



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**CONVENTION ON PREVENTING AND
COMBATING TRAFFICKING IN WOMEN AND
CHILDREN FOR PROSTITUTION
ACT, No. 30 OF 2005**

[Certified on 20th September, 2005]

Printed on the Order of Government

Published as a Supplement to Part II of the **Gazette of the Democratic
Socialist Republic of Sri Lanka** of September 23, 2005

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO I

Price : Rs. 8.25

Postage : Rs. 5.00

*Convention on Preventing and Combating
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L.D.—O. 49/2003.

AN ACT TO GIVE EFFECT TO THE SAARC CONVENTION ON PREVENTING AND COMBATING TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION AND TO PROVIDE FOR FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

WHEREAS a Convention on Preventing and Combating Trafficking in Women and Children for Prostitution was adopted at Kathmandu by the the South Asian Association for Regional Co-operation (SAARC) in January, Two Thousand and Two :

Preamble.

AND WHEREAS the Government of Sri Lanka became a signatory to the aforesaid Convention on the fifth day of January, Two Thousand and Two :

AND WHEREAS it is obligatory for the Government of Sri Lanka to make legal provision to give effect to the provisions of the aforesaid Convention in Sri Lanka :

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act, No. 30 of 2005 and shall come into operation on such date as the Minister by Order published in the Gazette certifies as the date on which the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution signed at Kathmandu on January 05, 2002 (hereinafter referred to as the “Convention”), enters into force in respect of Sri Lanka.

Short title and date of operation.

2. (1) Any person who—

- (i) keeps, maintains or manages ;
- (ii) knowingly finances or takes part in the financing of ; or

Offence of trafficking of women and children for prostitution.

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(iii) knowingly lets or rents,

a building or other place or any part thereof for the purpose of trafficking of women and children for prostitution or any matter connected thereto, shall be guilty of an offence under this Act.

(2) Any person who—

(a) attempts to commit ;

(b) aids or abets in the commission of ;

(c) conspires to commit,

an offence under subsection (1) shall be guilty of an offence under this Act.

(3) (a) Any person who is guilty of an offence under subsections (1) or (2) of this section shall be punished with imprisonment of either description for a period not less than three years and not exceeding fifteen years and be liable to a fine.

(b) The Court may recover compensation to be paid to the victim by way of a fine imposed under paragraph (a), taking into consideration the nature of the offence. A further term of imprisonment which may extend to five years may be imposed in the case of a failure to pay compensation.

(c) In case the offence is committed on a subsequent occasion, the offender shall be punished with twice the punishment and fine as is specified in respect of the offence.

(4) In this section “abet” and “conspiracy” shall have the same meaning as in sections 100, 101 and 113A respectively, of the Penal Code.

3. (1) The High Court of Sri Lanka holden in Colombo or the High Court established by Article 154P of the Constitution for the Western Province holden in Colombo, shall, notwithstanding anything in any other law, have exclusive jurisdiction to hear, try and punish the offences under this Act.

High Court to try offences under this Act.

(2) Where an act constituting an offence under this Act is committed outside Sri Lanka, the High Court referred to in subsection (1) shall have jurisdiction to try such offence as if it were committed within Sri Lanka, if —

- (a) the person who committed such act is present in Sri Lanka ;
- (b) such act is committed by a citizen of Sri Lanka or by a stateless person who has his habitual residence in Sri Lanka ; or
- (c) the person in relation to whom the offence is alleged to have been committed is a citizen of Sri Lanka.

4. Where an offence under subsections (1) and (2) of section 2 is committed—

Aggravating Circumstances.

- (a) by a person (hereinafter referred to as an “offender”), who—
 - (i) is a member of, or is involved in the activities of, an organized criminal group which is involved in the trafficking of women and children;
 - (ii) is involved in other international organized criminal activities ;
 - (iii) has inflicted violence or used arms in the commission of the offence ;
 - (iv) is holding public office and by virtue thereof is misusing fully the powers and authorities of that office ;

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- (v) is involved in victimisation or trafficking of children ; and
- (vi) is a previously convicted person particularly of similar offences ; or
- (b) in a custodial institution or in an educational institution or social facility or in their immediate vicinity or in other places to which children and students visit for educational, sports, social and cultural activities,

such facts shall be taken into account by the High Court in exercising its jurisdiction over the offences referred to in subsections (1) and (2) of section 2 having regard to the grave nature of the offences committed.

Rights of certain persons arrested for the offences made under this Act.

5. Where a person who is not a citizen of Sri Lanka is arrested for an offence under this Act, such person shall be entitled—

- (a) to communicate without delay, with the nearest appropriate representative, of the State of which he is a national or which is otherwise entitled to protect his rights, or if he is stateless person, with the nearest appropriate representative of the state in the territory of which he was habitually resident ; and
- (b) to be visited by a representative of that State.

Amendment to the Extradition Law No. 8 of 1977.

6. The Extradition Law No. 8 of 1977 is hereby amended by the insertion immediately before Part B of the Schedule to that Law, of the following item :—

- “(47) An offence covered by the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act, No. 30 of 2005.”.

7. Where there is an extradition arrangement made by the Government of Sri Lanka with any Convention State in force on the date on which this Act comes into operation, such arrangement shall be deemed, for the purposes of the Extradition Law, No. 8 of 1977, to include provision for extradition in respect of the offences specified in the Schedule to this Act.

Existing extradition arrangements with convention States deemed to provide for offences in the Schedule.

8. Where there is no extradition arrangement made by the Government of Sri Lanka with any Convention State the Minister may, by Order published in the Gazette, treat the Convention, for the purposes of the Extradition Law, No. 8 of 1977, as an extradition arrangement made by the Government of Sri Lanka with that Convention State, providing for extradition in respect of the offences specified in the Schedule to this Act.

Minister may treat convention as an extradition arrangement between Sri Lanka and certain convention States, in respect of offences in the Schedule.

9. Where a request is made to the Government of Sri Lanka by or on behalf of the Government of a Convention State for the extradition of any person accused or convicted of an offence described in the Schedule to this Act, the Minister shall, on behalf of the Government of Sri Lanka forthwith notify the Government of the requesting State of the measures that Government of Sri Lanka has taken, or proposes to take, for the prosecution or extradition of that person for that offence.

Duty of Minister to notify requesting State of measures taken against persons for whose extradition a request is made.

10. (1) The provisions of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 shall, wherever it is necessary for the investigation and prosecution of an offence under section 2 of this Act, be applicable in respect of the providing of assistance as between the Government of Sri Lanka and other States who are either Commonwealth countries specified by the Minister by Order under section 2 of the aforesaid Act or Non-Commonwealth countries with which the Government of Sri Lanka has entered into an agreement in terms of the aforesaid Act.

Assistance to Convention States.

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(2) In the case of a country which is neither a Commonwealth country specified by the Minister by Order under section 2 of the aforesaid Act nor a Non-Commonwealth country with which the Government of Sri Lanka entered into an agreement in terms of the aforesaid Act, then it shall be the duty of the Government to afford all such assistance to, and may through the Minister request all such assistance from, a convention country, as may be necessary for the investigation and prosecution of an offence under section 2, to the extent required for the discharge of its obligations under the SAARC Convention (including assistance relating to the taking of evidence and statements, the serving of process and the conduct of searches).

(3) The grant of assistance to a Convention State may be made subject to such terms and conditions as the Minister thinks fit.

Minister to issue directions.

11. (1) The Minister may from time to time issue such general or special directions as are necessary for the implementation of the principles and provisions of the Convention as are embodied in this Act.

(2) The Minister shall, where necessary, issue such directions as may be necessary to provide the victims of trafficking with accommodation and shelter and other facilities where necessary in the institutions established under any written law for such purpose.

Minister may take additional measures to combat trafficking.

12. The Minister shall take such measures and from time to time issue such directions or guidelines as are necessary—

(a) to create awareness among the law enforcement agencies and the judiciary of the offences under the Convention;

(b) to appoint such officers to any regional task force that may be established for the purpose of implementation of the provisions of this Act ;

- (c) to share information in respect of the sources involved in trafficking and their *modus operandi* through the different modes of travel. (Information in this paragraph shall include the specific details recorded in the course of investigation) ;
- (d) to take necessary measures for the purpose of monitoring the activities of the institutions involved in foreign employment to prevent women and children being trafficked in the guise of being provided employment ;
- (e) to promote awareness by way of media exposure or other measures to publicize the problem of trafficking in women and children and its underlying causes including the projection of negative images of women;
- (f) to take such other measures to focus on the prevention and development of efforts being taken in areas known to be source areas for trafficking;
- (g) to take steps to repatriate the victims of cross border trafficking, and the provision of legal advice and health care where necessary;
- (h) to establish on its own or with the assistance of non-governmental organizations such places or institutions of shelter and rehabilitation for the victims of trafficking; and
- (i) to make every endeavour to provide the victims with counselling and job training.

13. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

14. In this Act, unless the context otherwise requires—
“child” means a person who has not attained the age of eighteen years;

Interpretation.

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“persons subjected to trafficking” means women and children victimized or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage or any other unlawful means;

“prostitution” means the sexual exploitation or abuse of persons for commercial purposes;

“repatriation” means return to the country of origin of the persons subjected to trafficking across international frontiers;

“traffickers” means any person, agency or institution engaged in any form of trafficking;

“trafficking” means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person being subjected to trafficking.

SCHEDULE (Sections 7,8, and 9)

- (a) Keeping, maintaining or managing of any building or other place or part thereof to be used for the purpose of trafficking in women and children;
- (b) Knowingly finances the use of any building or other place or part thereof to be used for the purpose of trafficking in women and children;
- (c) Taking part in the financing of any building or other place or part thereof to be used for the purpose of trafficking in women and children;
- (d) Knowingly letting or renting of any building or other place or part thereof to be used for the purpose of trafficking in women and children;
- (e) Attempt to commit any of the offences set out in paragraphs (a) to (d);
- (f) Aiding or abetting the commission of, any of the offences set out in paragraphs (a) to (d);
- (g) Conspiring to commit any of the offences set out in paragraphs (a) to (d).

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