NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 2nd May, 2019

No. F. 22(5)/2019-Legis.—The following Bills have been introduced in the National Assembly on 2nd May, 2019

N. A. BILL NO. 32 OF 2019

A Bill further to amend the Muslim Family Laws Ordinance, 1961

WHEREAS it is expedient further to amend the Muslim Family Laws Ordinance, 1961 (VIII of 1961) for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title, extent, application and commencement.—(1) This Act may be called the Muslim Family Laws (Amendment) Act, 2019.

   (2) It extends to the whole of Islamabad Capital Territory and in case of Resolution(s) under Article 144 of the Constitution, shall apply to whole of Pakistan.

   (3) It is exclusively applicable to all the Muslims belonging to the Shia school of thought (Fiqah-e-Jafria).

969(1—44)

Price : Rs. 60.00

[785(2019)/Ex. Gaz.]
(4) It shall come into force on such date as the Federal Government may by notification in the official Gazette, appoint.

2. **Amendment of section 4, Ordinance VIII of 1961.**—In the Muslim Family Laws Ordinance, 1961 (VIII of 1961), section 4 shall be renumbered as sub-section (1) thereof and after sub-section (1), renumbered as aforesaid, the following new sub-sections shall be inserted namely:

“(2) If a Muslim male from Ahl-e-Tashih dies issueless, his widow shall receive one-fourth share from the estate of the deceased and if the deceased has left more than one widows, the widows shall receive equal share from the one-fourth share of the estate.

(3) In case of dispute, with reference to sub-section (2), arising due to difference of opinion, the parties or any of the parties may have recourse to a court of competent jurisdiction or by approaching the “Mujtahid-e-Alam”:

Provided that the decision of Mujtahid-e-Alam shall have a status of an Award and the same shall be dealt with in accordance with the provisions of the Arbitration Act, 1940 (X of 1940).

**Explanation.**—The expression “Mujtahid-e-Alam”(Faqih-e-Azam) means a juris-consult/religious scholar/doctor of Shia school of thought well versed with Shariah having international repute and of such recognition.”.

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**STATEMENT OF OBJECTS AND REASONS**

The Hon’ble Lahore High Court, Rawalpindi Bench, Rawalpindi in CR.No.795 of 2010 while hearing the matter of competence of an issueless widow from fiq-e-Jafriya to claim her share from the inheritance of his deceased husband held as under:

“It is expected that, the Government of Pakistan in Ministry of Law would take legislative measures to promulgate a codified law in this regard in order to protect the right of a childless widows from Ahl-e-Tashih in getting their due shares from the inheritance of their deceased husbands.”

The Bill is designed to achieve the aforesaid object.

*Minister-in-Charge.*
further to amend the Muslim Family Laws Ordinance, 1961

WHEREAS it is expedient further to amend the Muslim Family Laws Ordinance, 1961 (VIII of 1961) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title, extent, application and commencement.—(1) This Act may be called the Muslim Family Laws (Amendment) Act, 2019.

(2) It extends to the whole of Islamabad Capital Territory and in case of Resolution(s) under Article 144 of the Constitution, shall apply to whole of Pakistan.

(3) It is exclusively applicable to all the Muslims belonging to the Shia school of thought (Fiqah -e-Jafria).

(4) It shall come into force on such date as the Federal Government may by notification in the official Gazette, appoint.

2. Amendment of section 7, Ordinance VIII of 1961.—In the Muslim Family Laws Ordinance, 1961 (VIII of 1961), in section 7,—

(i) in sub-section (1), for the full-stop, occurring at the end, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:

“Provided that where the parties belong to Fiqah-e-Jafria,—

(a) the man may voluntarily and with his free will pronounce himself or through duly authorized attorney (Vakil) Talaq uttering in literal Arabic words (seegha) in the physical presence of at least two witnesses qualifying the requirements of clause (1) of Article 17 of the Qanun-e-Shahadat, 1984 (P.O.No.1 of 1984);

(b) the pronouncement of Talaq shall be ineffective if it is done jokingly or under anger, intoxication, insanity, duress or coercion of any kind and from any corner whatsoever; and
(c) in case of dispute, with reference to paragraph (a) or (b) arising due to difference of opinion, the parties or any of the parties may have recourse to a court of competent jurisdiction or by approaching the “Mujtahid-e-Alam” and the decision of Mujtahid-e-Alam shall have a status of an Award and the same shall be dealt with in accordance with the provisions of the Arbitration Act, 1940 (X of 1940).

**Explanation.**—The expression “Mujtahid-e-Alam” (Faqih-e-Azarn) means a juris-consult/religious scholar/doctor of Shia school of thought well versed with Shariah having international repute and of such recognition.”.

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**STATEMENT OF OBJECTS AND REASONS**

Constitution of Pakistan, under Article 227 (1), provides the foundation for legislation regarding personal law of any Muslim sect by interpreting the Quraan and Sunnah according to their teachings. Currently, the Muslim Family Laws Ordinance 1961 deals with the family matters including the talaq for the followers of all fiqh in the country. There has been demand from the followers of Shia Fiqh for the legislation on talaq as per their interpretation of Qurran and Sunnah. Hence this Bill. The Bill was shared with the Council of Islamic Ideology. The Council has also endorsed it. This legislation will allow the followers of Shia Fiqh to settle their matters of talaq according to their interpretation.

The Bill is designed to achieve aforesaid object.

*Minister In Charge.*

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**N.A. BILL NO. 34 OF 2019**

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**BILL**

*to provide for an efficacious and speedy mechanism for issuance of Letters of Administration and Succession Certificates*

*WHEREAS* it is expedient to provide for an efficacious and speedy mechanism for facilitating issuance of Letters of Administration and Succession Certificates, aimed at curtailing fraud and forgery;
It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Letters of Administration and Succession Certificates Act, 2019.

(2) It shall extend to the whole of Islamabad Capital Territory.

(3) This Act or any part thereof shall come into force on such dates as the Government may, by notification in the official Gazette, appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,

(a) ‘Authority’ means the National Database and Registration Authority established under section 3 of the Ordinance;

(b) ‘factual controversy’ includes an objection by legal heirs or by any claimant of legal heirship, any dispute which may arise in establishing the identity of legal heirs which is not resolvable by the Authority or any situation, matter or event requiring adjudication or recording of evidence or where at least one of the legal heirs is a minor;

(c) ‘Government’ means the Federal Government;

(d) ‘legal heir’ means a person who has entitlement to a share in the property of the deceased;

(e) ‘Ordinance’ means National Database and Registration Authority Ordinance, 2000 (VIII of 2000);

(f) ‘prescribed’ means prescribed by rules; and

(g) ‘rules’ means the rules made under this Act;

3. **Issuance of Letters of Administration or Succession Certificates.**—Notwithstanding anything contained in any other law for the time being in force, the Authority may issue Letters of Administration or Succession Certificates, as the case may be, to the legal heirs of a deceased in respect of immovable or movable property, in accordance with the Family Registration Certificate maintained by the Authority.
4. **Establishment of Succession Facilitation Unit.**—(1) The Authority shall establish a Succession Facilitation Unit for the purpose of receipt, processing and assessment of applications for grant of Letters of Administration and Succession Certificates.

(2) For the purpose of sub-section (1), the Authority may notify any of its existing offices as Succession Facilitation Unit, at such place or places as it may deem appropriate.

(3) The Authority may, from time to time, appoint officers, staff, experts, consultants, advisers and other employees, on such terms and conditions as it may deem fit, for the purpose of carrying functions under this Act.

5. **Functions of the Succession Facilitation Unit.**—The Succession Facilitation Unit shall perform the following functions, namely:

   (a) receive applications for grant of Letters of Administration and Succession Certificates, as the case may be, from legal heirs of the deceased;

   (b) process and assess the applications by way of a summary enquiry as prescribed, and in case of any factual controversy amongst the legal heirs decline to assess the applications for filing afresh before the appropriate forum in accordance with the provisions of the Succession Act, 1925 (XXXIX of 1925) or any other applicable law;

   (c) maintain an online portal providing for updated record of the Letters of Administration and Succession Certificates issued under this Act; and

   (d) discharge or perform such functions as are incidental, ancillary or necessary for carrying out the purposes of this Act.

6. **Application for Letters of Administration or Succession Certificates.**—(1) An application for grant of Letter of Administration or Succession Certificate, as the case may be, shall be made to the Authority by the legal heirs:

   Provided that legal heirs may also authorize in the prescribed form, one amongst themselves, to act on behalf of all other legal heirs, for the purpose of filing an application under this Act.
(2) An application may be filed in the notified office of the Authority within whose jurisdiction the deceased ordinarily resided at the time of his death, or within whose jurisdiction any property or asset of the deceased is located.

(3) The following documents shall be appended along-with the application,—

(a) death certificate of the deceased;

(b) list of the legal heirs and copies of their national identity cards;

(c) an authorization in the prescribed form by the legal heirs in favour of the applicant as provided in proviso to sub-section (1); and

(d) details of immovable and movable property in respect of which the Letter of Administration or Succession Certificate is applied for.

(4) Upon receipt of the application, a notice to the general public shall be published on a web portal to be maintained by the Authority and in one English language and one Urdu language daily newspaper of wide circulation.

(5) Where no objection or claim is received within fourteen days of the publication of notice, the Authority shall, in any of its notified office, obtain the bio-metric verification of the applicant and all the legal heirs:

Provided that where bio-metrics of a legal heir is not verified, the Authority may require the legal heir to appear in person before the Authority on a date fixed by the Authority:

Provided further that the Authority may resort to any other modern device with a view to satisfying itself as to the identity of any legal heir.

Explanation.—The bio-metric verification can be undertaken at any notified office within Pakistan or abroad.

(6) Upon satisfactory compliance of the codal formalities mentioned in this section, the applicant shall appear before the Authority on a date fixed by it, whereafter the Authority shall issue the Letter of Administration or Succession Certificate, as the case may be, in favour of all legal heirs of deceased with details of their respective shares as provided in the personal law of such legal heirs.

(7) The Letters of Administration or Succession Certificates issued under this Act shall have the same effect as if the same have been issued under the Succession Act, 1925 (XXXIX of 1925).
7. **Forms of Letters of Administration and Succession Certificates.**—
Letters of Administration and Succession Certificates shall be issued, as nearly as circumstances admit, in the forms prescribed by the Authority.

8. **Objection to the Letters of Administration and Succession Certificates.**— Any person objecting to Letters of Administration or Succession Certificates, as the case may be, after the issuance of the Letters of Administration or Succession Certificates by the Authority, may seek remedies available under any other applicable law.

9. **Fee and costs.**—(1) The Authority may charge the prescribed fees or other sums for its services under this Act including sums incurred on publication of public notice.

(2) The charges or sums received under sub-section (1) shall be credited to the NADRA Fund established under section 24 of the Ordinance.

10. **Bar of Jurisdiction.**—No court shall exercise jurisdiction till such time the Authority declines to process application for issuance of the Letters of Administration or Succession Certificates by the legal heirs.

11. **Penalty, offences and trial.**—The provisions in relation to offences, penalties and trial mentioned in Chapter IX of the Ordinance shall apply mutatis mutandis under this Act.

12. **Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being, in force.

13. **Power to make rules.**—The Government, may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

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**STATEMENT OF OBJECT AND REASONS**

Upon the death of an individual, the legal heirs languish in courts for years before they are able to obtain letters of administration (for immovable properties) and succession certificates (for movable properties). Nearly half of the population of Pakistan is likely to be involved in litigation, whereby courts are required to issue orders for the grants of Letters of Administration and Succession Certificates. Via this legislation, wherever, NADRA has a Citizen Database, and there is no dispute amongst the legal heirs, it may, after inviting public objections in newspapers, issue Letters of Administration and Succession Certificates, without the need of approaching courts. This law will also prevent
fraudulent practice where there is no facility to swear affidavits through a biometric NADRA facility. The mechanism envisaged in the statute shall considerably reduce the burden on the courts.

Minister-in-Charge.

N. A. BILL NO. 35 OF 2019

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BILL

to protect and secure the rights of ownership of women in the property

WHEREAS it is expedient to provide for the protection of the rights of ownership and possession of properties owned by women, ensuring that such rights are not violated by means of harassment, coercion, force or fraud;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act shall be called the Enforcement of Women’s Property Rights Act, 2019.

(2) It shall extend to the whole of the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them:

(a) ‘complainant’ means a woman who files a complaint or for whom proceedings are initiated in respect of the title or possession of her property;

(b) ‘Government’ means the Federal Government;

(c) ‘Ombudsman’ means the Ombudsman appointed under section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010);

(d) ‘prescribed’ means prescribed by rules;
(e) ‘property’ includes any moveable and immoveable property; and

(f) ‘rules’ mean rules made under this Act.

3. Powers of the Ombudsman.—In addition to the powers, functions and authority under this Act and rules made hereunder, the Ombudsman, for the purpose of this Act, shall have the same powers, functions and authority as are vested in the Ombudsman for the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

4. Complaint to the Ombudsman in case no proceedings in a court of law are pending.—(1) Any woman deprived of ownership or possession of her property, by any means, may file a complaint to the Ombudsman if no proceedings in a court of law are pending regarding that property:

Provided that the Ombudsman, on its own motion or on a complaint filed by any person including a non-governmental organization, may also initiate action under sub-section (1) in relation to the ownership or possession of a woman’s property, if no proceedings are pending in a court in respect of that property.

(2) The Ombudsman shall make a preliminary assessment of the complaint filed under sub-section (1) whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsman.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsman may, after calling any record, if deemed necessary, pass orders under section 5.

(4) The Ombudsman upon receiving the report under sub-section (2), may further conduct such summary enquiry and call for such record as he may deem fit.

(5) The Ombudsman after confronting the report of the concerned Deputy Commissioner and the conclusion and findings of his own enquiry, shall call upon the complainant and her adversaries to submit objections, whereafter he may conduct a hearing, and pass orders under section 5, preferably within sixty days of receipt of the complaint under sub-section (1).
5. **Delivery of possession and transfer of ownership of property to women etc.**—(1) On conclusion of the proceedings under section 4, if the Ombudsman finds that the complainant has been illegally deprived of ownership or possession of her property, he shall direct the Deputy Commissioner or a state functionary or any private person to take steps so as to restore or confer possession or title of the property to the complainant, including measures to perfect such title.

   (2) The Ombudsman may, where deemed fit, direct the officer-in-charge of a police station for such assistance as may be required for the purposes of implementing the orders passed under sub-section (1).

   (3) The concerned Deputy Commissioner shall submit a compliance report within seven days to the Ombudsman in respect of implementation of his orders.

6. **Reference to court.**—(1) Notwithstanding anything contained in sections 4 and 5, if upon preliminary assessment, or upon receiving the report of the Deputy Commissioner or upon conducting further summary enquiries by the Ombudsman himself, he comes to the conclusion that the matter requires in-depth enquiry, investigation or detailed recording of evidence or intricate adjudication, he shall formulate a reference along-with all the reports and material collected and submit the same to the concerned Civil Court preferably within sixty days of receipt of the complaint under sub-section (1) of section 4.

   (2) Notwithstanding anything contained in any other law, the Civil Court shall entertain the reference under sub-section (1), as a civil suit and proceed further in terms of the Code of Civil Procedure, 1908 (Act V of 1908) and the relevant rules.

7. **Complaint to the Ombudsman in case proceedings in a court of law are pending.**—(1) Where proceedings in a court of law are pending in relation to the ownership or possession of any property claimed to be owned by a woman, she may file a complaint under this sub-section to the Ombudsman:

   Provided that the Ombudsman, on its own motion or on a complaint filed by any person including a non-governmental organization may also initiate action under sub-section (1) in relation to the ownership or possession of a woman’s property, even if proceedings are pending in a court in respect of that property.

   (2) The Ombudsman shall make a preliminary assessment of the complaint under sub-section (1), whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner,
who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsman.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsman may, after calling any record, if deemed necessary, may file a report in the court of law, in which the case is pending, recommending that the proceedings in the court may be terminated or put in abeyance unconditionally or subject to any court order and the Ombudsman be permitted by the court to take further proceedings under this Act.

(4) Before filing of the report under sub-section (3), the Ombudsman shall call upon the complainant and her adversaries to submit objections, and conduct a hearing and pass orders, preferably within thirty days of the hearing, as to whether the Ombudsman will or will not file a report under sub-section (3).

(5) In case the Ombudsman passes an order of not filing a report under sub-section (3), he may advise the complainant to pursue the proceedings in the court of law and terminate the complaint.

(6) The Ombudsman upon receiving the report under sub-section (2), may further conduct such summary inquiry and call for such record as he may deem fit.

8. **Loss of rent.**—On culmination of proceedings under section 5, the Ombudsman may also direct the complainant to be paid by the person depriving the said complainant of the use of the property, the amount equivalent to the rent that the property would fetch at the prevalent market rate, for the duration for which the complainant was deprived of the use of such property.

9. **Execution of orders.**—The Ombudsman may direct any executive state functionary including the relevant Deputy Commissioner where the property of the Complainant is situated, to execute the orders in letter and spirit.

10. **Appointment of officers, etc.**—For carrying out the object and purpose of this Act, the Federal Government shall appoint such officers as may be required, on such terms and conditions as prescribed.

11. **Bar of jurisdiction.**—No court or other authority shall have jurisdiction—

(a) to question the validity of any action taken, or intended to be taken, or order made, or anything or purporting to have been taken, made or done under this Act; or
(b) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsman.

12. **Power to make rules.**— The Federal Government may make rules to carry out the purpose of this Act.

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**STATEMENT OF OBJECT AND REASONS**

The Constitution of the Islamic Republic of Pakistan gives due respect to the women in society and guarantees their right of ownership. However the rights of ownership of women in inheritance are violated usually by their family members by means of coercion, fraud, fabrication, forgery and cheating etc. It is therefore, necessary to provide for an effective and speedy redressal mechanism to protect and secure the rights of ownership of women in the property.

The Bill is designed to achieve the aforesaid object

*Minister In-charge.*

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**N. A. BILL NO. 36 OF 2019**

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**BILL**

*to provide for the establishment of the Whistleblower Protection and Vigilance Commission*

WHEREAS it is expedient to provide for the establishment of the Whistleblower Protection and Vigilance Commission in order to facilitate a mechanism for whistleblower information relating to corruption and to protect whistleblowers from disadvantageous measures, and to give them rewards for such whistleblower information and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:

1. **Short title, extent and commencement.**—(1) This Act may be called the Whistleblower Protection and Vigilance Commission Act, 2019.
(2) It shall extend to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them:

(a) “Authority” includes National Accountability Bureau, Federal Investigation Agency, Securities and Exchange Commission of Pakistan, Federal and Provincial anti-corruption departments, Financial Monitoring Unit and other Federal or Provincial agencies and authorities empowered to prosecute a person in respect of corruption and corrupt practices;

(b) “Chairman” means the Chairman of the Commission;

(c) “Commission” means the Whistleblower Protection and Vigilance Commission established under section 3 of this Act;

(d) “Disadvantageous Measures” includes the following actions:

(i) removal from office, release from office, dismissal or any other unfavourable penal or personal action equivalent to the loss of status at work;

(ii) disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personal action;

(iii) work re-assignment, transfer, denial of duties, rearrangement of duties or any other personal actions that are against the Whistleblower’s will;

(iv) discrimination in the performance evaluation, etc. and subsequent discrimination in the payment of wages, bonuses, etc.;

(v) cancellation of education, training or other self-development opportunities;
(vi) the restriction or removal of budget, work force or other available resources;

(vii) the suspension of access to security information or classified information or the cancelation of authorization to handle security information or classified information or any other discrimination or measure detrimental to the working conditions of the Whistleblower;

(viii) putting the Whistleblower’s name on a black or grey lists as well as the release of such a black or grey lists, bullying, the use of violence and abusive language, or any other action that causes physical harm;

(ix) unfair audit or inspection of the Whistleblower’s work;

(x) cancellation of a license or permit, or any other action that causes disadvantage to the Whistleblower;

(xi) termination of contract for goods or services, or any other measure that causes financial loss to the Whistleblower;

(xii) intimidation;

(xiii) threat of any of the above; and

(xiv) any other unlawful adverse action;

(e) “Government” means the Federal Government;

(f) “prescribed” means prescribed by rules or regulations;

(g) “Whistleblower Information” includes a complaint against a holder of public office to the Commission relating to the commission of offences:—

(i) of corruption and corrupt practices under the National Accountability Bureau Ordinance, 1999;

(ii) of a scheduled offence under Federal Investigation Agency Act, 1974;

(iii) under the Anti-Money Laundering Act, 2010;
(iv) under the Securities Act, 2015 in relation to public listed companies;

(v) cognizable under the Federal and Provincial anti-corruption laws;

(h) “regulations” mean regulations made under this Act;

(i) “rules” mean rules made under this Act;

(j) “Whistleblower” means a person or entity or an agency, who files a Whistleblower Information under this Act.

3. Establishment of Whistleblowers Protection and Vigilance Commission.—(1) As soon as, after the commencement of this Act:

(a) the Government shall establish a Commission, to be known as the Whistleblower Protection and Vigilance Commission; or

(b) the Government may, by notification, appoint any body corporate or office or any department of such body corporate or any Government department or functionary or any organization to act as the Commission as may be specified in the notification.

(2) In the event of exercise of power under clause (b) of sub-section (1) of this section, the notified body corporate, office, department, functionary or organization shall be deemed to be the Commission under this Act.

(3) The Commission may establish offices at such other places in Pakistan as it considers necessary.

(4) The Commission shall be administratively and functionally independent, and the Federal Government shall use its best efforts to promote, enhance and maintain the independence of the Commission.

4. Composition of Commission.—(1) The Commission shall consist of at least three members including a Chairman:

Provided that the Government may increase the number of Members, from time to time, as it may consider appropriate.

(2) The Members shall be appointed by the Federal Government for a period of three years and from amongst the Members of the Commission, the Federal Government shall appoint the Chairman:
Provided that the Chairman and Members shall be eligible for reappointment for such term or terms but shall cease to hold office on attaining the age of sixty-five years or on the expiry of the term, whichever is earlier.

(3) All the Members of the Commission shall serve on a full-time basis.

(4) No person shall be recommended for appointment as a Member unless that person is known for his integrity, expertise, eminence and experience for not less than ten years in any relevant field including industry, commerce, economics, finance, law, accountancy, public administration, or service of Pakistan:

Provided that the Government may prescribe qualifications and experience and mode of appointment of such Members including the Chairman, in such manner as it may prescribe.

(5) No person shall be appointed or continued as a Member if he:—

(a) has been convicted of an offence involving moral turpitude;

(b) has been or is adjudged insolvent;

(c) is incapable of discharging his duties by reason of physical, psychological or mental unfitness and has been so declared by a registered medical practitioner appointed by the Federal Government;

(d) absents himself from three consecutive meetings of the Commission, without obtaining leave of the Commission;

(e) fails to disclose any conflict of interest at or within the time provided for such disclosure under this Act or contravenes any of the provisions of this Act pertaining to unauthorized disclosure of information.

(6) No act or proceeding of the Commission shall be invalid by reason of absence of a Member or existence of vacancy among its Members or any defect in the constitution thereof.

(7) No Member or officer of the Commission shall assume his office until he has made a declaration affirming secrecy and fidelity.
(8) The remuneration payable to the Members, officers, employees, staff, officials, experts, advisers and consultants by whatever nomenclature and the administrative expenses of the Commission shall be expenditures charged upon the Federal Consolidated Fund.

(9) The accounts of the Commission shall be audited every year by the Auditor General of Pakistan.

5. **The Chairman.**—(1) The Chairman shall be the chief executive of the Commission and shall, together with the other Members, be responsible for the administration of the affairs of the Commission.

(2) The Chairman may, subject to such conditions as he may deem fit, from time to time, delegate all or any of his powers and functions to any of the Members.

6. **Meetings of Commission.**—(1) Subject to this section, the Chairman may convene such meetings of the Commission at such times and places as he considers necessary for the efficient performance of the functions of the Commission.

(2) The Chairman shall preside at every meeting of the Commission, and in the absence of the Chairman, the Members may elect a Member to preside at the meeting.

(3) All questions arising at any meeting of the Commission shall be determined by a majority of votes of the Members present and voting.

(4) In the event of an equality of votes, the Chairman shall have a casting vote.

(5) Subject to the provisions of this Act, the Chairman may give directions regarding the procedure to be followed at or in connection with the working of the Commission.

7. **Appointments by Commission.**—(1) The Commission may appoint such officers, employees, officials, experts, advisers, and consultants by whatever nomenclature as it considers necessary to carry out such functions as may be prescribed by the Commission with such powers and on such terms and conditions as it may determine from time to time.

(2) The Commission may delegate any of its powers and functions to any officer of the Commission, as it may deem appropriate.
(3) The Commission may, by notification in the official Gazette, make regulations in respect of the terms and conditions of service of its employees.

8. **Requirements of a Whistleblower Information.**—(1) Any person or entity or an agency may make a Whistleblower Information before the Commission.

(2) Any person or agency making the Whistleblower Information shall make a personal declaration stating that he reasonably believes that the information disclosed by him and allegations contained therein are true to the best of his knowledge and belief.

(3) Every Whistleblower Information shall be made in writing or by electronic mail or electronic mail message in accordance with the rules as may be prescribed and be accompanied by supporting documents, or other material, if any.

(4) No action shall be taken on a Whistleblower Information by the Commission if the disclosure does not indicate the identity of the Whistleblower or the identity of the Whistleblower is found to be incorrect or false.

9. **Exemption from Disclosure.**—Whistleblower Information shall not be made if the information:

(i) is likely to prejudicially affect:
   (a) the sovereignty and integrity of Pakistan;
   (b) the security, strategic or economic interests of Pakistan;
   (c) relations with foreign states;
   (d) is prohibited under the Official Secrets Act, 1923;

(ii) may lead to incitement of an offence;

(iii) contains Cabinet or Cabinet Committees’ papers, including records of deliberations of the Ministers, Secretaries and other offices in the Cabinet except as permitted by the Cabinet Secretary;

(iv) has been expressly forbidden to be disclosed or published under any law or by a court or tribunal, or if the disclosure of information may result in contempt of court, cause a breach of privilege of Parliament or Provincial Assembly;
relates to trade secrets or intellectual property, except if such information is permitted to be disclosed under the law;

(vi) is available to the person making the disclosure in his fiduciary capacity, except if such information is permitted to be disclosed under the law;

(vii) is received in confidence from a foreign government;

(viii) impedes the process of inquiry, investigation or apprehension or prosecution of offenders;

(ix) endangers the life or physical safety of a person, or identifies information given in confidence for law enforcement;

(x) contains disclosure of personal information or if the information has no relationship with public interest or if the information causes unwarranted invasion of privacy, except if it is permitted to be disclosed under the law.

10. **Powers and functions of the Commission.**—(1) The Commission shall have the powers to receive and assess Whistleblower Information complaints.

(2) For the purpose of assessment, the Commission shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any authority, agency, court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) such other matters as may be prescribed.
(3) The Commission shall be deemed to be a court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1898 (Act V of 1898), and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and section 196 of the Pakistan Penal code, 1860 (Act XLV of 1860).

(4) The Commission or an officer of the Commission duly authorized shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or assessment pending before the Commission from any department of the Federal Government, Provincial Government, local authority, bank, financial institution, person or any authority and institution or department in the public sector or the private sector, as the Commission may deem fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised by such department of the Federal Government, Provincial Government, local authority, bank, financial institution, person or any authority and institution or department in the public sector or the private sector, at any time, the decision of the Commission shall be final.

(5) Where any record has been provided to the Commission for the purpose of assessment, the same shall be returned in original to the concerned institution, as soon as possible, but not later than thirty (30) days and attested copies thereof may be retained by the Commission.

(6) No claim for any privilege and confidentiality shall be accepted in a proceeding under this Act unless otherwise decided by the Commission.

11. **Assessment and complaint in relation to Whistleblower Information.**—
   (1) The officer duly authorized by the Commission may make an assessment of the Whistleblower Information within a period of sixty (60) days from receipt thereof.

   (2) Upon assessment, if the Commission is of the view that the Whistleblower Information warrants further probe, inquiry or investigation by an Authority which could result in criminal prosecution in respect of any offence under the National Accountability Bureau Ordinance, 1999, the Federal Investigation Agency Act, 1974, the Anti-Money Laundering Act, 2010, and the Securities Act, 2015 in relation to listed companies, it shall refer the Whistleblower Information or any other relevant material including any finding or analysis by the Commission or otherwise, to the Authority.

   (3) The reference by the Commission under sub-section (2) of this section shall constitute a complaint to the Authority, which shall be the complainant before the Authority.
12. **Protection to the Whistleblower.**—(1) The Commission shall ensure that no Whistleblower is victimized by Disadvantageous Measures or otherwise merely on the ground that such Whistleblower had made a Whistleblower Information or rendered assistance in assessment under this Act.

(2) If a Whistleblower is being subjected to Disadvantageous Measures or likely to be subjected to Disadvantageous Measures on the ground that he has made Whistleblower Information, he may file an application before the Commission seeking redressal in the matter. The Commission may pass such orders to the concerned authority as deemed appropriate.

(3) Every order given under sub-section (2) by the Commission shall be binding upon the concerned authority against whom the allegation of victimization has been proved.

13. **Rewards and Punishments.**—(1) In the event of recovery, as result of Whistleblower Information, made by the Whistleblower under this Act, he shall be rewarded twenty percent of the recovered amount and a certificate of appreciation.

(2) In case any recovery is made in view of Whistleblower Information made by more than one Whistleblower, the twenty percent reward mentioned in sub-section (1) of this section shall be equitably apportioned between the Whistleblowers as deemed fit by the Commission, keeping in view the contribution of each Whistleblower.

*Explanation.*—For the purpose of this section, “Whistleblower” means a natural person and not an entity or agency.

(3) Any person who lodges a frivolous or false Whistleblower Information shall be punished with imprisonment for a term which shall not extend to more than two years or with fine which may extend up to two hundred thousand rupees or with both:

Provided that the amount of the fine shall be paid to the person against whom the false Whistleblower Information has been made.

14. **Identity of Whistleblower.**—The identity of the Whistleblower shall not be disclosed before the Authority or any agency or forum or to anyone even after the finalization of the matter, except upon written consent by the Whistleblower, and if the Commission after inquiry is of the view that any person has revealed the identity of the Whistleblower, it may impose a fine which may extend to rupees five hundred thousand, which shall be paid to the Whistleblower.
15. **Annual report.**—(1) The Commission shall prepare a Consolidated Annual Report of the performance of its activities in such a term as may be prescribed and submit it to the Government preferably in the last month of the year, without disclosing the identity of the Whistleblower.

(2) The Annual Report shall be laid before the Parliament for consideration.

16. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Commission or against any officer, employee, agency or person acting on its behalf or a Whistleblower, in respect of anything which is in good faith done or intended to be done under this Act.

17. **Act to override other laws.**—The provisions of this Act shall have overriding effect notwithstanding anything contained in any other law for the time being in force.

18. **Power to make rules.**—(1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of following matters, namely:

(a) prescribing a process for Whistleblower Information;

(b) the procedure for assessment of Whistleblower Information under sub-section (1) of section 11;

(c) determination and payment of Reward under sub-section (1) of section 13;

(d) prescribing the qualifications, terms and conditions of service, and the methodology of appointment of Members;

(e) the procedure for the working and meetings of the Commission; and

(f) any other matter which is incidental, ancillary or connected to the purpose of this Act.

19. **Power to make regulation.**—The Commission may make regulations, not inconsistent with the provisions of this Act.
20. **Repeal.**—The Public Interest Disclosures Act, 2017 (XXXVI of 2017) is hereby repealed.

**STATEMENT OF OBJECTS AND REASONS**

The Bill is designed to establish Whistleblower Protection and Vigilance Commission in order to provide a mechanism for whistleblower information relating to corruption and to protect whistleblowers from dis-advantageous measures such as removal from office, disciplinary action and intimidation etc. In order to give incentive to whistleblowers the Bill provides rewards but also to discourages false information it also provides punishment for them.

*Minister-in-Charge.*

**N. A. BILL NO. 37 OF 2019**

∧

**Bill**

*Further to amend the Code of Civil Procedure, 1908*

**WHEREAS** it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908) for bringing procedural reforms in order to provide inexpensive and expeditious justice;

It is hereby enacted as follows:—

1. **Short title, commencement and extent.**—(1) This Act may be called the Code of Civil Procedure (Amendment) Act, 2019.

(2) It shall come into force at once.

(3) It shall extend to the Islamabad Capital Territory.

2. **Amendment of section 1, Act V of 1908.**—In the Code of Civil Procedure, 1908 (Act V of 1908), hereinafter referred to as the said Act, in section 1, after sub-section (3), the following new sub-section shall be inserted, namely:—

“(4) The primary objective of this Code is to enable the Courts to

(a) deal with the cases justly and fairly;
(b) encourage parties to alternate dispute resolution procedure if it considers appropriate;

(c) save expense and time both of courts and litigants; and

(d) enforce compliance with provisions of this Code.”.

3. **Substitution of section 3, Act V of 1908.**—In the said Act, for section 3, the following shall be substituted, namely:—

“3. **Sub-ordination of Courts.**—For the purposes of this Code, the hierarchy and sub-ordination of Civil Courts shall be the same as prescribed in the West Pakistan Civil Courts Ordinance, 1962 (W.P. Ordinance No. II of 1962).”.

4. **Substitution of section 6, Act V of 1908.**—In the said Act, for section 6, the following shall be substituted, namely:—

“6. **Pecuniary jurisdiction.**—Save in so far as is provided for the Islamabad High Court exercising original civil jurisdiction at Islamabad, all civil suits shall be filed in the following manner, namely:—

(a) where the amount or value of the subject matter of the suit is below rupees fifty million, the suit shall be filed in the court of Civil Judge, as may be prescribed by the High Court; and

(b) where the amount or value of the subject matter of the suit is above rupees fifty million the suit shall be filed in the court of District Judge, as may be prescribed by the High Court”.

5. **Omission of section 7, Act V of 1908.**—In the said Act, section 7 shall be omitted.

6. **Substitution of section 26, Act V of 1908.**—In the said Act, for section 26, the following shall be substituted, namely:—

“26. **Institution of suits through plaint or otherwise.**—(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) On presentation of the plaint, it shall be the duty of the Court to _prima facie_, satisfy itself of jurisdiction, cause of action and limitation:
Provided that if Court does not satisfy itself, it shall be bound to record reasons for doing so.

(3) The plaintiff shall, at the time, file as many copies of the plaint and accompanying documents as there are defendants to the suit to be sent along-with the summons and two extra copies of the entire set.

(4) It shall be duty of the Court to maintain electronic records of proceedings in suits as may be prescribed.

Explanation.—For the purposes of this sub-section suits includes any proceedings in applications, appeals, review, revision or anything incidental thereto.

26A. Written statement and proposed issues by the defendant.—(1) The defendant shall file written statement not later than thirty days from the date of service to the plaintiff:

Provided that if the defendant fails to file written statement on the date fixed, the Court may grant an opportunity to file the same not later than fifteen days subject to payment of adjournment costs:

Provided further that if the defendant fails to file after the opportunity given under the first proviso, a final opportunity may be given by the Court to file the written statement not later than fifteen days subject to payment of adjournment costs after which the defendant shall lose the right of defence and the Court shall close the right to defend the case:

Provided also that the written statement may be allowed to be filed by the Court upon payment of costs to be determined by it, if the defendant through an application supported by an affidavit, satisfies the Court that he had just and sufficient cause and the Court record reasons for it.

(2) The defendant shall file proposed issues along-with the written statement:

Provided that if no issues are proposed by the defendant, the Court shall permit the defendant to file proposed issues not later than seven days upon payment of cost to be determined by the Court.
(3) The defendant shall provide additional copies of written statement and of the documents annexed therewith for each of the parties and the Court.

26B. Proposed issues by the plaintiff.—The plaintiff shall file proposed issues not later than seven days from the date of receiving the written statement:

Provided that in case the plaintiff fails to file the proposed issues, the Court shall permit the plaintiff to file proposed issues not later than seven days upon payment of cost to be determined by the Court.

26C. Framing issues and filing of list of witnesses and recording of evidence.—(1) Not later than ninety days of the institution of a suit the Court after considering the pleadings and issues proposed by parties, shall determine the material propositions of fact and laws which the parties are at variance and frame issues.

(2) For the purposes of sub-section (1), the Court in its discretion as it may deem fit may proceed to frame issues without hearing.

(3) In case issues are framed without hearing, any party, not later than seven days of the framing of issues, may file an application seeking modification of the issues, which application shall be decided within fifteen days.

(4) After framing the issues, the Court shall order parties to file list of witnesses, not later than fifteen days.

(5) If any party fails to comply with the orders of Court in sub-section (4), a final opportunity may be given by the Court to file list of witnesses not later fifteen days subject to payment of adjournment costs.

(6) Immediately upon framing of issues and filing of the list of witnesses; the Court shall direct the recording of evidence through Commission in the prescribed manner.

(7) For the purposes of sub-section (6) of this section, the Court shall appoint a Commission from a list of approved panel of such Commission, comprising advocates and retired judges maintained by the Court in the prescribed manner, on such fee and terms and conditions as determined by the Court.
(8) The parties shall file affidavits as evidence of their respective witnesses, before the Commission which shall be construed to be examination-in-chief.

(9) On the affidavits in evidence, the witnesses shall be subjected to cross examination and if necessary, just and expedient, shall be subjected to re-examination followed by cross-examination or re-examination.

(10) The Commission shall record the evidence and proceedings thereof in written and audio and video recording.

(11) Not later than ninety days of the order under sub-section (6), the Commission shall finalize the recording of the evidence and submit a report in this regard to the Court along-with the complete written, audio and video record of the proceedings under sub-section (10).

(12) The High Court shall frame rules for the purposes of recording of evidence through Commission, inter alia, empowering the Commission to regulate the Commission’s proceedings including but not limited to allowing or disallowing questions, documents, choosing sides, extension of Commission and passing such ancillary or other orders which are necessary to carry out the functions of the Commission.

26D. Hearing of final arguments.—(1) The Court after submission or closing of evidence, as the case may be shall fix a date not later than fifteen days, for hearing of final arguments by parties.

(2) The Court may require the parties to file their written arguments in addition to oral arguments.”.

7. Amendment of section 27, Act V of 1908.—In the said Act,—

(a) in section 27, after the word “claim”, the words “not later than fifteen days” shall be inserted; and

(b) after section 27, as amended herein-above, the following new section shall be inserted, namely:—

“27A. Process of summons to be simultaneous.—(1) Summons shall be sent simultaneously unless otherwise ordered by the Court, to the defendant, by registered post acknowledgment due and another copy of the summons by courier service
signed and sealed in the manner prescribed, or as the court may determine, by urgent mail service of Pakistan Post, at the cost of plaintiff.

(2) The acknowledgement, purported to be signed by the defendant, of the receipt of the registered communication or an endorsement by a courier messenger or postal employee that the defendant refused to take delivery of the summons shall be deemed by the Court issuing the summons to be prima facie proof of the service of summons.

(3) Simultaneously, the Court shall order service by—

(a) affixing a copy of the summons at some conspicuous part of the house, if any, in which the defendant is known to have last resided or carried on business or personally worked for gain;

(b) any modern device including electronic device of communication which may include mobile, telephone, telegram, phonogram, telex, fax, radio, television etc. in a prescribed manner;

(c) urgent mail service or public courier services;

(d) beat of drum in the locality where the defendant resides;

(e) announcement through, mosque, temple, community centre etc.;

(f) publication in the press in the prescribed manner; or

(g) any other manner or mode as it may think fit:

Provided that the Court may order the use of all or any of the aforesaid manners and modes of service simultaneously.

(4) If the defendant fails to appear, the Court may direct service again by any of the modes mentioned in sub-section (3) to appear on a date not later than seven days.

(5) Location of bailiff or process-server serving the summons shall be monitored by modern devices, in a manner prescribed, and a photograph shall be
taken of the defendant or the premises or the person accepting summons on behalf of defendant and be made part of the record as a proof of delivery.”.

8. **Amendment of section 33, Act V of 1908.**—In the said Act, in section 33, after the word “judgment”, the words “within ninety days of the final hearing” shall be inserted.

9. **Insertion of new section 75A, Act V of 1908.**—In the said Act, after section 75, the following new section shall be inserted, namely:—

“75A. **Spot checks.**—(1) In order to further the primary objective mentioned in sub-section (4) of section 1, in any proceedings in a suit, the Presiding Officer of the Court in its discretion may, on his own or at the application of any of the parties, at any stage may carry out spot checks including inspection of documents and premises in order to ascertain issues of partition, demarcation, possession, state of construction and anything incidental and ancillary thereto.

*Explanation I.*—For the purposes of this sub-section, spot checks may be carried out after passing of decree to ensure Court orders are implemented as decreed.

*Explanation II.*—For the purpose of this sub-section a spot check conducted by Presiding Officer of a Court should not be construed to be an inspection through the appointment of Commission.

(2) The Court may call for the evidence of any person or documents at the spot.

*Explanation.*—For the purpose of this sub-section, person includes parties to the suit, individuals present at the spot or any individual Court may deem proper to give evidence in the matter in issue.

(3) After conducting spot checks an interim order recording the findings of the spot inspection shall be prepared and signed by the Presiding Officer of the Court:

Provided that the interim order shall state the date, time, purpose of visit, evidence recorded and interim findings.
The Presiding Officer, in his discretion shall be entitled to pass an order or judgment upon the basis of interim order mentioned in sub-section (3) of this section provided the same is confronted to all the parties, who are given a reasonable opportunity to file objections to the same.”.

10. **Substitution of section 96, Act V of 1908.**—In the said Act, for section 96, the following shall be substituted, namely:

“96. **Appeal from final judgment or decree.**—Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court not later than thirty days from every final judgment passed by any Court exercising original jurisdiction on any question of law or fact erroneously determined by the original court and the High Court shall decide the appeal within ninety days.”.

11. **Omission of sections, Act V of 1908.**—In the said Act sections 100, 101, 102 and 103 shall be omitted.

12. **Amendment of section 106, Act V of 1908.**—In the said Act, for section 106, the following shall be substituted, namely:

“106. **What Courts to hear appeals.**—Appeals against order passed under this Code shall lie to the Court, directly from its sub-ordinate court exercising original jurisdiction adjudicating the suit, in the manner prescribed.”.

13. **Amendment of section 111, Act V of 1908.**—In the said Act, in section 111, clause (b) shall be omitted.

14. **Amendment of section 114, Act V of 1908.**—In the said Act, in section 114,—

(a) in clause (b), the word “or”, at the end, shall be omitted; and

(b) for clause (c) the following shall be substituted, namely:

“may apply for a review of judgment to the Court which passed the decree or mad the order, and the Court may make such order thereon as it think fit.”.

15. **Substitution of section 115, Act V of 1908.**—In the said Act, for section 115, the following shall be substituted, namely:—
115. **Revision.**—Any party aggrieved by an order under section 104, passed by the Court of District Judge or Additional District Judge in an appeal against an interlocutory order passed by a Civil Judge or Senior Civil Judge, as the case maybe, may within thirty days of the said order may file a revision to the High Court on an obvious misapprehension of law or in respect of a defect in jurisdiction.”.

16. **Amendment of section 128, Act V of 1908.**—In the said Act, in section 128, after sub-section (2) the following new sub-section (3) shall be inserted, namely:—

“(3) The High Court shall make rules, not inconsistent with the provisions of this Code, for case management and scheduling conferences binding the parties to follow the schedules and timelines prescribed therein.”.

17. **Substitution of section 141, Act V of 1908.**—In the said Act, for section 141, the following shall be substituted, namely:—

“141. **Proceedings regarding application for injunctions and other miscellaneous application and issues.**—(1) The procedure provided in this Code with regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction.

(2) All suits, in which interlocutory applications have been filed, shall have duplicate sets, one of which shall be placed in the court hearing the main suit and other shall be placed in the court hearing interlocutory applications.

(3) At all material times, the respective offices of the two courts mentioned in sub-section (1) of this section, shall keep both the files in the two courts updated and tallied with each other in duplicate and identically including the respective orders and diary sheets.

(4) Both the courts hearing the main case and the interlocutory applications respectively shall proceed collaterally according to the timelines prescribed in this Code and rules or by any order of the Court,

*Explanation.*—It is clarified that the pendency of any interlocutory application shall be no ground to stay or delay the proceedings before the Court hearing the main case.
(5) All applications for addition, deletion and substitution of parties, amendments to pleadings, modification or alteration of issues, rejection of plaints, and stay of suits shall be heard and adjudicated by the Court hearing the main case, while all other applications shall be construed to be interlocutory applications warranting to be filed and decided by the Court hearing the interlocutory applications.

(6) The filing of any application including an application for the rejection of the plaint or a dismissal of suit shall be no ground to dispense with or waive the requirement of filing a written statement within the timelines prescribed in this Code.

(7) This section shall have effect notwithstanding any other provision in this Code or any other law for time being in forced.”.

18. **Amendment of section 151, Act V of 1908.**—In the said Act, in section 151, after word “Court” occurring for the first time, the words “to be exercised after recording reasons” shall be inserted.

19. **Insertion of new section, Act No. V of 1908.**—In the said Act, after section 158, the following new section shall be inserted, namely:—

“159. **Savings of proceedings.**—All proceedings instituted prior to enactment of the Code of Civil Procedure (Amendment) Act, 2019 shall be deemed to proceed and dealt in accordance with the provisions of Code of Civil Procedure which existed prior to the said amendment Act.

**Explanation.**—In this section the expression “proceedings” includes suit, appeal, review, revision, execution applications or any other proceedings and any matter incidental thereto.”.

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**STATEMENT OF OBJECTS AND REASONS**

Delay defeats justice. It is especially true in the context of disputes pending adjudication before civil courts as it takes many years or even decades to get cases decided by civil courts. This, in civil litigation practice, normally occurs when a party files a suit accompanied with an injunction/stay application, the main suit does not proceed. The court only focuses on the stay application and it takes many years to decide the stay/injunction. The main suit remains in a state of inertia. In order to curb delays, a new concept of a two-tier system has
been introduced where two different judges will hear the entire suit. In the first tier, the main case would be heard by one judge and not going to be interrupted till finalisation of the proceedings. If there are miscellaneous applications, in particular stay/injunction application, these are going be heard in second tier where a separate file is going to be opened and adjudicated by a different judge without interfering with the main case being adjudicated in first tier. In addition reforms are proposed with regard filing of plaint, service of summons, filing of written statement, case management system, commission for recording of evidence, appeals, introduction of spot checks by Presiding Officer and limiting unnecessary discretion of courts and restriction in granting of adjournments and subjecting the parties at fault with heavy penalties in the shape of costs. The proposed amendment in the existing Code of Civil Procedure is aimed towards expeditious disposal of cases without compromising the fundamental right to fair trial.

2. The Bill is designed to achieve the aforesaid objects.

Minister-in-Charge.

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N. A. BILL NO. 38 OF 2019

A

BILL

to provide for the establishment of a Legal Aid and Justice Authority

WHEREAS, it is expedient to establish a Legal Aid and Justice Authority to provide legal, financial and added assistance for access to justice to the poor and vulnerable segments of the society in criminal cases and for matters ancillary thereto.

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Legal Aid and Justice Authority Act, 2019.

(2) It extends to the whole of Pakistan.

(3) This Act or any part thereof shall come into force on such date or dates as the Government may by notification in the official Gazette, appoint.
2. **Definitions.**—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “**applicant**” means any person who—

(i) makes an application for legal aid under this Act or on whose behalf such an application is made; or

(ii) a person who is of unsound mind or lunatic or minor;

(b) “**Authority**” means the Legal Aid and Justice Authority established under section 3;

(c) “**Board**” means the Board of Governors of the Authority constituted under section 4;

(d) “**Chairperson**” means Chairman of the Board and includes any person for the time being performing the functions of the Chairperson;

(e) “**Court**” means court established under any law for the time being in force;

(f) “**Director-General**” means the Director-General of the Authority;

(g) “**Free Representation Unit**” means a special unit comprising advocates and volunteers to provide legal or other social services on *pro bono* basis either on case to case basis or in respect of a group or set or type of cases other than the panel;

(h) “**Government**” means the Federal Government;

(i) “**legal aid**” means the provision of assistance, to a person who is unable to afford legal assistance, representation and access to justice;

(j) “**Member**” means a member of the Board;

(k) “**panel**” means the list of advocates and volunteers prepared by the Authority under section 13;

(l) “**prescribed**” means prescribed by rules or regulations under this Act, as the case may be;
(m) “rules” mean the rules made under this Act;

(n) “Secretary” means the Secretary of the Board; and

(o) “Volunteer” means any person other than an Advocate who may provide legal or other services on pro bono or fee basis to the applicant.

(2) A word or expression used in the Act and not defined shall have the same meaning as is assigned to it in the Code of Criminal Procedure, 1898 (V of 1898) or the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973).

3. Establishment of the Authority.—(1) The Government, by notification in the official Gazette, shall establish a Legal Aid and Justice Authority to carry out the purposes of this Act.

(2) The headquarters of the Authority shall be at Islamabad and it may, with the prior approval of the Government, set up as many offices all over the country as, when and where required.

4. Management.—(1) The general direction and administration of the Authority and its affairs shall vest in the Board, which shall exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Board shall, in the discharge of its functions, be guided on questions of policy by such directions as the Government may give from time to time.

(3) If any question arises as to whether any matter is a matter of policy or not, the decision of the Government in respect thereof shall be final.

5. Composition of the Board.—(1) The Board of Governors shall consist of the following members, namely:—

(i) Federal Minister for Human Rights Chairperson
(ii) Attorney-General for Pakistan Member
(iii) Advocate General of each Province and Islamabad Capital Territory Member
(iv) Secretary, Ministry of Human Rights Member
(v) Secretary, Ministry of Finance Member
(vi) Secretary, Ministry of Law and Justice Member
(vii) Vice Chairman, Pakistan Bar Council Member
(viii) One Prominent Female Social Worker Member
(ix) Director General, of the Authority Member/Secretary
(2) The Chairperson shall preside at every meeting of the Board and in case of his absence for any reason, the Government may designate any other Minister as a Chairperson.

(3) The Authority may, with the prior approval of the Government, co-opt any other person as a member.

(4) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy, or any defect, in the constitution of the Board.

(5) If an ex-officio Member is unable to attend a meeting of the Board, he may authorize a representative not below BPS-20 to attend the meeting.

6. **Meetings of the Board.**—(1) The Chairperson may convene meetings of the Board at such time and place as he considers necessary for the efficient performance of the functions of the Board.

(2) At any meeting of the Board the quorum shall be seven Members.

(3) All issues arising at any meeting of the Board shall be decided by the majority of votes of the Members present and voting.

(4) Subject to the provisions of this Act, the Chairperson may give directions regarding the procedure to be followed at or in connection with any meeting of the Board.

7. **Director-General.**—(1) There shall be a Director-General of the Authority who shall be appointed by the Government at such remuneration and on such terms and conditions as it thinks fit.

(2) No person shall be appointed as a Director-General unless he is qualified to be appointed as a judge of a High Court.

(3) The Director-General shall be responsible to the Authority for the day-to-day administration of the business of the Authority and shall discharge such duties and perform such functions as are assigned to him by the Board.

(4) In case the Director-General is absent or unable to act and no acting appointment has been made by the Authority, the Authority may authorize an officer of the Authority to perform temporarily the functions of the Director-General.
(5) Until the Board is duly constituted, the Director-General shall, subject to such directions as the Government may give from time to time, exercise the powers, and perform the functions of the Board.

(6) The officers of the Authority shall have such powers and shall perform such functions as may be assigned to them by the Director-General.

8. **Powers and functions of the Authority.**—(1) The Authority shall—

(a) make policies, principles and guidelines for providing legal aid and financial or other assistance including the prescription of criteria for qualification to obtain legal aid and financial and other assistance;

(b) design and establish an effective mechanism for provision, monitoring and evaluation of legal aid;

(c) promote or cause to be promoted programmes designed to enhance public awareness of the legal aid system in Pakistan;

(d) undertake and promote research in the field of legal aid with special reference to the need of such aid to the persons;

(e) advise the Government or any other agency in regard to enforcement of the right to fair trial and due process of law;

(f) take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate poor and vulnerable sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;

(g) establish panels of advocates and volunteers in respect of each office in the prescribed manner and, subject to sub-section (2) of section 12, to add to or remove from that panel any advocate and volunteer where the Authority is satisfied that the advocate or volunteer has derelicted his duty or it is in the interest of justice to do so;

(h) devise and prescribe structure of fees for legal aid to advocates and volunteers on panels;
(i) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;

(j) manage and administer the resources of the Authority;

(k) allocate funds, monitor the expenditure of funds at all offices and withhold funds from any office;

(l) establish and monitor the implementation of standards and procedures for the operation of all offices;

(m) undertake any enquiry or investigation which the Authority thinks necessary or desirable in relation to the discharge of its functions;

(n) perform such other functions as may be assigned to it by the Government; and

(o) do such other things as may be expedient or necessary for the proper performance of its functions under this Act.

(2) In discharge of its functions, the Authority shall, wherever appropriate, act in coordination and cooperation with other individuals governmental and non-governmental agencies, departments, bodies, authorities, universities engaged in the work of promoting the cause of legal services to the poor and vulnerable sections of the society.

9. **Provision of legal aid, financial or other assistance in criminal matters.**—(1) The Authority shall make appropriate arrangements for the provision of legal aid, financial or other assistance to an applicant who is charged with a criminal offence and is unable to afford legal, financial or other assistance, representation and access to justice, in such manner and to such extent as may be prescribed.

(2) The person seeking legal aid, financial or other assistance shall apply to the Authority, in the prescribed manner.

(3) The application for purposes of sub-section (2) shall be supported by an affidavit sworn by the applicant and such other documents as may be prescribed. in case of minors or lunatics or persons of unsound mind, the requirement of an application and affidavit shall not be applicable.

(4) The eligibility of the applicant shall be assessed in the manner and according to eligibility criteria as may be prescribed.
(5) In prescribing the criteria for and in extending the legal, financial or other assistance, preference shall be given to dis-advantaged women and children, especially in relation to matters of sexual offences.

(6) For the purposes of assessing the means of the applicant, the Authority may in appropriate cases make such enquiries as it considers necessary into the means of the applicant and may direct any officer to enquire into and report thereon.

(7) A report to the Authority under sub-section (6) shall be made available to the applicant who shall be allowed, if he so desires, to make his observation on the report.

(8) The Authority shall decide the application of the applicant within seven days of receipt thereof.

10. **Revocation of legal aid.**—Where after the assessment for the purpose of grant of legal, financial or other assistance, or release thereof the Authority comes to the conclusion that the Applicant was not eligible to receive the same due to filing of applications, affidavits or documents in relation thereto which are found to contain false particulars, the Authority may revoke the legal, financial or other assistance and take steps for the recovery of any amount undeservedly released to the applicant.

11. **Panel of advocates and volunteers.**—(1) The Authority shall approve panels of advocates and volunteers in the prescribed manner in each district or, if necessary, in any Tehsil for provision of legal, financial or other assistance either on *pro bono* or on fee basis.

   **Explanation.**—The panel of advocates and volunteers on *pro-bono* basis shall include setting up of a Free Representation Unit.

(2) The Authority shall monitor, assess and evaluate the quality of legal and volunteer services provided by each advocate, volunteer and the Free Representation Unit.

(3) The panel of advocates, volunteers and the Free Representation Unit shall maintain a proper record of the cases entrusted to them and shall provide information to the Authority at such time and in such manner as may be prescribed.

12. **Code of Conduct.**—(1) The Government, on the recommendations of the Authority, may prescribe a Code of Conduct for panel advocates, volunteers and the Free Representation Unit.
(2) The Authority may suspend or, subject to hearing, remove the advocate and volunteer from the panel or from the Free Representation Unit if found guilty of breach of that Code, or dereliction of his duty.

13. **Payments.**—(1) The Authority shall promptly make payment of professional fee, travelling allowances and other out-of-pocket expenses, after deduction of the applicable taxes, to the advocate, volunteer and the Free Representation Unit whom a matter has been assigned in the manner that may be prescribed.

(2) Where costs are awarded in favour of the applicant in any matter in which the services of an advocate or volunteer of the panel or the Free Representation Unit were used, such costs shall be the property of and be paid to the Authority. The applicant shall be reimbursed out of such costs for the out-of-pocket expenses incurred by him in respect of such matter.

14. **Appointment of officers, staff, etc., by the Authority.**—The Authority may create posts and appoint such Directors, officers, staff, experts or consultants on such terms and conditions as may be prescribed.

15. **Staff and officers etc., to be public servants.**—The Director General, Directors, officers, staff, experts and consultants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

16. **Delegation of powers to the Director-General etc.**—(1) The Authority may, by general or special order and subject to such conditions as it may thinks fit to impose, delegate to the Director-General, Directors or a member, or an officer of the Authority, all or any of its powers or functions under this Act.

(2) The Government may, by notification in the official Gazette, delegate all or any of the Authority’s powers under this Act and the rules and regulations made thereunder to any other agency or department of the Government or to a provincial government with the consent of such government.

17. **Legal Aid and Justice Authority Fund.**—(1) There shall be established a fund to be known as the Legal Aid and Justice Authority Fund which shall vest in the Authority and shall be utilized by the Authority for the purpose of this Act, and to meet charges in connection with its functions under this Act including the provision of legal, financial or other assistance, including payment to meet bail amounts, penalties or fines of the applicants, payment of fees to advocates or volunteers, salaries and other remuneration to the Director
General, Directors, members, officers, staff, experts and consultants of the Authority.

(2) The Fund shall be financed from the following sources, namely—

(a) grants from the Federal Government, Provincial and Local Governments;

(b) aid and assistance from local, provincial, national and international authorities or agencies;

(c) contributions from the statutory bodies, corporations, private organizations and individuals;

(d) income and earnings from the moveable and immovable properties acquired or leased by the Authority;

(e) any income from the investment of the amount credited to the Fund;

(f) all sums payable to the Authority may be recovered as arrears of land revenue.

(3) The amount credited to the Fund shall not lapse at the end of a financial year and shall be available for utilization at any time.

18. Budget.—The Authority shall, in respect of each financial year, submit for approval of the Government, on such date as may be prescribed, a statement of the estimated receipts and expenditure, including requirements of foreign exchange for the next financial year.

19. Audit and accounts.—(1) The accounts of the Authority shall be audited every year by the Auditor General of Pakistan in such manner as may be prescribed.

(2) Copies of the audit reports shall be sent to the Government along-with the comments of the Authority.

(3) The audit report shall be available for public inspection.

(4) The Government may issue directions to the Authority for rectification of any item objected to by the Auditor General of Pakistan and the Authority shall comply with such directions.
20. **Submission of yearly reports and returns.**—As soon as possible after the end of every financial year but before the last day of the month of December of that year, the Authority shall submit to the Government a report on the conduct of its affairs for that year.

21. **Protection of actions taken in good faith under this Act.**—No suit, prosecution or other legal proceedings shall lie against the Government or the Authority or any officer or servant thereof or any person acting under the authority of the Government or the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation made thereunder.

22. **Tax Exemptions.**—The income of the Authority, donations and contribution received by the Authority for the purpose of this Act shall be exempt from all taxes, duties, charges or imposts of any nature levied by federal, provincial, local governments or authorities or any institution.

23. **Power to make rules.**—The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

24. **Act to override other laws.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force.

25. **Removal of difficulties.**—If any difficulty arises in giving effect to or applying the provisions of this Act, the Government may, make such order, not inconsistent with this Act or the rules, as may be necessary for removal of such difficulty:


(2) Notwithstanding the repeal under sub-section (1), all funds and accounts constituted and maintained under the repealed Act shall be deemed to be in continuation of the corresponding funds and accounts constituted or maintained under this Act.

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**STATEMENT OF OBJECTS AND REASONS**

It is a constitutional right of every citizen to consult and engage a lawyer to defend themselves. Article 37(d) of the Constitution guarantees that, the State
shall ensure inexpensive and expeditious justice to its citizens. The object of this Bill is to establish a legal and institutional framework to promote access to justice by providing affordable, accessible, sustainable, credible and accountable legal aid, financial or other services to the poor and vulnerable section of the society in criminal matters. This will also help to promote legal awareness, education and public awareness of the legal aid system. The Bill gives priority to disadvantaged women and children, especially in matters of sexual offences. Apart from the provision of legal aid, the Bill also facilitates the extension of financial facilities such as provision of bail, fine and penalty amounts to the poor. Hence this Bill.

DR. MUHAMMAD FAROGH NASEEM,
Minister for Law and Justice.

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TAHIR HUSSAIN,
Secretary.