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Government clarifies on the Anti-Human Trafficking Bill

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The Ministry of Women and Child Development (WCD) has defended its Anti-Human Trafficking Bill which was recently passed by the Lok Sabha, and asserted that the proposed law did not criminalise consenting adult sex workers and migrants.

- The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 is the first ever comprehensive legislation in the country concerning trafficking in humans which deals with aspects of prevention, protection and rehabilitation to the victims.
- The UN human rights experts have expressed concerns over the measures contained in the Trafficking of persons (Prevention, Protection and Rehabilitation) Bill, 2018 stating that it is not in accordance with the international human rights laws.
- It has been stated that the Bill seems to combine sex work and migration with trafficking.
- The Bill has been criticised for addressing trafficking through a criminal law perspective instead of complementing it with a human-rights based and victim-centred approach.
- The Bill has been criticised for promoting “rescue raids” by the police as well as institutionalisation of victims in the name of rehabilitation.
- Also, it has been pointed out that certain vague provisions would lead to blanket criminalisation of activities that do not necessarily relate to trafficking.

Clarification by the Government

- Victims are placed in the safe environment of a rehabilitation home voluntarily. Rehabilitation has been provided as a matter of right to the victim, which is not contingent upon conviction of the offender.
- To give primacy to victims’ rights of privacy and dignity, provisions like speedy time-bound trials, immunity to victims in certain cases, reverse imposition of burden of proof, in camera trials and trial through video conferencing have been granted in the bill.

- The Bill is clear in excluding consenting adults from its purview. While it criminalises trafficking for the purpose of pushing a woman into sex work, it does not punish the act itself. The definition of trafficking has been taken from Section 370 of the Indian Penal Code, 1860 which does not apply to consenting adults and sex workers, as clarified by the J.S. Verma Committee.
- The Bill maintains a clear distinction between trafficking and the smuggling of migrants and it does not criminalise migration per se. It is the trafficker who is made liable under the Bill who promotes irregular and exploitative migration, and not the migrant.
- The Ministry of Women and Child Development has clarified that the Bill goes beyond legislation adheres to various international standards such as the Global Compact for Safe, Orderly and Regular Migration, the United Nations Office on Drugs and Crime Model Law against Trafficking in Persons, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) recommended Principles and Guidelines on Human Rights and Human Trafficking.

Trafficking of persons (Prevention, Protection and Rehabilitation) Bill, 2018

- The Bill provides for the establishment of a **National Anti-Trafficking Bureau (NATB)** to investigate trafficking cases and implement provisions of the Bill. Key functions of the Bureau include:
 - coordinating and monitoring surveillance along known routes
 - facilitating surveillance, enforcement and preventive steps at source, transit and destination points
 - maintaining coordination between law enforcement agencies and non-governmental organisations and other stakeholders
 - increasing international cooperation with authorities abroad for intelligence sharing, and mutual legal assistance.
- **State Anti-Trafficking Officers:** The state government will appoint a State Nodal Officer. He will be responsible for:
 - follow up action under the Bill, as per the instructions of the State Anti-Trafficking Committee
 - providing relief and rehabilitation services
- The Bill also provides for the setting up of **Anti-Trafficking Units (ATUs)** at the district level.
 - ATUs will deal with the prevention, rescue, and protection of victims and witnesses, and for the investigation and prosecution of trafficking offences.
 - In districts where an ATU is not functional, this responsibility will be taken up by the local police station.

- The Bill provides for the establishment of **Anti-Trafficking Relief and Rehabilitation Committees (ATCs)** at the national, state, and district levels. These Committees will be responsible for:
 - providing compensation to victims
 - repatriation of victims
 - re-integration of victims in society, among others
- **Search and rescue:** An Anti-Trafficking Police Officer or an ATU can rescue persons, if there is an imminent danger to them. They will be produced before a Magistrate or Child Welfare Committee for medical examination. The district ATC will provide relief and rehabilitation services to the rescued persons.
- **Protection and rehabilitation:** The Bill requires the central or state government to set up Protection Homes. These would provide shelter, food, counselling, and medical services to victims.
 - Further, the central or state government will maintain Rehabilitation Homes in each district, to provide long-term rehabilitation to the victims.
 - Rehabilitation of victims will not be dependent on criminal proceedings being initiated against the accused, or the outcome of the proceedings.
 - The central government will also create a **Rehabilitation Fund**, which will be used to set up these Protection and Rehabilitation Homes. The fund shall be maintained and monitored by National Anti Trafficking Bureau.
- **Time-bound trial:** The Bill provides for setting up designated courts in each district, which will seek to complete trial within a year.
- **Penalties:** The Bill specifies the penalties for various offences including for trafficking of persons, promoting trafficking, disclosing the identity of the victim and aggravated trafficking (such as trafficking for bonded labour and begging).

The Bill lays down a stringent punishment of 10 years to life imprisonment for aggravated forms of trafficking, which include buying or selling of persons for the purpose of bonded labour, bearing a child, as well as those where chemical substances or hormones are administered, and a survivor acquires life-threatening illnesses such as AIDS.