



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

Area: Rehabilitation Fund

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

By logic, established usage and common sense many of the following highlighted activities fail to fit under the title of ‘Rehabilitation’ and thus fail to fall under utilization of the rehabilitation fund:

30. (3) The Rehabilitation Fund shall be utilised under this Act by the appropriate Government for
- (iii) strengthening legal assistance and support;
 - (vi) providing victim and witness protection;
 - (vii) awareness generation programmes for the prevention of trafficking of persons;
 - (viii) creating community-based programmes to identify, report and prevent trafficking of persons;

Rehabilitation as established by usage as well as by the definition given in Sec 2 of the Bill-2018 itself does not include Protection, Prevention and Prosecution.

Sec 2(q)

“rehabilitation” means all measures and processes of physical, psychological and social well-being of a person who is trafficked and includes access to education, skill development, health care including psychological and physiological support, medical services, economic empowerment, legal aid and assistance, safe and secure accommodation;

And still, Sec 30 (5) of the Bill-2018 states;

Sec 30 (5) - The Rehabilitation Fund shall be made available to the State and District Anti- Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons.

Even when the concept of criminal injuries compensation was in its infancy in India the text and spirit of the original provision of Sec 357 CrPC was clear that the magistrate could give the full amount or part thereof of the fine to the victim as compensation. Subsequently when in Ankur Gaikwad V/s State of Maharashtra when the Supreme court directed the state governments to come up with specialized schemes of victim compensation by elaborating Sec 357 CrPC, it intended to give that amount to the victim or its heir. Subsequently various state

governments came up with their own schemes such as the Manodhairya scheme of Maharashtra which went to the extent of acknowledging the right of the victim to get compensation independent of the arrest and prosecution of the accused or the outcome of the prosecution.

Bill Sec 30(6) makes claims on the fine amount recovered from the offender.

Sec 30(6) – ‘Any fine recovered for the commission of an offence under this Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973.’

Thus Sec 30 (5 & 6) effectively put unfair claims and takes away the compensation amount that is actually due to the victim person (including the fine amount) and appropriates it to run the government programmes for prevention, protection and prosecution, creating mass awareness in the name of ‘rehabilitation’.

The objection is not for the government running all such programmes it is for usurping the amount due to the victim and for the logical blunder of mixing up the phenomena.

Sec 30(3)(x) of the Bill-2018 further conclusively confirms the appropriation by stating that

30(3) The Rehabilitation Fund shall be utilised under this Act by the appropriate Government for

Sec 30(3)(x) - any other activity which may be required for effective implementation of this Act.

The original text of the Law, Section XI – Rehabilitation Fund of The Trafficking of Persons Bill, 2018 is reproduced below:

CHAPTER XI

REHABILITATION FUND

30. (1) There shall be constituted a fund by the Central Government to be called the Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto —

- a) any grants and loans made by the appropriate Government;
- b) any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government;
- c) any fine recovered for the commission of an offence under this Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973;
- d) the amount seized from any bank account frozen under sub-section (4) of section 18; and
- e) any other sums as may be received.

(2) The State Government may supplement the Rehabilitation Fund.

(3) The Rehabilitation Fund shall be utilised under this Act by the appropriate Government for

- (i) the establishment and administration of Protection Homes and Rehabilitation Homes;
- (ii) supporting innovative programmes for the welfare and rehabilitation of the victims;
- (iii) strengthening legal assistance and support;

- (iv) providing entrepreneurial support, skill development training or vocational training;
 - (v) providing aftercare facilities for capital and infrastructure to the victims who are ready to integrate into mainstream society by setting up small business or profession;
 - (vi) providing victim and witness protection;
 - (vii) awareness generation programmes for the prevention of trafficking of persons;
 - (viii) creating community-based programmes to identify, report and prevent trafficking of persons;
 - (ix) providing specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals for the victims; and
 - (x) any other activity which may be required for effective implementation of this Act.
- (4) The Rehabilitation Fund shall be maintained and monitored by the National Anti- Trafficking Relief and Rehabilitation Committee.
- (5) The Rehabilitation Fund shall be made available to the State and District Anti- Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons.
- (6) Any fine recovered for the commission of an offence under this Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973.
- (7) The generation, dissemination and utilization of Fund shall be regulated in the manner as may be prescribed by the Central Government.

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