

Bill No. 222 of 2018

THE PROTECTION OF HUMAN RIGHTS DEFENDERS BILL, 2018

By

SHRI A.P. JITHENDER REDDY, M.P.

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A

BILL

to ensure protection of individuals, groups, associations engaged in protection and promotion of human rights and fundamental freedoms and for matters connected therewith or incidental thereto.

BE it enacted by the Parliament in the Sixty-ninth Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

5 * * * * *

1.(1) This Act may be called the Protection of Human Rights Defenders Act, 2018.

(2) It extends to whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent,
commence-
ment and
application.

(4) It shall apply to all human rights defenders under the jurisdiction, territory, or control of India, without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, age, economic position, property, marital status, birth, disability, sexual orientation, gender identity, sex characteristics or any other status. 5

* * * * *

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means any agency, department, body established to carry out respective functions to those enumerated in this Act and in respect of matters relating to,— 10

- (i) the Union territory without legislature, the Central Government;
- (ii) the Union territory of Puducherry, the Government of that Union territory;
- (iii) the Union territory of Delhi, the Government of that Union territory; and
- (iv) the State, the State Government concerned.

(b) 'associate' means a person with whom the human rights defender acts to promote and protect human rights and fundamental freedoms; 15

(c) 'human rights defender' means any person who, individually or in association with others, as a professional or voluntarily, seeks to promote protect or strive for the protection and realization of human rights, socioeconomic and social justice and fundamental freedoms, including but not limited to individuals who are recognized as: 20

- (i) human rights advocates;
- (ii) human rights activists;
- (iii) social justice activists;
- (iv) women rights activists;
- (v) minority rights activists; 25
- (vi) environment activists;
- (vii) disabled people rights activists;
- (viii) Lesbian, Gay, Bisexual and Transgender rights activists;
- (ix) journalists and media persons or workers;
- (x) trade unionists and labour rights Activists; 30
- (xi) Right To Information activists; and
- (xii) humanitarian workers;

(d) 'human rights and fundamental freedoms' means the rights and freedoms guaranteed by, recognized in or declared by the Constitution, International Covenants, or customary international law and enforceable by courts in India; 35

(e) 'intimidation or reprisal' means any form of violence, threat, retaliation, *de facto or de jure* adverse discrimination, pressure of any other arbitrary or abusive action or threat related to a person's status, work or activity as a human rights defender including proposed, attempted or imputed work or activity, directed at:—

- (i) the human rights defender; 40
- (ii) an associate of the human rights defender;
- (iii) a legal or other representative of the human rights defender appointed to

conduct the affairs of or to otherwise act on behalf of the human rights defender;

(iv) a family member or relative of the human rights defender;

(v) a group, association, community or network, whether formal or informal, with which the human rights defender is associate; or

5 (vi) the home, property or possessions of the human rights defender or any of the other persons or entities mentioned under clauses (c), (d) and (f) of section 2; and

(f) "registered group, association or non-governmental organisation" means entities registered under the Societies Registration Act, 1860, the Indian Trusts Act, 1882, the Companies Act, 2013 and other relevant Central legislations.

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CHAPTER II

RIGHTS OF HUMAN RIGHTS DEFENDERS AND RESPONSIBILITY TO DEFEND HUMAN RIGHTS

* * * * *

15 **3.** Every person, individually or in association with others, shall have the right to promote and to strive for the protection and realization of human rights, socio-economic and ecological justice and fundamental freedoms at the local, national, regional and international levels.

Right of every person to promote and protect human rights and fundamental freedoms.

20 **4.** Every person, individually or in association with others, shall have the right to form, join and participate in groups, coalitions or networks of groups, associations and non-Governmental organisations, whether formal or informal and whether registered or unregistered, for the purpose of promoting and striving for the protection and realization of human rights, socio-economic and ecological justice and fundamental freedom at local, national, regional and international levels.

Right to form association for protection and realization of human rights and fundamental freedoms.

25 **5. (1)** Every person, individually or in association with others, shall have the right to solicit, receive and utilise resources, including from domestic and international sources, including Governmental, inter-Governmental, bilateral and multilateral platforms, philanthropic and private sources and individual donors for the express purpose of promoting and striving for the protection and realisation of human rights, socio-economic and ecological justice, and fundamental freedoms.

Rights to solicit and receive resources for protection and realization of human rights and fundamental freedoms.

30 (2) Any human rights defender disqualified by appropriate Government for failing to uphold legal obligations as stated in laws governing financial accountability shall be barred from receiving, disbursing and utilizing any financial contributions only after the human rights defender has exhausted every legal remedy.

6. (1) Every person, individually or in association with others, shall have the right to:—

Right to know and seek, etc. of information about human rights and fundamental freedom.

35 (a) know, seek access, obtain, receive and hold information about all human rights, socio-economic and ecological justice and fundamental freedoms, including information regarding how those rights and freedoms are given effect in the legislative, judicial and administrative systems;

40 (b) know, seek access, obtain, receive and hold such information from business enterprises as may be necessary for exercising or protecting or assisting to exercise or protect human rights, socio-economic and ecological justice or fundamental freedoms;

(c) freely publish, impart or disseminate to others views, information and knowledge on all human rights, socio-economic and ecological justice and fundamental freedoms; and

(d) study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights, socio-economic and ecological justice, and fundamental freedoms and through these and other means to draw public attention to those matters.

(2) The rights guaranteed under sub-section (1) may be exercised orally, in writing, in print in the form of art or through any other media, whether online or offline. 5

Right to develop and discuss new ideas and principles.

7. Every person, individually or in association with others, shall have the right to develop and discuss new ideas and principles which relate to promotion and protection for human rights, socio-economic and ecological justice, and fundamental freedoms, and to advocate their acceptance.

Right to freely communicate with non-Governmental Organisations.

8. Every person, individually or in association with others, shall have the right to freely communicate with non-Governmental, Governmental and inter-Governmental organisations, international and regional human rights bodies, including subsidiary bodies, treaty bodies, special procedures, special rapporteurs, mechanisms or experts with a mandate relevant to human rights, socio-economic and ecological justice and fundamental freedoms. 10

Right to Participate effectively in conduct of Public Affairs.

9.(1) Every person, individually or in association with others, shall have the right to participate effectively in the conduct of public affairs, including participation on a non-discriminatory basis in the Government of one's country regarding human rights, socio-economic and ecological justice and fundamental freedoms. 15

(2) The right guaranteed under sub-section (1) includes the right to:—

(a) submit to any public authority or agency, or agency or organisation concerned with public affairs, criticism on or proposals for improving its functioning with respect to human rights, socio-economic and ecological justice and fundamental freedoms; 20

(b) make recommendations to any public authority regarding legislative or regulatory changes relating to human right, socio-economic and ecological justice and fundamental freedoms; 25

(c) draw to the attention of any public authority any aspect of its work that may hinder or impede the promotion, protection and realisation of human rights, socio-economic and ecological justice and fundamental freedoms;

(d) draw to the attention of any public authority any action or omission by any actor, private or public, that may involve or contribute to a violation of human rights, socio-economic and ecological justice or fundamental freedoms; and 30

(e) freely publish, impart or disseminate to others any information submitted to any public authority in the exercise of the rights set out in this Chapter.

(3) In case any competent authority which receives communication of the type referred to in sub-section (2) shall confirm its receipt in writing within thirty days. 35

Right to meet or assemble peacefully.

10. (1) Every person individually or in association with others, shall have the right to meet or assemble peacefully as well as to participate in peaceful activities concerning human rights, socio-economic and ecological justice, and fundamental freedoms, free from interference that is arbitrary or unlawful by public authorities and private actors, at the local, national, regional or international level. 40

(2) The right guaranteed under sub-section (1) includes the right to plan, organise, participate in and disseminate information regarding peaceful activities concerning human rights, socio-economic and ecological justice, and fundamental freedoms, including demonstrations, protests, seminars and meetings whether conducted in a public or private place. 45

Right to assist on behalf of other.

11. (1) Every person individually and in association with others, shall have the right to assist, represent or act on behalf of another person, group, association, organisation or

institution in relation to the promotion, protection and exercise of human rights, socio-economic and ecological justice, fundamental rights and freedoms, including at local, national, regional and international levels.

(2) The right guaranteed under sub-section (1) shall include the right to:—

5 (a) complain about the policies and actions of public authorities with regard to violations of human rights, socio-economic and ecological justice, and fundamental freedoms, by petition or other appropriate means, to domestic judicial, administrative or legislative authorities or any other competent authority;

10 (b) offer and provide professionally qualified legal assistance or other relevant advice;

(c) attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and human rights and fundamental freedoms; and

(d) submit communications and information of the type referred to in section 9.

15 **12. (1)** Every person lawfully within the territory or subject to the jurisdiction including the power or effective control of India shall, within that territory or place of jurisdiction, have the right to liberty of movement and freedom to choose his or her residence and the right to carry out his human rights activities in the entire territory or place of jurisdiction.

Right to freedom of movement.

20 (2) No person lawfully within the territory of India shall be expelled, by means of an individual measure or a collective measure from the territory of India wholly or partially on account of his acts as a human rights defender.

(3) No person shall be deprived of the right to enter or leave the territory of India on the grounds of or in association with his status, activities or work as a human rights defender.

13. (1) Every person individually or in association with others, shall have the right to privacy.

Right to privacy.

25 (2) The right guaranteed under sub-section (1) includes the right of a human rights defender to protect its privacy, including through encryption, and be free from intrusion and interference that is arbitrary and unlawful in his or her family, home, places of work, possessions and correspondence, both online and offline.

30 *Explanation.*—For the purposes of this section, the words "intrusion and interference" includes any form of surveillance, recording, search and seizer in association with his or her legitimate activity or work as a human rights defender.

14. No person shall be subjected, individually or in association with others, to any form of intimidation or reprisal on the, grounds of or in association with the said individual's status, activities or work as a human rights defender.

Freedom from intimidation or reprisal.

35 **15.** Every human rights defenders shall be protected from any form of defamation, stigmatisation, or other harassment, whether offline or online, and whether by public authorities or private actors, in association with his or her status, activities or works as a human rights defender.

Freedom from defamation and stigmatization.

40 **16.** Every person individually or in association with others shall have the right to the unhindered exercise of one's cultural rights in activities and work as a human rights defender, including the right to challenge and change traditional customs and practices that violate human rights, socio-economic and ecological justice and fundamental freedoms, and to the free and full development of his personality.

Right to exercise cultural rights and to development of personality.

45 **17. (1)** Every person individually or in association with others, shall have the right to an effective remedy and full reparation in the event of a violation of the rights in this Chapter or in breach of obligations under Chapter III.

Right to effective remedy and full reparation.

(2) Anyone whose rights have been violated or who has been adversely affected by a breach of obligations shall have the right to apply to a court or a tribunal of competent jurisdiction to obtain such effective remedy and full reparation.

(3) Any of the following may file a complaint at the competent court or tribunal relating to the violation of rights under Chapter II or in breach of obligations under Chapter III of this Act, —

(a) the human rights defender;

(b) an associate of the human rights defender;

(c) a legal or other representative of the human rights defender appointed to conduct the affairs of or to otherwise act on behalf of the human rights defender; 10

(d) a family member or relative of the human rights defender;

(e) a group, association, community or network, whether formal or informal, with which the human rights defender is associate; or

(f) the home, property or possessions of the human rights defender or any of the other persons or entities in sub-sections (b) to (e) above. 15

Limitations on the rights of human rights defenders.

18. Every human rights defender, individually or in association with others, in exercising rights in Chapter II, shall be subject only to limitations that are prescribed by law and in accordance with international human rights obligations and standards, are reasonable, necessary and proportionate, and are solely for the purpose of securing due recognition and respect of the human rights and fundamental freedoms of others and meeting the requirements of public order and general welfare in democratic society. 20

Other rights and freedoms not affected.

19. Nothing in this Act shall affect any provisions which are more conducive to the recognition and protection of human rights defender and which may be contained in domestic or international law or instruments.

CHAPTER III 25

OBLIGATIONS OF PUBLIC AUTHORITIES

Obligation to respect, promote, protect and fulfill the rights of human rights defenders.

20. Every public authority shall take all necessary measures to ensure that:-

(a) the human rights and fundamental freedoms provided in Chapter II are effectively guaranteed and ensured;

(b) all laws, policies and programs are consistent with the rights guaranteed under Chapter II; and 30

(c) human rights defenders are able to undertake their activities and work in a safe and enabling environment free from restriction.

Obligation to facilitate the activities and work of human rights defenders.

21. (1) Every public authority shall take all necessary measures to facilitate and protect the exercise of the rights in Chapter II. 35

(2) The obligation mentioned under sub-section (1) includes the obligation to:—

(a) permit and facilitate access in accordance with the law to places where a person is deprived of liberty;

(b) permit and facilitate access to places and to information required by human rights defenders to exercise their rights under Chapter II in accordance with the law; 40

(c) provide information about violations of human rights or fundamental freedoms that may have occurred within the territory or subject to the jurisdiction, including the power or effective control of India;

(d) develop and implement policies and measures to promote, support and enhance the capacity of human rights defenders to promote and protect human rights and fundamental freedoms; and

5 (e) promote and publicly acknowledge the role, function, activities and work of human rights defenders as legitimate and important.

22. Every public authority shall make freely available and accessible both offline and online —

(a) international and regional human rights instruments;

(b) the Constitution of India, national laws and regulations;

10 (c) research, studies, reports, data, archives and other information and materials within the possession of public authorities that relate to human rights and fundamental freedoms;

(d) reports and information submitted by India to international and regional human rights bodies and mechanisms;

15 (e) minutes, reports and communications of international and regional human rights bodies and mechanisms in which India is discussed;

(f) documents and information related to the decisions or activities of national authorities with competence in the field of human rights and fundamental freedoms; and

20 (g) all such other information as may be necessary to secure or enable the exercise of any human rights or fundamental freedoms under Chapter II or access to remedy for a violation of any such right.

23. Every public authorities shall take all necessary measures to ensure,—

(a) the prevention of, and protection against, any intimidation or reprisal by any other public or private actor; and •

25 (b) protection of human rights defenders against arbitrary or unlawful intrusion and interference in his family, home, places of work, possessions and correspondence, both offline and online.

Explanation.—For the purposes of this section, the words "*intrusion and interference*" includes any form of surveillance, recording, search and seizure in association with any person's legitimate activity or work as a human rights defender without his consent.

30 **24.** (1) Whenever there is reasonable ground to believe that a human rights defender has been killed, disappeared, tortured, ill-treated, arbitrarily detained, threatened or subject to a violation of any of the rights in Chapter II, whether by a public authority or private actor within the territory or subject to the jurisdiction, including the power or effective control of India, the responsible authority must ensure that a prompt, thorough, effective and impartial investigation is conducted with due diligence and is prosecuted as appropriate.

(2) An investigation pursuant to sub-section (1) shall take into account:—

(a) whether a motive for the violation of the rights of the human rights defender included his or her status, activity or work as a human rights defender;

40 (b) whether there have been previous violations of the rights of the human rights defenders or systematic violations of the rights of similarly situated human rights defenders; and

(c) whether the violation was perpetrated, aided, abetted or supported by multiple actors.

45 (3) During an investigation pursuant to sub-section (1), the responsible authority shall consult with the mechanism established under section 34 and keep the victim or his family, relatives or associates, informed of the status of the investigation.

Obligation to provide free access to materials relating to human rights, socio-economic and ecological justice, and fundamental freedoms.

Obligation to prevent and to ensure protection against intimidation or reprisal and arbitrary or unlawful intrusion and interference.

Obligation to conduct investigation.

(4) The Central Government shall request such assistance from relevant international or regional human rights bodies or mechanisms as is necessary to conduct an investigation in conformity with sub-section (1).

(5) Where the responsible authority is unable or unwilling to conduct an investigation pursuant to sub-section (1), India shall request assistance to conduct such an investigation. 5

Obligation to ensure effective remedy and full reparation.

25. Every public authority shall take all necessary measures to ensure that an effective remedy and full reparation are available and provided for violations of the rights in Chapter II and for breach of the obligations in Chapter III.

Obligation to make intimidation and reprisal an offence.

26. An act of intimidation or reprisal, whether by a public or private actor, against a person, on the grounds of or in association with his or her status, activities or work as a human rights defender, shall be an offence and prosecuted by the competent authority and subject to appropriate penalties which take into account the gravity of the offence. 10

Obligation to promote and facilitate education on human rights, socio-economic policies and ecology sustainability and the role of human rights defenders.

27. Every public authority shall promote, facilitate and adequately resource teaching, training and education about human rights and freedoms, socio-economic justice policies, ecology sustainability, and the role of human rights defenders, including the provisions of this Act, within all public departments and to all persons in this country. 15

Obligation to implement protection and urgent protection measures.

28. Every public authority shall take all necessary measures at all levels to fully and effectively implement protection and urgent protection measures determine under Chapter IV. 20

Obligation to provide assistance to human rights defenders abroad.

29. (1) Every public authority shall take all necessary steps within their power in conformity with national and international obligations and standards to provide assistance to a human rights defender abroad who has been or may be subject to intimidation or reprisal on the grounds of or in association with his or her status, activities or work as a human rights defender. 25

(2) The assistance referred to in sub-section (1) may include, as required by the nature of the intimidation or reprisal and the nationality of the human rights defender concerned, the following:— 30

(a) receiving the human rights defender in the diplomatic mission in that country or visiting the human rights defender at his or her home or places of work, or places where a person is deprived of liberty; 35

(b) making official representations, whether public or confidential, in relation to the human rights defender;

(c) attending or observing trials or legal proceedings involving the human rights defender;

(d) monitoring and producing reports on the situation of the human rights defender; 40

(e) issuing emergency or replacement travel documents;

- (f) obtaining medical care;
- (g) providing details of local lawyers;
- (h) providing details of local interpreters;
- (i) contacting the family members of the human rights defender;

- 5 (j) arranging for someone to accompany the human rights defender to a safe location or providing other relocation assistance; and
- (k) providing financial assistance;
 - (l) providing emergency loans to enable the human rights defender to travel to a safe location.

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CHAPTER IV

MECHANISM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

30. (1) The Union Ministry of Home Affairs shall establish a National Mechanism for the Protection of Human Rights Defenders, which shall have responsibility within the aforementioned Ministry for coordinating the protection of human rights defenders.

Establishment of Mechanism for the Protection of Human Rights Defenders.

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(2) The Mechanism shall, in consultation with the National Human Rights Commission, National Commission for Women, National Commission for Scheduled Tribes, National Commission for Scheduled Castes and other such commissions, along with the civil society carry out the functions assigned to it under this Act.

(3) Without generality of the foregoing provisions, the Mechanism shall,—

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- (a) prevent intimidation or reprisal;
- (b) protect human rights defenders from intimidation or reprisal;
- (c) assist in ensuring investigation of, and accountability for, acts of intimidation or reprisal against a human rights defender;

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(d) direct and promote inter-agency and inter-departmental coordination to prevent, protect against, investigate, and ensure accountability for acts of intimidation or reprisal; and

(e) promote and publicly acknowledge the legitimate and important role, function, activities and work of human rights defenders.

30 may:—

(a) monitor and respond to the situation of human rights defenders in India, including risks to their security, and legal and other impediments to a safe and enabling environment that is conducive to their work;

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(b) consult and work closely and cooperatively with human rights defenders in the implementation of this Law;

(c) coordinate the implementation of this Law, including by developing protocols and guidelines for this purpose, within a period no longer than one hundred and eighty days of the entry into force of this Law;

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(d) carry out assessments of risks, vulnerability or conflict at the National, State, Regional or Local Levels, with the aim of identifying specific needs for the protection of human rights defenders, including by undertaking gender based and collective risk assessments;

(e) aid, assist and inform investigations for the purpose of prosecuting the offences created under Section 28;

(f) monitor existing and draft legislation and inform the responsible competent authority about the impact or potential impact of legislation on the status, activities and work of human rights defenders, proposing legislative modifications where necessary;

(g) advise all areas of government on the design and implementation of policies and programmes to guarantee and protect the rights of human rights defenders under this Law; 5

(h) monitor and prepare annual reports on the situation of human rights defenders in India and make recommendations to the relevant authorities on the appropriate measures to be taken to promote a safe and enabling environment for their work and to mitigate and prevent the risks facing them, including by tackling the root causes of violations against human rights defenders; 10

(i) propose and implement, or ensure the implementation of, prevention measures and protection measures to guarantee the life, integrity, liberty, security and the work of human rights defenders, giving particular attention to the situation and protection needs of women human rights defenders and other human rights defenders at increased risk; 15

(j) advise the responsible competent authority on the desired profiles, selection procedure, income and training of all staff and security personnel with responsibility towards the protection of human rights defenders; 20

(k) receive and assess applications for protection measures and implement the appropriate protection measures, including emergency measures, in coordination with other relevant authorities;

(l) disseminate information to the public about protection programmes for human rights defenders and how to access them, and about the Mechanism's work, guaranteeing transparency in regards to resource allocation; 25

(m) disseminate information to authorities and to the public about the UN General Assembly Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and the vital and legitimate role, function and work of human rights defenders; and 30

(n) prepare and submit reports and communications on the situation of human rights defenders in India to relevant international and regional human rights bodies and mechanisms.

(o) Wherever there exists reasonable ground to believe that a human rights defender has been killed, disappeared, tortured, ill-treated, arbitrarily detained, threatened, or subject to a violation of any of the right in this Act, whether by a public authority or private actor within the territory or subject to the jurisdiction, including the power of effective control, of India, the law enforcement authorities within jurisdiction over the matter shall ensure that a prompt, thorough, effective, impartial investigation is conducted with due diligence and is prosecuted as appropriate. 35 40

(5) The Mechanism shall respect and maintain the confidentiality of the personal data collected on human rights defenders.

(6) The Mechanism, together with independent experts and in consultation with civil society, shall develop obligatory information management and digital security policies for their staff and all other authorities with access to information received by it. 45

(7) The Mechanism, together with independent experts and in consultation with civil society, shall carry out periodic reviews of the implementation of this Law and the Mechanism's effective functioning.

Provided that the first review shall be carried out within 18 months of the entry into force of this Law.

(8) State Mechanisms for the Protection of Human Rights Defenders shall be established at the State level, working under the Home Ministries of their respective States, with the function of assisting the National Mechanism in fulfilling its functions described in sub-section (2), while working with State Commissions on Women, Scheduled Castes, Scheduled Tribes and other such Commissions wherever established, along with members of the civil society.

31. The appropriate Government shall consult with human rights defenders and other civil society actors in relation to all aspects of the work of the Mechanism. Consultation with civil society.

32. (1) The Central Government shall provide adequate financial resources to the Mechanism to enable it to fulfil its functions and exercise its powers fully and effectively. Fund for the Protection of Human Rights Defenders.

(2) To fulfil the purposes of this Act and for the purpose of obtaining financial resources additional to those in sub-section (1), the appropriate Government shall establish a Fund for the Protection of Human Rights Defenders.

(3) The Fund shall also be credited:—

(a) grants and loans from the public sector and the private sector; and

(b) contributions from domestic and foreign persons, groups, associations and organisations and institutions.

(4) The Fund shall be utilised exclusively for the implementation of protection measures and prevention measures and other acts authorised under this Act by the Mechanism and other entities authorised by it.

(5) The Fund shall be administered with full transparency and a report of the Fund's use shall be included in the Mechanism's annual report.

33. (1) Every person involved in the Mechanism, including security and law enforcement officials, shall be appropriately shortlisted based on their proven record on adherence, protection and promotion of human rights wherever permissible, vetted and shall receive training prior to the commencement of their involvement, together with continuing training designed to ensure full and effective implementation of the Law. Training and vetting.

(2) The training under sub-section (1) shall include training on human rights and fundamental freedoms, including the situation and protection needs of victims and of more vulnerable human rights defenders, specifically those working issues of Environment, Minorities, DNTs, SCs/STs on sexual orientation, gender identity and sex characteristics issues, those acting or working in rural and remote areas and women human rights defenders.

34. The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Act to have overriding effect.

35. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty. Power to remove difficulty.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

36. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 5

STATEMENT OF OBJECTS AND REASONS

The Indian Constitution was a contemporary of the Universal Declaration of Human Rights (UDHR), having been constructed just a few years apart. Through the incorporation of human rights and fundamental freedoms as enshrined in the UDHR, the Indian Constitution set the legal platform for the protection and promotion of human rights. Laws such as the Protection of Human Rights Act, 1994, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Right to Information Act, 2005 and several others expanded the scope of Part III of the Constitution by guaranteeing socio-economic and ecological justice. Successive Governments have strengthened mechanisms ensuring adherence to the Indian Constitution, and through the same, to the UDHR.

The very nature of human rights bestows upon the State the sole responsibility of protecting an individual's, or a people's rights from being infringed. Yet, the State remains capable of violating these rights as well. Given this inherent conflict of interest, the civil society has been playing an increasingly important role in keeping checks and balances on the State-ensuring that the State not only protects, but also promotes human rights, socio-economic and ecological justice, and fundamental freedoms. In doing so, the individuals, or the association of individuals who qualify as human rights defenders have been increasingly victimized by those perpetrating violations on the rights and freedoms. As the scope of human rights, socio-economic and ecological justice, and fundamental freedoms widens, and the role of human rights defenders broadens, the number of attacks on them increases from both, the State and private entities. Since protection afforded to human rights defenders has remained the same despite the evolution of rights. Bill seeks to recognize, promote and enhance the mechanism for the protection of those most vulnerable to violation of their rights, the human rights defenders.

Aiming at rectifying this glaring lacuna, this Bill sets out to carry out three major functions. Firstly, it reasserts that the rights and freedoms that an ordinary Indian citizen enjoys are to be availed by a human rights defender. Secondly by recognizing that human rights defenders, through the virtue of their work, require enhanced protection of their rights, it establishes the obligations of the State in protecting them. Thirdly, given the loopholes in the existing protection mechanism for human rights defender, this Bill seeks to establish a new Mechanism, remedying existing problems, while pre-empting future necessities of human rights defenders.

In an increasingly rights-oriented world, this Bill provides India the opportunity to display its commitment to the principles laid down in the UDHR and the Indian Constitution. The immediate enactment of this Bill has the potential of creating a ripple-effect; protecting rights of human rights defenders establishes confidence amongst them in ensuring protection and promotion of rights of other ordinary citizens. Thus, with the aim of affirming, promoting and protect human rights, social and ecological justice rights and fundamental freedoms in India.

The Bill seeks to achieve the above objectives.

NEW DELHI;
November 28, 2018

A.P.JITHENDER REDDY

FINANCIAL MEMORANDUM

Clause 30 of the Bill provides for establishment of Mechanism for the Protection of Human Rights Defenders. Clause 32 provides for the constitution of a Fund for the Protection of Human Rights Defenders. The Bill, therefore, if enacted, would involve recurring and expenditure non-recurring. However, at this stage, it is difficult to estimate the expenditure to be incurred from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 36 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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to ensure protection of individuals, groups, associations engaged in protection and promotion of human rights and fundamental freedoms and for matters connected therewith or incidental thereto.

(Shri A.P. Jithender Reddy, M.P.)