

# **REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE**



**“THE CIVIL COURTS (AMENDMENT) BILL, 2016”**

**Report No. 30**

**PRESENTED BY**

**SENATOR MUHAMMAD JAVED ABBASI  
CHAIRMAN**

## SENATE SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CIVIL COURTS (AMENDMENT) BILL, 2016"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Civil Courts (Amendment) Bill, 2016" introduced by Senator Muhammad Azam Khan Swati, on 26<sup>th</sup> September, 2016. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

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

1. Senator Muhammad Javed Abbasi	Chairman
2. Senator Aitzaz Ahsan	Member
3. Senator Farooq Hamid Naek	Member
4. Senator Saleem Zia	Member
5. Senator Dr. Muhammad Ali Khan Saif	Member
6. Senator Syed Muzafar Hussain Shah	Member
7. Senator Nehal Hashmi	Member
8. Senator Ms. Ayesha Raza Farooq	Member
9. Senator Nawabzada Saifullah Magsi	Member
10. Senator Saeed Ghani	Member
11. Senator Zaheer ud Din Babar Awan	Member
12. Senator Mrs. Zahida Khan	Member
13. Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 31<sup>st</sup> October, 2016, 16<sup>th</sup> November, 2016 and 13<sup>th</sup> December, 2016, respectively.

#### Synopsis of deliberations held during meeting dated 31<sup>st</sup> October, 2016.

4. Consideration of the instant Agenda Item was deferred due to absence of the Mover.

#### Synopsis of deliberations held during meeting dated 16<sup>th</sup> November, 2016.

5. The mover did not attend the meeting, however, the committee decided to hear the stance of Ministry of Law and Justice in this regard.

6. Secretary Ministry of Law and Justice opposed the Bill in the following terms:-



“Reference may be made to clause (a) of section 8 *ibid* which says that the Government may, in consultation with the High Court fix the member of Civil Judges to be appointed. The bill in fact provides for qualifications which are in fact required to be provided by the Government by making rules prescribing qualifications for the recruitment of persons as Civil Judges. It would, therefore, appear that qualifications are required to be prescribed by rules by the Provincial Governments in consultation with the High Court. Reference may also be made section 13 of the General Clauses Act, 1897 (X of 1897) which says that in all Central Acts and Regulations, unless there is anything repugnant in the subject or context, the words importing the masculine gender shall be taken to include females. Therefore, females are already eligible for appointment as Civil Judges subject of course to the criteria laid down by the Government in consultation with the Islamabad High Court by making necessary rules in exercise of clause (b) of section 8 of the Ordinance.”

7. Secretary Ministry of Law and Justice further apprised the committee that there are total 76 posts of judges in the lower Courts of Islamabad out of which 27 seats are vacant and on remaining 45 seats, 14 females Judges are serving. He stated that, in future, possibility of recruitments in the lower Judiciary of Islamabad through Federal Public Service Commission is also being explored in order to ensure merit based recruitments.

8. Representatives of Bar Council and Association were also invited to give their inputs on the instant Bill. Ch. M. Hussain, vice Chairman Punjab Bar Council, Mr. Rahib Khan Buledi, Chairman Inter Provincial Committee, Balochistan Bar Council and Mr. Abdul Ghani Khilji, President Quetta High Court Bar Association opposed the Bill and stressed the need of ensuring merit based recruitments in the judiciary.

9. Senator Saeed Ghani supported the Bill and stated that women shall be given due representation in the judiciary and reservation of quota is one way of ensuring gender representation in all spheres of public life.

10. The committee decided to give another chance to the mover to defend his legislative proposals, therefore, consideration of the instant agenda item was deferred till the next meeting.



11. The Committee sought extension of time period for presentation of report from the House in terms of rule 194(1) of the Rules of Procedure and Conduct of Business in the Senate, 2012, as the Bill could not be considered due to continuous absence of mover. The House granted an extension of thirty working for the presentation of report on 22<sup>nd</sup> November, 2016.

**Synopsis of deliberations held during meeting dated 13<sup>th</sup> December, 2016.**

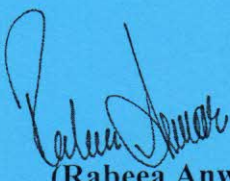
12. Final considered in the meeting dated 13<sup>th</sup> December, 2016, which was attended by the following Members:-


- |                                   |          |
|-----------------------------------|----------|
| 1. Senator Muhammad Javed Abbasi  | Chairman |
| 2. Senator Saleem Zia             | Member   |
| 3. Senator Nehal Hashmi           | Member   |
| 4. Senator Ms. Ayesha Raza Farooq | Member   |

13. The Committee took serious note of absence of the mover once again and given the fact that already an extension of time period had been obtained from the House, decided that the Committee shall formulate its recommendations and present a report before the House within the given time period.

14. The Committee held extensive deliberations and also examined the verbatim of Senate sitting dated 26<sup>th</sup> September, 2016, wherein the mover, while introducing the Bill, spoke about the broad principles of the said Bill. All Members present supported the view point provided by the representatives of Bar and Ministry of Law and Justice and recommended that appointments in the judiciary should be merit based.

15. In view of the abovementioned, the Committee recommends that the "The Civil Courts (Amendment) Bill, 2016" may not be passed by the Senate. (Copy of Bill annexed).

  
(Rabeea Anwar)  
J.S / Secretary Committee

  
( Senator Muhammad Javed Abbasi)  
Chairman  
Standing Committee on Law and Justice

[TO BE INTRODUCED IN THE SENATE]

A

BILL

*further to amend the Civil Courts Ordinance, 1962 in its applications to the Islamabad Capital Territory*

**WHEREAS** it is expedient further to amend the Civil Courts Ordinance, 1962 (W.P. Ordinance II of 1962), in its applications to the Islamabad Capital Territory for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title, extent and commencement.-** (1) This Act may be called the Civil Courts (Amendment) Act, 2016.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

**2. Amendment of section 6, W.P. Ordinance II of 1962.-** In the Civil Courts Ordinance, 1962 (W.P. Ordinance II of 1962), hereinafter referred to as the said Ordinance, in section 6, in sub-section (2), for the full stop occurring at the end, a colon ":" shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that one-third of the total number of additional district judges shall be women."

**3. Amendment of section 8, W.P. Ordinance II of 1962.-** In the said Ordinance, in section 8, in paragraph (c), for the full stop occurring at the end, a colon ":" shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that one-third of the total number of civil-judges shall be women."

**STATEMENT OF OBJECTS AND REASONS**

This Bill strives to encourage and promote adequate representation of women in judiciary. Although there are women judges in the district courts, their number is far from adequate. It is thus the aim of this Bill to acknowledge the representation of women as judges in the district court. A woman judge represents the lives, the sensibilities, and impacts of the law on more than half of the population of the country. The Bill seeks to endorse the participation of women in judiciary. Hence this Bill.

**SENATOR MOHAMMAD AZAM KHAN SWATI**  
Member-In-Charge