

**Summary of the Brief**

**LABOR LAW REFORM FOR PAKISTANI JOURNALISTS  
AND OTHER MEDIA WORKERS**

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**For submission**

**BEFORE THE ISLAMABAD HIGH COURT**

As a part of the petition, filed on behalf of Pakistan Federal Union of Journalists (PFUJ)

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## Background

Pakistan's media industry has experienced substantial growth over the past three decades as a result of privatisation and commercialisation. By 2018, the number of journalists had increased from 3,000 in 2002 to 18,000, with 250,000 media professionals, primarily as a result of the proliferation of electronic media. Nevertheless, the absence of a specialised legal framework for electronic and digital media workers results in a lack of adequate labour protections, as NECOSA exclusively applies to newspaper employees. The nature of employment relationships has been altered by the emergence of digital platforms; however, the law has not kept pace.

With the expansion of internet access, there has been a significant increase in user-generated content, as consumers have begun to be the creators. Traditional news organisations have adjusted to the digital environment. Pakistan had more than 111 million internet users and 71 million social media users as of January 2024. In-app purchases and digital platforms are anticipated to drive the expansion of the media market. Print media revenues are in decline, while digital media revenue from e-publishing and video-on-demand is increasing.

Although Pakistan's social media penetration (30.1%) is lower than that of India (32.8%), there has been a consistent increase in the number of social media users who are involved in content creation and news. Therefore industry must be formalised by granting digital media workers and journalists robust protections.

## Legal and Regulatory Frameworks

The media sector has shifted to digital journalism, but the government has not updated labour laws for digital journalists. This lack of legal recognition has created confusion and damaged journalists' rights, especially for those operating outside of established newspapers, who are denied safeguards such as fair pay and appropriate working conditions. The petition urges the government to respect constitutional and international human rights commitments for all journalists, not only those who work in newspapers.

Newspaper Employees (Conditions of Service) Act (NECOSA), a 1973 legislation that guaranteed labour rights for newspaper workers, should be extended to encompass television and digital media journalists. Key changes include (a) redefining "journalist" to conform with the 2021 Protection of Journalists and Media Professionals Act, (b) changing the Wage Board and Implementation Tribunal for Newspapers Employees (ITNE) institutional structures, and (c) harmonising NECOSA with the 18th Amendment's devolution provisions.

NECOSA provides rights in addition to those granted to "workmen" under labour laws, however many media workers outside of newspapers do not get benefits like as social security, pensions, or severance compensation. The legislation protects full-time journalists and prohibits "at-will" termination by requiring written notice depending on service length: one month for three months to two years of service, two months for two to three years, and three months for more than three years. Alternatively, salaries might be paid in lieu of notice.

The Wage Board established by NECOSA to determine salaries for newspaper staff is insufficient. The Board has equal representation for employees and companies, but it lacks enforcement authority, judicial supervision, sufficient gender representation, and excludes TV and digital media professionals. The Board is required to make salary judgements within 180 days of its formation, taking into account issues such as the cost of living and salaries in other businesses. So far, eight Wage Board Awards have been granted. The 8th award was determined in December 2019, published in March 2020, and went into effect in February 2020, however it has yet to be executed over four years later.

The ITNE Tribunal, which was founded in 1976 to enforce Wage Board rulings, has similar flaws. The Tribunal has the same powers as a Labour Court, but lacks the jurisdiction to hold the government responsible for infractions. Before 2012, there were 40,474 cases pending with ITNE, of which 2,645 were settled. In the recent decade, 1,265 new petitions were submitted, with 138 decided. Over the last decade, ITNE has settled 2,783 cases. Despite this, many media workers have yet to see pay awards enforced.

In 2023, a change to Pakistan Electronic Media Regulatory Authority (PEMRA) requiring payment within two months is a step in the wrong direction under Section 20A. First, it breaches labour regulations that require salaries to be paid within 30 days. Second, empowering PEMRA to direct payment of salaries of electronic media workers combines judicial powers of wage payment in the regulator, which lacks expertise and institutional authority to defend the media's labour law rights. The ITNE case law highlights the quasi-judicial system's triumphs and shortcomings, with many cases remaining unsettled and few reaching higher courts, despite the difficult legal problems involved in labour conflicts.

In *All Pakistan Newspapers Society v. Federation of Pakistan* (PLD 2012 SC 1), the Supreme Court maintained NECOSA's validity and approved the 7th Wage Board Award. It dismissed charges that NECOSA breached contract law, emphasising the significance of press freedom as a prerequisite for democracy. Citing an Indian case, the Court said that press freedom protects social well-being and the public's right to independent reporting. Wage Boards, overseen by High Court justices and others, conduct administrative rather than judicial tasks, hence no appeal rights exist. In contrast, ITNE settles conflicts and should be subject to court scrutiny. There were no constitutional breaches discovered relating Wage Board duties.

The Protection of Journalists and Media Professionals Act 2021 ('2021 Act') recognises persons working in television and internet media as journalists and media professionals, therefore strengthening media workers' safeguards. However, although the Act defines journalists' rights and responsibilities, several clauses, such as Section 5(1), are ambiguous and repeat existing human rights safeguards without addressing particular illegal activities, such as arbitrary limits on journalistic activity. Sections 2(j) and 2(k) offer wide definitions of "journalist" and "media professional," which include everyone who frequently works in the media, such as freelancers, camerapersons, editors, and even support personnel, and recognise their role in exercising free expression. The courts may need to define and implement the Act's provisions in a broad manner.

Workers are grouped into several classes under the Standing Orders and given privileges such as salary payment systems, holidays, leave, group insurance, bonuses, and job termination processes. These rights must be extended to journalists and employment contracts must be in writing. Despite the 2021 Act, journalists working in broadcast and digital media continue to lack substantial job rights. They experience power imbalances and are not protected from arbitrary dismissals like their newspaper colleagues under NECOSA. The legislation should provide equivalent safeguards to internet and television journalists, ensuring that termination is justified in writing with enough notice and compensation, as required by NECOSA.

## **Recognition and Constitutional Guarantees**

The Constitution of Pakistan ensures employment and labor rights. Article 11 prohibits slavery, forced labour, and child labour. Article 17 allows citizens to form unions. Journalists exercise their Article 19 right to free speech through their work, while Article 25 ensures equality before the law, prohibiting discrimination, including based on sex. Additional protections are provided under Article 27 against discrimination in public service and access to public spaces.

These constitutional provisions support labour rights, including collective bargaining and unionization. Article 9, interpreted broadly, encompasses the right to life, which includes freedom of occupation, livelihood, and related socio-economic needs, as affirmed by the Supreme Court in 2012 SCMR 773. Article 37(3), Constitution ensures social justice by promoting fair working conditions and providing labour rights, such as maternity and paternity benefits. Article 38(a) aims to raise living standards, prevent wealth concentration, and ensure balanced employer-employee relations. The government is required to uphold these rights in employment contracts. Furthermore, Article 38(c) calls for social security through compulsory insurance for workers. However, television and digital journalists are denied equal labour law protections, which violates their constitutional right to equal treatment.

To address this inequality, legislative reforms are necessary to provide clear legal protections for these workers. Without such recognition, media workers face legal uncertainty, lacking substantive and procedural rights, especially in digital media and television. Current laws, focused on formal workplaces, fail to protect freelancers and independent contributors, who are integral to the media industry but often lack basic employment rights.

The ITNE's structure and composition create a biased forum for wage disputes, failing in its judicial role due to issues like non-constitution of the Wage Board, case backlogs, lack of enforcement powers, and lack of diversity, all stemming from executive control. This setup does not apply to electronic and media workers, undermining equality and judicial independence. The ITNE is governed by rules from 1977 under the Ministry of Information, violating the separation of powers by fusing executive and judicial roles, thus breaching Article 10A's guarantee of a free and fair trial.

Article 10A requires tribunals to be independent and impartial, with proper jurisdiction, and Article 4 guarantees due process, ensuring fair proceedings and defense. The Wage Board's

lack of gender representation breaches Article 25(2)'s prohibition on discrimination based on sex, undermining inclusivity.

The ITNE's failure to enforce Wage Board awards or resolve wage disputes is due to its existing structure under executive control. Courts can intervene when the government fails to ensure tribunal functioning, as fundamental rights are paramount. The ITNE's capture by the executive has led to issues like appointment delays, case backlogs, and procedural failures. Restructuring ITNE under judicial supervision and expanding its powers for enforcement is necessary to restore its effectiveness.

## **International Obligations of the State**

Pakistan's superior courts have extensively construed constitutional and basic rights through the lens of international law, European norms, and exemplary practices. European law provides robust safeguards for social justice, equality, and employment rights, which correspond with Pakistan's constitutional assurances.

Pakistan, as a member to many human rights treaties, is compelled to implement these criteria. Domestic courts may enforce international law in instances when Pakistan has not withdrawn from treaty commitments (*Mumtaz Bibi v Qasim*). Judicial bodies are responsible for interpreting legislation in accordance with treaty commitments (*Sadia Jabbar v Federation of Pakistan*). Fundamental rights enshrined in crucial international treaties, such as the UDHR, ICCPR, and ICESCR, must be incorporated into national legislation (*Bashir Ahmad v District Police Officer*).

In *Federation of Pakistan v. Shaukat Ali Mian*, the Supreme Court determined that domestic law takes precedence, however international law may be consulted for statutory interpretation in the absence of conflict. Judicial bodies are progressively using international human rights legislation as a basis for adjudicating human rights disputes. In *Rahil Azizi v. State*, the Islamabad High Court underscored the notion of integrating international law into domestic legal frameworks, requiring adherence to treaties in the absence of enabling legislation, provided there is no contradiction with existing laws.

In *Sadaf Aziz v. Federation of Pakistan*, the Lahore High Court used European Court of Human Rights law, particularly *Aydin v. Turkey*, and UN treaties to emphasise detrimental practices such as virginity testing, highlighting Pakistan's duty to eradicate such discrimination. Courts may acknowledge and use "soft law" sources, like UN guidelines and comments, to facilitate the gradual realisation of human rights. The court in *Bashir Ahmad* used UN criteria, such as the Mandela Rules, to illustrate instances of police activity that contravened international principles, so supporting Pakistan's constitutional safeguards for life, liberty, and security.

Pakistan is a signatory to and has signed many ILO agreements that provide job protection, security, equitable salaries, non-discrimination, humane working conditions, health benefits, maternity/paternity leave, and social security. These ILO criteria become components of the domestic legal system, and courts are mandated to enforce these rights comprehensively. The

Pakistani legislative and government has a constitutional, moral, and statutory duty to protect the basic rights of media personnel. Their inability to act accordingly constitutes carelessness and infringes against rights associated with quality of life, elevated living conditions, and social fairness.

In India, the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act of 2023 provides legal clarification about the status of gig workers, defined as those engaged in labour outside conventional employer-employee relationships. This legislation requires the registration of gig workers and platforms, imposes welfare taxes on platform firms, and guarantees social security, grievance resolution, and welfare rights via a welfare board. Similarly, Karnataka has enacted such changes, including welfare and insurance benefits to gig workers. These revisions underscore the need of putting obligations on platforms to provide pay and social security for workers, in accordance with international labour standards—a critical aspect absent from Pakistan’s NECOSA and existing system.

## Recommendations

The Petition seeks the indulgence of the Hon’ble Islamabad High Court to direct the executive and declare the current legislative framework governing media workers as incompatible with fundamental human rights. The Petition argues that the failure of the legislative and executive branches to provide legal protections for media workers—whether in print, electronic, or digital media—constitutes a violation of constitutional, statutory, and international treaty obligations. The Petitioner seeks to regulate and balance the competing interests of journalists and media organizations without seeking preferential treatment but rather ensuring equitable protection and fair regulation of labour rights.

1. **Comprehensive Legal Framework:** The legal framework must be updated to provide comprehensive protection for media workers in print, electronic, and digital platforms. This would include codifying labour rights across all forms of media in a holistic legislative scheme.
2. **Statutory Employment Terms for Media Workers:**
  - Prohibition of "at-will" terminations with a mandatory notice period of at least three months based on experience.
  - Employer obligations to contribute to a welfare scheme for media workers.
  - Compulsory gratuity, provident fund, and group insurance for media workers.
  - Penalties for delayed or non-payment of wages beyond one month.
  - Legal recognition and protection of digital platform media workers.
3. **Whistleblower Protections:**
  - Special protections for journalists and their sources in employment contracts and law.
  - Whistleblower protection for public interest disclosures, regardless of motive, with safeguards against retaliation.
  - Immunity for journalists who disclose information, even if it was obtained unlawfully, provided no crime was committed.
4. **Data Protection Rights for Digital Media Workers:**

- Data protection for media workers, including consent-based data processing and rights to transparency, data ownership, and redress.
  - Prevention of automated decision-making without human oversight in employment matters.
5. **Uniform Service Structure:** A uniform service structure for media workers across all media types should be established, reflecting international best practices.
  6. **Wage Board for All Media Types:** A unified Wage Board should be established for print, electronic, and digital media to ensure wage protections for all workers.
  7. **Review of Wage Determination:** Wage determination formulas must be revised to ensure wages align with the cost of living and inflation, especially to prevent manipulation by media owners.
  8. **Minimum Wage Reform:** Establish a reformed minimum wage framework for the entire media sector, reflecting international labour standards.
  9. **Independent Tribunal for Media Workers:** The ITNE should be restructured to operate as an independent judicial body, free from executive influence, with its personnel, administration, and budget under judicial control.
  10. **Judicial Supervision of ITNE:** The ITNE's presiding officers and members should be appointed through a transparent procedure similar to the Pakistan Electronic Media Regulatory Authority (PEMRA), ensuring autonomy and impartiality.
  11. **Enforcement of Awards:** The tribunal should have enforcement powers to recover wages and implement its judgments, supported by statutory obligations on relevant government departments.
  12. **Inspectorate for Compliance:** An ITNE inspectorate should be established, empowered to visit media offices and ensure compliance with tribunal decisions.
  13. **Right to Appeal:** Appeals against tribunal decisions should be directed to the respective High Courts, ensuring proper judicial oversight.

The Petition emphasizes the need for urgent legal reforms to protect the labour rights of media workers, enforce wage and employment standards, and safeguard the independence of the tribunal tasked with adjudicating media worker disputes. The recommendations aim to bring Pakistan's media labour laws in line with constitutional mandates, international obligations, and modern labour standards, ensuring social justice and equitable treatment for all media workers.