



Foundation of deceit on which the AHT Bill 2018 is being promoted

'It makes rehabilitation constitutional right of the victim'

1. There is no line or section that 'makes' rehabilitation as a constitutional right of the victim.
2. Even if it had stated so a law is a law and is lower in status to the Constitution of India and hence cannot declare on behalf of the constitution unless the constitution has already stated it unambiguously.
3. In our knowledge, the Constitution of India has not been recently amended to newly declared rehabilitation as the right of the victim so that the Bill can be accredited for that.

'It addresses all forms of trafficking'

The Bill is silent on trafficking in supply chain which is a major type of labour trafficking and labour exploitation, trafficking for commercial surrogacy, trafficking for illegal clinical trials, trafficking for mail bride/ contract marriages. Provisions against these forms have been in demand for two decades, however, the bill fails to address them.

'It creates Rehabilitation Fund for the victims'

How were the earlier rehabilitation programmes or are the existing rehabilitation programmes run if not with funds?

The Bill actually wrongfully puts claim on the compensation money rightfully due to a victim under Sec 357-A CrPC and the state level schemes made in the last 5 years and gives it away to the bureaucracy.

It doesn't understand 'rehabilitation' as different from prevention, protection and prosecution - a distinction that even a beginner in the anti-trafficking field understands. It makes provision to use the rehabilitation fund for prevention protection and prosecution (Sec 30-5).

'Punishment for omission of duty by the duty bearers of the State'

There is a false publicity given by the promoters of the Bill that the Bill provides for punishment to the officers of the State if they fail in their duty. It gives a false impression that the police will be out on cracking on the crime, arresting offenders and rescuing the victims failing which they will be punished.

Sec 38

Notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act **for providing care, protection and rehabilitation to a victim** or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Readers may carefully read the section and try to locate where the proposed provision states that the officers of the State will be held responsible for omission of their duty. On the contrary it skips talking about the key duties performed by the duty bearers of the State and focuses on care giving and rehabilitation which in fact are duties performed by the service providers belonging to the civil society sector.

- Note by Dr. Pravin Patkar