

NATIONAL ASSEMBLY SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON THE ISLAMABAD HIGH COURT (AMENDMENT) BILL, 2018

1. the Chairman of the Standing Committee on Law and Justice, have the honour to present this report on the Bill further to amend the Islamabad High Court Act, 2010 (XVII of 2010) [The Islamabad High Court (Amendment) Bill, 2018] referred to the Committee on 21st December, 2018.

2. The Committee comprises the following:-

1. Mr. Riaz Fatyana	Chairman
2. Mr. Atta Ullah	Member
3. Mr. Lal Chand	Member
4. Mr. Muhammad Farooq Azam Malik	Member
5. Ms. Kishwer Zehra	Member
6. Ms. Maleeka Ali Bokhari	Member
7. Mr. Muhammad Sana Ullah Khan Masti Khel	Member
8. Malik Muhammad Ehsan Ullah Tiwana	Member
9. Agha Hassan Baloch	Member
10. Mr. Sher Ali Arbab	Member
11. Ms. Shunila Ruth	Member
12. Mian Muhammad Shehbaz Sharif	Member
13. Rana Sana Ullah Khan	Member
14. Ch. Mehmood Bashir Virk	Member
15. Mr. Usman Ibrahim	Member
16. Khawaja Saad Rafique	Member
17. Syed Hussain Tariq	Member
18. Syed Naveed Qamar	Member
19. Dr. Nafisa Shah	Member
20. Ms. Aliya Kamran	Member
21. Barrister Dr. Muhammad Farogh Naseem Minister for Law and Justice	Ex-officio Member

3. The Committee considered the Bill as introduced in the National Assembly placed at (Annex-A) in its meetings held on 03rd and 15th January, 2019. Note of Dissent of Dr. Nafisa Shah, Khawaja Saad Rafique, Syed Hussain Tariq, Mr. Usman Ibrahim, Rana Sana Ullah Khan and Syed Naveed Qamar, MNAs is placed at Annex-B and Note of Dissent of Ms. Aliya Kamran, MNA is placed at Annex-C.
4. The Committee recommended that the Bill as introduced in the National Assembly may be passed.

Sd/-
TAHIR HUSSAIN
Secretary
Islamabad, the 17th January, 2019

Sd/-
(Riaz Fatyana)
Chairman

A

Bill

further to amend the Islamabad High Court Act, 2010

WHEREAS it is expedient further to amend the Islamabad High Court Act, 2010 (XVII of 2010), for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**— (1) This Act may be called the Islamabad High Court (Amendment) Act, 2019.

(2) It shall come into force at once.

2. **Amendment of section 3, Act XVII of 2010.**— In the Islamabad High Court Act, 2010 (Act XVII of 2010), in section 3, in sub-section (1), for the word "six", the word "nine" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Islamabad High Court was established under Islamabad High Court, Act, 2010 and became functional in January, 2011. The existing sanctioned strength of Judges of Islamabad High Court is six plus one Chief Justice as per section 3(1) of the aforesaid Act. As intimated by the Islamabad High Court, the present strength of Judges compared to number of pending cases is not sufficient, besides the institution of fresh cases which is increasing every year. It is, therefore, necessary to increase the strength of the Judges of the Islamabad High Court from seven to ten Judges including Chief Justice to overcome the difficulties of litigant public qua early disposal of long pending cases.

The Bill is designed to achieve the aforesaid object.

Minister-in-Charge

NOTE OF DISSENT ON ISLAMABAD HIGH COURT

AMENDMENT BILL, 2018

We the following members are writing this note to oppose the Islamabad High Court (Amendment) Bill, 2018 on the following grounds:

This Bill provides for increase in the judges in the Islamabad High Court in isolation from the other High Courts in the country. In the statement of objects and reasons, the Minister in Charge states that "the present strength of judges compared to number of cases pending is not sufficient, compared to the number of pending cases, besides institution of fresh cases which is increasing every year."

The Committee in its meeting held on 3rd January expressed dissatisfaction on the rationale provided by the Minister in charge for increase in the seats which was pendency of the cases alone. If this was the case then there was pendency in other courts as well. In the absence of judges to pending cases ratios compared with other High Courts, the rationale could not be justified by the data given.

As there was no information available on the number of cases pending in other high courts, we noted that the Ministry had provided inadequate information to the Committee.

It was agreed unanimously that additional information in particular the details of pendency of cases in other courts would be provided in the next meeting in order for the Committee to compare this with other courts and hence assess the need in the light of the information provided.

However in the meeting held on the 15th January 2019, No additional information was provided by the Ministry in the absence of which we are unable to make an informed decision. We would also observe here that the failure to provide timely and adequate information by the Ministry of Law and Justice indicates not only their incompetence but also unwillingness to share information. We are concerned about the lack of transparency in this regard.

In addition it was only in the meeting, on questioning, that we learnt that out of the seven existing positions of judges, only four were filled and three were vacant.

The Committee expressed surprise on why additional seats were required when there were already three vacant seats. The committee sought details on this matter as well.

The following members also recommended that if number of seats were being increased, Islamabad High Court being the first court of appeals for the Federal Government must include judges from the provincial courts by law so as to federalise the constitution of court. However the Ministry did not agree on this important recommendation.

As the Ministry was unable to give any data to justify its own rational and further was not open to our suggestions to include judges from other provincial benches, we are left with no other option but to oppose the Bill in its present form.

Sd/-
Dr. Nafeesa Shah
NA-208

Sd/-
Khawaja Saad Rafique
NA-131

Sd/-
Syed Naveed Qamar
NA-228

Sd/-
Usman Ibrahim
NA-82

Sd/-
Rana Sana Ullah Khan
NA-106

Sd/-
Syed Hussain Tariq
NA-225

Sd/
Aliya Kamran
NA-329

Anex-C
Note of Dissent

Mr. Chairman Committee Law and Justice!

Mr. Chairman today on 15-01-2019, a Bill to increase the number of judges in the Islamabad High Court has been introduced by the Government. It is weird that my Bill on the same subject was sent to Committee Law and Justice, and rather to club it with the Government Bill and place it for any next meeting of the Committee for further deliberation and to decide together, after too much hype by making majority the base this matter has been intentionally bulldozed and my Bill has been practically abandoned.

Sir, I had proposed that first the number of judges may be increased but provinces should have representation therein. But sir, it has been treated in the same way which the Federation do with the Provinces which is a total injustice.

Sd/-
Aliya Kamran
MNA

قومی اسمبلی سیکرٹریٹ

عدالت عالیہ اسلام آباد (تریمی) بل، ۲۰۱۸ء پر قائمہ کمیٹی برائے قانون و انصاف کی رپورٹ۔

میں، چیئر مین قائمہ کمیٹی برائے قانون و انصاف ۲۱ دسمبر، ۲۰۱۸ء کو کمیٹی کے سپرد کردہ عدالت عالیہ اسلام آباد ایکٹ، ۲۰۱۰ء (نمبر ۱۰ ابابت ۲۰۱۰ء) میں مزید ترمیم کے

کے بل [عدالت عالیہ اسلام آباد (تریمی) بل، ۲۰۱۸ء] پر رپورٹ ہذا پیش کرنے کا شرف حاصل کرتا ہوں۔

۲۔ کمیٹی درج ذیل اراکین پر مشتمل ہے:-

چیئر مین	۱۔ جناب ریاض تھیانہ
رکن	۲۔ جناب عطاء اللہ
رکن	۳۔ جناب لال چند
رکن	۴۔ جناب محمد فاروق اعظم ملک
رکن	۵۔ محترمہ کشورزہرا
رکن	۶۔ محترمہ ملیکہ علی بخاری
رکن	۷۔ جناب محمد ثناء اللہ خان مستی خیل
رکن	۸۔ ملک محمد احسان اللہ ٹوانہ
رکن	۹۔ آغا حسن بلوچ
رکن	۱۰۔ جناب شیر علی ارباب
رکن	۱۱۔ محترمہ شنیلہ روت
رکن	۱۲۔ میاں محمد شہباز شریف
رکن	۱۳۔ رانا ثناء اللہ خان
رکن	۱۴۔ چوہدری محمود بشیر ورک
رکن	۱۵۔ جناب عثمان ابراہیم
رکن	۱۶۔ خواجہ سعد رفیق
رکن	۱۷۔ سید حسین طارق
رکن	۱۸۔ سید نوید قمر
رکن	۱۹۔ ڈاکٹر نفیسہ شاہ
رکن	۲۰۔ محترمہ عالیہ کامران
رکن	۲۱۔ پیر ستر ڈاکٹر محمد فروغ نسیم،

وزیر برائے قانون و انصاف

۳۔ کمیٹی نے ۳ اور ۱۵ جنوری، ۲۰۱۹ء کو منعقدہ اپنے اجلاسوں میں منسلکہ الف کے طور پر قومی اسمبلی میں پیش کردہ بل پر غور کیا۔ ڈاکٹر نفیسہ شاہ، خواجہ سعد رفیق، سید حسین

طارق، جناب عثمان ابراہیم، رانا ثناء اللہ خان اور سید نوید قمر، اراکین قومی اسمبلی کی جانب سے دیا گیا اختلافی نوٹ منسلکہ ب اور محترمہ عالیہ کامران، رکن قومی اسمبلی کی جانب سے دیا گیا

اختلافی نوٹ منسلکہ ج کے طور پر ملف ہے۔

۴۔ کمیٹی سفارش کرتی ہے کہ قومی اسمبلی میں پیش کردہ صورت میں بل کی منظوری دی جائے۔

دستخط /

(ریاض تھیانہ)

چیئر مین

دستخط /

(طاہر حسین)

سیکرٹری

اسلام آباد، ۱۶ جنوری، ۲۰۱۹ء