

Bill No. XXXI of 2017

THE PREVENTION OF ENFORCED DISAPPEARANCE BILL, 2017

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BILL

to provide punishment for enforced disappearance of any person by public servants or any person subjecting a person to an enforced disappearance with the consent or acquiescence of any public servant, and for matters connected therewith incidental thereto.

WHEREAS India is a signatory to the United Nations International Convention for the Protection of All Persons from Enforced Disappearance:

AND WHEREAS it is considered necessary to ratify the said Convention and to provide for more effective implementation.

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

1. (1) This Act may be called the Prevention of Enforced Disappearance Act, 2017.

(2) It extends to the whole of India.

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

Short title,
extent
and
commencement.

Definitions.	<p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) words and expressions used shall have the same meanings respectively assigned to them in the Indian Penal Code; and</p> <p>(b) any reference to any enactment or any provision thereof shall in any area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law if any, if force in that area.</p>	<p>45 to 1860</p> <p>5</p>
Enforced disappearance.	<p>3. Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally does any act which deprives any person of their liberty, including arrest, detention, or abduction, which is followed by a refusal to acknowledge such deprivation of liberty or concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law is said to effect an enforced disappearance:</p> <p>Provided that nothing contained in this section shall apply to any deprivation of liberty or arrest or detention as aforementioned caused by any act, which is inflicted in accordance with any procedure established by law.</p> <p><i>Explanation.</i>—For the purposes of this section, ‘public servant’ shall, without prejudice to section 21 of the Indian Penal Code, also include any person acting in his official capacity under the Central Government or the State Government.</p>	<p>10</p> <p>15</p> <p>45 to 1860</p>
Punishment for enforced disappearance.	<p>4. Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, subjects a person to enforced disappearance for whatever purpose, shall be punishable with imprisonment of either description for a term of no less than three years which may extend to ten years and shall also be liable to fine.</p>	<p>20</p>
Punishment for disregarding information of an enforced disappearance.	<p>5. Whoever, being a public servant, was aware of or consciously disregarded information of any enforced disappearance effected by subordinates under his effective authority, and failed to submit the matter to the competent authority for investigation and prosecution, shall be punishable for a term of no less than one year which may extend to ten years and shall also be liable to fine.</p>	<p>25</p>

STATEMENT OF OBJECTS AND REASONS

India signed the International Convention for the Protection of All Persons from Enforced Disappearance (as drafted by the United Nations General Assembly on 29th June, 2006) on 6th February, 2007. To ratify the Convention, it is necessary to enable legislation to reflect the definition and punishment for “enforced disappearance”, and bring domestic laws in conformity with the Convention.

2. The legislation fulfils India's commitment to the United Nations, to the Universal Declaration of Human Rights and to a legal system that offers remedies for human rights violations by the State.

3. Enforced disappearances are human rights violations which not only cause an unlawful deprivation of liberty of the individual, but cause psychological, economic and social distress to the families of the “disappeared” individual who are unaware of the fate of the person. The legislation recognises, as in the Convention, the “right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end.”

4. India's history is marred with violations of human rights and enforced disappearances. A Human Rights Watch report in 2007 noted the revelation of 6,000 secret cremations by the police in just one of the erstwhile districts of Punjab. A report by Association of the Parents of Disappeared Persons indicated that more than 8,000 people have gone missing under suspicious circumstances in Jammu and Kashmir between 1989 and 2008. As regularly reported, the incidents are not limited to disturbed areas but affect people of all ages and professions in the States of Andhra Pradesh, Gujarat, Maharashtra, Uttar Pradesh, Bihar, Rajasthan and Orissa. It is necessary to enable legislation that prevents future enforced disappearances, and protects the citizens from such crimes.

5. The proposed legislation, *inter alia*, defines the expression “enforced disappearance”, and provides punishment for those involved in subjecting an individual to an enforced disappearance.

6. The Bill seeks to achieve the above objects.

V. VIJAYASAI REDDY

RAJYA SABHA

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(Shri V. Vijayasai Reddy, M.P.)