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Why the PEMRA law must be thrown out

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The writer, a PPP member of the Human Rights Committee of the Senate has proposed several amendments to the PEMRA bill.

The Pakistan Electronic Media Regulatory Authority (Amendment) Bill 2005, passed by the National Assembly on May 16, has been widely criticised by media organisations for the sweeping powers it has given to the Authority, and its potential to pose new threats to journalists working in the electronic media. The Bill has now been transmitted to the Senate where it is yet to be debated.

The government claims that the new law is designed to permit cross-ownership of the media and remove hurdles in the way of newspaper owners to also own and operate radio and television channels.

The journalists' community, however, has protested that it places new fetters on media freedom and vests in the Authority police-like powers to search and arrest journalists without warrants.

The amendments were first tabled in the National Assembly on Oct. 7 last year. The Assembly sent the amendment for review and report to its Standing Committee of the National Assembly on Information, which had not yet been formed.

The Standing Committee was eventually constituted in February. Almost at the same time a former police officer, Mr. Iftikhar Rashid, who had retired as Federal Secretary, was appointed on Feb. 3 as Chairman of PEMRA, a position that had remained vacant for over a year.

The first meeting of the National Assembly's Standing Committee was held on March 15 to consider the Bill. The Committee's meeting was attended by Information Minister Shaikh Rashid, Secretary Information, Chairman PTV, and some legal consultants of PEMRA. However, many were surprised by the absence of the newly appointed Chairman of PEMRA from the crucial meeting. Press reports said that he was indisposed.

The Committee unanimously approved the bill and sent it back to the National Assembly, but not without an element of suspicion and intrigue. The draft law approved by the Committee actually contained some more obnoxious clauses that were not part of the original draft placed before the National Assembly. Did the members of the Committee themselves make additional changes in it, or was the draft law changed during its transmission from the National Assembly to its Committee? Can a law that was placed before the Committee of the House differ from the one that was actually placed before the full House? Who authorises such changes, and under what guidelines are such changes governed?

These questions are important because of what they entail. Any change in the draft law during transmission to the Committee, without the consent of the Parliament, amounts to forgery and a serious breach of the House's privilege. Yet, this is what seems to have happened in the case of the PEMRA bill.

This intriguing aspect would not have been learnt of, had one not noticed reluctance on the part of the National Assembly Secretariat to share some vital information about the bill making process. To prepare for the debate on the bill in the Senate the present writer formally approached the Speaker of the National Assembly for the minutes of the meetings of the National Assembly Standing Committee that considered the law and approved it. The reluctance on the part of National Assembly was puzzling. Why should a legislator be denied a piece of information, that should be his right to know, to facilitate in the law making?

It was at this stage that one learnt that the unthinkable had happened; a different version of the Bill had been placed before the Committee than that placed before the National Assembly.

In the draft Bill placed before the full House, offences under the law were not cognisable. But when it was transmitted to the Standing Committee, section 34-A was added to it. The mysteriously added section stated, "The offences under sub-section (2) to sub-section (4) of section 33 of this Ordinance shall be compoundable and cognisable".

In the original draft placed before the National Assembly there was no mention of the word "police". But the draft that reached the Committee had section 33A added to it, which

added a clause that would empower "the capital and provincial police" to assist the officers of the Authority in closing down a broadcast station, confiscating its equipment and arresting broadcast journalists. It is perhaps the first time that the word "police" found a specific mention in a media related law.

Originally, under section 6 of the Bill, which deals with the composition of the Authority, nine members were envisaged. But in the version placed before Committee the Authority's members are increased to 13, including the Chairman, the additional members being nominees of the government, tilting the balance in the favour of bureaucracy.

The original bill made the broadcaster liable for broadcasting live programmes of other channels without approval. The draft transmitted to the Committee also made the broadcast of pre-recorded signals an offence.

When PEMRA was under the Information Ministry, the Federal Information Minister Shaikh Rashid was all praise for it and often flaunted it as a great achievement of the Musharraf government in the realm of media freedoms. But after the control of the Authority was transferred to the Cabinet Division on April 3 the Information Minister sees chinks in the law. "It is not a divine book that cannot be changed", he told the BBC on May 20, "We shall improve it in the next Assembly

session". Is the change in the stance of Shaikh Rashid due to his loss of turf or due to his knowing that the law approved by the committee is not the same as the one that was placed before the full House?

The Bill is still to be placed in the Senate, so that it may refer it to the Standing Committee on Cabinet under which PEMRA now has been placed. However, a meeting of this Committee held on May 5, at which it was also briefed on the new law, has already expressed "satisfaction over the performance of PEMRA".

Besides the mystery surrounding the PEMRA law, there is also an element of assault on the freedom of the electronic media.

One such assault is the power given to the Authority to shut down or cancel a license if a broadcaster airs programmes that contain "pornography, obscenity, vulgarity or other material offensive to commonly accepted standards of decency".

Imagine the potential mischief inherent in giving police the powers to define what is against the "commonly accepted standards of decency". Images of couples in public parks being asked by the moral crusaders of the police to produce 'nikah namas' come to mind.

It is difficult to say why and who ordered the mysterious changes in the law, but the mystery behind it, the enormous irregularity surrounding it and the elements of police in it, make it important to tear it down and make a fresh bid in consultation with various stakeholders.

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