

Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill

What is the issue?

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- Government is planning to introduce the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016.

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- There seems to be some flaws in the basic understanding and approach towards the social menace of trafficking.

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What are the notable provisions?

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- **Penalties** - The Bill has stringent penalties like life imprisonment for aggravated forms of trafficking.

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- The burden of proof lies on the traffickers.

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- Also, there are provisions for stripping traffickers of their assets.

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- **Institutions** - An anti-human trafficking wing is proposed to be set up.

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- This would be under a central investigation agency like the National Investigation Agency.

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- A district-level anti-trafficking unit with an anti-trafficking police officer is also proposed.

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- A designated sessions court for speedy trials is also part of the provisions.

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- **Fund** - State governments need to create a Rehabilitation Fund.

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- This will allocate financial resources for protection homes.

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- They also offer legal assistance to victims and provide skill development programmes.
- The fund will also be used for victim and witness protection, and for generating awareness to prevent human-trafficking.

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What are the present legal protections?

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- The Indian Penal Code and the Immoral Traffic Prevention Act (ITPA), 1986 are noteworthy anti-trafficking provisions.
- The social welfare legislation on contract and bonded labour, and inter-state migrant work are also in place.
- In India, a combination of penal, labour and contract laws are used to impose obligations for better working conditions.
- These clutch of laws often delay the trial process.
- The Trafficking Bill would thus be an umbrella legislation in this regard.

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What are the shortfalls?

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- **Understanding** - The policy makers largely mistake trafficking to be equivalent only to sex trafficking and sex work.
- Thus, the criminal laws like the ITPA generally target the men traffickers.
- The current definition of trafficking in Section 370 of the IPC is also not limited to sex work.
- **Approach** - The present Trafficking Bill is clearly neoabolitionist.
- This is an approach which perceives trafficking only through the sensationalist accounts of “modern slaves”.

- This is seen as victimisation tricked by unscrupulous traffickers.
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- Their only hope for rescue is believed to be the law-enforcing personalities.
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- The Bill thus pursues the classic raid-rescue-rehabilitation model.
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- It also seems to be extending the same model beyond sex work to other labour sectors.
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- **Machinery** - The Bill also creates a range of new institutions with unclear roles.
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- They are offered with enormous powers including for surveillance.
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- However, there seems to be no accountability mechanisms.
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- There is no clarity on how the Bill relates to the ITPA and to labour laws.
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What should be done?

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- The legislation should be comprehensive enough to address all forms of trafficking.
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- It is thus essential to create the necessary regulatory response to reduce incidence of trafficking in the first place.
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- The policies should consider:
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- i. a multi-faceted legal and economic strategy
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- ii. a robust implementation of existing labour laws
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- iii. improved labour inspection, including in informal economy
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- iv. corporate accountability for decent work conditions
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- v. self-organisation of workers
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- There is also the need for systemic reforms to counter distress migration, and to end caste-based discrimination.

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- Proper enforcement of the rural employment guarantee legislation would help in this regard.

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- This would also avoid voluntary sex work and protect migrants' mobility and rights.

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- Working on these fronts is essential for India to meet its Sustainable Development Goal 8.7.

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- It relates to eradicating forced labour, ending modern slavery and human trafficking, and ending child labour by 2025.

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Source: The Hindu, Hindustan Times

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