



Trafficking in Persons (Prevention, Care & Rehabilitation) Draft Bill 2021

Why in News

The Indian Leadership Forum Against Trafficking (ILFAT) has written to the Ministry of Women and Child Development identifying gaps in the **Trafficking in Persons (Prevention, Care and Rehabilitation) draft Bill 2021**, which is expected to be tabled in the Winter session of [Parliament](#).

Key Points

▪ Issues with the Bill:

- While the Bill provides rehabilitation to the survivors, it **does not extend the relief beyond shelter homes**.
 - There is a demand for a community-based rehabilitation model that provides health services, legal aid, access to welfare schemes and income opportunities crucial for ensuring “all-round reintegration of victims” back into their community and family.
- According to the [United Nations](#)’ human rights experts, it was not in accordance with the [international human rights laws](#).
- The Bill seemed to **combine sex work and migration with trafficking**.
- The Bill was criticised for addressing **trafficking through a criminal law perspective** instead of complementing it with a human-rights based and victim-centred approach.
- It was also criticised for **promoting “rescue raids” by the police as well as institutionalisation of victims** in the name of rehabilitation.
- It was pointed out that certain vague provisions would **lead to blanket criminalisation of activities** that do not necessarily relate to trafficking.

▪ Provisions in the New Bill:

- **It extends to all citizens inside as well as outside India,**
 - Persons on any ship or aircraft registered in India wherever it may be or carrying Indian citizens wherever they may be,
 - A foreign national or a stateless person who has his or her residence in India at the time of commission of offence under this Act, and
 - The law will apply to every offence of trafficking in persons with cross-border implications.
- **Victims Covered:**
 - It extends beyond the protection of women and children as victims to **now include transgenders as well as any person** who may be a victim of trafficking.
 - It also does away with the provision that a victim necessarily needs to be transported from one place to another to be defined as a victim.
- **Defines ‘Exploitation’:**
 - The exploitation of the prostitution of others or other forms of sexual exploitation

including pornography, any act of physical exploitation, forced labour or services, slavery or practices similar to slavery, servitude or forced removal of organs, illegal clinical drug trials or illegal bio-medical research.

- **Government Officers as Offenders:**

- Offenders will also include defence personnel and government servants, doctors and paramedical staff or anyone in a position of authority.

- **Penalty:**

- A minimum of seven years which can go up to an imprisonment of 10 years and a fine of Rs 5 lakh in most cases of child trafficking.
- In case of the trafficking of more than one child, the penalty is now life imprisonment.

- **Similarity to Money laundering Act:**

- Property bought via such income as well as used for trafficking can now be forfeited with provisions set in place, similar to that of the [money laundering Act](#).

- **Investigation Agency:**

- The [National Investigation Agency \(NIA\)](#) shall act as the national investigating and coordinating agency responsible for prevention and combating of trafficking in persons.

- **National Anti-Human Trafficking Committee:**

- Once the law is enacted, the Centre will notify and establish a National Anti-Human Trafficking Committee, for ensuring overall effective implementation of the provisions of this law.
- This committee will have representation from various ministries with the home secretary as the chairperson and secretary of the women and child development ministry as co-chair.
- State and district level anti-human trafficking committees will also be constituted.

- **Significance:**

- The transgender community, and any other person, has been included which will **automatically bring under its scope activity such as organ harvesting**.
- Also, **cases such as forced labour**, in which people lured with jobs end up in other countries where their passports and documentation is taken away and they are made to work, will also be covered by this new law.

Human Trafficking Situation in India

- **Data Analysis:**

- According to the [National Crime Records Bureau \(NCRB\)](#) data, a total of 6,616 human trafficking cases were registered in the country in 2019, as compared to 5,788 cases in 2018 and 5,900 cases in 2017.
- Children make up almost **a third of all human trafficking victims worldwide**, with the situation being more disturbing in India for children.
 - According to the NCRB 2018 data, 51% of all trafficking victims were children, of which more than 80% were girls.
 - The recently orphaned children in India, due to the [Covid-19 pandemic](#), also run the increased risk of trafficking in the garb of adoption, employment or livelihood and shelter.

- **Legislations in India that Prohibits Human Trafficking:**

- [Article 23 \(1\)](#) in the constitution of India prohibits trafficking in human beings and forced labour.
- The Immoral Traffic (Prevention) Act, 1956 (ITPA) penalizes trafficking for commercial

sexual exploitation.

- India also prohibits bonded and forced labour through the Bonded Labour System (Abolition) Act 1976, Child Labour (Prohibition and Abolition) Act 1986, and Juvenile Justice Act.
- Sections 366(A) and 372 of the Indian Penal Code, prohibits kidnapping and selling minors into prostitution respectively.
- Apart from this, the Factories Act, 1948 guaranteed the protection of rights of workers.

▪ **Related International Conventions, Protocols and Campaigns:**

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in 2000 as a part of the UN Convention Against Transnational Organised Crime (**Palermo Convention**).
- Protocol against the Smuggling of Migrants by Land, Sea and Air.
- [Universal Declaration of Human Rights \(1948\)](#).
- [Blue Heart Campaign](#).
- [Sustainable Development Goals](#)

Way Forward

- The Bill should be better realigned with the existing provisions of the [Juvenile Justice Act](#) and other relevant Acts to avoid duplicity or confusion for enforcement agencies.
- Since the effective implementation of the Act is dependent on lucid and consistent rules, it would be useful for the Central Government to prepare model rules for use by the States.

[Source: IE](#)

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