

The Union of Myanmar
The State Peace and Development Council

The Anti Trafficking in Persons Law

(The State Peace and Development Council Law No. 5/ 2005)
(The Waxing Day of Tawthalin, 1367, M.E.)
(September, 2005)

The State Peace and Development Council hereby enacts the following Law:-

Chapter I

Title, Jurisdiction and Definition

1. This Law shall be called **the Anti Trafficking in Persons Law**.
2. This Law shall have jurisdiction on any person who commits any offence cognizable under this Law in the Union of Myanmar, or on board a vessel or an aircraft registered under the existing law of the Union of Myanmar, or on a Myanmar citizen or foreigner residing permanently in the Union of Myanmar who commits the said offence outside the country.
3. The expressions contained in this Law shall have the meanings given here-under:-
 - (a) **Trafficking in Persons** means recruitment, transportation, transfer, sale, purchase, lending, hiring, harbouring or receipt of persons after committing any of the following acts for the purpose of exploitation of a person with or without his consent:
 - (1) threat, use of force or other form of coercion;
 - (2) abduction;
 - (3) fraud;
 - (4) deception;
 - (5) abuse of power or of position taking advantage of the vulnerability of a person;

- (6) giving or receiving of money or benefit to obtain the consent of the person having control over another person.

Explanation (1) **Exploitation** includes receipt or agreement for receipt of money or benefit for the prostitution of one person by another, other forms of sexual exploitation, forced labour, forced service, slavery, servitude, debt-bondage or the removal and sale of organs from the body.

Explanation (2) **Prostitution** means any act, use, consummation or scheme involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, benefit or any other consideration.

Explanation (3) **Debt-bondage** means the pledging by the debtor of his / her personal labour or services or those of a person under his/ her control as payment or security for a debt, when the length and nature of service is not clearly defined or when the values of the services as reasonably assessed is not applied toward the liquidation of the debt.

(b) **Pornography** means representation through exhibition, indecent show, publication, cinematography or by use of modern information technology of a sexual activity or of the sexual parts of a person for primarily sexual purpose.

(c) **Trafficked victim** means a person on whom trafficking in person has been committed.

(d) **Organized criminal group** means a structured group of three or more persons, for a certain period with the aim of committing a serious crime, in order to obtain directly or indirectly a benefit relating to money or material.

Explanation: Structured group means a group that is not randomly formed for the immediate commission of an offence and

that does not need to have formally defined rules for the functions and duties of its members, continuity of its membership or a developed structure.

- (e) **Serious crime** means an offence punishable with imprisonment for a term of four years or more under any existing law.
- (f) **Transnational crime** means an offence committed in more than one State, or an offence committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State, or an offence in which the offenders are involved in an organized criminal group of another State or an offence committed in one State, which has affects on another State.
- (g) **Controlled delivery** means the technique to expose and take action against the principal offenders, effect control with the consent of the relevant authority and proceed on their arrangement, when the import, export, entry, passing through or departure of illegal or suspected property or person in the Union of Myanmar or into the territory of a foreign State is found, on inspection.
- (h) **Property** means movable property in any form, being corporeal or incorporeal, tangible or intangible, animate or inanimate or immovable property. This expression also includes legal documents evidencing title, negotiable instruments and benefits pertinent to property.
- (i) **Imprisonment for life** means imprisonment passed on a convicted person to serve in the prison until death.
- (j) **Child** means a person who has not attained the age of 16 years.
- (k) **Youth** means a person who has attained the age of 16 years but has not attained the age of 18 years.
- (l) **Central Body** means the Central Body for Suppression of Trafficking in Persons formed under this Law.

Chapter II

Aims

4. The aims of this Law are as follows:
- (a) to prevent, and suppress the trafficking in persons as a national duty as it damages the pride and pedigree of Myanmar nationality that should be valued and safeguarded by Myanmar race;
 - (b) in preventing and suppressing trafficking in persons to pay particular attention to women, children and youth;
 - (c) to enable effective and speedy investigation to expose and take action against persons guilty of trafficking in persons and to prevent further trafficking in persons by passing effective and deterrent punishment;
 - (d) to liaise and coordinate with international organizations, regional organizations, intergovernmental organizations formed between governmental organizations and non-governmental organizations in accordance with the international conventions relating to suppression of trafficking in persons which Myanmar has acceded;
 - (e) to perform effectively the functions of rescuing, receiving, safeguarding, rehabilitation and reintegration into society of trafficked persons.

Chapter III

Formation of the Central Body and Functions and Duties Thereof

5. (a) The Government shall form the Central Body for Suppression of Trafficking in Persons comprising the Minister for the Ministry of Home Affairs as the Chairman, the Deputy Minister for the Ministry of Home Affairs, the Deputy Minister for the Ministry of Social Welfare, Relief and Resettlement and the Deputy Attorney General as Deputy Chairman, Director-General of Myanmar Police Force as Secretary and suitable persons from among the following as members:-
- (1) heads of relevant government departments and organizations;

- (2) representatives from the non-governmental organizations;
 - (3) relevant experts;
 - (b) The Chairman of the Central Body may if necessary assign a suitable person from among the members as the Joint Secretary.
6. The functions and duties of the Central Body are as follows:
- (a) submitting suggestions to the Government for laying down a State policy and working programmed relating to suppression of trafficking in persons;
 - (b) forming the required working groups to implement its functions and duties and determining the functions and duties thereof;
 - (c) forming the different levels of State, Divisional, District and Township Bodies for Suppression of Trafficking in Persons and determining the functions and duties thereof;
 - (d) forming the bodies comprising experts to perform research works for carrying out suppression of trafficking in persons effectively and assigning duty thereto and supervising thereof;
 - (e) forming sector-wise Monitoring Mechanism and Evaluation Team comprising experts and assigning duty thereto to obtain the necessary substantive data relating to suppression of trafficking in persons;
 - (f) laying down the necessary arrangements for the relief, resettlement, rehabilitation, and reintegration into the mainstream of society for the trafficked victims;
 - (g) communicating and coordinating with international organizations, regional organizations, foreign States, local and foreign non-governmental organizations, and obtaining assistance for works relating to suppression of trafficking in persons, protection and rendering assistance, resettlement and rehabilitation;
 - (h) directing as may be necessary to seize immovable properties involved in an offence under this Law as exhibit;

- (i) directing when necessary the attachment and sealing of immovable properties involved in the offence, which have been seized as exhibits; in prosecuted offence, disposal as may be necessary in accordance with the final order of the relevant Court;
- (j) reporting to the Government from time to time the implementation activities under this Law;
- (k) carrying out functions and duties relating to suppression of trafficking in persons assigned by the Government from time to time.

7. The Central Body shall form the following working groups comprising suitable persons and may form other required working groups to carry out the implementation of the suppression of trafficking in persons:

- (a) Working Group on Prevention of Trafficking in Persons and Protection of Trafficked Victims, headed by the Deputy Minister for the Ministry of Home Affairs;
- (b) Working Group on Legal Framework and Prosecuting Measures headed by the Deputy Attorney General;
- (c) Working Group on Repatriation , Reintegration and Rehabilitation of Trafficked Victims, headed by the Deputy Minister for the Ministry of Social Welfare, Relief and Resettlement.

Chapter IV

Functions and Duties of the Working Groups

8. The functions and duties of the Working Group on Prevention of Trafficking in Persons and Protection of Trafficked Victims are as follows:

- (a) forming Sub-Working Groups to carry out effectively the prevention of trafficking in persons according to schemes approved by the Central Body;

- (b) performing effectively works relating to educating and publication of the danger of trafficking and evil consequences to the people for the prevention of trafficking in persons;
- (c) sharing information by laying down the prevention of trafficking in persons programmes, communicating and exchanging news with domestic and foreign network;
- (d) communicating and coordinating with different levels of State, Divisional, District and Township bodies on suppression of trafficking in persons;
- (e) supervising the set-up of specially trained force for the prevention of trafficking in persons, speedy and effective investigation and exposure;
- (f) scrutinizing and permitting to enable the use of the controlled delivery system upon requirement when exposing and investigating the trafficking in persons and liaising and coordinating with foreign States, if necessary;
- (g) laying down and carrying out working programmes relating to protection and assistance to the trafficked victims programmes especially women, children and youth;
- (h) laying down and carrying out working programmes relating to protection and assistance in conformity with the stipulations to foreigners who are trafficked victims and have arrived in Myanmar;
- (i) arranging the required training and educating of persons who will undertake the duty of protecting the trafficked victims;
- (j) obtaining assistance of the relevant government departments, organizations and non-governmental organizations for the effective implementation of this Law;

- (k) recommending the enhanced communication and cooperation with international organizations and regional organization and entering into bilateral or multilateral agreements;
- (l) carrying out other functions and duties assigned by the Central Body.

9. The functions and duties of the Working Group on Legal Framework and Prosecuting Measures are as follows:

- (a) drafting and submitting to the Central Body the necessary draft of the rules, procedures, notifications, orders and directives for the determination of security status of related information of trafficked victims for the dignity and security and identification of trafficked victims, in respect of the prevention of trafficking in persons;
- (b) coordinating with the relevant prosecution bodies to impose effective and severe punishment upon the persons who have committed the offence of trafficking in persons and to prosecute with valid evidence in accordance with law;
- (c) laying down and carrying out necessary arrangements for the effective protection of trafficked victims and witnesses in prosecution cases under this Law;
- (d) submitting to the Central Body, in respect of the commission of trafficking in persons offence as transnational organized crime, if necessary, to give assistance or to obtain assistance between States;
- (e) communicating and coordinating with the different levels of State, Divisional, District and Township Bodies for suppression of trafficking in persons;
- (f) implementing by laying down the training programme and enhancing skills programmes in order to take effective action under this Law;
- (g) obtaining assistance of relevant government departments, organizations, and non-governmental organizations to enable the effective implementation of this Law;

(h) carrying out other functions and duties assigned by the Central Body.

10. The functions and duties of the Working Group on Repatriation, Reintegration and Rehabilitation of Trafficked Victims are as follows:

- (a) coordinating and cooperating with relevant government departments, organizations and non-governmental organizations for the repatriation of the trafficked victims, to their native place, enquiring the circumstances of the relevant family, medical examination of trafficked victims with their consent, consolation and education and other necessary assistance;
- (b) laying down schemes and implementing to get the vocational education based upon the education and technical knowledge and to get employment opportunities for the rehabilitation of trafficked victims;
- (c) communicating and coordinating with different levels of State, Divisional, District and Township Bodies for Suppression of Trafficking in Persons;
- (d) arranging to enable utilization from the rehabilitation fund established under this Law for the suppression of trafficking in persons and protection of trafficked victims, in carrying out the rehabilitation works for the trafficked victims;
- (e) obtaining assistance of the relevant government departments, organizations and non-governmental organizations for the effective implementation of this Law;
- (f) carrying out other functions and duties assigned by the Central Body.

Chapter V

Safeguarding the Rights of Trafficked Victims

11. In order not to adversely affect the dignity of the trafficked victims:

- (a) if the trafficked victims are women, children and youth, the relevant Court shall, in conducting the trial of offences of trafficking in persons,

do so not in open Court, but in camera for the preservation of their dignity, physical and mental security.

- (b) with respect to trafficking in persons, the publication of news at any stage of investigation, prosecution, adjudication shall be made only after obtaining the permission of the relevant Body for the Suppression of Trafficking in Persons.
- (c) person not involved in this case shall not be allowed to peruse or make copies of documents contained in the proceedings.

12. The Central Body shall, if the trafficked victims are women, children and youth, make necessary arrangements for the preservation of dignity, physical and mental security.

13. The Central Body:

- (a) shall not take action against the trafficked victims for any offence under this Law.
- (b) shall determine whether or not it is appropriate to take action against the trafficked victims for any other offence arising as a direct consequence of trafficking in persons.
- (c) shall, if the trafficked person who re-entered the country has a right of permanent residence protect his right to get permanent residence, security and relevant status.

14. The Central Body shall arrange and carry out for the security of life of trafficked victims and to arrange according to their wishes for repatriation and resettlement as much as possible.

15. The Central Body shall in the prosecution of a person guilty of trafficking in persons coordinate with the relevant Ministries for the temporary residence in Myanmar and repatriation to the relevant State of the trafficked victim who is a foreigner, after giving the testimony.

Chapter VI
Special Protection of Trafficked Victims, Women
Children and Youth

16. The Central Body and relevant Working Groups shall, with respect to the trafficked victims who are women, children and youth:

- (a) give special protection of their dignity and identification and necessary security and assistance.
- (b) carry out to send them back to their parents or guardian if after scrutiny it is found that it is the best condition for them.
- (c) arrange other suitable and secure protection when there is no condition for repatriation to the parents and guardian or inappropriate condition for repatriation.
- (d) arrange with emphasis on freedom of expression of their desire and freedom of choice according to their age and maturity.
- (e) carry out with special arrangement for remedy of their physical and mental damage, giving vocational education based upon education and technique and medical examination and medical treatment with their consent.
- (f) give protection by keeping confidential the information relating to them.

17. The Central Body shall lay down and carry out programmes of security and other protection for the trafficked victims women, children and youth during the period of prosecution of persons guilty of any offence of trafficking in persons under this Law or during the period of instituting a suit for compensation for tort by the trafficked victim for the trafficking in persons.

18. The Central Body shall lay down and carry out the programmes to conduct necessary training courses for persons performing the functions and duties relating to the protection of trafficked victims especially women, children and youth.

Chapter VII

Repatriation, Reintegration and Rehabilitation

19. The Central Body shall, after coordination with the relevant departments, organizations and non-governmental organizations for the repatriation of trafficked victims, reintegration into the mainstream of the society resettlement and rehabilitation the trafficked victims carry out as follows:

- (a) arranging and carrying out necessary coordination for the repatriation of the trafficked victims;
- (b) arranging the temporary shelter at a safe place or appropriate house for the trafficked victims;
- (c) rehabilitating the social aspect;
- (d) hiring a lawyer if necessary in a suit instituted by the trafficked victim for his/her grievance, requesting the Office of the Attorney General for a Law Officer to conduct in the case or assisting in hearing with interpreter;
- (e) laying down the security programmes and arranging for other rights entitled while the trafficked victims are giving testimony or contesting a case;
- (f) arranging medical examination and giving medical treatment with the consent of the trafficked victims;
- (g) arranging for teaching of vocational education based upon education and technical opportunities for the survival of the life of the trafficked victim.

20. The responsible officials of the Embassies of the Union of Myanmar in foreign States shall provide necessary protection for trafficked victims of Myanmar citizens or permanent resident foreigners of Myanmar and coordinate with the relevant responsible persons for sending them back to Myanmar.

21. The expenditures relating to suppression of trafficking in persons may be borne by the State in accordance with the provisions of this Law.

Chapter VIII
Establishment of the Fund

22. The Central Body may for the purpose of utilizing for the suppression of trafficking in persons, repatriation and rehabilitation of trafficked victims:
- (a) establish a fund with money supported by the State and money donated from local and foreign sources.
 - (b) accept and administer the property supported by the State and property donated from local and foreign sources.
23. The Central Body shall:
- (a) in coordination with the Auditor General's Office determine the procedures relating to the maintenance of the fund and the administration of the property supported and donated.
 - (b) keep the functions under sub-section (a) in accordance with the procedures and shall submit to the inspection by the person assigned by the Auditor General.

Chapter IX
Offences and Penalties

24. Whoever is guilty of trafficking in persons especially women, children and youth shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of imprisonment for life and may also be liable to a fine.
25. Whoever is guilty of trafficking in persons other than women, children and youth shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 5 years to a maximum of 10 years and may also be liable to a fine.
26. Whoever is guilty of any of the following acts shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 3 years to a maximum of 7 years and may also be liable to a fine:

- (a) adopting or marrying fraudulently for the purpose of committing trafficking in persons.
- (b) causing obtaining unlawfully the necessary documentary evidence documents or seal for enabling a trafficked victim to depart from the country or enter into the country.

27. Whoever is guilty of making use or arranging with a trafficked victim for the purpose of pornography shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 5 years to a maximum of 10 years and may also be liable to a fine.

28. Whoever :

- (a) is guilty of trafficking in persons with organized criminal group as provided in section 24 shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 20 years to a maximum of imprisonment for life and may also be liable to a fine;
- (b) is guilty of trafficking in persons with organized criminal group as provided in sections 25, 26 or 27 shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of imprisonment for life and may also be liable to a fine;
- (c) is found to be a member of an organized criminal group shall, on conviction be punished with imprisonment under sub-section (a) or sub-section (b) whether he has personally taken part or not in the commission of the offence.

29. Whoever is also guilty of a serious crime provided in sub-section (e) of section 3, in committing trafficking in persons shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of imprisonment for life or death sentence.

30. Any public official who demands or accepts money and property as gratification either for himself or for another person in carrying out investigation, prosecution and adjudication in respect of any offence under this Law shall, on

conviction be punished with imprisonment for a term which may extend from a minimum of 3 years to a maximum of 7 years and may also be liable to a fine.

31. Whoever is guilty of any offence provided in this Law shall, after a prior conviction for the same offence be liable to the maximum punishment provided for such subsequent offence.

32. Whoever prepares, attempts, conspires, organizes, administers or abets, or provides financial assistance to commit or in commission of any such offence shall be liable to the punishment provided in this Law for such offence.

33. The Court shall, in passing a sentence for any offence provided in this Law, pass an order for confiscation or disposal in accordance with the stipulations of the property involved in the offence, which have been seized as exhibits. It may pass an order to pay damages to the trafficked victim from the money confiscated or from the proceeds of sale of property or from the fine.

Chapter X

Miscellaneous

34. If an exhibit involved in any offence prosecuted under this Law is not easily producible before the Court, such exhibit need not be produced before the Court. However, a report or other relevant documentary evidence as to the manner of custody of the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court shall pass an order for disposal of the same in accordance with this Law.

35. The Ministry of Home Affairs shall form the Staff Office as may be necessary in accordance with the stipulations for the purpose of assistance in carrying out the functions and duties of the Central Body.

36. Notwithstanding anything provided in any existing Laws, action shall be taken only under this Law on offences relating to trafficking in persons.

37. In prosecuting any offence under this Law, prior sanction of the Central Body or any Body assigned by the Central Body shall be obtained.

38. In implementing the provisions contained in this Law:
- (a) the Ministry of Home Affairs may with the approval of the Government; issue such rules and procedures as may be necessary.
 - (b) the Central Body and the relevant Ministries may issue such notifications, orders and directives, and the Director General may issue such orders and directives as may be necessary.

(Sd) Than Shwe

Senior General

Chairman

The State Peace and Development Council