

AN ACT FOR FAIR NEGATION, SALUTARY REGULATION AND SPECIAL LEGITIMATION, IN PUBLIC INTEREST, OF HARTALS AND VALIDATION OF WORKERS RIGHT TO STRIKE BILL

A bill in order generally to prohibit and largely to regulate the conduct of hartals, and expressly to affirm the workers' right to strike in our Socialist Republic.

BE it enacted in the 59th Year of the Republic of India as follows:—

1. *Short title, application and commencement.*—(1) This Act may be called the Act For Fair negation, Salutary Regulation and Special Legitimation, in Public Interest, of Hartals and Validation of Workers' Right to Strike Bill—.

(2) It applies to whole of the State of Kerala;

(3) It will come into force on such date as may be notified by the Government of Kerala in the Gazette.

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

(a) 'Hartal' Hartal, by whatever nomenclature expressed or vogue-word used, means and includes any form of forced cessation of activity or diversion of business or occupation in its widest comprehension, such cessation being at the instance of any other person or organization, to create public pressure, social tension, economic intimidation or apprehension of violence to advance a cause or campaign sponsored by the organizers of the hartal:

Provided that Hartal, under this Act, shall not include any strike by workers or organized by any trade union or professional body which otherwise complies with the provisions of the Industrial Disputes Act, The Trade Union Act and other law governing trade union activity and workers' rights and functions:

Provided further that the right of workers to go on strike is confined to the purpose of advancing a worker issue, agitational demand, alleged grievance, social welfare dispute, trade union problem, without interfering with the freedom of any other person's trade or business or undertaking or other lawful activity, other extraneous or non-trade union violation shall not be eligible for immunity under this Act.

3. *Control of Hartals.*—(a) On and after the commencement of this Act, no person, group or organization shall have a right to call or conduct any hartal except in the manner permitted by this Act.

(b) No person shall organize, or abet the conduct of, a hartal for any reason whatever without ten days public notice promulgated adequately through the media and to the fair knowledge of public bodies likely to be affected by the proposed hartal.

4. *Hartals to be conducted only subject to conditions.*—(1) (a) before 6 A.M. or after 6 P.M. or thwart the movement of any person, agency, business or instrumentality by use of force or threat thereof or other means by which freedom of action of another is in any manner forbidden or obstructed.

(b) Directly or indirectly deter, hamper or disable the normal functioning of any public institutions or utility services including any centre or organization, educational, charitable, pro bono or otherwise giving relief to a human being or compassionate succour to any living creature.

(2) No trade, business or undertaking, no transport vehicle or facility shall be closed or stopped totally or partially out of apprehension of or actual use of violence caused or threatened by operation of any hartal or strike by the organizers or sympathizers thereof. The State shall in every reasonable manner forbid or prevent such behaviour or conduct adversely affecting the fundamental rights of members of the public.

5. *Hartals to be prohibited by the Government.*—Hartals, when they cause stoppage of business or activity essential for the life of the community, shall be effectively prohibited by the State Government directly or through other delegated authority even though 10 days notice has been given.

6. *Police to render Assistance needed to exercise legal rights.*—The State police and other law and order authorities of the State shall, on request by any person, help him to exercise his lawful rights during the hartal hours if any one prevents such exercise using or threatening force for such purpose.

7. *Offences and Punishments.*—It shall be an offence punishable with imprisonment upto 6 months if any one is prevented by any other, on the ground of a hartal, from visiting a hospital or hotel or educational institution or fuel delivery station or transport process. Free access in such cases shall be provided by the police and other state agencies. Failure to help any person in such need shall be a dereliction of duty by the State agency punishable with fine upto Rs.10,000.

8. *Abetment of Hartal and consequence.*—If the Government or any administrative officer under the Government in any manner connives at or abets hartals which are an offence as defined in this Act the affected person may move the court having jurisdiction for ordering compensation under Section 9.

9. *Constitution of Compensatory Fund and payment of compensation.*— (1) A fund shall be constituted by the Government for the purpose of paying damages to persons who are affected by any such hartal conducted in spite of the prohibition, if so ordered by judicial process.

10. Government shall frame Rules for effectively implementing the provisions of this Act.

Statement of Objects and Reasons

India has been passing through developmental decades after winning Independence and liberating itself from imperialist inhibitions holding up national progress. Kerala with its caste lunacy and religious divisiveness is unable to advance notwithstanding its educational status and socialistic ethos. Unless the entire Kerala people work hard with a developmental dimension and vision a better tomorrow may remain a dream. Unfortunately, we have too many holidays in the name of plurality of religions. This situation is aggressively aggravated by hartals and bandhs which keep the community lazy doing no work and keeping society in stagnancy. Therefore hartals are a hindrance to human advance and deserve to be regulated and even prohibited although the right to strike by workers may still remain. It is significant to note that there has been considerable expression of adverse opinion by the leading media and vehicles of social justice in support of the prohibition of hartals. It is in this background the Bill has been drafted.