

# REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



**“THE DEFAMATION (AMENDMENT) BILL, 2017”**

**Report No. 48**

**PRESENTED BY**

**SENATOR MUHAMMAD JAVED ABBASI  
CHAIRMAN**

## SENATE SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON “THE DEFAMATION (AMENDMENT) BILL, 2017”

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on “The Defamation (Amendment) Bill, 2017” introduced by Senator Mohammad Azam Khan Swati on 10<sup>th</sup> April, 2017. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee on Law and Justice is as under:-

1.	<b>Senator Muhammad Javed Abbasi</b>	<b>Chairman</b>
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Dr. Muhammad Ali Khan Saif	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Nehal Hashmi	Member
7.	Senator Ms. Ayesha Raza Farooq	Member
8.	Senator Nawabzada Saifullah Magsi	Member
9.	Senator Saeed Ghani	Member
10.	Senator Zaheer ud Din Babar Awan	Member
11.	Senator Mrs. Zahida Khan	Member
12.	Senator Farooq Hamid Naek	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meeting held on 28<sup>th</sup> April, 2017 and 10<sup>th</sup> May, 2017, under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 10<sup>th</sup> May, 2017, which was attended by the following members:-

- i. **Senator Muhammad Javed Abbasi**
- ii. Senator Aitzaz Ahsan
- iii. Senator Saleem Zia
- iv. Senator Syed Muzafar Hussain Shah

- v. Senator Nehal Hashmi
- vi. Senator Nawabzada Saifullah Magsi
- vii. Senator Saeed Ghani
- viii. Senator Mrs. Zahida Khan
- ix. Senator Farooq Hamid Naek

4. Senator Mohammad Azam Khan Swati, mover briefed the Committee that the Defamation Ordinance, 2002 was promulgated to protect the people from false accusations, injuries to their reputation, unjust criticism, dislike, contempt and hatred. The pretext of freedom of expression and low value of general damages sometimes lead the way towards the defamation of persons. But amazingly in some cases the allegedly defamed persons even if convicted for the offence or tried for the offence for which the persons were allegedly defamed also initiate proceedings under this Ordinance against the person whose publication was based on truth and was made for public good. Thus a bona fide originator, editor or publisher of a publication based on truth and for public good suffers the agony of court proceeding without any justification. The amendment has sought to address the pretext of freedom of expression, low value of general damages and to give protection to such originator, editor, publisher or other person concerned and to prevent the baseless suits of the so called defamed persons.

5. Ministry of Law and Justice opposed the Bill on the following grounds:-

The Defamation (Amendment) Bill, 2017, is a Private Member's Bill moved by Senator Mohammad Azam Khan Swati. The intention of the Senator through instant Bill is to give protection to a person on whose publication the allegedly defamed person has been convicted or any Court has taken cognizance of the offence after proper inquiry or investigation. The Bill further seeks to enhance the quantum of damages from fifty thousand to two hundred thousand and from three hundred thousand to two million. The idea of giving protection against the person who has been convicted carries some weight. However, giving protection in case where Court has taken cognizance seems too risky and may lead to injustice. What if after inquiry or investigation Court concludes that the victim was innocent and process of Court was abused with malafide intention and

ulterior motives. Furthermore, even after conviction a convict has right of appeal and appeal is considered to be continuation of case and in appeal a convict can be declared innocent. Hence policy decision needs to be taken keeping in view these facts.

6. Senator Farooq H. Naek raised certain objections with regard to the Civil and Criminal liability, wherein, the Member-in-Charge also acceded to the objection raised by Senator Farooq H. Naek and stated that he does not intend to press the instant Bill further, therefore, he will withdraw the same in the House as per the rules.

7. Accordingly, the Committee recommends that the House may grant leave to Senator Mohammad Azam Khan Swati to withdraw "The Defamation (Amendment) Bill, 2017", in terms of rule 115 of the Rules of Procedure and Conduct of Business in the Senate, 2012. (Copy of Bill is annexed).



(RABEEA ANWAR)  
J.S / Secretary Committee



( SENATOR MUHAMMAD JAVED ABBASI)  
Chairman

**INTRODUCED ON 10-04-2017**

**[AS INTRODUCED IN THE SENATE]**

**A**

**BILL**

*further to amend the Defamation Ordinance, 2002*

**WHEREAS** it is expedient further to amend the Defamation Ordinance, 2002 (Ordinance No. LVI of 2002), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title and commencement.** - (1) This Act may be called the Defamation (Amendment) Act, 2017.

(2) It shall come into force at once.

**2. Amendment of section 5, Ordinance No. LVI of 2002.** - In the Defamation Ordinance, 2002 (Ordinance No. LVI of 2002), hereinafter referred to as the said Ordinance, in section 5, in paragraph (b) after the words "an expression of" the words "bona fide" shall be inserted, and thereafter the words "and not an assertion of fact" shall be omitted.

**3. Insertion of new section 5A, Ordinance No. LVI of 2002.** - In the said Ordinance, after section 5, the following new section shall be inserted, namely:-

**"5A. Bar to proceeding under this Ordinance.** - (1) No defamation proceeding shall be initiated or continued under this Ordinance against a person, on whose publication or on the publication of any other person, the allegedly defamed person has been convicted by any court for the offence for which the person was allegedly defamed or, any court has taken cognizance of the offence after proper inquiry or investigation according to law.

(2) The Court shall presume the conviction of the allegedly defamed person or the cognizance by any court for the offence for which the person was allegedly defamed as a conclusive proof that the publication is based on truth and was made for public good, and shall dismiss the suit of the plaintiff without further proceeding."

**4. Amendment of section 9, Ordinance No. LVI of 2002.** - In the said Ordinance, in section 9, for the letters, figure, brackets and words "Rs. 50,000 (Rupees fifty thousand)" the words "two hundred thousand rupees" shall be substituted and thereafter in the proviso, for the words "three hundred thousand rupees" the words "two million rupees" shall be substituted.

**STATEMENT OF OBJECTS AND REASONS**

The Defamation Ordinance, 2002 was promulgated to protect the people from false accusations, injuries to their reputation, unjust criticism, dislike, contempt and hatred. The pretext of freedom of expression and low value of general damages sometimes lead the way towards the defamation of persons. But amazingly in some cases the allegedly defamed persons even if convicted for the offence or tried for the offence for which the persons were allegedly defamed also initiate proceedings under this Ordinance against the person whose publication was based on truth and was made for public good. Thus a bona fide originator, editor or publisher of a publication based on truth and for public good suffers the agony of court proceeding without any justification. The amendment has sought to address the pretext of freedom of expression, low value of general damages and to give protection to such originator, editor, publisher or other person concerned and to prevent the baseless suits of the so called defamed persons.

The Bill has been designed to achieve the aforesaid objectives.

**SENATOR MOHAMMAD AZAM KHAN SWATI**  
Member-in-Charge