

12th September, 2016

Dear Manekaji,

Subsequent to our letter dated 30th June 2016, with our comments on the Draft India Trafficking in Person (Prevention) Bill, 2016, we are submitting further suggestions on the revised draft of the bill, which has been put up for consultation by your Ministry.

At the very outset, we would like to thank you for paying heed to our suggestion with regard to extending the consultation process, by conducting meetings on the Draft Bill at the zonal level, and seeking a wider response from the stakeholders across the country.

However, despite this extended consultation process, the revised version of the Draft Bill sent by the Ministry continues to suffer from serious lacunae and requires improvement in several areas.

The operation of this law and its overlaps and sometimes contradictions with other special laws which come into force in cases of Human Trafficking, such as the Immoral Trafficking Prevention Act, 1956, the Bonded Labour Act, 1976, Protection of Children from Sexual Offences Act, 2012 and The Prevention of Money laundering Act, 2002 requires clarification. The role of the Information Technology Act, 2002, alongside the Draft Bill for collecting information and evidence, is particularly important given the use of the Internet by traffickers to exploit their victims and must be expanded upon.

We are submitting a clause-by-clause recommendation with the clear motivation to give the Draft Bill a sharper implementation and application approach. The recommendations include the need for improvement in the collection of forensic evidence, whether financial, medical or cyber and the need to address other more sophisticated modus operandi of the network which works very effectively with the increase of crimes being committed online, the issue of granting bail in trafficking cases, the prevention aspect of the crime, the effectiveness of the anti-

trafficking agencies, and the after-care aspects which are required for a sound rehabilitation of the victim.

The recommendations to the Draft Bill have been attached to this letter (Clause by Clause consideration of the Draft India Trafficking in Person (Prevention) Act, 2016), with the redrafted sections being denoted in red.

The Draft Bill, as it stands, must take into consideration the following specific recommendations:

- 1) The 'General Principles' must be drafted to be consistent with the Universal Declaration of Human Rights, of which India is a signatory to, and should be in the best interests of the victim given their vulnerable state.
- 2) The quantum of punishment for the offence of trafficking must be increased, alongside an increase in the financial punishments for a person convicted of the crime.
- 3) The need to include the 'repeat offender' under the offence of Aggravated Trafficking due to serious nature of the offence.
- 4) The need to include a provision to deal with the proceeds of the crime from trafficking as under the Prevention of Money Laundering Act, 2002.
- 5) The need for an increase in the quantum of punishment of the offender when there is a disclosure of identity of the victim.
- 6) The need to convert the presumption of offences in the case of committing or abetting trafficking in the case of a child to one which is of strict liability.
- 7) The need to include a separate provision for 'not reporting an offence'.
- 8) The need to constitute a Vigilance Committee at the state level in each district.
- 9) To ensure that the victim is duly compensated for any physical or mental trauma caused to him/her or for immediate rehabilitation.

In light of the above legislative lacunae, we recommend that the Ministry take these recommendations into consideration and ensure that the Draft Bill is reflective of this in order to combat the sexual exploitation of children through trafficking.

Sincerely,



Smt. Maneka Gandhi
Hon'ble Minister for Women & Child Development
Government of India
New Delhi