



women's action forum نواتين محاذ عمل

WAF statement on Pakistan Media Authority Ordinance, 2021

The “Pakistan Media Authority Ordinance, 2021” proposed by the government has rightly been referred to as a media martial law, as it runs contrary to the Constitutional protections of freedom of expression and right to information. The proposed Ordinance sends a clear message to the media that there is no longer any room for independent, critical and dissenting voices in the country. It is not the first time that such a draconian measure is being taken. In 1963, the martial law regime brought the draconian Press and Publications Ordinance to muzzle independent and crucial voices. In 2016, the elected government of PML-N introduced the repressive Prevention of Electronic Crimes Act in its attempt to silence oppositional views. The current government follows in the footsteps of the former regimes that could not tolerate dissent.

The Women’s Action Forum categorically opposes the Ordinance given the arbitrary powers it vests in the government to regulate the media, based on overly broad and vague language, the lack of independence of the proposed regulatory authority (i.e. the Pakistan Media Development Authority), and the unimplementable nature of the Ordinance particularly with reference to digital media.

We assert that the law is being steamrolled in the form of an Ordinance, sidestepping Constitutionally-mandated requirements to pass the law through the two houses of Parliament. This is part of a larger and more worrying trend by the government to pass key pieces of legislation through the Presidential powers of Ordinance making. We would like to remind the government that operates within a democratic framework where engaging with the opposition and critical debate is crucial for law-making.

The Ordinance violates one of the foundational and most fundamental rights of any democracy, which is the freedom of expression unencumbered by any arbitrary regulation. The language of the Ordinance allows the government to regulate speech for “preservation of the sovereignty, security and integrity of the Islamic Republic of Pakistan”, “preservation of the national, cultural, social and religious values” and restrains on material relating to “violence, terrorism, racial, ethnic or religious discrimination, sectarianism, extremism, militancy, hatred, pornography, obscenity, vulgarity or other material offensive to commonly accepted standards of decency” and “prejudicial to the ideology of Pakistan or sovereignty, integrity or security of Pakistan.” International law and robust free speech jurisprudence hold that vague language and terms used in legislation can lead to arbitrary regulation by those pulling the levers of power. It is also extremely worrying that the Ordinance prohibits licensee from airing, broadcasting or distributing any content which “defames or brings into ridicule the Head of State, or members

of the armed forces, or legislative or judicial organs of the state.” This is a blatant attempt to insulate the state from any criticism, a practice that is the mainstay of media institutions that are expected to hold those in power accountable.

Furthermore, the regulatory regime envisaged under the Ordinance is not independent of the Federal Government; and is therefore susceptible to political and commercial influence. The President will be appointing and removing members from the Authority.

Another troubling aspect of the Ordinance is the vesting of extensive and arbitrary punitive powers to a regulatory body i.e. the Authority. This is particularly problematic because the Authority is not independent from the Federal Government. For instance, the Authority has the power to prohibit and prevent the publishing of content “without issuing show cause notice and affording opportunity of hearing” which not only contravenes basic principles of due process and natural justice but also appears to be a tool to censor speech.

In addition to serious Constitutional and legal irregularities, the Ordinance will inevitably place onerous requirements on media content producers, disproportionately drowning out and silencing digital media content producers and outlets. The Ordinance doesn’t account for the complexity of online spaces, using outdated frameworks of licensing to regulate a dynamic and rapidly changing medium. The licensing fees and fines cannot be borne by independent media producers and will eventually force them out of the media landscape, having the opposite effect that the Ordinance intends which is ostensibly to foster plurality and competition.