# BELIZE TRAFFICKING IN PERSONS

Key Documents & Resources



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### TRAFFICKING IN PERSONS (PROHIBITION) ACT, 2013

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#### **SCHEDULE**



No. 2 of 2013

#### I assent,

#### (SIR COLVILLE N. YOUNG)

Governor-General 31st January, 2013.

AN ACT to prohibit and prescribe punishment for Trafficking in Persons; to give effect to and implement the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons; to make provision for the offence of trafficking in persons, trafficking for the purpose of adoption and other related offences; to repeal the Trafficking in Persons (Prohibition) Act, (No. 18 of 2003); and to provide for matters connected therewith or incidental thereto.

(Gazetted 2nd February, 2013.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

#### PART 1 PRELIMINARY

1. This Act may be cited as the

Short title.

# TRAFFICKING IN PERSONS (PROHIBITION) <u>ACT</u>, 2013.

Interpretation.

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

"abuse of a position of vulnerability" means -

a) an abuse committed on a person where the person abused believes

he has no reasonable alternative but to submit to the labour or service demand of him; or;

- b) taking advantage of the vulnerabilities of abused person resulting from the abused person
  - i. having entered Belize illegally or without proper immigration documents:
  - ii. being pregnant;
  - iii. having a disease whether physical or mental;
  - iv. having a disability; or
  - v. being addicted to alcohol or any illegal drugs, which reduced the abused person's capacity to form judgment;

"child" means a person below the age of eighteen year,

"coercion" includes -

- a) violent as well as non-violent forms of psychological coercion;
- b) threats of serious harm to, or physical restraints against, any person;
- c) any scheme, plan or pattern intended to cause a person to believe that failure to perform would result in harm to, or physical restraint against, any person; or
- d) the abuse or threatened abuse of the legal process;

"conveyance" means a vehicle, vessel, ship, aircraft or any other mode of transport whether by air, sea or land;

"Council" means the Anti-Trafficking in Persons Council established under section 5;

"debt bondage" means the status or condition of a debtor from a pledge by the debtor of his personal services or those of a person under his control as a security or payment for debt, when the length and nature of services is not respectively limited and is not clearly defined or the value of those services as reasonable assessed is not applied towards the liquidation of the debt or where the length and nature of those services are not respectively limited and defined;

"exploitation" means -

- 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) exploiting another person by using such person, directly or indirectly, as a prostitute;
- f) engaging in any form of commercial sexual exploitation, including pimping, pandering or procuring prostitution, or profiting from sexual prostitution, maintaining a brothel, or engaging in pornography or strip tease dances where females or males dance nude or in a state or semi-nudity; or
- g) illicit removal of human organs;

"forced labour" means labour or services obtained or maintained through force, threats of force, or other means of coercion;

"forfeiture" means the permanent deprivation of property by order of a court or other competent authority:

"illicit removal of human organs" means the unlawful removal of human organs and does not include legitimate medical procedures for which proper consent has been obtained under the laws of Belize;

"Minister" means the Minister responsible for human development;

"organized criminal group or network" means a structured group of three or more persons acting in concert with the aim of committing a criminal offence in order to obtain, directly or indirectly, a financial or other material benefit;

"pornography" includes a photograph, film, video or other visual representation, whether or not made by electronic, mechanical, artistic or other methods, that shows, for a sexual purpose -

- a) a person engaging in explicit sexual activity or conduct;
- b) parts of a person's body pasted to visual representation; or
- c) parts of a person's body which have been rendered complete by computer generated images or by other methods of visual representation,

but does not include any written or visual representation produced for the purpose of education, counseling, the promotion of reproductive health or as part of related criminal investigation and prosecution;

"practices similar to slavery" has the meaning assigned to it in the Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices Similar to Slavery; and includes debt bondage, serfdom, force servile marriages and delivery of children for exploitation; "proceeds of trafficking" means any property derived, obtained or realized directly or indirectly as a result of or in connection with the offence of trafficking in persons and includes, on a proportional basis, property into which any property derived or realized directly from the offence was later converted, transformed or intermingled, as well as income, capital or other economic gains derived or realized from such property at any time since the conviction or commission of the crime:

"property" includes money, investments, holdings, possessions and assets of every kind, whether corporeal or incorporeal, movable or immovable, legal documents or instruments evidencing title, or interest in such assets, wherever situate;

"prostitution" means any act or practice of engaging in sex or other bodily contact or stimulation of the genitals of a person with intent to arouse or gratify the sexual desires of that person or another, such act or practice performed for hire or a fee, commission, reward or profit but excludes sexual activity between spouses;

"public office" means any office of emolument in the public service;

"receiving country" means a country into which a victim of trafficking in persons is brought as part of an act of trafficking in persons.

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

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

"spouse" includes a member of a common law union as defined by section 148D of the Supreme Court of Judicature Act (*CAP. 91*); and

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

#### Application.

3. This Act applies to all forms of trafficking in persons, whether national or transnational and whether or not connected with an organized criminal group or network.

### Extra territorial

4. A person who being a citizen of or who habitually resides in Belize, and who does an act or encourages, facilitates, conspires to commit or induces a person to

commit an act in any territory outside of Belize that would be an offence under this Act commits an offence whether or not that act is an offence in the territory where it was committed and is liable on conviction on indictment to imprisonment for the term prescribed as if the offence had been committed in Belize.

# PART 2 ANTI-TRAFFICKING IN PERSONS COUNCIL

Establishment and composition of Council.

- 5. (1) There is hereby established a body to be known as the Anti-Trafficking in Persons Council.
- (2) The Council shall consist of the following members appointed by the Minister
  - a) the Chief Executive Officer of the Ministry responsible for human development, as Chairman;
  - b) a representative of the Ministry responsible for of foreign affairs;
  - c) a representative of the Ministry responsible for national security;
  - d) a representative of the Attorney-General's Ministry;
  - e) a representative of the Ministry responsible for health;
  - f) a representative of the Belize Tourism Board:
  - g) the Labour Commissioner;
  - h) the Commissioner of Police;
  - i) the Director of Immigration and Nationality Services;
  - i) the Director of Public Prosecutions:
  - k) the Comptroller of Customs; and
  - not more than three other persons from a nongovernmental organization or any other relevant organization having appropriate experience, knowledge and expertise in relation to the problem of and issues relating to trafficking in persons including the protection and support of trafficked persons.
- (3) The members appointed under subsection (2)(1), may be appointed for a period not exceeding three years and at the expiration of that period may be eligible for reappointment.

Functions of the Council.

- 6. (1) The functions of the Council shall be as follows
  - a) coordinate the implementation of this Act, and formulate policies and programmes to prevent or suppress trafficking

- in persons, including the support and protection of victims of trafficking in persons;
- b) develop, within one year of the commencement of this Act, a
  national action plan on the prevention and suppression of
  trafficking in persons including the support and protection of
  victims of trafficking in persons, the prosecution of offenders,
  training of personnel and thereafter to review and update the
  national action plan every three years;
- c) develop, coordinate and monitor the implementation of the national referral system for the proper identification of, assistance to and protection of victims of trafficking in persons including child victims, and to ensure that they receive adequate assistance and protection;
- d) monitor the immigration and emigration patterns in Belize to ascertain evidence of trafficking and to secure the prompt response of government agencies to problems related to trafficking in persons;
- e) formulate and coordinate measures to educate the public on preventative and protective measures for victims or potential victims of trafficking and the offences and the penalties under this Act;
- f) facilitate cooperation with regional and international bodies in relation to trafficking in persons including the support and protection of victims of trafficking in persons;
- g) advise the government on trafficking in persons including developments at regional and international levels;
- h) collect and collate data and authorize research relating to prevention and suppression of trafficking in persons;
- i) facilitate inter-agency and multidisciplinary cooperation between governments and nongovernmental organizations;
- j) act as a focal point for institutions engaged in prevention of trafficking in persons;
- k) make recommendations to the Minister on all aspects of prevention and suppression of trafficking in persons; and
- 1) perform any other functions as directed by the Minister for the proper implementation of this Act.
- (2) In formulating policies and developing a national action plan to protect and provide support to the victims and for delivery of services, such policies and action plan shall take into consideration the age, gender and special needs of the victims and other related matters.

Ministerial directions.

7. The Minister may give to the Council policy directions not inconsistent with this Act and related to its functions and the Council shall give effect to such directions.

Procedures and meetings.

- 8. (1) The Council shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Council may determine.
- (2) The Council may invite any person to attend meetings or deliberations of the Council for the purpose of advising it on any matter under discussion, but that person shall not be entitled to vote.
- (3) The Chairman shall preside at all meetings but if the Chairman is unable to attend a meeting, the members present and constituting a quorum shall elect one of their numbers to preside at that meeting.
  - (4) The quorum of the Council shall be seven members.
- (5) The Council's decisions shall be by a majority of votes, and in addition to an original vote, the Chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.
- (6) Subject to this section, the Council may regulate its own proceedings and meetings.

Committees.

- 9. (1) The Council may appoint committees and specify their terms of reference as necessary or expedient to assist in the performance of their functions.
- (2) A committee established pursuant to subsection (1) may be appointed from amongst the members of the Council or any other persons whom the Council believes to be qualified for such appointment.

Secretariat of the Council.

10. The Ministry with responsibility for foreign affairs shall act as secretariat of the Council.

# PART 3 OFFENCES

Offences of trafficking in persons.

- 11. (1) A person who engages in, conspires to engage in or attempts to engage in, or assists another person to engage in, or organizes or directs another person to engage in, trafficking in persons commits an offence and is liable on conviction on indictment, to imprisonment for a term of eight years.
- (2) Where the victim of the offence of trafficking in person is a child, the offender is liable on conviction on indictment, to imprisonment for a term of twelve years.
- (3) The recruitment, transportation, harbouring, receipt of a child, or the giving of payments or benefits to obtain the consent of a person having the control of a child, for the purpose of exploitation, constitutes trafficking in persons irrespective of whether any of the elements of the definition of "trafficking in persons" is present or not in any case.

Trafficking in children for adoption.

12. A person who engages in the adoption or facilitates the adoption of a child for the purpose of trafficking in persons, commits an offence and is liable

on conviction on indictment, to a fine of five hundred thousand dollars or imprisonment for a term of ten years or to both.

Offence of facilitating child prostitution, etc.

- 13. (1) A person who, for the purpose of trafficking in persons, acts as an intermediary to induce or encourage or facilitates another to give or promise remuneration, gifts, goods, food or other benefit to a child or any person having authority or control over a child for the purpose of inducing, encouraging compelling or otherwise getting that child to participate in any sexual activity with the person so remunerating, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
- (2) A person who, being a person in authority or exercising control over a child, for the purpose of trafficking in persons, takes advantage of his authority over that child and sexually exploits that child or causes another to sexually exploit that child, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

Offence of facilitating exploitation, etc.

14. A person who, for the purpose of trafficking in persons, causes, encourages or facilitates a child, to participate in an activity, whether sexual or not, by way of exploitation, for which that person receives remuneration or compensation from a third person, commits an offence and is liable on conviction on indictment to imprisonment for a term of eight years.

Offence of profiteering from trafficking in persons.

15. A person who knowingly profits from the exploitation of a victim of trafficking in persons commits an offence and is liable on conviction on indictment to imprisonment for a term of eight years.

Offence of Advertising.

16. A person who advertises, publishes, prints or broadcasts or causes the advertisement, publication, by any means, including the use of information technology of any brochure, flyer or other materials which promotes trafficking in person commits an offence and is liable on conviction on indictment to imprisonment for a term of eight years.

Offence of providing facilities in support of trafficking in persons.

- 17. A person who is the owner, occupier, lessee or person in charge of
  - a) a premises, room or place, who knowingly permits a meeting to be held in that premises, room or place; or
  - b) any equipment or facility that allows for recording, conferencing or meetings via technology, who knowingly permits that equipment or facility to be used,

for the purpose of committing an offence under this Act, commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of five years or to both.

Offence of providing services for the purpose of trafficking in persons.

- 18. (1) A person who, directly or indirectly, provides or makes available financial services or facilities
  - a) intended to be used, or knowingly, or having reasonable grounds to believe that the services or facilities will be used for the purpose of committing or facilitating the commission of an act of trafficking in persons, or for the purpose of benefiting any person who is committing or facilitating the commission of an act of trafficking in persons; or
  - b) knowingly, or having reasonable grounds to believe that the services of facilities will be used by or will benefit a person involved in an act of trafficking in persons, commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of five years or to both.
- (2) For the purpose of subsection (1), "financial services or facilities" include the services or facilities offered by an attorney at law or accountant acting as an agent for a client.

Obligation of owner, operator or master of conveyance.

- 19. (1) A person being the owner, operator or master of a conveyance, that engages in the transportation for commercial gain shall ensure that every person traveling on board his conveyance is in possession of a lawful travel document for entry by that person into the receiving country.
- (2) An owner, operator or master of a conveyance under subsection (1) who knowingly permits, or has reasonable grounds to believe that such conveyance
  - a) is being used for the purpose of transporting a person into a receiving country without the travel documents required for the lawful entry of that person into the receiving country; or
  - b) is being used for the purpose of committing an act of trafficking in persons,

commits an offence and is liable on conviction on indictment to the penalty prescribed in subsection (3).

- (3) A person who commits an offence under subsection (2) shall be liable
  - a) where that person is an individual, to a fine of one hundred thousand dollars or to imprisonment for a term of ten years or to both:
  - b) where that person is a body corporate, to a fine of two hundred and fifty thousand dollars; and any officer, director or agent of that body corporate who directed, authorized,

- assented to, acquiesced in or participated in the commission of the offence may also be liable on conviction on indictment to the penalty prescribed in section 19(2)(b)(i).
- (4) In proceedings under this section, it may be a defence for an owner, operator or master of a conveyance to prove that -
  - a) he has reasonable grounds to believe that the travel documents of the person travelling on board are travel documents required for lawful entry of that person into the receiving country;
  - b) the person travelling on board possessed travel documents required for lawful entry into the receiving country when that person boarded, or last boarded the conveyance to travel to the receiving country; or
  - c) the entry of the person into the receiving country occurred only because of illness or injury to that person, stress of weather or any other circumstances beyond the control of such owner, operator or master.
- (5) Where a person is convicted under subsection (2), that person shall pay, in addition to any penalty imposed pursuant to subsection (3), the costs of the accommodations, meals and repatriation of the victim of trafficking in persons.

Additional penalties in relation to a body corporate.

- 20. Where a body corporate or its officer, director or agent has been convicted of an offence under this Act, the court shall body have the power, in addition to the power to impose the penalty prescribed for the stated offence, to
  - a) order that body corporate to be wound up;
  - b) order that the business licence of that body corporate be revoked;
  - c) prohibit that body corporate from performing any further activities.

Intentional omission to give information.

21. A person who knowingly or having reasonable cause to believe that an offence under this Act has been or will be committed, intentionally omits to give any information respecting that offence to the relevant authorities, commits an offence and is liable on conviction on indictment to a fine of five thousand dollars or to imprisonment for a term of three years or to both.

Offence by person in public office.

22. A person in a public office who, aids or abets another person or undertakes any activity which facilitates or promotes the commission of an offence under this Act commits an offence and is liable on conviction on indictment to imprisonment for a term of fifteen years and shall, upon conviction, cease to hold that public office.

Offences of unlawfully withholding identification papers.

23. A person who, acting or purporting to act as another person's employer, manager, supervisor, contractor, employment agent or solicitor of clients, knowingly procures, destroys, conceals, removes, confiscates or possesses any passport, birth certificate, immigration document or other governmental document, actual or purported, belonging to another person commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of five years or to both.

Restitution.

- 24. (1) A court may order a person convicted of an offence under this Act to pay restitution to a victim.
  - (2) In determining the amount of restitution, the court shall take into account
    - a) the cost of medical and psychological treatment of the victim;
    - b) the costs of physical and occupational therapy and rehabilitation of the victim;
    - c) the costs of necessary transportation, temporary housing and child care of the victim;
    - d) the victim's loss of income;
    - e) the degree of emotional distress, pain and suffering experienced by the victim; and
    - f) any other loss suffered by the victim.
- (3) Where a court orders the payment of restitution, that payment shall be made promptly after the conviction and the return of the victim to his home country and any other absence of the victim from Belize shall not prejudice the victim's right to receive restitution.
- (4) Where the costs specified in subsection (2)(a), (b), or (c) is borne by the Government, the convicted person shall reimburse the Government for the amount paid, and such amount may be recoverable as a civil debt.

Consent or past sexual behavior of victim irrelevant

- 25. (1) In any prosecution for an offence under this Act, the alleged consent of the victim to the intended or realized exploitation is irrelevant and inadmissible.
- (2) In any prosecution for an offence under this Act, the evidence of a victim's past sexual behavior is irrelevant and inadmissible for the purpose of proving that the victim engaged in other sexual behavior, or to prove the victim's sexual predisposition.

Legal age of consent.

26. The legal age of consent to sexual intercourse or to marriage is not a defence for an offence under this Act.

Victim not liable for immigration offence.

27. A victim of trafficking in persons shall not be criminally liable for any immigration related offence or any other criminal offence that is a direct result of that victim being trafficked.

Powers of the court to impose higher sentences for aggravated circumstances.

- 28. (1) Notwithstanding the penalty prescribed under sections 11, 12, 13 and 18, where a person is convicted under any of those sections and there is the presence of any of the following aggravating circumstances, being
  - a) the convicted person used, threatened to use, or caused another to use or threaten to use, a dangerous weapon;
  - b) the trafficked person suffered a serious bodily injury, or permanent or life-threatening injury;
  - c) the convicted person caused the trafficked person, in the course of the trafficking or subsequent exploitation, to be exposed to a lifethreatening illness become addicted to any drug or other substance;
  - d) the convicted person caused or facilitated a sexual assault to be committed against the trafficked person;
  - e) the convicted person organized or directed an organized criminal group of which the trafficking was part of its activities;
  - f) or the trafficking occurred as the result of abuse of power or authority or abuse of a position of vulnerability, including abuse by a parent or guardian, teacher, the leader of any children's club or other group, or any other person who had been entrusted with the care of supervision of a child,

the court may impose an additional term of imprisonment of up to twenty-five years.

- (2) In this section "dangerous weapon" means
  - a) an instrument capable of inflicting death or serious bodily injury; or
  - b) an object that is not an instrument capable of inflicting death or serious bodily injury, but closely resembles such an instrument, or is used in such a way that it creates the impression that the object is an instrument capable of inflicting death or serious bodily injury;

"life-threatening illness" means any illness that involves a substantial risk of death, and includes Human Immuno Deficiency Virus Infection (HIV/AIDS) and

tuberculosis;

"permanent or life-threatening injury" means-

- a) an injury involving a substantial risk of death, loss or substantial impairment of the function of a bodily member, organ or sense that is likely to be permanent; or
- b) a disfigurement that is likely to be permanent; or
- c) maltreatment to a life-threatening degree or proportion, such as denial of food or medical care or drugs that results in substantial impairment of function of the body or mind;

"serious bodily injury" means –

- a) an injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ or sense; or
- b) an injury requiring medical intervention such as Surgery, hospitalization or physical rehabilitation; and

"sexual assault" means -

- a) the engagement of another person in a sexual act by a person
  - i. using force against that other person;
  - ii. threatening or placing that person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or
- b) the engagement by a person in a sexual act with
  - i. an incapacitated person; or
  - ii. a person who cannot express consent.
- (3) Notwithstanding the penalty prescribed under sections 11, 12 or 13, where a person is convicted of an offence under any of those sections and that person engaged in sexual intercourse with a child, the court may impose a sentence of life imprisonment.

# PART 4 ASSISTANCE AND PROTECTION FOR VICTIMS

Guiding principles.

- 29. In the investigation and prosecution of offences relating to trafficking in persons, the following guidelines shall apply
  - a) all steps necessary to identify the victim of the offence of trafficking in persons shall be taken;
  - b) reasonable protection to a victim of the of the offence

- trafficking in persons shall be taken to prevent recapture by the traffickers and their associates;
- c) reasonable protection shall be taken to secure the victim's family, where they reside in Belize, from threats, reprisal or intimidation by the traffickers or their associates; and
- d) protection and enforcement of the rights of a child victim.

Privacy of victims.

- 30. In a prosecution of a person for the offence of trafficking in persons, the court shall
  - a) hold all proceedings in camera;
  - b) ensure that the identity of the victim and the victims family is kept confidential;
  - c) ensure that any identifying information of the victim and the victim's family are not released to the press or to the public;
  - d) allow the testimony of a victim to be given from behind a screen or via video or other electronic means so that the victim is not face to face with the perpetrator; and
  - e) ensure that the testimony and court proceedings of a child witness takes place in the presence of a parent, legal guardian, foster parent or social services practitioner as the case requires.

Provision of information to victims of trafficking in persons.

- 31. (1) The Director of Public Prosecution shall inform a victim of the offence of trafficking in persons of the progress of the criminal court proceedings and the right to seek compensation.
- (2) The Director of Immigration and Nationality Services shall inform a victim of the offence of trafficking in persons of decisions for the return of the victim to his country of citizenship or lawful residence, and the procedures for seeking permanent residency status or citizenship in Belize, where the victim qualifies to apply for permanent residency or citizenship status under the Belize Nationality Act. (CAP. 161.)

Immigration status of victims of trafficking in persons. 32. The Director of Immigration and Nationality Services shall, where a victim is willing to comply with reasonable requests, if any, to assist in the investigation or prosecution of the traffickers, issue an extended stay permit or any other permit pursuant to the Immigration Act authorizing a victim of the offence of trafficking in persons and any dependent children accompanying him to remain in Belize for the duration of the criminal proceedings against the traffickers.

Verification of nationality status of a victim of trafficking in persons.

- 33. (1) The Ministry responsible for foreign affairs shall, upon a request by the Director of Immigration and Nationality Services, without undue delay verify whether a person who is a victim of trafficking in persons is a citizen of, or holds permanent residency status in any country specified in the request.
- (2) A request made under subsection (1) may include a request for the verification of -

- a) the age and name of a person who is a victim of trafficking in persons and who is suspected of being a minor; and
- b) whether the victim is a citizen or permanent resident of the country.
- (3) The Minister responsible for foreign affairs shall designate an officer to deal with requests made under this section.

Return of victims to country of citizenship or lawful residency.

- 34. (1) The Director of Immigration and Nationality Services shall, with the concurrence of the Ministry responsible for human development, develop plans for the safe return of victims of the offence of trafficking in persons to their country of citizenship or lawful residency.
- (2) A plan developed under subsection (1) shall take due account that a victim of the offence of trafficking in persons may elect to apply for permanent residency or citizenship of Belize, or remain in Belize during the proceedings against a person charged with the offence of trafficking in persons.

Assistance to victims of trafficking who are unable to prove their nationality status through normal means.

- 35. (1) The Ministry responsible for foreign affairs shall, through diplomatic channels, assist a victim of the offence of trafficking in persons who is unable to prove his citizenship or nationality status.
- (2) In providing assistance under subsection (1), the Ministry responsible for foreign affairs shall take into account the victims alleged connection to any country through factors such as
  - a) place of birth;
  - b) presence of family members;
  - c) presence of friends;
  - d) significant knowledge of specific geographical areas;
  - e) long-term residency in the country;
  - f) knowledge of the local or, if it be so stated, native or indigenous language of the country; and
  - g) any other means.

Special consideration to be given to a child victim

36. In the implementation of any provision of this Act, special consideration shall be given to a victim of the offence of trafficking in persons who is a child, in a manner that is in the child's best interests and appropriate to the situation.

### PART 5 FORFEITURE OF ASSETS RELATING TO TRAFFICKING IN PERSONS

Application for forfeiture order

37. The Director of Public Prosecutions may apply to the Supreme Court for a forfeiture order in relation to proceeds of trafficking.

Notice of application

38. (1) Where the Director of Public Prosecutions applies under section 37 for a forfeiture order he shall give to any person who is known to own or control, directly or indirectly, wholly or jointly, or has an interest in the property in respect of which

the application is being made no less than seven days written notice of the application.

- (2) A person who claims an interest in the property which is the subject of an application for a forfeiture order, may appear and produce evidence at the hearing of the application.
- (3) The Supreme Court may, at any time before the final determination of the application, direct the Director of Public Prosecutions to
  - a) give notice of the application to any person who, in the opinion of the court, appears to have an interest in the property; and
  - b) publish in the Gazette or a newspaper published and circulating in Belize, a notice of the application.

Forfeiture order on conviction

- 39. (1) Where, upon an application by the Director of Public Prosecutions, the court is satisfied that a property is proceeds of trafficking in respect of which a person has been convicted, the court may order that property to be forfeited.
- (2) In determining whether property is proceeds of trafficking the court may infer, in the absence of evidence to the contrary
  - a) that the property was in the person's possession at the time of, or immediately after the commission of the offence of trafficking in persons for which the person was convicted;
  - b) that the property was derived, obtained or realized as a result of the commission of the offence of trafficking in persons if it was acquired by the person before, during or within six years after the period of the commission of the offence of trafficking in persons of which the person was convicted, and the court is satisfied that the income of that person from sources unrelated to criminal activity of that person cannot reasonably account for the acquisition of that property.
- (3) Where the court orders that property, other than money, be forfeited, the court shall specify in the order the amount that it considers to be the value of the property at the time when the order is made.
- (4) In considering whether a forfeiture order should be made under subsection (1) the court shall have regard to
  - a) the rights and interests, if any, of third parties in the property;
  - b) the gravity of the offence of trafficking in persons concerned;
  - c) any hardship that may reasonably be expected to be caused to any person by the operation of the order; and
  - d) the use that is ordinarily made of the property, or the use to which the property was intended.
  - (5) Where the court makes a forfeiture order, the court may give such

directions as are necessary or convenient for giving effect to the order.

Effect of forfeiture order on conviction

- 40. (1) Subject to subsection (2), where a court makes a forfeiture order against any property, that property shall vest absolutely in the Government by virtue of that order.
  - (2) Where the property ordered to be forfeited is land
    - a) the Government shall be entitled to be registered as the legal owner of that property;
    - b) that property shall vest in the Government in equity but does not vest in law until the applicable registration requirements under the Registered Land Act (CAP 194) or the Law of Property Act (CAP 190), as appropriate, has been complied with; and
    - c) the Director of Public Prosecutions shall, on behalf of the Government, do or authorize the doing of anything necessary or convenient to obtain the registration of the Government as the legal owner, including the execution of any instrument to be executed by a person transferring an interest in property of that kind.
  - (3) Where the court makes a forfeiture order against property
    - a) the property shall not, except with the leave of the court and in accordance with any directions of the court, be disposed of, or otherwise dealt with, by or on behalf of the Government before the relevant appeal date; or
    - b) if after the relevant appeal date, the order has not been discharge, the property may be disposed of and the proceeds thereof deposited into the Consolidated Revenue Fund.
- (4) In this section "relevant appeal date" used in relation to a forfeiture order made in consequence of a person's conviction of the offence of trafficking in persons means
  - a) the date on which the period allowed by the Rules of Court for the lodging of an appeal against a person's conviction or for the lodging of an appeal against the making of the forfeiture order expires without an appeal having been lodged, whichever is the later; or
  - b) where an appeal against a person's conviction or against the making of the forfeiture order is lodged, the date on which the appeal lapses in accordance with the Rules of Court or is finally determined, whichever is the later.

# Forfeiture order for property

- 41. (1) Where, upon application by the Director of Public Prosecutions, the court is satisfied, on a balance of probabilities, that property to which the application relates is property in respect of the offence of trafficking in persons, the court shall order that property be forfeited.
- (2) Notwithstanding subsection (l), if a person claiming an interest in the property to which an application relates satisfies the court that he
  - a) has an interest in the property;
  - b) has, in the circumstances, exercised reasonable care to ensure that the property is not proceeds of trafficking; the court shall order that the interest of that person shall not be affected by the forfeiture order, and the court shall declare the nature and extent of the interest in question.
- (3) If a person obtains an interest in property after it becomes proceeds of trafficking, no order shall be made under subsection (2) in respect of that interest unless the person is a *bona fide* purchaser for value, without reason to suspect that the property is proceeds of trafficking.
- (4) Where the court makes a forfeiture order, the court may give such directions as are necessary or convenient for giving effect to the order.

## Voidable transfers.

### 42. The court may –

- a) before making a forfeiture order; and
- b) in the case of property in respect of which a restraining order was made and where the order was duly served,

set aside any transfer of the property that occurred after the seizure of the property or the service of the restraining order, unless the transfer was made for valuable consideration to a person acting in good faith and without notice.

# Protection of third parties.

- 43. (1) Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the court, before the forfeiture order is made, for an order under subsection (2).
- (2) Where a person applies to the court for an order under this section in respect of property and the court is satisfied on a balance of probabilities
  - a) that he was not in any way involved in the commission of the offence of trafficking in persons; and
  - b) that he acquired the interest during or after the commission

of the offence of trafficking in persons and he acquired the interest -

- i. for sufficient consideration; and
- ii. without knowing, and in circumstance such as not to arouse a reasonable suspicion that the property was, at the time he acquired it, property that was proceeds of crime,

the court shall make an order declaring that his interest shall not be affected by the forfeiture order.

- (3) Subject to subsection (4), where a forfeiture order has already been made directing the forfeiture of property, a person who claims an interest in the property may, before the end of the period of 6 months commencing on the day on which the forfeiture order is made, apply under this subsection to the court for an order under subsection (2).
  - (4) A person who
    - a) had knowledge of the application for the forfeiture order before the order was made; or
    - b) appeared at the hearing of that application,

shall not be permitted to make an application under subsection (3) except with leave of the court.

- (5) A person who makes an application under subsection (1) or (3) shall give to the Director of Public Prosecutions no less than fourteen days written notice of the making of the application and the Director of Public Prosecutions shall be a party to any proceedings in the application.
- (6) An applicant or the Director of Public Prosecutions, in accordance with the rules of court, may appeal against an order made under subsection (2).
- (7) Any person appointed by the court as a custodian or receiver for property shall, on application by any person who has obtained an order under subsection (2), and where the period allowed by the rules of court with respect to the making of appeals has expired and any appeal from that order has been determined direct that
  - a) the property or part thereof to which the interest of the applicant relates, be returned to the applicant; or
  - b) an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.
- 44. (1) Where the court makes a forfeiture order against property in reliance on a persons conviction of the offence of trafficking in persons and the conviction is subsequently quashed, the quashing of the conviction discharges the order.

Discharge of forfeiture order on appeal and quashing of conviction.

- (2) Where a forfeiture order against property is discharged as provided for in subsection (1), or by the court hearing an appeal against the making of the order, any person who claims to have an interest in the property immediately before the making of the forfeiture order may apply to the Registrar General or the Registrar of Lands, as appropriate, in writing for the transfer of the interest to the person.
- (3) On receipt of an application under subsection (2) the Registrar-General or the Registrar of Lands, as appropriate, shall
  - a) if the interest is vested in the Government, give directions that the property or part thereof to which the interest of the applicant relates be transferred to that person; or
  - b) in any other case, direct that there be payable to that person an amount equal to the interest as at the time the order is made.
- (4) In the exercise of his powers under this section, the Registrar General or the Registrar of Lands, as applicable, shall have the power to do or authorize the doing of anything necessary or convenient to effect the transfer or return of the property, including the execution of any instrument and the making of any application for the registration of an interest in the property on any appropriate register.

Payment instead of a forfeiture order

- 45. (1) Where the court is satisfied that a forfeiture order should be made in respect of the property of a person convicted of the offence of trafficking in persons but that the property or any part thereof or interest therein cannot be made subject to such an order and, in particular
  - a) cannot, on the exercise of due diligence, be located;
  - b) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest was transferred for the purpose of avoiding the forfeiture of the property;
  - c) is located outside Belize;
  - d) has been substantially diminished in value or rendered worthless; or
  - e) has been comingled with other property that cannot be divided without difficulty,

the court may, instead of ordering the property or part thereof or interest therein to be forfeited, order the person to pay to the Government an amount equal to the value of the property, part thereof or interest.

(2) Where the court orders a person to pay an amount under subsection (1), that amount shall be treated as if it were a fine imposed upon him in respect of a

conviction for the offence of trafficking in persons.

Default.

- 46. Where the court orders a person to pay any fine under this Act, notwithstanding any other law, if the person fails to pay, the court shall
  - a) impose in default of the payment of that amount, a term of imprisonment of ten years;
  - b) direct that the term of imprisonment imposed pursuant to paragraph (a) be served consecutively to any other term of imprisonment imposed on that person, which that person is then serving; and
  - c) direct that the rules regarding the remission of sentences of prisoners serving a term of imprisonment or the rules regarding the release on parole shall not apply in relation to a term of imprisonment, imposed on a person pursuant to paragraph (a).

Seizure and detention of cash

- 47. (1) Where the Director of Public Prosecutions has reasonable grounds to suspect that any cash is or represents property obtained through acts of trafficking in persons, he may seize the cash.
- (2) The Director of Public Prosecutions may seize cash, even if it reasonably suspects that only a part of the cash to be cash obtained as a result of the offence of trafficking in persons, where it is not reasonably practicable to seize that part only of the cash.
- (3) The Director of Public Prosecutions may exercise his powers under subsection (1), whether or not any proceedings have been brought for an offence in connection with the offence of trafficking in persons.
- (4) The Director of Public Prosecutions shall, as soon as is reasonably practicable, apply to a judge in chambers for a detention order with respect to the cash seized under subsection (1).
- (5) The judge in chambers shall not make an order for detention of the cash unless he is satisfied that there are reasonable grounds for suspecting that the cash is or represents property obtained through activities of trafficking in persons.
- (6) Subject to subsection (8), any order made under subsection (5) shall remain valid for a period of ninety days, and may be renewed for further periods of ninety days by the judge in chambers, until production of the cash before the court in proceedings against any person for the offence of trafficking in persons with which the cash is connected.
- (7) Any cash detained under this section shall be held in escrow by the Director of Public Prosecutions pending the completion of the proceedings to which the detained cash relates and if such cash is found to be the proceeds of trafficking it shall vest in the Government and be deposited into the Consolidated Revenue Fund.
  - (8) A judge in chambers may, by order, release any detained cash-

- a) where the conditions under subsection (5) are no longer met; or
- b) where no proceedings are brought in Belize or else where against any person for an offence relating to the detained cash.
- (9) For the purposes of this section, "cash" means
  - a) coins and notes in any currency:
  - b) postal orders;
  - c) traveler's cheques;
  - d) banker's drafts;
  - e) bearer bonds and bearer shares; or
  - f) such other monetary instruments as the Minister may prescribe by notice published in the Gazette.

### PART 6 MISCELLANEOUS PROVISIONS

Data Collection.

- 48. (1) The Ministry responsible for human development collection shall collect and publish, once every year in the month of December, statistical data on trafficking in persons in Belize.
  - (2) The data referred to in subsection (1) shall include
    - a) the number of arrests, prosecutions, convictions and acquittals of traffickers and those committing traffickingrelated crimes (such as pimping, pandering, procuring, maintaining a brothel and other crimes related to trafficking);
    - b) statistics on the number, age and sexes of the victims;
    - c) methods of transportation used, trafficking routes and patterns including countries of origin and transit; and
    - d) border crossing issues, including use of fraudulent documents

Restriction on media reporting and publication.

- 49. (1) Notwithstanding any written law to the contrary, any mass media report regarding
  - a) any step taken in relation to a victim of the offence of trafficking in persons in any proceedings be it at the pre-trial, trial or post-trial stages;
  - b) any victim of the offence of trafficking in persons in respect of whom custody or protection is accorded under Part 4; or
  - c) any other matters under this Act,

shall not reveal the identity, or any particulars calculated to lead to the identification of any personas being either the victim of the offence of trafficking in persons or a witness to any proceedings.

- (2) A picture of
  - a) any person in respect of any of the matters mentioned in subsection(1); or
  - b) any other person, place or thing which may lead to the identification of the victim or a witness,

shall not be published in any newspaper or magazine or transmitted through any electronic means.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of three years or to both.

Public awareness campaigns

- 50. (1) The Ministry responsible for human development in collaboration with the Director of Immigration and Nationality Services, Ministry responsible for health and the Police Department shall prepare public awareness programmes designed to educate potential victims of trafficking in persons and their families of the risks of victimization.
- (2) The Ministry responsible for human development shall periodically evaluate programmes prepared under subsection (1) to ensure their effectiveness and to recommend other appropriate means of dissemination of information.

Verification of legitimacy and validity of travel documents.

51. The Director of Immigration and Nationality Services shall verify, at ports of entry, the legitimacy and validity of travel documents to ensure that they are authentic and are not unlawfully altered, replicated or issued.

Regulations.

- 52. (1) The Minister with responsibility for human development may make Regulations for any purpose which gives effect to the object of this Act.
- (2) Any regulations made pursuant to Subsection (l) shall be subject to negative resolution.

Protocol to be part of the laws of Belize 53. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, the text of which is set out in the Schedule to this Act shall form part of the laws of Belize.

Repeal No. 18 of 2003

54. The Trafficking in Persons Act, 2003 is hereby repealed.

Savings and transitional

55. (1) Notwithstanding the repeal under section 54 of the Trafficking in Persons Act, 2003, any action taken or anything done in exercise of a power conferred by or

under that Act shall be deemed to have been taken or done under this Act.

(2) Regulations made under section 24 of the Trafficking in Persons Act, 2003 shall, in so far as they are not inconsistent with the provisions of this Act, continue in force as if made under section 52 of this Act.

# **Summary of Offences Under the Trafficking in Persons (Prohibition) Act, 2013**

	The Human Trafficking Institute				
No	Section	Offence	Max Penalty		
1	11(1)	Engage, Conspire, Attempt or Assist to TIP	No Fine - 8 Years (12, 25 or LIFE w/ Enhancements)		
2	12	Adoption for TIP	\$500 Fine and/or 10 Years (or 25 with Enhancements)		
3	13(1)	Intermediary facilitation of a child for sexual activity	No Fine - 10 Years (or 25 with Enhancements)		
4	13(2)	Child's controller TIP of child for sexual exploitation	No Fine - 10 Years (or 25 with Enhancements)		
5	14	Facilitating or Receives payment for TIP of a child	No Fine - 8 Years		
6	15	Profiting from TIP	No Fine - 8 Years		
7	16	Advertises for TIP	No Fine - 8 Years		
8	17	Owner or Lessee who knowing used for TIP Offense	\$10,000 Fine or 5 Years		
9	18	Financial Services to facilitate TIP	\$10,000 Fine or 5 Years (or 25 with Enhancements)		
10	19(2)(a)	Human Smuggling	Individual: Fine of \$100,000 and/or 10 years Corporate: Fine of \$250,000		
11	19(2)(b)	Human Smuggling for TIP	Individual: Fine of \$100,000 and/or 10 years Corporate: Fine of \$250,000		
12	21	Intentional Omission of TIP Information to Authorities	Fine of \$5,000 and/or 3 Years		
13	23	Document Servitude	\$10,000 Fine and/or 5 Years		
14	49(3)	Publishing Victim Information	\$5,000 Fine and/or 3 Years		

# PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

#### Preamble

The States Parties to this Protocol.

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights.

*Taking into account* the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental *ad hoc* committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, *inter alia*, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

#### I. General provisions

#### Article 1

Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

- 2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
- 3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

# Article 2 Statement of purpose

The purposes of this Protocol are:

- a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- b) To protect and assist the victims of such trafficking, with full respect for their human rights, and
- c) To promote cooperation among States Parties in order to meet those objectives.

# Article 3 Use of terms

For the purposes of this Protocol:

- a) "Trafficking in persons "shall mean 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, Servitude or the removal of organs;
- b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph(a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d) "Child" shall mean any person under eighteen years of age.

Article 4
Scope of application

This protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 ofthis Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

# Article 5 Criminalization

- 1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.
- 2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
  - a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
  - b) Participating as an accomplice in an offence established in accordance. with paragraph 1 of this article; and
  - c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

#### II. Protection of victims of trafficking in persons

# Article 6 Assistance to and protection of victims of trafficking in persons

- 1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
- 2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
  - a) Information on relevant court and administrative proceedings;
  - b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
- 3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons,

including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- a) Appropriate housing;
- b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- c) Medical, psychological and material assistance, and
- d) Employment, educational and training opportunities.
- 4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
- 5. Each State Party shall endeavor to provide for the physical safety of victims of trafficking in persons while they are within its territory.
- 6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

# Article 7 Status of victims of trafficking in persons in receiving States

- 1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
- 2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

# Article 8 Repatriation of victims of trafficking in persons

- 1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without due or unreasonable delay.
- 2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the

territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

- 3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
- 4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
- 5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.
- 6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

#### III. Prevention, cooperation and other measures

# Article 9 Prevention of trafficking in persons

- 1. States Parties shall establish comprehensive policies, programmes and other measures:
  - a) To prevent and combat trafficking in persons; and
  - b) To protect victims of trafficking in persons, especially women and children, from revictimization.
- 2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic, initiatives to prevent and combat trafficking in persons.
- 3. Policies programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
- 4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and

children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, Such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

## Article 10 Information exchange and training

- 1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:
  - a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
  - b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
  - c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.
- 2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
- 3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

#### Article 11 Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

- 2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.
- 3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
- 4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
- 5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.
- 6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.

## Article 12 Security and control of documents

Each State Party shall take such measures as maybe necessary, within available means:

- a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

## Article 13 Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

#### IV. Final provisions

## Article 14 Saving clause

- l. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
- 2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the grounds that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

## Article 15 Settlement of disputes

- 1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
- 2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
- 3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
- 4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

## Article 16 Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

- 2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.
- 3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.
- 4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depository of any relevant modification in the extent of its competence.

## Article 17 Entry into force

- 1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
- 2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

#### Article 18 Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of

considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. I fall efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

- 2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.
- 3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
- 4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
- 5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

## Article 19 Denunciation

- 1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary General.
- 2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

## Article 20 Depositary and languages

- 1. The Secretary-General of the United Nations is designated depositary of this Protocol.
- 2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

#### **BELIZE:**

## COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN (PROHIBITION) ACT, 2013.

#### ARRANGEMENT OF SECTIONS

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- 1. Short title.
- 2. Interpretation.

## PART 2 OFFENCES AND RELATED PROVISIONS

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- 4. Offence of facilitating child prostitution.
- 5. Offence of occupying premises where sexual activity involving children takes place.
- 6. Offence of procuring a child for sexual exploitation.
- 7. Offence of producing child pornography.
- 8. Offence of taking, organizing or producing indecent exhibitions.
- 9. Offence involving trafficking of a child.
- 10. Attempt to or conspiracy to commit an offence.
- 11. Offence of trading on earnings from the sexual exploitation of a child.
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- 19. Consent of victim irrelevant.
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- 30. Responsibility of the Department responsible for children.
- 31. Public awareness programs.
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- 33. Protocol to be part of the laws of Belize.

#### **SCHEDULE**

Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography.



No. 2 of 2013

#### I assent,

#### (SIR COLVILLE N. YOUNG)

Governor-General

31st January, 2013.

AN ACT to prohibit and punish acts of commercial sexual exploitation of a child in Belize; to give effect to and implement the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and to provide for matters connected therewith or incidental thereto.

(Gazetted 2nd February, 2013.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

#### PART 1 PRELIMINARY

1. Short title.

This Act may be cited as the

## COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN (PROHIBITION) ACT, 2013.

2. Interpretation.

In this Act –

"child" means a person below the age of eighteen years;

"child pornography" includes any photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or genital area or other area of the body of a child, or any written material or visual representation that advocates or counsels sexual activity with a child;

#### "coercion" includes -

- (a) violent as well as non-violent forms of, or psychological coercion:
- (b) threats of serious harm to, or physical restraints against, any person;
- (c) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in harm to, or physical restraints against, any person;
- (d) the abuse or threatened abuse of the legal process;

"commercial sexual exploitation" means the employment, hiring, use, persuasion, inducement, coercion or enticement of a child to engage in, or aid another person to engage in, sexual intercourse, fondling, oral sex, sodomy or any other sexual activity, or to engage in prostitution, indecent behaviour or incest with other children or with adults, or to perform in obscene or indecent exhibitions or shows, whether live or via audiovisual aids or on film, or by electronic media or to pose or act as a model in obscene publications or other pornographic materials, or to sell, or participate in the selling of, or to distribute or participate in the distribution of, such publications or materials in exchange for money, gifts, goods or other item for the benefit of that child or of an intermediary third party involved in the sexual exploitation and includes the illicit transfer or sale of the organs of a child;

"court" means the Supreme Court;

"Minister" means the Minister with responsibility for children;

"person having authority or control over a child" includes a parent, guardian, foster parent, operator or supervisor of an institution having care of children, a teacher, a social services practitioner, or any person who has the day to day care and control of, or influence over a child;

"relationship of trust" includes a relationship of parent or guardian and child, operator or supervisor of an institution having care of children and the children in that institution, teacher and student, any familial relationship, social services practitioner and client, or any relationship where a person acts as the care giver to a child or has care of and control over a child;

"social services practitioner" has the same meaning as an "authorized person" as defined in section 2 of the Families and Children Act (CAP. 173); and

"sexual activity" includes fondling, oral sex, sodomy or any other activity intended to provide sexual gratification.

## PART 2 OFFENCES AND RELATED PROVISIONS

#### 3. Offence of child prostitution.

- (1) Subject to subsection 2, a person who gives or promises remuneration, gifts, goods, food or other benefits to a child or to a person having authority or control over a child for the purpose of having sexual intercourse with or for carrying out any other sexual activity with that child commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.
- (2) Subsection (1) shall not apply where the child is above the age of 16 and in a consensual relationship with the person who gives or promises remuneration, gifts, goods, food or other benefits.

#### 4. Offence of facilitating child prostitution.

- (1) A person who acts as an intermediary to induce, encourage or facilitate another person to give or promise remuneration, gifts, goods, food or other benefit to a child or a person having authority or control over a child for the purpose of inducing, encouraging, compelling or otherwise getting that child to participate in any sexual activity with the person who gives or promises the remuneration, gifts, goods, food or other benefit, commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.
- (2) A person who induces another person, whether by printed matter, electronic media, oral communication or other means of communication, whether direct or indirect, for the purpose of purchasing sexual activity with any child, commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.

#### 5. Offence of occupying premises where sexual activity involving children takes place.

A person who knowingly permits any child to remain in any premises owned, rented, leased or occupied by him, for the purpose of causing that child to participate in any sexual activity or in any obscene or indecent exhibition, dance or show whether performed live or presented via audio-visual or by electronic means, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

#### 6. Offence of procuring a child for sexual exploitation.

- (1) A person having authority or control over a child, who takes advantage of his authority or control over that child and sexually exploits that child or causes another person to sexually exploit that child, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
  - (2) A person who uses coercion towards a child to procure that child to be

sexually exploited by that person or any other person commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

(3) A person who acts as a procurer of a child for sexual exploitation commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

#### 7. Offence of producing child pornography.

- (1) A person who finances, produces, reproduces, publishes or makes any written material, photographic material, video, film, electronic publication, virtual or other media of any form of child pornography commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
- (2) A person who coerces, induces, encourages, pays for, or exchanges any material benefit for, or otherwise causes any child to pose for any photographic material or to participate in any pornographic video or film or audio, visual or other electronic representation of any child involved in any form of child pornography commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
- (3) A person who imports, exports, distributes, finances, offers, trades, sells or possesses whether for personal use or for distribution or sale via printed media or electronic media including video, compact disks, digital video disks, phone messaging, computer image, internet, virtual media or by any other means any form of child pornography commits an offence and is liable on conviction on indictment to imprisonment for a term of twelve years.
- (4) It is not a defence to a charge under this section that the accused believed that a person shown in the representation that is alleged to constitute child pornography was or was depicted as being eighteen years of age or more, nor shall it be a defence that the person depicted in the visual representation is eighteen years or older if the person was shown to represent a child at the time of making the said pornographic representation.

#### 8. Offence of taking, organizing, or producing indecent exhibitions.

- (1) A person who organizes, promotes or produces any dance or dramatic or other presentation in any club, bar, private party or other place involving the commercial sexual exploitation of a child, or involving any depiction of a child engaged in any sexual activity intended to provide sexual gratification for another person with the intent to profit thereby commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
- (2) A person who coerces, induces, encourages, pays for, or exchanges any material benefit for, or otherwise causes any child to participate in any show, or exhibition, or dance, or other activity, intended to provide sexual gratification to another person, commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
- (3) A person who causes a child to engage in sexual intercourse or other sexual activity with another person in the presence of a third person to provide sexual gratification to any person from the child's participation in the sexual activity commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
- (4) A person who causes a child to be present while he engages in any sexual activity, or while others engage in sexual activity, with the intention of deriving sexual

gratification from the child's presence commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

#### 9. Offence involving trafficking of a child.

- (1) A person who engages in, conspires to engage in, or attempts to engage in, assists another person to engage in, or organizes or directs another person to engage in commercial sexual exploitation and that commercial sexual exploitation also involves the trafficking of a child, that person commits an offence under this Act and is also liable in accordance with the provisions of the Trafficking in Persons (Prohibition) Act (Act 2 of 2013).
- (2) The procedures set out regarding Assistance and Protection for Victims under the Trafficking in Persons (Prohibition) Act (Act 2 of 2013) shall apply to victims of trafficking under this Act and are without prejudice to any other provisions set out in this Act
- (3) The court shall impose the following adjustments to the sentence provided under the Trafficking in Persons (Prohibition) Act (Act 2 of 2013) of a person convicted of the offence of trafficking where the victim is a child
  - a) if the convicted person used, threatened use, or caused another person to use or threaten use of a dangerous weapon two years shall be added to the sentence;
  - b) if the trafficked child suffers serious bodily injury, or if the convicted person commits a sexual assault against the trafficked child five years shall be added to the sentence;
  - c) if, in the course of trafficking or subsequent sexual exploitation, the convicted person recklessly caused a trafficked child to be exposed to a life-threatening illness, or if the convicted person intentionally caused a trafficked child to become addicted to any drug or medication - five years shall be added to the sentence;
  - d) if the trafficked child suffers a permanent or life-threatening bodily injury ten years shall be added to the sentence;
  - e) if the trafficked child dies as a result of the trafficking the sentence shall be life imprisonment;
  - f) if the trafficking of a child was part of the activity of an organized criminal group or network as defined in section 2 of the Trafficking in Persons (Prohibition) Act three years shall be added to the sentence;
  - g) if the trafficking of a child was part of the activity of an organized criminal group or network as defined in section 2 of the Trafficking in Persons (Prohibition) Act, and the convicted person organized the group, or directed its activities five years shall be added to the sentence;
  - h) if the trafficking of a child occurred as a result of the abuse of position where a person has authority or control over a child, or of a relationship of trust five years shall be added to the sentence; or
  - i) if the trafficked child was subjected to inhuman or degrading treatment eight years shall be added to the sentence.

## (4) For the purposes of subsection (3) - "dangerous weapon" means –

- a) an instrument capable of inflicting death or serious bodily injury; or
- b) an object that is not an instrument capable of inflicting death or serious injury but
  - i. closely resembles such an instrument;
  - ii. is used in such a way that it creates the impression that the object is an instrument capable of inflicting death or serious bodily injury;

"life-threatening illness" means any illness, whether treated or untreated, that involves a substantial risk of death, and includes the human immunodeficiency virus and tuberculosis;

"permanent or life-threatening bodily injury" means injury involving substantial risk of death, loss or substantial impairment of the function of a bodily member, organ or mental faculty that is likely to be permanent or an obvious disfigurement that is likely to be permanent and includes maltreatment to a life-threatening degree such as denial of food or medical care that results in substantial impairment of function;

"serious bodily injury" means injury involving extreme physical pain or the protracted impairment of function of a bodily member, organ or mental faculty, or requiring medical intervention such as surgery, hospitalization or physical rehabilitation;

"sexual assault" means causing another to engage in a sexual act by using force against that person, threatening or placing that person in fear that any person will be subjected to death, serious bodily injury, or kidnapping, and engaging in a sexual act with an incapacitated person, or a person who cannot express consent, or with a minor that constitutes carnal knowledge under the Criminal Code (CAP 101); and

"trafficking of a child" means the recruitment, transportation, transfer, harbouring or receipt of a person by means of threat or use of force or other means of coercion, or abduction, fraud, deception, abuse of power or of a position of vulnerability, or by the giving or receiving of payments or benefits to achieve the consent of a person having control of that child, for the purpose of exploitation.

#### 10. Attempt to or conspiracy to commit an offence.

A person who attempts to commit or conspires with another person to commit an offence under this Act, commits an offence and is liable on conviction on indictment to imprisonment for the same term as that prescribed if he committed the offence.

#### 11. Offence of trading on earnings from sexual exploitation of a child.

A person residing in or frequenting the house or living wholly or in part on the

income derived from the commercial sexual exploitation of a child or from procuring a child for commercial sexual exploitation commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

#### 12. Offence of sex tourism.

- (1) A person who permits, consents, divulges or facilitates the commercial sexual exploitation of a child as a tourist activity commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.
- (2) A person who permits, tolerates, co-operates with or realizes activities directed at promoting Belize as a destination for the commercial sexual exploitation of a child commits an offence and is liable on conviction on indictment to imprisonment for a term of ten years.

#### 13. Extraterritoriality of offences.

A person who being a citizen of or who habitually resides in Belize, and who does an act or encourages, facilitates, conspires to commit or induces a person to commit an act in any territory outside of Belize that would be an offence under this Act commits an offence whether or not that act is an offence in the territory where it was committed and is liable on conviction on indictment to imprisonment for the term prescribed if the offence had been committed in Belize.

#### 14. Aggravating factors.

The court shall consider the following factors to be aggravating factors and shall increase the penalty prescribed for that offence by five years if any of the following factors are present in the commission of an offence under this Act –

- a) the presence of a relationship of trust between the child victim and the person committing the offence;
- b) the fact that the exploitation of the victim was intended to bring profit to the offender or that the offender is part of an organized criminal group or network whether operating internationally or within Belize;
- c) that the act entailed circumstances that endanger or are likely to endanger the life or safety of the child victim concerned; or
- d) that the act entailed circumstances that constitute inhuman or degrading treatment.

#### 15. Mandatory life imprisonment for subsequent conviction.

Where a person has been convicted of an offence under this Act, upon a subsequent conviction for an offence under this Act, that person may be liable on that conviction to imprisonment for life.

#### 16. Confiscation and destruction of pornographic material.

Where a person is arrested for an offence under this Act, all items or any material depicting child pornography shall be confiscated and forfeited and such pornographic material shall be destroyed after the prosecution of the offence.

#### 17. Forfeiture.

Where any property of a person convicted of an offence under this Act, was used or intended to be used, or was obtained in the course of the commission of that offence or benefits gained from the proceeds of that offence, that property shall be forfeited to the Government.

## PART 3 RESTITUTION TO VICTIMS AND RELATED PROVISIONS

#### 18. Restitution to victims.

- (1) The court may order a person convicted of an offence under this Act to pay restitution to the victim.
  - (2) The court shall, in determining the amount of restitution, take into account
    - a) the costs of medical and psychological treatment to rehabilitate the victim;
    - b) the costs of physical and occupational therapy for the victim;
    - c) the costs of necessary transportation, housing and child care of the victim;
    - d) the degree of emotional distress, pain and suffering experienced by the victim; and
    - e) any other loss suffered by the victim.
- (3) The fact that the sexual exploitation of the victim was intended to bring profit to the offender or that the offender is part of an organized criminal group or network shall be an aggravating factor justifying the imposition of an increase in the restitution otherwise payable to the victim as determined by the court.
- (4) Where the court orders payments to the victim in restitution, the court shall set a time limit within which such payment shall be made to ensure that the payments are made to the victim promptly upon conviction and the absence of the victim from Belize shall not prejudice the victim's right to receive such restitution.

#### 19. Consent of victim irrelevant.

In any prosecution for an offence under this Act, the alleged consent of the victim to the intended or realized act of commercial sexual exploitation is irrelevant.

#### 20. Past sexual behaviour of the victim irrelevant.

In any prosecution for an offence under this Act, the past sexual behaviour of a victim is irrelevant and inadmissible for the purpose of proving the victim's sexual predisposition or for attacking the credibility of the victim as a witness.

#### 21. Legal age of consent not a defence.

In any prosecution for an offence under this Act, the legal age of consent shall not be a defence.

#### 22. Victims to be immune from prosecution.

A victim of commercial sexual exploitation shall not be criminally liable for any

act arising from the participation in an activity defined as commercial sexual exploitation under this Act.

## PART 4 ASSISTANCE TO VICTIMS AND RELATED PROVISIONS

#### 23. Guiding principles.

In the investigation and prosecution of an offence under this Act, the following guidelines shall be taken into consideration –

- a) the best interests of the victim shall be secured by protecting and enforcing the rights of that child;
- b) the efforts of the Department with responsibility for children, the Police Department, Ministry of Health, Immigration Department and any other agency shall be a coordinated response to minimize the risk of revictimization of the victim; and
- c) reasonable protection shall be given to the victim and where appropriate, the victims family, to prevent reprisals from the perpetrator or any organized criminal group or network or from witness intimidation.

#### 24. Reporting.

- (1) A person who reasonably believes, or who learns of facts or circumstances which give rise to a reasonable belief, that a child has suffered or is suffering from commercial sexual exploitation shall, either orally or in writing, report that fact or circumstance to the Police Department and to the Department responsible for children.
- (2) A physician, nurse or other medical personnel who attends to a child exhibiting signs of sexual exploitation, shall in writing report his findings to the Police Department and to the Department responsible for children.
- (3) Every family member, teacher, social worker, school counselor, employee of a certified children's institution, especially the manager thereof, school administrator, principal and deputy principal of any educational institution, dean of a college, probation officer, police officer or any other employee or officer of the Government whose daily duties entail dealing regularly with children shall in writing report to the Police Department and to the Department responsible for children, any incident of suspected sexual exploitation which comes to his knowledge or attention.
  - (4) A person referred to in subsections (2) and (3) who
    - a) fails to report a case of suspected child sexual exploitation which comes to his knowledge or attention; or
    - b) unduly delays in making such a report, commits an offence and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for a term of six months, or to both fine and imprisonment.

#### 25. Privacy of victim.

(1) The court shall, in any matter relating to the prosecution of an offence under

this Act, hold all proceedings in camera and where appropriate shall –

- a) allow the testimony of child witness to be given from behind a screen or via video or other electronic means so that the victim is not face to face with the perpetrator; and
- b) ensure that the testimony and court proceedings of a child witness take place in the presence of a parent, legal guardian, or foster parent, as the case requires.
- (2) The court shall order, in any matter relating to the prosecution of an offence under this Act, that the identity of the victim or the victim's family is kept confidential and that no person shall release the name, address or any identifying information of the victim or the victim's family to the press or the public.
- (3) A person who breaches an order of the court under subsection (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months.

#### 26. Support for victim.

- (1) The court shall, in any matter relating to the prosecution of an offence under this Act, provide an interpreter who speaks the language the victim understands to assist the victim in giving evidence during the course of the trial.
- (2) The Police Department and the Department responsible for children shall not house a victim of an offence under this Act in a detention facility or any other facility used to detain or house a person charged with or convicted of any offence under this Act or any other law.

#### 27. Competence and other matters.

- (1) Notwithstanding any rule or law to the contrary, the court shall, in any matter relating to the prosecution of an offence under this Act, treat a child victim as a competent witness for the prosecution upon the court determining that the child understands the importance of speaking the truth.
- (2) Notwithstanding any rule or law to the contrary, the court shall not, in any matter relating to the prosecution of an offence under this Act, require the unsworn evidence of a child to be corroborated.
- (3) Where pursuant to subsection (2) a child gives evidence, the court shall give the weight appropriate to the specific circumstances of the case and the credibility of the child witness.
- (4) Notwithstanding any rule or law to the contrary, in any matter relating to the prosecution of an offence under this Act, a spouse shall be a competent and compellable witness for the prosecution.
- (5) Notwithstanding any rule or law to the contrary, in any matter relating to the prosecution of an offence under this Act, the requirement to hold a preliminary inquiry shall not apply.

- 28. Providing information to the victim.
- (1) The Director of Public Prosecutions shall inform a victim of commercial sexual exploitation of the progress of the criminal court proceedings and of their right to seek compensation.
- (2) The Director of Immigration and Nationality Services shall inform a victim of commercial sexual exploitation especially where the victim is also a victim of trafficking
  - a) of the option for the return of the victim to his country of citizenship and lawful residence;
  - b) where the victim is habitually resident in Belize and qualifies for permanent residency or citizenship status under the Belizean Nationality Act (*CAP 161.*), of the procedures for seeking permanent residency status or citizenship in Belize.
- (3) The Director of Immigration and Nationality Services shall issue a temporary residency permit or any other permit pursuant to the Immigration Act (CAP. 156.) to permit a victim of commercial sexual exploitation to remain in Belize for the duration of the criminal court proceedings in which that victim is a witness.

#### 29. Bail.

The court may not grant bail in any matter relating to the prosecution of an offence under this Act, unless it determines that the defendant poses no reasonable threat to the safety of the victim or the victim's family and where bail is granted, the following conditions shall be applied to such grant of bail –

- a) the defendant or any one acting on his behalf shall be prohibited from making any contact with the victim;
- b) the defendant shall be prohibited from watching, going to the house of the victim, the school of the victim or the workplace of the victim's parent or guardian;
- c) the defendant shall be required to indicate and remain at a specified address during the course of the trial except with the leave of the court;
- d) the defendant shall be required to report to a specific police station at a specified time; and
- e) where the defendant is a national of another country or has domestic ties to any other country, or where the court deems appropriate, the defendant shall be required to surrender all travel documents to the court during the course of the trial

#### PART 5 MISCELLANEOUS PROVISIONS

30. Responsibility of the Department responsible for children.

The Department responsible for children shall ensure that the best interest of the

child victim is upheld by ensuring that the appropriate orders are sought under the Families and Children Act (CAP. 173.) to secure the welfare of that child.

#### 31. Public awareness programs.

The Department responsible for children in collaboration with the Police Department and the Ministry of Health and any other agency shall undertake and implement public awareness programs designed to educate potential victims and their families of commercial sexual exploitation, the risks of Victimization and the assistance available to victims.

#### 32. Regulations.

The Minister may make regulations to give effect to the purpose and objects of this Act.

#### 33. Protocol to be part of the laws of Belize.

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography signed by Belize on September 6, 2000 and which entered into force on January 18, 2002, the text of which is set out in the Schedule to this Act, shall form part of the laws of Belize.

#### **SCHEDULE**

(Section 33)

## Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

The States Parties to the present Protocol,

Considering that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

Considering also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

Gravely concerned at the significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited,

Concerned about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

Believing also that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

Recognizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Have agreed as follows:

#### Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

#### Article 2

For the purposes of the present Protocol:

- (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;

(c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

- 1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:
  - (a) In the context of sale of children as defined in article 2:
    - (i) Offering, delivering or accepting, by whatever means, a child for the purpose of:
      - a. Sexual exploitation of the child;
      - b. Transfer of organs of the child for profit;
      - c. Engagement of the child in forced labour;
    - (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption:
  - (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;
  - (c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.
- 2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts
- 3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.
- 4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal civil or administrative.
- 5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

#### Article 4

- 1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.
- 2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:
  - (a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;
  - (b) When the victim is a national of that State.
- 3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.
- 4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

- 1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.
- 2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.
- 3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
- 4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.
- 5. If an extradition request is made with respect to an offence described in article 3,

paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

#### Article 6

- 1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.
- 2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

#### Article 7

States Parties shall, subject to the provisions of their national law:

- (a) Take measures to provide for the seizure and confiscation, as appropriate, of:
  - (i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;
  - (ii) Proceeds derived from such offences;
- (b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a);
- (c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences

- 1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:
- (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
- (b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

- (c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected. in a manner consistent with the procedural rules of national law;
- (d) Providing appropriate support services to child victims throughout the legal process;
- (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
- (f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
- (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.
- 2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.
- 3. States Parties shall ensure that, in the treatment by the criminal justice system, of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.
- 4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.
- 5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.
- 6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

- 1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.
- 2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the

preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

- 3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.
- 4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.
- 5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

#### Article 10

- 1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.
- 2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
- 3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.
- 4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

#### **Article 11**

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

#### Article 12

- 1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.
- 2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.
- 3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

#### Article 13

- 1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
- 2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

#### Article 14

- 1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
- 2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

- 1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
- 2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the

date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

#### Article 16

- 1. Any State Party may propose an amendment and file it with the Secretary General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
- 2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
- 3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

- 1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
- 2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention

#### BELIZE

# TRAFFICKING IN PERSONS (PROHIBITION) ACT, 2003 NO. 18 OF 2003 ARRANGEMENTS OF SECTIONS

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- 19. International commercial transportation providers defined.
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- 21. Data collection.
- 22. Public awareness campaigns.23. Verification of legitimacy and validity of travel documents.
- 24. Regulations.25. Protocol to be part of the laws of Belize.
- 26. Commencement.

#### **SCHEDULE**



No. 18 of 2003

#### I assent,

#### (SIR COLVILLEN. YOUNG)

Governor-General

23rd June, 2003.

AN ACT to give effect to and to implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children; and to provide for matters connected therewith or incidental thereto.

(Gazetted 28th June, 2003.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

#### PART 1 SHORT TITLE AND DEFINITIONS

1. This Act may be cited as the

Short title.

## TRAFFICKING INPERSONS (PROHIBITION) <u>ACT, 2003</u>

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

"abuse of a position of vulnerability" means -

- a) an abuse committed on a person where the person abused believes he has no reasonable alternative but to submit to the labour or service demanded of him;
- b) includes taking advantage of the vulnerabilities of the abused person resulting from his having entered Belize illegally or without proper immigration documents, or resulting from the abused person's pregnancy, diseased condition (physical or mental) or disability of the person, or the addiction of the person to alcohol or any illegal drugs, or reduced capacity to form judgments by virtue of being a child;

"child" means a person below the age of eighteen years;

"coercion" includes -

- a) violent as well as forms of non-violent or psychological coercion;
- b) threats of serious harm to, or physical restraints against, any person;
- c) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in harm to, or physical restraint against, any person;
- d) the abuse or threatened abuse of the legal process;

"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 reasonable assessed is not applied towards the liquidation of the debt or where the length and nature of those services are not respectively limited and defined;

"exploitation" means –

- 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) exploiting another person by using such person, directly or indirectly, as a prostitute;

- f) engaging in any other form of commercial sexual exploitation, including pimping, pandering or procuring prostitution, or profiting from sexual prostitution, maintaining a brothel, or engaging in child pornography or strip tease dances where females or males dance nude or in a state or semi-nudity;
- g) illicit removal of human organs;

"forced labour" means labour or services obtained or maintained through force, threats of force, or other means of coercion;

"illicit removal of human organs" refers to unlawful conduct, not to legitimate medical procedures for which proper consent has obtained under the laws of Belize;

"practices similar to slavery" are defined in the Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices Similar to Slavery, found in the United Nations Treaty Series, Volume 266 at page 1, section 1 in Article 1 thereof; and include 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 harm to that person or another person, or through a scheme, plan, or pattern intended to cause that person to believe that, if the person did not perform such labour or services, that person or another person would suffer harm;

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

"trafficking in persons" means the recruitment, transportation, transfer, harbouring or receipt of a person by means of the threat or use of force or other means of coercion, or by abduction, fraud, deception, abuse of power or of a position of vulnerability, or by 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.

## PART II CRIMINAL OFFENCES AND RELATED PROVISIONS

Offence of trafficking in persons

- 3. (1) A person who engages in, conspires to engage in, attempts to engage in, assists another person to engage in, or organizes or directs another person to engage in, trafficking in persons commits an offence and is liable on summary conviction to imprisonment for a period of not less than one year but which may extend to five years, or to a fine of ten thousand dollars.
- (2) The recruitment, transportation, harbouring, or receipt of a child, or the giving of payments or benefits to obtain the consent of a person having the control of a child, for the purpose of exploitation, constitutes trafficking in persons irrespective

of whether any of the elements of the definition of "trafficking in persons" is present or not in any case.

Offence of unlawfully withholding identification papers. 4. A 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, birth certificate, immigration document, or other governmental document, actual or purported, belonging to another person commits an offence and is liable on summary conviction to a fine of not less than five hundred dollars and not more than one thousand dollars, or to imprisonment for a period of not less than six months and not more than one year, or to both such fine and period of imprisonment.

Offence of transporting a person for the purpose of exploiting such person as a prostitute.

- 5. (1) A person commits an offence who knowingly transports, conspires to transport, attempts to transport, or assists another person to transport, any person into or outside Belize for the purpose of exploiting that personas a prostitute and is liable on conviction to the sentences specified in subsection (2).
- (2) A person who contravenes subsection (1) shall on Summary conviction be liable to imprisonment for a period of not less than three years, but which may extend to eight years where the number of persons transported for the purposes of prostitution exceed five, or where the persons transported are or include children, or where the transportation is done as part of the activity of any gang or an organized criminal group or network.

Restitution.

- 6. (1) The court may order a person convicted of the offence of trafficking in persons to pay restitution to the victims.
  - (2) In determining the amount of restitution, the court shall take into account
    - a) the costs of medical and psychological treatment of the victim;
    - b) the costs of physical and occupational therapy;
    - c) and rehabilitation of the victim;
    - d) the costs of necessary transportation, temporary housing and childcare of the victim;
    - e) the victim's lost income;
    - f) the degree of emotional distress, pain and suffering experienced by the victim; and

- g) any other loss suffered by the victim.
- (3) Where the court orders the payments of restitution, that payment shall be made promptly after the conviction, and the return of the victim to his home country or any other absence of the victim from Belize shall not prejudice the victim's right to receive restitution.

Organized criminal group or network defined

7. In this Act, the expression "organized criminal group or network" means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing an offence under this Act in order to obtain, directly or indirectly, a financial or other material benefit.

Consent or past sexual behaviour of victim is irrelevant

- 8. (1). In any prosecution for an offence of trafficking in persons, the alleged consent of the victim to the intended or realized exploitation is irrelevant once any of the elements in the definition of "trafficking in persons" is established.
- (2) In a prosecution for trafficking in persons, the evidence of a victim's past sexual behaviour is irrelevant and inadmissible for the purpose of proving that the victim engaged in other sexual behaviour, or to prove the victim's sexual predisposition.

Legal age of consent to sex not a defence to offence of trafficking in persons. 9. The legal age of consent to sex or to marriage is not a defence to the offence of trafficking in persons.

Guiding principles.

10. A victim of trafficking in persons is not criminally liable for any immigration-related offence, or any other criminal offence that is a direct result of being trafficked.

## PART III ASSISTANCE AND PROTECTION FOR VICTIMS

Victims to be immune from prosecution.

- 11. In the investigation and prosection of offences relating to trafficking in persons, the following guidelines shall apply
  - a) all steps necessary to identify the victim of the trafficking shall be taken;
  - b) reasonable protection to a victim of the trafficking shall be taken to prevent recapture by the traffickers and their associates;
  - c) reasonable protection shall be taken to secure the victim's family, if it resides in Belize, from threats, reprisals or intimidation by the traffickers or their associates.

(2) The Belize Police Department, Department of Immigration and Nationality Services, and other investigative officers shall follow the guidelines specified in subsection (I)

Privacy of Victims.

12. In a prosecution for trafficking in persons, the court shall hold all proceedings *in camera*, and shall ensure that the identity of the victim and the victim's family shall be kept confidential by ensuring that names and identifying information of the victim and the victim's family are not released to the press or the public.

Provision of information to victims of trafficking.

- 13. (1) The Director of Public Prosecutions shall inform a victim of trafficking of the progress of the criminal court proceedings.
- (2) The Director of Immigration and Nationality Services shall inform a victim of trafficking of decisions for the return of the victim to his country of citizenship or lawful residence, and the procedures for seeking permanent residency status or citizenship of Belize, where the victim qualifies to apply for permanent residency or citizenship status.

Immigration status of victims of trafficking

14. The Department of Immigration and Nationality Services shall issue temporary residency permits and other permits authorized by the Immigration Act authorizing a victim of trafficking and any dependent children accompanying him to remain in Belize for the duration of the criminal proceedings against the traffickers, provided such victim is willing to comply with reasonable requests, if any, to assist in the investigation or prosecution of the traffickers.

Verification of nationality status of a victim of trafficking in persons

- 15. (1) The Ministry responsible for Foreign Affairs shall, upon request by the Director of Immigration and Nationality Services, without undue delay verify whether a person who is a victim of trafficking in persons is a citizen of, or holds a permanent residency status in any country specified in the request.
- (2) A request under subsection (l) may also be made by any consular officer of a country with a consular office in Belize.
- (3) A request made under subsection (2) may include a request for the verification of
  - a) the age and name of a person who is a victim of trafficking in persons and who is suspected of being a minor;
  - b) whether the victim is a citizen or permanent resident of the country making the request.

(4) The Minister responsible for Foreign Affairs shall designate an officer to deal with requests made under this section.

Return of victims to country of citizenship or lawful residency.

- 16. (1) The Department of Immigration and Nationality Return of Services shall, in cooperation and after consultation with nongovernmental organizations and international organizations, citizenship or lawful develop plans for the safe return of victims of trafficking in persons to their countries of citizenship or lawful residency.
- (2) Plans developed under subsection (1) shall take due account that a victim of trafficking may elect to apply for citizenship or permanent residency of Belize, or remain in Belize during the criminal proceedings against the traffickers.

Assistance to victims of trafficking who are unable to prove their nationality status through normal means.

- 17. (1) The Ministry responsible for Foreign Affairs shall, Assistance to through diplomatic channels, assist a victim of trafficking who is unable to prove his citizenship or nationality status.
- (2) In providing assistance under subsection (1), the Ministry responsible for Foreign Affairs shall take into account the victim's alleged connection to any country through factors such as
  - a) place of birth;
  - b) presence of family members;
  - c) presence of friends,
  - d) significant knowledge of specific geographical areas,
  - e) long-term residency in the country;
  - f) knowledge of the local or, if it be so stated, native or indigenous language of the country;
  - g) any other means;
- (3) The officer designated for the purpose of section 15(4) shall be responsible for administering this section.

Special consideration to be given to child victims.

18. In implementing any provision of this Act, special consideration shall be given to trafficking victims who are children, in a manner that is in the child's best interests and appropriate to the situation.

# PART IV PROVISIONS RELATING TO PROVIDERS OF INTERNATIONAL COMMERCIAL TRANSPORTATION

International commercial transportation providers defined. 19. In this Part, the expression "international commercial transportation providers" refers to operators, employees and agents of airlines, buses, ships, vessels and crafts that transport passengers into and from within Belize to any destination into or outside Belize by land, sea or air.

Responsibilities of international commercial transportation providers.

- 20. (1) An international commercial transportation provider shall Verify that each passenger to any destination into or outside Belize possesses the necessary travel documents, including passport and visas, to enter the destination country and any transit countries.
- (2) Subsection (1) applies to the international commercial transportation provider, his agents, and any person selling or issuing tickets, boarding passes or similar documents allowing a passenger to travel, and to persons collecting or checking such tickets, boarding passes or similar documents prior to or subsequent to boarding.
- (3) Any person referred to in subsection (2) who fails to comply with subsection (1) commits an offence and is liable on Summary conviction to a fine of not more than one thousand dollars or to imprisonment for a period of not more than six months
- (4) Where an offence is committed under this section, the international commercial transportation provider shall bear the costs of returning the person to his initial point of embarkation.
- (5) Where an international commercial transportation provider knowingly transports a victim of trafficking into or from Belize, he shall be liable for costs associated with providing accommodation and meals for the victim and any accompanying children for the duration of the victim's stay outside or inside Belize.

#### PART V GENERAL

Data collection.

21. (1) The Department of Immigration and Nationality Services shall collect and publish, once every year in the month of December, statistical data on trafficking in persons in Belize.

- (2) The data referred to in subsection (1) shall include
  - a) the number of arrests, prosecutions, convictions and acquittals of traffickers and those committing trafficking-related crimes (such as pimping, pandering, procuring, maintaining a brothel and other crimes related to trafficking;
  - b) statistics on the number, age and sex of the victims;
  - c) trafficking routes and patterns, including countries of origin and transit countries:
  - d) methods of transportation used;
  - e) border crossing issues, including use of fraudulent documents.

Public awareness campaigns.

- 22. (1) The Department of Immigration and Nationality Services shall prepare public awareness programs designed to educate potential victims of trafficking in persons and their families of the risks of victimization.
- (2) Public awareness programs prepared under subsection (1) shall be in the form of leaflets and shall identify common recruitment techniques, use of debt bondage, other coercive tactics, risks of maltreatment, rape, exposure to HIV/ AIDS and other sexually transmitted diseases, and psychological harm related to victimization in trafficking cases.
- (3) The public awareness programs prepared under subsection (1) shall be placed at immigration ports of entry into Belize.
- (4) The Director of Immigration and Nationality Services shall periodically evaluate programs prepared under subsection (1) to ensure their effectiveness.

Verification of legitimacy and validity of travel documents. 23. The Department of Immigration and Nationality Services shall verify, at ports of entry, the legitimacy and validity of travel documents to ensure that they are authentic and are not unlawfully altered, replicated or issued.

Regulations.

24. The Minister with responsibility for Immigration may make Regulations for any purpose which gives effect to the objects of this Act.

Protocol to be part of the laws of Belize.

Schedule.

25. (1) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime, the text of which is set out in the Schedule to this Act, is hereby declared to form part of the laws of Belize.

- (2) The Minister with responsibility for Immigration may make Regulations to give effect to the Protocol in Belize.
- (3) Regulations made under subsection (2) shall be subject to negative resolution by the National Assembly.

Commencement

26. This Act shall come into force on a day to be appointed by the Minister responsible for Immigration by Order published in the *Gazette*.

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