

*In the name of Allah, the Most Gracious, the Most Merciful*

## Human Trafficking Combat Act for the year 2014

### Act No. 2 for the year 2014

Pursuant to the provisions of the Interim Constitution of the Republic of the Sudan for the year 2005, the National Assembly passed the text of the following Act and was signed thereon by the President of the Republic.

#### Chapter One

#### Preliminary Provisions

##### Title and Commencement of the Act

1. This Act shall be cited as "Human Trafficking Combat Act for the year 2014" and shall come into force as from the date of its signature.

*Signed on 3<sup>d</sup> March 2014*

#### Interpretation

2. In this Act, unless the context otherwise requires;

*Human Trafficking*; shall mean any of the acts that constitute a crime under the provisions of Article 7 of this Act.

*Organized Criminal Group*; shall mean any group consisting of three people or more working in an organized manner for the purpose of committing any of the acts that constitute a crime under the provisions of this Act.

*Victim*; shall mean any natural person subjected to a physical or moral harm as a result of committing any of the crimes provided for in this Act.

*Commission*; shall mean the National Commission on combating Human Trafficking established under the provisions of Article 4 of this Act.

*Minister*; shall mean the Minister determined by the President of the Republic.

#### Application of the Provisions of the Criminal Act

3. The provisions of Chapter Three of the Criminal Act for the year 1991 on initiation, participation and incitement in committing a human trafficking crime shall be applied.

## Chapter Two Commission

### Establishment of the Commission, its Composition, Headquarters and Supervision

- 4.1. A Commission named “The National Commission on Combating Human Trafficking” shall be established and shall have a legal personality.
2. The Commission shall be constituted by a decision from the Council of Ministers upon a recommendation from the Minister from a chairperson and number of members representing the concerned bodies.
3. The Headquarters of the Commission shall be in Khartoum State.
4. The Commission is subject to supervision by the Minister and is accountable before him on the performance of its duties and tasks.

### Functions and Powers of the Commission

5. The Commission shall be the supreme authority for combating and addressing human trafficking crimes and shall have the right to establish branch offices thereof in the states. Without prejudice to the foregoing, the Commission shall have the following functions and powers:
  - (a) Develop a national strategy to address the root causes of the human trafficking crime;
  - (b) Prepare the public annual budget and submit it through the Minister to the Council of Ministers for approval.
  - (c) Review the legislations relevant to combating human trafficking and submit the necessary proposals and recommendations thereon.
  - (d) Coordinate between:-
    - First:* Official and non-official bodies concerned with preventing human trafficking crimes including the necessary procedures to facilitate return of victims to their places of origin.
    - Second:* Competent authorities in the state with the concerned authorities in the other states to facilitate return of the foreign victims to their countries in accordance with the necessary procedures in the state.
  - (f) Raise awareness on the issues related to human trafficking crimes by organizing conferences, forums, bulletins, training and other means especially among the employers and those who deal in using the workers and employees.

- (g) Promote the national capacities of those working in the field of combating human trafficking crimes;
- (h) Publish a national guidebook containing instructions and educational materials relating to its work, disseminate and circulate it.
- (i) Study the domestic, regional, and international reports relating to combating human trafficking and take the necessary procedures and measures thereon.
- (j) Cooperate with the official and non-official bodies to implement the programs necessary for physical, psychological and social recovery by the victims and supervise their housing in places allocated for this purpose and develop the necessary measures to protect them.
- (k) Participate with the relevant bodies in the state in the international and regional conferences and forums relating to human trafficking and cast light on the state orientation and its policy towards these issues.
- (l) Undertake any other tasks necessary for combating human trafficking.

### **Meetings of the Commission and its Resolutions**

6. (1) The Commission shall meet once every three months upon invitation from its chairperson, however it may convene emergency meetings at the request of the chairperson or one third of its members.
- (2) Meetings of the Commission shall be legal in presence of more than half of its members.
- (3) The Commission shall take its decisions by the majority of votes of the members present at the legal meeting. In case of equality of votes, the Chairperson shall have the casting vote.
- (4) The Chairperson of the Commission shall have the right to invite any expert or competent person to attend any of the meetings of the Commission for expression of opinion on matters presented for discussion but shall have no right of vote.

### **Chapter Three Crimes and Penalties Human Trafficking Crime**

7. (1) Shall be deemed to have committed a human trafficking crime, everyone who lures natural persons or transfers, abducts, transports, harbours, receives, detains or prepares them with the intent to exploit or use them in illegal acts or any other acts that will degrade their dignity or achieve illegal goals in return of any of the following gains:

- a) Any material return or a promise therewith;

- b) Any moral gain or a promise therewith;
- c) Granting any kind of benefits.

(2) The acts mentioned in subsection (1) shall not be deemed as human trafficking unless they have been committed by using or threatening to use force or any forms of coercion, kidnapping, fraud, deception, abuse of power or influence, exploitation of state of vulnerability, necessity, payment of financial amounts, benefits or a promise therewith in order to get consent of a person for trafficking in another person having control over him.

### **Transnational Human Trafficking Crime**

8. A human trafficking crime shall be deemed crime of a national nature if it has been committed:

- a) In more than one state.
- b) In any state and the preparation, planning, supervision or finance has been carried out in another state or through that state.

(3) Any state through an organized criminal group engaging criminal activities in more than one state.

(4) State and the effects thereof have extended to another state.

### **Penalties**

9. (1) Anyone who commits a human trafficking crime shall be punished with imprisonment for a term of not less than three years and not more than ten years.

2) Anyone who commits a human trafficking crime shall be punished with imprisonment for a term of not less than five years and not more than twenty years or execution, if:

- a) The perpetrator has established, set up, organized or run an organized crime group or assumed its leadership or invited people to join it.
- b) The victim was female or child below 18 years or handicapped.
- c) The crime has been committed by fraud or use of force, threatening to kill, physical or psychological torture.
- d) The offence involves one person or more or an armed person.
- e) The perpetrator is a spouse of the victim or one of his / her ascendants or descendants.

- f) The crime was of a transnational nature.
- g) Any of the victims has been subjected to sexual exploitation, removal of organs or employed in prostitution or any acts that are degrading to human dignity.
- h) If the perpetrator of the crime of human trafficking is a public official or he has been assigned to perform a public service and committed the crime by abusing his job or position
- i) The crime has led to death or permanent disability or incurable decease.

### **Covering up the perpetrators and the money gained**

10. (1) Without prejudice to provisions of the Criminal Act for the year 1991, anybody shall be deemed to have committed a crime of covering up perpetrators and the money gained therefrom if he knowingly concealed:

- a) Any of the perpetrators of crime of human trafficking.
- b) Any monies, tools or equipment gained from any of the crimes provided for in this Act or dealt therein or knowingly concealed any signs of the crime or its tools.

(2) Anyone who commits a crime pursuant to provisions of subsection (1) shall be punished with imprisonment for a term not exceeding five years or fine or both penalties.

(3) The Court may commute the penalty provided for in subsection (2) if the person who concealed the perpetrator is a spouse, one of ascendants or descendants.

### **Disclosure of the witness and victim**

11. Shall be deemed to have committed a crime everyone who has disclosed or revealed the identity of the victim or witness or his / her whereabouts or provided any information about him / her that will expose him / her to danger or harm or facilitated the perpetrators communication with him / her or provided him / her with incorrect information with the intent to harm him / her or exposed his / her physical, psychological or mental safety to danger and shall be punished with imprisonment for a term not exceeding five years or fine or both penalties.

### **Forcing a Person to Give False Testimony**

12. Shall be deemed to have committed a crime anyone who forces any person to give false testimony by using:

- (a) force, threatening, intimidation or offering a gift or benefit of any kind or a promise therewith in order to force him to give false testimony or conceal or hide information or give incorrect statements or information before any judicial or administrative body in procedures relating to committing any of the crimes set forth

in this Act and shall be punished with imprisonment for a term not exceeding five years.

(b) Physical force, threatening or intimidation to intervene in the work of any administrative official or judicial or law enforcement relating to any of the crimes set forth in this Act and shall be punished with imprisonment for a term not exceeding seven years.

#### **Establishment of a place for the purpose of committing a crime**

13. Shall be deemed to have committed a crime any person who establishes, prepares, provides or runs a place wherein any of the crimes set forth in this Act or any of the acts related to these crimes are committed and he shall be punished with the following:

- a) Imprisonment for a term not exceeding five years, fine or both penalties.
- b) Confiscation of the place if owned by the perpetrator of the crime or is used for committing crimes with the knowledge of the owner.

#### **Informatics Network Crime**

14. Shall be deemed to have committed a crime any person who used informatics network or established an electronic website with the intent to commit any of the crimes set forth in this Act and shall be punished with imprisonment for a term not exceeding five years or fine or both penalties.

#### **Disposition of monies gained from the crime**

15. Shall be deemed to have committed a crime, any person who has knowingly possessed, concealed or disposed of any monies, equipment, machinery or materials that have been gained from human trafficking crimes and shall be punished with imprisonment for a term not exceeding three years or fine or both penalties and recover the monies disposed of.

#### **Confiscation of the monies earned from any Human Trafficking crimes**

16. Without prejudice to the rights of bona fide third party, the court must, upon conviction under any of the provisions of this Act, decide to confiscate the monies and luggage, tools and means of transportation which have been used in committing any of the crimes provided for in this Act or obtained therefrom, in favor of the Government of the Sudan.

### **Exemption from punishment or mitigation thereof**

17. (1) Shall be exempted from the penalties prescribed for the crimes provided for this Act any of the perpetrators who initiated to inform the competent authorities of what he knows about the crime before starting its implementation and that will lead to discover the crime before it happens.

(2) The Court may commute the original penalty if the perpetrator informed the authorities before their knowledge of the crime which accordingly led to discover and arrest the other perpetrators and recover the monies gained therefrom.

(3) Provisions of subsection (2) are inapplicable if the crime resulted in death of the victim or caused incurable disease or permanent disability to the victim.

### **Responsibility of the Transporter**

18. (1) The sea, air and land transporters shall be committed to verify that their passengers bear valid entry travel documents to the country.

(2) The transporter shall be punished with fine if it has been established that a human trafficking crime was committed as a result of the transporter's lack of observance of the rules and regulations promulgated thereon.

## **Chapter Four**

### **Fiscal Provisions**

#### **Financial Resources of the Commission**

19. The Commission shall have the following financial resources:

- a) Financial credits allocated thereto by the state.
- b) Any other financial resources approved by the Minister of Finance and National Economy.

#### **Use of Resources of the Commission**

20. Resources of the Commission shall be utilized in running its works and implementation of its functions and powers in accordance with the provisions of this Act.

#### **Accounts and Bookkeeping, Records and Money Depositing**

21. (1) The Commission must maintain correct accounts in fulfillment of its work in accordance with the sound accounting principles and bookkeeping and records relating thereto.

(2) The Commission shall deposit its monies in current accounts with the Central Bank and withdraw therefrom in accordance with the financial laws and regulations.

### **Auditing**

22. Accounts of the Commission shall be audited by the National Audit Chamber or any other certified auditor approved by the Auditor General under his supervision at the end of every fiscal year.

### **Final Account Statement and the National Audit Chamber Report**

23. (1) The Commission shall submit within three months of the end of the fiscal year the following reports to the Minister:

- a) Final account statement
- b) Report of the National Audit Chamber
- c) A report showing the functioning of the Commission

### **Chapter five General Provisions Consent**

24. Consent of the victim of human trafficking crime shall not be considered.

### **Protection of Victims and Witnesses**

25. (1) Victims of trafficking in persons shall not be held in a detention centre, jail or prison at any time prior to, during or after all civil, criminal or other legal or administrative proceedings.

(2) The Commission, Prosecution and Competent Court shall take appropriate measures to provide protection to the victims and witnesses and to ensure no influence on them while preserving the right of defence and requirements of the principle of confrontation between adversaries.

### **Confidentiality of Information**

26. All bodies concerned with the application of provisions of this Act shall observe the confidentiality of the information they obtained for executing its provisions and shall not disclose this confidentiality save to the extent necessary and mandatory and maintain the proofing and requirements of principle of confrontation between adversaries.

### **Foreign Victims**

27. The Competent authorities in the state shall coordinate with the concerned authorities in the other states to facilitate return of the foreign victims to their home countries while taking the necessary procedures for their safety.

### **Judicial Fees**

28. The victims shall be exempted from the judicial fees prescribed for the cases of compensation for the harm due to being subjected to any of the crimes provided for in this Act.

### **Power to issue Regulations, Orders and Rules**

29. The Minister may, upon a recommendation from the Commission, issue the necessary regulations, orders and rules for the implementation of the provisions of this Act.