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Sub: Concerns about why sex-trafficking is missing from Trafficking Bill, 2018

23 July, 2018

Dear Member of Parliament,

Our organization, Apne Aap Women Worldwide, has been working to end sex trafficking in India for the last sixteen years. We have served thousands of at risk and prostituted women and girls - the majority of whom come from the most vulnerable groups of India- Dalits, OBCs, Adivasis and formerly nomadic groups known as de-notified criminal tribes.

Our founder, Prof. Ruchira Gupta, is among one of the pioneers of the definition of sex trafficking in the world. She testified to the US Senate for the passage of the first US law on Trafficking, contributed to its drafting, participated in high level discussions at the Security Council and General Assembly for the passage of the UN Protocol to End Trafficking in Persons, especially Women and Children, wrote the first manuals in the world to address the demand for Human Trafficking for the UN and now teaches a course on human trafficking at New York University. She has been given the French Légion d'Honneur, UN Woman of Distinction, Clinton Global Citizen and UK House of Lords Abolitionist awards for helping create better laws and policies related to sex trafficking.

In India too, she was on the steering committee for women and children for the 11th and 12 five-year plans. Our organization. played a key role in the passage of India's first anti-trafficking law – Section 370 I.P.C.

We are writing to bring your attention to serious gaps in the proposed Anti-trafficking Bill, 2018 that has been introduced in Parliament.

The Bill does not mention sexual exploitation or 'prostitution of others', though UN data reveals that more than seventy percent of the trafficked are women and children in India, and the majority of them are trafficked for the purposes of sexual exploitation.

The UN Protocol to End Trafficking in Persons, especially Women and Children, to which India is a signatory, clearly mentions sexual exploitation and prostitution of others as major elements in the trafficking process.

A Thompson Reuters report reveals there are 16 million victims of sex trafficking in India. They were trafficked between the ages of nine and thirteen. This is only the tip of the ice-berg. With



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across the board budget cuts for women and children in the last four years, increase in child rapes by 82% in a year, impunity for rapists and lack of police reform as demanded by the Verma Commission, millions more vulnerable girls are at-risk.

Should this Bill be passed, not only are these 16 million victims and survivors of sex trafficking unlikely to get any services or relief, as they are not defined as victims in the proposed Bill, but their perpetrators will not be brought to justice as they will not be in violation of this law.

Millions of Dalit, OBC and Adivasi girls, already vulnerable due to the budget cuts in their basic needs, will be easily preyed upon by traffickers, who will know that the proposed Trafficking Law does not criminalize them.

India will be in violation of its own constitutional and international obligations.

This Bill claims to be a comprehensive bill on Trafficking, saying it will simplify processes and avoid duplication. In reality however, the Bill focuses on Labour Trafficking and refers to other laws on issues of sex -trafficking. In fact, by the absence of the words “sexual exploitation” it will delink the process of trafficking from its major outcome-the prostitution of other and sexual exploitation. In fact, the Bill should renamed the Labour Trafficking Prevention Bill to avoid any confusion.

It dilutes the strengths of Section 370 IPC and the Immoral Trafficking Prevention Act, without getting rid of its weaknesses. The ITPA has comprehensive measures for prevention and rehabilitation, including non-shelter-based frameworks. Section 370 I.P.C gives a good definition of trafficking. Section 8 in ITPA, that punishes vulnerable for the crime of soliciting, continues to remain on the books. Section 370 I.P.C does not punish buyers of prostituted sex, the drivers of the demand for sex-trafficking. They continue to enjoy impunity as they are neither defined as perpetrators in the old laws or the proposed one.

The lacunae could in the two laws could have been plugged by amending ITPA and Section 370 I.P.C . The proposed law creates multiplicity of laws and will confuses survivors, frontline workers and often ill trained police personnel as well.

The introduction of this Bill is extremely dangerous at a time when budgets have been drastically cut for Women and children and for education for the vulnerable in the last four years. The participation of women in the work force has dropped, while the participation of children in work has increased.



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Child rape has increased by 82 % in one year alone after the passage of the Child Labour Act, 2016. Through loopholes buried deep in the Act, that legalized child labour in audio-visual entertainment and family based enterprises, and reduced the ILO-stipulated list of hazardous industries that children could be employed in from more than a hundred to just three, millions of children from oppressed castes were pushed out schools and onto the streets.

In both cases, with a change in definition, millions of children and women will be left out of the data on number of child labourers or victims of sex-trafficking. This is extremely suspicious.

We request you to raise these issues in Parliament and see that a good law or, better still, old laws are amended on behalf of India's most vulnerable children.

We have attached a document with line by line comments on the proposed Bill for your convenience. Please do hesitate to contact me for any further information or comments.

Respectfully,

Tinku Khanna

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