

ACTS

Supplement to the Sierra Leone Gazette Vol. CXXXVI, No. 44

dated 18th August, 2005

THE ANTI-HUMAN TRAFFICKING ACT, 2005

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SIGNED this 12th day of August, 2005

ALHAJI AHMAD TEJAN KABBAH,
President.

LS

No. 7



Sierra Leone

2005

The Anti-Human Trafficking Act, 2005.

Short title.

Being an Act to suppress the trafficking in persons and to provide for other related matters.

[18th August, 2005]

Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

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PART I—PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires—

“abuse of a position of vulnerability” means such abuse that the person believes he has no reasonable alternative but to submit to the labour or service demanded of the person, and includes taking advantage of the vulnerabilities resulting from the person having entered the country illegally or without proper documentation, pregnancy, any physical or mental disease or disability of the person, including addiction to the use of any substance, or reduced capacity to form judgements by virtue of being a child;

“child” means a person under the age of eighteen years;

“coercion” means force or some form of non-violent or psychological force including—

- (a) threats of serious harm to or physical restraint against any person;
- (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (c) the abuse or threatened abuse of the legal process;

“Committee” means the Inter-Ministerial Committee established by section 3;

“debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

“forced labour” means labour or services obtained or maintained through force, threat of force or other means of coercion or physical restraint;

“illicit removal of organs” means the unlawful removal of a human organ and not to the legitimate medical procedures for which proper consent has been obtained;

“practices similar to slavery” includes debt bondage, serfdom, forced or servile marriages and delivery of children for exploitation;

“servitude” means a condition of dependency in which the labour or services of a person are provided or obtained by threats of serious harm to that person or other person, or through any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labour or services, that person or another person would suffer serious harm;

“slavery” means the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised;

“Task Force” means the National Task Force on Human Trafficking referred to in subsection (1) of section 3;

“trafficking” means the offence of trafficking in persons stated in section 2;

“victim” means a person who has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental human rights, through acts that are a violation of this Act.

PART II—MEASURES TO COMBAT HUMAN TRAFFICKING

2. (1) It is an offence for any person to engage in the trafficking in persons.

Offence of trafficking in persons.

(2) A person engages in the trafficking in persons if he undertakes the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.

(3) For the purposes of subsection (2), “exploitation” includes, at a minimum—

- (a) keeping a person in a state of slavery;
- (b) subjecting a person to practices similar to slavery;
- (c) compelling or causing a person to provide forced labour or services;
- (d) keeping a person in a state of servitude, including sexual servitude;
- (e) exploitation of the prostitution of another;
- (f) engaging in any other form of commercial sexual exploitation, including but not limited to pimping, pandering, procuring, profiting from prostitution, maintaining a brothel, child pornography;
- (g) illicit removal of human organs;
- (h) exploitation during armed conflicts.

Inter-
Ministerial
Committee
and National
Task Force on
Human
Trafficking.

3. (1) For the purposes of this Act, there is hereby established an Inter-Ministerial Committee on Human Trafficking to oversee and provide advice and policy guidance to a National Task Force on Human Trafficking.

(2) The Committee shall consist of the following:—

- (a) (i) the Minister of Social Welfare, Gender and Children’s Affairs; and
- (ii) the Attorney-General and Minister of Justice;

who shall be joint chairmen;

- (b) the Minister of Education, Science and Technology;
- (c) the Minister of Information and Broadcasting;
- (d) the Minister of Internal Affairs;
- (e) the Minister of Labour, Social Security and Industrial Relations;
- (f) the Minister of Health and Sanitation;
- (g) the Minister of Foreign Affairs and International Cooperation;
- (h) the Minister of Local Government and Community Development;
- (i) the Minister of Youth and Sports;
- (j) the Minister of Tourism.

(3) The Task Force shall consist of —

- (a) senior officials each representing the respective Ministries under the Ministers referred to in subsection (2);
- (b) the Principal Immigration Officer or his representative;
- (c) the Commissioner of Police in charge of Crime Services;
- (d) a representative of the office of the Ombudsman; and
- (e) one representative each from Women’s Forum and National Forum for Human Rights.

(4) The officials representing the Minister of Social Welfare, Gender and Children’s Affairs and the Attorney-General and Minister of Justice respectively shall be joint chairmen of the Task Force.

Functions of Task Force.

4. (1) The object for which the Task Force is established is generally to coordinate the implementation of this Act, especially concerning the enforcement of the law against trafficking, including the prosecution of corrupt public officials who facilitate trafficking, the rendering of assistance to victims of trafficking, the prevention of trafficking through the adoption and encouragement of local initiatives to improve the economic well-being and opportunity for potential victims and increased public awareness of the causes and consequences of trafficking.

(2) Without prejudice to the generality of subsection (1), it shall be the responsibility of the Task Force to -

- (a) receive and investigate reports of activities of trafficking from the public or otherwise coming to its notice;
- (b) monitor the immigration and emigration patterns of Sierra Leone for evidence of trafficking and to secure the prompt response of the police and other law enforcement agencies;
- (c) initiate measures to inform and educate the public, including potential victims, about the causes and consequences of trafficking;
- (d) cooperate with other governments in the investigation and prosecution of trafficking;
- (e) cooperate with non-governmental organizations active in the field of trafficking;
- (f) advise Government on trafficking, including the need to cooperate in any international efforts against trafficking, the adoption of the economic alternatives to prevent and deter trafficking contained in section 5; and
- (g) do all such things as will be conducive to the attainment of the object stated in subsection (1).

5. Pursuant to section 4, it shall be the responsibility of the Task Force to formulate and propose to Government, either alone or in conjunction with other persons or organisations, measures that will enhance economic opportunity for potential victims of trafficking as a deterrent to trafficking, including—

- (a) microcredit lending programmes, training in business development, skills training and job counselling;
- (b) programmes to promote women's participation in economic decision making;
- (c) programmes to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking, and
- (d) the development of educational curricula regarding the dangers of trafficking.

Economic alternatives for prevention of trafficking.

6. (1) The Task Force shall meet for the dispatch of business at such time and place as the joint chairmen may determine.

Meetings of Task Force.

(2) At any meeting at which they are present, one of the chairmen shall preside, and in their absence, the members of the Task Force shall elect a chairman from among their number.

(3) The quorum at a meeting of the Task Force shall be five.

(4) Decisions of the Task Force shall be taken by a simple majority of the members of the Task Force present and voting and, in the case of equality of votes, the chairman or other member presiding shall have a casting vote.

(5) The Task Force may co-opt any person to advise or otherwise render assistance to it at any of its meetings but such person shall not vote on any matter for decision by the Task Force.

(6) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of all members of the Task Force shall be of the same force or effect as a decision made at a properly constituted meeting of the Task Force and shall be incorporated in the minutes of the next succeeding meeting of the Task Force:

Provided that if a member requires that such proposal be placed before a meeting of the Task Force this subsection shall not apply to the proposal.

Remuneration of members of Task Force.

7. Members of the Task Force shall be paid such allowances as the Minister of Social Welfare, Gender and Children's Affairs and the Attorney-General and Minister of Justice shall determine, after consultation with the Minister of Finance.

Administrative and secretarial support for Task Force.

8. (1) The Task Force shall have a Secretariat to be located in the Ministry of Social Welfare, Gender and Children's Affairs and to be headed by a coordinator appointed by the Public Service Commission.

(2) The Secretariat shall provide administrative and secretarial and other assistance to the Task Force.

(3) In addition to the Coordinator, the Secretariat shall have such other staff as are required for the efficient performance of the functions of the Secretariat, including public officers seconded from the various Ministries and other organisations represented on the Task Force.

(4) As head of the Secretariat, the Coordinator shall be responsible to the Task Force for—

- (a) the day-to-day management of the affairs of the Task Force;
- (b) the administration, organisation and control of the other staff of the Secretariat;
- (c) the management of the funds and other property of the Task Force;
- (d) organising cooperation with other Governments and international organizations against trafficking, and
- (e) performing such other functions as the Task Force may determine.

PART III—FINANCIAL PROVISIONS

Funding of Task Force.

9. The activities of the Task Force shall be financed by a fund consisting of —

- (a) moneys appropriated for the purposes of the Task Force by Parliament;
- (b) grants, gifts and donations made to the Task Force by any person or authority;
- (c) any other moneys that may become part of the funds of the Task Force otherwise than stated in paragraphs (a) and (b).

10. The Task Force shall keep proper books of accounts and proper records in relation thereto and such accounts, books and records shall be in the form approved by the Auditor-General. Accounts and other records.

11. The financial year of the Task Force shall be the same as the financial year of the Government. Financial year.

12. (1) The books and accounts of the Task Force shall each year be audited by the Auditor-General or by an auditor appointed or authorised by the Auditor-General. Audit of accounts and other records.

(2) The Auditor-General may, in addition to any accounts audited under subsection (1), at any time, audit the accounts and the records in relation thereto of the Task Force.

(3) The Auditor-General shall submit to the Task Force a report of the audit carried out by him.

(4) The Task Force shall as soon as practicable upon receiving the audit report, forward a copy to the joint chairmen who shall include it in the annual report required to be laid before Parliament by section 13.

13. (1) The Task Force shall, as soon as practicable, after the end of each financial year, but within six months thereafter, submit to the Minister of Social Welfare, Gender and Children's Affairs and the Attorney-General and Minister of Justice an annual report dealing generally with the activities and operations of the Task Force within that financial year. Annual reports.

(2) The Minister of Social Welfare, Gender and Children's Affairs or the Attorney-General and Minister of Justice shall, as soon as practicable after receiving the annual report of the Task Force, cause it to be laid before Parliament.

(3) The Task Force shall also submit to the Minister of Social Welfare, Gender and Children's Affairs and the Attorney-General and Minister of Justice such other reports on its affairs as they may, in writing request from time to time.

PART IV—PROSECUTION OF TRAFFICKING OFFENCES

Jurisdiction.

14. A court in Sierra Leone shall have jurisdiction to try an offence under this Act where the act constituting the offence has been carried out –

- (a) wholly or partly in Sierra Leone;
- (b) by a citizen of Sierra Leone anywhere;
- (c) by a person on board a vessel or aircraft registered in Sierra Leone.

Consent, etc. of victim irrelevant.

15. In a prosecution for trafficking under section 2–

- (a) the consent of a victim to the intended or realised exploitation is irrelevant where any of the means specified in subsection (2) of that section has been used;
- (b) a victim's past sexual behaviour is irrelevant and inadmissible for the purpose of proving that the victim was engaged in other sexual behaviour or to prove the victim's sexual predisposition;
- (c) the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be regarded as trafficking in persons even if this does not involve any of the means specified in subsection (2) of section 2;
- (d) the legal age of consent to sex, legal age of marriage or other discretionary age shall not be a defence to trafficking.

16. A victim of trafficking is not liable for any criminal offence that was a direct result from being trafficked.

Victim's immunity.

17. Any request for extradition of an offender shall be subject to the Extradition Act, 1974 which shall be applied as if trafficking is an offence for which extradition may be granted.

Extradition Act No. 11 of 1974.

18. An attempt or conspiracy to commit trafficking or aiding, abetting, counselling, commanding or procuring the commission of trafficking shall be punishable as if the offence had been completed.

Attempts, aiding and abetting etc.

19. Where an offence under this Act is committed by a body of persons –

Offence by body of persons.

- (a) if the body of persons is a body corporate, every director or officer of that body shall be deemed to have committed that offence;
- (b) if the body of persons is a firm, every partner of that firm shall be deemed to have committed that offence:

Provided that no such person referred to in paragraph (a) or (b) shall be deemed to have committed an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

20. Any person who, acting or purporting to act as another person's employer, manager, supervisor, contractor, employment agent, or solicitor of clients (such as a pimp), knowingly procures, destroys, conceals, removes, confiscates, or possesses any passport, immigration document or other government identification document, whether actual or purported, belonging to another person, for any unlawful purpose, commits an offence and shall be liable on conviction to a fine not exceeding thirty million leones or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

Unlawful withholding of identification document.

21. (1) Any person who knowingly transports any person across an international border for the purpose of exploiting that person's prostitution commits an offence.

Transporting person for purpose of exploiting prostitution.

(2) Persons convicted of an offence under subsection (1) shall be liable to imprisonment for a term not exceeding five years but the presence of any one of the following aggravating factors can permit a longer sentence up to a maximum of 10 years:—

- (a) transporting two or more persons at the same time;
- (b) permanent or life-threatening bodily injury to a person transported;
- (c) transportation of one or more children; or
- (d) transporting as part of the activity of an organized criminal group.

Penalty for trafficking.

22. A person convicted of the offence of trafficking shall be liable to a fine not exceeding fifty million leones or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

Restitution.

23. (1) Where a defendant is convicted of trafficking in persons under section 2, the court shall order the defendant to pay restitution to the victim.

(2) Restitution shall compensate the victim for-

- (a) costs of medical and psychological treatment;
- (b) costs of physical and occupational therapy and rehabilitation;
- (c) costs of necessary transportation, temporary housing and child care;
- (d) lost income;
- (e) legal practitioner's fees and other legal costs;
- (f) the greater of the gross income or value to the defendant of the victim's services or labour;
- (g) compensation for emotional distress, pain, and suffering; and
- (h) any other losses suffered by the victim.

(3) Restitution shall, upon the conviction of the defendant, be paid to the victim promptly with the proceeds from any property forfeited under section 24 applied first to the payment of restitution and the return of the victim to his home country or normal place of abode but the absence of the victim from the jurisdiction shall not prejudice the victim's right to receive restitution.

24. (1) All property, including but not limited to money, valuables, real property and vehicles, of any person convicted of the crime of trafficking in persons under section 2 that was used or intended to be used, or was obtained in the course of the offence, or benefits gained from the proceeds of the offence, shall be forfeited to the State. ^{Forfeiture.}

(2) Any overseas assets of persons convicted of trafficking in persons shall also be subject to forfeiture to the extent they can be retrieved by Government.

25. The Committee may make regulations to carry into effect the provisions of this Act. ^{Regulations.}

Passed in Parliament this 9th day of June, in the year of our Lord two thousand and five.

J. A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.