

AS
[~~TO BE~~ INTRODUCED IN THE SENATE]

A

Bill

to amend the Protection of Journalists and Media Professionals Act, 2021

WHEREAS it is expedient to amend the Protection of Journalists and Media Professionals Act, 2021 (XXIII of 2021), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act shall be called the Protection of Journalists and Media Professionals (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 2, Act XXIII of 2021.- In the Protection of Journalists and Media Professionals Act, 2021 (XXIII of 2021), hereinafter referred to as the said Act, in section 2, in sub-section (1),-

(a) after clause (f), the following new clause shall be inserted, namely:-

“(fa) “freedom of expression” means the right of every person to broadcast information and publish ideas or opinions of any kind, either personally or collectively without being subject to any administrative or institutional or private obstruction or assault, directly or indirectly, only for the reason that persons who wield administrative, social or political authority or power are adversely affected by such information or opinions and to not be discriminated against for reasons of race, caste, community, religion, gender,

sexual orientation, language, national origin, ethnicity or political persuasion for such broadcasting or expression through any form of media;”;

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

“(j) “journalist” includes any person who makes the exercise of freedom of expression or broadcasting of information, his primary, substantive or significant activity or any individual, whose job is to collect, store, generate, process, edit, comment, review, broadcast, publish or provide information through any media or any communication that can be printed, broadcast in a digital or image form, or an individual who has the experience or qualification to practice journalism and registered under this Act;”;

(c) after clause (l), the following new clause shall be inserted, namely:-

“(la) “member” means a member of the Commission and includes the Chairperson;”;

(d) in clause (p), for the full stop at the end, a semi colon and the word “; and”, shall be substituted and thereafter the following new clause shall be added, namely:-

“(q) “victim” means the person who is the subject of or against whom any offence under this Act has been committed.”.

3. Amendment of section 12, Act XXIII of 2021.- In the said Act, in section 12, in sub-section (2), for clause (i), the following shall be substituted, namely:-

"(i) a Chairperson, who has been, or is qualified to be a judge of the High Court or a person having demonstrable knowledge with fifteen years practical experience in law especially matters relating to human or journalist rights;"

4. Substitution of section 13, Act XXIII of 2021.- In the said Act, for section 13, the following shall be substituted, namely:-

"13. Appointment of Chairperson and members.- (1) The Chairperson and members, other than *ex-officio* members, shall be appointed by the Federal Government on such terms and conditions as may be prescribed.

(2) The salary, allowances, privileges and other terms and conditions of the Chairperson or any member, as the case may be, shall not be varied to their disadvantage after their appointment under this Act."

5. Substitution of section 14, Act XXIII of 2021.- In the said Act, for section 14, the following shall be substituted, namely:-

"14. Term of office of Chairperson and members.- (1) The Chairperson and every member, other than *ex-officio* members, shall hold office for a term of three years, extendable for a further term of three years:

Provided that the Chairperson or a member, other than *ex-officio* member, shall not hold office for more than two terms.

(2) The Chairperson or an official member may, at any time by writing under his hand addressed to the Federal Government, resign from his office."

6. Insertion of new section 14A, Act XXIII of 2021.- In the said Act, after section 14, as substituted aforesaid, the following new section shall be inserted, namely:-

"14A. Disqualification.- A person shall be disqualified for becoming or being the Chairperson or a member of the Commission, if such person-

- (a) is an un-discharged insolvent or has been declared a bankrupt; or
- (b) is of unsound mind or has physical infirmity to discharge his functions under this Act; or
- (c) has been dismissed from public service of Pakistan on grounds of inefficiency, misconduct, fraud or corruption; or
- (d) has been convicted of an offence of moral turpitude."

7. Insertion of new sections 16A and 16B, Act XXIII of 2021.- In the said Act, after section 16, the following new sections 16A and 16B shall be inserted, namely:-

"16A. Vacancy in office of the Chairperson or member.- (1) If a vacancy occurs in the office of the Chairperson or of any member, whether by reason of death, resignation or removal under section 7, such vacancy shall be filled within a period of sixty days by making a fresh appointment in accordance with the provisions of sections and the person so appointed shall hold office for the residual of the term of office of the Chairperson or member of whom the vacancy has arisen.

(2) Where at any time the Chairperson is unable to perform his functions due to any reason, the Federal Government

may appoint acting Chairperson for performance of functions under this Act till the vacancy is filled on regular basis under this Act:

Provided that period of acting appointment shall not exceed more than four months.

16B. Scope of the Commission.- The Commission shall exercise its powers for the protection of-

- (a) journalist or journalist collaborator who is facing assault for practicing the freedom of speech or expression;
- (b) wife, any next of kin or dependents of the journalist or collaborator in part (a) above;
- (c) person that participate, collaborate or associate in the same or similar activities from the same group, organization or social movement as in (a);
- (d) property, goods or other objects belonging to the person, group, organization or social movement and; and
- (e) other people that are specified in the risk analysis."

8. Insertion of new sections 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20I, 20J, 20K, 20L, 20M, 20N, 20O and 20P, Act XXIII of 2021.- In the said Act, after section 20, the following new sections 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20I, 20J, 20K, 20L, 20M, 20N, 20O and 20P, shall be inserted, namely:-

"20A. Prohibition of violent, intolerant or abusive behavior.- No person shall be permitted to use abusive, violent or intolerant behavior with a journalist during performing his duty. However, any person commits this offence shall be liable on conviction to imprisonment for a term not exceeding seven years or with fine not exceeding three hundred thousand rupees or with both.

20B. Right to privacy and non-disclosure of source of information.- No person shall force a journalist to disclose any source of information which he received during performing his duty except under the prevailing law, However, any person who violates this section shall be liable on conviction to imprisonment for a term not exceeding three years or with fine not exceeding one hundred thousand rupees or with both.

20C. Independence in the performance of duties.- Notwithstanding anything contained in this Act or any other law, a journalist shall perform his duty independently without pressure of any person, group, organization or department. However, any person who violate this section shall be liable on conviction to imprisonment for a term not exceeding five years or with fine not exceeding one hundred thousand rupees or with both.

20D. Registration of FIR.- (1) Notwithstanding anything contained in any other law for the time being in force, upon receiving information that a complaint is forwarded by the Commission, the officer in charge of a police station shall reduce the same into writing in the same book and in the same manner as prescribed for a cognizable offence under section 154 of the Code of Criminal Procedure, 1898 and shall be under a duty to cause investigation of the same.

(2) A police officer investigating the case on the complaint forwarded by the Commission shall have the same powers as available to an officer investigating a cognizable offence under the Code of Criminal Procedure, 1898:

Provided that the provisions of this section are intended to supplement the powers, responsibilities and duties of the police in relation to security and protection of journalists measures and nothing herein shall be deemed to curtail or detract from their powers, responsibilities and duties in respect of any offence relating thereto as provided under any other law for the time being in force.

20E. Punishment under this Act.- (1) Any police officer who does not comply with the provisions of this Act, in relation to protection of journalist or any other public officer who willfully delays or hinders in providing or processing the information shall be punished with imprisonment of either description not less than two years and up to three years and a fine of not less than one hundred thousand and up to three hundred thousand.

20F. Commission to preserve identity.- Where the Commission considers that the preservation of the identity of a person who, has-

- (a) made a complaint; or
- (b) furnished or proposes to furnish information; or
- (c) produced or proposes to produce a document; or
- (d) given or proposes to give evidence; or
- (e) made or proposes to make a submission

to the Commission or to a person acting for or on behalf of the Commission, is necessary to protect the security of employment, the privacy or any fundamental right of the person, the

Commission may give directions prohibiting the disclosure of the identity of the person.

20G. Declaration of journalists courts.- For the purposes of speedy trial of offences arising out of violation of protection of journalist, the Federal Government may, in consultation with Chief Justice of Islamabad High Court and Chief Justices of all Provinces, by notification in the official Gazette, specify a Court of Sessions to be the protection of journalists court for that District to try such offences:

Provided that nothing in this section shall apply, if—

- (a) a Court of Sessions is already specified as a special court; or
- (b) a special court is already constituted, for such offences under any other law for the time being in force.

20H. Special prosecutors.- The Federal Government, on the advice of the Commission, shall, by notification in the official Gazette, appoint an advocate from the list prepared by the Commission, who has been practicing as an advocate for not less than seven years, to be the special prosecutor for the purposes of conducting cases in that Court.

20I. Procedure with respect to intelligence agencies.- Notwithstanding anything contained in this Act, the functions of the Commission do not include inquiring into the act or practice of intelligence agencies and where a complaint is made to the Commission alleging that an act or practice of such an agency is inconsistent with or contrary to any human right, the

Commission shall refer the complaint to the competent authority concerned.

20J. Independence of the Commission.- (1) The Commission and every member of its staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independent and separate from any government, administrations or any other functionary or body directly or indirectly representing the interests of any such entity.

(2) If at any stage during the course of proceedings at any meeting of the Commission, it appears that a member has or may have a financial or personal interest which may cause a substantial conflict of interests in the performance of his functions as such, the member shall forthwith and fully disclose the nature of his interest and absent himself from that meeting so as to enable the remaining members to decide whether the member should be precluded from participating in the meeting by reason of that interest. Such a disclosure and the decision taken by the remaining members shall be entered on the record of the proceedings.

(3) If a member fails to disclose any conflict of interest as required under sub-section (2) and is present at a meeting of the Commission or in any manner participates in the proceedings, such proceedings in relation to the relevant matter shall, as soon as such non-disclosure is discovered, be reviewed and be varied or set aside by the Commission without the participation of the member concerned and such conduct on the part of the member shall be treated as misconduct.

20K. Annual reports of the Commission.- (1) The Commission shall prepare an annual report on the situation of

journalist in the country and performance of the Commission and submit it to the Federal Government which shall lay the report before each House of Majlis-e-Shoora (Parliament).

(2) The Commission may at any time submit special report, before each House of Majlis-e-Shoora, on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(3) The Commission shall assist the Federal Government in preparation of its periodic report in accordance with international declarations, conventions, treaties, covenants and agreements relating to freedom of expression, security and protection measures of journalists in the country.

20L. Funds of the Commission.- (1) There shall be established by the Federal Government a fund to be known as the Security and Protection measures of journalists fund, which shall vest in the Commission and shall be used by the Commission to meet charges in connection with its functions under this Act.

(2) The sources of the Fund, amongst other moneys, may be the following, namely:-

- (a) such fund as the Federal Government shall allocate each year as a non-lapsable grant in annual budget of the fund;
- (b) such voluntary donations, contributions or subscriptions as be made by Provincial Governments;
- (c) donations, if any, made by private individuals, national and international natural and juristic persons;

- (d) income from investment by the Commission as may be prescribed; and
- (e) all other sums or properties or assets which may in any manner become payable to or vest in the Commission in respect of any matter.

(3) The Commission shall, while performing its functions and exercising its powers under this Act, ensure highest sense of prudence in respect of expenditures incurred from the Fund.

(4) The Fund shall be expended for the purposes of—

- (a) performing functions of the Commission;
- (b) Establishment charges of Chairperson and members, including consultants, researchers, experts, advisers, officers and other staff members, legal and other fees and costs; and
- (c) such other activities which fall within purview of the Commission.

(5) The Commission may invest money from the Fund in accordance with instructions of the Federal Government.

20M. Accounts and audit of Commission.- (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Federal Government.

(2) The Chairperson shall be the Principal Accounting Officer of the Commission and the accounts of the Commission shall be audited by the Auditor General at such intervals as may be specified by him.

(3) The accounts of the Commission, as certified by the Auditor-General or any other person appointed in his behalf, together with the audit report thereon shall be forwarded annually to the Federal Government by the Commission and the Federal Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of the Parliament.

20N. Power of the Federal Government to issue directives.- The Federal Government may, as and when it considers necessary, issue directives to the Commission on matters of policy and such directives shall be binding on the Commission and if a question arises as to whether any matter is a matter of policy or not, the decision of the Federal Government thereon shall be final.

20O. Returns or information.- The Commission shall furnish to the Federal Government such returns or other information with respect to its activities as the Federal Government may, from time to time, require.

20P. Power to make regulation.- The Commission may, by notification in the official Gazette make regulations, not inconsistent with the provisions of this Act and rules made thereunder, for carrying out the purposes of this Act.”.

STATEMENT OF OBJECTS AND REASONS

Media is indeed an integral part of freedom of expression. Role of the media is important for shaping public minds and democracy. Under the Constitution of the Islamic Republic of Pakistan, it is responsibility of the state to protect the journalists under law from physical violence and arbitrary arrests because media acts as a mirror for the society that reflects the reality and faces the wrong reaction

sometimes by the public and Governments while the freedom of press is the distinguished quality of a democratic country.

2. In 2021, the Protection of Journalists and Media Professionals Act, 2021 passed by the Parliament of Pakistan, however, in the prevailing law, there are few basic lacunas which need to be clarified through these proposed amendments for assurance the freedom of the press and journalists as guaranteed under Article 19 of the Constitution of the Islamic Republic of Pakistan.

3. The purpose of this bill is to achieve the above said objects.

**SENATOR SALEEM MANDVIWALLA
MEMBER IN CHARGE**