

Wage war on human trafficking

The Anti-trafficking Bill, that is under discussion in Parliament, is a magnificent and bold step in preventing and combating human trafficking. It will go a long way in making the Constitutional mandate a reality

PM
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As Parliament discusses the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, threadbare, it must be said that the Bill is a bold move in the sense that it will raise the status of India at the world level in combating human trafficking and the insidious exploitation of human beings by fellow men. The Bill resolutely affirms that ours is a nation that espouses, in letter and spirit, the motto of "zero tolerance" to any type of human trafficking. It will go on to strengthen, confirm and assert our unflinching commitment to the Constitution of India, which under Article 23, expressly prohibits human trafficking.

While deliberations for and against the Bill are very much in the news, if one were to take a dispassionate and objective look, there will be so much to say on behalf of the law enforcement agencies and the justice delivery systems, who are the statutory bodies to enforce and implement the law, once it is legislated. In this context, having the privilege to enforce the law for 35 years as an IPS officer, let me bring out a few salient features of the Bill that is still under consideration in the House.

Starting from the perspective of the victim of human trafficking, this Bill is a boon for them. It will, perhaps, be for the first time that the spirit of the Constitution will be captured in the Bill as it goes on to make relief and rehabilitation of the rescued person a matter of right. Transformation from the earlier 'welfare perspective' to 'rights-based perspective' is indeed a blessing in disguise and will provide whole-hearted support to the victims. The unheard voice of the survivors, who usually suffer in silence, is now set to be heard.

The Bill makes it clear that "rehabilitation of the victims will not be contingent upon criminal proceedings being initiated against the accused." This provision is another feather in the cap as it guar-

antees the victims their right to dignity. Further, there will not be any pressure on the victim to speak, state or depose in any manner.

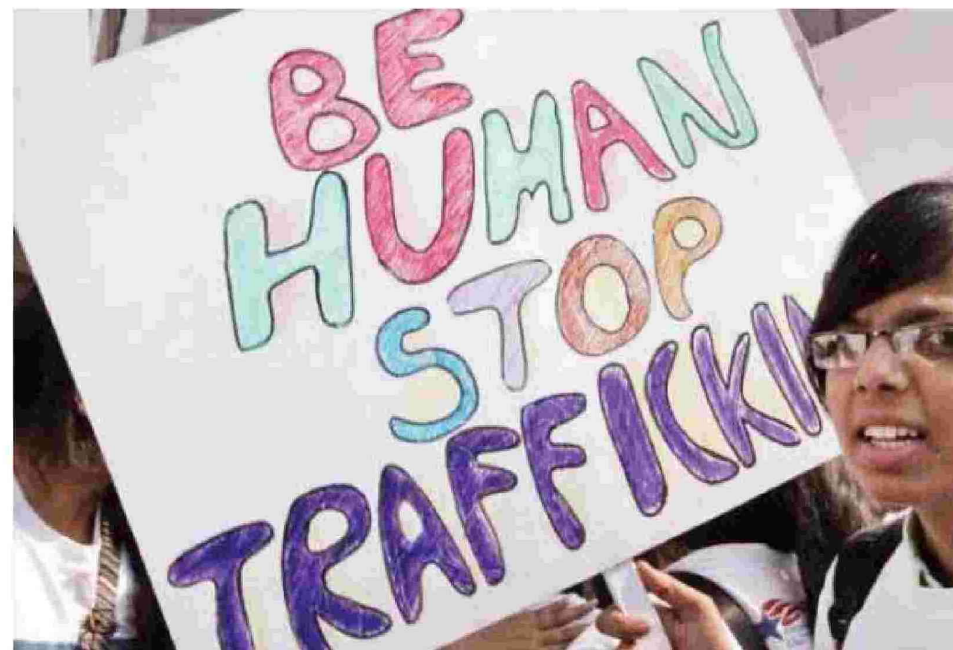
The Bill calls for accountability of the rehabilitation agencies. So far, under the existing law, it was the duty of the police to rescue the victims and there was no accountability of the agencies concerned in providing rehabilitation. By endorsing the new provision of bringing in accountability of agencies on matters of rehabilitation, it is not only the victim who is going to benefit but the entire justice delivery mechanism.

With the proposed changes, the victim, who will be counselled and rehabilitated, will be in a better position to argue his/her case. Further, a strident step by the victim in ensuring the prosecution of offenders will naturally expedite the judicial process. Effective and timely prosecution of offenders will be a great boon in prevention of crimes. Therefore, the provision of victim and witness care will go a long way in ensuring an established rule of law.

The Bill has given specific charter, shape and method to the entire rehabilitation process. Functions and roles of agencies have been delineated. The provision for the establishment of a national, State-level and district level committee to monitor the rehabilitation process is a strident step in providing a single-window approach to the entire process. So far, it was a tedious task for civil society activists, who had to knock several doors to get across relief for the victim. This piece of legislation will make the entire investigative process easy.

From the perspective of investigation, a major challenge today is the issuance of trans-border jurisdiction and related investigation. Human trafficking is a borderless crime but jurisdictional issues come in the way of investigation, fanning out from the place of rescue i.e., the destination, through transit to the source area. To tackle this problem, the Bill calls for the establishment of a National Bureau to effectively address this aspect.

We have seen the Narcotics Bureau working along with the State police and both have contiguous jurisdiction. Similarly, the National Bureau of Investigation must be welcomed by law enforce-



ment agencies.

The Anti Human Trafficking Units (AHTU) across the country, starting with the first nine districts being set up in 2007 under a joint project of the Ministry of Home Affairs and the United Nation and which was replicated to more than 300 districts, is all set to be legitimised and institutionalised. Special crimes need special attention. Hence, the setting up of these special units mandated in the Bill is indeed an important step.

The method of trans-border cooperation, beyond the States and even beyond the international border, have been identified and addressed for the first time. A vast arena of confusion and conjectures has been made clear and lucid.

The system of nodal officers and nodal police officers in States, which was started in 2005 under the aegis of the National Human Rights Commission of India, has seen several ups and downs with 'zero level' functioning. This nodal system is very important to ensure the convergence of all concerned in preventing and combating human trafficking. This Bill gives legal status to the nodal system, thereby providing a single window approach to the response system.

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sions of the Immoral Traffic (Prevention) Act, (ITPA), this Bill allows any police officer to undertake rescue as and when they receive information. There is no need for any notified police officer or the need to rush to the magistrate for prior approval. This provision will empower the police station and the AHTU to undertake swift action for conducting rescue operations, which will prevent further exploitation.

Prosecution of offenders, starting from recruiters, harbourers, transporters, financiers, abusers, exploiters, conspirators, abettors, among others has been a daunting task. Though there are several reasons and all of them cannot be addressed by way of a legislation, the new Bill makes positive and prospective effort in facilitating prosecution of offenders of what has assumed the dimensions of an organised crime.

The presumption in respect of offences against children, women and the physically or mentally challenged people gives the prosecution adequate scope to ensure easy, fast and efficient disposal of complaints. This will certainly bring certainty and speed in the delivery of justice. The Bill provides for freezing and confiscating of illic-

it assets, born out of trafficking crimes. This is indeed a landmark addition to the trafficking law. Neither section 370 of the IPC or ITPA has any such provision.

The Bill is certainly an improvement over existing laws, including Section 370 of the IPC, which came in to effect only in 2013. This section of the IPC defines trafficking and its derivatives but is silent on forced and bonded labour. The present Bill incorporates forced and bonded labour, surrogacy, false marriage and begging as aggravated forms of trafficking, and calls for enhanced punishment for offenders.

Linking research into action has never been a mandate in the legislative process for our country. However, this methodology has been adopted in several countries. The fact is that objective research is paramount in understanding the gaps and identifying the solutions. We have a case in point where the NHRC undertook a national research in 2002-2004 on trafficking in India. The report, which came up in 2005, was adopted by the Government and many suggestions were implemented.

A joint project by the Ministry of Home Affairs and the United Nations Office on Drugs and Crime on capacity-building of fake holders in five States in India, during 2006-2008, was one among the important outcomes of the research. The project made commendable achievements in the five States. After independent evaluation, the activities in the project were upscaled and replicated across the country, making positive changes in response systems. This experiment has established the value of research and the need for marriage of research with action. It is heartening to note that the Bill has appreciated this point and has made express provision for survey and research contributing to action.

The Bill is, therefore, a magnificent and bold step in preventing, combating human trafficking in India, making the Constitutional mandate a reality. The fine print of the Bill requires tweaking at certain places, which can be accomplished even during the process of passage.

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