

Summary of *The Trafficking in Persons (Prevention, Suppression and Punishment) Act*, from the Laws of Jamaica

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PART I. Preliminary (Sections 1-3)

- **Short title (Section 1)**
 - o The Act is officially cited as the Trafficking in Persons (Prevention, Suppression and Punishment) Act.
- **Interpretation (Section 2)**
 - o This section provides definitions for key terms used within the Act.
 - o “Child” is defined as any person under eighteen years of age.
 - o “Child pornography” includes:
 - Audio or visual depictions of sexually explicit conduct involving a child, whether produced by electronic, mechanical, or other means.
 - Representations of a child’s genitalia lacking genuine literary, artistic, or scientific value.
 - o “Debt bondage” refers to a debtor’s condition where personal services are used as security for a debt without proper application towards debt liquidation.
 - o “Exploitation” encompasses:
 - Exploitation of the prostitution of a person.
 - Forced labor.
 - Slavery or servitude.
 - Sexual exploitation.
 - Illicit removal of organs.
 - Debt bondage.

- o “Exploitation of the prostitution of a person” means deriving monetary or other benefit through the provision of sexual services by another person.
- o “Forced labour” is defined as work exacted under threat without voluntary offer.
- o “Illicit removal of organs” involves unlawful removal of organs, regardless of victim consent.
- o “Servitude” involves dependency through threats of harm or death.
- o “Sexual exploitation” includes compelling participation in prostitution, child pornography production, or other sexual activities through coercion or abuse.
- o “Slavery” involves exercising ownership powers over a person, including practices like bondage and serfdom.
- o “Travel document” refers to documents used for international travel, such as passports and visas, and documents used to establish identity.
- o “Victim” is defined as a person against whom trafficking in persons has been committed.
- **Object of Act (Section 3)**
 - o The Act aims to prevent and combat trafficking in persons, with a focus on protecting victims, especially women and children.
 - o Objectives include:
 - Protecting and assisting victims with regard to their human rights.
 - Facilitating efficient investigation of trafficking cases.
 - Ensuring just and effective punishment for individuals and organizations involved in trafficking.
 - Promoting international cooperation to prevent and suppress trafficking and punish offenders.

PART II. Trafficking in Persons and Related Provisions (Sections 4-8)

- **Trafficking in persons (Section 4)**
 - o Defines the offence of trafficking in persons for the purpose of exploitation, which includes recruiting, transporting, transferring, harboring, or receiving individuals within Jamaica, from Jamaica to another country, or from another country into Jamaica.
 - o Specifies the means by which trafficking is conducted, such as threat or use of force, coercion, abduction, deception, abuse of power or vulnerability, or giving/receiving benefits to obtain consent of a person who has control over another person.
 - o States that trafficking of a child for exploitation is an offence regardless of the means used.
 - o Consent of the victim is not a defense for trafficking offences.
 - o Facilitating trafficking is also an offence.
 - o Traffickers and persons who facilitate trafficking are liable to imprisonment for up to twenty years.
 - o Concealing, removing, withholding, or destroying travel or documents that establish or purport to establish another person’s identity or immigration status to commit or facilitate trafficking is punishable by up to ten years of imprisonment.
 - o Receiving benefits from trafficking is an offence with penalties of up to twenty years of imprisonment.
 - o Conspiring to commit trafficking is punishable by up to twenty years of imprisonment.
 - o Defines facilitation of trafficking offences.

- **Aggravating circumstances (Section 4A)**

- o Upon conviction for trafficking, the court must determine if aggravating circumstances are present, which may result in an additional term of imprisonment not exceeding ten years.
- o Aggravating factors include prior convictions, use of weapons, exposure of the victim to life-threatening illness, sexual offences against the victim, abuse of power or vulnerability, serious injury or risk of death, mental or physical disability of the victim, multiple victims, series of criminal acts, involvement of a criminal organization, use of drugs or weapons, victim being a child, public officer involvement, intimate relationship with the victim, participation in a marriage ceremony with the victim, and any other factor that affects the relative seriousness of the offence.

- **Offences by bodies corporate (Section 5)**

- o Holds directors, managers, secretaries, or similar officers of a body corporate liable for offences committed by the body corporate under the Act.
- o Penalties are, imprisonment for up to twenty years if they connive in the offence or a fine if they fail to exercise due diligence to prevent it.

- **Restitution (Section 6)**

- o Courts must order restitution to victims upon conviction for trafficking offences.
- o Restitution covers medical and psychological treatment, therapy, transportation, temporary housing, child care, lost income, legal costs, emotional distress, and other applicable losses.
- o Restitution is paid from the convicted person's property, including forfeited property under the Proceeds of Crime Act.
- o Victims can enforce restitution orders as civil judgments.

- **[Repealed by Act 19/2013, S.7]**

- **Immunity of victim from prosecution (Section 8)**

- o Victims providing evidence are immune from prosecution for immigration or prostitution offences resulting directly from trafficking offences committed against them.

PART III. Assistance to and Protection of Victims (Sections 9-13)

- **Protection for victims (Section 9)**

- o The Government is required to take all reasonable steps to identify victims of trafficking in Jamaica.
- o When victims are identified, appropriate authorities must provide reasonable protection to prevent victims from being recaptured, intimidated, or subjected to reprisals by traffickers and their associates.

- **Assistance to victims (Section 10)**

- o The Government must take appropriate steps to assist victims, where practicable, which may include:
 - Assistance in understanding Jamaican laws and their rights as victims.
 - Help in obtaining relevant documents and information for legal proceedings.
 - Assistance in replacing or providing travel documents necessary for returning to their home country.
 - Language interpretation and translation services where necessary.
 - Assistance with expenses related to criminal proceedings against traffickers.
 - Provision of safe shelters and assistance to cover living expenses.

- o The Government, in consultation with approved non-governmental organizations and agencies, is tasked with establishing programs to support victims' integration, reintegration, or resettlement.
- **Proceedings to be in camera (Section 11)**
 - o Court proceedings involving victims who are children, traumatized, mentally or physically challenged, or victims of certain sexual offences must be held in camera.
- **Return of victims to home country, etc. (Section 12)**
 - o The Minister is responsible for establishing a system to facilitate the return of victims to their country of citizenship or permanent residency.
 - o The system must consider the safety of the victim in Jamaica, ensure their safe return without undue delay, and take into account the victim's preference for the country to which they are returned.
- **Immigration regime for victims (Section 13)**
 - o Victims without the right to remain in Jamaica must be granted appropriate visas or authorization to stay for the duration necessary to:
 - Identify or verify their identity and nationality.
 - Find accommodation and other assistance.
 - Facilitate criminal prosecution against traffickers.
 - Conduct investigations necessary for prosecution and other legal activities.
 - o The Minister may cancel visas or documents permitting the victim to remain in Jamaica if deemed justified.

PART IV. Prevention of Trafficking in Persons (Sections 14-17)

- **Entry, search and seizure (Section 14)**
 - o A Justice of the Peace may issue a warrant authorizing a constable to enter a premises if there are reasonable grounds to suspect evidence of trafficking on the premises or the unlawful detention of a victim.
 - o The constable is authorized to search for evidence or victims and seize any property believed to be related to trafficking offences.
 - o The Justice of the Peace may take necessary actions for the protection and welfare of the victim.
- **Offence of threatening, obstructing, etc., constable (Section 15)**
 - o It is an offence to threaten, assault, or obstruct a constable executing duties under this Act.
 - o Such offences are punishable by a fine not exceeding one million dollars or imprisonment for up to six months.
- **Regulations (Section 16)**
 - o The Minister is empowered to make regulations to effectuate the purposes of the Act.
 - o Regulations may include provisions for restitution to victims.
- **Order to increase fines (Section 17)**
 - o The Minister may amend monetary penalties under the Act by order published in the Gazette.
 - o Such orders are subject to affirmative resolution.