ACTS
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ACTS SUPPLEMENT

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THE PREVENTION OF TRAFFICKING IN PERSONS ACT, 2009.

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SCHEDULE

Currency Point

THE PREVENTION OF TRAFFICKING IN PERSONS ACT, 2009.

An Act to provide for the prohibition of trafficking in persons, creation of offences, prosecution and punishment of offenders, prevention of the vice of trafficking in persons, protection of victims of trafficking in persons, and other related matters.

DATE OF ASSENT: 1st October, 2009.

Date of Commencement: 23rd October, 2009.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Commencement.
This Act shall come into force upon publication in the *Gazette.*

2. Interpretation.
In this Act, unless the context otherwise requires—

(a) "child" means a person below the age of 18 years;

(b) "debt bondage" means the status or condition arising from a pledge by the debtor of his or her personal services or labour, or those of a person under his or her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied towards the liquidation of the debt;

(c) "currency point" has the value specified in the Schedule to this Act;

(d) "exploitation" includes at a minimum, sexual exploitation, forced marriage, child marriage, forced labor, harmful child labour, use of a child in armed conflict, use of a person in illegal activities, debt bondage, slavery or practices similar to slavery or servitude, human sacrifice, the removal of organs or body parts for sale or for purposes of witchcraft, harmful rituals or practices;

(e) "forced labour" means all work or service which is exacted from any person under the threat of any penalty and for which the said person has not offered him/herself voluntarily;

(f) "Gazette" means the Uganda Gazette, and includes any supplement of that Gazette;

(g) "human sacrifice" means the killing, mutilation, removal of organs or body parts of a person for sale or for purpose of witchcraft, rituals or any harmful human practices;

(h) "Minister" means the Minister in charge of Internal Affairs;

(i) "prostitution" means the activities of a "prostitute" as defined in the Penal Code Act – "a person who, in public or elsewhere, regularly or habitually holds himself or herself out as available for sexual intercourse or other sexual gratification for monetary or other material gain";

(j) public office means an office in the public service;

(k) "public officer" means a person holding or acting in any public office;

(l) public service means service in a civil capacity of government or local government;

(m) "pornography" means any representation, through publication, exhibition, cinematography, indecent show, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities, or any representation of the sexual parts of a person for primarily sexual excitement;

(n) "sex tourism" means a program organized by travel and tourism – related establishments or individuals, which consists of tourism packages or activities, utilizing and offering escort and sexual services and practices offered for any persons as part of work recreation;

(o) "sexual exploitation" means the use of a person in prostitution, sex tourism, pornography, the production of pornographic materials, or the use of a person for sexual intercourse or other lascivious conduct;

(p) "slavery" is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised;

(q) "slave trade" includes all acts involved in the capture, acquisition or disposal of a person with the view to selling or exchanging him or her and with the intention of reducing him or her to slavery;

(r) "trafficking in persons" means 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, 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;

(s) "victim of trafficking" includes a person who is being or has been trafficked as per the definition of Trafficking in Persons provided under this Act.

PART II—TRAFFICKING IN PERSONS

3. Offence of trafficking in persons.

(1) A person who—

(a) recruits, transports, transfers, harbours or receives a person, 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;

(b) recruits, hires, maintains, confines, transports, transfers, harbours or receives a person or facilitates the aforementioned acts through force or other forms of coercion for the purpose of engaging that person in prositution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude, death bondage, forced or arranged marriage;

commits an offence and is liable to imprisonment for fifteen years.

(2) Notwithstanding the provisions of subsection (1), where the offender is a legal person, it shall be liable to a fine of one thousand currency points, and temporary or permanent closure, deregistration, dissolution, or disqualification from practice of certain activities.

(3) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall constitute "trafficking in persons" even if this does not involve any of the means set forth in subsection (1) of this Section.

(4) The consent of the victim of trafficking or if a child, the consent of his or her parents or guardian to the acts of exploitation shall not be relevant.

4. Aggravated trafficking in persons.

A person commits the offence of aggravated trafficking where—

(a) the victim of trafficking is a child;

(b) adoption, guardianship, fostering and other orders in relation to children is undertaken for the purpose of exploitation;

(c) the offence is committed by a syndicate, or on large scale;

(d) the offender is an organization engaged in the activities of organizing, directing or protecting the vulnerable persons in society;

(e) the offender is engaged in organizing or directing another person or persons to commit the offence;

(f) the offence is committed by a close relative or a person having the parental care, authority or control over the victim or any other person;

(g) the offence is committed by a public officer;

(h) the offence is committed by military personnel or law enforcement officer;

(i) where the person organizes, facilitates or makes preparations for the kidnapping, abduction, buying, selling, vending, bringing from or sending to, receiving, detaining or confining of a person for purposes of harmful rituals or practices, human sacrifice, removal of any body part or organ, or any other act related to witchcraft;

(j) the victim dies, becomes a person of unsound mind, suffers mutilation, gets infected with HIV/ AIDS or any other life threatening illness;

and shall be liable to imprisonment for life.

5. Trafficking in children

A person who—

(a) does any act referred to under Section 3 in relation to a child;

(b) uses a child in any armed conflict;

(c) removes any part, organ or tissue from the body of a child for purposes of human sacrifice;

(d) uses a child in the commission of a crime;

(e) abandons a child outside the country;

(f) uses a child or any body part of a child in witchcraft, rituals and related practices;

commits an offence of aggravated trafficking in children and may be liable to suffer death.

6. Engaging the Labour or Services of a Victim of Trafficking in Persons.

A person who while knowing or having reason to believe that a person is a victim of trafficking, engages the labour or services of that victim in that status, commits an offence and is liable to imprisonment for ten years.

7. Promoting Trafficking in Persons.

Any person who—

(a) knowingly leases or subleases, uses or allows to be used any house, building or establishment for the purpose of exploitation;

(b) produces, prints, issues or distributes, any document or information of any Government agency, which relates to immigration, for purposes of trafficking;

(c) tampers with, or falsifies any government or government agency's document or information relating to the immigration regulations or requirements;

(d) utters or aids any person to utter any false document relating to immigration for the purpose of facilitating that person's entry or stay in Uganda, or exit from the country;

(e) gives or facilitates the giving of false information to any authority for the purpose of enabling the entry, stay in Uganda, or exit from the country of any person;

(f) advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology and the internet of any pornographic or other material intended or likely to facilitate trafficking in persons;

(g) in any way engages in the selling or buying of persons;

(h) recruits, transports, transfers, harbours or receives a child for any purpose without authority of the parent or guardian of such a child; except that this provision shall not apply where the recruitment, transportation, transfer, harbouring or receipt is done lawfully, in good faith and in the best interests of the child;

(i) abandons a child. in circumstances likely to cause fear, isolation, injury, pain or other harm; or to facilitate the trafficking of that child;

commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or to imprisonment for five years, or both such imprisonment and fine, and on subsequent conviction for the same offence, is liable to imprisonment of seven years without the option of a fine.

8. Offences Related to Trafficking in Persons.

A person who—

(a) attempts to traffic in persons;

(b) conspires with another person to do an act of trafficking in persons;

(c) recruits, transports, transfers, harbours, provides or receives a person for domestic or overseas employment or training or apprenticeship with the intention of trafficking;

(d) recruits a person below 16 years in any form of employment for the purposes of exploitation;

(e) introduces or matches any person to another for purposes of sexual exploitation;

(f) confiscates, conceals, or destroys a passport, travel documents, or other personal documents or belongings of a person for the purpose of unlawfully denying that person freedom of movement, or access to any public services;

(g) adopts or facilitates the adoption of a person for illicit purposes;

commits an offence and is liable on conviction to imprisonment for five years or a fine of one hundred and twenty currency points or to both such imprisonment and fine, and on subsequent conviction for the same offence, is liable to imprisonment of seven years without the option of a fine.

9. Failure to Disclose Conviction.

A person who, having been convicted of a trafficking offence under this Act fails to disclose that conviction—

(a) when applying for employment which places him or her in a position of authority or care of children; or

(b) when offering or agreeing to take care of or supervise children,

commits an offence and is liable on conviction to a fine, not exceeding three thousand currency points or to a term of imprisonment not exceeding three years or both.

10. Duty to Report Trafficking in Persons.

(1) Every member of the community, who knows that any person has committed or intends to commit an offence under this part of the Act, shall report the matter to the police or other authority for appropriate action.

(2) A person who knowing or having reason to believe that a person has committed or intends to commit an offence and does not report to police or other relevant authority, commits an offence and is liable to a fine of five thousand currency points or imprisonment for six months.

11. Non Discrimination of Victims of Trafficking in Persons.

(1) Measures for the protection, assistance and support to victims of trafficking in persons shall be interpreted and applied in a way that is not discriminatory to persons on the basis of race, religion, belief, age, family status, culture, language, nationality or gender**.**

(2) Any person who applies the measures for protection, assistance and support of victims in a discriminatory manner commits an offence and is liable to a fine of five hundred currency points or imprisonment for six months.

12. Protection, Assistance and Support for Victims of Trafficking.

(1) A victim of trafficking shall be legally recognized as such and shall not be penalized for any crime committed as a direct result of his or her trafficking.

(2) A victim of trafficking shall be informed in a language that he or she understands about the different stages of any proceedings, and about her/his rights and duties.

(3) A victim of trafficking shall be assisted to enable his or her views and concerns to be presented and considered at the appropriate stages of the proceedings.

(4) The institution of a criminal charge arising from acts of trafficking in persons shall not affect the rights of a victim to pursue a civil case for damages.

(5) A person instituting proceedings under this section shall be exempted from payment of any filing fees required under civil procedure laws.

(6) A victim of trafficking in persons will be accorded the available health and social services, medical care, counseling and psychological assistance, on a confidential basis and with full respect of his/her privacy, in a language she/he understands.

(7) A victim of trafficking shall be considered for provision of safe and appropriate accommodation and material assistance, where necessary and possible.

(8) Public officers and any other person involved in the detection, investigation, prosecution or trial of offences under this Act shall whenever necessary, refer victims to appropriate organizations and institutions for assistance and support.

(9) The protection, assistance and support to children shall be provided in accordance with their special needs, especially with regard to accommodation, education and care.

(10) A victim of trafficking shall be entitled to information on the nature of protection, assistance and support he or she is entitled to and the possibilities of assistance and support.

(11) The protection, assistance and support subscribed in this section shall be provided by Government and other agencies.

13. Confidentiality.

(1) At any stage of the investigation or trial of an offence under this Act, law enforcement officers, prosecutors, judicial officers and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the victim of trafficking.

(2) For the purpose of (1), proceedings of the court shall be conducted in camera, outside the presence of the media, in cases involving children, sexual exploitation, and other cases where the court considers this appropriate.

(3) Any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer or director of a film in case of the movie industry, or any person utilizing trimedia facilities or information technology who publishes or causes publicity of the names and personal circumstances or any other information tending to establish the victim's identity without authority, commits an offence and is liable to a fine of two hundred and fifty currency points.

14. Repatriation of Victims of Trafficking In Persons.

(1) The Minister in cooperation with the appropriate government agencies shall be responsible for the facilitation of repatriation of victims of trafficking in persons to and from Uganda.

(2) Where the repatriation of a Ugandan victim is likely to expose the victim to greater risks or to compromise his or her safety, the Minister may through the relevant office negotiate with the host government for the extension of appropriate residency permits, work permits and maintenance as may be necessary to protect the victim.

(3) Where the repatriation of a foreign victim is likely to expose the victim to greater risks, to compromise his or her safety, or where presence of the victim is necessary for court proceedings, the Minister may facilitate the extension of appropriate residency permits, work permits and maintenance as may be necessary to protect, assist and support the victim.

(4) On getting notice of a victim of trafficking in persons in a foreign country, the minister shall verify whether the victim is a citizen or a permanent resident of Uganda and shall; where a victim is proved to be a Ugandan or a permanent resident without proper documentation, issue the relevant documents and other relevant authorization to facilitate the repatriation of the victim to or from Uganda.

15. Restitution.

Where a person is convicted of trafficking in persons under this Act, the court shall in addition to any other punishment, order that person to pay restitution to the victim or other person or organization which may have incurred expenses on the victim's behalf 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) costs of re-integration in society; and

(e) any other costs that the court may deem fit.

16. Compensation.
Where a person is convicted of trafficking in persons under this Act, the court may in addition to any other punishment order that person to pay compensation to the victim for—

(a) Physical injury;

(b) Emotional distress;

(c) Pain and suffering;

(d) Loss or damage;

(e) Any other damage that the court may deem fit.

17. Absence of Victims and Court Awards.
The return of the victim to his or her country, or other absence of the victim from the jurisdiction shall not prejudice the victim's right to receive restitution or compensation.

PART IV—JURISDICTION.

18. Jurisdiction.
A case under this Act shall be tried where the offence was committed, or where any of its components occurred, or where the trafficked person actually resided at the time of the commission of the offence.

19. Extra-Territorial Jurisdiction.
This Act shall apply to offences committed outside Uganda where—

(1) A person who, while being a citizen of, or permanently residing in Uganda, commits an act outside Uganda, which act would constitute an offence had it been committed in Uganda.

(2) The victim was a citizen of Uganda at the time of commission of the offence.

(3) The offence was committed partly inside and partly outside Uganda.

(4) A substantial proportion of the effects of the offence have occurred or taken place within the territory of Uganda.

Provided that—

(a) no proceedings shall be instituted under this section without the written consent of the Attorney General;

(b) if the consent of the Attorney General is received under (a) proceedings may be instituted in any appropriate court and such court shall have jurisdiction to try the matter as if the offence or offences had been committed within its jurisdiction;

(c) a person shall not be tried for an offence under this section if that person has been acquitted or convicted of the same offence in another country.

20. Extradition.

A person charged with an offence under this Act shall be liable to extradition under the existing Extradition laws.

Part V—Prevention of Trafficking In Persons Office

21. Designation of Prevention of Trafficking in Persons Office.

(1) The Minister shall designate an office to be responsible for the coordination, monitoring and overseeing the implementation of this Act.

(2) The designated office shall have the following functions—

(a) to formulate a comprehensive and integrated program to prevent and suppress trafficking in persons;

(b) to prepare an annual National Plan of Action on Prohibition of Trafficking in Persons taking into account activities on prevention, prosecution, and protection;

(c) to develop measures and policies to protect, assist and support victims of trafficking, taking particular consideration of the age, gender and special needs of victims of trafficking in persons;

(d) to establish a data bank on cases of trafficking in persons and conduct continuing research and study on the pattern and scheme of trafficking in persons which shall form the basis for policy formulation and program direction;

(e) to engage in consultation, coordination, cooperation and advocacy with governmental and Non-Governmental Organizations, among other entities, to advance the objects of this Act;

(f) to initiate the training and awareness of government personnel, law enforcement officials and the public, particularly among risk groups and communities, of the dangers of trafficking and protections that are available for victims of trafficking;

(g) to propose rules and regulations to the Minister as may be necessary for effective implementation of this Act;

(h) to carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act.

Part VI—Miscellaneous Provisions

22. Confiscation and Forfeiture of Proceeds of Trafficking.

(1) In addition to any penalty imposed for the violation of this Act, the court shall order the confiscation and forfeiture of all the established proceeds and properties derived from the commission of the crime.

(2) Where the proceeds and properties derived from the offence have been destroyed, diminished in value or otherwise rendered worthless by an act or omission, directly or indirectly of the offender or it has been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to pay the amount equal to the value of the proceeds or property.

(3) All awards of damages and costs of proceedings under this Act shall be paid directly by the offender, and where the offender fails to pay the same shall be recovered like a civil debt.

23. Regulations.

The Minister may by statutory instrument make regulations to effect implementation of the provisions of this Act, and promote its objects.

SCHEDULE

CURRENCY POINT

One currency point is equivalent to twenty thousand Shillings.