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

Why in news?

The Union Ministry of Women and Child Development (WCD) has invited suggestions for the draft Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2021 which is to be introduced in Parliament soon.

What are the objectives?

- The objectives of the bill are –

i. to prevent and counter-trafficking in persons, especially women and children
ii. to provide for care, protection, and rehabilitation to the victims

- The victims' rights are to be respected and protected.
- Also, a supportive legal, economic and social environment is to be created for them.
- A previous draft of the bill was passed in the Lok Sabha in 2018 but was never introduced in the Rajya Sabha.

How is it different from the 2018 Bill?

- The 2018 bill dealt with trafficking, rescue, protection and rehabilitation of victims.
- The 2021 bill expands the scope to also include offences taking place outside India.
- The bill has increased the scope of the nature of offences of trafficking.
- There are stringent penalties including life imprisonment, and even death penalty in certain cases.
- The new bill also makes the NIA (National Investigation Agency) the central investigation authority looking into such offences.

What are the key provisions?

- **The law will apply to** -
  i. all citizens of India, within and outside the country
  ii. persons on any ship or aircraft registered in India wherever it may be or carrying Indian citizens wherever they may be

iii. a foreign national or a stateless person who has residence in India

- It also says the law "shall apply to every offence of trafficking in persons with cross-border implications".
- The bill widens the range of offenders who can be booked under the law.
- It brings in public servants, armed forces personnel or anyone in a position of authority under its ambit.
- The draft bill also widens the definition of the "victim" by including transgenders, besides women and children.
- **Committee** - Once it becomes an Act, the central government will notify and set up a National Anti-Trafficking Committee.
- And state governments will set up these committees at state and district levels.
- The bill also says the investigation needs to be completed within 90 days from the date of the arrest of the accused.
- **Punishment** - Any offence of trafficking shall be punished with rigorous imprisonment.
- The term which shall not be less than 7 years but may extend to 10 years.
- The person shall also be liable to fine which shall not be less than one lakh rupees.
- Similar to the 2018 version, the 2021 draft proposes more severe penalties for "aggravated offences."
- It also seeks to crack down on organised crime syndicates.
- [Aggravated offences include cases that may result in the death of the victim.
- It also includes cases where the victim suffers grievous injury (in cases such as acid attack), organ mutilation or removal of organs, or where the victim is a child.]
- Aggravated form of trafficking would invite rigorous imprisonment for a term for 10 years.
- It may also be extended to imprisonment for life and shall also be liable to fine which may extend to 10 lakh rupees.
- In case of the death of the victim, the bill proposes life imprisonment along with a fine of Rs 30 lakh.
- The bill also proposes imprisonment up to 20 years and death penalty for such offenders:
  i. rigorous imprisonment for 20 years, which may extend to life
  ii. in case of second or subsequent conviction – death penalty with fine which may extend up to 30 lakh rupees

What are the concerns?

- **Overlapping** - There are laws already in place on 'forced labour' and 'sexual exploitation'.

- Section 370 of the Indian Penal Code (IPC) deals with trafficking already.
- The present bill has only made some improvements to it.
- With a law on trafficking, there will be a lot of overlapping. The law does not clarify which law is to apply.
- **Precision** - In its current form, the draft Bill seems to be lacking in precision.
- It lacks an understanding of the contributing factors to trafficking.
- These may include vicious poverty, debt, lack of opportunity, and development schemes missing their mark.
- **NIA** - Another concern relates to handing over investigation in trafficking crimes to the NIA.
- It would burden the NIA which is already facing human resource issues.
- Also, this move would be an attack on federalism, by removing local enforcement agencies out of the picture.
- **Definition** - The broad definitions of victims in the Bill disregard consensual sexual activity for commerce.
- This would only land up criminalising sex work and victimisation of the exploited.
- Bringing pornography into the definition of sexual exploitation is also a concern.
- It would not allow even for any adult, consumption of non-exploitative, consensual material.
- **Reporting** - Reporting of offences has been made mandatory with penalties for non-reporting.
- But the tortuous processes would explain the ground reality that victims often do not want a complaint to be recorded.
- **Death penalty** - The mention of the death penalty for various forms of aggravated trafficking offences needs to be reconsidered too.

What should the approach be?

- There should be one comprehensive code, repealing all previous laws, avoiding overlapping in trafficking legislation.
- It is also being suggested that attachment of property would be a greater deterrent than a possible jail sentence.
- In all, trafficking needs a wholesome approach that is cognisant of the causative factors, and sensitive to ground realities.

Source: The Hindu, The Print



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