

SCHEDULE

CURRENCY POINT

One currency point is equivalent to twenty thousand Shillings.

BILLS
SUPPLEMENT No. 18

11th December, 2007.

BILLS SUPPLEMENT

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Bill No. 26 *Prevention of Trafficking In Persons Bill* 2007

THE PREVENTION OF TRAFFICKING IN PERSONS BILL, 2007.

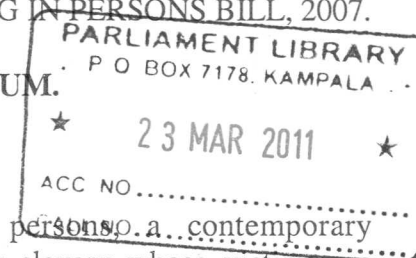
MEMORANDUM.

The Objects of this Bill are—

- (a) to combat trafficking in persons, a contemporary manifestation of modern day slavery whose victims are predominantly women and children;
- (b) to provide for legislation necessary for criminalizing the offence of Trafficking in Persons;
- (c) to provide measures for the prevention and suppression of the offence of Trafficking in Persons and the prosecution of offenders; and
- (d) to provide protection and assistance to victims of Trafficking in Persons with full respect of their Human Rights.

Part I of the Bill, incorporating clauses 1 and 2 provides for the commencement of the Bill and interpretation of the words and phrases used in the Bill.

Part II of the Bill, incorporating clauses 3 to 9 prohibits trafficking in persons by introducing the offence of Trafficking in Persons, the penalty on conviction for a natural person and for a body corporate. The court may also order the winding up of the body corporate and compensation. The Part provides for the components of the offence of Trafficking in Persons. It provides for the different forms of trafficking in persons including promoting trafficking in persons



through advertisement, publication, printing, distribution, broadcasting or dissemination of any material or information that promotes trafficking in persons. It also provides for aggravated trafficking where, legal adoption was acquired under the laws of Uganda for purposes of trafficking in persons. Aggravated trafficking also occurs where the offence is committed by syndicate or on a large scale and where it is committed by a public officer, military personnel, a law enforcement officer or a close relative or person having control of the trafficked person. In such a case the trafficker is liable on conviction to life imprisonment. The Bill makes provision for trafficking in children and attempt, aiding and abating trafficking in persons. Engaging the services of a victim of trafficking in persons is prohibited.

Part III of the Bill, incorporating clauses 10 to 13 provides for the legal protection of victims from being penalized for crimes committed during trafficking and shall not be deemed to have consented to any illegal activities or actions done during the period of trafficking. A victim is entitled to rehabilitation and counselling and to the constitutional right to privacy. Foreign victims will be entitled to appropriate protection, assistance, support and all the necessary services by the appropriate authorities and persons and will be eligible to work and receive appropriate consideration for their services if the victim is in possession of a valid working permit. The Part also provides for the repatriation of the victims of trafficking to and from Uganda by the Minister responsible for Internal Affairs in cooperation with the appropriate government agencies.

Part IV of the Bill, incorporating clauses 14 to 20 deals with the institution of civil proceedings by a victim of trafficking, a parent, child, spouse, guardian or such other legally recognized relative of the victim of trafficking for general or special damages against the person trafficking in persons regardless of criminal proceedings against such persons. The persons instituting civil proceedings will be exempted from payment of any filing fees required under civil procedure.

The jurisdiction for criminal actions arising from a violation of the Act is where the offence was committed or where any of its components occurred or where the trafficked person actually resided at the time of the commission of the offence.

Under this Part the court may order the person convicted of trafficking in persons to pay restitution or compensation to the victim for the costs and injuries.

The Part also regulates extra-territorial jurisdiction. The Part requires the consent of the Attorney General to institute proceedings under extra-territorial jurisdiction. The requirement of confidentiality at any stage of investigation and trial by law enforcement officers, prosecutors, judges, court personnel, medical practitioners and parties to the case is emphasized. It shall be an offence to publicize or cause the publicity of the names and the personal circumstances or any other information tending to establish the victim's identity.

Part V of the Bill, incorporating clause 21 provides for the designation of the Anti-trafficking office by the Minister to be an office responsible for the implementation of this Act, and provides for the functions of that office.

Part VI of the Bill, incorporating clauses 22 to 24 deals with the Miscellaneous provisions including failure to disclose conviction when applying for employment to a position of authority or care of children to amount to an offence. In addition to the penalty imposed for violation of the Act, court shall order the confiscation and forfeiture of all the proceeds derived from the commission of the crime. The Minister is given powers by Statutory Instrument to make Regulations prescribing anything to be prescribed under the Act and generally for giving effect to the provisions of this Act.

HON. WINIFRED MASIKO (MP),
Rukungiri District.

THE PREVENTION OF TRAFFICKING IN PERSONS BILL, 2007.

ARRANGEMENT OF CLAUSES.

PART I—PRELIMINARY.

Clause

1. Commencement.
2. Interpretation.

PART II—TRAFFICKING IN PERSONS.

3. Prohibition and offence of trafficking in persons.
4. Components of trafficking in persons.
5. Promoting trafficking in persons.
6. Aggravated trafficking in persons.
7. Trafficking in children.
8. Attempt, aiding and abating trafficking in persons.
9. Engaging the services of a victim of trafficking.

PART III—PROTECTION OF VICTIMS OF
TRAFFICKING IN PERSONS.

10. Legal protection of victims.
11. Right to privacy.
12. Protection of foreign victims.
13. Repatriation of victims of trafficking.

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17. Extradition.
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21. Designation of anti-trafficking office.

Clause.

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23. Confiscation and forfeiture of Proceeds of trafficking.
24. Regulations.

SCHEDULE

Currency Point

A Bill for an Act

ENTITLED

THE PREVENTION OF TRAFFICKING IN PERSONS ACT, 2007.

An Act to provide for the prohibition of Trafficking in Persons, the offences, prosecution and punishment of offenders and the protection of victims of Trafficking in Persons and to provide for other related matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Commencement.

This Act shall come into force on the date of publication of the Act.

2. Interpretation.

(1) In this Act, unless the context otherwise requires—

(a) “**Agency**” refers to the Agency for Prohibition of Trafficking in Persons;

(b) “**child**” – means a person below the age of 18 years;

- (c) **“debt bondage”** –refers to the pledging by the debtor of his or her personal services or labour or those of a person under his or her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied towards the liquidation of the debt;
- (d) **“exploitation”** includes, sexual exploitation, forced labour, slavery, practices similar to slavery, servitude, witchcraft, harmful rituals and human sacrifices or the removal of organs; and any other unfair treatment of a person held against his or her will by another person;
- (e) **“forced labour”**, means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself or herself voluntarily;
- (f) **“Minister”** – means the Minister in charge of Internal Affairs.
- (g) **“prostitution”** – means regularly or habitually holding oneself out as available for sexual intercourse or other sexual gratification for monetary or other material gain, and includes any act, transition, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money or any other consideration;
- (h) **“Public officer”** means a person holding or acting in any public office and public office means an office in the public service.
- (i) **“pornography”** – means any representation, through publication, exhibition, cinematography, indecent show, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primary sexual purposes;

- (j) **“sex tourism”** – means a program organized by travel and tourism – related establishments and individuals which consists of tourism packages or activities, utilizing and offering escort and sexual services and practices offered for any persons as part of work recreation;
- (k) **“sexual exploitation”**- means participation by a person in prostitution or the production of pornographic materials as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of a victim’s vulnerability;
- (l) **“slavery”** means the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.
- (m) **“slave trade”** include all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery and all acts involved in the acquisition of a slave with a view to selling or exchanging him as well as all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged;

PART II—TRAFFICKING IN PERSONS.

3. **Prohibition and offence of trafficking in persons**

- (1) The business or acts of trafficking in persons into or outside Uganda are here by prohibited.
- (2) A person engaging in trafficking in persons commits an offence and shall be liable on conviction—
 - (a) if that person is a natural person, to imprisonment not exceeding fifteen years or to a fine not exceeding five hundred currency points or both;
 - (b) if that person is a body corporate, to a fine not exceeding one thousand currency points.

- (3) In addition to the punishment provided under subsection (2)
 (b) the court may order the winding up of the body corporate.

4. **Components of trafficking in persons.**

A person shall be engaged in the business or acts of trafficking in persons if that person does any of the following—

- (a) recruits, transports, transfers, harbours or receives a person for domestic or overseas employment, training or apprenticeship without any clear prior arrangement for the same;
- (b) recruits, hires, maintains, transports, transfers, harbours or receives a person for the purpose of engaging that person in prostitution, pornography, sexual exploitation, forced labour, slavery, reproductive, domestic or involuntary servitude, debt bondage or any other exploitative purpose within or outside Uganda;
- (c) introduces or matches any person to a foreign national for marriage, in consideration for material or economic gain, knowing or having reason to believe or suspect that, the person is required for prostitution, pornography, sexual exploitation, reproductive or domestic servitude, forced labour, slavery, involuntary servitude, debt bondage or any other exploitative purposes;
- (d) offers or contracts a marriage for the purpose of acquiring, buying, offering or selling of that person to engage in prostitution, pornography, sexual exploitation, forced labour, slavery, reproductive, domestic or involuntary servitude, debt bondage or any other exploitative purpose;
- (e) undertakes or organizes tours and travels consisting of tourism packages or activities offering persons for prostitution, pornography, sexual exploitation or any other exploitative purpose;

- (f) adopts or facilitates the adoption of a person for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude, debt bondage or any other exploitative purpose;
- (g) recruits, hires, adopts, transports or abducts a person by means of threat or coercion or intimidation for the purpose of removing or selling that person's organ or part of the body or for any other exploitative purpose;
- (h) adopts or facilitates the adoption of a person for illicit purposes;
- (i) hires, adopts, transports or abducts a person for witchcraft, harmful rituals, human sacrifice or removal of organs or part of body;
- (j) in any way engages in the selling or buying of persons or any other exploitative acts.

5. **Promoting trafficking in persons.**

(1) A person who promotes trafficking in persons commits an offence and is liable on conviction to a term of imprisonment not exceeding three years or to a fine not exceeding three hundred currency points or both, and on subsequent conviction shall be liable to a term of imprisonment of seven years without an option of a fine.

(2) A person shall engage in promoting trafficking in persons who does the following—

- (a) knowingly leases or subleases, or uses or allows to be used any house, building or establishment for purposes of trafficking in persons;
- (b) produces, prints, issues or distributes un-issued or un-disclosed government or government agency's documents or information relating to security measures on the arrival or departure of persons into and out of Uganda in order to enable trafficking in persons;
- (c) tampers with or falsifies any government or government agency's document or information relating to the arrival or departure regulations or requirements for the purposes of enabling trafficking in persons;

- (d) advertises, publishes, prints, distributes, broadcasts or uses any other means of disseminating information or causes the advertisement, publication, printing, distribution broadcasting or the dissemination of any material or information that promotes trafficking in person.

6. Aggravated trafficking in persons.

(1) Trafficking in persons shall be aggravated trafficking in persons where—

- (a) legal adoption was acquired under the laws of Uganda for purposes of trafficking in persons referred to under section 4(f);
- (b) the offence is committed by a syndicate or on a large scale,
- (c) the offence is committed by a close relative or a person having the parental care, authority or control of the trafficked person;
- (d) the offence is committed by a public officer;
- (e) the offence is committed by military personnel or a law enforcement officer; or
- (f) the offended party dies, becomes a person of unsound mind, suffers mutilation or is infected with HIV/AIDS.

(2) Any person who commits the offence of aggravated trafficking in persons shall on conviction be liable to life imprisonment.

7. Trafficking in children.

A person commits the offence of trafficking in children who—

- (a) does any act referred to under section 4 in relation to a child;
- (b) uses a child in any armed conflicts;
- (c) removes any part, organ or tissue from the body of a child taken alive;

- (d) uses a child in the commission of a crime;
- (e) abandons a child outside the country;
- (f) uses a child or part of a child in witchcraft rituals or related practices.

8. Attempt, aiding and abating trafficking in persons.

(1) A person who attempts trafficking in persons commits an offence of trafficking in persons.

(2) A person who conspires with another person to do an act of trafficking in persons commits an offence of trafficking in persons.

(3) A person who aids and abets a person in the act of trafficking in persons commits an offence of promoting trafficking in persons

9. Engaging the services of a victim of trafficking.

A person who, knowingly or having reason to believe or suspect that a person is a victim of trafficking, engages the services of that victim of trafficking in that status, commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years without any option of a fine.

PART III—PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS

10. Legal protection of victims.

(1) A victim of trafficking in persons shall be legally recognized as such and shall not be penalized for any crime committed in connection with his or her trafficking.

(2) A victim of trafficking shall not be deemed to have consented to any activities or actions done during the period of his or her trafficking.

(3) A victim released from custody of a person engaged in trafficking in persons shall be entitled to rehabilitation and counselling.

11. Right to Privacy.

A victim of trafficking in persons shall be entitled to his or her constitutional right to privacy and as such the identity and personal circumstances of the victim or any information tending to establish his or her identity shall not be published or revealed to the public in any way.

12. Protection of foreign victims.

(1) A victim of trafficking in persons who is a foreign citizen shall be entitled to appropriate protection, assistance and support and all necessary services shall be extended to the victim by the appropriate authorities and persons.

(2) A victim of trafficking in persons who is a foreign citizen shall be eligible to work and to receive appropriate consideration for his or her services if he or she is in possession of a valid working permit.

13. Repatriation of victims of trafficking.

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

(2) Where repatriation of a victim is likely to expose the victim to greater risks the Minister may, through the relevant agency, negotiate with the government for any extension of the residency permit and maintenance as may be necessary to protect the victim.

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

PART IV—INSTITUTION OF LEGAL PROCEEDINGS AGAINST TRAFFICKERS

14. Institution of civil proceedings.

(1) Any person who is a victim of trafficking or a parent, child, spouse, guardian or such other legally recognized relative of the victim of trafficking may institute civil proceedings for general or special damages against the person trafficking in persons regardless of any criminal proceedings against such person.

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

15. Jurisdiction.

(1) A criminal action arising from a violation of this Act shall be filed where the offence was committed, or where any of its components occurred, or where the trafficked person actually resided at the time of the commission of the offence.

(2) The court where the criminal action is first filed shall acquire jurisdiction to the exclusion of the other courts.

16. Restitution.

(1) Where an accused person is convicted of trafficking in persons under this Act, the court may order that person to pay restitution or compensation or both to the victim for—

- (a) costs of medical and psychological treatment;
- (b) costs of physical and occupational therapy and rehabilitation;
- (c) costs of the necessary transportation, temporary housing and child care;
- (d) costs of re-integration in society;
- (e) physical injury;
- (f) emotional distress;
- (g) aggravated pain and suffering; and
- (h) any other loss or costs that the court may deem fit.

17. Extradition.

A person charged with trafficking in persons shall be extradited from Uganda to the appropriate country on substantially the same terms and substantially the same extent as persons charged with a felony.

18. Extra-territorial jurisdiction.

(1) A person who, while being a citizen of, or a permanent resident in Uganda, commits an act outside Uganda which act would constitute an offence under this Act had it been committed in Uganda, shall be deemed to have committed the offence in Uganda and is liable on conviction to the penalty prescribed for that offence under this Act.

(2) A person shall not be tried for an offence under subsection (1) if that person has been acquitted or convicted in the country where the alleged offence was committed.

(3) No proceedings shall be instituted under this section without the written consent of the Attorney-General.

(4) If the consent of the Attorney General is received under subsection (3) proceeding may be instituted in any appropriate court and such court shall have jurisdiction to try the matter as if the offence or offences had been committed within its jurisdiction.

19. Confidentiality.

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

(2) For the purposes of subsection (1) a law enforcement officer, prosecutor or a judge may, in order to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the victim, request or order, as the case may be, closed investigations, or trial.

(3) Any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri media facilities or information technology, who publishes or causes the publicity of the names and personal circumstances or any other information tending to establish the victim's identity where an order or request is made under subsection (2) commits an offence.

(4) Any person who commits an offence under subsection (3) is liable on conviction to a fine not exceeding two hundred and fifty currency points.

20. Victim assistance in proceedings.

A victim or witness in proceedings of a case of trafficking in persons shall be entitled to—

- (a) protection, assistance, support and relevant services;
- (b) information on relevant court and administrative proceedings; and
- (c) assistance to enable his or her views and concerns to be presented and considered at the appropriate stages of the proceedings.

PART V—ANTI-TRAFFICKING IN PERSONS OFFICE

21. Designation of anti-trafficking office.

(1) The Minister shall designate an office to be an office responsible for the implementation of this Act.

(2) The designated offices shall, in addition to the coordination, monitoring and overseeing of the implementation of this Act—

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

- (b) draft an annual National Plan of Action on Prohibition of Trafficking in Persons taking into account activities on prevention, prosecution, and protection;
- (c) take particular consideration of the age, gender and special needs of victims of trafficking in persons in the development of measures and policies to protect the rights of victims of trafficking;
- (d) establish a data bank on cases of trafficking in persons and conduct continuing research and study on the pattern and scheme of trafficking in persons which shall form the basis for policy formulation and program direction;
- (e) engage in consultation and advocacy with governmental and Non-Governmental Organizations, among other entities, to advance the objects of this Act;
- (f) initiate the training of government personnel and law enforcement officers and carry out public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and protections that are available to potential victims of trafficking;
- (g) propose rules and regulations to be made by the Minister as may be necessary for effective implementation of this Act;
- (h) carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act.

PART VI—MISCELLANEOUS PROVISIONS

22. Failure to disclose conviction.

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

- (a) when applying for employment which places him or her in a position of authority or care of children; or
- (b) when offering or agreeing to take care of, or supervise children;

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

23. Confiscation and forfeiture of proceeds of trafficking.

(1) In addition to a penalty imposed for the violation of this Act, the court shall order the confiscation and forfeiture of all the proceeds and properties derived from the commission of the crime, unless they are the property of a third person not liable for the unlawful act.

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

(3) All awards of damages and costs of proceedings under this act shall be paid directly by the offender unless it is proved that the offender is incapable of paying the same, in which case the balance payable shall be paid from the confiscated or forfeited property.

24. Regulations.

(1) The Minister may, by statutory instrument make regulations prescribing anything to be prescribed under this Act and generally for giving effect to the provisions of this Act.

(2) The Minister may by statutory instrument and with the approval of Cabinet amend the schedule to this Act.

SCHEDULE

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- (b) to provide for legislation necessary for criminalizing the offence of Trafficking in Persons;
- (c) to provide measures for the prevention and suppression of the offence of Trafficking in Persons and the prosecution of offenders; and
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