

Bill No. 218 of 2017

THE PROTECTION OF HUMAN RIGHTS (AMENDMENT) BILL, 2017

By

DR. UDIIT RAJ, M.P.

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BILL

further to amend the Protection of Human Rights Act, 1993.

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

1. This Act may be called the Protection of Human Rights (Amendment) Act, 2017. Short title.

10 of 1994. **2.** In section 2 of the Protection of Human Rights Act, 1993 (hereinafter referred to as the principal Act), in sub-section (I), clause (a) shall be omitted. Amendment of section 2.

3. Section 19 of the principal Act shall be omitted. Omission of section 19.

Substitution
of new section
for section
30.

4. For section 30 of the principal Act, the following section shall be substituted,
namely:—

Human Rights
Courts.

**"30. For the purpose of providing speedy trial of offences arising out of violation
of human rights, the State Government shall, with the concurrence of the Chief
Justice of the High Court, by notification, set up for each district a special court to
be a Human Rights Court to try the said offences."** 5

STATEMENT OF OBJECTS AND REASONS

The protection of Human Rights Act, 1993, is a landmark legislation in the field of human rights. The Act, no doubt, meets the demand of the present times and takes care of all kinds of violations of human rights. However, there are two serious shortcomings in this Act which may render it less effective than what it was intended to be. The first shortcoming is the special procedure to be followed by the Commission in dealing with complaints of human rights violations by members of the armed forces under section 19 of the Act. The Commission, as such, has no authority to investigate or try the offences committed by the members of the armed forces. Since the members of the armed forces are likely to become target of malicious attack by vested interests and since the special procedure prescribed for members of armed forces is, in essence, against the spirit of this legislation, it would be proper that armed forces are also brought under the jurisdiction of the Commission and the special procedure with respect to armed forces be dispensed with.

The second shortcoming is that of the discretionary provision of setting up of special courts for trying the offences under this law. Since these offences are being treated on a special footing, the instrumentality of ordinary courts will be ineffective and time-consuming and hence would defeat the very object of the law. Therefore, it has been proposed in the Bill to make it obligatory on the part of the State Governments to set up special courts for each district for speedy trial of offences arising out of violations of human rights.

The Bill seeks to achieve the above objectives.

NEW DELHI;
November 28, 2017.

UDIT RAJ

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that every State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, set up special courts in each district for speedy trial of offences arising out of violation of human rights. The setting up of special Courts in Union Territories will involve expenditure out of the Consolidated Fund of India. As far as States are concerned, the expenditure involved for setting up of special Courts shall be borne out of the Consolidated Funds of the respective States. However, the Central Government may have to assist the State Governments in setting up of special Courts.

The Bill, therefore, if enacted, will involve expenditure out of the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty five lakh per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten lakh from the Consolidated Fund of India.

ANNEXURE

EXTRACT FROM THE PROTECTION OF HUMAN RIGHTS ACT, 1993

(10 OF 1994)

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2. (1) In this Act, unless the context otherwise requires,— Definitions.

(a) "armed forces" means the naval, military and air forces and includes any other armed forces of the Union;

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19. (1) Notwithstanding anything contained in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely:— Procedure with respect to armed forces.

(a) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(b) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.

(2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

(3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

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CHAPTER VI

HUMAN RIGHTS COURTS

30. For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences: Human Rights Courts.

Provided that nothing in this section shall apply if—

(a) a Court of Session is already specified as a special court; or

(b) a special court is already constituted, for such offences under any other law for the time being in force.

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BILL

further to amend the Protection of Human Rights Act, 1993.

(Dr. Udit Raj, M.P.)