

[AS INTRODUCED IN THE SENATE]

A

BILL

further to amend the Constitution of the Islamic Republic of Pakistan

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

It is hereby enacted as follows:-

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

(2) It shall come into force at once.

2. Amendment of Article 228 of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, in Article 228,-

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

“(d) not less than one third of the members are women.”;

(ii) after clause (6), the following new clause shall be inserted, namely:-

“(7) For the purpose of quorum for meetings, at least one third of women members shall be present.”

STATEMENT OF OBJECTS AND REASONS

In Islam, seeking advice and consultation from amongst the believers is emphasized as a governance principle. Verse 42:38 reads

وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَى بَيْنَهُمْ وَمِمَّا رَزَقْنَاهُمْ يُنْفِقُونَ ﴿٣٨﴾

“And those who have responded to their lord and established prayer and whose affair is [determined by] consultation among themselves, and from what we have provided them, they spend”.

2

This verse uses the words "those (people) who have responded to their Lord. No interpretation of this verse has ever barred any category of persons from those who can be consulted in matters of import to the Believers. Hence the Quran praises the people of righteousness and virtue by saying, "and whose affair is [determined by] consultation among themselves". Therefore, the word "themselves" includes both men and women without any further distinction and condition. Further, when Muhammad (P.B.U.H) was sent first revelation, Hazrat Khadijah was the first person whom he informed about the event. The Qur'an also narrates the conversation between the Prophet Suleiman and the Queen of Sheba as well as between her and her subjects which indicates that women are allowed to voice their opinion publicly.

There are many traditions in the Sunnah of the Holy Prophet which support the above argument. One such interesting report is the conversation between the Holy Prophet and Umm-e-Salma after the treaty of Hudaibiyah. When the Prophet (peace and blessings of Allah be upon him) made a treaty with Quraysh and agreed to go back and not to enter Makkah that year, he said to his companions: "Get up and offer your sacrifices." To His surprise, nobody stood up and offered the sacrifices. The Prophet went to Umm-e-Salma and told her what happened. Umm-e-Salma replied: "O Prophet of Allah is that what you want? Go out and do not speak a word to any one of them until you have slaughtered your sacrifice and called your barber to shave your head." Seeing the Prophet offering his sacrifices, people got up and followed his commands. Imam Al-Haafiz-ibn-Hajar (may Allah have mercy on him) said about this incident: "This (incident) states the virtue of consultation, and that it is permissible to consult a virtuous wife".

When Umer ordered the people not to give too much in the dowry, an elderly woman stopped him and asked him about the verse of Holy Quran which says; "But if you want to replace one wife with another and you have given one of them a great amount [in gifts], do not take [back] from it anything"(4:20). Umar replied: "May Allah forgives me; all the people have more understanding than 'Umar". He then ordered the people to give as much in Mahr as they want without any limit. This shows that anybody, without any distinction between men and women, who is an expert and scholar of Islam can give an advice on matters pertaining to Sharia.

3

Council of Islamic Ideology, a Constitutional body for advising the Government on issues related to Islam, does not have an equal and adequate representation of female scholars and experts. The current law on the composition of the Council requires that at least one woman shall be the member of the council. In view of the fact that the proportion of women in the population is more or less equal to men, it is essential that their representation on this important body be adequately raised. In order to enhance the role of women in Constitutional interpretation in the light of Sharia, women representation must be increased. This is especially important in cases where the matters under consideration have direct relevance to women (for instance, zina or unlawful sexual relations, or the so called "honour-killings).

This amendment bill aims to amend the current composition of the Council of Islamic Ideology by increasing minimum number of women from "one" to "one third" members of the Council.

The Bill seeks to achieve the above said objects.

SENATOR SEHAR KAMRAN
Member-In-Charge