

BELIZE

TRAFFICKING IN PERSONS (PROHIBITION) ACT, 2003

NO. 18 OF 2003

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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 IN PERSONS (PROHIBITION)
ACT, 2003

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 person as 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 prosecution 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 (1)

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 (1) 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*.