

In the Name of Allah, the Gracious, the Merciful

THE COMBATING OF HUMAN TRAFFICKING
ACT, 2014.

Be it hereby passed, by the National Assembly, and signed by the President of the Republic, in accordance with the provisions of the Interim Constitution of the Republic of the Sudan, 2005, the following Act:-

Chapter I
Preliminary Provisions

Title and Commencement

1. This Act may be cited as the, "Combating of Human Trafficking Act, 2014", and shall come into force as of the date of signature.

Interpretation

2. In this Act, unless the context otherwise requires,:-

"Committee", means the, "National Committee for Combating Human Trafficking", established under the provisions of section 4, hereof,

"Minister", means the Minister, to be specified by the President of the Republic;

"Organized Criminal Group", means a group consisting of two persons, or more, working in an organized form, for the purpose of the commission of any of the acts, which constitute an offence, in accordance with the provisions of this Act, means any of the acts, which constitute an offence

" Human Trafficking",

under the provisions of section 7, hereof.

“Victim”, means any natural person, who is subjected to a corporeal or moral injury as a consequence of the commission of one of the offences provided for in this Act.

Provisions of the Criminal Act applied

3. The provisions of Part III, of the Criminal Act, 1991, with respect to attempt, joint acts and abetment, shall apply to commission of the offence of in human trafficking.

Chapter II The Committee

Establishment, constitution, seat and supervision of the Committee

4. (1) There shall be established a committee, to be known as the, “National Committee for Combating Human Trafficking”, and it shall have corporate personality.
(2) The Committee shall be constituted by a decision of the Council of Ministers, upon recommendation of the Minister, of a Chairperson and a number of members, representing the bodies concerned
(3) The seat of the Committee shall be in the state of Khartoum.
(4) The Committee shall be subject to supervision of the Minister, and shall be responsible thereto, for performing the business and tasks thereof.

Functions and powers of the Committee

5. The Committee shall be the highest authority for combating and addressing the causes of offences of human trafficking, and shall have the right to establish branches in the states. Without prejudice, to the generality of the foregoing, the Committee shall have the following functions and powers, to:-

- (a) develop a national strategy to address the incipencies and causes of the offence of human trafficking;
- (b) prepare the annual budget and submit the same, through the Minister, to the Council of Ministers for approval thereof;
- (c) review legislations pertaining to combating of human trafficking and submit the necessary proposals and recommendation in respect thereof;
- (d) coordinate between:
 - (I) official and non-official entities concerned with the prevention of crimes of human trafficking, including such measures to be taken for facilitating the repatriation of victims to their homeland;
 - (II) the competent authorities in the State and the authorities concerned of other States to facilitate the repatriation of alien victims to their homeland, in accordance with the procedures applicable in the State;
- (e) disseminate awareness of issues relating to the crimes of human trafficking by organizing conferences and symposiums, issuing bulletins, arranging training and such other means, in particular amongst businessmen and dealers in the fields of employees and labor recruitment;
- (f) promote the national potentials of employees in the scope of combating crimes of human trafficking;
- (g) issue, publish and circulate a national guidebook containing the guidelines and educational subjects relevant to its work;
- (h) study international, regional and national reports on combating of human trafficking, and take the necessary measures and procedures in respect thereof;
- (i) cooperate with official and non-official entities for the implementation of such programs as maybe necessary for the

physical, psychological and social recuperation of victims, oversee their harboring in the places designated for this purpose and make the necessary arrangements for their protection;

- (j) participate with other stakeholders in the State in international and regional conferences and forums concerned with trafficking in persons, and reflect the State's orientation and policies towards such issues;
- (k) assume any other functions it deems necessary for combating human trafficking.

Meetings and decisions of the Committee

- 6. (1) The Committee shall convene once every three months, upon call of its Chairperson, and it may hold an emergent meeting upon an invitation of the Chairperson, or by request of one-third the members thereof.
- (2) The meeting of the Committee shall be valid by attendance of more than half the members thereof.
- (3) The Committee shall adopt its decisions by the majority of votes of the present members thereof, at a valid meeting, and in case of equality of votes, the Chairperson shall have a casting vote.
- (4) The Chairperson of the Committee may invite any person, from those possessed of expertise and competence, to attend any of the meetings of the Committee, to seek the opinion thereof on matters presented before the Committee, without having the right to vote.

Chapter III Offences and Penalties

The Offence of Human Trafficking

- 7. (1) There shall be deemed to have committed the offence of human trafficking, whoever kidnaps, transfers, abducts, transports, harbors, receives, detains or equips a natural

person, with intent to exploit or use the same in unlawful business, or any acts, as may by nature degrade his dignity, or achieve unlawful aims in consideration of any of the following:-

- (a) material return, or promise therewith;
 - (b) moral gain, or promise therewith;
 - (c) granting any type of advantages.
- (2) The acts mentioned in sub-section (1), shall be deemed human trafficking, where they have been accomplished by the use of force, or threat of use of force, or by any of the forms of coercion, abduction, fraud, deception, or abuse of power and influence, or exploitation of a state of weakness or need, or by granting payments or advantages, or promise therewith, in order to obtain the consent of a person to traffic in another person upon whom he has control.

Trans-national offence of Traffic in Human Beings

- 8. The offence of human trafficking shall be deemed trans-national where it is committed in:-
 - (a) more than one State;
 - (b) one State and the arrangement, perpetration, planning, supervision, or financing the same has been done in or by another State;
 - (c) any State, through an organized criminal group, practicing criminal activities in more than one State;
 - (d) one State, and the effects thereof have extended to another State.
- 9. (1) Whoever commits the offence of human trafficking shall be punished, with imprisonment, for a term, which is not less than three years, and not exceeding ten years.

Penalties

(2) Whoever commits the offence of human trafficking shall be punished, with imprisonment, for a term which is not less than five years, and not exceeding twenty years, or with death, where:-

- (a) he has established, founded, organized or managed an organized criminal group, assumed leadership thereof, or called for joining the same;
- (b) the victim is female or a child who has not attained eighteen years of age, or is disabled;
- (c) the offence has been committed through cheating, use of force or threat of causing death or bodily or psychological torture;
- (d) the act has been done by two or more persons, or by a person carrying a weapon;
- (e) the offender is the victim's spouse or one of his ascendants, descendants, guardian or having control over him;
- (f) the offence is of trans-national character;
- (g) any one of the victims has been subjected to sexual abuse, removal of organs, or used in prostitution, or any act, as may by its nature degrades human dignity;
- (h) the person, who has committed the offence of human trafficking is a public servant, or assigned with performing a public service, and the offence has been committed by abuse of the office or position thereof;
- (i) the offence has resulted in the death of the victim, or his sustaining a permanent disability or an incurable disease.

Offenders

and obtained property harbored

10. (1) Without prejudice to the provisions of the Criminal Act, 1991, there shall be deemed to have committed the offence of harboring offenders, or the property obtained from the offence, whoever knowingly conceals:-

(a) one of the perpetrators of an offence of human trafficking

(b) property, tools or equipment, obtained from any one of the offences provided for in this Act, or deals in or conceals any of the marks or tools of the offence.

(2) Whoever commits an offence, under the provisions of sub-section (1), shall be punished, with imprisonment, for a term, not exceeding five years, or with fine, or with both.

(3) The court may mitigate the penalty, provided for in sub-section (2), where the person, who has concealed the offender is his spouse, one of his ascendants or descendants,

Witness or victim disclosed

11. There shall be deemed to have committed an offence, whoever reveals or discloses the identity of the victim, or witness, place of his presence, or any information thereabout, in such way as may expose him to danger or cause him injury, or facilitates the offender's communication therewith, or supplies him with false information with intent to cause injury thereto, or prejudice the physical, psychological or mental safety thereof, and shall be punished with imprisonment, for a term, not exceeding five years, or with fine, or with both.

Person induced to commit perjury

12. There shall be deemed to have committed an offence, whoever induces a person to commit perjury by use of:-

(a) force, threat, or intimidation, offering a present or favour of any type or promising a thing of the same, to induce another person to commit perjury, keep secret, or conceal information, or deliver false statements, or information before any judicial, or administrative body, in proceedings relating to the commission of any of the offences, provided for in this Act, and shall be punished, with imprisonment, for a term, not exceeding five years.

(b) physical force, threat, or intimidation in order to interfere into the work of any administrative or judicial official, or law enforcement agent in respect of any of the offences, provided for in this Act; and shall be punished, with imprisonment, for a term, not exceeding seven years.

Place established with intent to commit an offence

3. There shall be deemed to have committed an offence, whoever establishes, prepares, provides or manages a place wherein any of the offences provided for in this Act, or such acts, as may be relating thereto, and shall be punished with the following:-

- (a) imprisonment, for a term, not exceeding five years, or with fine, or with both,
- (b) confiscation of the place, where it is owned by the perpetrator of the offence, or used for commission of the offence, with knowledge of the owner thereof.

Offence through use of the internet

4. There shall be deemed to have committed an offence, whoever uses the internet, or establishes a website, with intent to commit any of the offences, provided for in this Act, and shall be punished, with imprisonment, for a term, not exceeding five years or with fine, or with both.

disposal of Property obtained from the offence

5. There shall be deemed to have committed an offence, whoever knowingly possesses, conceals, or disposes of any property, equipment, machinery, or materials, obtained from offence of human trafficking, and shall be punished, with imprisonment for a term not exceeding three years, or with

fine or with both, together with restitution of the property disposed of.

Confiscation of Property obtained from offence of

Human Trafficking

16. Without prejudice to the rights of bona fide third parties, the court shall, upon conviction, under any of the provisions of this Act, adjudge confiscation in favour of the Sudan Government, the property, luggage, tools, and means of conveyance, which have been used in the commission of any of the offences, provided for in this Act, or obtained therefrom.

Remission or commutation of penalty

17. (1) Penalties prescribed for the offences provided for in this Act, shall be remitted in favour of any offender who, at his own initiative, inform the competent authorities of whatever he knows about the offence, before commencement of execution thereof, in such a manner as the offence could be detected before taking place.

(2) The court may commute the original penalty, where the information takes place after the authorities having knowledge of the offence, and the same leads to identification and arrest of the rest of offenders, and seizure of the property obtained therefrom.

(3) Sub-section (2) shall not apply, where the offence entails death of the victim, or his sustaining an incurable disease or permanent disability.

Responsibility of the carrier

18. (1) The land, sea and air transportation companies shall be bound to verify that the passengers are holding valid documents for entering the State.

(2) The carrier shall be punished with fine, where it transpires that one of the offences of human trafficking has taken place as a result of his non-abdication by laws and regulations made in this respect.

Chapter IV

Financial Provisions

Financial Resources of the Committee

19. The Committee shall have the following financial resources:-
- (a) such financial appropriations, as may be allocated thereto by the State;
 - (b) any other financial resources, as the Minister of Finance and National Economy may approve.

Use of Financial Resources of the Committee

20. The resources of the Committee shall be used in carrying out its business and implementing its functions and powers, in accordance with the provisions of this Act.

Accounts, books and records kept and funds deposited

21. (1) The Committee shall keep accurate and comprehensive accounts of its business, in accordance with sound accountancy bases; and keep the books and records relating thereto.
- (2) The Committee shall deposit its funds with the Central Bank in current accounts; and withdrawal therefrom shall be made in accordance with the financial law and regulations.

Audit

22. The accounts of the Committee shall be audited, after the end of every financial year, by the National Audit Chambers, or

any other certified auditor, as the Auditor-General may approve, and under supervision thereof.

Statement of final account and the National Audit Chambers' report

23. The Committee, within three months, of the end of the fiscal year, shall submit to the Minister the following statements and reports:-
- (a) statement of final account;
 - (b) the National Audit Chambers' report;
 - (c) a report showing the progress of business of the Committee.

Chapter V

General Provisions

Consent

24. Consent of the victim to the offences of human trafficking shall have no effect.

Victim and witnesses protected

25. The Committee, the Public Prosecution and the competent court shall take such measures, as may secure provision of protection for the victims and witnesses, and prevent influence thereon; together with preserving the right to defense and requirements of the doctrine of confrontation of the parties.

Secrecy of information

26. All the bodies having connection with application of the provisions of this Act, shall preserve secrecy of the information they obtain in implementation of the provisions thereof; and shall not disclose secrecy thereof, save as to such extent, as may be essential and necessary; together with

preserving the cogency and requirements of the doctrine of confrontation of the parties.

Alien Victims

27. The competent authorities in the State, in co-ordination with the authorities concerned in other States, shall strive to facilitate repatriation of alien victims to their homelands, together with taking such measures, as may be necessary for their safety.

Judicial Fees

28. The victims shall be exempted from judicial fees pertaining to action for compensation for such injury, as may be sustained, as a result of their being subjected to any of the offences, provided for in this Act.

Power to make regulations, orders and rules

29. The Minister, upon recommendation of the Committee may, make such regulations, orders and rules, as may be necessary for implementation of the provisions of this Act.