

SENATE OF PAKISTAN



FINAL REPORT

REPORT OF THE SENATE SPECIAL COMMITTEE ON LAW REFORMS

Presented By:

Senator Farooq H. Naek, Convener

SENATE SECRETARIAT

FINAL REPORT OF THE SENATE SPECIAL COMMITTEE ON LAW REFORMS

I, Senator Farooq H. Naek, Convener Senate Special Committee on Law Reforms, have the honor to submit, on behalf of the Committee, this final report of the Committee on the tasks performed by it from 29th May, 2018 to date regarding reforms in the laws of the land. The Committee was constituted vide Circular dated 29th May, 2018 based on a Motion under Rule 203 of the Rules of Procedures and Conduct of Business in the Senate, 2012 passed by the House on 10th May, 2018.

2. The composition of the Committee is as under:

1. Senator Farooq H. Naek	Convener
2. Senator Muhammad Javed Abbasi	Member
3. Senator Rana Maqbool Ahmed	Member
4. Senator Muhammad Azam Khan Swati	Member
5. Senator Anwar ul Haq kakar	Member
6. Senator Muhammad Ali khan Saif	Member

3. The following persons were attached with the Committee as Expert/Consultant/ Advisor by the Chairman Senate:-

- i. Former Senator Ch. Muhammad Anwar Bhinder
- ii. Raja Inam Amin Minhas
- iii. Justice ® Muhammad Raza Khan, Advisor

4. According to the above Circular, the Committee was mandated to frame its own Terms of References in its first meeting. Accordingly, the Committee after due deliberations and consultations finalized its TORs in its meeting held on 22nd January, 2019 (Annex-A). Importantly, the Committee decided to accord high priority to those laws which are directly concerned with the general public hence demand urgent attention of the Parliament. The letters were also written to the Ministry of Law and Justice, National Commission for Women, National Commission for Human Rights, Law and Justice Commission, Pakistan Bar Council and Provincial Bar Councils whereby they were asked to share their inputs regarding law reforms so that future strategy is designed by taking into account their responses. As a whole, 09 meetings of the Committee were held and issues pertaining to tiers in the judicial system, compliance of courts judgments, family laws, merger of special courts into ordinary courts, NAB law, civil service laws, NADRA law, appointment & accountability mechanisms for judges of constitutional courts, etc. were discussed in detail.

5. In its meeting held on 06th February, 20 March & 27 March 2019, the Committee considered tiers of judicial system and merger of special courts into ordinary courts. The Convener of the Committee was of the view that there is an urgent need to bring the special courts under the ordinary jurisdiction as presently they are under the supervision of no one. He further stated that special courts should be under the direct control of respective high courts. Senator Muhammad Azam Khan Swati stressed the need to modernize the courts on international lines. Former Senator Mr. Muhammad Anwar Bhinder submitted that in his observation lower courts in Pakistan lie under heavy burden which adversely affects disposal of cases and quality of work. Justice (R) Muhammad Raza Khan as a subject expert

suggested that remedy of Revision causes delay in disposal of cases, therefore, its deletion would reduce burden on courts to some extent.

6. The Committee also considered amendments in the Guardian and Wards Act, 1890, the Muslim Family Laws Ordinance, 1961, and the Succession Act, 1925. The Convener of the Committee on his own drafted amendments in the Guardian and Ward Act and got it circulated among Members for their input. The Ministry of Law was asked to review the draft and the same was also sent to the Council of Islamic Ideology (CCI) for their opinion in the light of Injunctions of Islam. The Committee also discussed Column Nos.16, 17 and 20 of the Nikkahnama with the view to fix certain share for a divorcee in the property of her ex-husband. The Convener of the Committee was of the view that by introducing amendments in the appropriate columns of the Nikkahnama a kind of financial relief could be granted to a divorcee as is in vogue in the Europe.


7. In its meeting held 27th March 2019, the Committee took up for discussion implementation of decision of the Supreme Court regarding amendment in section 14(3) of the Pakistan Citizenship Act, 1951, section 11 of the National Data Base and Registration Authority Ordinance, 2000. The representative of the Ministry of Interior apprised the Committee that the draft has been prepared and is in the process of Secretary's approval. The Ministry of Interior was directed by the Committee to finalize and move the bill within three weeks in National Assembly in the light of direction issued by Supreme Court in the case of M.Ibrahim vs. Government of Pakistan. The representative of the Ministry of Interior was of the view that section 14 of the Pakistan Citizenship Act 1951 does not need amendment as only guidelines are required to be issued after vetting from Ministry of Law.

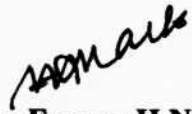
8. The mechanism for the appointment and impeachment of judges of superior judiciary through Majlis-e-Shoora (Parliament) came up for discussion in the meetings of the Committee held on 27th December 2019 & 24th September 2020. Senator Farooq H Naek, the Convener of the Committee, apprised the members that a subcommittee of the Parliamentary Committee on Appointment of Judges had once prepared a draft bill asking for strengthening mechanism for appointment and accountability of judges. The Convener said that the committee had diligently worked on the draft bill by consulting all stakeholders and that the same had been handed over to then Law Minister Zahid Hamid. Senator Muhammad Javed Abbasi, by endorsing viewpoint of the Convenor of the Committee, said that the draft bill was prepared after thoroughly considering all aspects of the matter and hearing of experts and relevant stakeholders. He emphasized the need for involvement of Parliament in the process of accountability of judges in the light of best international practices adopted by different countries, e.g., India, Australia.

9. The Committee also termed the existing mode of accountability of judges of superior courts dormant and stressed the need for evolving a transparent and effective mechanism to hold them accountable over the allegations of misconduct. Senator Muhammad Ali Khan Saif explained that confusion in this regard is due to absence of proper definition of the term '*misconduct*'. Consequently, several cases involving the alleged misconduct of the judges are pending in the supreme judicial council awaiting adjudication. Senator Muhammad Javed Abbasi emphasized that the American model wherein the US Senate plays central role in the removal of judges is most relevant to Pakistan. Senator Anwar ul Haq Kakar proposed that as the issue of accountability of judges is both political and constitutional in nature therefore all stakeholders including Bar Councils, media and civil society should be taken into the loop before any step forward is taken in this regard.

10. The issue of jurisdiction of National Accountability Bureau with regard to offences falling under money laundering law was thoroughly discussed in the meeting held on 27th December 2019. The Convener of the Committee expressed that the National Accountability Bureau can take action against money laundering if it falls within the ambit of section 9 of the Anti-Money Laundering Act, 2010. He observed that the NAB, however, could not take action against all types of money laundering, particularly when it does not involve graft. He stated that it is important to define which cases come under the Act and what powers the Federal Investigation Agency and NAB have in this regard. He further stated that a kind of overlapping is found on the powers of both agencies. The Convener also drew attention of the members towards placement of Pakistan on grey list by Financial Action Task Force (FATF) on account of money laundering and terror financing. He was of the view that there is need to thrash out reasons for such placement and removal of shortcomings in the domestic laws.

11. The report is being presented for perusal of the House, in the light of approval for submission granted by the Committee in its meeting held on 28th January, 2021.


28.01.2021
(Muhammad Javed Iqbal)
DD/ Secretary Committee


(Senator Farooq H. Naek)
Convener

1. The first part of the report deals with the general situation of the country and the progress of the work during the year. It is divided into two main sections: the first section deals with the general situation of the country and the progress of the work during the year, and the second section deals with the specific results of the work.

2. The second part of the report deals with the specific results of the work. It is divided into three main sections: the first section deals with the results of the work in the field of agriculture, the second section deals with the results of the work in the field of industry, and the third section deals with the results of the work in the field of commerce.

3. The third part of the report deals with the conclusions and recommendations. It is divided into two main sections: the first section deals with the conclusions, and the second section deals with the recommendations.

4. The fourth part of the report deals with the appendix. It is divided into two main sections: the first section deals with the list of names, and the second section deals with the list of places.

5. The fifth part of the report deals with the index. It is divided into two main sections: the first section deals with the index of names, and the second section deals with the index of places.

6. The sixth part of the report deals with the bibliography. It is divided into two main sections: the first section deals with the list of books, and the second section deals with the list of articles.

7. The seventh part of the report deals with the list of names. It is divided into two main sections: the first section deals with the list of names of the authors, and the second section deals with the list of names of the subjects.

8. The eighth part of the report deals with the list of places. It is divided into two main sections: the first section deals with the list of names of the places, and the second section deals with the list of names of the subjects.

TERMS OF REFERENCE

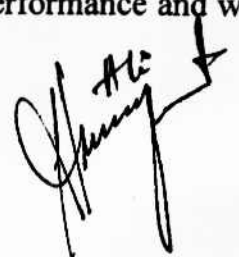
In pursuance of Circular issued by Senate Secretariat dated 29th May, 2018 the Special Committee on Law Reforms hereby frames the following Terms of Reference:-

Scope and mandate of the Committee:

An important challenge for every lawmaker is to reform the law as per needs and aspiration of the citizens. Law reform is the process of changing and updating laws so that they reflect the current values and needs of modern society. Those responsible for making laws must identify and study shifts in values, behaviors and expectations; they must consider whether new or amended laws are required and they must develop and implement these changes. Law reform is a perpetual and ongoing process, it never finishes. The law must be flexible and receptive to change, so that it stays fair, relevant and up to date. Above all, it must serve the needs of the people. A law based on outdated or irrelevant values will only let down the people it is intended to serve and protect.

Terms of Reference of Law Reform Committee

1. To review the laws for reformation and recommend amendments/changes in the laws, where necessary, in consultation with concerned Ministry, to the Senate of Pakistan.
2. To see and examine whether Legislature or Authority has amended, modified or changed any law or rules as held by the Supreme Court of Pakistan or a High Court in its judicial verdict, if not, then propose necessary amendments & modifications.
3. To examine the applicability of international laws in Pakistan.
4. To oversee the process of availability of updated laws on the website of Senate.
5. To submit six monthly report to the Senate detailing the performance and work that has been carried out by the Committee.



REPORT OF THE BOARD

The Board of Directors of the Corporation has the honor to acknowledge the receipt of the report of the Management Committee, dated the 15th day of December, 1910, and to express its appreciation of the thoroughness and accuracy of the same. The report contains a full and complete statement of the financial condition of the Corporation, and of the results of its operations during the year ending December 31, 1910. The Board is pleased to note the increase in the assets of the Corporation, and the improvement in the financial condition of the same, and to express its confidence in the management of the Corporation.

The Board has also received the report of the Management Committee, dated the 15th day of December, 1910, and has considered the same. The report contains a full and complete statement of the financial condition of the Corporation, and of the results of its operations during the year ending December 31, 1910. The Board is pleased to note the increase in the assets of the Corporation, and the improvement in the financial condition of the same, and to express its confidence in the management of the Corporation.