

[AS PASSED BY THE NATIONAL ASSEMBLY]

A.

Bill

*to amend the Protection Against Harassment of Women at the Workplace Act, 2010*

*Whereas* it is expedient to amend the Protection against Harassment of Women at the Workplace Act 2010, (IV of 2010) for the purposes appearing hereinafter;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act shall be called the Protection Against Harassment of Women at the Workplace (Amendment) Act, 2021.

(2) It shall come into force at once.

2. **Amendment of section 1, Act IV of 2010.**- In the Protection Against Harassment of Women at the Workplace Act 2010, (IV of 2010), hereinafter referred to as the said Act, in section 1, in sub-section (1), for the word "Women" the word "Persons" shall be substituted.

3. **Amendment of section 2, Act IV of 2010.**- In the said Act, in section 2, -

- (a) In clause (e), for the words "a woman or man", the words "any person" shall be substituted and after the word "harassment", the expression "and shall include a former employee who has been removed or dismissed from service or has resigned, if the complaint is filed within ninety days of such removal or dismissal or resignation" shall be inserted;

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

“(f) “employee” includes regular, contractual, piece-rate, gig, temporary, part-time, freelance employee whether employed through express or implied contract on daily, weekly, monthly or hourly basis, and shall include a student, an intern, trainee, domestic worker, home-based worker or an apprentice;”;

(c) in clause (g), in sub-clause (vi), the word “and” at the end shall be omitted and after sub-clause (vii), the following sub-clauses shall be added, namely :-

(viii) person discharging any contractual obligations with respect to his employees and expressly or impliedly procures the services or labour of persons whether as freelancers or part-time employees;

(ix) a person who owns or manages an online or customer to customer or business to customer or any other virtual or remote business; and

(x) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of home-based workers, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the home-based worker;”;

(d) for clause (h), the following shall be substituted namely;

(h) “harassment” means any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual or written

communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment."

- (e) in clause (l), after the word "institution", occurring at the end, the words 'or online business' shall be inserted;
- (f) in clause (m), the word "and" at the end shall be omitted and thereafter the following new clause shall be inserted, namely:-

"(ma) "sexist harassment" means discrimination on basis of sex and includes any form of derogatory remarks, attitudes, gestures, words, actions, measures, policies, practices, signs whether written, verbal, visual or graphical, often rooted in stereotypical generalizations believed about gender in question, which may or may not be sexual in nature but which may embody discriminatory and prejudicial mind-set or notion resulting in discriminatory behavior on basis of sex against the complainant that causes interference with performances or create an intimidating hostile, offensive, unequal or unfair environment or opportunities, and includes the attempt to undermine the complainant and their chances of advancing or being promoted in their role or position on the basis of their sex"; and

(g) for clause (n), the following shall be substituted, namely:

“(n) “workplace” means the place of work or any place where services are rendered or performed by professionals, including educational institutions, gigs, concerts, studios, courtrooms, highways and shall include any building, factory, open area or a larger geographical area etc. where the activities of the organization or of employer are carried out and includes any situation that is linked to work or activity outside the office.”.

4. **Amendment of section 8, Act IV of 2010.**- In the said Act, in section 8, -

(a) in sub-section (1), for the word “employee”, the word “complainant” shall be substituted; and

(b) after sub-section (5), the following sub-section shall be added, namely:-

“(6) The Ombudsman shall decide a case or appeal, as the case may be, within a period of ninety days.”.

5. **Amendment of section 9, Act IV of 2010.**- In the said Act, in section 9, after the full stop at the end, the expression “The President or the Governor, as the case may be, shall decide such representation within ninety days” shall added.

6. **Addition of section 10A, Act IV of 2010.**- In the said Act, after section 10, the following new section 10A shall be added, namely:-

**“10A.Punishment for filing malafide or false complaints.-** Whoever files a malafide complaint shall or falsely charges any person of harassment under this Act, knowing that there is no just or lawful ground for such proceedings or charge against that person, after it is established that the complaint was malafide or false, be punished with fine which may extend to fifty thousand Rupees.”.

7. **Amendment of Schedule, Act IV of 2010.-** In the said Act, in the Schedule,-

(A) in the first paragraph, -

(a) for the word 'women' the word 'persons' shall be substituted;

(b) in clause (ii), for the definition of "harassment", the following definition shall be substituted, namely: -;

“(ii) "harassment" means any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.”;

(c) clause (ii), substituted as aforesaid, in the explanation, for the words "three", the words "several" shall be substituted and thereafter the following new sub-clause shall be added, namely:-

“(ii-a) “sexist harassment” means discrimination on basis of sex and includes any form of derogatory remarks, attitudes, gestures, words, actions, measures, policies, practices, signs whether written, verbal, visual or graphical, often rooted in stereotypical generalizations believed about gender in question, which may or may not be sexual in nature but which may embody discriminatory and prejudicial mind-set or notion resulting in discriminatory behavior on basis of sex against the complainant that causes interference with performances or created an intimidating hostile, offensive, unequal or unfair environment or opportunities, and includes the attempt to undermine the complainant and their chances of advancing or being promoted in their role or position on the basis of their sex.”;

(B) after sub-clause (c) under clause (ii), the following new sub-clause shall be added namely: -

“(d) **Discrimination on the basis of sex.**- Discrimination on the basis of sex may or may not be sexual in nature but which undermines the complainant and their equal opportunities to advance and perform in the position, role or workplace in any way, such as wage discrimination or unequal pay, limiting the employee’s option for future promotion prospects or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his rights:

Provided that a single incident having the effect of making a person uncomfortable or creating a sense of fear or panic at the workplace is also harassment.

(C) in clause (xi), after the full stop at the end, the following shall be added, namely: -

"Filing counter-blast suits for defamation etc. are also retaliation. The Ombudsman or Inquiry Committee, as the case may be, should take notice of this in its proceedings."; and

- (D) after clause (xiii), the following illustrations shall be added at the end of the Code of Conduct to provide examples of harassment that may take place, namely:-

"Illustrations of harassment, include but are not limited to,-

- (A) Employee A deliberately hinders a subordinate employee B's chances of promotion as a result of not complying with Employee A's undue requests for (sexual) favors, Employee A is creating an intimidating work environment and therefore causing harassment.
- (B) Employer threatens an employee by using forged or fake documents and pictures to blackmail them from removal from service into compliance for undue requests, such an Employer is creating an intimidating work environment and is committing an act of harassment.
- (C) Employee A sends anonymous letters, pamphlets or e-mails defaming or character assassination of Employee B, Employee A is committing harassment.
- (D) A manager calls his associate or subordinate a "retard" and swears at him, the manager is creating a hostile work environment.
- (E) An employer uses vulgar language to address employees, the employer is committing an act of harassment.
- (F) A supervisor who uses his position of authority to subject employees to discriminatory conduct, leaving the employee feeling trapped and vulnerable is creating a hostile work environment.

- (G) Male employee forcing female subordinate employee to spend time with him after office hours for career progression, such male employee is committing an act of harassment.
- (H) A junior trainee was transferred to another department by a manager against her will as a punitive measure for not complying with undue requests for (sexual) favors, the manager is responsible for workplace harassment.
- (I) Comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess; displaying sexually suggestive objects, pictures, or cartoons also constitutes workplace harassment."

#### **Statement of Objects and Reasons**

This proposed amendment aims to facilitate increased participation of women in the workforce by removing the lacuna present in the existing law. It broadens the ambit and scope of the law to including certain professions and employment models that the current law does not expressly mention. Through these amendments protection from harassment shall be provided to people engaged in all types of work – formal and informal. The Amendment Bill will also provide clarity with respect to different kinds of harassment that take place at the workplace.

This purpose of this amendment is to fulfill Pakistan's Constitutional obligations to its citizens and to guarantee them their dignity and prevention of discrimination on the basis of sex in their professions and to achieve the goal of increased women participation of women in the workplace.

The Bill seeks to achieve the aforesaid objectives.

**(Dr. Shireen M. Mazari)**