

# **THE HUMAN RIGHTS DEFENDERS BILL 2017**

*Being an Act to guarantee the rights and responsibilities of human rights defenders in Sierra Leone as well as the obligations of the Government to recognise, respect and protect human rights and fundamental freedoms in Sierra Leone*

ENACTED by the President and Members of Parliament in this  
present Parliament assembled. [ ]

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## PART 1

### Definitions

#### **In this Act unless the context otherwise requires:-**

**“associate”** of a human rights defender means a person with whom the human rights defender acts to promote and protect human rights and fundamental freedoms;

**“Fund”** means the Fund for the Protection of Human Rights Defenders established under **Part V. Section 19. (XXXVII)**

**"human rights and fundamental freedoms"** means those rights and freedoms recognised in or declared by international and regional human rights instruments and customary international law and by the constitution and other national laws that are consistent with those instruments and laws.

**"human rights defender"** means:-

- (i) any person who, individually or in association with others, acts or seeks to act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms, at the local, national, regional and international levels on a full-time or part-time basis, on a paid or voluntary basis and can act as part of their profession/occupation but need not do so.
- (ii) any organisation, association, or institution which acts or seeks to act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms, at the local, national, regional and international levels in accordance with its mission or mandate.

**"intimidation or reprisal"** means any form of violence, threat, retaliation, de facto or de jure adverse discrimination, pressure or 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;
- 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, organisation, community or network, whether formal or informal, with which the human rights defender is associated; or
- vi. the home, property or possessions of the human rights defender or any of the other persons or entities in subsections (**Error! Reference source not found.** to **Error! Reference source not found.** above.

**“Intrusion and interference”** means any form of surveillance, recording, search and seizure related to the legitimate activity or work of human rights defenders

**“Mechanism”** means the Mechanism for the Protection of Human Rights Defenders established under **Part V Section 13**.

**“protection measures”** means the measures available under **Error! Reference source not found.** of this Law and includes urgent protection measures;

**“public authority”** means a person or body performing a function of a public nature that is conferred or imposed by or pursuant to law or delegated, contracted or procured by a governmental authority or agency.

## **PART II - RIGHTS OF HUMAN RIGHTS DEFENDERS AND RESPONSIBILITY TO DEFEND HUMAN RIGHTS**

### **Section 1 – Right to Freedom of Assembly and Association**

- I. Human Rights Defenders shall freely undertake activities to promote and to strive for the protection and realisation of human rights and fundamental freedom, at the local, national, regional and international levels.
- II. Human Rights Defenders have the right to meet or assemble peacefully as well as to participate in peaceful activities concerning human rights 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.
- III. Human Rights Defenders have the right to form and join non-governmental organisations, groups or associations.

### **Section 2 – Access to Information and Freedom to communicate with and cooperate with international and regional human rights bodies and mechanisms**

- IV. Human Rights Defenders have the right to seek, receive and disseminate information which include:
  - a) to know, seek, access, obtain, receive and hold information about all human rights and fundamental freedoms, including information regarding how those rights and freedoms are given effect in the legislative, judicial and administrative systems of Sierra Leone;
  - b) to 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 or fundamental freedoms;
  - c) to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
  - d) to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other means, to draw public attention to those matters.

- V. The right in subsection (IV) may be exercised orally, in writing, in print, in the form of art or through any other media, whether online or offline.
- VI. Human rights defenders have the right to submit without restriction communications relating to human rights to international bodies competent to receive and consider such matters in accordance with the applicable international procedures and instruments.

### **Section 3 – Right to Freedom of Expression**

- VII. Human rights defenders shall freely express criticism of the impediments to the promotion, protection and realization of human rights and fundamental freedoms and can submit such criticism to institutions, organizations and other organs of the state.
- VII. Human rights defenders shall not be investigated, arrested, detained or prosecuted, on the basis of opinions expressed in reports published in the course of their activities.

### **Section 4. – Right to Privacy**

- VIII. Human Right Defenders have a right to privacy. This includes the right of a human rights defender to protect his or her 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.

### **Section 5. –Right to solicit, receive and utilise resources**

- IX. Human Right Defenders individually or in association with others, have the right to solicit, receive and utilise resources, including from domestic and international sources, including governmental, intergovernmental, philanthropic and private sources, for the express purpose of promoting and striving for the protection and realisation of human rights and fundamental freedoms.

### **Section 6. – Women Human Rights Defenders**

- X. Women human rights defenders have the right to be protected from all kinds of threats, violence or any form of discrimination related to their status as women human rights defenders, in accordance with national and international legal instruments on the protection of women.

## **PART III. OBLIGATIONS OF HUMAN RIGHTS DEFENDERS**

- XI. In carrying out their activities, human rights defenders have a duty to respect the constitution, international obligations and all laws and regulations in force except where such laws are not in conformity with international laws.

#### **Section 7. Limitations on the rights of human rights defenders**

- X. In exercising his or her rights in Oof this Law, a human rights defender, individually or in association with others, shall be subject only to limitations that are prescribed by law, 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 a democratic society.
- XII. Human rights defenders are required to underake their activities and exercise their rights and freedoms impartially, while respecting the rights of others, public security and the general interest.
- XIII. Human rights defenders are required to report annually on their activities to the Human Rights Commission of Sierra Leone.

### **PART IV- OBLIGATIONS OF GOVERNMENT AND PUBLIC AUTHORITIES**

#### **Section8 -Obligation to respect, promote, protect and fulfil the rights of human rights defenders**

- XIV. The State has a duty to protect and promote human rights and fundamental freedoms and to ensure their effectiveness. Government shall therefore take all necessary measures to ensure:
- a) that the human rights and fundamental freedoms in Part II of this Law are effectively guaranteed and ensured;
  - b) that all laws, policies and programs are consistent with the rights in Part II of this Law; and
  - c) that human rights defenders are able to undertake their activities and work in a safe and enabling environment free from restriction.

#### **Section 9- Obligation to facilitate the activities and work of human rights defenders**

- XV. Government shall take all necessary measures to facilitate and protect the exercise of to facilitate the activities of human rights defenders for the promotion and protection of human rights, and in particular by:
- a) Permitting and facilitating access of human rights defenders to places of detention in accordance with the law;
  - b) Permitting and facilitating access to the information necessary for their activities in accordance with the law.
  - c) to 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

d) to promote and publicly acknowledge the role, function, activities and work of human rights defenders as legitimate and important.

### **Section 10- Obligation not to disclose confidential sources**

XVI. Government and public authorities shall not disclose or require disclosure of the identity of sources used by human rights defenders.

XVII. Notwithstanding Section 9(XVI), Government and public authorities may disclose the identity of sources used by human rights defenders if both the relevant source and the relevant human rights defender give informed consent in writing to such disclosure or if so required by an independent and impartial tribunal in accordance with international standards.

### **Section 11- Obligation to prevent and to ensure protection against intimidation or reprisal**

XVIII. Government shall ensure the protection of human rights defenders and members of their families in the event of risks or dangers in the pursuit of their activities.

XIX. Government and shall take all necessary measures to ensure the prevention of, and protection against, any intimidation or reprisal by any other public or private actor.

XIX. Government shall ensure that violations committed against human rights defenders are punishable in accordance with the law.

### **Section 12 - Obligation to implement protection and urgent protection measures**

XX. Government and Public authorities shall take all necessary measures to fully and effectively implement protection and urgent protection measures determined under **Part V** of this Law.

### **Section 13 - Obligation to conduct investigation**

XXI. 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 Part II of this Law, whether by a public authority or private actor within the territory or subject to the jurisdiction, including the power or effective control, of Sierra Leone, the Government through the Office of the Attorney-General and Minister of Justice must ensure that a prompt, thorough, effective, independent and impartial investigation is conducted with due diligence and is prosecuted as appropriate. An investigation pursuant to section (11) 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;
- 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.

XXII. During an investigation pursuant to section 0, the Attorney General and Minister of Justice shall consult with the Mechanism established under Part V and keep the victim, or his or her family, relatives or associates, informed of the status of the investigation.

XXIII. 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 section (11)

XXIV. Where the Attorney-General and Minister of Justice is unable or unwilling to conduct an investigation pursuant to section 11 Government shall request assistance to conduct such an investigation from relevant international or regional human rights bodies or mechanisms.

**Section 14- Obligation to ensure effective remedy and full reparation**

XXV. Government shall take all necessary measures to ensure that an effective remedy and full reparation are available and provided for violations of the rights in Part II of this Law and for breach of the obligations in Part IV of this Law.

**Section 15. Assistance to human rights defenders abroad**

XXVI. Public authorities shall take all necessary steps within their power in conformity with national and international obligations and standards to provide assistance to a Sierra Leonean 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.

XXVII. The assistance referred to in subsection (1) may include, as required by the nature of the intimidation or reprisal and the nationality of the human rights defender concerned:

- (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;
- (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;

- (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;
- (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.

## **PART V - MECHANISM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS**

### **Section 16 - Establishment and Structure of Mechanism**

- XXVIII. The Government of shall establish a Mechanism for the Protection of Human Rights Defenders, hereinafter called the Human Rights Defenders Steering Committee which shall have responsibility for coordinating the protection of human rights defenders. The Human Rights Defenders Steering Committee shall be located within the Human Rights Commission of Sierra Leone and shall comprise *the Human Rights Commission of Sierra Leone, Human Rights Defenders Network – SL, Sierra Leone Police, Sierra Leone Association of Journalists, and the Office of the Attorney-General and Ministry of Justice.*
- XXIX. The Human Rights Defenders Steering Committee shall comprise of Nine (9) members:
- a) Four (4) Representatives of the Human Rights Defenders Network –SL of whom Two (2) shall be women;
  - b) One (1) Representative of the Human Rights Commission of Sierra Leone;
  - c) One (1) Representative of Office of the Attorney-General & Ministry of Justice;
  - d) One (1) Representative of the Sierra Leone Association of Journalists;
  - e) One (1) Representative of the Sierra Leone Police;
  - f) One (1) Representative of the Sierra Leone Correctional Services ;
- XXX. The Human Rights Defenders Steering Committee shall appoint among its members a Chairperson, Vice-Chairperson and the Human Rights Commission shall provide a Secretary to the Committee.
- XXXI. Membership of the Committee shall be voluntary and shall be a period two years term and for not more than 2 consecutive terms.

XXXII. The Human Rights Defenders Steering Committee shall develop its standing orders and modus operandi and shall have powers to make statutory instruments and regulations to give effect to provisions in this law.

**Section 17 - Functions of the Human Rights Defenders Steering Committee**

XXXIII. The Human Rights Defenders Steering Committee shall fulfil the following functions:

- (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;
- (d) facilitate 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.

XXXIV. In fulfilling the functions in section (17) subsection (XXXIII), the Human Rights Defenders Steering Committee shall:

- a) monitor and respond to the situation of human rights defenders in Sierra Leone, including risks to their security, and legal and other impediments to a safe and enabling environment that is conducive to their work;
- 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 6 months of the entry into force of this Law;
- d) carry out assessments of risks, vulnerability or conflict at the local and national 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 against Human Rights Defenders under the existing laws.
- f) 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;
- g) monitor and prepare annual reports on the situation of human rights defenders in Sierra Leone 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 to be included in the Annual State of Human Rights Sierra Leone Report;

- h) 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;
- i) 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
- j) prepare and submit reports and communications on the situation of human rights defenders in Sierra Leone to relevant international and regional human rights bodies and mechanisms.

### **Section 18 - Implementation of Law and functioning of the Human Rights Defenders Steering Committee**

XXXV. The Human Rights Defenders Steering Committee, 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. The first review shall be carried out within 24 months of the entry into force of this Law.

### **Section 19 – Consultation with civil society**

XXXVI. The Human Rights Defenders Steering Committee shall consult with human rights defenders and other civil society actors in relation to all aspects of the work of the Mechanism.

### **Section 20 – Financial Resources**

XXXVII. The Government of Sierra Leone shall provide adequate financial resources to the Human Rights Defenders Steering Committee to enable it to fulfil its functions and exercise its powers fully and effectively.

XXXVIII. To fulfil the purposes of this Law and for the purpose of obtaining financial resources the Government of Sierra Leone shall establish a Fund for the Protection of Human Rights Defenders which shall be a separate budget line within the budget of the Human Rights Commission of Sierra Leone.

XXXIX. The Fund's resources shall be used exclusively for the implementation of protection and prevention measures and other acts authorised under this Law.

XL Provided that there is no actual or apparent conflict of interest, the Fund may receive:

- a) grants and loans from the public sector and the private sector;
- b) contributions from domestic and foreign persons, groups, associations and organisations and institutions.

XLI. The Fund shall be utilised by the Human Rights Defenders Steering Committee and other entities authorised by the g Committee.

XLII. The Fund shall be administered with full transparency and a report of the Fund's use shall be included in the Human Rights Defenders Steering Committees's annual report.

#### **PART VI - MISCELLANOUS PROVISIONS**

XLIII. The Human Rights Defenders Steering Committee may make regulations or guidelines to further provide for the operationalisation of this Law.

#### **Section 2I- Non-discriminatory Application**

XLIV. This Law applies to all human rights defenders under the jurisdiction, territory, or control of Sierra Leone without distinction of any kind, such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth, disability, sexual orientation, gender identity, sex characteristics or other status.

#### **Section 22**

#### **Memorandum of objects**

XLV The purposes of this Law are:

- a) to recognise, respect, protect, promote and fulfil the right of everyone, individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms, at the national and international levels;
- b) to affirm, promote and protect human rights and fundamental freedoms in Sierra Leone;
- c) to affirm Sierra Leone's commitment to the effective implementation of 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
- d) to affirm Sierra Leone's commitment to the effective implementation of relevant regional and international instruments and documents on the protection of human rights defenders –(.African Commission on Human and Peoples' Rights Mandate of the Special Rapporteur on Human Rights Defenders 2004, European Union Guidelines on Human Rights Defenders of 2004 and The United Nations Declaration on Human Rights Defenders of 1998).