

DRAFT

**PILOTING OF THE ANTI-HUMAN TRAFFICKING AND
MIGRANT SMUGGLING BILL, 2021 IN PARLIAMENT BY
THE MINISTER OF SOCIAL WELFARE, MRS. BAINDU
DASSAMA.**

Mr. Speaker, Honourable Members.

It is a great honour and privilege for me to table in this honourable House, the Anti-Human Trafficking and Migrant Smuggling Bill, 2021.

Background

As a brief background, Honourable Members, the process of drafting this bill started in 2019. At that time, the then Ministry of Social Welfare, Gender and Children's Affairs spearheaded stakeholder engagements in all of the regions, to review the current Anti-Human Trafficking Act of 2005, Act number 7. Participants for those four regional dialogue sessions were drawn from all the sixteen districts in the country including the western area urban and rural.

Stakeholders that took part in those consultations included representatives of the national and district anti-trafficking task forces; women's groups; child

protection agencies; youth organizations; law enforcement agencies; traditional and religious leaders; Parliament; labour unions; the media; local councils; child-led organizations; organizations for persons with disabilities; and development partners. At the end of those nationwide consultations, the stakeholders came up with important recommendations that were compiled into an outcome document which then served as a Drafting Instruction for a proposed Anti-Human Trafficking and Migrant-Smuggling Bill.

That Drafting Instruction, backed by a Cabinet Paper, was presented to Cabinet on Wednesday the 16th December, 2020 during which time I proposed the repeal and replacement of the Anti-Human Trafficking Act of 2005.

At that meeting Cabinet approved the proposal and requested that the Ministry of Social Welfare work with the Office of the Attorney General and Minister of Justice to draft a bill, replacing the existing law on trafficking.

Towards that end, the Ministry collaborated with the Office of the Attorney General and Minister of Justice to put together a draft Anti-Human and Migrant Smuggling Bill, 2021. The draft bill was then validated

by the National Task Force on Human Trafficking at an extra-ordinary meeting of the Task Force held in Freetown on the 30th of August, 2021. After that, the validated draft bill was sent back to Law Officers Department for finalization before being presented to Cabinet on Wednesday the 25th of October, 2021 for approval. Following approval by Cabinet, the gazetted Anti-Human Trafficking and Migrant Smuggling Bill, 2021 was laid before Parliament in December of 2021.

Today, I am very delighted to present to Honourable Members the Anti-Human Trafficking and Migrant Smuggling Bill, 2021 for discussion and enactment.

Purpose

Mr. Speaker, Honourable Members. Strengthening Sierra Leone's legal framework within which to combat human trafficking and smuggling of migrants is the primary aim of the proposed repeal and replacement of the Anti-Human Trafficking Act of 2005.

The existing legislation is old and proven ineffective in combating modern- day slavery in all its forms, including human trafficking and migrant smuggling. For instance, the Anti- Human Trafficking Act of 2005 does not have any provisions addressing the burning

issue of migrant smuggling, which often leads to more serious criminal activities including trafficking. Additionally, the extant law has proven to be inadequate and limited in scope in providing protective services to victims of trafficking, as well as in prosecuting the crime and punishing the offenders. As a result, the current law has proven ineffective to act as a strong deterrent to trafficking in persons and smuggling of migrants.

This Bill is comprehensive in scope to effectively deal with those gaps identified in the existing law and to serve as a significant legislative improvement in the fight against human trafficking and smuggling of migrants.

In that regard, the Bill seeks to repeal and replace the existing law and therefore introduces several key changes in the following areas:

Administrative Provisions

A multi-stakeholder National Task Force on Human Trafficking remains in place, with the responsibility to investigate reports of human trafficking activities; monitor the immigration and emigration patterns of

Sierra Leone for evidence of human trafficking; inform and educate the public about the causes and consequences of trafficking in persons; collate, store and publish data on human trafficking; render assistance to victims of human trafficking; and advise Government on the adoption of economic alternatives to prevent and deter human trafficking.

Their work will be coordinated and supported by an autonomous Secretariat which will now be headed by an Executive Director to be appointed by the President and approved by Parliament. In that case, the Executive Director will serve for 3 years and eligible for reappointment.

Mr. Speaker, Members of Parliament. In addition to the Executive Director, a small number of staff will be required to perform technical duties at the Secretariat.

Most of these will be the existing District Task Force Focal Persons who only require some incentives to do some work in addition to their normal work they do for which they are currently being paid as Social Welfare personnel. The others could be seconded to the Secretariat as provided for in the said Bill. In that

regard, not much financial burden is expected from Government in terms of wages.

Financial Provision

As in the current anti-trafficking legislation, the proposed Anti-Human Trafficking and Migrants Smuggling Bill, 2021 provides that the Task Force be funded by monies appropriated by Parliament, among others, and proper books and records shall be kept for annual auditing by the Auditor-General.

Prohibition of Trafficking in Persons

In the proposed new legislation, a whole chapter is dedicated to the prohibition of trafficking in persons for labour exploitation, sexual exploitation and the illicit removal of human organs. Also, there are new protection clauses for child prostitutes; child sexual exploitation in tourism; fraudulent adoption; and offences of aggravated trafficking in persons.

Major offences under this proposed Bill including sex trafficking, as compared to the Anti-Human Trafficking Act of 2005, now provide significant minimum prison terms of 15 years with no alternative of fines because traffickers can pay such fines from huge amounts of money they accrue as yearly profit.

I would like to note here that our neighbour, Liberia, recently passed a new anti-trafficking legislation that provides a minimum 20 years in jail for major human trafficking offences with no alternative of fines. Also, the United States of America can sentence a convicted trafficker for up to 100 years in jail with no alternative of fines.

Protection of Trafficking Victims

There is now a new provision for the establishment of a Trafficking Victim Trust Fund to be managed by a Board of Trustees appointed by the Minister of Social Welfare in consultation with the Attorney General and Minister of Justice. This is absent in the current Anti-Human Trafficking Act of 2005. However, as now provided in this proposed bill, the Fund will be used to provide interim care facilities or rehabilitation shelters for trafficking victims;

medical and related services for victims of trafficking living in rehabilitation shelters or in communities; support witness protection services as part of legal aid to victims of trafficking; support family tracing and re-unification services for trafficking victims; and provide general protection

services to trafficking victims including rehabilitation and reintegration.

Prohibition of Smuggling of Migrants

A separate chapter is provided in this proposed bill for the prohibition of smuggling of migrants with new offences of aggravated smuggling of migrants; harbouring of illegal residents for benefit; and offences relating to documents. There are no such provisions in the current Anti-Human Trafficking Act of 2005. Therefore major offences under this proposed bill now provide for minimum prison term of 10 years with no alternative of fine to serve as deterrence.

Judicial Proceedings

Provisions are now made in the proposed Anti-Human Trafficking and Migrant Smuggling Bill, 2021 for the application of section 136 of the Criminal procedures Act, 1965 which provides for the institution of proceedings direct to the High Court, thereby

significantly reducing delays in prosecutions of up to two years where matters are subject to preliminary investigations in the Magistrates Court.

There are also offences by a body of persons; extradition; admissibility of electronic evidence; unlawful withholding of identification documents;

commission of second and subsequent offences; restitution to victims; forfeiture of properties implicated in trafficking and smuggling of migrants; and a witness protection scheme for the protection of victims.

Strategic Relevance and Urgency

Mr. Speaker, Honourable Members. It is of strategic importance that the Anti-Human Trafficking and Migrant Smuggling Bill, 2021 be passed into law.

This is to assure a legal framework that will constitute an effective tool for preventing trafficking and smuggling of migrants, prosecuting and punishing the offenders as well as providing protective services for victims.

Under the extant law, Sierra Leone has over the years failed to 'fully meet the minimum standards for the elimination of trafficking' even though the country is

making significant efforts to do so----this is according to the 2020 United States Department of State trafficking in persons (TIP) report.

In particular, the report pointed out that the current anti-trafficking legislation does not provide significant minimum prison terms for trafficking offenders, and has no witness protection and support measures to encourage greater victim participation in the criminal justice process. In addition to these gaps, the report noted that sentencing provisions in the current anti-trafficking law allow for fines in lieu of imprisonment for sex trafficking. By this singular provision, according to the report, the penalties for sex trafficking are not commensurate with the penalties for other grave offences such as rape.

In 2020, however, Sierra Leone moved up from Tier 2 Watch List to Tier 2 on the United States Department of State Global Tier Ranking. As a country, we cannot afford to slip back to Tier 2 Watch-List. This is because any country ranked Tier 2 Watch-List stands the chance of being downgraded to Tier 3.

Countries classified as Tier 3 may be subject to a number of funding restrictions, including one in which the United States President 'can make the determination to instruct the U.S Executive Directors of

international financial institutions to deny loans or other funds for countries on Tier 3'.

Therefore, and as a matter of urgency, the proposed Anti-Human Trafficking and Migrant Smuggling Bill, 2021 needs to be enacted not only to ensure that human trafficking in Sierra Leone is addressed in all its forms but to provide a comprehensive legal framework that could be used to create a positive impact in the fight against trafficking and smuggling of migrants. Towards that end, the bill will ensure that Law enforcement and judicial officials have all the powers they need to pursue proper administration of justice through effective criminal investigations and proceedings.

Expected Benefits

Mr. Speaker. It is expected that the Anti-Human Trafficking and Migrant Smuggling Bill, 2021, if passed into law, will significantly enhance Sierra Leone's chances in accessing approved funds for implementing projects now being prepared under the Millennium Challenge Compact. The country recently won the Compact partly as a result of our efforts in combating human trafficking during the past three years (2019-2021).

In addition, enactment of the said bill will greatly contribute towards reduction in the incidents of the trafficking of persons, particularly women and children for slave labour and sexual exploitations. Then by ensuring that the length of custodial sentences for trafficking-related offences and compensation provisions in the said bill is sufficient, the expectation is for it to serve as a deterrent to trafficking and smuggling of migrants, as well as keep the population safe.

Evidence that the Proposed Intervention is needed and will Work

In 2020, a Freetown High Court convicted two traffickers ---the first such convictions since the enactment of the Anti-Human Trafficking Act of 2005. Again the country secured another two trafficking convictions in 2021.

All four convictions were made possible through the application of section 136 of the Criminal Procedures Act, 1965 which provides for an indictment to be preferred without previous committal. Before that, trafficking cases were subjected to preliminary

investigations (PIs) in Magistrate Courts as part of criminal proceedings.

So, what happened over the years in human trafficking trials is that those preliminary investigations could often drag on to a point where the victims and their families would lose interest in the case. Consequently, many of those cases would end up being thrown out of court and never reach the High Court which is the proper forum for such trials to be held.

Yet another reason for the low rate of prosecution and lack of conviction in human trafficking cases could be attributed to some of the victims becoming so afraid to testify in court for fear they or their families might be hurt by traffickers. This is because there is no provision for witness protection in the Anti-Human Trafficking Act of 2005.

Similarly, there are no clear provisions to address smuggling of migrants in the current Anti-Human Trafficking Act of 2005. Consequently, it has proven difficult over the years to prosecute persons or recruitment agencies alleged to have been involved in the recruitment and movement of the migrants that

resulted in them becoming victims of human trafficking, thereby costing Government huge sums of monies in repatriation costs and of course, reputational damage to our country.

Therefore, the Anti-Human Trafficking and Migrant Smuggling Bill, 2021, which seeks to repeal the existing law, is necessary to assure a high-reliability and comprehensive legal instrument to tackle the offences of human trafficking and smuggling of migrants, and in the process help reduce human trafficking index cases in the country.

Enforcement

Mr. Speaker, Honourable Members. As part of measures to enforce the proposed Anti-Human Trafficking and Migrant Smuggling Bill, 2021 the Ministry and partners plan to embark on public awareness using various communication channels including the print, electronics and social media. There are plans for capacity enhancement for law enforcement including the Police, magistrates and Judges for effective investigation and prosecution of the offences of trafficking in persons and smuggling of migrants. Trainings are also being planned for social workers as first responders to trafficking incidents as well as other stakeholders including the national and

district taskforces, non-governmental and civil society organizations on ways to detect the crime, assist and refer trafficking victims for protective services.