

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, আগস্ট ৪, ২০১৩

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়
লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ

প্রজ্ঞাপন

তারিখ, ২১ জুলাই ২০১৩

নং ১০(আঃম)(লেঃস)(মুঃপ্রঃ)-আইন-অনুবাদ-২০১৩—সরকারি কার্যবিধিমালা, ১৯৯৬ এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবন্টন) এর আইটেম ২৯(খ) এর ক্রমিক ৫ এবং মন্ত্রিপরিষদ বিভাগের বিগত ৩-৭-২০০০ইং তারিখের সভায় গৃহীত সিদ্ধান্ত বাস্তবায়নের নিমিত্ত The Prevention and Suppression of Human Trafficking Act, 2012 এর ইংরেজী অনুবাদ সর্বসাধারণের জ্ঞাতার্থে প্রকাশ করিল।

মোঃ দেলোয়ার হোসেন
সহকারী সচিব (চঃদাঃ)।

The Prevention and Suppression of Human Trafficking Act, 2012**(Act No. 3 of 2012)****[20 February, 2012]**

An Act to make provisions to prevent and suppress human trafficking, to ensure the protection of victims of the offence of human trafficking and their rights, and to ensure safe migration.

WHEREAS it is necessary to make provisions to prevent and suppress human trafficking and to ensure the protection of victims of the offence of human trafficking and their rights and to ensure safe migration; and

WHEREAS it is expedient and necessary to make provisions, keeping conformity with the international standards, to prevent and suppress the transnational organised crimes relating to human trafficking;

THEREFORE it is hereby enacted as follows: —

Chapter I
Preliminary

1. Short title and commencement.—(1) This Act may be called the Prevention and Suppression of Human Trafficking Act, 2012.

(2) It shall come into force at once.

2. Definition.—In this Act, unless there is anything repugnant in the subject or context—

- (1) “protective home”, by whatever name called, means an institution except a prison which is established for the reception, shelter and rehabilitation of the victims of human trafficking or of the persons rescued from human trafficking;
- (2) “sheltering” or “harbouring” means to harbour, provide with shelter to or assist in any other means, any person in order to sell or traffic that person inside or outside of the country, and shall also include the meanings for which the term ‘harbour’ has been used in section 52A of the Penal Code, 1860 (Act No. 45 of 1860);
- (3) “debt-bondage” means the condition that arises from a pledge by a person of his personal service or labour as security for a debt actually owed or unlawfully claimed to be owed by that person, but the value of the service or labour is not deemed to be paid the debt, or the service or labour is unlimited;

- (4) “forced labour or service” means any work or service that is exacted from any person under the threat to loss or damage to life, liberty, right, property or reputation of the person;
- (5) “Tribunal” means the Anti-Human Trafficking Offence Tribunal established under this Act, or any other Tribunal assigned or empowered as the Anti-Human Trafficking Offence Tribunal;
- (6) “slavery” means the reduction of status and position of any person to a condition in which he is controlled or treated as property by another person and shall also include a condition arising from a debt or a contract made by that person;
- (7) “Embassy” means any Mission or Embassy, High Commission, Deputy High Commission, or Assistant High Commission of Bangladesh situated in a foreign country and shall also include the Consulate General and consulate and Visa Offices situated in such countries;
- (8) “Prostitution” means the sexual exploitation or abuse of any person for commercial purpose or for consideration in money or kind;
- (9) “brothel” means any house, place or structure used for the purpose of prostitution;
- (10) “victim of human trafficking” or “victim” means a person against whom the offence of human trafficking has been committed under this Act and shall also include the legal guardians and heirs of the person;
- (11) “fraud” means to defraud or induce others, whether willingly or recklessly, by any words or conduct or any written contract or document as to facts or the law and a deception as to the intent of the person deceiving or any other person, and shall also include the meaning for which the expression ‘fraud’ has been used in section 17 of the Contract Act, 1872 (Act No. 9 of 1872);
- (12) “coercion” means the use of force or intimidation or psychological pressure and shall also include the threat of doing harm or of physical confinement, torture or any threat or psychological pressure of using the official or legal status of a person against another person;
- (13) “person” means a natural person including any company, firm, or association or group of persons, whether incorporated or not;

- (14) “child” means a person who has not completed the age of eighteen years;
- (15) “exploitation” or “oppression” means, but shall not be limited to, the following actions done against any person with or without his or her consent:
- (a) exploitation or oppression of any person through prostitution or sexual exploitation or oppression;
 - (b) taking benefits from any person engaging the person in the prostitution or production or distribution of pornographic materials;
 - (c) receiving forced labour or service;
 - (d) debt-bondage, slavery or servitude, practices similar to slavery, or servitude in household;
 - (e) exploitation or oppression through fraudulent marriage;
 - (f) forcibly engaging any person in the amusement trade;
 - (g) forcibly engaging any person in begging; and
 - (h) maiming any person or the removal of organs for the purpose of trade;
- (16) “organized criminal group” means an organization of a group of two or more persons, irrespective of their nationality and where ever they are, which exists for a specific period and the member of it acts together with a view to committing offences under this Act;
- (17) “consent” means the consent of a person which is given freely and consciously and is not influenced by his or her weak position arising out of his or her age, sex and socio-economic backwardness;
- (18) “public servant/official” means a public servant mentioned in section 21 of the Penal Code, 1860 (Act No. 45 of 1860) or a person appointed in the service of the Republic as defined in article 152 of the constitution of the people’s Republic of Bangladesh who is performing or carrying out a legal duty under this Act;
- (19) “servitude” means the conditions or the obligations to work or to render services from which the person cannot escape and which he cannot prevent or alter.

3. Human Trafficking—(1) “human trafficking” means the selling or buying, recruiting or receiving, deporting or transferring, sending or confining or harbouring either inside or outside of the territory of Bangladesh of any person for the purpose of sexual exploitation or oppression, labour exploitation or any other form of exploitation or oppression by means of—

- (a) threat or use of force; or
- (b) deception, or abuse of his or her socio-economic or environmental or other types of vulnerability; or
- (c) giving or receiving money or benefit to procure the consent of a person having control over him or her.

(2) If the victim of trafficking is a child, it shall be immaterial whether any of the means of committing the offence mentioned in clause (a) to (c) of sub-section (1) is used or not.

Explanation.—For the purposes of this section, if any person induces or assists any other person through deception and for bad intention to move, migrate or emigrate for work or service, either inside or outside of the territory of Bangladesh, though he knows that such other person would be put into exploitative labour conditions similar to practices of servitude or forced labour or into any other form of exploitation or oppression as mentioned in sub-section (15) of section 2, such act of the person shall be included as an act within the meaning of “human trafficking” as defined in sub-section (1).

4. Act to override and the applicability of the Code of Criminal Procedure, 1898, etc.—(1) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall have effect:

Provided that, the provisions of any other law for the time being in force containing better standard concerning the protection of victims and witnesses shall, subject to not being inconsistent with this Act, be applicable.

(2) In the event of deficiency of any provision in this Act regarding the filing of any case or complaint, investigation and trial of the offences and any other matters relating to trial under this Act, the provisions of the Code of Criminal Procedure, 1898 (Act No. 5 of 1898) and, as the case may be, the Evidence Act, 1872 (Act No. 1 of 1872) shall be applicable.

(3) The provisions of chapter III of the Penal Code, 1860 (Act No. 45 of 1860) shall be applicable to determine the responsibilities in respect of the offences and penalties under this Act.

(4) Offences under this Act shall be deemed to be offences of 'extradition' within the meaning defined in section 2(1) (a) of the Extradition Act, 1974 (Act No. 58 of 1974).

(5) This Act shall be complementary to other existing laws concerning emigration and immigration and shall not be used in derogation to the same.

5. Extraterritorial application of this Act.—(1) If any offence under this Act is committed by any person against a Bangladeshi national outside the territory of Bangladesh or on board in aircraft or ship, the provisions of this Act shall be applicable.

(2) If any person commits any offence under this Act from outside of Bangladesh into the territory of Bangladesh or from inside of Bangladesh to the outside of Bangladesh, the offence and the whole process of its commission shall be deemed to have been committed and taken place in Bangladesh, and the provisions of this Act shall be applicable to the person and the offence.

Chapter II

Human trafficking and ancillary offences and penalties

6. Prohibition of human trafficking and penalty.—(1) If any person commits any act mentioned in section 3, such act shall be deemed to be the offence of human trafficking.

(2)) The person committing the offence of human trafficking shall be punished with an imprisonment not exceeding imprisonment for life but not less than 5 (five) years of rigorous imprisonment and with fine not less than taka 50 (fifty) thousand.

7. Penalty for the organized offence of human trafficking.—Where an offence under this Act is committed by several members of any organized group for their common intention of acquiring financial or other material or immaterial benefit, each member of the group shall be responsible for the offence and the person committed the offence shall be punished with death or an imprisonment for life or a rigorous imprisonment for a term not less than 7 (seven) years and with fine not less than taka 5 (five) lac.

8. Penalty for instigating, conspiring or attempting to commit an offence.—(1) Where any person by instigating, conspiring or attempting to commit an offence of human trafficking or by knowingly allowing his property to be used in the commission of, or facilitation of committing any such offence, or by receiving, canceling, concealing, removing, destroying or taking possession of any document engages himself in the offence he shall be punished with rigorous imprisonment for a term not exceeding 7 (seven) years but not less than 3 (three) years and with fine not less than taka 20 (twenty) thousand.

(2) The person who abets in the commission of any offence under this Act shall be punished with the equal punishment provided for the concerned offence.

9. Penalty for forced or bonded labour or service.—If any person unlawfully forces any other person to work against his will or compels to provide labour or service or holds in debt-bondage or to exact from the person any work or service by using force or other means of pressure or by threat to do such, he shall be deemed to have committed an offence and shall for the offence be punished with rigorous imprisonment for a term not exceeding 12 (twelve) years but not less than 5 (five) years and with fine not less than taka 50 (fifty) thousand.

10. Penalty for kidnapping, stealing and confining with intent to commit the offence of human trafficking.—(1) If any person kidnaps, conceals or confines any other person with intent to commit the offence of human trafficking or to put that person into a state of sexual or other exploitation or oppression as mentioned in section 2 (15), he shall be deemed to have committed an offence and shall for the offence be punished with rigorous imprisonment for a term not exceeding 10 (ten) years but not less than 5 (five) years and with fine not less than taka 20 (twenty) thousand.

(2) If any person steals or kidnaps a new-born baby from any hospital, nursing home, maternity clinic, child-care centre, or the custody of parents of the new-born baby with intent to commit the offence of human trafficking, he shall be deemed to have committed an offence and shall for the offence be punished with imprisonment for life or with rigorous imprisonment for a term not less than 5 (five) years and with fine not less than taka 50 (fifty) thousand.

11. Penalty for importing or transferring for prostitution or any other form of sexual exploitation or oppression.—If any person brings any other person into Bangladesh or transfers the person inside the territory of Bangladesh with a view to engaging in prostitution or any other form of sexual exploitation or oppression by means of force or fraud or seduction, he shall be deemed to have committed an offence and shall for the offence be punished with rigorous imprisonment for a term not exceeding 7 (seven) years but not less than 5 (five) years and with fine not less than taka 50 (fifty) thousand.

12. Penalty for keeping a brothel or allowing any place to be used as a brothel.—(1) If any person keeps or manages or assists or participates actively in the keeping or management of a brothel shall be deemed to have committed an offence and he shall for the offence be punished with rigorous imprisonment for a term not exceeding 5 (five) years but not less 3 (three) years and with fine not less than taka 20 (twenty) thousand.

(2) Any person, who—

- (a) being the tenant, lessee, occupier or person in charge of any place, knowingly permits such place or any part thereof to be used as a brothel, or
- (b) being the owner of any house, lessor or owner of any land or the agent of such owner or lessor lets the house or land, with the knowledge that the house or any part thereof shall be used as a brothel,

shall be deemed to have committed an offence and for the offence be punished with rigorous imprisonment for a term not exceeding 5 (five) years but not less than 3 (three) years and with fine not less than taka 20 (twenty) thousand.

13. Penalty for soliciting for the purpose of prostitution.—If any person in any street or public place or from within any house or building, by words, gestures, or indecent personal exposure attracts the attention of any other person for the purpose of prostitution he shall be deemed to have committed an offence and shall, for the offence, be punished with rigorous imprisonment for a term not exceeding 3 (three) years or with fine not exceeding taka 20 (twenty) thousand or with both.

14. Penalty for threatening the victim or witnesses.—If any person threatens, intimidates, or uses force against the victims of trafficking or witnesses of any proceedings or any member of his family and thereby seriously obstructs the investigation or trial of any case initiated under this Act, he shall be deemed to have committed an offence and shall for the offence be punished with rigorous imprisonment for a term not exceeding 7 (seven) years but not less than 3 (three) years and with fine not less than taka 20 (twenty) thousand.

15. Penalty for filing false case or complaint.—(1) If any person files any false or frivolous case or complaint to harm any other person under this Act or, abuses the legal process or compels any other person to do so, he shall be deemed to have committed an offence and shall, for the offence, be punished with rigorous imprisonment for a term not exceeding 5 (five) years but not less than 2 (two) years and with fine not less than taka 20 (twenty) thousand.

(2) The Tribunal established under this Act may, upon a written complaint or on its own motion, take cognizance of the offence mentioned in sub-section (1) and proceed to try the offence, and, if necessary, by recording the reasons, stay the original case.

16. Cognizability, Compoundability and bailability of offences.—The offences under this Act shall be cognizable, non-bailable, and non-compoundable.

Chapter III

Filing of complaints and investigation

17. Filing of complaints.—(1) In case of commission of any offence under this Act, any person may file a complaint regarding the offence to the police or to the Tribunal, and the police shall provide with necessary security to such complaint and conceal his identity unless otherwise required for the purpose of any legal proceeding.

(2) The Government may, if it thinks fit, appoint one or more Special Prosecutors (Public Prosecutors) to conduct cases before the Tribunal.

(3) If the Tribunal submits any report to the Government against a Special Prosecutor appointed under sub-section (2) regarding any serious negligence of his duty, the Government shall remove or replace the Public Prosecutor.

18. Legal presumption as to commission of offence.—Where any victim of trafficking or any material used for the commission of the offence of trafficking is rescued or recovered from the custody or a place under the direct control of any person and if such person reasonably doubts to be, or is identified by the victim to be the trafficker, the person may be presumed, unless the contrary is proved, to have committed the offence of human trafficking under this Act.

19. Investigation.—(1) Where an offence committed under this Act is reported to the police, or upon a reference of Investigation by the Tribunal, a police officer of the concerned police station not below the rank of Sub-Inspector shall conclude the Investigation under this Act.

(2) In the likelihood of commission of any offence under this Act, the police may conduct a proactive inquire before the filing of the first information report regarding the commission of the offence.

(3) Subject to the provisions of section 20, the Investigation under sub-section (1) shall be concluded within 90 (ninety) working days from the date on which the case is filed or the reference from the Tribunal is received.

(4) If the Investigation is not concluded within the time mentioned in sub-section (3), the Investigation officer shall, before at least three days prior to the end of the time limit apply in writing to his controlling officer or, in case of receiving a reference of investigation from the Tribunal, to the Tribunal for an extension of the period, and the controlling officer or the Tribunal, as the case may be, may, upon being satisfied regarding the reasons shown for the failure to

conclude the investigation, extend the period of investigation by another 30 (thirty) working days :

Provided that, in case of a transnational investigation, only the Tribunal may extend the period of such investigation and in this case the Tribunal may extend a reasonable period of investigation by its own discretion.

(5) In case of any investigation of a transnational offence under this Act, if it is required to travel a foreign country to examine foreign evidence, the police authority shall, with approval of the Tribunal, constitute a special investigation team to conclude the investigation within a time fixed by the Tribunal, and shall in so far as possible provide with administrative and financial assistance to the investigation team.

(6) With a view to coordinating and monitoring the investigation, rendering of security by and preventive functions and duties of the police under this Act, the Government shall, by notification in the official Gazette, establish a central monitoring cell at the police headquarters.

20. Preventive search and seizure.—(1) With a view to preventing the commission of any offence of human trafficking, a police officer not below the rank of a Sub-Inspector, being directed or authorized by his superior officer, shall have power to conduct preventive search, to enter into any premises and to seize any equipment or proof or document used or likely to be used in the commission of any offence under this Act.

(2) The search under sub-section (1) May be undertaken without a warrant if there is a reasonable ground to believe that there are equipments or materials for the commission of any offence under this Act with any person or at any place, and that the delay in obtaining a search warrant would lead to the actual commission of such an offence or to the loss of evidence; and before such search, the police officer ready to conduct the search shall ask two or more respectable persons of the locality in which search is to be conducted to remain present during the search and to be witnesses thereto and the search shall be conducted in presence of these witnesses and the police officer shall prepare a list of all articles found in the search and of places in which the search has been conducted and shall obtain signatures of the witnesses thereon.

(3) The search under sub-section (1) shall be conducted in compliance with the provisions provided in section 103 of the Code of Criminal Procedure, 1898 and with due respect being paid to human rights and dignity of the person whose body or property is being searched, and, in particular, when the search is conducted against any woman there shall be a female officer or a female probation officer with the search team.

(4) The officer conducting the search, shall prepare a report describing reasons and results of the search within 72 (seventy-two) hours of the search concluded and shall send a copy of the same to the concerned magistrate and to the Tribunal having jurisdiction to try the relevant offence through electronic or any other means, which shall be preserved in the custody of the Tribunal and a copy of the report shall also be given to the superior officer of the concerned officer and so the person against whom the search is conducted.

Chapter IV

The Anti-Human Trafficking Offence Tribunal and the Trial of Offences

21. Establishment of Anti-Human Trafficking Offence Tribunals.—

(1) For the purpose of speedy trial of offences under this Act, the Government may, by notification in the official Gazette, establish an Anti-Human Trafficking Offence Tribunal consisting of a judge of the rank of a Sessions Judge or Additional Sessions Judge in any district.

(2) Until such Tribunals are established in accordance with sub-section (1), the Government may, assign and empower the Nari O Shishu Nirjaton Daman Tribunal in each district as the Anti-Human Trafficking Offence Tribunal of the district.

(3) The offences under this Act shall be tried only by a Tribunal established under this Act.

(4) The offence may be tried by the Tribunal under whose territorial jurisdiction any offence or any part thereof is committed or the victim of the offence of human trafficking is rescued.

(5) If any offence under this Act is committed outside the territory of Bangladesh by any Bangladeshi citizen or company or by a habitually resident in Bangladesh, the Tribunal, under whose territorial jurisdiction he was a resident or, in case of a company, its registered office was located, may try the offence.

22. Powers of the Tribunal.—(1) Subject to the provisions of this Act, the Tribunal shall have all the powers of a Court of Sessions, and, for the interest of justice, the Tribunal may issue any protective order and direct any person or institution to submit any report, document or register to the Tribunal under the control or disposal of the person or institution.

(2) For the interest of speedy trial of the offences under this Act or for the security of any victim or witness, the Tribunal may, by itself or through any Commission, record the statement of any witness or examine him at any place directly or through any electronic means, and the Tribunal may accept any official statement or report of any public officer or employee as evidence under this Act, exempting him to depose before the Tribunal.

(3) During the period of trial or before the prosecution of an offence under this Act, the Tribunal may, upon an Application by any person or on its own motion refer any victim of human trafficking under the custody of any public or private protective home or under the custody of any competent person or organization including the Social Welfare Department for such time and subject to such conditions as may be determined and, if the victim is a woman or a child, the Tribunal, while passing an order under this sub-section, may consider the opinion of such victim.

(4) A magistrate having necessary jurisdiction may, in any case before framing charge, exercise the power conferred under sub-section (3) with necessary adaptation.

(5) The Tribunal may, upon hearing the prosecution and by recording the reasons, grant bail to a person accused under this Act and, when exercising the discretion to grant bail under this sub-section, the tribunal shall take into consideration, among other things, the gravity of the offence committed, the security and injury of the victim and witness, and the previous record of criminality of the accused.

(6) While granting bail to an accused, the Tribunal may attach to the bail a control order including the instructions of attendance of such bailed person before the police or any officer of the Tribunal on such days as it may determine.

23. Tribunal's Power to direct further investigation.—The Tribunal may, upon application of any person or of its own motion, direct any further investigation of any case and to submit report within such time as it may determine.

24. Time-limit to conclude the trial.—(1) The Tribunal shall conclude the trial within 180 (one hundred and eighty) working days from the date on which a charge for an offence under this Act has been framed.

(2) Despite the provision of sub-section (1), the failure to conclude the trial within such time-limit shall not cancel the trial, but the Tribunal shall, within 10 (ten) working days send a report to the High Court Division of the Supreme Court of Bangladesh explaining the reasons for not being able to conclude the trial within the time.

25. Trial in-camera.—For the interest of justice and to protect the child and woman victim, the Tribunal may, by stating the reasons, direct that the trial of an offence under this Act be conducted in-camera with the presence only of the parties to the case and their advocates or other representatives as the Tribunal may permit.

26. Appointment of interpreters.—The victim of trafficking or any other witness may, at any stage of the trial of an offence under this Act, request for a translator or interpreter including any sign-language interpreter, and the Tribunal may issue an appropriate order to that effect.

27. Seizure, freeze and confiscation of property and extra-territorial injunction.—(1) The Tribunal may, upon an application by any person or of its own motion, at any stage of the trial pass an order to seize, freeze or confiscate any movable or immovable property which has been acquired by the accused person through the commission of an offence under this Act.

(2) The Tribunal may, pass an order to attach any house, land or vehicle if it has reasons to believe that such house, land or vehicle has been or is being used for committing or attempting any offence under this Act.

(3) If any person is convicted of an offence under this Act, the Tribunal may confiscate the property acquired by the convict through the commission of the offence, and the property so confiscated shall be deposited to the Human Trafficking Prevention Fund.

(4) For the interest of the trial of any offence committed under this Act, the Tribunal may issue an order to freeze and attach the proceeds of crime located in a foreign country and any property subsequently acquired by the accused person through such property and if the order is violated, the accused shall be punished with rigorous imprisonment for a term not exceeding 5 (five) years and with fine not less than taka 20 (twenty) thousand.

(5) In specifying the property to be frozen or attached under this section, the Government and the concerned Bangladesh Embassy situated abroad shall, duly cooperate the Tribunal, and if any order under sub-section (4) is issued, the Government shall inform the competent authority of the country in which the concerned property is located about the orders of the Tribunal.

28. Order of compensation by the Tribunal.—(1) Where an accused person is convicted of an offence committed under this Act, the Tribunal may pass an order to the accused to pay the victim of the offence of human trafficking a reasonable amount of compensation in addition to fine imposed by it, and, any such compensation shall be recovered by the tribunal directly or, if necessary, in accordance with the provisions of the Public Demands Recovery Act, 1913 (Bengal Act No. III of 1913).

(2) If the Tribunal only passes an order of fine, without passing the order of compensation under sub-section (1) it may order that the whole or any part of the fine so imposed be provided to the victim of trafficking or to the victim.

(3) The amount of compensation passed under sub-section (1) shall be determined at the discretion of the Tribunal, and, while awarding compensation, it shall take into consideration the matters regarding the costs of physical and mental treatment of the affected person, costs of necessary transportation or temporary housing, lost income, sufferance, the actual or emotional injury and the gravity of the distress.

29. Admissibility of foreign documents, written proofs or materials.—(1) Notwithstanding anything contained in any other law for the time being in force, any foreign written document, order or judgement of the court, report of investigation or declaration of government, if duly sent, signed and authenticated by a competent authority, shall be admissible as evidence before the Tribunal upon attestation by the concerned country's Embassy in Bangladesh or, in absence of its Embassy in Bangladesh, by the authority assigned as such Embassy.

(2) Any document including powers of attorney generated abroad by any Bangladeshi shall not be admissible as evidence in a proceeding under this Act unless it is attested and authenticated by the Ministry of Foreign Affairs in accordance with the existing rules relating thereto.

(3) The Ministry of Foreign Affairs or any Bangladesh Embassy shall not be liable for the genuineness of the contents of any document attested and authenticated by it.

30. Admissibility of electronic proofs.—Any evidence held in audio-visual instruments or through any electronic communication shall, subject to the satisfaction of the Tribunal, be admissible as evidence.

31. Appeals.—An appeal against any order, judgment or sentence of a Tribunal may be preferred to the High Court Division of the Supreme Court of Bangladesh within 30 (thirty) days from the date of the order passed or the judgment or sentence declared.

Chapter V

Assistance, protection and rehabilitation of the victims of human trafficking and witnesses

32. Identification and rescue the victims of human trafficking or the victims.—(1) The Government shall make procedures by rules for identification, rescue, repatriation and rehabilitation of the victims of human trafficking and act by partnership with concerned government and non-government organizations.

(2) The processes of identification, rescue, repatriation and rehabilitation of the affected persons, shall be conducted with special regard being paid to the welfare and special needs of women and children and in a victims-friendly manner.

33. Repatriation and return of the victims of human trafficking.—(1) If any Bangladeshi national is identified as a victim of human trafficking in a foreign country, the Government shall, in cooperation with the concerned Bangladesh Embassy in the country and, if necessary, with the Ministry of Foreign Affairs or the Ministry of Expatriates' Welfare and Overseas Employment, initiate the process to return the person in Bangladesh.

(2) Notwithstanding anything contained in sub-section (1), if any Bangladesh Embassy in a foreign country comes to know that a victim of human trafficking being a citizen of Bangladesh is detained or arrested in the country, the Embassy shall initiate the process to rescue, release and return of the affected person to Bangladesh.

(3) If any victim of human trafficking is compelled to stay in a foreign country for any case, the Bangladesh Embassy shall take measures to provide him with legal counseling or assistance.

(4) When a foreign national has been identified as a victim of human trafficking in Bangladesh, the Government, in cooperation with the Embassy of the concerned country in Bangladesh shall, after concluding due legal process and recording the statement of the victim, initiate the process to repatriate such person to his home country through proper diplomatic channel.

34. Providing with information to the victims and to the public generally.—(1) The Victim of human trafficking shall be entitled to be informed by the Government or police or, as the case may be, non-government organizations of the actions taken against the traffickers and of the stages of the concerned criminal case at least once in a month.

(2) The investigating officer or the person or organization identifying and rescuing the victim of human trafficking shall at once inform the affected person of his rights to compensation and legal aid and of other benefits available under this Act.

(3) With due regard being paid to the right of privacy of the victims of the offence of human trafficking, the competent authority of the Government shall, in order to effectively carry out the functions of identification, rescue, transfer, return, repatriation and rehabilitation of the victims of human trafficking, maintain a comprehensive data-storage including necessary data to provide with necessary information to the relevant professionals, journalists or to the public.

35. Establishment of protective homes and rehabilitation centre.—(1) With a view to facilitating physical and psychological treatment, rehabilitation and family reconciliation of the victims of trafficking, the Government shall, establish adequate numbers of protective home and rehabilitation centre throughout the country.

(2) After the commencement of this Act, every person or organization willing to establish any such protective home or rehabilitation centre shall not conduct any activities without obtaining the license or temporary permission from the Government by such manner and under such conditions as may be prescribed by rules:

Provided that any protective home or rehabilitation centre already established, shall obtain such license or permit within 6 (six) months from the commencement of this Act.

36. Protection, rehabilitation and social integration.—(1) The victim of human trafficking shall, upon being rescued, if not returned to his own family, be sent to any government or non-government protective home or rehabilitation centre and all information relating thereto shall be sent at once to the Government or to the competent authority.

(2) Every victim of human trafficking residing in a protective home or rehabilitation centre shall be entitled to give consent to the concerned matter and to get medical treatment and legal and psychological counseling service including sustainable rehabilitation and social integration facilities.

37. Provisions regarding the protection of victims or affected persons and witnesses in criminal trial.—(1) Any person or agency dealing with the subject-matter of this Act shall endeavor to ensure that any victim of the offence of human trafficking is not subjected to conviction or punishment under this Act or any other existing law.

(2) No body shall publish or broadcast the name, photograph or any information or identity of a victim of human trafficking or of any member of his family without the permission of the Tribunal, and who contravenes the provision shall be punished with imprisonment for a term not exceeding 6(six) months or with fine not exceeding taka 1 (one) lac or with both.

(3) If any victim of human trafficking or witness is threatened or apprehended by any threat or risk of any kind shall be entitled to receive police protection and other protective measures to be provided by the Government, and the security being provided to the victim of the offence of human trafficking or to the witness during travel to the court or other prosecutorial institutions or residing in a protective home shall also be included to those government protective measures.

38. Protection of the rights of child victims and witnesses.—(1) Without prejudice to the generality of the provisions of this Act regarding the protection of the victims and witnesses, any person including the Tribunal dealing with a child victim or witness shall apply the principle of welfare and the best interest of the child and the principle of priority and follow the provisions of any other law for the time being in force as well as the principles in different international instruments, and take necessary measure to avoid the child victims to be convicted or the stigmatization and social marginalization of the child victim and the child witness.

(2) No child coming in contact or conflict with this Act shall be dealt with by the police or the Government or any other person dealing with the subject matters of this act otherwise than through the intervention of a child-friendly officer and processes, and , no child victim of human trafficking or victim child shall be sent or detained in any development center or in a remand home.

39. Right to institute civil suit for compensation.—Without prejudice to the right to institute criminal proceedings, and besides any criminal proceeding initiated, the victim or the victim of human trafficking may sue for compensation in any civil court for his actual sufferance or legal injury resulting from the offence committed under this Act or for the breach of any contract concerned to the offence.

40. Financial assistance to the victim of human trafficking.— Without prejudice to the right or opportunity to receive legal aid from any non-government organization or under the Legal Aid Services Act, 2000 (Act No. VI of 2000), the Government may provide financial assistance to the victim of human trafficking or to the victim from the fund established under this act.

Chapter VI

Joint or mutual legal assistance to suppress and prevent human trafficking

41. Joint or mutual legal assistance and cooperation to suppress and prevent human trafficking.—(1) With a view to facilitating joint or mutual legal assistance in investigations, trial and judicial proceedings regarding offences under this Act, the Government shall sign memorandum of understanding or agreements with other States in which the victims, witnesses, proceeds, instrumentalities, evidence or defendants or abettor of offences under this Act are located or are likely to be located:

Provided that, unless the memorandum of understanding and the agreements are signed under this sub-section, nothing of this act shall prevent the Government to take administrative measures for receiving or rendering of such joint or mutual legal assistance.

(2) The Government may by the memorandum of understanding or agreement signed under sub-section (1) provide for joint or mutual legal assistance in the following matters, namely :—

- (a) investigation of the offence of human trafficking, conducting of searches and seizures and the matters regarding legal assistance to the victims of human trafficking;
- (b) examination of the witness under oaths, and exchange of the statement of the witness, government report and evidence submitted in the court;
- (c) mutual exchange of the victim of human trafficking and the persons committed the offence of human trafficking or the persons sentenced for committing such offence;
- (d) necessary legal, diplomatic and administrative assistance for the purpose of enforcing court orders relating to confiscation of proceeds of crime or property or fines or attachment;
- (e) Sustainable rehabilitation of the victims of human trafficking and their social reintegration in home countries.

Chapter VII

Miscellaneous

42. The Human Trafficking Prevention Fund.—(1) After the coming into force of this act, the Government shall, by notification in the official Gazette, establish a fund to be called “The Human Trafficking Prevention Fund” and the fund shall be used and operated in accordance with the manner prescribed by rules.

(2) The money received from the following sources shall be deposited to the Human Trafficking Prevention Fund, namely :—

- (a) grants or sanction from the Government;
- (b) grants from any local authority; or
- (c) grants from any person or institution; and
- (d) money received from any other source to prevent and suppress human trafficking.

43. National Anti-Human Trafficking Authority.—For the purposes of this Act, the Government may, establish a body to be called the National Anti-Human Trafficking Authority in the manner prescribed by rules.

44. Offences by companies or firms.—Where any offence under this Act is committed by a company or firm, whether incorporated or not in Bangladesh, the persons who were the proprietors, directors, managers, secretaries or agents of the company or firm at the time of the commission of the offence, shall be deemed to have committed the offence, unless the accused may prove that the offence has been committed beyond his knowledge and has tried his best to prevent it.

45. The application of the principle of equality and the provision to prevent abuse of power.—(1) In dealing with the accused, victims and witnesses under this act, the principle of equality shall be followed, and no body shall be discriminated against.

(2) If any complain against any public officer or employee for abusing public power or failing in discharging his legal duties under this Act is proved, the employing authority shall, at the recommendation of the Tribunal, take disciplinary punitive actions against him in accordance with the service rules and the Tribunal may also pass order against such person for paying adequate compensation.

(3) If any disciplinary punitive action is taken under sub-section (2), the employing authority shall report it to the Tribunal within one month of such action taken.

46. Power to make rules.—(1) For the purposes of this Act, the Government may, by notification in the official Gazette, make rules.

(2) Without prejudice to the generality of the power conferred under sub-section (1), such rules may provide for all or any of the following matters, namely :—

- (1) sources of the Human Trafficking Prevention Fund;
- (2) operations of the Fund;
- (3) method and criteria for obtaining grant from the Fund;
- (4) the amount and divisions of the grants from the fund; and
- (5) any other functions prescribed by rules.

47. Repeal and savings.—(1) The Suppression of Immoral Traffic Act, 1933 (Act No. VI of 1933) and sections 5 and 6 of the Nari O Shishu Nirjaton Daman Ain, 2000 (Act No. VIII of 2000), are hereby repealed.

(2) Notwithstanding such repeal, any order issued, direction given or acts done or any case filed under or in pursuance of the repealed acts shall, from the date of the commencement of this Act, be deemed to have been made, issued, taken, done or filed under this Act and shall continue accordingly.

48. Publication of an Authentic English Text.—(1) After the commencement of this Act, the Government shall, as soon as possible, by notification in the official Gazette, publish an Authentic English text of this Act.

(2) In case of any conflict between the Bangla Text and the English Text, the Bangla Text shall prevail.