from Federal Legislative List may be deleted.
- 2) Article 251 - Balochi, Sindhi, Pustho, Punjabi and Saraiki should be the national languages.
- 3) Article 156 - In the National Economic Council, number of members from the Federal and the provinces should be equal.
- 4) Article 73 - The Money Bill, including the Finance Bill containing the Annual Budget Statement should also be got approved/passed by the Senate.

Senator Mr. Shahid Hassan Bugti (JWP)

Senator Mir Israrullah Zehri (BNP Awami)

Senator Dr. Abdul Malik (NP)





SENATE OF PAKISTAN

Parliament House
Islamabad

No.LOP/Sen/31-10
25.03.2010

Subject: **NOTE OF REITERATION.**

Dear Mr. Chairman,

I would like to thank the committee for accepting several recommendations made by the Pakistan Muslim League for amendments in the Constitution. I am particularly pleased that our recommendations for declaring right to education, right to information and right of fair trial as fundamental rights have been accepted. The Establishment of Islamabad High Court has also been accepted.

2. I am also grateful for the understanding shown by the committee by agreeing that certain provisions contained in the Charter of Democracy were impractical. The establishment of Constitutional court would have created immense problems in the functioning of the judicial system. Similarly, the method proposed for therein appointment of judges was too cumbersome and controversial and would not necessarily have resulted in appointments on merit.

3. It is a matter of satisfaction that most of the decisions of the Committee were taken by consensus. All political parties showed accommodation and understanding and adjusted their view points to arrive at agreed solutions. However, on certain matters it was considered necessary to reiterate the party position for purposes of record. It is in this context that the present letter is being written.

Article 223 – This Article permits election of a person from several seats at the same time. However, if he is elected to more than one seat, he is required to resign all his seats except one. This procedure could result in several bye-elections which are otherwise

Contd Page 2

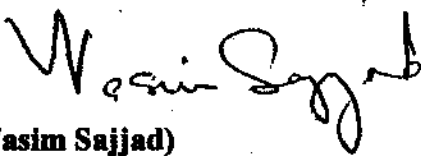
unnecessary. In a close electoral contest, difficulties would arise at the time of the election of the Prime Minister and Chief Minister as votes otherwise available to him would remain hanging in the balance until such time as the bye-elections are held. It would be desirable if the right of a person to contest from several seats is curtailed.

Article 1 – There was discussion on the question of the change of name of the province of N.W.F.P. We had stated at the very beginning that we would support the change of name but the new name should be one which reflects a broad consensus in the province. The Pakistan Muslim League played a historical role at the time of referendum in 1947 which resulted in N.W.F.P. forming part of Pakistan. The Muslim League has strong roots in the province and its voice in this connection must be heard and given weight. We feel that this matter should not be decided on a unilateral basis.

Article 91 – We were of the view that the Cabinet should be made responsible to the National Assembly and the Senate. This would give confidence to all the Provinces.

With regards,

Yours Sincerely,


(Wasim Sajjad)

**Mian Raza Rabbani,
Chairman,
Parliamentary Committee on Constitutional Reforms,
Parliament House,
Islamabad.**

To,

Mian Raza Rabbani,
Chairman Parliamentary Committee,
Constitutional reforms (PCCR),
Islamabad.

References:- I) DRAFT PROPOSALS OF PASHTOONKHWI MILLI AWAMI PARTY BEFORE THE PARLIAMENTARY COMMITTEE ON CONSTITUTIONAL REFORMS CHAIRED BY SENATOR MIAN RAZA RABBANI TO FURTHER AMMEND THE MEMORANDUM OF MEHMOOD KHAN ACHAKZAI TO MIAN RAZA RABBANI, CHAIRMAN PARLIAMENTARY COMMITTEE ON CONSTITUTIONAL REFORMS DATED 7TH JULY, 2009, PRESENTED ON 28TH JULY, 2009 PARLIAMENT HOUSE, ISLAMABAD.

II) PART III ADDENDUM TO COMPARATIVE CHART OF PROPOSED CONSTITUTIONAL AMENDMENTS.

- | | | |
|-----|--|--------|
| i) | Proposed by Pashtoonkhwa Milli Awami Party | 1 to 8 |
| ii) | National Party | 1 to 9 |

Dear Sir,

It is submitted as under:-

That on the one hand I congratulate the Chairman and all the Honourable Members of Parliamentary Committee on Constitutional Reforms and the Democratic people of the Country on their success in reforming and democratizing the constitution:

by declaring almost all dictatorial Acts of the Military dictators as Unconstitutional, Undemocratic and against the Parliamentary Democratic Federalism, particularly repealing the Legal Framework Order (LFO) and the 17th Amendment,

by guarantying the supremacy of the Parliament, Rule of Law, fundamental rights, Independence and impartiality of the Judiciary,

by increasing the Provincial Autonomy and enhancing Political, Economic, Financial and Administrative Power of the Provinces.

That on the other hand one feel said to note that the Committee was not able to make Pakistan as genuine Democratic Parliamentary Federation having a bicameral legislature as the Committee denied to the Senate its due power and say what-so-ever in vote of Confidence, No Confidence, Money Bills and Annual Budget Statement and even the National Languages Pashto, Balochi, Sindhi, Punjabi, Saraiki, and other Languages were not given their due Status.

Hence Pashtoonkhwa Milli Awami Party's Notes of Re-iteration are given below by once again re-iterating our already proposed amendments to certain Articles of the Draft Constitutional Reforms 17-03-2010:

3. Amendment of Article 1 of the Constitution:

i) The following will be substituted for the existing clause (2) of Article 1
Article 1(2) : The Federation of Pakistan Shall comprise of

a) The Federating Units/Federating States of Balochistan, Pashtoonkhwa, Pashtoonkhwa Southern, Punjāb Sindh and Sraikistan.

b) (i) That the Pashtoon and Baloch shall be equally represented in public post of Governor, Chief Minister, Speaker and Ministers, Chief Secretary the Provincial Secretaries and others High Offices of Government and Administration in the present Province of Balochistan.

(ii) That a Constitutional, conventional and Customary Arrangement is to be made in this regard so that the political, economic financial and administrative powers of the present Province of Balochistan are shared amongst the Pashtoon and Baloch on the basis of the Equality of nationalities, and that the Recommendations Appendix IV consisting of 7 points finalized by the Drafting committee of the Sub-Committee Chaired by Senator Mushahid Hussain Sayed were approved by the Parliamentary Committee on Balochistan in its meeting held on 23rd June, 2005 which met under the Chairmanship of Ch. Shujaat Hussain. The then MNA shall be implemented.

c) FATA, shall be named Pashtoonkhwa (Central) and shall have the existing Status.

d) The Islamabad Capital territory hereinafter called in Federal Capital.

ii) A new sub clause (3) shall be inserted as follows:-

(3) (a) Balochistan shall comprise of the territories of Kalat State Union before, the establishment of One-Unit i.e 30th September 1955 and shall include the Marri and Bugti Tribal Territories. Jatpat and Usta Mohammad Tehsil and Chagai District of the Chief Commissioner Province before the establishment of the One-Unit i.e 30th September 1955.

(3)(b) Pashtoonkhwa (Southern) shall comprise of the Chief Commissioner Province and the Administered Districts excluding the Marri and Bugti Tribal territories, Jatpat and Usta Mohammad Tehsil and Chagai District before the establishment of One-Unit i.e the 30th September 1955.

iii) The existing sub clause (3) shall be renumbered as sub clause (4)

13. **Amendment of Article 73 of the Constitution:-In Article 73, the following amendment shall be made, namely:-**
- i) For clause (1), **Following shall be substituted:-**
 - "(1) **Not with Standing anything contained in Article 70, a Money Bill shall originate in either of the tow Houses, and the producer for its introductions and passage shall be the same as described in Article 70".**
 - ii) **"In clauses (2), in sub-clause (f) the words "or a provincial government" shall be omitted.**
 - iii) **In clauses (4) and (5), after the words "National Assembly", the words "or as the case may be, the Chairman of the Senate" shall be inserted".**

16. **Amendment of Article 82 of the Constitution:-**

In Article 82, the following amendment shall be made, namely:-

i) For clause (1) the following shall be substituted:-

"The Annual Budget Statement laid before the National Assembly as provided in Article 80, clause (1) after having been discussed and passed by that House, shall be laid before the Senate for approval and shall, in so far as its passage and assent by the President is concerned, be treated like any other Bill".

ii) In clause (2) for the words "National Assembly" and "Assembly" respectively, the word "Parliament" shall be substituted.

22. **Amendment of Article 91 of the Constitution:** In Article 91, the following amendment shall be made, namely:-
- i) For the existing clause (2) the following shall be substituted:- "(2) The Majority in both the Houses for the Parliament shall elect the leader of the Houses and the President shall ask him/her to be the Prime Minister and form the Federal Government.
 - ii) Clause (2A) shall be omitted.
 - iii) In the existing clause (4), the words "both the Houses of Parliament" be substituted for the words "National Assembly".
 - iv) In the existing clause (5), the words "both the Houses of Parliament" be substituted for the "National Assembly and "Assembly" wherever those occur.

Amendment of Article 140-A of the Constitution:

The following will be substituted for the Existing Article 140-A of the Constitution.

Each Province shall by law establish a local government system, that is to say, constitute municipal corporations, improvement trusts, district boards, mining settlement authorities and other local self government of village administration.

61. **Amendment of Article 240 of the Constitution:-** The following provisos shall be added with Article 240 of the Constitution.

- i) Provided that the appointments of Ambassadors in the Foreign services shall be subject to the approval of the Senate.
- ii) Provided further that all appointments of the Chairmen in the Corporations established by the law shall be subject to the approval of the Senate.
- iii) Provided further that the shares of the Federating Units in all Federal services (including all the Autonomous bodies/corporations) shall be implemented under the control and supervision of the Senate; omission in the allocation of the shares of the units in the past shall be rectified by filling up the shortage.

63. **Amendment of Article 247 of the Constitution:-** The following shall be substituted for the existing Article 247 of the Constitution;

"247(1) Provincially Administrated Tribal Areas as enumerated in Article 246 shall be merged into the respective contiguous Federating Unit/Federating State.

(2) Federally Administrated Areas shall be named Pashtoonkhwa (Central).

(3) No act of parliament shall apply to the Pashtoonkhwa (Central) or to any part thereof, unless the President in Consultation with the Chairman in Council Directs.

64. **Amendment of Article 251 of the Constitution:-** In Article 251, the following amendments shall be made:-

i) For clause (1), the following shall be substituted.

“Punjabi, Sindhi, Balochi and Pashto shall be the National languages of Pakistan and Urdu shall be the Lingua franca, and arrangements shall be made for their being used for official and other purposes.

ii) For clause (2), the following shall be substituted:-

“Subject to clause (1), English language may be used for interaction with the outside world”

NOTE OF REITERATION FROM PML(N)

NEED TO INCLUDE ITEM NO.38 IN FEDERAL LEGISLATIVE LIST PART-II

National and uniform curriculum and syllabus are prerequisites for building a united nation. Curriculum and syllabus should therefore be the joint responsibility of Federal and Provincial Governments in order to promote national integration and solidarity.

Consequent upon omission of the Concurrent Legislative List, PML(N) is of the view that item no.38 should be placed on the Federal Legislative List Part II so as to bring these matters within the purview of the Council of Common Interests.

Since this has not been agreed by the PCCR, PML(N) wishes to place its views on record, through this Note of Reiteration.



(AHSAN IQBAL, MNA)

Pakistan Muslim League (Nawaz)

Note of Reiteration from PML(N)

Article 175A: Appointment of Judges to the Supreme Court, High Courts and the Federal Shariat Court

The Parliamentary Committee on Constitutional Reforms (PCCR) had initially decided that the Judicial Commission of Pakistan, which would nominate one name for each vacancy of Judge to a Parliamentary Committee for confirmation, will consist of the following:-

A. For Judges of the Supreme Court: (Main Commission)

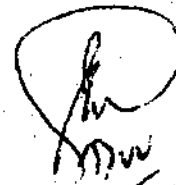
- (1) Chief Justice of Pakistan : Chairman
- (2)&(3) Two senior-most Judges of the Supreme Court;
- (4) Federal Minister for Law and Justice;
- (5) Attorney-General for Pakistan;
- (6) Senior Advocate of the Supreme Court to be nominated by the Pakistan Bar Council.

B. For Judges of the High Courts: (Enlarged Commission)

- (7) Chief Justice of the High Court;
- (8) Senior-most Judge of that High Court;
- (9) Provincial Minister for Law;
- (10) one nominee of the Provincial Bar Council.

After details of the proposed procedure for appointment was released to the press by the PCCR, a large number of comments were made and opinions voiced regarding the procedure in the media, in seminars and in conventions etc by eminent jurists, lawyers and other members of civil society.


One of the major criticisms was that the procedure did not provide for a 3-3 deadlock in the main Commission or a 5-5 deadlock in the enlarged Commission. The PCCR took note of this issue and on the proposal of the PML(N) and others, decided to add a seventh member to the main Commission, viz a retired Chief Justice/Judge of the Supreme Court. PML(N) would have preferred that the said nomination be made by the Chief Justice of Pakistan. However, consensus in the PCCR was that the nomination be made by the main Commission.



Another proposal of the PML(N) was that the Federal Law Minister or the Attorney-General be dropped as the Government's point of view could be expressed in the Commission by either of them. PML(N) further proposed that the President, Supreme Court Bar Association be made a member of the main Commission, as envisaged in the Charter of Democracy.

PML(N) had also proposed that the four Presidents of the High Court Bar Associations should replace the nominees of the Provincial Bar Councils in the enlarged Commission.

Since these proposals were not accepted by the PCCR, PML(N) wishes to formally place its views on these important issues on the record of the deliberations of the PCCR, through this Note of Reiteration.


(Senator Muhammad Ishaq Dar)

Islamabad, March 24, 2010

Pakistan Muslim League (Nawaz)

Addendum

to

Note of Reiteration dated 24th March, 2010 from PML(N)

Pursuant to the decision of the PCCR in its meeting held today, 31st March, 2010 at 2:00 pm to the effect that the seventh member of the Judicial Commission of Pakistan will be a former Chief Justice or former Judge of the Supreme Court of Pakistan to be nominated by the Chief Justice of Pakistan in consultation with the two member Judges of the Commission (instead of by the Commission itself, as previously decided), the Note of Reiteration dated 24th March, 2010 from PML(N) stands modified to this extent.



SENATOR MOHAMMAD ISHAQ DAR

Islamabad, the 31st March, 2010.

BEFORE THE CONSTITUTIONAL REFORMS COMMITTEE**NOTE OF REITERATION**

by

AFTAB AHMAD KHAN SHERPAO*Chairman Pakistan Peoples Party (Sherpao)*

I wish to express my appreciation for the time and effort devoted by all members of this Committee which has led to a consensus being arrived at in the form of our final recommendations. Due to this very spirit of consensus with which we began our proceedings last year, I accept and support the final recommendations of this Committee. There is, however, an issue on which Pakistan Peoples Party (Sherpao) (hereinafter referred to as Party or PPP(S)) wishes to reiterate its stand.

This Committee, in its final recommendations, has proposed that Article 1 of the Constitution should be amended to change the name of the North West Frontier Province (NWFP) to "*Khyber Pukhtunkhwa*". The people of the NWFP have for long genuinely demanded that the name of their Province should represent their cultural identity. Due to this at least two resolutions have been passed by the Provincial Assembly of the NWFP calling for the name of the Province to be changed to *Pukhtunkhwa*. I, having personally voted in favour of such a resolution, felt bound by it and thus took this matter to the Central and Provincial leadership of my Party to deliberate. After a lengthy debate PPP(S) came to the conclusion that the Party is bound by the resolution it voted for and would not support any other name for the Province. I completely agree with this decision and fully endorse it. I must stress at this point that all those political parties that voted in favour of the resolutions calling for the name of the Province to be changed to *Pukhtunkhwa* are bound by those resolutions and in the absence of a subsequent resolution to the contrary by the same Assembly, and in particular a resolution in favour

of the name *Khyber Pukhtunkhwa*, they cannot backtrack from their previous stance. Time and again we have seen the political parties of Pakistan demand that resolutions of provincial assemblies should be honoured. For this Committee to propose any other name for the NWFP than *Pukhtunkhwa* would amount to nothing less than dishonouring the resolutions of the highest legislative assembly of one of the units of the federation.

I also wish to emphasise that during the proceedings of this Committee nothing has been brought before us to show that there is now a change in the demand of the people of the Province to be named *Pukhtunkhwa*. Those proposing this name have not produced any evidence that shows that the residents of the NWFP have abandoned their demand to be named *Pukhtunkhwa* or there is now a fresh demand calling for the Province to be renamed *Khyber Pukhtunkhwa*. As I stated at the outset, I fully appreciate and respect the spirit of consensus with which we have all been working. However, being flexible to achieve consensus is one thing and making a mockery out of a genuine demand of the people of a federating unit is quite another. Every member of this Committee and every member of Parliament is fully aware of the resolutions passed by the NWFP Assembly which represent the aspirations of the people of the Province. If a few individuals, after a series of negotiations and compromises, choose to ignore those resolutions and suggest a name which they think is best for the Province; such actions should not be endorsed by this Committee or Parliament. This would amount to nothing less than imposing an unwanted name, much like the current one, on the people of the Province.

Finally, I would like to add that the name *Pukhtunkhwa* was chosen by and has popular support of the people of the Province due to its historical ties with this land. For centuries now this land has been referred to as *Pukhtunkhwa* by its inhabitants as well as outsiders. Its earliest recorded use is traced back to the 17th Century in the works of Akhund Darweza. More

commonly known is its frequent use by Ahmad Shah Abdali to refer to this area in the 18th Century amongst countless other historical references. Thus this name was chosen because the people felt it would truly represent their cultural identity as the names of the other provinces do of their inhabitants. Anyone with a basic knowledge of the Pushtu language and Pukhtun culture would be able to tell that the name *Khyber Pukhtunkhwa* neither truly represents the cultural identity of the Province and its people nor does it make any sense.

Therefore, I reiterate my Party's stand that if we are to genuinely fulfil a legitimate demand of the People of the NWFP the name of the Province should be changed to *Pukhtunkhwa* in accordance with the wishes of the people and the resolutions of the Provincial Assembly.



Aftab Ahmad Khan Sherpao
Member National Assembly

BEFORE THE CONSTITUTIONAL REFORMS COMMITTEE

NOTE OF REITERATION

by

AFTAB AHMAD KHAN SHERPAO

Chairman Pakistan Peoples Party (Sherpao)

Further to my first Note of Reiteration I wish to clarify that I had submitted before this Committee a detailed report on behalf of Pakistan Peoples Party (Sherpao) (hereinafter "PPP(S)" or the "Party") pertaining to the reform of our Constitution. Some of those recommendations have been graciously accepted while others have been rejected. Although, in the spirit of consensus, I do not wish to raise every single issue in Notes of Reiteration but I do wish to express my grave concerns and reservations on a matter that might seriously prove detrimental to Federation-Province relations.

This Committee has recommended that entry 34 (Electricity) of the Concurrent Legislative List should be transferred to Part II of the Federal Legislative List under the extraneous pretext that it will bring electricity within the jurisdiction of the Council of Common Interests (hereinafter "CCI" or "Council"). This Committee is very well aware that Article 154 of the Constitution, which sets out the functions and rules of procedure of the CCI, already provides for the Council to formulate policies for electricity "in so far as it is in relation to the affairs of the Federation". If this Committee feels that this wording excessively limits the CCI's jurisdiction to formulate policies for electricity than it would have been more appropriate to amend Article 154 of the Constitution rather than take a concurrent subject and transfer it to the Federation.

It has been my Party's long standing demand that the Concurrent Legislative List should be abolished and all subjects therein transferred to the Provinces. One of the main reasons that the work of this Committee is being appreciated throughout the nation is because it has taken a progressive approach towards provincial autonomy and it has attempted to undo the wrongs of the past by fulfilling genuine

demands of the Provinces. To take a subject from the Concurrent Legislative List and transfer it to the Federal Legislative List will undo all the goodwill this Committee and the Federation has earned. If anything, this Committee should have recommended that Electricity, along with numerous other subjects not already covered by the Recommendations, should be removed from the lists altogether and given to the Provinces.

It is simply not practical to move electricity to the Federal Legislative List in view of other provisions of the Constitution including Article 157 which gives the Provinces certain rights with regard to this subject. Furthermore, I apprehend this act will cause administrative and legislative difficulties in view of legislation already passed by Provincial Assemblies on this subject.

Finally, I would like to bring the Committee's attention to the fact that the legislative lists and electricity itself were controversial issues in 1973 as well. Due to their nature, these issues were handled with extreme caution by the then constituent assembly which after a series of negotiations led to the delicate balance that was struck in the form of the 1973 Constitution and in particular Articles 151, 157, 161 and the legislative lists. Concessions by the Federation on these issues led to the very consensus that was achieved then and which we seek to achieve today. At such a time in our history when our Federation faces numerous difficulties this Committee should not have recommended a change in these provisions of the Constitution that would be detrimental to the interests of the Provinces.



Aftab Ahmad Khan Sherpao
Member National Assembly



ANNEX D-XI

BALUCHISTAN NATIONAL PARTY (AWAMI)
B.N.P. (AWAMI)

Ref. No. _____

Date. _____

اختلافی نوٹ

صوبائی خود مختاری کے حوالے سے بلوچستان نیشنل پارٹی (عوامی) نے چند ترامیم تجویز کی تھی۔ ان میں سب سے اہم آرٹیکل (70) کے حوالے سے تھی۔ ہماری تجویز کے مطابق، قائد اعظم محمد علی جناح اور خان قلات کے مابین الحاق کے وقت دستخط شدہ دستاویز کی روشنی میں چار محکمہ جات۔ (دفاع۔ کرنسی۔ مواملاات اور امور خارجہ) چھوڑ کر بقیہ تمام محکمے صوبے کو تفویض کرنے کی رائے دی تھی چونکہ کمیٹی میں اس تجویز کو رد کر دیا گیا ہے، ہم جمہوری اصولوں کے پابند ہیں، لیکن میری پارٹی پالیسی واضح ہے۔ لہذا اس حوالے سے میں اپنا اختلافی نوٹ کمیٹی کے سپرد کرتا ہوں۔

سیف الرحمن
صدر

مرکزی صدر بی این پی (عوامی)

Note of Re-iteration ANNEX D-XII

~~Re-iteration of Notes~~
Jui-F

Article 2
1- 1973ء سے ایک اسلامی قانون سازی میں ہوئی۔ اور غیر اسلامی قانون سازی ہوتی رہی ہے۔ لہذا اسلامی قانون سازی لازمی ہونی چاہئے۔

2- تمام اسلامی دفعات کو دیگر تمام قوانین پر بالادستی ہونی چاہئے۔

Article 157
3- موجودہ صوبائی خود مختاری ناکافی ہے۔ اور Jui-F اس سے مطمئن نہیں۔
ہم دفاع، امور خارجہ، کرنلری اور نوامدادت وہ بھی (دفاع) کی ذمہ داری کو دینے کے حامی ہیں۔

Article 1
4- خلیفہ شہزادہ خواجہ نام سرحد اسمبلی سے قرارداد کی شکل میں پاس شدہ ہیں۔ لہذا اس بارے میں سرحد اسمبلی کو اعتماد نہیں لیا جائے۔

Article 177
5- جوں کی توڑی بنیاد جمہوریت کے مطابق ہونا چاہئے۔

31/3/10
رہبر المسلمین (ممبر) Jui-F
Constitutional Reforms Committee.

حضرت دانشور کی تائب پارک میں 112 اور 113
1999

→


NOTE OF APPRECIATION

The Members of the Committee wish to place on record their deep appreciation of the outstanding work done by the Chairman, Senator Mian Raza Rabbani without whose able leadership, guidance and farsightedness the onerous task of the Committee could not have been successfully accomplished.

1. Raja Pervez Ashraf, MNA (PPPP)
Minister for Water & Power

Member 

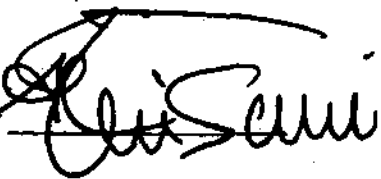
2. Syed Naveed Qamar, MNA (PPPP)
Minister for Petroleum and NR

Member 

3. Senator Dr. Zaheer-ud-Din Babar Awan, (PPPP)
Minister for Law, Justice and Parliamentary Affairs

Member 

4. Senator Nawabzada Mir Haji Lashkari Raisani, (PPPP)

Member 

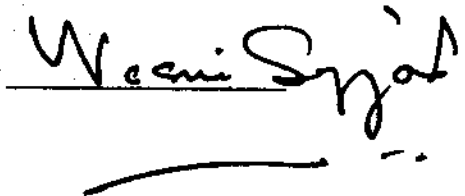
5. Senator Mr. Muhammad Ishaq Dar, (PML-N)

Member 

6. Sardar Mehtab Ahmed Khan, MNA (PML-N)

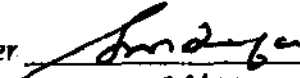
Member 

7. Senator Mr. Wasim Sajjad, (PML-Q)
Leader of Opposition in the Senate

Member 

8. Senator Mr. S. M. Zafar, (PML-Q)

Member


21/3/2010

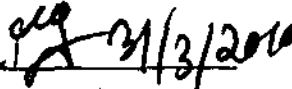
9. Mr. Humayun Saifullah Khan, MNA (PML-Q)

Member



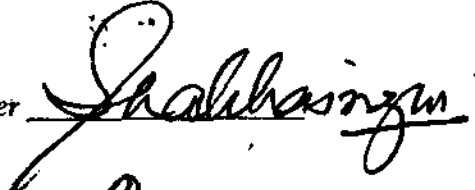
10. Dr. Muhammad Farooq Sattar, MNA (MQM)
Minister for Overseas Pakistanis

Member


21/3/2010

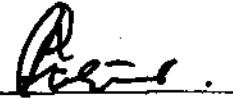
11. Syed Haider Abbas Rizvi, MNA (MQM)

Member



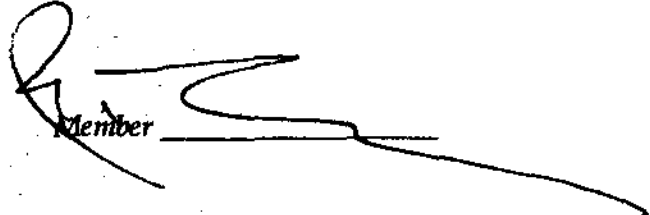
12. Senator Afrasiab Khattak, (ANP)

Member



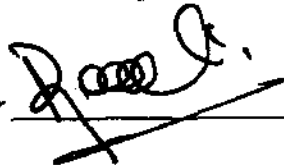
13. Senator Haji Muhammad Adeel, (ANP)

Member



14. Maulana Fazal-ur-Rehman, MNA (JUI-F)

Member



15. Senator Mr. Rehmatullah Kakar, (JUI-F)
Minister for Housing & Works

Member

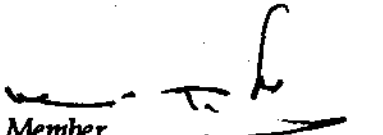
16. Senator Justice (R) Abdul Razzaq A. Thahim
(PML-F)

Member

Minister for Local Government & Rural Development

17. Senator Mir Israr Ullah Zehri, (BNP-A)
Minister for Postal Services

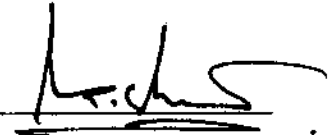


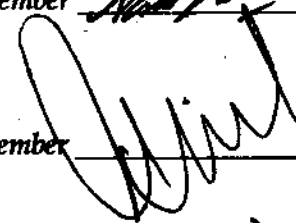
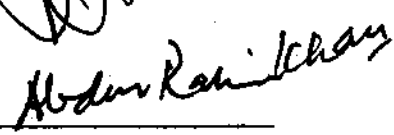
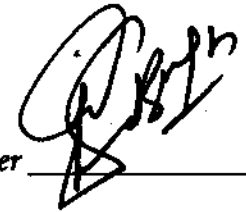

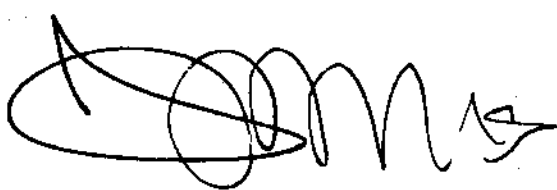
Member



18. Ch. Ahsan Iqbal, MNA (PML-N)

Member



19. Senator Prof. Khurshid Ahmed, (JIP) Member 
20. Mr. Ghulam Murtaza Jatoi, MNA (NPP) Member 
21. Senator Dr. Abdul Malik, (NP)
Mr. Habib Sijozjo Member 
22. Mr. Aftab Ahmed Khan Sherpao, MNA (PPP-S) Member 
23. Senator Mr. Abdul Rahim Khan Mandokhel
(PKMAP) Member 
24. Senator Mr. Shahid Hassan Bugti, (JWP) Member 
25. Mr. Munir Khan Orakzai, MNA (IND) Member 
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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;

AND WHEREAS the people of Pakistan have relentlessly struggled for democracy and for attaining the ideals of a Federal, Islamic, democratic, parliamentary and modern progressive welfare State, wherein the rights of the citizens are secured and the Provinces have equitable share in the Federation;

AND WHEREAS it is necessary that the Legal Framework Order, 2002, as amended by the Chief Executive's Order No. 29 and the Chief Executive's Order No. 32 of 2002, be declared as having been made without lawful authority and of no legal effect, and the Constitution (Seventeenth Amendment) Act, 2003 (Act No. III of 2003), be repealed and the Constitution further amended to achieve the aforesaid objectives;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Constitution (Eighteenth Amendment) Act, 2010.

(2) It shall come into force at once, save as otherwise provided in this Act.

2. **Repeal, etc.**- Subject to Article 264 and the provisions of the Constitution (Eighteenth Amendment) Act, 2010,-

(a) the Legal Framework Order, 2002 (Chief Executive's Order No. 24 of 2002), the Legal Framework (Amendment) Order, 2002 (Chief Executive's Order No. 29 of 2002) and the Legal Framework (Second Amendment) Order, 2002 (Chief Executive's Order No. 32 of 2002), are hereby declared to have been made without lawful authority and of no legal effect and, therefore, shall stand repealed; and

(b) the Constitution (Seventeenth Amendment) Act, 2003 (Act No. III of 2003), is hereby repealed.

3. **Amendment of Article 1 of the Constitution.**— In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 1, in clause (2), in paragraph (a), for the word “Baluchistan” the word “Balochistan”, for the words “North West Frontier” the words “Khyber Pakhtunkhwa”, and for the word “Sind” the word “Sindh”, shall be substituted.

4. **Amendment of Article 6 of the Constitution.**— In the Constitution, in Article 6,—

(i) for clause (1), the following shall be substituted, namely:—

“(1) Any person who abrogates or subverts or suspends or holds in abeyance, or attempts or conspires to abrogate or subvert or suspend or hold in abeyance, the Constitution by use of force or show of force or by any other unconstitutional means shall be guilty of high treason.

(ii) in clause (2), after the word “abetting” the word “or collaborating” shall be inserted; and

(iii) after clause (2) amended as aforesaid, the following new clause shall be inserted, namely:-

“(2A). An act of high treason mentioned in clause (1) or clause (2) shall not be validated by any court including the Supreme Court and a High Court.”.

5. **Insertion of new Article in the Constitution.-** In the Constitution, after Article 10, the following new Article shall be inserted, namely:-

“10A. **Right to fair trial.-** For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.”

6. **Substitution of Article 17 of the Constitution.-** In the Constitution, for Article 17, the following shall be substituted, namely:-

“17. **Freedom of association.** (1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

(2) Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

(3) Every political party shall account for the source of its funds in accordance with law.”.

7. **Insertion of new Article in the Constitution.-** In the Constitution, after Article 19, the following new Article shall be inserted, namely:-

“19A. **Right to information.-** Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law”.

8. **Amendment of Article 25 of the Constitution.-** In the Constitution, in Article 25, in clause (2), the word “alone” occurring at the end shall be omitted

9. **Insertion of new Article in the Constitution.-** In the Constitution, after Article 25, the following new Article shall be inserted, namely:-

“25A. **Right to education.-**The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.”.

10. **Amendment of Article 27 of the Constitution.-** In the Constitution, in Article 27, in clause (1), in the second proviso, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided also that under-representation of any class or area in the service of Pakistan may be redressed in such manner as may be determined by an Act of Majlis-e-Shoora (Parliament)”.

11. **Amendment of Article 29 of the Constitution.-** In the Constitution, in Article 29, in clause (3), for the word “the National Assembly” occurring for the first time the words and brackets, “each House of Majlis-e-Shoora (Parliament)” shall be substituted and after the word “National Assembly” occurring for the second time the words “and the Senate” shall be inserted.

12. **Amendment of Article 38 of the Constitution.-** In the Constitution, in Article 38,-

- (i) in paragraph (e), the word "and" at the end shall be omitted;
- (ii) in paragraph (f), for the full stop at the end a semicolon and the word ";and" shall be added and after paragraph (f) amended as aforesaid, the following new paragraph shall be added, namely:-

“(g) the shares of the Provinces in all federal services, including autonomous bodies and corporations established by, or under the control of, the Federal Government, shall be secured and any omission in the allocation of the shares of the Provinces in the past shall be rectified.”

13. **Amendment of Article 41 of the Constitution.-** In the Constitution, in Article 41,-

- (i) in clause (3), the words, brackets and figure “to be elected after the term specified in clause (7)” shall be omitted; and
- (ii) clauses (7), (8) and (9) shall be omitted.

14. **Substitution of Article 46 of the Constitution.-** In the Constitution, for Article 46, the following shall be substituted namely:-

“46. **President to be kept informed.-** The Prime Minister shall keep the President informed on all matters of internal and foreign policy and on all legislative proposals the Federal Government intends to bring before Majlis-e-Shoora(Parliament)”.

15. **Amendment of Article 48 of the Constitution.-** In the Constitution, in Article 48,-

- (i) In clause (1),-

- (a) after the word "act" the words "on and" shall be inserted; and
 - (b) in the proviso, after the word "that" the words "within fifteen days" shall be inserted and after the word "shall" the commas and words ", within ten days," shall be inserted; and
- (ii) for clause (5) the following shall be substituted, namely:-
- "(5) Where the President dissolves the National Assembly, notwithstanding anything contained in clause (1), he shall,-
- (a) appoint a date, not later than ninety days from the date of the dissolution, for the holding of a general election to the Assembly; and
 - (b) appoint a care-taker Cabinet."
- (iii) for clause (6) the following shall be substituted, namely:-
- "(6). If at any time the Prime Minister considers it necessary to hold a referendum on any matter of national importance, he may 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 in the form of a question that is capable of being answered by either "Yes" or "No".

16. Substitution of Article 51 of the Constitution.- In the Constitution, for Article 51, the following shall be substituted and shall be deemed always to have been so substituted with effect from the 21st day of August, 2002, namely:-

"51. National Assembly.-(1) There shall be three hundred and forty-two seats for members in the National Assembly, including seats reserved for women and non-Muslims.

(2) A person shall be entitled to vote if-

- (a) he is a citizen of Pakistan;
- (b) he is not less than eighteen years of age;
- (c) his name appears on the electoral roll; and
- (d) he is not declared by a competent court to be of unsound mind.

(3) The seats in the National Assembly referred to in clause (1), except as provided in clause (4), shall be allocated to each Province, the Federally Administered Tribal Areas and the Federal Capital as under:-

	General Seats	Women	Total
Balochistan	14	3	17
Khyber Pakhtunkhwa	35	8	43
Punjab	148	35	183
Sindh	61	14	75
Federally Administered Tribal Areas	12	-	12
Federal Capital	2	-	2
Total	272	60	332

(4) In addition to the number of seats referred to in clause (3), there shall be, in the National Assembly, ten seats reserved for non-Muslims.

(5) The seats in the National Assembly shall be allocated to each Province, the Federally Administered Tribal Areas and the Federal Capital on the basis of population in accordance with the last preceding census officially published.

(6) For the purpose of election to the National Assembly,-

- (a) the constituencies for the general seats shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote in accordance with law;

- (b) each Province shall be a single constituency for all seats reserved for women which are allocated to the respective Provinces under clause (3);
- (c) the constituency for all seats reserved for non-Muslims shall be the whole country;
- (d) members to the seats reserved for women which are allocated to a Province under clause (3) shall be elected in accordance with law through proportional representation system of political parties' lists of candidates on the basis of total number of general seats secured by each political party from the Province concerned in the National Assembly:

Provided that for the purpose of this paragraph the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates;

- (e) members to the seats reserved for non-Muslims shall be elected in accordance with law through proportional representation system of political parties' lists of candidates on the basis of total number of general seats won by each political party in the National Assembly:

Provided that for the purpose of this paragraph the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates."

17. **Substitution of Article 58 of the Constitution.-** In the Constitution, for Article 58, the following shall be substituted, namely:-

“58. Dissolution of the National Assembly.- (1) The President shall dissolve the National Assembly if so advised by the Prime Minister; and the National Assembly shall, unless sooner dissolved, stand dissolved at the expiration of forty-eight hours after the Prime Minister has so advised.

Explanation.- Reference in this Article to “Prime Minister” shall not be construed to include reference to a Prime Minister against whom a notice of a resolution for a vote of no-confidence has been given in the National Assembly but has not been voted upon or against whom such a resolution has been passed or who is continuing in office after his resignation or after the dissolution of the National Assembly.

(2) Notwithstanding anything contained in clause (2) of Article 48, the President may also dissolve the National Assembly in his discretion where, a vote of no-confidence having been passed against the Prime Minister, no other member of the National Assembly commands the confidence of the majority of the members of the National Assembly in accordance with the provisions of the Constitution, as ascertained in a session of the National Assembly summoned for the purpose.”.

18. **Substitution of Article 59 of the Constitution.-** In the Constitution, for Article 59, the following shall be substituted, namely:

“59. The Senate.- (1) The Senate shall consist of one-hundred and four members, of whom,-

(a) fourteen shall be elected by the members of each Provincial Assembly;

- (b) eight shall be elected from the Federally Administered Tribal Areas, in such manner as the President may, by Order, prescribe;
- (c) two on general seats, and one woman and one technocrat including *aalim* shall be elected from the Federal Capital in such manner as the President may, by Order, prescribe;
- (d) four women shall be elected by the members of each Provincial Assembly;
- (e) four technocrats including ulema shall be elected by the members of each Provincial Assembly; and
- (f) four non-Muslims, one from each Province, shall be elected by the members of each Provincial Assembly:

Provided that paragraph (f) shall be effective from the next Senate election after the commencement of the Constitution (Eighteenth Amendment) Act, 2010.

(2) Election to fill seats in the Senate allocated to each Province shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(3) The Senate shall not be subject to dissolution but the term of its members, who shall retire as follows, shall be six years:-

- (a) of the members referred to in paragraph (a) of clause (1), seven shall retire after the expiration of the first three years and seven shall retire after the expiration of the next three years;
- (b) of the members referred to in paragraph (b) of the aforesaid clause, four shall retire after the expiration of the first three years and four shall retire after the expiration of the next three years;
- (c) of the members referred to in paragraph (c) of the aforesaid clause,-
 - (i) one elected on general seat shall retire after the expiration of the first three years and the other one shall retire after the expiration of the next three years; and

- (ii) one elected on the seat reserved for technocrat shall retire after first three years and the one elected on the seat reserved for women shall retire after the expiration of the next three years;
- (d) of the members referred to in paragraph (d) of the aforesaid clause, two shall retire after the expiration of the first three years and two shall retire after the expiration of the next three years;
- (e) of the members referred to in paragraph (e) of the aforesaid clause, two shall retire after the expiration of the first three years and two shall retire after the expiration of the next three years; and
- (f) of the members referred to in paragraph (f) of the aforesaid clause, two shall retire after the expiration of first three years and two shall retire after the expiration of next three years:

Provided that the Election Commission for the first term of seats for non-Muslims shall draw a lot as to which two members shall retire after the first three years.

- (4) The term of office of a person elected to fill a casual vacancy shall be the unexpired term of the member whose vacancy he has filled.

19. **Amendment of Article 61 of the Constitution.**- In the Constitution, in Article 61, for the word "ninety" the words "one hundred and ten" shall be substituted.

20. **Substitution of Article 62 of the Constitution.**- In the Constitution, for Article 62, the following shall be substituted, namely:-

"62. Qualifications for membership of Majlis-e- Shoora (Parliament).- (1)A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless—

- (a) he is a citizen of Pakistan;

- (b) he is, in the case of the National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll in-
- (i) any part of Pakistan, for election to a general seat or a seat reserved for a non-Muslims; and
 - (ii) any area in a Province from which she seeks membership for election to a seat reserved for women.
- (c) he is, in the case of the Senate, not less than thirty years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital or the Federally Administered Tribal Areas, from where he seeks membership;
- (d) he is of good character and is not commonly known as one who violates Islamic Injunctions;
- (e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as well abstains from major sins;
- (f) he is sagacious, righteous, non-profligate, honest and ameen, there being no declaration to the contrary by a court of law;
- (g) he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the ideology of Pakistan:
- (2) The disqualifications specified in paragraphs (d) and (e) shall not apply to a person who is a non-Muslim, but such a person shall have good moral reputation;”.

21. **Substitution of Article 63 of the Constitution.-** In the Constitution, for Article 63, the following shall be substituted, namely,-

“63. Disqualifications for membership of Majlis-e-Shoora (Parliament). (1) A person shall be disqualified from being elected or chosen as, and from being, a member of the Majlis-e-Shoora (Parliament), if—

- (a) he is of unsound mind and has been so declared by a competent court; or

- (b) he is an undischarged insolvent; or
- (c) he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State; or
- (d) he holds an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or
- (e) he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
- (f) being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in force in Azad Jammu and Kashmir from being elected as a member of the Legislative Assembly of Azad Jammu and Kashmir; or
- (g) he has been convicted by a court of competent jurisdiction for propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan, unless a period of five years has elapsed since his release; or
- (h) he has been, on conviction for any offence involving moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release; or
- (i) he has been dismissed from the service of Pakistan or service of a corporation or office set up or, controlled, by the Federal Government, Provincial Government or a Local Government on the ground of misconduct, unless a period of five years has elapsed since his dismissal; or
- (j) he has been removed or compulsorily retired from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government, Provincial Government or a Local Government on the ground of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement; or
- (k) he has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which

the Government has a controlling share or interest, unless a period of two years has elapsed since he ceased to be in such service; or

- (1) he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or for the performance of any service undertaken by, Government :

Provided that the disqualification under this paragraph shall not apply to a person—

- (i) where the share or interest in the contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him;
- (ii) where the contract has been entered into by or on behalf of a public company as defined in the Companies Ordinance, 1984 (XLVII of 1984), of which he is a shareholder but is not a director holding an office of profit under the company; or
- (iii) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course of carrying on a separate business in which he has no share or interest; or

Explanation. —In this Article “goods” does not include agricultural produce or commodity grown or produced by him or such goods as he is, under any directive of Government or any law for the time being in force, under a duty or obligation to supply.

- (m) he holds any office of profit in the service of Pakistan other than the following offices, namely:-
- (i) an office which is not whole time office remunerated either by salary or by fee;
- (ii) the office of Lumbardar, whether called by this or any other title;
- (iii) the Qaumi Razakars;

- (iv) any office the holder whereof, by virtue of such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a Force; or
- (n) he has obtained a loan for an amount of two million rupees or more, from any bank, financial institution, cooperative society or cooperative body in his own name or in the name of his spouse or any of his dependents, which remains unpaid for more than one year from the due date, or has got such loan written off; or
- (o) he or his spouse or any of his dependents has defaulted in payment of government dues and utility expenses, including telephone, electricity, gas and water charges in excess of ten thousand rupees, for over six months, at the time of filing his nomination papers; or
- (p) he is for the time being disqualified from being elected or chosen as a member of a Majlis-e-Shoora (Parliament) or of Provincial Assembly under any law for the time being in force.

Explanation.-For the purposes of this paragraph "law" shall not include an Ordinance promulgated under Article 89 or Article 128.

(2) If any question arises whether a member of the Majlis-e-Shoora (Parliament) has become disqualified from being a member, the Speaker or, as the case may be, the Chairman, shall, unless he decides that no such question has arisen, refer the question to the Election Commission within thirty days and should he fail to do so within the aforesaid period it shall be deemed to have been referred to the Election Commission.

(3) The Election Commission shall decide the question within ninety days from its receipt or deemed to have been received and if it is of the opinion that the member has become disqualified, he shall cease to be a member and his seat shall become vacant."

22. **Substitution of Article 63A of the Constitution.**- In the Constitution, for Article 63A, the following shall be substituted, namely:-

" 63A. Disqualification on grounds of defection, etc.-(1) If a member of a Parliamentary Party composed of a single political party in a House-

- (a) resigns from membership of his political party or joins another Parliamentary Party; or
- (b) votes or abstains from voting in the House contrary to any direction issued by the Parliamentary Party to which he belongs, in relation to-
 - (i) election of the Prime Minister or the Chief Minister; or
 - (ii) a vote of confidence or a vote of no-confidence; or
 - (iii) a Money Bill or a Constitution (Amendment) Bill;

he may be declared in writing by the Party Head to have defected from the political party, and the Party Head may forward a copy of the declaration to the Presiding Officer and the Chief Election Commissioner and shall similarly forward a copy thereof to the member concerned:

Provided that before making the declaration, the Party Head shall provide such member with an opportunity to show cause as to why such declaration may not be made against him.

Explanation.- "Party Head" means any person, by whatever name called, declared as such by the Party.

(2) A member of a House shall be deemed to be a member of a Parliamentary Party if he, having been elected as a candidate or nominee of a political party which constitutes the Parliamentary Party in the House or, having been elected otherwise than as a candidate or nominee of a political party, has become a member of such Parliamentary Party after such election by means of a declaration in writing.

(3) Upon receipt of the declaration under clause (1), the Presiding Officer of the House shall within two days refer, and in case he fails to do so it shall be deemed that he has referred, the declaration to the Chief Election Commissioner who shall lay the declaration before the Election Commission for its decision thereon confirming the declaration or otherwise within thirty days of its receipt by the Chief Election Commissioner.

(4) Where the Election Commission confirms the declaration, the member referred to in clause (1) shall cease to be a member of the House and his seat shall become vacant.

(5) Any party aggrieved by the decision of the Election Commission may, within thirty days, prefer an appeal to the Supreme Court which shall decide the matter within ninety days from the date of the filing of the appeal.

(6) Nothing contained in this Article shall apply to the Chairman or Speaker of a House.

(7) For the purpose of this Article,-

(a) "House" means the National Assembly or the Senate, in relation to the Federation; and a Provincial Assembly in relation to the Province, as the case may be;

(b) "Presiding Officer" means the Speaker of the National Assembly, the Chairman of the Senate or the Speaker of the Provincial Assembly, as the case may be.

(8) Article 63A substituted as aforesaid shall come into effect from the next general elections to be held after the commencement of the Constitution (Eighteenth Amendment) Act, 2010:

Provided that till Article 63A substituted as aforesaid comes into effect the provisions of existing Article 63A shall remain operative.”

23. **Substitution of Article 70 of the Constitution.-** In the Constitution, for Article 70, the following shall be substituted, namely:-

“70. Introduction and passing of Bills. (1) A Bill with respect to any matter in the Federal Legislative List may originate in either House and shall, if it is passed by the House in which it originated, be transmitted to the other House; and, if the Bill is passed without amendment by the other House also, it shall be presented to the President for assent.

(2) If a Bill transmitted to a House under clause (1) is passed with amendments it shall be sent back to the House in which it originated and if that House passes the Bill with those amendments it shall be presented to the President for assent.

(3) If a Bill transmitted to a House under clause (1) is rejected or is not passed within ninety days of its laying in the House or a Bill sent to a House under clause (2) with amendments is not passed by that House with such amendments, the Bill, at the request of the House in which it originated, shall be considered in a joint sitting and if passed by the votes of the majority of the members present and voting in the joint sitting it shall be presented to the President for assent.

(4) In this Article and the succeeding provisions of the Constitution, “Federal Legislative List” means the Federal Legislative List in the Fourth Schedule.”

24. **Omission of Article 71 of the Constitution.-** In the Constitution, Article 71 shall be omitted.

25. **Amendment of Article 73 of the Constitution.-** In the Constitution, in Article 73, -

(i) For clause (1) the following shall be substituted, namely:-

“(1) Notwithstanding anything contained in Article 70, a Money Bill shall originate in the National Assembly:

Provided that simultaneously when a Money Bill, including the Finance Bill containing the Annual Budget Statement, is presented in the National Assembly, a copy thereof shall be transmitted to the Senate which may, within fourteen days, make recommendations thereon to the National Assembly.”; and

(ii) after clause (1) substituted as aforesaid, the following new clause shall be inserted, namely:-

“(1A) The National Assembly shall, consider the recommendations of the Senate and after the Bill has been passed by the Assembly with or without incorporating the recommendations of the Senate, it shall be presented to the President for assent.”.

26. **Amendment of Article 75 of the Constitution.-** In the Constitution, in Article 75,-

(i) in clause (1), for the word “thirty”, the word “ten” shall be substituted;

(ii) for clause (2), the following shall be substituted, namely:-

“(2) When the President has returned a Bill to the Majlis-e-Shoora (Parliament), it shall be reconsidered by the

Majlis-e-Shoora (Parliament) in joint sitting and, if it is again passed, with or without amendment, by the Majlis-e-Shoora (Parliament), by the votes of the majority of the members of both Houses present and voting, it shall be deemed for the purposes of the Constitution to have been passed by both Houses and shall be presented to the President, and the President shall give his assent within ten days, failing which such assent shall be deemed to have been given.” ; and

(iii) in clause (3), after the word “assented”, the words “or is deemed to have assented”, shall be inserted.

27. Amendment of Article 89 of the Constitution.- In the Constitution, in Article 89,-

- (i) in clause (1), before the words “National Assembly” the words “Senate or” shall be inserted;
- (ii) in clause (2), in paragraph (a),-
 - (a) in sub-paragraph (i), for the words “four months” the words “one hundred and twenty days” shall be substituted; and for the semi-colon at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that the National Assembly may by a resolution extend the Ordinance for a further period of one hundred and twenty days and it shall stand repealed at the expiration of the extended period, or if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution:

Provided further that extension for further period may be made only once.”; and

- (b) in sub-paragraph (ii), for the words "four months" the words "one hundred and twenty days" shall be substituted and for the semi-colon and the word ";and " at the end a colon shall be substituted and thereafter the following provisos shall be inserted , namely:-

Provided that either House may by a resolution extend it for a further period of one hundred and twenty days and it shall stand repealed at the expiration of the extended period, or if before the expiration of that period a resolution disapproving it is passed by a House, upon the passing of that resolution:

Provided further that extension for a further period may be made only once.

- (iii) for clause (3), the following shall be substituted, namely:-

"(3) without prejudice to the provisions of clause (2),-

- (a) an Ordinance laid before the National Assembly under sub-paragraph (i) of paragraph (a) of clause (2) shall be deemed to be a Bill introduced in the National Assembly; and
- (b) an Ordinance laid before both Houses under sub-paragraph(ii) of paragraph (a) of clause (2) shall be deemed to be a Bill introduced in the House where it was first laid."

28. **Substitution of Article 90 of the Constitution.-** In the Constitution, for Article 90, the following shall be substituted, namely:-

“90. The Federal Government.- (1) Subject to the Constitution, the executive authority of the Federation shall be exercised in the name of the President by the Federal Government, consisting of the Prime Minister and the Federal Ministers, which shall act through the Prime Minister, who shall be the chief executive of the Federation.

(2) In the performance of his functions under the Constitution, the Prime Minister may act either directly or through the Federal Ministers.”.

29. **Substitution of Article 91 of the Constitution.-** In the Constitution, for Article 91, the following shall be substituted, namely:-

“91. The Cabinet.- (1) There shall be a Cabinet of Ministers, with the Prime Minister at its head, to aid and advise the President in the exercise of his functions.

(2) The National Assembly shall meet on the twenty-first day following the day on which a general election to the Assembly is held, unless sooner summoned by the President.

(3) After the election of the Speaker and the Deputy Speaker, the National Assembly shall, to the exclusion of any other business, proceed to elect without debate one of its Muslim members to be the Prime Minister.

(4) The Prime Minister shall be elected by the votes of the majority of the total membership of the National Assembly:

Provided that, if no member secures such majority in the first poll, a second poll shall be held between the members who secure the two highest numbers of votes in the first poll and the member who secures a majority of votes of the members present and voting shall be declared to have been elected as Prime Minister:

Provided further that, if the number of votes secured by two or more members securing the highest number of votes is equal, further poll shall be held between them until one of them secures a majority of votes of the members present and voting.

(5) The member elected under clause (4) shall be called upon by the President to assume the office of Prime Minister and he shall, before entering upon the office, make before the President oath in the form set out in the Third Schedule:

Provided that there shall be no restriction on the number of terms for the office of the Prime Minister.

(6) The Cabinet, together with the Ministers of State, shall be collectively responsible to the Senate and the National Assembly.

(7) The Prime Minister shall hold office during the pleasure of the President, but the President shall not exercise his powers under this clause unless he is satisfied that the Prime Minister does not command the confidence

of the majority of the members of the National Assembly, in which case he shall summon the National Assembly and require the Prime Minister to obtain a vote of confidence from the Assembly.

(8) The Prime Minister may, by writing under his hand addressed to the President, resign his office.

(9) A Minister who for any period of six consecutive months is not a member of the National Assembly shall, at the expiration of that period, cease to be a Minister and shall not before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of that Assembly:

Provided that nothing contained in this clause shall apply to a Minister who is member of the Senate.

(10) Nothing contained in this Article shall be construed as disqualifying the Prime Minister or any other Minister or a Minister of State for continuing in office during any period during which the National Assembly stands dissolved, or as preventing the appointment of any person as Prime Minister or other Minister or a Minister of State during any such period."

30. Amendment of Article 92 of the Constitution.- In the Constitution, in Article 92, in clause (1),-

- (i) for the brackets and figures "(7) and (8)" the brackets and figures "(9) and (10)" shall be substituted; and

- (ii) in the proviso, for full stop at the end a colon shall be substituted and thereafter the following provisos shall be inserted, namely:

“Provided further that the total strength of the Cabinet, including Ministers of State, shall not exceed eleven percent of the total membership of Majlis-e-Shoora (Parliament):

Provided also that the aforesaid amendment shall be effective from the next general election held after the commencement of the Constitution (Eighteenth Amendment) Act, 2010.”.

31. Amendment of Article 99 of the Constitution.- In the Constitution, in Article 99,-

- (i) In clause (2), for the word “President” occurring for the first time the words “Federal Government” shall be substituted and for the words “in his name” the words “in the name of the President” shall be substituted; and
- (ii) 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.”.

32. Amendment of Article 100 of the Constitution.- In the Constitution, in Article 100, in clause (2), after the word “President” the words “and shall not engage in private practice so long as he holds the office of the Attorney-General” shall be added.

33. Amendment of Article 101 of the Constitution.- In the Constitution, in Article 101,-

- (i) for clause (1) the following shall be substituted, namely:-

“(1) There shall be a Governor for each Province, who shall be appointed by the President on the advice of the Prime Minister.”

(ii) in clause (2), after the word “age”, the words “and is a registered voter and resident of the Province concerned” shall be added.

34. **Substitution of Article 104 of the Constitution.**- In the Constitution, for Article 104, the following shall be substituted namely:-

“104. **Speaker Provincial Assembly to act as, or perform functions of Governor in his absence.**- When the Governor, by reason of absence from Pakistan or for any other cause, is unable to perform his functions, the Speaker of the Provincial Assembly and in his absence any other person as the President may nominate shall perform the functions of Governor until the Governor returns to Pakistan or, as the case may be, resumes his functions.”

35. **Amendment of Article 105 of the Constitution.**- In the Constitution, in Article 105,-

(i) in clause (1), after the word “act” the words “on and” shall be inserted, and in the proviso, after the word “that” the words “within fifteen days” shall be inserted and after the word “shall” the commas and words “,within ten days,” shall be inserted; and

(ii) for clause (3) the following shall be substituted, namely:-

“(3) Where the Governor dissolves the Provincial Assembly, notwithstanding anything contained in clause (1), he shall,-

(a) appoint a date, not later than ninety days from the date of dissolution, for the holding of a general election to the Assembly; and

(b) appoint a care-taker Cabinet.” and

(iii) clause (4) shall be omitted.

36. **Amendment of Article 106 of the Constitution,-** In the Constitution, for Article 106, the following shall be substituted and shall be deemed always to have been so substituted with effect from 21st day of August, 2002, namely:-

“106. Constitution of Provincial Assemblies.-(1) Each Provincial Assembly shall consist of general seats and seats reserved for women and non-Muslims as specified herein below.-

	General Seats	Women	Non- Muslims	Total
Balochistan	51	11	3	65
Khyber Pakhtunkhwa	99	22	3	124
Punjab	297	66	8	371
Sindh	130	29	9	168

(2) A person shall be entitled to vote if-

- (a) he is a citizen of Pakistan;
- (b) he is not less than eighteen years of age;
- (c) his name appears on the electoral roll for any area in the Province; and
- (d) he is not declared by a competent court to be of unsound mind

(3) For the purpose of election to a Provincial Assembly,-

- (a) the constituencies for the general seats shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote;
- (b) each Province shall be a single constituency for all seats reserved for women and non-Muslims allocated to the respective Provinces under clause (1);

- (c) the members to fill seats reserved for women and non-Muslims allocated to a Province under clause (1) shall be elected in accordance with law through proportional representation system of political parties' lists of candidates on the basis of the total number of general seats secured by each political party in the Provincial Assembly:

Provided that for the purpose of this sub-clause, the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates."

37. **Substitution Article 112 in the Constitution.-** In the Constitution, for Article 112, the following shall be substituted, namely:-

"112. **Dissolution of Provincial Assembly.-**(1) The Governor shall dissolve the Provincial Assembly if so advised by the Chief Minister; and the Provincial Assembly shall, unless sooner dissolved, stand dissolved at the expiration of forty-eight hours after the Chief Minister has so advised.

Explanation.- Reference in this Article to 'Chief Minister' shall not be construed to include reference to a Chief Minister against whom a notice of a resolution for a vote of no-confidence has been given in the Provincial Assembly but has not been voted upon or against whom a resolution for a vote of no-confidence has been passed.

(2) The Governor may also dissolve the Provincial Assembly in his discretion, but subject to the previous approval of the President, where a vote of no-confidence having been passed against the Chief Minister, no other member of the Provincial Assembly commands the confidence of

the majority of the members of the Provincial Assembly in accordance with the provisions of the Constitution, as ascertained in a session of the Provincial Assembly summoned for the purpose.”.

38. Amendment of Article 116 of the Constitution.- In the Constitution, in Article 116,-

- (i) in clause (2), for the word “thirty” the word “ten” shall be substituted;
- (ii) in clause (3), for the words “not withhold his assent therefrom” the words “give his assent within ten days, failing which such assent shall be deemed to have been given” shall be substituted; and
- (iii) in clause (4), after the word “assented” the words “or is deemed to have assented” shall be inserted.

39. Amendment of Article 122 of the Constitution.- In the Constitution, in Article 122, in clause (2), proviso shall be omitted.

40. Amendment of Article 127 of the Constitution.- In the Constitution, in Article 127, in paragraph (g), for the word “seventy” the words “one hundred” shall be substituted.

41. Amendment of Article 128 of the Constitution.- In the Constitution, in Article 128, in clause (2), in paragraph (a), for the words “three months” the words “ninety days” shall be substituted and for the semi-colon and the word “; and” at the end a colon shall be substituted and thereafter, the following provisos shall be inserted, namely:-

“Provided that the Provincial Assembly may by a resolution extend the Ordinance for a further period of ninety days and it shall stand repealed at the expiration of the extended period, or if before

the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution:

Provided further that extension for a further period may be made only once.”.

42. **Substitution of Article 129 of the Constitution.-** In the Constitution, for Article 129, the following shall be substituted, namely:-

“129. The Provincial Government.- (1) Subject to the Constitution, the executive authority of the Province shall be exercised in the name of the Governor by the Provincial Government, consisting of the Chief Minister and Provincial Ministers, which shall act through the Chief Minister.

(2) In the performance of his functions under the Constitution, the Chief Minister may act either directly or through the Provincial Ministers.”.

43. **Substitution of Article 130 of the Constitution.-** In the Constitution, for Article 130, the following shall be substituted, namely:-

“130. The Cabinet.- (1) There shall be a Cabinet of Ministers, with the Chief Minister at its head, to aid and advise the Governor in the exercise of his functions.

(2) The Provincial Assembly shall meet on the twenty-first day following the day on which a general election to the Assembly is held, unless sooner summoned by the Governor.

(3) After the election of the Speaker and the Deputy Speaker, the Provincial Assembly shall, to the exclusion of any other business, proceed to elect without debate one of its members to be the Chief Minister.

(4) The Chief Minister shall be elected by the votes of the majority of the total membership of the Provincial Assembly:

Provided that, if no member secures such majority in the first poll, a second poll shall be held between the members who secure the two highest numbers of votes in the first poll and the member who secures a majority of votes of the members present and voting shall be declared to have been elected as Chief Minister:

Provided further that, if the number of votes secured by two or more members securing the highest number of votes is equal, further polls shall be held between them until one of them secures a majority of votes of the members present and voting.

(5) The member elected under clause (4) shall be called upon by the Governor to assume the office of Chief Minister and he shall, before entering upon the office, make before the Governor oath in the form set out in the Third Schedule:

Provided that there shall be no restriction on the number of terms for the office of the Chief Minister.

(6) The Cabinet shall be collectively responsible to the Provincial Assembly and the total strength of the Cabinet shall not exceed fifteen members or eleven percent of the total membership of a Provincial Assembly, whichever is higher:

Provided that the aforesaid limit shall be effective from the next general elections after the commencement of the Constitution (Eighteenth Amendment) Act, 2010.

(7) The Chief Minister shall hold office during the pleasure of the Governor, but the Governor shall not exercise his powers under this clause unless he is satisfied that the Chief Minister does not command the confidence of the majority of the members of the Provincial Assembly, in which case he shall summon the Provincial Assembly and

require the Chief Minister to obtain a vote of confidence from the Assembly.

(8) The Chief Minister may, by writing under his hand addressed to the Governor, resign his office.

(9) A Minister who for any period of six consecutive months is not a member of the Provincial Assembly shall, at the expiration of that period, cease to be a Minister and shall not before the dissolution of that Assembly be again appointed a Minister unless he is elected a member of that Assembly.

(10) Nothing contained in this Article shall be construed as disqualifying the Chief Minister or any other Minister for continuing in office during any period during which the Provincial Assembly stands dissolved, or as preventing the appointment of any person as Chief Minister or other Minister during any such period.

(11) The Chief Minister shall not appoint more than five Advisers."

44. **Substitution of Article 131 of the Constitution.-** In the Constitution, for Article 131, the following shall be substituted, namely:-

"131. Governor to be kept informed.- The Chief Minister shall keep the Governor informed on matters relating to Provincial administration and on all legislative proposals the Provincial Government intends to bring before the Provincial Assembly."

45. **Amendment of Article 132 of the Constitution.-** In the Constitution, in Article 132, in clause (1), for the brackets and figures "(7) and (8) the brackets and figures "(9) and (10)" shall, respectively, be substituted.

46. **Amendment of Article 139 of the Constitution.-** In the Constitution, in Article 139,-

(i) in clause (2), for the word "Governor" occurring for the first time the words "Provincial Government" shall be substituted and for the words "in his name" the words "in the name of Governor" shall be substituted; and

(ii) 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."

47. **Amendment of Article 140 of the Constitution.-** In the Constitution, in Article 140, in clause (3), after the word "Governor" occurring at the end, the words "and shall not engage in private practice so long as he holds the office of the Advocate-General" shall be added.

48. **Insertion of new Article in the Constitution.-** In the Constitution, after Article 140 amended as aforesaid, the following new Article shall be inserted, namely:-

"140A. **Local Government.-** 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.

(2) Elections to the local governments shall be held by the Election Commission of Pakistan."

49. **Amendment of Article 142 of the Constitution.-** In the Constitution, in Article 142,-

(i) for paragraph (b) the following shall be substituted, namely:-

“(b) Majlis-e-Shoora (Parliament) and a Provincial Assembly shall have power to make laws with respect to criminal law, criminal procedure and evidence.”

(ii) for paragraph (c) the following shall be substituted namely:-

“(c) Subject to paragraph (b), a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal Legislative List.”

(iii) for paragraph (d) the following shall be substituted, namely:-

“(d) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to all matters pertaining to such areas in the Federation as are not included in any Province.”

50. Substitution of Article 143 of the Constitution.- In the Constitution, for Article 143, the following shall be substituted, namely:-

“**143.- Inconsistency between Federal and Provincial law.-** If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Majlis-e-Shoora (Parliament) which Majlis-e-Shoora (Parliament) is competent to enact, then the Act of Majlis-e-Shoora (Parliament), whether passed before or after the Act of the Provincial Assembly, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.”

51. **Amendment of Article 144 of the Constitution.-** In the Constitution, in Article 144,-

- (i) for the word "two" the word "one" shall be substituted; and
- (ii) for the words "either List" the words "the Federal Legislative List", shall be substituted.

52. **Amendment of Article 147 of the Constitution.-** In the Constitution, In Article 147, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the Provincial Government shall get the functions so entrusted ratified by the Provincial Assembly within sixty days."

53. **Amendment of Article 149 of the Constitution.-** In the Constitution, in Article 149, clause (2) shall be omitted.

54. **Amendment of Article 153 of the Constitution.-** In the Constitution, in Article 153,-

- (i) for clause (2) the following shall be substituted, namely:-
 - "(2) The Council shall consist of -
 - (a) the Prime Minister who shall be the Chairman of the Council;
 - (b) the Chief Ministers of the Provinces; and
 - (c) three members from the Federal Government to be nominated by the Prime Minister from time to time."
- (ii) clause (3) shall be omitted; and
- (iii) in clause (4), after the word "Parliament" occurring in the brackets at the end, the words "and shall submit an Annual Report to both Houses of Majlis-e-Shoora (Parliament)" shall be added.

55. **Amendment of Article 154 of the Constitution.-** In the Constitution, in Article 154,-

- (i) for clause (1), the following shall be substituted, namely:-

“(1) The Council shall formulate and regulate policies in relation to matters in Part II of the Federal Legislative List and shall exercise supervision and control over related institutions.”.

- (ii) Clauses (2), (3), (4) and (5) shall be renumbered as clauses (4),(5),(6) and (7), respectively, and after clause (1) amended as aforesaid, the following new clauses shall be inserted, namely:-

“(2) The Council shall be constituted within thirty days of the Prime Minister taking oath of office.

(3) The Council shall have a permanent Secretariat and shall meet at least once in ninety days:

Provided that the Prime Minister may convene a meeting on the request of a Province on an urgent matter.”.

56. Amendment of Article 155 of the Constitution.- In the Constitution, for Article 155, in clause (1) after the word “supply” the words “or reservoir” shall be inserted.

57. Substitution of Article 156 in the Constitution.- In the Constitution, for Article 156, the following shall be substituted, namely:-

“156 National Economic Council.- (1) The President shall constitute a National Economic Council which shall consist of –

- (a) the Prime Minister, who shall be the Chairman of the Council;
- (b) the Chief Ministers and one member from each Province to be nominated by the Chief Minister; and
- (c) four other members as the Prime Minister may nominate from time to time.

(2) The National Economic Council shall review the overall economic condition of the country and shall, for advising the Federal Government and the Provincial Governments, formulate plans in respect of financial,

commercial, social and economic policies; and in formulating such plans it shall, amongst other factors, ensure balanced development and regional equity and shall also be guided by the Principles of Policy set out in Chapter 2 of Part-II.

(3) The meetings of the Council shall be summoned by the Chairman or on a requisition made by one-half of the members of the Council.

(4) The Council shall meet at least twice in a year and the quorum for a meeting of the Council shall be one-half of its total membership.

(5) The Council shall be responsible to the Majlis-e-Shoora (Parliament) and shall submit an Annual Report to each House of Majlis-e-Shoora (Parliament).”

58. Amendment of Article 157 of the Constitution.- In the Constitution, in Article 157,-

(i) in clause (1) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that the Federal Government shall, prior to taking a decision to construct or cause to be constructed, hydro-electric power stations in any Province, shall consult the Provincial Government concerned.”; and

(ii) after clause (2), the following new clause shall be added, namely:-

“(3) In case of any dispute between the Federal Government and a Provincial Government in respect of any matter under this Article, any of the said Governments may move the Council of Common Interests for resolution of the dispute.”

59. Amendment of Article 160 of the Constitution.- In the Constitution, in Article 160, after clause (3), the following new clauses shall be inserted, namely:-

“(3A) The share of the Provinces in each Award of National Finance Commission shall not be less than the share given to the Provinces in the previous Award.

(3B) The Federal Finance Minister and Provincial Finance Ministers shall monitor the implementation of the Award biannually and lay their reports before both Houses of Majlis-e-Shoora (Parliament) and the Provincial Assemblies.”.

60. Amendment of Article 161 of the Constitution.- In the Constitution, in Article 161, for clause (1) the following shall be substituted, namely:-

1) Notwithstanding the provisions of Article 78,-

(a) the net proceeds of the Federal duty of excise on natural gas levied at well-head and collected by the Federal Government and of the royalty collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of natural gas is situated;

(b) the net proceeds of the Federal duty of excise on oil levied at well-head and collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of oil is situated.

61. Amendment of Article 167 of the Constitution.- In the Constitution, in Article 167, after clause (3) the following new clause shall be inserted, namely:-

“(4) A Province may raise domestic or international loan, or give guarantees on the security of the Provincial Consolidated Fund

within such limits and subject to such conditions as may be specified by the National Economic Council.”.

62. Amendment of Article 168 of the Constitution.- In the Constitution, in Article 168,-

(i) for clause (3) the following shall be substituted, namely:-

“(3) The Auditor-General shall, unless he sooner resigns or is removed from office in accordance with clause (5), hold office for a term of four years from the date on which he assumes such office or attains the age of sixty-five years, whichever is earlier:

(ii) after clause (3) amended as aforesaid, the following new clause shall be inserted, namely:-

(3A) The other terms and conditions of service of the Auditor-General shall be determined, by Act of Majlis-e-Shoora (Parliament); and, until so determined, by Order of the President.”; and

(iii) in clause (6), for the words “such other person as the President may direct shall” the words “the President may appoint the most senior officer in the Office of the Auditor-General to” shall be substituted.

63. Amendment of Article 170 of the Constitution.- In the Constitution, Article 170 shall be renumbered as clause (1) of that Article and after clause (1) renumbered as aforesaid the following new clause shall be added, namely:-

“(2) 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.”.

64. Amendment of Article 171 of the Constitution.- In Article 171, for the words ‘the National Assembly’ the words and brackets “both Houses of Majlis-e-Shoora (Parliament)” shall be substituted.

65. Amendment of Article 172 of the Constitution.- In the Constitution, in Article 172,-

(i) in clause(2), for the word “within” occurring for the second time the word “beyond” shall be substituted; and

(ii) after clause (2) amended as aforesaid, the following new clause shall be inserted, namely:-

“(3) Subject to the existing commitments and obligations, mineral oil and natural gas within the Province or the territorial waters adjacent thereto shall vest jointly and equally in that Province and the Federal Government.”.

66. Amendment of Article 175 of the Constitution.- In the Constitution, in Article 175, in clause (1), after the word “Province” the words “and a High Court for the Islamabad Capital Territory” shall be inserted and under clause (1) amended as aforesaid, the following Explanation shall be added, namely:-

“Explanation.- The words “High Court” wherever occurring in the Constitution shall include the High Court for the Islamabad Capital Territory.”.

67. Insertion of Article 175A in the Constitution.- In the Constitution, after Article 175, the following new Article shall be inserted, namely:-

“175A. Appointment of Judges to the Supreme Court, High Courts and the Federal Shariat Court.- (1) There shall be a Judicial Commission of Pakistan, hereinafter in this

Article referred to as the Commission, for appointment of Judges of the Supreme Court, High Courts and the Federal Shariat Court, as hereinafter provided.

(2) For appointment of Judges of the Supreme Court, the Commission shall consist of—

- | | | |
|-------|--|----------|
| (i) | Chief Justice of Pakistan; | Chairman |
| (ii) | two most senior Judges of the Supreme Court; | Members |
| (iii) | a former Chief Justice or a former Judge of the Supreme Court of Pakistan to be nominated by the Chief Justice of Pakistan, in consultation with the two member Judges, for a period of two years; | Member |
| (iv) | Federal Minister for Law and Justice; | Member |
| (v) | Attorney-General for Pakistan; and | Member |
| (vi) | a Senior Advocate of the Supreme Court of Pakistan nominated by the Pakistan Bar Council for a term of two years. | Member |

(3) Notwithstanding anything contained in clause (1) or clause (2), the President shall appoint the most senior Judge of the Supreme Court as the Chief Justice of Pakistan.

(4) The Commission may make rules regulating its procedure.

(5) For appointment of Judges of a High Court, the Commission in clause (2) shall also include the following, namely:-

- | | | |
|-------|---|--------|
| (i) | Chief Justice of the High Court to which the appointment is being made; | Member |
| (ii) | the most senior Judge of that High Court; | Member |
| (iii) | Provincial Minister for Law; and | Member |

- (iv) a senior advocate to be nominated
by the Provincial Bar Council for a period
of two years:

Member

Provided that for appointment of the Chief Justice of a High Court, the most senior Judge of the Court shall be substituted by a former Chief Justice or former Judge of that Court, to be nominated by the Chief Justice of Pakistan in consultation with the two member Judges of the Commission mentioned in clause (2):

Provided further that if for any reason the Chief Justice of High Court is not available, he shall also be substituted in the manner as provided in the foregoing proviso.

- (6) For appointment of Judges of the Islamabad High Court, the Commission in clause (2) shall also include the following, namely:-

- (i) Chief Justice of the Islamabad High Court; and Member
(ii) the most senior Judge of that High Court: Member

Provided that for initial appointment of the Judges of the Islamabad High Court, the Chief Justices of the four Provincial High Courts shall also be members of the Commission:

Provided further that subject to the foregoing proviso, in case of appointment of Chief Justice of Islamabad High Court, the provisos to clause (5) shall, *mutatis mutandis*, apply.

- (7) For appointment of Judges of the Federal Shariat Court, the Commission in clause (2) shall also include the

Chief Justice of the Federal Shariat Court and the most senior Judge of that Court as its members:

Provided that for appointment of Chief Justice of Federal Shariat Court, the provisos to clause (5) shall, *mutatis mutandis*, apply.

(8) The Commission by majority of its total-membership shall nominate to the Parliamentary Committee one person, for each vacancy of a Judge in the Supreme Court, a High Court or the Federal Shariat Court, as the case may be;

(9) The Parliamentary Committee, hereinafter in this Article referred to as the Committee, shall consist of the following eight members, namely:-

- (i) four members from the Senate; and
- (ii) four members from the National Assembly.

(10) Out of the eight members of the Committee, four shall be from the Treasury Benches, two from each House and four from the Opposition Benches, two from each House. The nomination of members from the Treasury Benches shall be made by the Leader of the House and from the Opposition Benches by the Leader of the Opposition.

(11) Secretary, Senate shall act as the Secretary of the Committee.

(12) The Committee on receipt of a nomination from the Commission may confirm the nominee by majority of its total

membership within fourteen days, failing which the nomination shall be deemed to have been confirmed:

Provided that the Committee may not confirm the nomination by three-fourth majority of its total membership within the said period, in which case, the Commission shall send another nomination.

(13) The Committee shall forward the name of the nominee confirmed by it or deemed to have been confirmed to the President for appointment.

(14) No action or decision taken by the Commission or a Committee shall be invalid or called in question only on the ground of the existence of a vacancy therein or of the absence of any member from any meeting thereof.

(15) The Committee may make rules for regulating its procedure.

68. Amendment of Article 177 of the Constitution.- In the Constitution, in Article 177, for clause (1) the following shall be substituted, namely:-

“(1) The Chief Justice of Pakistan and each of the other Judges of the Supreme Court shall be appointed by the President in accordance with Article 175A.”.

69. Amendment of Article 193 of the Constitution.- In the Constitution, in Article 193,-

(i) for clause (1), the following shall be substituted, namely:-

“(1) The Chief Justice and each of other Judges of a High Court shall be appointed by the President in accordance with Article 175A.”

- (ii) in clause (2), for the word "forty" the word "forty-five" shall be substituted and shall be deemed always to have been so substituted with effect from the 21st day of August, 2002.

70. Amendment of Article 194 of the Constitution.- In the Constitution, in Article 194, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the Chief Justice of the Islamabad High Court shall make oath before the President and other Judges of that Court shall make oath before the Chief Justice of the Islamabad High Court."

71. Amendment of Article 198 of the Constitution.- In the Constitution, in Article 198,-

- (i) after clause (1), the following new clause shall be inserted, namely:-

"(1A) The High Court for Islamabad Capital Territory shall have its principal seat at Islamabad."

- (ii) in clause (3),-

- (a) after the word Abbottabad, the comma and the word "Mingora" shall be inserted ; and
 (b) after the word " Sibi " occurring at the end, the words "and Turbat" shall be added.

72. Amendment of Article 199 of the Constitution.- In the Constitution, in Article 199, for clause (4A), the following shall be substituted, namely,-

"(4A) An interim order made by a High Court on an application made to it to question the validity or legal effect of any order made, proceeding taken or act done by any authority or person, which has been made, taken or done

or purports to have been made, taken or done under any law which is specified in Part I of the First Schedule or relates to, or is connected with, State property or assessment or collection of public revenues shall cease to have effect on the expiration of a period of six months following the day on which it is made:

Provided that the matter shall be finally decided by the High Court within six months from the date on which the interim order is made.”.

73. Amendment of Article 200 of the Constitution.- In the Constitution, in Article 200,-

- (i) in clause (1), the proviso shall be omitted; and
- (ii) clause (4) shall be omitted.

74. Amendment of Article 203C of the Constitution.- In the Constitution, in Article 203C,-

- (i) in clause (2), after the word “President” occurring at the end the words, figures and letters “in accordance with Article 175A” shall be inserted;
- (ii) in clause (3A), for the words “who are well-versed in Islamic law” the words and comma “having at least fifteen years experience in Islamic law, research or instruction” shall be substituted;
- (iii) in clause (4), in the proviso, the words “for a period exceeding two years” shall be omitted;
- (iv) for clause (4B) the following shall be substituted, namely:-
 - “(4B) The Chief Justice and a Judge shall not be removed from office except in the like manner and on the like grounds as a Judge of the Supreme Court.”; and
- (v) clause (4C) and clause (5) shall be omitted.
- (vi) for clause (9), the following shall be substituted and deemed always to have been so substituted with effect from the 21st day of August, 2002, namely:-

“(9) A Chief Justice who is not a Judge of the Supreme Court shall be entitled to the same remuneration, allowances and privileges as are admissible to a Judge of the Supreme Court and a Judge who is not a Judge of a High Court shall be entitled to the same remuneration, allowances and privileges as are admissible to a Judge of a High Court :

Provided that where a Judge is already drawing a pension for any other post in the service of Pakistan, the amount of such pension shall be deducted from the pension admissible under this clause.”

75. Amendment of Article 203D of the Constitution.- In the Constitution, in Article 203D, in clause (1A), the words “or the Concurrent Legislative List” shall be omitted and for the words “in either of those lists” the words “in the Federal Legislative List” shall be substituted.

76. Amendment of Article 209 of the Constitution.- In the Constitution, in Article 209, for clause (5) the following shall be substituted, namely:-

“(5) If, on information from any source, the Council or the President is of the opinion that a Judge of the Supreme Court or of a High Court-

- (a) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or**
- (b) may have been guilty of misconduct,**

the President shall direct the Council to, or the Council may, on its own motion, inquire into the matter.”

77. Amendment of Article 213 of the Constitution.- In the Constitution, in Article 213,-

- (i) In clause (1), the words “in his discretion” shall be omitted;**
- (ii) after clause (2), the following new clauses shall be inserted, namely:-**

“(2A). The Prime Minister shall in consultation with the Leader of the Opposition in the National Assembly, forward three names for appointment of the Commissioner to a Parliamentary Committee for hearing and confirmation of any one person.

(2B) The Parliamentary Committee to be constituted by the Speaker shall comprise fifty percent members from the Treasury Benches and fifty percent from the Opposition Parties, based on their strength in Majlis-e-Shoora (Parliament), to be nominated by the respective Parliamentary Leaders:

Provided that in case there is no consensus between the Prime Minister and the Leader of the Opposition, each shall forward separate lists to the Parliamentary Committee for consideration which may confirm any one name:

Provided further that the total strength of the Parliamentary Committee shall not exceed twelve members out of which one-third shall be from the Senate:

Provided also that when the National Assembly is dissolved and a vacancy occurs in the office of the Chief Election Commissioner, the Parliamentary Committee shall comprise the members from the Senate only and the foregoing provisions of this clause shall, *mutatis mutandis*, apply.”

78. Amendment of Article 215 of the Constitution.- In the Constitution, in Article 215, in clause (1),-

- (i) for the word “three” the word “five” shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that the aforesaid amendment shall be effective after the expiry of current tenure of the present incumbent; and

- (ii) the existing proviso shall be omitted.

79. Amendment of Article 216 of the Constitution.- In the Constitution, in Article 216, in clause (2), in the proviso,-

- (i) in paragraph (a), for the semicolon and the word “,and” a full stop shall be substituted; and
 (ii) paragraph (b) shall be omitted.

80. Amendment of Article 218 of the Constitution.- In the Constitution, in Article 218,-

- (i) for clause(1), the following shall be substituted, namely:-

“(1) For the purpose of election to both Houses of Majilis-e-Shoora (Parliament), Provincial Assemblies and for election to such other public offices as may be specified by law, a permanent Election Commission shall be constituted in accordance with this Article.”;

- (ii) for clause (2), the following shall be substituted, namely:-

“(2) The Election Commission shall consist of.-

- (a) The Commissioner who shall be the Chairman of the Commission; and
 (b) four members, each of whom has been a Judge of a High Court from each Province, appointed by the President in the manner provided for appointment of the Commissioner in clauses (2A) and (2B) of Article 213.”.

81. Amendment of Article 219 of the Constitution.- In the Constitution, in Article 219,-

- (i) for the word "Commissioner" the word "Commission" shall be substituted; and
- (ii) in paragraph (c), for the full stop at the end a semi colon shall be substituted and after paragraph (c) amended as aforesaid, the following new paragraphs shall be added; namely:-

- (d) the holding of general elections to the National Assembly, Provincial Assemblies and the local governments; and
- (e) such other functions as may be specified by an Act of Majlis-e-Shoora (Parliament).

82. Amendment of Article 221 of the Constitution.- In the Constitution, in Article 221, for the word "Commissioner" occurring for the first and second time, the words, "Election Commission" shall be substituted and the words "Commissioner or an" shall be omitted.

83. Amendment of Article 224 of the Constitution.- In the Constitution, in Article 224,-

- (i) for clause (1), the following shall be substituted, namely:-

"(1) A general election to the National Assembly or a Provincial Assembly shall be held within a period of sixty days immediately following the day on which the term of the Assembly is due to expire, unless the Assembly has been sooner dissolved, and the results of the election shall be declared not later than fourteen days before that day.";

- (ii) after clause (1) substituted as the aforesaid, the following new clauses shall be inserted, namely:-

“(1A) On dissolution of the Assembly on completion of its term, or in case it is dissolved under Article 58 or Article 112, the President, or the Governor, as the case may be, shall appoint a care-taker Cabinet:

Provided that the care-taker Prime Minister shall be selected by the President in consultation with the Prime Minister and the Leader of the Opposition in the outgoing National Assembly, and a care-taker Chief Minister shall be appointed by the Governor in consultation with the Chief Minister and the Leader of the Opposition in the outgoing Provincial Assembly:

Provided further that the Members of the Federal and Provincial care-taker Cabinets shall be appointed on the advice of the care-taker Prime Minister or the care-taker Chief Minister, as the case may be.

- (1B) Members of the care-taker Cabinets including the care-taker Prime Minister and the care-taker Chief Minister and their immediate family members shall not be eligible to contest the immediately following elections to such Assemblies”.

Explanation.- In this clause “immediate family members” means spouse and children.

- (iii) after clause (5) the following new clause shall be inserted and shall be deemed always to have been so inserted with effect from the 21st day of August, 2002, namely:-

“(6) When a seat reserved for women or non-Muslims in the National Assembly or a Provincial Assembly falls vacant, on account of death, resignation or disqualification of a member, it shall be filled by the next person in order of precedence from the party list of the candidates to be submitted to the Election Commission by the political party whose member has vacated such seat.”.

84. Substitution of Article 226 of the Constitution.- In the Constitution, for Article 226, the following shall be substituted, namely:-

“**226. Election by secret ballot.-** All elections under the Constitution, other than those of the Prime Minister and the Chief Minister, shall be by secret ballot.”.

85. Amendment of Article 228 of the Constitution.- In the Constitution, in Article 228, in clause (3), in paragraph (c), for the word “four” the words “one-third” shall be substituted.

86. Amendment of Article 232 of the Constitution.- In the Constitution, in Article 232, in clause (1), for the full stop at the end a colon shall be substituted and after clause (1) amended as aforesaid, the following provisos shall be inserted, namely:-

“ Provided that for imposition of emergency due to internal disturbances beyond the powers of a Provincial Government to control, a Resolution from the Provincial Assembly of that Province shall be required:

Provided further that if the President acts on his own, the Proclamation of Emergency shall be placed before both Houses of Majlis-e-Shoora (Parliament) for approval by each House within ten days.”.

87. Amendment of Article 233 of the Constitution.- In the Constitution, in Article 233, in clause (3), for the words "a joint sitting" the words "both Houses of Majlis-e-Shoora (Parliament) separately" shall be substituted.

88. Amendment of Article 234 of the Constitution.- In the Constitution, in Article 234, in clause (1),-

- (i) the words "or otherwise" shall be omitted; and
- (ii) for the words "at a joint sitting" the words "by each House separately" shall be substituted.

89. Amendment of Article 242 of the Constitution.- In the Constitution, in Article 242,-

- (i) in clause (1A), for the words "in his discretion" the words "on the advice of the Prime Minister" shall be substituted"; and
- (ii) after clause (1A) amended as aforesaid the following new clause shall be inserted, namely:-

“(1B) The Chairman of the Public Service Commission constituted in relation to affairs of a Province shall be appointed by the Governor on advice of the Chief Minister.”.

90. Substitution of Article 243 in the Constitution.- In the Constitution, for Article 243, the following shall be substituted, namely:-

“**243. Command of Armed Forces.-** (1) The Federal Government shall have control and command of the Armed Forces.

(2) Without prejudice to the generality of the foregoing provision, the Supreme Command of the Armed Forces shall vest in the President.

(3) The President shall subject to law, have power –

- (a) to raise and maintain the Military, Naval and Air Forces of Pakistan; and the Reserves of such Forces; and
 - (b) to grant Commissions in such Forces.
- (3) The President shall, on advice of the Prime Minister, appoint-
- (a) the Chairman, Joint Chiefs of Staff Committee;
 - (b) the Chief of the Army Staff;
 - (c) the Chief of the Naval Staff; and
 - (d) the Chief of the Air Staff,

and shall also determine their salaries and allowances.”.

91. Amendment of Article 246 of the Constitution.- In the Constitution, in Article 246, in paragraph (a),-

(a) in sub-paragraph (i), for the word “Baluchistan” the word “Balochistan” and for the words “North West Frontier” the words “Khyber Pakhtunkhwa” shall be substituted and the word “and” at the end shall be omitted, and

(b) after sub-paragraph (ii), the following new sub-paragraphs shall be inserted, namely:-

“(iii) Tribal Areas adjoining Lakki Marwat District; and

(iv) Tribal Areas adjoining Tank District.”.

92. Amendment of Article 260 of the Constitution.- In the Constitution, in Article 260, in clause (1), the definition of expression “consultation” shall be omitted.

93. Insertion of new Articles in the Constitution.- In the Constitution, after Article 267, the following new Articles shall be inserted, namely:-

“267A. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of the Constitution (Eighteenth Amendment) Act, 2010, hereinafter in this Article referred as the Act, or for bringing the

provisions of the Act into effective operation, the matter shall be laid before both Houses in a joint sitting which may by a resolution direct that the provisions of the Act shall, during such period as may be specified in the resolution, have effect, subject to such adaptations, whether by way of modification, addition or omission, as may be deemed necessary or expedient:

Provided that this power shall be available for a period of one year from the commencement of the Act.

267B. Removal of doubt.- For removal of doubt it is hereby declared that Article 152A omitted and Articles 179 and 195 substituted by the Constitution (Seventeenth Amendment) Act, 2003 (Act No. III of 2003), notwithstanding its repeal, shall be deemed always to have been so omitted and substituted.”

94. Amendment of Article 268 of the Constitution.- In the Constitution, in Article 268, clause (2) shall be omitted.

95. Substitution of new Article in the Constitution.- In the Constitution, for Article 270AA, the following shall be substituted, namely:-

“**270AA. Declaration and continuance of laws etc.-**(1) The Proclamation of Emergency of the fourteenth day of October, 1999, the Provisional Constitution Order No.1 of 1999, the Oath of Office (Judges) Order, 2000 (No. I of 2000), Chief Executive's Order No. 12 of 2002, Chief Executive's Order No.19 of 2002, the amendments made in the Constitution through the Legal Framework Order, 2002 (Chief Executive's Order No. 24 of 2002), the Legal Framework (Amendment) Order, 2002 (Chief Executive's Order No. 29 of 2002) and the Legal Framework (Second Amendment) Order, 2002 (Chief Executive's Order No. 32 of 2002), notwithstanding any judgment of any court including the Supreme Court or

a High Court, are hereby declared as having been made without lawful authority and of no legal effect.

(2) Except as provided in clause (1) and subject to the provisions of the Constitution (Eighteenth Amendment) Act, 2010, all other laws including President's Orders, Acts, Ordinances, Chief Executive's Orders, regulations, enactments, notifications, rules, orders or bye-laws made between the twelfth day of October, one thousand nine hundred and ninety-nine and the thirty-first day of October, two thousand and three (both days inclusive) and still in force shall, continue to be in force until altered, repealed or amended by the competent authority.

Explanation.- For the purposes of clause (2) and clause (6), "competent authority" means,-

- (a) in respect of Presidents' Orders, Ordinances, Chief Executive's Orders and all other laws, the appropriate Legislature; and
- (b) in respect of notifications, rules, orders and bye-laws, the authority in which the power to make, alter, repeal or amend the same vests under the law.

(3) Notwithstanding anything contained in the Constitution or clause (1), or judgment of any court including the Supreme Court or a High Court,-

- (a) Judges of the Supreme Court, High Courts and Federal Shariat Court who were continuing to hold the office of a Judge or were appointed as such, and had taken oath under the Oath of Office (Judges) Order, 2000, (I of 2000), shall be deemed to continue to hold the office as a Judge or appointed as such, as the case may be, under the

Constitution, and such continuance or appointment, shall have effect accordingly.

(b) Judges of the Supreme Court, High Courts and Federal Shariat Court who not having been given or taken oath under the Oath of Office of (Judges) Order, 2000 (I of 2000), and ceased to hold the office of a Judge shall, for the purposes of pensionary benefits only, be deemed to have continued to hold office under the Constitution till their date of superannuation.

(4) All orders made, proceedings taken, appointments made, including secondments and deputations, and acts done by any authority, or by any person which were made, taken or done, or purported to have been made, taken or done, in exercise of the powers derived from any authority or laws mentioned in clause (2), or in execution of or in compliance with any orders made or sentences passed by any authority in the exercise or purported exercise of powers as aforesaid, shall, notwithstanding anything contained in clause (1), be deemed to be valid and shall not be called in question in any court or forum on any ground whatsoever.

(5) No suit, prosecution or other legal proceedings, including writ petitions, shall lie in any court or forum against any authority or any person, for or on account of or in respect of any order made, proceedings taken or act done whether in the exercise or purported exercise of the powers referred to in clause (2) or clause (4) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.

(6) Notwithstanding omission of the Concurrent Legislative List by the Constitution (Eighteenth Amendment) Act, 2010, all laws with

respect to any of the matters enumerated in the said List (including Ordinances, Orders, rules, bye-laws, regulations and notifications and other legal instruments having the force of law) in force in Pakistan or any part thereof, or having extra-territorial operation, immediately before the commencement of the Constitution (Eighteenth Amendment) Act, 2010, shall continue to remain in force until altered, repealed or amended by the competent authority.

(7) Notwithstanding anything contained in the Constitution, all taxes and fees levied under any law in force immediately before the commencement of the Constitution (Eighteenth Amendment) Act, 2010, shall continue to be levied until they are varied or abolished by an Act of the appropriate legislature.

(8) On the omission of the Concurrent Legislative List, the process of devolution of the matters mentioned in the said List to the Provinces shall be completed by the thirtieth day of June, two thousand and eleven.

(9) For purposes of the devolution process under clause (8), the Federal Government shall constitute an Implementation Commission as it may deem fit within fifteen days of the commencement of the Constitution (Eighteenth Amendment) Act, 2010.”.

96. Amendment of Article 270B of the Constitution.- In the Constitution, in Article 270B, after the figure and comma “1977,”, the words, commas, figures and brackets “and the Conduct of General Elections Order, 2002 (Chief Executive’s Order No.7 of 2002),” shall be inserted and shall be deemed always to have been so inserted with effect from the 21st day of August, 2002.

97. Insertion of new Article 270BB of the Constitution.- In the Constitution, after Article 270B amended as aforesaid, the following new Article shall be inserted, namely:-

“270BB. General Elections 2008.- Notwithstanding anything contained in the Constitution or any other law for the time being in force, the General Elections 2008, to the National Assembly and the Provincial Assemblies held on the eighteenth day of February, two thousand and eight shall be deemed to have been held under the Constitution and shall have effect accordingly.”.

98. Amendment of Annex to the Constitution.- In the Constitution, in the Annex, in the Objectives Resolution, in the sixth paragraph, after the word “to” the word “freely” shall be inserted.

99. Amendment of Third Schedule to the Constitution.- In the Constitution, in the Third Schedule,-

- (I) in the Oath prescribed for the Prime Minister, for the figure “3” occurring in the brackets, the figure “5” shall be substituted;
- (II) in the Oath prescribed for the Chief Minister or Provincial Minister, for the figures and brackets “131(4)” the figures and brackets “130(5)” shall be substituted;
- (III) in the Oath prescribed for the Speaker of a Provincial Assembly, for the words “I will discharge” the words and comma “and whenever I am called upon to act as Governor, I will discharge ” shall be substituted; and
- (IV) for the Oath prescribed for the Chief Justice or a Judge of the Federal Shariat Court, the following shall be substituted, namely :-

[Article 203C (7)]

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

(In the name of Allah, the most Beneficent, the most Merciful.)

I, _____, do solemnly swear that I will bear true faith and allegiance to Pakistan:

That, as Chief Justice of the Federal Shariat Court (or a Judge of the Federal Shariat Court), I will discharge my duties, and perform my functions, honestly, to the best of my ability, and faithfully, in accordance with the Constitution of the Islamic Republic of Pakistan and the law:

That I will not allow my personal interest to influence my official conduct or my official decisions.

That I will abide by the code of conduct issued by the Supreme Judicial Council:

That I will preserve, protect and defend the Constitution of the Islamic Republic of Pakistan:

And that, in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will.

[May Allah Almighty help and guide me (A'meen)]” ;

100. Amendment of Fourth Schedule to the Constitution.- In the Constitution, in the Fourth Schedule, in the Federal Legislative List,-

- (1) in Part I,-
 - (i) in entry 18, in sub-entry (c) for the full stop at the end the semi-colon and a word “;and” shall be added and after sub-entry(c) amended as aforesaid the following new sub-entry shall be added, namely:-

“(d) boilers.”.
 - (ii) for entry 32 the following shall be substituted, namely:-

“32. International treaties, conventions and agreements and International arbitration.”.

- (iii) entries 21,33,38 and 40 shall be omitted;
- (iv) entry 45 and entry 46 shall be omitted;
- (v) in entry 49, after the word “consumed” the comma and words “,except sales tax on services” shall be added.
- (vi) in entry 50, after the word “taxes” the words “on capital gains” shall be omitted.

(2) in Part II,-

- (i) entries 4, 5, 6, 7, and 8 shall be renumbered as entries 13, 14, 15, 16 and 17, respectively, and
- (ii) after entry 3, the following new entries shall be inserted, namely:-

“4. Electricity.

5. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein.

6. All regulatory authorities established under a Federal law.

7. National planning and national economic coordination including planning and coordination of scientific and technological research.

8. Supervision and management of public debt.

9. Census.

10. Extension of the powers and jurisdiction of members of a police force belonging to any Province to any area in another Province, but not so as to enable the police of one Province to exercise powers and jurisdiction in another

Province without the consent of the Government of that Province; extension of the powers and jurisdiction of members of a police force belonging to any Province to railway areas outside that Province.

11. Legal, medical and other professions.

12. Standards in institutions for higher education and research, scientific and technical institutions.

13. Inter-provincial matters and co-ordination."

(3) The Concurrent Legislative List and the entries thereto from 1 to 47 (both inclusive) shall be omitted.

101. **Omission of the Sixth Schedule in the Constitution.-** In the Constitution, the Sixth Schedule shall be omitted.

102. **Omission of the Seventh Schedule in the Constitution.-** In the Constitution, the Seventh Schedule shall be omitted.
