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PART III

Other Notifications, Orders, etc.

SENATE SECRETARIAT

Islamabad, the 19th August, 2020

No. F. 24(22)/2020-Legis.—Pursuant of sub-rule (4) of Rule 194 of the Rules of Procedure and Conduct of Business in the Senate, 2012, the following reports of the Senate Standing Committee on Law and Justice presented to the Senate on 18th August, 2020, are published for information:—

**REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE
ON “THE ISLAMABAD HIGH COURT (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 Islamabad High Court (Amendment) Bill, 2020” introduced by Senator Muhammad Javed Abbasi, in the Senate sitting held on 27th July, 2020 and referred to the Committee for consideration and report.

(1241)

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[5915(2020)/Ex. Gaz.]

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

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

3. The Committee considered the Bill in its meeting held on 10th August 2020, 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 Sana Jamali occupied the Chair as acting Chairperson, with the following in attendance:

1. Senator Muhammad Javed Abbasi
2. Senator Ayesha Raza Farooq
3. Senator Zeeshan Khanzada
4. Senator Sirajul Haq
5. Senator Musadik Masood Malik
6. Senator Dr. Ghous Muhammad Khan Niazi
7. Senator Mustafa Nawaz Khokhar
8. Senator Sana Jamali

4. The Committee had detailed discussion on the Bill. Member In-Charge briefed the Committee that appointment of Judges in all High Courts is done under Article 193 of the Constitution, which does not specifically provide that appointments of High Court Judges should be from the provinces and other territories of Pakistan, rather being a Pakistani citizen is the simple specification along-with qualifications as provided in the same Article. However, Section 3 of

the Islamabad High Court Act, 2010, in its present form, creates an anomaly in appointment of Judges in Islamabad High Court by specifically including the words “from the provinces and other territories of Pakistan”. He added that the purpose of the Bill is to bring Section 3 of the Islamabad High Court Act, 2010 in conformity with Article 193 of the Constitution.

5. The Ministry of Law and Justice presented the view that existing scheme of appointment for Judges in the Islamabad High Court under Section 3 of the Islamabad High Court Act, 2010, gives representation to all the federating units as the said High Court is for country’s Capital. Moreover, Members of Islamabad Bar Council and Islamabad High Court Bar Association can be appointed in other High Courts as a Judge, there is no bar for such appointments. The Secretary Law added that rationale behind the specific words being proposed to be omitted was to avoid the norm that Judges in Islamabad High Court are appointed only from ICT.

6. Senators Musadik Masood Malik and Ayesha Raza Farooq opined that Statement of Objects and Reasons of the Bill creates an impression as though the amendment aims to confine appointments of Judges in Islamabad High Court to lawyers registered with Islamabad Bar Council, Islamabad High Court Bar Association and Judges of the lower judiciary, and if so, it would be a discriminatory provision. Member In-Charge replied that Statement of Objects and Reasons gives only a background of the requirement of proposed amendment while the real purpose of the Bill is to bring Section 3 of the Islamabad High Court Act, 2010, in conformity with Article 193 of the Constitution, as already stated. He also suggested that Statement of Objects and Reasons can be readily amended by the Committee to reflect the purpose better. Accordingly, following substitute Statement of Objects and Reasons of the Bill was proposed by the Committee and duly supported by the Member In-Charge.

STATEMENT OF OBJECTS AND REASONS

Appointment of Judges in all High Courts is done under Article 193 of the Constitution. However, Section 3 of the Islamabad High Court Act, 2010, in its present form, creates an anomaly in appointment of Judges in Islamabad High Court. This Bill seeks to address this anomaly, whereby Judges of the Islamabad High Court shall be appointed in accordance with the provisions of Article 193 of the Constitution.

7. With the above substitution of Statement of Objects and Reasons the Chairperson put the Bill to vote, whereupon all members present in the meeting voted in favour of the Bill.

8. The Committee recommends that “The Islamabad High Court (Amendment) Bill, 2020” as reported by the Committee may be passed by the Senate of Pakistan. The Committee also gave approval for presentation of this report to the House. The Bill as reported by the Committee is at Annex-A, and the Bill as introduced in the Senate is at Annex-B.

Sd/-
HARIS REHMAN,
Secretary Committee.

Sd/-
SENATOR
MUHAMMAD JAVED ABBASI,
Chairman.
Standing Committee on Law and Justice.

Annex-A

[AS REPORTED BY THE COMMITTEE]

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 purposes 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, 2020.

(2) It shall come into force at once.

2. **Amendment of Section 3, Act XVII of 2010.**—In the Islamabad High Court Act, 2010 (XVII of 2010), in section 3, in sub-section (1), the words “from the provinces and other territories of Pakistan” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Appointment of Judges in all High Courts is done under Article 193 of the Constitution. However, section 3 of the Islamabad High Court Act, 2010, in its present form, creates an anomaly in appointment of Judges in Islamabad High Court. This Bill seeks to address this anomaly, whereby Judges of the Islamabad High Court shall be appointed in accordance with the provisions of Article 193 of the Constitution.

SENATOR MUHAMMAD JAVED ABBASI,
Member-in-Charge.

[Introduced on 27-7-2020]

Annex-B

[AS INTRODUCED IN THE SENATE]

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 purposes 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, 2020.

(2) It shall come into force at once.

2. **Amendment of Section 3, Act XVII of 2010.**—In the Islamabad High Court Act, 2010 (XVII of 2010), in section 3, in sub-section (1), the words “from the provinces and other territories of Pakistan” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Since the establishment of the High Courts in Pakistan, the practice for the appointment and elevation of the Judges of the High Courts of provinces is that the lawyers registered with the provincial Bar Councils, High Courts Bar Associations and the Judges of the Lower judiciary of the respective provinces are considered for such appointments and elevation. But due to section 3 of the Islamabad High Court Act, 2010 the lawyers registered with the Islamabad Bar Council and Islamabad High Court Bar Association as well as the judges of the lower judiciary hardly get a chance to be appointed or elevated as the judge of the Islamabad High Court which is against the principle of legitimate expectancy and the practice being followed in all other High Courts. Therefore, this Bill seeks to address this anomaly.

SENATOR MUHAMMAD JAVED ABBASI,
Member-in-Charge.

**REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE
ON “THE CONSTITUTION (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 Constitution (Amendment) Bill, 2020” (Insertion of new Article 25B) introduced by Senator Sirajul Haq, in the Senate sitting held on 8th June, 2020 and referred to the Committee for consideration and report.

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

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| 1. Senator Muhammad Javed Abbasi | <i>Chairman</i> |
| 2. Senator Mian Raza Rabbani | <i>Member</i> |
| 3. Senator Farooq Hamid Naek | <i>Member</i> |
| 4. Senator Walid Iqbal | <i>Member</i> |
| 5. Senator Sirajul Haq | <i>Member</i> |
| 6. Senator Musadik Masood Malik | <i>Member</i> |
| 7. Senator Sana Jamali | <i>Member</i> |
| 8. Senator Ayesha Raza Farooq | <i>Member</i> |
| 9. Senator Dr. Ghous Muhammad Khan Niazi | <i>Member</i> |

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|---------------------------------------|-----------------------------|
| 10. Senator Mustafa Nawaz Khokhar | <i>Member</i> |
| 11. Senator Zeeshan Khanzada | <i>Member</i> |
| 12. Senator Syed Muzafar Hussain Shah | <i>Member</i> |
| 13. Senator Muhammad Ali Khan Saif | <i>Member</i> |
| 14. Minister for Law and Justice | Ex-Officio
<i>Member</i> |

3. The Committee considered the Bill in its meeting held on 10th August 2020, with the following in attendance:

- | | |
|--|------------------------|
| 1. Senator Muhammad Javed Abbasi | <i>Chairman</i> |
| 2. Senator Ayesha Raza Farooq | <i>Member</i> |
| 3. Senator Zeeshan Khanzada | <i>Member</i> |
| 4. Senator Sirajul Haq | <i>Member</i> |
| 5. Senator Musadik Masood Malik | <i>Member</i> |
| 6. Senator Dr. Ghous Muhammad Khan Niazi | <i>Member</i> |
| 7. Senator Mustafa Nawaz Khokhar | <i>Member</i> |
| 8. Senator Sana Jamali | <i>Member</i> |

4. The Committee took a thorough reading of the Bill. The members of Committee were of the view that assurance of health facility to the citizens of Pakistan ought to be included in the provisions related to Fundamental Rights enshrined in the Constitution rather than keeping it in Principles of Policy. Therefore, the members asserted that the State shall guarantee free health facility to all citizens. Ministry of Law and Justice, however, maintained the view that free health facilities to the citizens are dependent on the available financial and human resources in the country, and that views from Finance Division and Ministry of National Health Services, Regulation and Coordination were also required given the nature of the proposed amendment and health being a provincial subject. Senator Zeeshan Khanzada did not support the Bill and said that since Health is already included in Principles of Policy, there is no need of bringing such amendment in the Constitution.

5. Thereafter the Chairman Committee put the Bill to vote. All members present in the meeting voted in favor of the Bill, except Senator Zeeshan Khanzada, who abstained.

6. The Committee recommends that “The Constitution (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.

Sd/-
HARIS REHMAN,
Secretary Committee.

Sd/-
SENATOR
MUHAMMAD JAVED ABBASI,
Chairman.
Standing Committee on Law and Justice.

Annex

[AS INTRODUCED IN THE SENATE]

A

BILL

further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purpose hereinafter appearing;

It is hereby enacted as follow:—

1. **Short title and commencement.**—(1) This Act may be called the Constitution (Amendment) Act, 2020.

(2) It shall come into force at once.

2. **Insertion of new Article in the Constitution.**—In the Constitution of the Islamic Republic of Pakistan, after Article 25A, the following new Article shall be inserted, narnely:—

“25B. **Right to health.**—(1) The State shall provide free health facilities to all citizens of Pakistan without any discrimination.

(2) Every citizen shall have the right to highest possible standards of physical and mental health.”

STATEMENT OF OBJECTS AND REASONS

Article 38(d) states that “the State shall provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.”.

Although medical relief is mentioned in Article 38(d) which is under the unenforceable ‘Principles of Policy’ and another difficulty is that same to be provided only to those citizens who cannot earn their livelihood on account of infirmity, sickness or unemployment.

Important aspect of well-being for citizens is most neglected and health sector needs full attention of Federal Government.

It is the need of the time that health be given priority and health right be given to every citizen by inserting new Article 25B in Chapter-1. Fundamental Rights in the Constitution of Islamic Republic of Pakistan.

Amendment is proposed to achieve the aforesaid objects.

SENATOR
SIRAJUL HAQ,
Member-in-Charge.

DR. SYED PERVAIZ ABBAS,
Secretary.