



Series: Analysing the Bill of the proposed Anti Trafficking Law 2018

Area: Mere Lip Service to Prevention

**The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill,
2018**

Although the word ‘Prevention’ features prominently in the title of the Act out of the total of 41 pages 15 chapters and 59 sections merely 1 page, 1 Chapter of a single section is devoted to Prevention which only tells us that the state shall facilitate and coordinate the activities of the other established bodies and programs.

As against that 3 chapters (namely Chapter II, III, IV) and 12 Sections running into 6 pages are devoted to only creating a variety of bureaucratic, mostly police heavy, bodies from the national to the district levels. Most of these Committees are uncalled for whose utility has not been established and are a sheer burden on the tax payers. They themselves will raise issues of coordination, cause duplication of supervision and lead to confusion, breakdown, and in the end, lead to bureaucratic delay.

The Section on prevention, in a sweeping manner, speaks about the measures the State shall take but none of these are concrete measures or established as a preventive measure. The Bill is entirely silent on some of the well-established and replicable measures of prevention which should have majorly driven the Bill-2018 at least in the domain of prevention. The most successful and globally famous anti trafficking intervention from India Prerana’s ‘Elimination of Second Generation Trafficking or intergenerational trafficking’ is primarily preventive in nature that is rights based, development oriented, sustainable and free from the police heavy ‘Crime & Punishment model that characterizes the Bill-2018.

Preventive social intervention against the religion based evil social custom of sex trafficking like the Devadasi system or the non-religious evil social custom of sex trafficking common in some of the communities in north west India like the Bedia and Banchadas should have found place in the Bill-2018.

Considerable work has been by the civil society and the Supreme Court to address the issue of missing children and to facilitate early intervention in the complaints of missing children by using digital technology, data management and sharing and biometrics which should have featured in the Bill-2018.

South Asia is notorious for labour trafficking in the Supply Chains. Laws on the line of the California state in the USA was demanded by a few informed anti trafficking activists. The Bill-2018 could have provided for effective monitoring of the intercountry labour recruitment agencies, mainstreamed the formation of Vigilance Committees on the lines of the Bonded Labour Act, etc.

It could have strengthened the implementation of the Right to Education Act - 2009 as a powerful preventive measure. All these issues and provisions are conspicuous by their complete absence in the Bill-2018.

Is it that the role of the proposed District and State Level anti trafficking committees is going to be restricted to just co-ordination and facilitation as stated in section 20(2)? Do we then even need such highly equipped bureaucratic bodies for the tasks of co-ordination and facilitation?

The civilized world is fast waking up to address the growing menace of digitized crime and use of social media facilitated by the internet. Online sex trade is a widespread phenomenon in India and online sex trafficking and labour trafficking are serious issues today. The net is full of advertisements from clinics and lawyers who work for commercial surrogacy. The much-demanded law against commercial surrogacy is yet to see the light of the day. It was expected that the Bill-2018 will effectively address the crime of online trafficking. The word internet appears in the text of the Bill-2018 only once and the word media appears twice in one section dedicated to online offences under the title offences related to media. The brief lip service offered to this area appears glaringly poor as compared the provisions in the Information Technology Act.

Out of the total 59 Sections, two subsections of Sec 36 and Sec 41 together in 9 lines sum up all the provisions of the Bill-2018 against online trafficking. Obviously, it has nothing for prevention of online sex trafficking, labour trafficking, or trafficking for contract marriages, or surrogacy.

Sec 36(1)(ii) states, advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner; or

Sec 42 - (1) states - Whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees.

CHAPTER VI

PREVENTIVE MEASURES

Sec 20 (1) The State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked.

(2) The measures referred to in sub-section (1) shall include—

(i) co-ordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj Institutions;

- (ii) facilitating the implementation of livelihood and educational programmes for vulnerable communities;
- (iii) facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government;
- (iv) co-ordinating with corporate sector to implement various schemes, programmes for the prevention of trafficking of persons;
- (v) ensuring accountability of the concerned agencies, by regular review and appropriate action;
- (vi) developing appropriate law and order framework to ensure prevention of trafficking of persons;
- (vii) undertaking vulnerability mapping of the State and give focus and attention to the challenging areas;
- (viii) commissioning independent research on various aspects of trafficking and ensure follow up action;
- (ix) organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons;
- (x) preparing an annual report on trafficking of persons in the State;
- (xi) co-ordinating with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes;
- (xii) linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

- *Note by Dr. Pravin Patkar assisted by Ms. Priti Patkar and Ms. Kashina Kareem*