

PRESS LAW

17 Sombula 1344

CHAPTER ONE: GOALS

ARTICLE 1: Freedom of thought and expression is immune from any encroachment in accordance with Article 31 of the Constitution of Afghanistan. In order to implement the said article and to take into consideration the other values of the Constitution, the provisions set forth in this law organize the method of using the right of freedom of press for the citizens of Afghanistan. The goals which this law aims to secure consist of:

- a. Preparing a proper ground over which all Afghans may express their thoughts by means of speech, writing, pictures of the like and may print and disseminate various matters.
- b. Safeguarding public security and order and also the interest and dignity of the State and individuals from harms to which they may be subjected by the misuse of the freedom of the press.
- c) Safeguarding the fundamentals of Islam, [...] conditional kingdom^[1] and the other values enshrined in the Constitution.
- a. Assisting the healthy development of a press in a way so that this organ of the society may become an effective means for dissemination of knowledge, information and culture among the people of Afghanistan as well as truthfully and usefully reflect public opinion to the society.

CHAPTER TWO: DEFINITIONS

ARTICLE 2: The following terms used in the law are defined as follows:

- a. Newspapers: A publication appearing every day or at least four days a week.
- b. Journal: A publication appearing less than four days a week.

- c. Magazine: Printed sheets which are published in one volume either weekly or monthly or at longer intervals.
- d. Work: An essay, a poem, a pamphlet, a book, a drawing, a photo, a drains, musical notation or the like.
- e. Periodical: Pamphlets on printed sheets issued at regular intervals.
- f. Announcement, communiqué and proclamation: Information issued to inform the general public.

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- a. Press printed character or drawing which illustrate a matter or a figure whether is:
 - o (1) Newspaper, journal, magazine or the like.
 - o (2) Pamphlet, book, or the like.
 - o (3) Drawing, zincographed pictures, or the like.
 - o (4) Other printed works.

In order to implement the regulations set forth in law, music records, magnetic tapes, radio or television broadcasts are also included in this provision.

- a. Printing House: A place where printing takes place.
- b. Printer: A person who, on the basis of the ownership (of the printing house) or representing the owner, is actually in charge of the affairs of the printing house.
- c. Dissemination: Placing the press at the disposal of the general public, whether it be by means of sale, distribution, installing on walls or by other means.
- d. Proprietor: A person who is permitted in accordance with the regulation set in this law to print and disseminate in person or indirectly press matters described in item (1) section g of this article.
- e. Publisher: A person who is permitted to print and disseminate press matter described in item (2) section g of this law.

CHAPTER THREE: GENERAL REGULATIONS

ARTICLE 3: Permission and authorization for the establishment of a General Printing House and publications shall only be given to Afghan citizens and the State in accordance with the provisions set forth in this law. Foreign diplomatic agencies, international organizations and their agencies in Afghanistan can undertake the printing and dissemination of matter for the time of their staff provided they acquire the permission of the Press and Information Ministry.

ARTICLE 4: Wherever in this law the Public Security Offenses Act is mentioned, it refers to the Penal Law for Civil Servants and Crimes Against Public Welfare and Security.

ARTICLE 5: During the period when candidates for the Parliament, Provincial Councils, Municipality Councils and other elective seats are permitted to carry on lawful campaigns, the State is bound to furnish them equal opportunity over the radio or television network to publicize their platform. The platform of the candidate should be explicit. It should also be in accordance with the laws and should have as its aim the support of the values embodied in the Constitution.

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CHAPTER FOUR: PRESS ACTIVITIES

ARTICLE 6: The provisions set forth in this chapter do not apply to irregular publications of the State and also to the printing and dissemination of text books and scientific works for schools and universities.

ARTICLE 7: Every periodical must have a proprietor and a responsible editor.

ARTICLE 8: A proprietor should have the following qualifications:

- a. Should have completed the age of 25.
- b. Should not be an officer or member of the armed forces.

A person wishing to undertake the printing or dissemination of the press as a proprietor is required by law to acquired prior permission of the Ministry of Press and Information of Afghanistan. Such a person should, for this purpose, submit a statement containing the following information to the Press and Information Ministry:

- a. Full name and address.

- b. Name and other qualifications of the publication, the printing and dissemination of which authorization is sought.
- c. Time and place of printing and dissemination of the publication.
- d. Name and address of the printing house where the publication is to be printed.
- e. Amount and source of capital which is intended to be used for the dissemination of the publication.

ARTICLE 9: If a commercial company wishes to acquired proprietorship, a certified copy of the company's registration certificate must also accompany the statement. This certificate must contain the names of the company's president, the members of the board of directors, the address of everyone of them as well as the address of the company's head office and its field of activity.

If the applicant is political party or some other society, it is necessary that a certified copy of its registration certificate be attached to the statement. The names of the president and those responsible for its professional and administrative affairs as well as their addresses, the address of the head office and its field of activity must be included in this certificate.

ARTICLE 10: The Ministry of Press and Information is required to issued its reply within 30 days of the receipt of the statement. If the owner of the statement meets all the qualifications and his statement contains all the conditions set forth in this law, the Ministry of Press and Information is required to issue the permit.

If the statement is rejected and its owner considers the rejection contrary to the regulation set forth by the law, he can bring a case against the State to the appropriate court. In such a case, the office of the Attorney General will defend the State in accordance with legal regulations.

If the Ministry of Press and Information does not issue its decision on the statement, either accepting or rejecting it within the one month mentioned in this law, the owner of the statement can refer the matter to the related court. If he proves that thirty days have collapsed since the receipt of his

Statement in the related office of the Ministry of Press and information and the Ministry has not issued its decision, the court announces the statement as acceptable and the owner thereof can as an authorized proprietor take action in accordance with the provisions of the law.

If the owner of the statement makes changes in the contents of his statement prior to the completion of 30 days stated in this article, another 30 days is again counted from the date of latest change. If the change causes a change in the status of the publication, the money to be taken by the Press and Information Ministry as guarantee also must be deposited on the basis of the nature of the publication.

ARTICLE 11: The publication will be considered as the property of the proprietor. If ownership is transferred according to law, the new owner will be required to submit to the Ministry of Press and Information a request for registration as the new proprietor within one month from the date of such transfer. All conditions and regulations relating to the authorization of proprietorship will be observed in connection with this request.

ARTICLE 12: The statement presented by the publisher to receive authorization for publication will be governed by all regulations mentioned in this chapter.

ARTICLE 13: Both the proprietor and publisher are required to place same of money according to the following specifications under surety with the Ministry of Press and Information within the 30-day period mentioned in Article 10:

- a. For proprietorship of a newspaper: 15,000 afghanis.
- b. For proprietorship of a journal: 10,000 afghanis.
- c. For proprietorship of a magazine: 5,000 afghanis.
- d. For acquiring authorization as publisher of publications which are not periodicals, 20,000 afghanis.

These sums will be retained by the Ministry as long as either the proprietorship or the permission for publication continues. Thereafter, they will be returned.

ARTICLE 14: Once the statement of the proprietor or publisher is accepted, authorization becomes void if within six months after acquiring it, the proprietor or publisher fails to issue the publication. This regulation will also be applicable in cases where a newspaper stops appearing for two months a journal for three months, and a magazine for six months after publishing issued. This article will not apply in the case of a publication whose non-appearances is due to force majeure.

ARTICLE 15: The name of the publication, the place where it is published, the name and address of the printing house, and the names of the proprietor and the responsible editor must appear on the same page on which the number and date of issue of the publication appear.

ARTICLE 16: The proprietor and publisher will have to send one copy of each of their publications to the Ministry of Press and Information immediately after it is published; also, one copy of each to the office of the Attorney General, and two copies of each to two public libraries in Afghanistan upon designation by the Press and Information Ministry.

ARTICLE 17: The responsible editor is one who is actually responsible for printing a periodical publication. The responsible editor should have the following qualifications:

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- a. Should have Afghan citizenship.
- b. Should have completed the age of 25.
- c. Should be a high school graduate or more or be trained in journalism, or have some authority in the art of journalism.
- d. Should not be a member of Parliament.
- e. Should not be an employee of the government unless the publication is owned by the government.
- f. Should not be an officer or member of the Armed Forces unless the publication is owned by the Armed Forces.
- g. Should reside in the place where the publication is issued.

ARTICLE 18: No one can become the responsible editor of more than one publication at one time. Provided a proprietor meets the requirements of a responsible editor, he can also be the responsible editor of his publication. When the responsible editor is temporarily absent from duty, another person should be appointed to carry out his duties. This person must meet all the qualifications mentioned in this law for the responsible editor.

ARTICLE 19: The establishment and operation of public radio transmission and broadcasting is the exclusive right of the State. The affairs pertaining to these institutions will be regulated taking due consideration of the rules set forth in this law.

ARTICLE 20: The establishment of a theater for the purposes of exhibiting films and staging dramas and operation of the cinema and the like will be according to provision set forth in this law.

Anyone wishing to set up a cinema or a theater will be required to present a statement including the following specification to the Ministry of Press and Information and acquired a permit for the establishment.

- a. Name and address of the owner.
- b. Name and address of the cinema or theater.
- c. Amount and sources of capital.

Every cinema and theater should have a responsible manager.

Taking into due consideration the specific rules concerning cinemas and theaters, in the case of a person who established a cinema or a theater, those regulations will be applicable which according to this law apply to persons wishing to establish a non-periodical publication. In the case of the responsible manager of the cinema and theater those regulations are applicable which are listed in this law for the responsible editor of a non-periodical publication.

Taking the other regulations mentioned in this law into consideration, the statement for the establishment of a cinema or a theater should contain specifications required for a proprietor.

ARTICLE 21: Periodical and non-periodical publications, films, drams and the like which are imported from abroad as well as films and theatrical works produced within Afghanistan by foreign citizens or states can only be sold or distributed or exhibited if prior permission pertaining to such sale,

distribution or exhibition has been received from the Ministry of Press and Information. The production in Afghanistan of films by foreign nationals or states where the aim is commercial sale and distribution can be undertaken after obtaining the permission of the Ministry of Press and Information.

CHAPTER FIVE: PRINTING HOUSES

ARTICLE 22: Permission of the establishment of general printing houses and its authorization can only be issued to Afghan nationals and the State according to regulations set forth by law.

“General Printing House” is a place where printing is undertaken with a view to disseminating printed matter.

ARTICLE 23: Anyone wishing to establish a printing house is required to submit a statement to the Ministry of Press and Information for the purpose of receiving a permit. The statement should include the following items:

- a. Name, complete designation and address of the person making the statement.
- b. Occupation.
- c. Name and address of the proposed printing house
- d. Languages in which material is to be printed.
- e. Types of printing machines.
- f. Amount and sources of the capital to be used in operating a printing house.

ARTICLE 24: No printing house may begin operation or continue printing without the prior appointment of a responsible editor. The responsible editor of a printing house must be a person with qualifications mentioned in Article 17 of this law for the responsible editor of a periodical publication. The conditions stated in section c of said article are excluded from this regulation.

The owner of a printing house may become the responsible editor of his printing house. In this case the owner must meet the requirements set forth for the responsible editor.

ARTICLE 25: If a political party or some other organization wishes to establish a printing house, all those conditions must be observed which are set for the proprietor.

ARTICLE 26: With regard to the statement for the establishment of a printing house after its presentation, those regulations will be applied which have been formulated for the statement of securing proprietorship of a periodical publication. This rule also applied in the case of transfer of ownership of the printing house.

ARTICLE 27: The name of the printing house, the date of issue, the real or pen name of the author or translator and the name of the publisher must appear either at the beginning or end of every printed work. It is also obligatory to mention the name of the printing house and the date of issue at the beginning or end of individually printed advertisements.

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ARTICLE 28: The original copy of a non-periodical publication which is to be printed in the printing house must bear the signature and identify the author of the work.

CHAPTER SIX: RIGHTS

ARTICLE 29: The responsible editor is required in the conduct of his duties to observe the state's laws and goals set forth in the first chapter of this law. The functional policy of every periodical publication should be to support the values and aims mentioned in the Constitution of Afghanistan.

ARTICLE 30: Equal opportunities for both sides in an argument should be provided while publishing criticism in the press.

The responsible editor is required to observe the right of reply and correction.

The right of reply may be involved when the publication mentions someone's name or refers to a person and such a person wishes to make an explanation about the matter relating to him in the same publication.

The editor of a newspaper or magazine must publish the reply provided it pertains to the matter providing such reply. The reply must be published within three days (or if it is not a daily paper, in the first issue to appear after the day following receipt of the reply) in the same place and in the same type face as the article that provided the reply. During elections, the reply must be published within 24 hours.

The reply may be equal in length to the article that provoked it, but it can in no way be more than 1,200 words long.

The right of reply should be in accordance with regulations governing the preservation of the dignity and interest of the State and the people. The right of correction will be exercised by people who hold public responsibility such as the Prime Minister, governors, attorneys general, mayors and other State employees.

The right of correction will be invoked only if the official activities of these people (who have been delegated official powers or have public authority) have been inaccurately reported.

ARTICLE 31: The publication of matter implying defamation of the principles of Islam [...] or vituperation of the king of Afghanistan^[2] is not allowed.

ARTICLE 32: Incitement through the press to commit actions, the end of which is considered an offense, will also be considered an offense. Such actions may be:

- a. Incitement to disobey the country's laws.
- b. Incitement to disrupt public security and order.
- c. Incitement to seek depravity.

ARTICLE 33: Every action which is considered an offense will also be an offense if committed through the press. Such actions may be:

- a. Disclosure of State secrets such as:
 - o (1) Secret government or parliamentary proceeding.

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(2) Secret court proceeding.

(3) Military secrets.

(4) Secrets pertaining to Afghanistan's international relations.

- a. Incitement to seek depravity by means of:

(1) Publication of false or distorted news, in spite of the knowledge that the said news is false or distorted, provided such news causes damage to the interest of dignity of the State or individuals.

(2) Publication of obscene articles or photos which tend to debase public morals.

(3) Publication of comments and views the aim of which is to divert the courts from reaching correct decision on cases under consideration.

(4) Publication of comments and views the aim of which is to divert the public prosecutor, police, witnesses or even public opinion from the correct path over a definite case.

- a. Defamation of persons and publication of false statements about them.
- b. Attack upon the sanctity of the private life of individuals.

ARTICLE 34: If the publication of an item causes direct and actual disruption of the country's social health or economic life, or even deceives public opinion, the editor is required to refrain from publishing it. Such action may be:

- a. Publication of items with a view to purposely weakening the State's fiscal credit.
- b. Publication of false advertisement of medicines in spite of knowledge about them.

ARTICLE 35: Publication of matters with a view to weakening the Afghan Army is not allowed.

CHAPTER SEVEN: PUNITIVE PROVISIONS

ARTICLE 36: The proprietor, publisher and owner of a printing house are solely responsible only when they act contrary to what they have said in their respective statements. If the accused is a member of parliament and the accusation requires punishment beyond discipline, the case will be brought to the attention of the chamber of which he is a member in accordance with the law, and after provisions for taking punitive measure against him have been studied.

Anyone, except the State of Afghanistan, who undertakes to establish or operate a public radio transmission or television station, will be fined up to Afs. 20,000 or imprisoned for seven years if he establishes such stations. If he broadcasts matter over such stations, he will be fined up to Afs 30,000 and sentenced to imprisonment of up to 10 years.

ARTICLE 37: In the case of periodical publications, if a printed work is considered fit for disciplinary measures or for punishment and the author is known, he will be charge as the person accused. In such a case the editor will be

charged as an accomplice. In other instances, all responsibilities created from the press will rest solely with the responsible editor.

In the case of non-periodical publications if the name of the author or the translator is not known, the publisher will be held responsible and if the publisher's name is also unknown, then the editor will be held responsible in the same manner as the editor of a periodical publication.

People who knowingly sell, or by other means distribute, printed matter mentioned in this article will partly have the responsibility attached to such publications.

ARTICLE 38: The responsible editor has the right not to disclose the name of the author of a work. In such a case he will be totally responsible for the publication of the work in question. Articles containing criticism cannot be published in periodical publications under the author's pseudonym.

ARTICLE 39: If the proprietor, publisher or owner of a printing house is fined and if he does not pay the fine within 15 days of the finalization of (the court's) order, the amount of the fine will be taken from the money deposited as surety.

ARTICLE 40: If in a case mentioned in the above article, the amount deposited as surety is not sufficient, the balance will be secured from the convicted person's capital according to the provisions of the law.

ARTICLE 41: Anyone who publishes matter without prior authorization or permission will be sentenced from one to six months imprisonment and the publication so issued will be confiscated.

ARTICLE 42: Every falsehood or connivance in the statements or other papers pertaining to them will end in the conviction of the offender according to the provisions of the law for public security.

ARTICLE 43: If the owner of a printing house, the publisher, or the proprietor acts contrary to conditions of his application on the basis of which he has secured permission to print or permission or authorization to disseminate (printed) matter, disciplinary measures will be taken against him for the first offense. Repetition of the offense will be considered a misdemeanor punishable by a fine of up to Afs. 3,000 or the suspension of the publication for 10 consecutive issues or the postponement of the permit or authorization for one year or its nullification.

This measure will also apply to an owner of a printing house who operates a printing house against the provisions of Article 24.

ARTICLE 44: Offenders against the provisions of Articles 16, 19, 27, 28 and 35 of this law will undergo disciplinary measures.

ARTICLE 45: Offenders convicted of offenses mentioned in Articles 31, 32 and section 1 of Article 33 will be punished in accordance with the provisions of the law for public security crimes.

Wherever there is no explicit provision for an offense in this law, the convicted offenders will be punished in accordance with the provisions of the Hanafi School of Islamic Jurisprudence.

ARTICLE 46: Offenders convicted for offense mentioned in Section (2) of Article 33, whose offenses do not require a punishment based on Shariat. Will be fined not less than Afs. 5,000 and not more than Afs. 25,000 or they will be imprisoned for not less than six months and not more than six years or they will

be given both these punishments. If the offense causes a demand for indemnities by the person injured by the offense, the court has the authority also to order that person to be compensated.

If the offense requires punishment under Shariat, then the case will be assigned in accordance with the provisions of the Hanafi school of Islamic Jurisprudence.

ARTICLE 47: Offenders convicted of offenses mentioned in section a of Article 34 will be fined up to Afs. 2,000 or imprisoned from one and a half to four months. Conviction for offenses mentioned in section b, Article 34, will result in a fine up to Afs. 1,000 or imprisonment for up to one and a half months.

Anyone found guilty of action violating the provisions of Article 35 will be fined up to Afs. 3,000 or imprisoned for up to one year.

ARTICLE 48: The courts are authorized to order the confiscation of the publication or the printing house or both in cases resulting from offenses mentioned in Article 45. The Attorney General's office, too, has the authority to stop the distribution of the publication, or to keep it in custody until the court issues its definite decision in cases mentioned above.

In the case of offenses allowed to in Articles 46 and 47, the courts have the authority to substitute fine or imprisonment for the suspension of the permit for printing or permission or authorization for its total abrogation.

ARTICLE 49: Infractions committed within the range of application of this law make the offenders liable to disciplinary punishment by the Minister of Press and information.

Disciplinary measures are as follows:

- a. Cash fine up to Afs. 500.
- b. Suspension of the periodical publication for three issues.
- c. Limitation of non-periodical publication of less than five in one year.

The Ministry of Press and Information may order this type of disciplinary measure either individually or collectively, but in implementing this provision, it should always be taken into consideration that indulgence in disciplinary punishment does not obstruct the development of free press.

Those accused of offenses mentioned in this law will be prosecuted in accordance with the law regulating the affairs of the Saranwali* and the Criminal Procedure Law.

ARTICLE 50: Cases arising from offenses mentioned above will be first studied by the provincial public security court in accordance with the law.

In order to define the court's authority, the place of publication will be considered as the place for the occurrence of the offense even though the publication is distributed in other regions, too.

* Law of 28 Qaus 1343 superseded by Law of Saranwali, 15 Hoot 1345.

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CHAPTER EIGHT: MISCELLANEOUS RULES

ARTICLE 51: This law shall be in force after its publication in the Official Gazette.

ARTICLE 52: From the date this law becomes operative, the Press Law of 12 Dalwa 1329 A.H. will be repealed.

ARTICLE 53: In cases where provisions of this law are contrary to the provisions of other laws, the provisions of this law will be applied.

ARTICLE 54: Printing houses and publications in operation in accordance with previous laws before the enforcement of this law will be required to complete the conditions set forth in this law within a period of three months from the date of its enforcement.

If this is not complied with, their permit or authorization will be cancelled.

ARTICLE 55: The ministries of Press and Information and Justice and other related offices are required to take necessary measures for the implementation of the provisions of this law.

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^[1] The English translation misses the sentence “conditional kingdom” which is existed in both Dari and Pashtu versions.

^[2] The English translation misses the sentence “or vituperation of the king of Afghanistan” which is existed in both Dari and Pashtu versions.
