Human Trafficking Activities Eradication Act, 2054 V.S.

Seal and Publication Date

Act No. ..... of 2054

Act enacted to eradicated the activities related to human trafficking

Preamble : Given that it is desirable to control an extremely cruel, immoral and inhuman crime like human trafficking and to effectively implement the international treaties and conventions to which Nepal is a party and to safeguard the interest of the general public and maintain good conduct,

The parliament has enacted this act in the ..... year of **His Majesty King Birendra Bir Bikram Shah's** rule.

1. Concise Name and Prolegomena

a. The name of this act is "Human Trafficking Activities Eradication Act, 2054 V.S."

b. This act shall be effective soon.

2. External Application of this Act

a. An individual performing a crime deserving punishment according to this act even while residing outside the Kingdom of Nepal shall be treated as if she or he had performed such crime while residing inside Nepal and action and punishment shall be taken in accord with this act.

b. If for the purpose of sub-article (1) an alleged person is to be handed over, concerned district court can issue an order to His Majesty's Government to take necessary action in accord with current law.

c. If in connection with the action in relation to the case it is known that the victim is outside the country and if such person needs to be inquired , the court can order His Majesty's Government to present him /her before the court.

3. Definitions : No other meaning shall hold for the content and interpretation of this act :

a. **"Human trafficking"** is to be understood as any action like selling humans for any purpose, using humans in flesh trade and separating them from their guardians with the purpose of trafficking and causing them physical, mental harm by means of sexual exploitation.

b. **"Prostitution"** is to be understood as the sexual flesh trade carried out in a commercial and vocational manner.

c. **"Victim"** is to be understood any victim in accord with this act.

4. No Act of Human Trafficking can be Performed:

No one is allowed to perform and cause to perform an act of human trafficking.

5. Acts to be Considered as Human Trafficking:

Any one performing the following acts shall be considered to have performed acts of human trafficking:

a. To sell or buy a person for any purpose,

b. To take abroad any person with the purpose of having him/her engaged in prostitution by persuasion or enticement or deception or under threat or pressure or by bringing under control or by kidnapping or perform such act inside the country or elsewhere,

c. To take any one away for any purpose of trafficking separating from his/her guardians' protection,

d. To engage oneself and have others engaged in prostitution in the country or abroad,

e. To take any one broad with the purpose of prostitution,

f. To buy or consume the sex of any person who has been made to be engaged prostitution in the country or abroad,

g. To marry or adopt any woman with the purpose of trafficking,

h. To conspire or to become accomplice or make arrangement to perform any act mentioned in section (a), (b), (c), (d), (e) and (f) of article 5 or give consent or to encourage or make an attempt to perform such act,

i. Besides those mentioned, if a person performs or gets performed prostitution at his/her own will.

6. Lodging Complaints:

1. Any individual having the knowledge that a human trafficking act is performed or is going to be performed, or a victim can lodge a complaint with any police office. While lodging a complaint the one who does so shall submit as many evidences as she/he has obtained.

2. The police shall submit any complaint under sub-article (1) to the nearest district court and if the court finds a reasonable ground to take action in relation to it and issues an order to that effect, the police shall make necessary investigation.

3. The police also who come to know that human trafficking is being performed shall in accord with sub-article (1) give report of the same to the office where he has been posted and after submitting before the court such report for action if the court issues an order finding a reasonable ground, the police shall carry out necessary investigation in relation to it as well.

4. If, in relation to the crime mentioned in sub-article (1), any hint is obtained, it shall be a compulsory duty of the local people's representative to report of the same to the police office.

7. Investigation

1. In order to carry out investigation of cases registered under this act arrangement shall be made for separate necessary police personnel and police unit.

2. The court can give necessary instructions to the police personnel mentioned in sub-article (1) in connection with the investigation.

3. If it is known or apprehended that in the course of investigation there has been some mistake, the victim or his/her relative or his/her legal practitioner can submit an application. In relation to such application, there shall be an immediate hearing in the court in a closed bench.

4. In the course of investigation the government advocate and a legal practitioner representing the victim can be present in the whole process.

8. Having Statements Attested:

1. If the individual who lodges a complaint under article 5 is a victim, the government advocate shall have to take his/her statements in the presence of witnesses and such statements shall be attested within 24 hours by the nearest district court.

2. No matter what is written the current law, if the statement of the victim is brought to the court to have attested, the concerned justice shall read out such statement and attest it if it is found to have been written as per what he/she had exactly said and if it not found to be what exactly the person had said, it shall be attested having mentioned what different things it contains.

9. Action to Take Place in Closed Bench :

1. While trying a case related to an allegation of which punishment would be given in accord with this act and while carrying out petition action and pronouncing verdict, it shall be done in a closed bench.

2. Only the victim, members of his/her own family or his/her guardian or successor and his/her legal practitioner and the guardian of the alleged one or successor and legal practitioner shall be allowed to come into the closed bench.

3. Arrangement for the closed bench and the procedure shall be as fixed by the court.

10. The Responsibility to Submit Evidences :

1. In the case a woman being taken to a foreign land by any person I anybody lodges a complaint under article 6 that she is being taken away with the propose of selling or having her engaged in prostitution, the accused shall prove with ample evidences that she is not being taken away for those purposes.

2. In accord with sub-article (2) of article 8, the accused shall prove with ample evidences that the statement attested by the court is false .

11. Confidentiality and Protection:

1. In the course of investigation and hearing of any case, arrangements shall be made not to allow people see the case other than the functionaries involved in the case, the witnesses and the legal practitioners by discretion of the justice or if so demanded by the plaintiff or his/her legal practitioner.

2. The procedure related to confidentiality and protection in accord with subarticle (1) shall be as fixed by the court.

12. Punishment:

1. Any one who sells a person shall receive a sentence of twenty imprisonment.

2. Any one who takes away any one else with the purpose of making him/her engaged in prostitution by persuasion or enticement or deception or threat or pressure or by taking under control or by kidnapping or performs such act inside the country or elsewhere shall receive a sentence of 15 year's imprisonment.

3. Any one who separates anybody from his/her guardian with the purpose of selling him/her shall receive a sentence of 5 year's imprisonment.

4. Any one who makes people engage in prostitution inside the country or abroad shall receive a sentence of 10 years imprisonment. If the person being made to be engaged in prostitution is a minor the culprit shall receive punishment in accord with sub-article (1).

5. Any one who takes a anybody to a foreign land with the purpose of selling him/her shall receive a sentence of 7 year's imprisonment.

6. If any one marries or adopts a woman with the purpose of selling her, he/she shall receive a sentence of 5 year's imprisonment.

7. If anybody engages in prostitution at his/her own will, he/she shall receive a sentence of upto 3 year's imprisonment. While punishing thus persons engaged in prostitution the situation in which the guilty has committed the crime, the social condition, nature of crime, economic.

8. Individuals who buy or consume the sex of persons being engaged or having been engaged in prostitution shall receive a sentence of 3 year's imprisonment. But if a minor's sex is bought or consumed, the term of sentence shall be 8 years imprisonment.

9. Anybody who makes an arrangement, gives consent, conspires or becomes an accomplice to commit a crime for which punishment shall be as mentioned above or anybody who encourages or makes an attempt to engage in such act shall receive upto half of the punishment mentioned above.

13. Fine :

1. If a human is bought or sold, the amount of the buyer shall not be returned. The buyer and the seller shall also be fined on the basis of the amount by making the amount paid by the buyer as the basis.

2. In cases under this act in which the amount is not clear, while considering the physical and mental condition of the victim or the mental condition of his/her family members or economic status and even the previous character of the victim the authority dealing with the case shall decide appropriate amount and in addition to the sentence of imprisonment in accord with article 12 fine an amount equal to the damage that has been caused.

14. Compensation

1. In a case of purchase and sale the amount paid shall be determined as the basis and that amount and the amount of fine shall be added and the defendant shall be made to pay the victim for compensation five times more than the total amount.

2. In cases in which the amount is not clear, the amount determined in accord with sub-article (2) of article 13 as compensation for the victim shall be added another amount equal to that and shall be multiplied by 5 and the resulting amount shall be given to the victim receiving a receipt.

3. No matter what is written in sub-article (1) and (2), if someone has been married or adopted with the purpose of selling, the victim, in condition when the marital or adoption status has not been established, shall be provided with an amount for compensation equal to the amount which the victim would get while marriage or adoption is established.

4. As regards making the payment of compensation for the victim it shall be as determined.

15. Government shall be the Litigant

1. His Majesty's Government shall be the litigant in cases under this act and those cases shall fall under Annex 1 of the government case-related Law 2049 V.S.

2. While carrying out investigation of cases all that is written in this act shall be in accord with this act and other matters shall be treated in accord with government case-related act 2049 V.S.

16. Action can be taken keeping the person behind bars :

1. No matter what is written in the central Nepal Law, in a case related to the crime under this act, if there are enough and reasonable causes to put the accused behind bars and put him to trial, and if the government advocate has any claim in relation to that, the accused can be put behind the bars and put him/her to trial having prepared documents making a mention of that as well.

2. If the accused is not satisfied in having been put to trial under imprisonment, he /she can file a complaint with the petition hearing court through the authority who is empowered to hear cases. The authority to hear cases shall have to send such complaint and the document of imprisonment to the petition hearing court within three days and act in accord with the order of that court.

17. Right to Make regulations

1. His Majesty's Government shall be able to enact necessary regulations in order to implement the purpose of this act.