

SENATE OF PAKISTAN



REPORT NO. 39

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



**“THE ENFORCEMENT OF WOMEN’S PROPERTY RIGHTS (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 ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS (AMENDMENT) BILL, 2020"

I, Senator Muhammad Javed Abbasi, Chairman Standing Committee on Law and Justice, have the honor to submit, on behalf of the Committee, this report on "The Enforcement of Women's Property Rights (Amendment) Bill, 2020", introduced by Senator Muhammad Javed Abbasi, in the Senate sitting held on 26th October, 2020 and referred to the Committee for consideration and report.

2. The composition of the Committee is as under:-

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


3. The Committee considered the Bill in its various meetings and held conclusive discussion in the meeting on 18th January 2021, under the chairmanship of Senator Muhammad Javed Abbasi. However, at the time of consideration of the Bill, Senator Muhammad Javed Abbasi recused himself from presiding the meeting and Senator Muhammad Ali Khan Saif occupied the Chair as acting Chairman, with the following in attendance:

1. Senator Sana Jamali	Member
2. Senator Zeeshan Khanzada	Member
3. Senator Sirajul Haq	Member


4. Senator Muhammad Javed Abbasi explained the amendments in the Enforcement of Women's Property Rights Act, 2020 and deliberated that the word "preferably" used in section 6 of the Act is suggested to be omitted to make it mandatory for Ombudsman to transmit the case to the Civil Court within sixty days, if considered necessary for adjudication. The Amendment Bill further proposes that entire proceedings of the case pending before the Court ought to be completed within sixty days of its initiation or transmission and special judges are to be appointed by District Courts for the cases dealt under the Act. He also added that, if the Ombudsman or a Judge finds it appropriate, a decree regarding the rental amount for the disputed property ought to be determined and paid to the women in the beginning of the case. The Ministry of Law and Justice argued that the Act provides procedure for summary trial for the Ombudsman to enforce women property rights. The amendment in section 6 was endorsed by the Ministry by noting that in case of any detailed enquiry or need for further evidence, the case ought to be transmitted to the Court. However, the Ministry was of the view that stipulation of sixty days' time for completion of proceedings in Civil Courts for the cases pertaining to inheritance of women was not justified as the special law cannot provide overriding provisions to the civil procedure code. The Ministry further contested determination and payment of rental of the disputed property in the beginning of the trial. It was asserted by the Ministry that the rental amount of disputed property is dealt with under the definition of mesne profit, which can only be prayed for period up to the decision of case. The Committee, however, noted that the prime objective of the Bill is welfare of women and that is what needs to be focused instead of technical modalities, which can also be addressed at a later stage.

5. After detailed deliberations, the Committee decided to put the Bill to vote whereupon it was passed by majority, except Senator Zeeshan Khanzada, who abstained and endorsed the opinion of Ministry of Law & Justice.

6. The Committee recommends that "The Enforcement of Women's Property Rights (Amendment) Bill, 2020" as introduced in the Senate may be passed by the Senate of Pakistan. The Committee also gave approval for presentation of this report to the House. Copy of the Bill is annexed.



(Haris Rehman)
DS / Secretary Committee



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

^{As}
~~[TO BE INTRODUCED IN THE SENATE]~~

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BILL

further to amend the Enforcement of Women's Property Rights Act, 2020

WHEREAS it is expedient to amend the Enforcement of Women's Property Rights Act, 2020 (XII of 2020), to ensure property rights for female citizens who are mostly deprived of right to own and possess their inherited property;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act may be called the Enforcement of Women's Property Rights (Amendment) Act, 2020.

(2) It shall come into force at once.

2. Amendment of section 6, Act XII of 2020.— (1) In the Enforcement of Women's Property Rights Act, 2020 (XII of 2020), hereinafter referred to as the said Act, in section 6,-

(i) in sub-section (1) the word "preferably" shall be omitted;

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

"(2) Notwithstanding anything contained in any other law for the time being in force, the civil court shall entertain the reference under sub-section (1) as civil suit and shall decide the same within sixty days."

(iii) after sub-section (2) substituted as aforesaid, the following new sub-section (3), shall be inserted, namely:-

"(3) The proceedings of such suits shall be conducted under the provisions of the Code of Civil Procedure, 1908 (V of 1908)."

3. Insertion of new section 7A and 7B, Act XII of 2020.— In the said Act, after section 7, the following new sections shall be inserted, namely:-

"7A. Procedure for suit already pending.—Notwithstanding anything contained in any other law for the time being in force, where the suit for possession through partition of inherited property of a woman is already pending in any court of law the same shall be decided within sixty days from the publication of this Act in the official Gazette.

7B. Notification of Judges to try Suits.— The District Judge shall designate the civil judges to exclusively try the cases of possession, partition and ownership mentioned under this Act."

4. Substitution of section 8, Act XII of 2020.— In the said Act, for section 8, the following shall be substituted, namely:-

"8. Loss of rent.— (1) On initiation of proceedings under section 4 or culmination of proceedings under section 5 or where the reference is made to the court under section 6 or where the court is already seized with the matter under Section 7, the Ombudsman or the court, as the case may be, may also direct that the complainant be paid rent by the person depriving the said complainant of the use of the property or her share in the property the amount equivalent to the rent that the property would fetch at the prevalent market rate for the duration for which Ombudsman or the court decides the complainant was entitled to receive rent.

(2) Where the person depriving the possession fails to deposit the rent as directed by Court the court shall pass an order to seal the property till the rent is deposited or possession is delivered to the complainant and in case of Ombudsman he shall recommend the revenue authorities to seal the property till the rent is paid or possession is delivered."

STATEMENT OF OBJECTS AND REASONS

The Constitution of the Islamic Republic of Pakistan guarantees equal rights for the women. However, in practice women are deprived from their right of inheritance and right to own and possess their property. This amendment seeks to supplement the Enforcement of Women's Property Rights Act, 2020.

SENATOR MUHAMMAD JAVED ABBASI
Member-in-Charge