

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



“THE CIVIL COURTS (AMENDMENT) BILL, 2016”

Report No. 30

PRESENTED BY

**SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON “THE CIVIL COURTS (AMENDMENT) BILL, 2016”

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on “The Civil Courts (Amendment) Bill, 2016” introduced by Senator Muhammad Azam Khan Swati, on 26th September, 2016. 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. <i>Senator Muhammad Javed Abbasi</i>	<i>Chairman</i>
2. <i>Senator Aitzaz Ahsan</i>	<i>Member</i>
3. <i>Senator Farooq Hamid Naek</i>	<i>Member</i>
4. <i>Senator Saleem Zia</i>	<i>Member</i>
5. <i>Senator Dr. Muhammad Ali Khan Saif</i>	<i>Member</i>
6. <i>Senator Syed Muzafar Hussain Shah</i>	<i>Member</i>
7. <i>Senator Nehal Hashmi</i>	<i>Member</i>
8. <i>Senator Ms. Ayesha Raza Farooq</i>	<i>Member</i>
9. <i>Senator Nawabzada Saifullah Magsi</i>	<i>Member</i>
10. <i>Senator Saeed Ghani</i>	<i>Member</i>
11. <i>Senator Zaheer ud Din Babar Awan</i>	<i>Member</i>
12. <i>Senator Mrs. Zahida Khan</i>	<i>Member</i>
13. <i>Minister for Law and Justice</i>	<i>Ex-Officio Member</i>

3. The Committee considered the Bill in its meetings held on 31st October, 2016, 16th November, 2016 and 13th December, 2016, respectively.

Synopsis of deliberations held during meeting dated 31st October, 2016.

4. Consideration of the instant Agenda Item was deferred due to absence of the Mover.

Synopsis of deliberations held during meeting dated 16th November, 2016.

5. The mover did not attend the meeting, however, the committee decided to hear the stance of Ministry of Law and Justice in this regard.

6. Secretary Ministry of Law and Justice opposed the Bill in the following terms:-



“Reference may be made to clause (a) of section 8 *ibid* which says that the Government may, in consultation with the High Court fix the number of Civil Judges to be appointed. The bill in fact provides for qualifications which are in fact required to be provided by the Government by making rules prescribing qualifications for the recruitment of persons as Civil Judges. It would, therefore, appear that qualifications are required to be prescribed by rules by the Provincial Governments in consultation with the High Court. Reference may also be made section 13 of the General Clauses Act, 1897 (X of 1897) which says that in all Central Acts and Regulations, unless there is anything repugnant in the subject or context, the words importing the masculine gender shall be taken to include females. Therefore, females are already eligible for appointment as Civil Judges subject of course to the criteria laid down by the Government in consultation with the Islamabad High Court by making necessary rules in exercise of clause (b) of section 8 of the Ordinance.”

7. Secretary Ministry of Law and Justice further apprised the committee that there are total 76 posts of judges in the lower Courts of Islamabad out of which 27 seats are vacant and on remaining 45 seats, 14 females Judges are serving. He stated that, in future, possibility of recruitments in the lower Judiciary of Islamabad through Federal Public Service Commission is also being explored in order to ensure merit based recruitments.

8. Representatives of Bar Council and Association were also invited to give their inputs on the instant Bill. Ch. M. Hussain, vice Chairman Punjab Bar Council, Mr. Rahib Khan Buledi, Chairman Inter Provincial Committee, Balochistan Bar Council and Mr. Abdul Ghani Khilji, President Quetta High Court Bar Association opposed the Bill and stressed the need of ensuring merit based recruitments in the judiciary.

9. Senator Saeed Ghani supported the Bill and stated that women shall be given due representation in the judiciary and reservation of quota is one way of ensuring gender representation in all spheres of public life.

10. The committee decided to give another chance to the mover to defend his legislative proposals, therefore, consideration of the instant agenda item was deferred till the next meeting.

