September 27, 2006

Unofficial Translation of Central Parts of the Anti Trafficking (Legislative Amendments), 5766 – 2006

Status of Law: It has been tabled in the Knesset on September 11th 2006 and passed into law on October 19th. It entered into force on October 29th 2006.
Note: Section numbers without referral to a specific law relate to the Criminal Law 5737 – 1977.

Kidnapping for Purposes of Trafficking

Section 374A: He who kidnaps a person for one of the purposes enumerated in section 377A*or in order to place him in one of the dangers enumerated in that section – is subject to imprisonment for a term of 20 years.

(*Note – section 377A is the trafficking crime and the purposes and dangers therein enumerated are: organ removal, giving birth to a child and taking him away, slavery, forced labor, prostitution, participation in a pornographic publication or show, or commission of a sexual offence.)

Holding a Person under Conditions of Slavery

Section 375A:

(a) He who holds a person under conditions of slavery for work or services, including sexual services – is subject to imprisonment for a term of 16 years.
(b) If a crime, according to subsection (a) is committed against a minor – the perpetrator is subject to imprisonment for 20 years.

In this section, "slavery" – a condition under which the powers generally exercised towards property, are exercised over a person; In this context, substantive control over the life of a person or deprivation of his freedom will be considered the exercise of such powers as aforementioned.

Forced Labor

Section 376: He who unlawfully forces a person to work, by means of force, other means of pressure or a threat of force or pressure, or by consent elicited by fraudulent means, whether for consideration (recompense) or lack of consideration – is subject to a term of 7 years imprisonment.

Detention of Passport

Note: The existing law has a crime of detention of a passport, travel document or identity document with a punishment of one year imprisonment. The new law increases the maximal prison term to 3 years imprisonment and adds the following:

Section 376A: ...He who detains a passport, travel document or identity document for one of the purposes enumerated in section 377A (the trafficking section r.g.), or places a person in one of the dangers enumerated in that section – is subject to a term of 5 years imprisonment.

Causing a Person to Leave his Country for Prostitution or Slavery

Section 376B:

(a) He who causes a person to leave his country of residence in order to employ him in prostitution or hold him under conditions of slavery – is subject to imprisonment for a term of 10 years.
(b) If a crime according to subsection (a) is committed against a minor – the perpetrator is subject to imprisonment for a term of 15 years.

Trafficking in Persons

Note: A more exact translation than "trafficking" is "transactions in persons".

Section 377A. (a) He who carries on a transaction in a person for the following purposes or carries on a transaction in a person and places him in danger of one of the following – is subject to imprisonment for a term of 16 years:

(1) removal of an organ;
(2) giving birth to a child and taking away said child;
(3) subjecting him to slavery
(4) subjecting him to forced labor;
(5) subjecting him to an act of prostitution;
(6) subjecting him to participation in a pornographic publication or show;
(7) committing a sexual offence against him;

(b) If a crime is committed according to subsection (a) against a minor – the perpetrator is subject to imprisonment for a term of 20 years.

(c) He who functions as a middleman in a transaction in a person, as detailed in subsection (a), whether for consideration (recompense) or lack of consideration, shall be considered as perpetrating a transaction in such a person.

(d) In this section, "transaction in a person" – selling or purchasing a person or carrying out another kind of transaction in a person, whether for consideration (recompense) or lack of consideration.

Minimum Sentence for Slavery and Trafficking

Section 377B.

(a) If a person is convicted of a crime according to section 375A (slavery) or 377A (trafficking) – his sentence will not be less than one fourth of the maximal sentence set for these crimes, unless the court decides, for special reasons, which shall be recorded, to mete out a more lenient sentence.

(b) A sentence of imprisonment shall not be wholly conditional (or suspended) if there are no special reasons for this.

Obligation to Detail Reasons for Not Awarding Compensation

Section 377C. If a person is convicted of a crime according to section 375A (slavery) or section 377A (trafficking) and the court decides not to award criminal compensation to the victim according to section 77*, the court must specify in its sentence the reasons for not awarding compensation.

***Note –** Section 77 of the Criminal Law allows courts to award compensation, as part of the sentencing procedure in criminal proceedings, to victims of crimes up to a maximal sum of 228,000 NS per crime.

Forfeiture of Assets of Crimes

Section 377D – obligates courts to order forfeiture of the assets of the crimes of slavery and trafficking if the accused is convicted of the said crimes. The section has provisions dealing with interim orders, forfeiture in the framework of civil proceedings, appeals and various evidentiary provisions. Forfeiture may be ordered against a wide array of property, including profits accruing from property of the trafficker or slavery perpetrator.

Establishment of a Special Fund

Section 377E establishes a special fund in which are to be deposited property collected by means of forfeiture proceedings or criminal fines meted out in the context of trafficking or slavery criminal proceedings.

This fund will allocate money for the following purposes:

(1) Rehabilitation of the victims of slavery or trafficking crimes, caring for them and protecting them. Each year a sum of not less than half of the property in the fund will be allocated for this purpose.
(2) Compensation to victims of crimes (of slavery or trafficking r.g.) who have been awarded such compensation in a judgment by a court of law and have

shown that they have no reasonable way to collect such compensation – whether full or partial compensation.

(3) Prevention of trafficking and slavery offences.

(4) Carrying out the functions of law enforcement agencies in order to enforce the provisions of this law in regard to slavery and trafficking offences.

Exploitation of Vulnerable Populations

Section 431: Such a crime is part of existing law, but the punishment has been heightened from one year imprisonment to 3 years imprisonment.

Legal Aid

By means of an amendment to the Legal Aid Law 5732 – 1972, legal aid will be accorded to all victims of trafficking and slavery from the date the law goes into force until September 15th 2008. Until this provision, legal aid was accorded only to victims of trafficking for the purpose of prostitution. In order to receive this legal aid, the victim does not have to meet economic criteria. The aid is given in regard to civil claims arising from the slavery or trafficking crimes or connected crimes and in regard to procedures according to the Entry to Israel Law, 5712- 1952

Rahel Gershuni
Government Coordinator of
the Battle against Trafficking
in Persons