

Bill No. 89 of 2018

THE TRAFFICKING OF PERSONS (PREVENTION, PROTECTION
AND REHABILITATION) BILL, 2018

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

NATIONAL ANTI-TRAFFICKING BUREAU

3. National Anti-Trafficking Bureau.
4. Functions of Bureau.
5. Investigation by Bureau.

CHAPTER III

STATE ANTI-TRAFFICKING OFFICERS

6. State Nodal Officer.
7. State Police Nodal Officer.
8. District Police Nodal Officer.
9. Anti-Trafficking Police Officers.
10. Anti-Trafficking Unit.

CHAPTER IV

RELIEF AND REHABILITATION AUTHORITIES

11. National Anti-Trafficking Relief and Rehabilitation Committee.
12. State Anti-Trafficking Committee.
13. District Anti-Trafficking Committee.
14. Powers of District Anti-Trafficking Committee.

CHAPTER V

SEARCH, RESCUE AND POST-RESCUE ACTIVITIES

15. Search and seizure.
16. Rescue and medical examination of persons.
17. Safety, care and protection of person rescued.
18. Investigation and evidence.
19. Presumption as to offences.

CHAPTER VI

PREVENTIVE MEASURES

20. Preventive measures by State and District Anti-Trafficking Committees.

CLAUSES

CHAPTER VII

PROTECTION AND REHABILITATION OF VICTIMS

21. Protection Homes.
22. Rehabilitation Homes.
23. Registration.
24. Application for providing care and protection.
25. Rehabilitation not to be contingent on criminal proceedings.

CHAPTER VIII

REPATRIATION

26. Repatriation of victims.

CHAPTER IX

MONETARY RELIEF AND COMPENSATION

27. Interim relief.
28. Relief.

CHAPTER X

FORFEITURE AND ATTACHMENT OF PROPERTY

29. Forfeiture and attachment of property.

CHAPTER XI

REHABILITATION FUND

30. Rehabilitation Fund.

CHAPTER XII

OFFENCES AND PENALTIES

31. Aggravated form of trafficking of persons.
32. Punishment for aggravated form of trafficking of persons.
33. Trafficking of persons on more than one occasion.
34. Punishment for keeping or allowing premises to be used as place for trafficking of persons.
35. Closure of premises and eviction of offenders from premises.
36. Punishment for promoting or facilitating trafficking of person.
37. Punishment for abetment.
38. Punishment for omission of duty.
39. Buying or selling of any person.
40. Hiring or obtaining possession, etc., for trafficking of person.
41. Offences related to media.
42. Punishment for disclosure of identity.
43. Applicability of punishment.
44. Punishment for attempt to commit offence under this Act.
45. Act committed by victim under coercion, compulsion, etc.

CHAPTER XIII

DESIGNATED COURTS

46. Designated courts.

CLAUSES

47. Special Public Prosecutors.
48. Period and manner for recording of evidence of person who is trafficked and disposal of cases.
49. Payment to the victim.
50. Appeal.

CHAPTER XIV

PROTECTION OF VICTIM, WITNESS AND COMPLAINANT

51. Protection of victim, witness and complainant.

CHAPTER XV

MISCELLANEOUS

52. Cognizance of offences.
53. Protection of action taken in good faith.
54. Power of Central Government to make rules.
55. Power of State Government to make rules.
56. Power to remove difficulty.
57. Section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 not to apply.
58. Sections 193, 195, 199 and 203 of Indian Penal Code to apply.
59. Act not in derogation of any other law.

Bill No. 89 of 2018

**THE TRAFFICKING OF PERSONS (PREVENTION, PROTECTION
AND REHABILITATION) BILL, 2018**

A

BILL

to prevent trafficking of persons, especially women and children and to provide care, protection and rehabilitation to the victims of trafficking, to prosecute offenders and to create a legal, economic and social environment for the victims and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Trafficking of Persons (Prevention, Protection and Rehabilitation) Act, 2018.
- 7 (2) It extends to the whole of India except the State of Jammu and Kashmir.
- 10 (3) It shall come into force on such date as the Central Government may, by notification appoint; and different dates may be appointed for different States and any reference in any of the provisions to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

Short title,
extent and
commencement

2. (1) In this Act, unless the context otherwise requires,—
- (a) “Anti-Trafficking Police Officer” means a police officer referred to in section 9;
- (b) “Anti-Trafficking Unit” means a unit set up in the Districts by the appropriate Government under section 10;
- (c) “appropriate Government” means, in respect of matters relating to,—
- (i) a Union territory without legislature, the Central Government;
- (ii) the Union territories with legislature, the Government of the National Capital Territory of Delhi or, as the case may be, the Government of Union territory of Puducherry;
- (iii) a State, the State Government;
- (d) “Bureau” means the National Anti-Trafficking Bureau established by the Central Government under sub-section (1) of section 3;
- (e) “child” means a person who has not completed the age of eighteen years;
- (f) “Child Welfare Committee” shall have the meaning assigned to it in section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015;
- (g) “designated court” means a court designated under section 46;
- (h) “District Anti-Trafficking Committee” means a committee constituted by the appropriate Government under section 13;
- (i) “District Police Nodal Officer” means a police officer referred to in section 8;
- (j) “Magistrate” means a District Magistrate or Additional District Magistrate or a Sub-Divisional Magistrate;
- (k) “narcotic drugs” and “psychotropic substances” shall have the meanings, respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985;
- (l) “National Anti-Trafficking Relief and Rehabilitation Committee” means a committee established by the Central Government under sub-section (1) of section 11;
- (m) “notification” means a notification published in the Official Gazette and the term notify shall be construed accordingly;
- (n) “premises” means any building, conveyance, land, location, place, structure or any part thereof and includes any source, transit or destination of trafficking;
- (o) “prescribed” means prescribed by rules made by the appropriate Government under this Act;
- (p) “Protection Home” means the Protection Home referred to in sub-section (1) of section 21;
- (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;
- (r) “Rehabilitation Fund” means the fund established under sub-section (1) of section 30;
- (s) “Rehabilitation Home” means the Rehabilitation Home, referred to in sub-section (1) of section 22;

(t) "State Nodal Officer" means an officer appointed by the State Government under sub-section (1) of section 6;

(u) "State Anti-Trafficking Committee" means a Committee established by the appropriate Government under sub-section (1) of section 12;

(v) "State Police Nodal Officer" means a police officer appointed by the State Government under sub-section (1) of section 7;

(w) "trafficking of person" shall have the meaning assigned to it in sub-section (1) of section 370 of the Indian Penal Code;

(x) "victim" means any person on whom an offence of trafficking has been committed or attempted by any other person or persons:

Provided that for the purpose of receiving compensation or relief under this Act, any dependent or legal heir, as the case may be, of a deceased victim, shall also be construed as a victim.

(2) The words and expressions used but not defined in this Act but defined in the Indian Penal Code, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015 shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

NATIONAL ANTI-TRAFFICKING BUREAU

3. (1) The Central Government shall, by notification, establish a Bureau to be called the National Anti-Trafficking Bureau for exercising the powers and discharging its functions under this Act.

National
Anti-
Trafficking
Bureau.

(2) The Bureau shall have police officers and other officers of such appropriate ranks, as may be necessary, for the discharge of its functions.

(3) The manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau shall be in such as may be prescribed.

4. The Bureau shall perform the following functions in relation to trafficking of persons, namely: —

Functions of
Bureau.

(i) co-ordinate and monitor surveillance and preventive efforts along with the known or probable routes;

(ii) facilitate surveillance, enforcement and preventive steps at source, transit and destination points;

(iii) maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders;

(iv) strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence;

(v) increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under the various international conventions and protocols that are in force in respect of counter measures;

(vi) co-ordinate actions and enforcement by various bodies or authorities established under this Act;

(vii) co-ordinate actions taken by the concerned Ministries, Departments organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders;

(viii) review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies;

(ix) make sustained efforts for capacity building and training of agencies;

(x) bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders; 5

(xi) co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons;

(xii) co-ordinate the investigation, where international ramifications are reported or suspected; 10

(xiii) co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union territory Administrations;

(xiv) undertake and facilitate other investigators for investigating offences from the organised crime perspective;

(xv) develop and monitor a database on every crime under this Act; 15

(xvi) co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations;

(xvii) facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings;

(xviii) facilitate frequent meetings of the State Police Nodal Officers to facilitate, monitor and evaluate the establishment and functioning of Anti-Trafficking Units; 20

(xix) provide necessary support for investigation by the Anti-Trafficking Units, where such requests are made;

(xx) undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases; 25

(xxi) facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution;

(xxii) protection of witnesses, where referred by any State Government, victims, complainants and affected families, as the case may be; 30

(xxiii) undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked;

(xxiv) monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and 35

(xxv) develop minimum standards of care and advice for all concerned, in matters of compliance.

Investigation
by Bureau.

5. (1) The Bureau may take over investigation of any offence under this Act, where referred to it by two or more States. 40

(2) Where an offence is referred to the Bureau under sub-section (1), the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau.

(3) For the removal of doubts, it is hereby declared that till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act. 45

(4) While investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may—

(a) if it is expedient to do so, request the State Government to associate with the investigation; or

(b) with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence.

(5) While investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence.

(6) The State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under this Act.

(7) Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any offence under this Act or other offences under any other law for the time being in force.

CHAPTER III

STATE ANTI-TRAFFICKING OFFICERS

6. (1) The State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government.

State Nodal Officer.

(2) The State Nodal Officer shall be responsible for follow up action under this Act, as per the directions of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organizations.

(3) The State Nodal Officer shall provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations.

(4) The State Nodal Officer shall liaison with the State Police Nodal Officer and the National Anti-Trafficking Relief and Rehabilitation Committee, for all matters relating to relief and rehabilitation.

7. (1) The State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government.

State Police Nodal Officer.

(2) The State Police Nodal Officer shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and shall also monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State.

(3) The State Police Nodal Officer shall also co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act.

(4) The State Police Nodal Officer shall liaison with State Nodal Officer and shall perform such other functions as may be prescribed.

8. (1) The State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed.

District Police Nodal Officer.

(2) The District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and the offenders.

(3) The District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties.

Anti-Trafficking
Police
Officers.

9. (1) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

(2) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

Anti-Trafficking
Unit.

10. (1) The appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under this Act.

(2) Every local police station shall, where Anti-Trafficking Unit is not functional, undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act.

(3) The State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under this Act:

Provided that the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary steps for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit.

2 of 1974.

CHAPTER IV

RELIEF AND REHABILITATION AUTHORITIES

National Anti-Trafficking
Relief and
Rehabilitation
Committee.

11. (1) The Central Government shall establish a National Anti-Trafficking Relief and Rehabilitation Committee, by notification for providing relief and rehabilitation services to the victims.

(2) The composition of the National Anti-Trafficking Relief and Rehabilitation Committee shall be as follows, namely:—

(i) Secretary, Ministry of Women and Child Development — Chairperson;

(ii) Representative, Ministry of Home Affairs — Member;

(iii) Representative, Ministry of External Affairs — Member;

(iv) Representative, Ministry of Labour and Employment — Member;

(v) Representative, Ministry of Social Justice and Empowerment — Member;

(vi) Representative, Ministry of Panchayati Raj — Member;

(vii) Representative, Ministry of Health and Family Welfare — Member;

(viii) Representative, Legislative Department — Member;

(ix) Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims — Members;

(x) such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed — Members; and

(xi) Head, National Anti-Trafficking Bureau — Member Secretary.

(3) The National Anti-Trafficking Relief and Rehabilitation Committee shall perform the following functions, namely:—

(i) facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned Ministries, Departments and statutory bodies;

(ii) provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims;

(iii) ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims;

(iv) seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes;

(v) maintain and monitor the Rehabilitation Fund established under section 30; and

(vi) perform such other functions as may be prescribed.

12. (1) The appropriate Government shall establish a State Anti-Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims.

State Anti-Trafficking Committee.

(2) The State Anti-Trafficking Committee shall consist of the following, namely:—

(i) Chief Secretary — Chairperson;

(ii) Director General of Police — Member;

(iii) Secretary, Department of Women and Child — Member;

(iv) Secretary, Home Department — Member;

(v) Secretary, Labour Department — Member;

(vi) Secretary, Health Department — Member;

(vii) Secretary, State Legal Services Authority — Member;

(viii) Secretary, Law Department — Member;

(ix) Protector of Emigrants, Ministry of External Affairs — Member;

(x) State Police Nodal Officer — Member;

(xi) Two social workers out of which one shall be a woman — Member;

(xii) such other persons as may be prescribed — Members; and

(xiii) State Nodal Officer — Member Secretary.

(3) The State Anti-Trafficking Committee shall perform the following functions, namely:—

(i) identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made thereunder;

(ii) arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental;

(iii) develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services;

(iv) review and monitor the functioning of the District Anti-Trafficking Committee;

(v) make necessary funds available to the District Anti-Trafficking Committee for providing or setting up of required facilities for the implementation of the Act; and

(vi) perform such other functions and duties as may be prescribed.

(4) The State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking Relief and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

District Anti-Trafficking Committee.

13. (1) The appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims.

(2) The District Anti-Trafficking Committee shall consist of the following, namely:— 10

(i) District Magistrate or Additional District Magistrate — Chairperson;

(ii) District Officer for Women and Child Development — Member;

(iii) Representative, District Legal Services Authority — Member;

(iv) Representative, Child Welfare Committee — Member;

(v) Two Civil Society Organisations or Non-Governmental Organisations working in the field of prevention of trafficking and related issues — Members; 15

(vi) such other members as may be prescribed — Members; and

(vii) District Police Nodal Officer — Member Secretary.

(3) The District Anti-Trafficking Committee shall perform the following functions, namely:— 20

(i) direct and facilitate the person in-charge of the Protection Home or Rehabilitation Home, as the case may be, to submit an individual care plan to it;

(ii) ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan by passing necessary directions to Protection Homes and Rehabilitation Homes; 25

(iii) co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to the State Anti-Trafficking Committee and take appropriate actions; 30

(iv) facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour;

(v) facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan; 35

(vi) create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons;

(vii) assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc.; and 40

(viii) such other functions as may be prescribed.

(4) The appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures. 45

(5) The District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

2 of 2016. 5 14. The District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims under this Act and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Powers of District Anti-Trafficking Committee

CHAPTER V

SEARCH, RESCUE AND POST-RESCUE ACTIVITIES

2 of 1974. 10 15. The provisions of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply in relation to a search and seizure in respect of an offence under this Act.

Search and seizure.

15 16. (1) Where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury or illnesses incidental thereto.

Rescue and medical examination of persons.

2 of 1974. 32 of 2012. 20 (2) The provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall *mutatis mutandis* apply in relation to a medical examination of any person under this section.

(3) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or the Police Officer, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the said Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

25 17. (1) The District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit.

Safety, care and protection of person rescued.

30 (2) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any delay but within twenty-four hours of the rescue.

35 (3) The Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person.

(4) Where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home:

40 Provided that, if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing.

45 (5) In discharging the functions under this section, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist, as the case may be, to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers.

Investigation
and evidence.

18. (1) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions of the Code of Criminal Procedure, 1973, and any other law for the time being in force.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report.

(3) The investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount.

(4) The designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund.

Presumption
as to
offences.

19. Where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

CHAPTER VI

PREVENTIVE MEASURES

Preventive
measures by
State and
District Anti-
Trafficking
Committees.

20. (1) The State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked.

(2) The measures referred to in sub-section (1) shall include—

(i) co-ordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj Institutions;

(ii) facilitating the implementation of livelihood and educational programmes for vulnerable communities;

(iii) facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government;

(iv) co-ordinating with corporate sector to implement various schemes, programmes for the prevention of trafficking of persons;

(v) ensuring accountability of the concerned agencies, by regular review and appropriate action;

(vi) developing appropriate law and order framework to ensure prevention of trafficking of persons;

(vii) undertaking vulnerability mapping of the State and give focus and attention to the challenging areas;

(viii) commissioning independent research on various aspects of trafficking and ensure follow up action;

(ix) organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons;

5 2 of 1974

10

15

20

25

30

35

40

45

(x) preparing an annual report on trafficking of persons in the State;

(xi) co-ordinating with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes;

(xii) linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

CHAPTER VII

PROTECTION AND REHABILITATION OF VICTIMS

10 21. (1) The appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued.

Protection
Homes

15 (2) The Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

20 22. (1) The appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued.

Rehabilitation
Homes

(2) The appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation under sub-section (1).

25 23. (1) Notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government.

Registration

(2) If any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-section (1), he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

30 24. (1) A victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a Rehabilitation Home:

Application
for providing
care and
protection

2 of 2016 35 Provided that in case the victim or any person rescued is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

(2) The Magistrate may, pending inquiry under sub-section (3) or sub-section (4) of section 17 having regard to the circumstances of the case direct that the victim or any person rescued to be kept in such care and protection as he may consider proper.

40 (3) The Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

25. Where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

Rehabilitation
not to be
contingent
on criminal
proceedings.

CHAPTER VIII

REPATRIATION

45 26. (1) The District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of victims by co-ordinating with their counterparts in any other District.

Repatriation
of victims.

(2) Where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be repatriated to the country of origin, it may deal with the matter under any law for the time being in force.

(3) The State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho-social professionals. 5

(4) The repatriation of the victims shall be completed within three months for inter-State repatriation, and within six months in case of cross border repatriation, from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be: 10

Provided that any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

CHAPTER IX

MONETARY RELIEF AND COMPENSATION 15

Interim relief

27. (1) Upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim. 20

(2) The appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-section (1), within a period of one month from the date of commencement of this Act.

Relief

28. (1) The District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge-sheet. 25

(2) The relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

CHAPTER X

FORFEITURE AND ATTACHMENT OF PROPERTY 30

Forfeiture and attachment of property

29. (1) Where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with, in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property: 35

Provided that the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property.

(2) Where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-section (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund. 40

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 —

Rehabilitation
Fund

(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 utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government.

CHAPTER XII
OFFENCES AND PENALTIES

Aggravated form of trafficking of persons.

31. Notwithstanding anything contained in any other law for the time being in force, whoever commits an offence of trafficking of person—

(i) for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities; or

(ii) for the purpose of bearing child, either naturally or through assisted reproductive techniques; or

(iii) by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition; or

(iv) by administering any chemical substance or hormones on a person for the purpose of early sexual maturity; or

(v) for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage; or

(vi) by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person; or

(vii) who is a pregnant woman or the offence results in pregnancy of the person; or

(viii) by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immuno deficiency virus; or

(ix) for the purpose of begging; or

(x) who is a mentally ill person as defined in clause (l) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause (s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled; or

(xi) by encouraging or abetting any person to migrate illegally into India or Indians in to some other country,

is said to commit an offence of aggravated form of trafficking of the person.

32. Whoever commits the offence of aggravated form of trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than one lakh rupees.

33. Whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two lakh rupees.

34. (1) Whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees.

(2) Whoever—

(i) being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons; or

Already covered by 3, 32 & 33.

Punishment for aggravated form of trafficking of persons.

Trafficking of persons on more than one occasion.

Punishment for keeping or allowing premises to be used as place for trafficking of persons.

5
10
15
20
25
30
35
40
45

(ii) being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part thereof as a place for trafficking of persons.

shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and with fine which may extend to two lakh rupees.

Explanation. — For the purposes of sub-section (2), it shall be presumed until the contrary is proved that any person referred to in clause (i) or clause (ii) of that sub-section has not exercised due diligence in allowing to use or letting out the premises or in allowing the premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim.

(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (i) or clause (ii) of sub-section (2) of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

35. (1) Notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order—

Closure of premises and eviction of offenders from premises.

(i) directing eviction of the occupier or any person from the premises, within seven days of the passing of the order;

(ii) directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted.

(2) If the Magistrate, after the notice issued under sub-section (1), finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner or lessor or landlord as the case may be, with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months from the date of issuing the notice by the Magistrate.

(3) If the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the notice.

(4) When an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under clause (ii) of sub-section (1), he shall be punished with fine which may extend to one lakh rupees.

Punishment
for promoting
or facilitating
trafficking of
person.

36. (1) A person is said to promote, procure or facilitate the commission of trafficking of person, if that person—

(i) produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements; or

(ii) advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner; or

(iii) assists in the conduct of misrepresentation or fraud for the purposes of procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person.

(2) Whoever commits an offence under sub-section (1) shall be punished with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

Punishment
for abetment

37. Whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

Punishment
for omission
of duty.

38. Notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Buying or
selling of any
person.

39. (1) Whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees.

(2) Whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

Hiring or
obtaining
possession,
etc., for
trafficking of
person.

40. Whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees.

Offences
related to
media.

41. (1) Whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees.

(2) Whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

50

42. (1) No report or newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which may lead to the identification of a victim or witness of trafficking of person under this Act shall be published:

Punishment for disclosure of identity.

Provided that for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both:

2 of 2016. Provided that in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

43. (1) Where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which is greater in degree.

Applicability of punishment

(2) A designated court convicting a person of any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.

(3) When an occupier or any other person fails to comply with a direction given under clause (i) of sub-section (1) of section 35, he shall be deemed to have committed an offence under section 34 and shall be punished accordingly.

44. Whoever attempts to commit an offence punishable by this Act with imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

Punishment for attempt to commit offence under this Act.

45. Nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.

Act committed by victim under coercion, compulsion, etc.

CHAPTER XIII

DESIGNATED COURTS

46. For the purposes of providing speedy trial of any offence under this Act, the State Government shall, in consultation with the Chief Justice of the High Court, by notification, within two months from the date of commencement of this Act, designate in each district, the court of session as a Designated Court.

Designated courts.

47. (1) The appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act.

Special Public Prosecutors.

2 of 1974. 45 (2) Every person appointed as a Special Public Prosecutor under sub-section (1) shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly.

2 of 1974. (3) Subject to the provisions contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act:

50 Provided that if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.

Period and manner for recording of evidence of person who is trafficked and disposal of cases.

48. (1) The designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act.

(2) The designated court may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality.

(3) In all matters of trans-border and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record his statement.

(4) Notwithstanding anything contained in this Act, the inquiry and trial of offences under this Act, may be conducted *in camera*, if an application is made in this regard by the victim.

Payment to the victim.

49. (1) The designated court may order, where applicable, any backwages of the victim to be paid to him.

(2) The designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or under any other law for the time being in force or otherwise at any stage of the proceedings.

(3) The appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.

Appeal.

50. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of the designated court to the High Court.

(2) Every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

CHAPTER XIV

PROTECTION OF VICTIM, WITNESS AND COMPLAINANT

Protection of victim, witness and complainant.

51. (1) The designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the measures which a designated court may take under that sub-section may include—

(a) the holding of the proceedings at a place to be decided by the designated court;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

CHAPTER XV
MISCELLANEOUS

- 2 of 1974. 52. (1) All offences under this Act shall be cognizable and non-bailable. Cognizance of offences.
- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973—
- 5 (a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years.
- (b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless—
- 10 (i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release;
- (ii) where the Special Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail; and
- 15 (c) the victim shall have a right to be heard in all bail matters.
- 2 of 1974. (3) The conditions for granting of bail specified in clause (b) of sub-section (2) shall be in addition to the conditions provided under the Code of Criminal Procedure, 1973.
- 20 53. No suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder. Protection of action taken in good faith.
- 25 54. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act. Power of Central Government to make rules.
- (2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- 30 55. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power of State Government to make rules.
- 35 (2) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.
- 40 56. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the difficulty. Power to remove difficulty.
- Provided, that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.
- 45 (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 not to apply.

57. The provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

2 of 1974.
20 of 1958

Sections 193, 195, 199 and 203 of Indian Penal Code to apply.

58. The provisions of section 193, 195, 199 and 203 of the Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

45 of 1860.
5

Act not in derogation of any other law.

59. The provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

STATEMENT OF OBJECTS AND REASONS

Trafficking in human beings is one of the largest organised crime violating basic human rights. Trafficking in human beings may be for sexual and physical exploitation and also for other forms of exploitation like forced labour, etc. This is primarily fueled by poverty, illiteracy and lack of livelihood options. Majority of the Trafficking is within the country. However, there are instances where large number of persons are trafficked from neighboring countries and to other countries especially Middle East.

2. Presently, the subject matter of trafficking of persons is dealt with under the provisions of the Indian Penal Code, 1860 and the Immoral Traffic (Prevention) Act, 1956. Section 370 of Indian Penal Code, 1860 only defines and penalises the offence of trafficking of persons and, whereas, the provisions of the Immoral Traffic (Prevention) Act, 1956 deals with trafficking of persons for the purpose of commercial sexual exploitation and it does not recognise trafficking of persons for the purpose of physical and other forms of exploitation.

3. Keeping in view of the above deficiencies in the existing legislations and after considering the issues relating to prevention, rescue and rehabilitation of victims of trafficking, it has been considered necessary to bring a comprehensive legislation, namely, the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, covering all related aspects of trafficking of persons.

4. The salient features of the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, *inter alia*, are as follows:—

(a) it aims to prevent the trafficking of persons, to prosecute offenders and to provide care, protection and rehabilitation to the victims of trafficking;

(b) it creates a conducive legal, economic and social environment for the victims of trafficking and also addresses the transnational nature of the crimes;

(c) provides for dedicated institutional mechanism at District, State and National level for prevention, protection, investigation and rehabilitation aspects relating to trafficking;

(d) it provides for new offences with stringent punishment and fine, which are aggravated in nature and not addressed in existing laws;

(e) it provides for timely disposal of cases and repatriation of the victims;

(f) it provides for the confidentiality of victims, witnesses and complainants by not disclosing their identity. The confidentiality of the victims is maintained by recording their statement through video conferencing and by *in camera* proceedings.

(g) it also provides for Rehabilitation Fund for the welfare and rehabilitation of victims to ensure timely relief to the victims and also addresses their physical, mental trauma etc.;

(h) in order to break the organised nexus, both at national and international level, the Bill proposes for attachment and forfeiture of property and to remit the proceeds of crime in the Rehabilitation Fund;

(i) it also provides for immunity to victims for certain criminal actions against them; and

(j) it is also proposed to designate a Sessions Court in each district for speedy disposal of the cases under the proposed legislation and for this purposes provides

for appointment of Special Public Prosecutors to deal with such cases in a time bound manner.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 9th March, 2018

MANEKA SANJAY GANDHI

Notes on clauses

Clause 2 of the Bill defines various expressions used in the Bill and provides that words and expressions used but not defined in the proposed Bill and defined in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015, shall have the meanings respectively assigned to them in those Acts.

Clause 3 of the Bill seeks to provide for the establishment of the National Anti-Trafficking Bureau by the Central Government, by notification, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions. Sub-clause (3) further provides that the manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau, shall be in the manner as may be prescribed.

Clause 4 of the Bill seeks to provide for the functions of the Bureau including the function to co-ordinate and monitor surveillance and preventive efforts alongwith the known or probable routes; facilitate surveillance, enforcement and preventive steps at source, transit and destination points; maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders; strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence; increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long-term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under various international conventions and protocols that are in force in respect of counter measures; co-ordinate actions and enforcement by various bodies or authorities established under the Act; co-ordinate actions taken by the concerned Ministries, Departments or organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders; review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies; make sustained efforts for capacity building and training of agencies; bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders; co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons; co-ordinate the investigation, where international ramifications are reported or suspected; co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union-territory Administrations; undertake and facilitate other investigators for investigating offences from the organised crime perspective; develop and monitor a database on every crime under this Act; co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations; facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings; facilitate frequent meetings of the State Police Nodal Officers to facilitate, monitor and evaluate the establishment and functioning of Anti-Trafficking Units; provide necessary support for investigation by the Anti-Trafficking Units, where such requests are made; undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases; facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution; protection of witnesses, victims, complainants and affected families, as the case may be; undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked; monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and develop minimum standards of care and advice for all concerned, in matters of compliance.

Clause 5 of the Bill seeks to provide for the investigation by the Bureau which includes that the Bureau may take over investigation of any offence under this Act, referred to it by two or more States; sub-clause (2) provides that where an offence is referred to the Bureau under sub-clause (1) of clause 5, the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau; till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act. Sub-clause (4) provides that while investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may if it is expedient to do so, request the State Government to associate with the investigation; or with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence. Sub-clauses (5) and (6) provides that while investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence and the State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under the Act. Sub-clause (7) provides that save as otherwise provided, nothing contained in the Act shall affect the powers of the State Government to investigate and prosecute any offence under the Act or other offences under any other law for the time being in force.

Clause 6 of the Bill seeks to provide that the State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government, who shall be responsible for follow up action under the Act, as per the direction of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organisations, provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations and liaison with the State Police Nodal Officer, National Anti-Trafficking Relief and Rehabilitation Committee for all matters relating to relief and rehabilitation.

Clause 7 of the Bill seeks to provide that the State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government, who shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and also to monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State and co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act and liaison with State Nodal Officer and such other functions as may be prescribed.

Clause 8 of the Bill seeks to provide that the State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed. Sub-clause (2) provides that the District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and also of the offenders. Sub-clause (3) provides that the District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties.

Clause 9 of the Bill seeks to provide that the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution and the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

Clause 10 of the Bill seeks to provide that the appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with

all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under the Act. Sub-clause (2) provides that every local police station shall undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act and where the Anti-Trafficking Unit is not functional. Sub-clause (3) provides that the State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under the Act and the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary action for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit.

Clause 11 of the Bill seeks to provide for the establishment of National Anti-Trafficking Relief and Rehabilitation Committee by the Central Government and by notification. Sub-clause (2) provides for the composition of the Committee which shall consist of a Chairperson, who is the Secretary, Ministry of Women and Child Development, Member-Secretary who is the Head of National Anti-Trafficking Bureau, representatives from Ministry of Home Affairs, Ministry of External Affairs, Ministry of Labour and Employment, Ministry of Social Justice and Empowerment, Ministry of Panchayati Raj, Ministry of Health and Family Welfare, Legislative Department, Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims and such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed. Sub-clause (3) seeks to provide for the functions of the National Anti-Trafficking Relief and Rehabilitation Committee, including to facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned Ministries, Departments and statutory bodies; provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims, ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims; seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes; maintain and monitor the Rehabilitation Fund established under clause 30 and such other functions as may be prescribed.

Clause 12 of the Bill seeks to provide that the appropriate Government shall establish a State Anti-Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims and shall consist of a Chairperson, who is the Chief Secretary and other Members, such as Director General of Police; Secretary, Department of Women and Child, Secretary, Home Department; Secretary, Labour Department; Secretary, Health Department; Secretary, State Legal Services Authority; Secretary, Law Department; Protector of Emigrants, Ministry of External Affairs; State Police Nodal Officer; State Nodal Officer; two social workers out of which one shall be a woman and such other members as may be prescribed. Sub-clause (3) provides for the functions of the State Anti-Trafficking Committee to identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made under it; arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental; develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services; review and monitor the functioning of District Anti-Trafficking Committee; make necessary funds available to the District Anti-Trafficking Committee for providing or setting up required facilities for the implementation of the Act, and such other functions and duties as may be prescribed. Sub-clause (4) provides that the State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking Relief

and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

Clause 13 of the Bill seeks to provide that the appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims and will consist of a Chairperson who is a District Magistrate or Additional District Magistrate, a Convener who is a District Police Nodal Officer and District Officer for Women and Child Development; representative from District Officer for Women and Child Development, District Legal Services Authority and Child Welfare Committee; two Civil Society Organisations and the Non-Governmental Organisations working in the field of prevention of trafficking and related issues and other members as may be prescribed. Sub-clause (3) further provides for the functions to be performed by the District Anti-Trafficking Committee, such as, direct and facilitate the person in-charge of the Protection Homes and Rehabilitation Homes, as the case may be, and submit an individual care plan to the District Anti-Trafficking Committee; ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan and by passing necessary directions to Protection Homes and Rehabilitation Homes, co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to State Anti-Trafficking Committee and take appropriate actions; facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour; facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan; create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons; assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc., and such other functions as may be prescribed. Sub-clause (4) and (5) provides that the appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures and the District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

Clause 14 of the Bill seeks to provide that the District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Clause 15 of the Bill seeks to provide that the provisions of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply in relation to a search and seizure in respect of an offence under this Act.

Clause 16 of the Bill seeks to provide that where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury, illnesses incidental thereto to him and the provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall *mutatis mutandis* apply in relation to a medical examination of any person under this section. Sub-clause (3) provides that the

police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

Clause 17 of the Bill seeks to provide that the District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit by the District Anti-Trafficking Committee. Sub-clause (2) provides that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any loss of time but within twenty-four hours of the rescue. Sub-clause (3) provides that the Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person, and where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home and if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing and in discharging his functions, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers.

Clause 18 of the Bill seeks to provide that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions laid down in the Code of Criminal Procedure, 1973, and any other law for the time being in force. Sub-clause (2), provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report. Sub-clause (3) provides that the clause provides that the investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount and the designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund.

Clause 19 of the Bill seeks to provide that where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

Clause 20 of the Bill seeks to provide that the State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked and such measures shall include, co-ordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj institutions; facilitating the implementation of livelihood and educational programmes for vulnerable communities; facilitating the implementation of

programmes and schemes sponsored by various Ministries and Departments of the appropriate Government; co-ordinating with corporate sector to implement the various schemes, programmes for the prevention of trafficking of persons, ensuring accountability of the concerned agencies, by regular review and appropriate action; developing appropriate law and order framework to ensure prevention of trafficking of persons; undertaking vulnerability mapping of the State and give focus and attention to the challenging areas, commissioning independent research on various aspects of trafficking and ensure follow up action; organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons; bringing out annual report on trafficking of persons in the State, networking with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes; linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

Clause 21 of the Bill seeks to provide that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued and the Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

Clause 22 of the Bill seeks to provide that the appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued. Sub-clause (2) provides that the appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation.

Clause 23 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government and if any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-clause (1) of clause 23, he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

Clause 24 of the Bill seeks to provide that a victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a Rehabilitation Home and in case the victim or any person rescued is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply. Sub-clause (2) provides that the Magistrate may, pending inquiry under sub-clause (3) or (4) of clause 17, direct that the victim or any person rescued be kept in such care and protection as he may consider proper, having regard to the circumstances of the case and the Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

Clause 25 of the Bill provides that where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

Clause 26 of the Bill seeks to provide that the District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of victims by co-ordinating with their counterparts in any other District and where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be

repatriated to the country of origin, it may deal with the matter under any law for the time being in force. Sub-clause (3) provides that the State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho social professionals. Sub-clause (4) provides that the repatriation of the victims shall be completed within a period of three months for inter-State repatriation, and within six months in case of cross border repatriation from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be, and any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

Clause 27 of the Bill seeks to provide that upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim and the appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-clause (1) of clause 27, within a period of one month from the date of commencement of this Act.

Clause 28 of the Bill seeks to provide that the District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge sheet and the relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

Clause 29 of the Bill seeks to provide that where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property and the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property. Sub-clause (2) provides that where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

Clause 30 of the Bill provides for Rehabilitation Fund by the Central Government for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto any grants and loans made by the appropriate Government, any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government, any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973, the amount seized from any bank account frozen under sub-clause (4) of clause 18 and any other sums as may be received. Sub-clause (2) provides that the State Government may supplement the Rehabilitation Fund and the Rehabilitation Fund shall be utilised under this Act by the appropriate Government for the establishment and administration of Protection Homes and Rehabilitation Homes, supporting innovative programmes for the welfare and rehabilitation of the victims, strengthening legal assistance and support, providing entrepreneurial support, skill development training or vocational training, 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, providing victim and witness protection, awareness generation programmes for the prevention of trafficking of persons, creating community-based programmes to identify, report and prevent trafficking of persons, providing

specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals, for the victims and any other activity that may be required for effective implementation of the Act. Sub-clause (4) provides that the Rehabilitation Fund shall be maintained and monitored by the National Anti-Trafficking Relief and Rehabilitation Committee and shall be made available to the State and District Anti-Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons. Sub-clause (6) provides that any fine recovered for the commission of an offence under the 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 and the generation, dissemination and utilization of Fund shall be regulated in the manner as may be prescribed by the Central Government.

Clause 31 of the Bill seeks to provide for the offence of aggravated forms of trafficking, such as trafficking for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities, or for the purpose of bearing child, either naturally or through assisted reproductive techniques, or by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition, by administering any chemical substance or hormones on a person for the purpose of early sexual maturity, or for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage, or by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person, or who is a pregnant woman or the offence results in pregnancy of the person, or by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immunodeficiency virus, or for the purpose of begging, or who is a mentally ill person as defined in clause (l) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause(s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled, or by encouraging or abetting any person to migrate illegally into India or Indians in to some other country.

Clause 32 of the Bill seeks to provide that whoever commits the offence of aggravated form of trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to life imprisonment and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 33 of the Bill seeks to provide that whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two lakh rupees.

Clause 34 of the Bill seeks to provide that whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees. Sub-clause (92) also provides that whoever being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons, or being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part thereof as a place for trafficking of persons, shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend

to five years and also with fine which may extend to two lakh rupees. The clause further provides for an explanation, that for the purposes of sub-clause (2) of clause 34, it shall be presumed until the contrary is proved, that any person referred to in items (i) or (ii) of sub-clause (2) has not exercised due diligence in allowing to use or letting out the premises or in allowing the premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim. The clause also provides that notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in items (i) or (ii) of sub-clause (2), of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

Clause 35 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order by directing eviction of the occupier or any person from the premises, within seven days of the passing of the order; directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted. Sub-clause (2) provides that if the Magistrate, after the show cause notice issued under sub-clause (1) of clause 35, finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord as well as the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months of the issuing of the show cause notice by the Magistrate. Sub-clause (3) provides that if the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the show cause notice and when an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under item (ii) of sub-clause (1), he shall be punished with fine which may extend to one lakh rupees.

Clause 36 of the Bill seeks to provide that a person is said to promote, procure or facilitate the commission of trafficking of person, if that person, produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements, or advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner, or assists in the conduct of misrepresentation or fraud for the purposes of procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person. Sub-clause (2) provides for rigorous imprisonment for a term which shall not be less than three years, but which may

extend to seven years, and shall also be liable to fine which shall not be less than one lakh rupees for the punishment for promoting or facilitating trafficking of person.

Clause 37 of the Bill seeks to provide that whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

Clause 38 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act, for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Clause 39 of the Bill seeks to provide that whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees and may extend to one lakh rupees.

Clause 40 of the Bill seeks to provide that whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 41 of the Bill seeks to provide that whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 42 of the Bill seeks to provide that no report or any newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which may lead to the identification of a victim or witness of trafficking of person under this Act shall be published and for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim. It also provides that any person who contravenes the provisions of sub-clause (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both: and in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Clause 43 of the Bill seeks to provide that where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which

is greater in degree. Sub-clause (2) provides that a designated court convicting a person of any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund. Sub-clause (3) provides that when an occupier or any other person fails to comply with a direction given under item (i) of sub-clause (1) of clause 35, he shall be deemed to have committed an offence under clause 34 and shall be punished accordingly.

Clause 44 of the Bill seeks to provide that whoever attempts to commit an offence punishable by this Act with imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

Clause 45 of the Bill seeks to provide that nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.

Clause 46 of the Bill seeks to provide for Designated Courts for the purposes of providing speedy trial of any offence under this Act. It further provides that the State Government shall, in consultation with the Chief Justice of the High Court, by notification, designate for each district, a Court of Session, within two months from the date of commencement of this Act, to try any offence under this Act.

Clause 47 of the Bill seeks to provide that the appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act and every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly. Sub-clause (3) provides that subject to the provision contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act and if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.

Clause 48 of the Bill seeks to provide that the designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act and may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality. It also provides that in all matters of transborder and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record their statement. It also provides that notwithstanding anything contained in this Act, the inquiry into and trial of offences under this Act, may be conducted *in camera*, if an application is made in this regard by the victim.

Clause 49 of the Bill seeks to provide that the designated court may order, where applicable, any back wages of the victim to be paid to him. Sub-clause (2) provides that the designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or under any other law for the time being in force or otherwise at any stage of the proceedings and the appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.

Clause 50 of the Bill provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of the designated court to the High Court and every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against and the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

Clause 51 of the Bill seeks to provide that the designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant. Sub-clause (2) provides that in particular, and without prejudice to the generality of the provisions of sub-clause (1) of clause 51, the measures which a designated court may take under that sub-section may include, the holding of the proceedings at a place to be decided by the designated court; the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public; the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

Clause 52 of the Bill seeks to provide that all offences under this Act shall be cognizable and non-bailable. Sub-clause (2) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, (a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years, (b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless—(i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release, (ii) where the Special Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail, (c) the victim shall have a right to be heard in all bail matters. Sub-clause (3) provides that the conditions on granting of bail specified in item (b) of sub-clause (2) are in addition to the conditions provided under the Code of Criminal Procedure, 1973.

Clause 53 of the Bill seeks to provide that no suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government, as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder.

Clause 54 of the Bill seeks to provide that the Central Government may, by notification, make rules for carrying out the purposes of this Act. It also provides that every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Clause 55 of the Bill provide that the State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Sub-clause (2) provides that every rule made by the State Government, shall be laid, as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses or where such State Legislature consists of One House, before that House.

Clause 56 of the Bill seeks to provide that any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the difficulty and no such order shall be made under this section after the expiry of the period of two years from the commencement of this Act. Sub-clause (2) provides that every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 57 of the Bill seeks to provide that the provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

Clause 58 of the Bill seeks to provide that the provisions of sections 193, 195, 199 and 203 of Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

Clause 59 of the Bill seeks to provide that the provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall, by notification, establish a National Anti-Trafficking Bureau, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions.

2. Sub-clauses (1) and (2) of clause 29 provides that the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

3. Clause 30 of the Bill provides that the Central Government shall constitute a Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act. It also provides that the State Government may supplement the Rehabilitation Fund. Besides, the Rehabilitation Fund may also be credited through grants and loans made by the appropriate Government; any voluntary donations, contributions or subscriptions; any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973. Further, the proceeds through freezing of the bank accounts, as prescribed under sub-clauses (3) and (4) of clause 18, shall be remitted to the Rehabilitation fund.

4. Sub-clause (2) of clause 43 provides that the designated court convicting a person may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.

5. The financial implication arising from the establishment of National Anti-Trafficking Bureau is estimated as recurring expenditure of Rs. 10 Crores in the first year and Rs. 20 crores each in the next two years and for Rehabilitation Fund it is estimated as an initial allocation of Rs. 10 crores and to be augmented subsequently on need basis.

6. It would be difficult to indicate the exact expenditure incurred in the appointment of officers of the National Anti-Trafficking Bureau etc. The Bill does not envisage any other expenditure of recurring or non-recurring.

Clause 56 of the Bill seeks to provide that any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the difficulty and no such order shall be made under this section after the expiry of the period of two years from the commencement of this Act. Sub-clause (2) provides that every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 57 of the Bill seeks to provide that the provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

Clause 58 of the Bill seeks to provide that the provisions of sections 193, 195, 199 and 203 of Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

Clause 59 of the Bill seeks to provide that the provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 3 of the Bill provides for the manner of selection, deputation, functioning and reporting of the officers and employees of the National Anti-Trafficking Bureau.

2. Sub-clause (4) of clause 7 of the Bill provides that the State Nodal Officer shall perform such other functions as may be prescribed.

3. Sub-clause (1) of clause 8 of the Bill provides that the police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned, as may be prescribed.

4. Item (xi) of sub-clause (2) of clause 11 of the Bill provides for inclusion of other representatives of the Ministries or Departments or experts representing different States in the composition of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed. Item (vi) of sub-clause (3) of the said clause provides for prescribing other functions of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed.

5. Item (xiii) of sub-clause (2) of clause 12 of the Bill provides for nomination of such other members in the State Anti-Trafficking Committee. Item (vi) of sub-clause (3) of the said clause provides for the functions of the State Anti-trafficking Committee, including the nomination of such other members as may be prescribed.

6. Item (vii) of sub-clause (2) of clause 13 of the Bill provides for nomination of other members in the District Anti-Trafficking Committee, as may be prescribed. Item (iv) of sub-clause (3) of the said clause provides for inter-State repatriation of victims or persons subjected to bonded labour by the District Anti-trafficking Committee in a time bound manner or in the manner as may be prescribed. Item (vii) of sub-clause (3) of the said clause provides for any other function as may be prescribed.

7. Sub-clause (1) of clause 21 of the Bill provides that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued. Sub-clause (2) of the said clause provides that the Protection Homes shall provide shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

8. Sub-clause (1) of clause 22 of the Bill provides that the appropriate Government, as it deems fit shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation to the victims or any person rescued.

9. Sub-clause (1) of clause 23 of the Bill provides that the Protection Homes and Rehabilitation Homes shall be registered under this Act in such manner as may be prescribed by the appropriate Government.

10. Sub-clause (7) of clause 30 of the Bill provides that the generation dissemination and utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government.

11. The matters in respect of which rules may be made relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

A

BILL

to prevent trafficking of persons, especially women and children and to provide care, protection and rehabilitation to the victims of trafficking, to prosecute offenders and to create a legal, economic and social environment for the victims and for matters connected therewith or incidental thereto.

(Smt. Maneka Sanjay Gandhi, Minister of Women & Child Development)