



SENATE SECRETARIAT

Report No. 21

REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE



“THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 2020”

PRESENTED BY

**Senator Muhammad Javed Abbasi
Chairman
Standing Committee on Law and Justice**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 2020"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Code of Civil Procedure (Amendment) Bill, 2020" as passed by the National Assembly and introduced in the Senate on 14th January, 2020. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

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

1.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Mian Raza Rabbani	Member
3.	Senator Farooq Hamid Naek	Member
4.	Senator Ghous Muhammad Khan Niazi	Member
5.	Senator Siraj ul Haq	Member
6.	Senator Syed Muzafar Hussain Shah	Member
7.	Senator Ayesha Raza Farooq	Member
8.	Senator Muhammad Ali Khan Saif	Member
9.	Senator Mustafa Nawaz Khokar	Member
10.	Senator Sana Jamali	Member
11.	Senator Walid Iqbal	Member
12.	Senator Zeeshan Khanzada	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 24th January, 2020 and 13th February, 2020 under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 13th February, 2020, which was attended by the following members:-


- i. Senator Muhammad Javed Abbasi
- ii. Senator Ghous Muhammad Khan Niazi
- iii. Senator Siraj ul Haq
- iv. Senator Syed Muzafar Hussain Shah *(the Hon'ble Senator was not present at the time of consideration of this Bill)*
- v. Senator Zeeshan Khanzada
- vi. Senator Sana Jamali

4. The Ministry of Law and Justice briefed the Committee that major cause of delay in civil litigation system in Pakistan is that when a party files a suit accompanied with an injunction or stay application, it gets stayed and takes many years in final decision or verdict. The Ministry further intimated that under the proposed amendment, a new concept of 2 tier system has been introduced that will help in reducing the time-line and delay in trial. Hence, it is safe to say that such a change would reduce 30 to 40 years period of civil litigation to maximum of 2 years or a little more.

5. The Committee held extensive discussions and unanimously supported the proposed amendments envisaged in the instant Bill.

6. The Committee recommends that "The Code of Civil Procedure (Amendment) Bill, 2019", as passed by the National Assembly and introduced in the Senate, may be passed by the Senate of Pakistan. (Copy of Bill as passed by the National Assembly and introduced in the Senate is annexed).


(RABEEA ANWAR)
J.S / Secretary Committee


(SENATOR MUHAMMAD JAVED ABBASI)
Chairman
Standing Committee on Law & Justice

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further to amend the Code of Civil Procedure, 1908

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908) for bringing procedural reforms in order to provide inexpensive and expeditious justice;

It is hereby enacted as follows:-

1. Short title, commencement and extent.— (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 2010.

(2) It shall come into force at once.

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

2. Amendment of section 1, Act V of 1908.— In the Code of Civil Procedure, 1908 (Act V of 1908), hereinafter referred to as the said Act, in section 1, after sub-section (3), the following new sub-section shall be inserted, namely

“(4) The primary objective of this Code is to enable the Courts to-

(a) deal with the cases justly and fairly;

(b) encourage parties to alternate dispute resolution procedure if it considers appropriate;

(c) save expense and time both of courts and litigants; and enforce compliance with provisions of this Code.”.

3. Substitution of section 3, Act V of 1908.— In the said Act, for section 3, the following shall be substituted, namely:-

“**3. Subordination of Courts.**— For the purposes of this Code, the hierarchy and subordination of Civil Courts shall be the same as prescribed in the West Pakistan Civil Courts Ordinance, 1962 (W.P. Ordinance No. II of 1962).”.

4. Substitution of section 6, Act V of 1908.— In the said Act, for section 6, the following shall be substituted, namely

“**6. Pecuniary jurisdiction.**— Save in so far as is provided for the Islamabad High Court exercising original civil jurisdiction at Islamabad, all civil suits shall be filed in the following manner, namely:—

- (a) where the amount or value of the subject matter of the suit is below rupees fifty million, the suit shall be filed in the court of Civil Judge, as may be prescribed by the High Court; and
- (b) where the amount or value of the subject matter of the suit is above rupees fifty million the suit shall be filed in the court of District Judge, as may be prescribed by the High Court.”

5. Omission of section 7, Act V of 1908.— In the said Act, section 7 shall be omitted.

6. Substitution of section 26, Act V of 1908.— In the said Act, for section 26, the following shall be substituted, namely:—

“26. Institution of suits through plaint or otherwise.—

(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) On presentation of the plaint, it shall be the duty of the Court to prima facie, satisfy itself of jurisdiction, cause of action and limitation:

Provided that if Court does not satisfy itself, it shall be bound to record reasons for doing so.

(3) The plaintiff shall, at the time, file as many copies of the plaint and accompanying documents as there are defendants to the suit to be sent along with the summons and two extra copies of the entire set.

(4) It shall be duty of the Court to maintain electronic records of proceedings in suits as may be prescribed.

Explanation.— For the purposes of this sub-section suits includes any proceedings in applications, appeals, review, revision or anything incidental thereto.

26A. Written statement and proposed issues by the defendant.— (1) The defendant shall file written statement not later than thirty days from the date of service to the plaintiff:

Provided that if the defendant fails to file written statement on the date fixed, the Court may grant an opportunity to file the same not later than fifteen days subject to payment of adjournment costs:

Provided further that if the defendant fails to file after the opportunity given under the first proviso, a final opportunity may be given by the Court to file the written statement not later than fifteen days subject to payment of adjournment costs after which the

defendant shall lose the right of defence and the Court shall close the right to defend the case:

Provided also that the written statement may be allowed to be filed by the Court upon payment of costs to be determined by it, if the defendant through an application supported by an affidavit, satisfies the Court that he had just and sufficient cause and the Court record reasons for it.

(2) The defendant shall file proposed issues along with the written statement:

Provided that if no issues are proposed by the defendant, the Court shall permit the defendant to file proposed issues not later than seven days upon payment of cost to be determined by the Court.

(3) The defendant shall provide additional copies of written statement and of the documents annexed therewith for each of the parties and the Court.

26B. Proposed issues by the plaintiff.— The plaintiff shall file proposed issues not later than seven days from the date of receiving the written statement:

Provided that in case the plaintiff fails to file the proposed issues, the Court shall permit the plaintiff to file proposed issues not later than seven days upon payment of cost to be determined by the Court.

26C. Framing issues and filing of list of witnesses and recording of evidence.— (1) Not later than ninety days of the institution of a suit the Court after considering the pleadings and issues proposed by parries, shall determine the material propositions of fact and laws which the parties are at variance and frame issues.

(2) For the purposes of sub-section (1), the Court in its discretion as it may deem fit may proceed to frame issues without hearing.

(3) In case issues are framed without hearing, any party, not later than seven days of the framing of issues, may file an application seeking modification of the issues; which application shall be decided within fifteen days.

(4) After framing the issues, the Court shall order parties to file list of witnesses, not later than fifteen days.

(5) If any party fails to comply with the orders of Court in sub-section (4), a final opportunity may be given by the Court to file list of witnesses not later fifteen days subject to payment of adjournment costs.

