[AS INTRODUCED IN THE SENATE]

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BILL

further to amend the Representation of the People Act, 1976

WHEREAS it is expedient further to amend the Representation of the People Act, 1976 (LXXXV of 1976) for the purposes hereinafter appearing, to reinforce the true spirit of democracy and women are able to effectively participate in elections without any hindrance or restraint;

It is hereby enacted as follows:-

1.   Short title and commencement.- (1) This Act may be called the Representation of the People (Amendment) Act, 2016.

(2)   It shall come into force at once.

2.   Amendment of section 2, Act LXXXV of 1976.- In the Representation of the People Act, 1976 (LXXXV of 1976), hereinafter referred to as the said Act, section 2 shall be re-numbered as sub-section (1) of that section and,-

(i)   in sub-section (1) re-numbered as aforesaid,-

(a)   after paragraph (viii), the following new paragraph (viiia) shall be inserted, namely:-

"(viiia)   "Disaggregated" means breaking up of a total, integrated whole into smaller elements, parts, or units;"

(b)   after paragraph (xiii), the following new paragraph (xiiia) shall be inserted, namely:-

"(xiiia)   "Hindered" means to make (something, such as a task or action) slow or difficult;"

(c)   after   paragraph   (xxiii),   the   following   new paragraph (xxiiia) shall be inserted, namely:-

"(xxiiia)   "Sex" means either of the two main categories (male and female) into which humans are divided on the basis of their biological reproductive functions;"

(ii) after sub-section (1) re-numbered and amended as aforesaid, the following new sub-section (2), shall be added, namely:-

"(2) Words and phrases not defined in this Act shall have the same meaning as assigned to them in the Pakistan Penal Code, 1860 (Act V of 1860) and the Code of Criminal Procedure 1898 (Act XLV of 1898)."

3. Amendment of section 33, Act LXXXV of 1976.- In the said Act, in section 33, in sub-section (2),-

(i) in paragraph (b), after the word "number", the comma and word ", sex" shall be inserted; and

(ii) in paragraph (e), after the words "National Identity Card" the words "and sex" shall be inserted.

4. Amendment of section 38, Act LXXXV of 1976.- In the said Act, in section 38,

(i) in sub-section (4),-

(a) in paragraph (a), after the word "therefrom", occurring at the end, a comma and words ", ensuring that the ballot papers are thereafter disaggregated according to sex" shall be inserted;

(b) in paragraph (c), after the word "candidate", the words "disaggregated by sex" shall be inserted;

(ii) in sub-section (6), after the words "of the ballot papers put in it", the words "ensuring disaggregated on the basis of sex" shall be inserted;

(iii) in sub-section (7), after the words "contained therein", occurring at the end, the words "disaggregated on the basis of sex" shall be inserted;

(iv) in sub-section (9), after the words "statement of the count", the words "disaggregated on the basis of sex" shall be inserted; and

(v)   in sub-section (10), after the words "ballot paper account", the words "with the data disaggregated on the basis of sex" shall be inserted.

5.   **Amendment of section 39, Act LXXXV of 1976.-** In the said Act, in section 39, after sub-section (5), the following new sub-section (5A), shall be inserted, namely:-

"(5A) All the ballot papers shall also be shown disaggregated by sex in the consolidated statement."

6.   **Amendment of section 42, Act LXXXV of 1976.-** In the said Act, in section 42, after sub-section (1), the following new sub-section (1A), shall be inserted, namely:-

"(1A) In any constituency in which less than 10 % registered female voters have voted in the election, the Commission shall declare election of such constituency void in accordance with sub-section (1) and order re-polling within thirty days of the declaration of the decision of the Commission."

7.   **Amendment of section 67, Act LXXXV of 1976.-** In the said Act, in section 67, in sub-section (1), in paragraph (b), after the word "void", the words "and make an order for re-polling in the affected district within thirty days of the declaration of decision by the Tribunal" shall be inserted.

8.   **Amendment of section 68, Act LXXXV of 1976.-** In the said Act, in section 68,-

(i)   in sub-section (1), in paragraph (d), for the full stop occurring at the end a colon and word "; or" shall be substituted and thereafter, the following new paragraph (e) shall be inserted, namely:-

"(e)   less than 10 % registered female voters in the constituency have voted in the election.

(ii)   after sub-section (1), amended as aforesaid the following new sub-section (1A) shall be inserted, namely:-

"(1A) Where an election has been declared void under paragraph (e) of sub-section (1), the re-polling shall be conducted in the affected district within thirty days of the declaration of decision by the Tribunal."

9.   Amendment of section 78, Act LXXXV of 1976.- In the said Act, in section 78,-

(i)   in sub-section (4), after the word and comma "religion," the word and comma "sex," shall be inserted;

(ii)   in sub-section (5), the word "or", occurring at the end shall be omitted;

(iii)   in sub-section (6), for the full stop occurring at the end a semi-colon and the word "; or" shall be substituted and thereafter, the following new sub-section (7) shall be inserted, namely:-

"(7) has knowledge of; been privy to; or has personally or through only representative, made an agreement, understanding or promise of any kind, written or unwritten, by which women voters are to be or have been restrained or hindered in casting their votes in any manner whatsoever which may include any type of threat, coercion, force, intimidation or duress."

10.   Amendment of section 103AA, Act LXXXV of 1976.- In the said Act, in section 103AA, after sub-section (1), the following new sub-sections (1A) and (1B), shall be inserted, namely:-

"(1A) If the Commission is satisfied as provided in sub-section (1) in any constituency less than 10 % registered female voters have voted in the election, the Commission shall declare election of such constituency void in accordance with sub-section (1) and order re-polling within thirty days of the declaration of the decision of the Commission.

(1B) If the Commission declares the election in a constituency void under sub-section (1A), any person aggrieved by a decision of the Commission may, within fifteen days of the announcement of the decision, appeal to the Supreme Court for a final decision and the Supreme Court shall give a final decision within fifteen days of the submission of the appeal.".

STATEMENT OF OBJECTS AND REASONS

There have been numerous reports at every election in recent years whereby women voters have been restrained from voting in the election as a result of an agreement or understanding between different persons which have included politicians, persons representing political parties, the clergy and leaders of the community.

This process of systemically disqualifying women is a clear violation of their fundamental rights and amounts to an outright discrimination and negation of rights guaranteed under Article 25 of the Constitution of the Islamic Republic of Pakistan. This bill seeks to address such barriers.

Moreover, the bill seeks to make available gender disaggregated data, as not only an effective, transparent and clear method of documentation, but also as a tool to identify gender break down of voting structures and to identify and understand the number of women voting, the issues they face, how to eliminate them. Given that consistent and regular data allows for effective monitoring of progress as regression, it is necessary that Pakistan ensures that this kind of data exists in Pakistan to enhance democratic structures and procedures.

This bill is principally aimed at ensuring that in any election, in any constituency, if less than 10 % of female voters have voted, the Election Commission of Pakistan shall declare the election of such a constituency void, and order re-polling within thirty days of the declaration of the decision of the Commission.

SENATOR SHEHER BANO SHERRY REHMAN
Member-in-Charge