

A HUMAN RIGHTS DEFENDERS AGENDA FOR JUST FUTURES

act:onaid

ActionAid Association (India)


 www.actionaidindia.org

  @actionaidindia

 actionaidcomms

 @company/actionaidindia

 actionaid_india

 ActionAid Association
F-5 (First Floor), Kailash Colony New
Delhi -110048

 +9111-11-40640500





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A Human Rights Defenders Agenda for Just Futures

Introduction

Human rights, social and ecological justice defenders are essential to democratic structures, working tirelessly to hold authorities accountable and advocate for justice and sustainable development. These individuals and their organizations serve and pursue the interests of rights holders, victims of violations and society. In India, a nation recognized for its vibrant democracy and growing economy, human rights defenders play a crucial role in fostering socio-economic, political, and cultural development. The Indian Constitution guarantees human rights and freedoms. We must ensure that governance institutions create an ecosystem that protects and promotes the rights of everyone.

For decades, ActionAid Association has worked with thousands of community-based Human Rights Defenders (HRDs) who have been making strong interventions in different geographies across India on a wide range of issues. The issues include child rights, women's rights, workers' rights, land rights, Dalit rights, minority rights, tribal rights and ecological justice. More than 32,000 community-based Human Rights Defenders help us remain grounded across the 25 states, and two Union Territories ActionAid Association works.

Human Rights Defenders, particularly community-based or frontline defenders, help meet last-mile governance objectives by facilitating access to policies and schemes of the Government. They help ground democracy by bringing the voices of vulnerable communities into village and community-level planning processes and proceedings of local governance structures, including Panchayati Raj Institutions and Urban Local Bodies. They act as first responders whenever individuals or groups face denial of rights.

Despite these constitutional guarantees, there is a need for more robust legal recognition and protection for human rights defenders in India. "A Human Rights Defenders' Agenda for Just Futures" outlines comprehensive measures for their protection, including legal

recognition, protection measures, support for advocacy work, access to information, the right to peaceful assembly, protection against intimidation and reprisal, effective remedy and reparation, obligations of public authorities, establishment of a protection mechanism, consultation with civil society and provision of adequate resources and training.

The implementation of these measures is crucial to ensuring that human rights defenders can live and work in a secure and supportive environment, free from attacks, reprisals, and unreasonable restrictions. By legally recognizing and protecting defenders, our country can further uphold human rights and promote democracy, good governance, sustainable development, and respect for the rule of law.

This document has emerged from a series of consultations with Human Rights Defenders across the country, including community-based Human Rights Defenders that ActionAid Association is privileged to be associated with.

Legislative Actions

Enactment of Comprehensive Legislation

We must enact comprehensive legislation dedicated to the protection of human rights defenders. The legislation must align with international human rights covenants and our nation's constitutional mandates to ensure the safety and freedom of those defending our rights. Important factors that the law should cover include:

- » **Legal Recognition for Human Rights Defenders:** Formal legal recognition of human rights defenders will solidify their role and protect their activities under the law. This recognition is crucial for ensuring that defenders can carry out their duties without fear of legal repercussions or threats to their safety.
- » **Facilitation of Activities:** The law should mandate government entities to create an enabling environment for social and ecological justice defenders to carry out their activities freely, including removing bureaucratic hurdles and ensuring access to necessary resources.

- » **Support for Advocacy Efforts:** Authorities should be obligated to support defenders in their advocacy efforts by providing platforms for engagement, facilitating dialogue with relevant stakeholders, and amplifying their voices at national and international levels.
- » **Access to Information:** The law should ensure free access to materials relating to human rights, socio-economic justice, and ecological sustainability for defenders and civil society organizations.
- » **Prevention and Protection Against Intimidation:** Under the law, the Government should be accountable for taking proactive measures to prevent intimidation or reprisals against defenders. It must protect and safeguard human rights defenders from intimidation, reprisal, defamation, or stigmatization associated with their status, activities, or work as defenders.
- » **Prompt Investigation and Accountability:** Authorities should conduct prompt, impartial, and thorough investigations into violations against defenders and hold perpetrators accountable for their actions.
- » **Effective Remedy and Full Reparation:** Human Rights Defenders should have access to effective remedies and avenues for seeking redress for any violations of their rights, including full reparation, compensation, rehabilitation, and measures to prevent recurrence.
- » **Criminalization of Intimidation and Reprisal:** The law should establish intimidation and reprisal against defenders as criminal offences, with appropriate penalties determined by the gravity of the offence.
- » **Promotion and Facilitation of Education:** Concerned departments and bodies of the Government should be accountable for promoting and facilitating education on human rights, socio-economic policies, ecological sustainability, and the role of defenders within all sectors of society, ensuring inclusivity and accessibility.
- » **Implementation of Protection Measures:** Authorities should implement comprehensive protection measures to safeguard defenders against threats, harassment, and violence, including

monitoring and evaluation to assess effectiveness and address shortcomings.

- » **Establishment of Protection Fund:** The law should mandate that the Government establish a fund that protects social and ecological defenders. This fund should aim to provide financial resources to support activities and initiatives aimed at safeguarding the rights and safety of social and ecological defenders.

Other Legislative Measures

- » **Strengthening the RTI Act to Support Human Rights Defenders:** The Government should support Human Rights Defenders (HRDs) by maintaining the Right to Information Act for HRDs. This includes ensuring timely and unrestricted access to information related to human rights and fundamental freedoms, including details on their implementation in legislative, judicial, and administrative systems at all levels. The scope of information accessible under the RTI Act should be expanded to include data from business enterprises and other entities, as necessary for HRDs to exercise or protect human rights or fundamental freedoms. Additionally, the Government should provide legal protections and support for HRDs who use the RTI Act to obtain information to promote transparency, accountability, and the observance of human rights and fundamental freedoms. Furthermore, the Government should facilitate a conducive environment for HRDs to study, discuss, form, and hold opinions on the observance of human rights and fundamental freedoms, both in law and practice, through information obtained under the RTI Act.
- » **Stronger Whistle Blower Protection Act:** A reformed Whistle Blower Protection Act (WBPA) in India is essential to empower Human Rights Defenders (HRDs) by allowing anonymous reporting, extending coverage of private sector companies and establishing a robust witness protection program with independent oversight. The reformed WBPA should also include stricter timelines for investigations and harsher penalties for retaliation against whistleblowers. Enhancing the WBPA and raising awareness among HRDs will foster a safer environment for these defenders to advocate for human rights effectively.

Need For Protection Measures

- » **Establishment of a Protection Mechanism:** Maintain, designate, or establish a mechanism for protecting human rights defenders, coordinating their protection, preventing intimidation, and ensuring investigation and accountability for acts of intimidation or reprisal.
- » **Digital Security:** Enhance digital security measures for human rights defenders to protect them from online harassment, surveillance, and cyberattacks, ensuring their safety in the digital realm.
- » **Inclusion and Diversity:** Ensure that protection measures and policies are inclusive and address the diverse needs and challenges faced by human rights defenders from different backgrounds, including women, indigenous people, and marginalized communities.
- » **Emergency Response Mechanisms:** Develop rapid response mechanisms to provide immediate assistance and protection to human rights defenders in crises or under imminent threat.
- » **Effective Remedy and Reparation:** Establish mechanisms to provide Human Rights Defenders with an effective remedy and full reparation in the event of a violation of their rights or a breach of obligations under the protection framework.
- » **Obligations of Public Authorities:** Establish a robust monitoring and reporting system to ensure that public authorities respect, promote, protect, and fulfil the rights of human rights defenders, facilitate their activities, provide free access to human rights materials, and safeguard against arbitrary intrusion and interference.
- » **Consultation with Civil Society:** Ensure that the protection mechanism for human rights defenders operates in close consultation with civil society and human rights defenders.
- » **Human Rights Defenders Protection Fund:** Establish a dedicated fund to support HRDs in need, providing financial assistance for legal fees, medical expenses, relocation costs, and other emergency

needs. The fund should be accessible and responsive to the urgent requirements of HRDs facing threats or persecution.

- » **Witness Protection Program:** Implement a witness protection program for HRDs at risk due to their testimony or evidence provided in human rights cases. The program should offer relocation, identity protection, and security assistance to ensure the safety of HRDs and their families.

Need For a Supportive Environment

- » **Support for Advocacy Work:** Enable human rights defenders to freely conduct advocacy work supporting individual and collective rights, including but not limited to civil, political, economic, social, and cultural rights. This includes ensuring access to necessary resources, information, and platforms to voice their advocacies.
- » **Right to Peaceful Assembly:** Uphold the right of human rights defenders to meet or assemble peacefully and to participate in peaceful activities concerning human rights and fundamental freedoms without arbitrary or unlawful interference.
- » **Legal Aid and Assistance:** Establish a dedicated legal aid fund and set up legal clinics that offer pro bono legal services to HRDs, including legal counselling, representation in court cases, and assistance with navigating legal processes. These clinics can also provide training on legal rights and mechanisms for HRDs to safeguard their work.
- » **Public Awareness Efforts:** Initiate public awareness campaigns to highlight the significance of human rights defenders and their contributions to Nation-building and the welfare of society, thereby cultivating a supportive atmosphere for their endeavours.
- » **Recognition and Awards:** Establish awards and recognition programs to honour and celebrate the achievements and contributions of human rights defenders, raising their profile and acknowledging their dedication to justice and human rights.

Need For a Supportive Institutional Framework

- » **24/7 Helpline for Human Rights Defenders:** Establish a 24/7 helpline dedicated to human rights defenders, providing them with immediate access to assistance, guidance, and support in case of emergencies or threats. This helpline should be staffed by trained professionals who can offer legal advice, psychological support, and emergency response coordination.
- » **Special Unit for Human Rights Defenders in the National Human Rights Commission:** Create a special unit within the National Human Rights Commission (NHRC) focused on protecting human rights defenders. This unit should be responsible for monitoring the situation of HRDs, addressing their complaints, and coordinating with relevant authorities to ensure their safety and security. The unit should also engage in proactive measures such as awareness-raising and capacity-building for HRDs.
- » **Human Rights Defenders Advisory Council:** Create a Human Rights Defenders (HRD) Advisory Council composed of representatives from HRD organizations, civil society, Government, academia, and the legal community. The council should provide expert advice on policies, strategies, and actions needed to strengthen the protection and promotion of HRDs.
- » **Parliamentary Committee on Human Rights Defenders:** Form a dedicated parliamentary committee to oversee issues related to HRDs, monitor the implementation of protection measures, and engage in legislative reforms to enhance the legal framework for the protection of HRDs.

Capacity Building And Awareness

- » **Capacity Building Programs:** Develop and implement capacity-building programs for HRDs, focusing on security measures, digital safety, advocacy skills, and knowledge of national and international human rights mechanisms. We should tailor these programs to

the diverse needs of HRDs, including those from marginalized communities.

- » **Training and Sensitization Initiatives:** Develop and implement targeted training and sensitization initiatives for Government officials, law enforcement agencies, and the judiciary to enhance their understanding of the role and rights of human rights defenders, ensuring their respect and protection.
- » **Adequate Resources and Training:** Provide adequate financial resources and training to the protection mechanism and all personnel involved in protecting human rights defenders to ensure their effective functioning and the full implementation of the protection framework.
- » **Strengthening Human Rights Education and Awareness:** The Government should ensure that public authorities are obligated to promote and facilitate human rights education, social justice policies, and ecological sustainability, along with recognizing the role of Human Rights Defenders (HRDs). This includes adequately resourcing teaching, training, and education about human rights and freedoms, social justice policies, ecological sustainability, and the role of HRDs within all public authorities and to all individuals within the jurisdiction or under the control of India. Teaching, training, and education programs should encompass information about relevant laws and the crucial and legitimate work of HRDs.
- » **Public Awareness and Education:** Launch public awareness campaigns and educational programs to highlight the role and importance of human rights defenders, promoting societal respect and support for their work.