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**DR. SHASHI THAROOR**

MEMBER OF PARLIAMENT (LOK SABHA), THIRUVANANTHAPURAM

CHAIRMAN, EXTERNAL AFFAIRS COMMITTEE OF PARLIAMENT

April 17, 2018

My dear Kenekeji,

I am writing to you today in relation to The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, which has been drafted by the Ministry of Women and Child Development.

As you are aware, there is a multitude of existing legislations that deal with human trafficking, such as Section 370 & 370A of the Indian Penal Code, 1860, The Immoral Traffic (Prevention) Act, 1956 (ITPA), provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, The Bonded Labour System (Abolition) Act, 1976, the Contract Labour (Regulation & Abolition) Act, 1970, the Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Children (Pledging of Labour) Act, 1933 and the Child Labour (Regulation and Prohibition) Act, 1986. The need of the hour is a comprehensive legislation to effectively curb trafficking.

In light of the above, the Ministry of Women and Child Development had assured the Supreme Court in 2015 in the case *Prajwala v Union of India*, that they would take steps to formulate a comprehensive legislative framework. A comprehensive law is one that harmonizes all the laws related to that specific topic -- unfortunately, the proposed Bill fails to do so, and instead creates more confusion among law enforcement agencies by adding to the existing range of laws. For instance, Section 21 of the existing ITPA establishes "Protective Homes" and "Corrective Homes" where people in need of care and 'correction' are kept respectively. However, the Bill, as drafted by your Ministry, establishes "Protection Homes" and "Rehabilitation Homes" under Clauses 21 and 22 respectively, without clarifying the nature of relation between the homes under the Bill and the ones under the ITPA.

Indeed, I also wish to draw your attention to the urgent need to reform the ITPA, due to its outdated moralistic approach towards sex workers as well as due to the conflation of sex workers and people trafficked into sex work by the enforcement agencies under the Act. Since the sex industry is a major source of human trafficking in India, a bill addressing the gaps of the ITPA must be introduced in Parliament, simultaneously with a comprehensive bill on trafficking. The report of the Panel appointed by the Supreme Court in *Budhadev Karmaskar v. State of West Bengal*, produced after extensive consultations with various stakeholders, had suggested numerous amendments to the ITPA. I would be grateful if you can consider them at the earliest and facilitate enactment of these necessary amendments.

In addition to the amendments suggested, the Panel had also recommended including sex workers collectives in the fight against human trafficking for sex work. Sex workers, including trafficked ones, are highly suspicious of the police due to the abuse and exploitation they face from their end. Therefore, the inclusion of sex workers collectives in the enforcement mechanism under the law can have a beneficial impact – indeed, the successful work of the Durbar Mahila Samanwaya Committee in Sonagachi, West Bengal is a prime example of this approach in combating human trafficking. Unfortunately, the present Bill has failed to incorporate this aspect in its enforcement framework.

Moreover, it must also be noted that a large number of activists who work for the betterment of victims of trafficking have stated that the present system of rehabilitation through State-run homes is failing. The research carried out by Veshya Anyay Mukti Parishad and Sampada Grameen Mahila Sanstha in cooperation with sex worker collectives in Kerala, Karnataka, Maharashtra and Jharkhand, as recorded in their report *"Raided: How Anti-Trafficking Strategies Increase Sex Worker's Vulnerability to Exploitative Practices"*, has shown that 77% of women who were released from rehabilitation homes, returned to sex work. Even the Supreme Court-appointed Panel had stated that the type of vocational training provided in these homes fails to provide skills necessary for basic sustenance. It would be useful if the Government were to consult with social activists and experts to consider new methods of rehabilitation, instead of reiterating the existing mechanism.

Given the above, I would strongly urge you to reconsider the present Bill and undertake a consultative process with organizations and activists who deal with victims of trafficking in order to produce a comprehensive legislation, which would truly enable us to fulfil the mandate of Article 23 of the Constitution of India in eliminating human trafficking.

*Warm personal regards –*

Yours Sincerely,

*Shashi Tharoor*  
Shashi Tharoor

Smt. Maneka Gandhi,  
Hon'ble Minister of Women and Child Development,  
Ministry of Women and Child Development,  
Shastri Bhawan, New Delhi.