



Translation

The Official Gazette (*Al-Jarida al-Rasmiyah*)– Number 40 – 09/01/2011

[Page] 3267

Previous Page

Next Page¹

Laws

Law Number 164

Punishment for the Crime of Trafficking in Persons

The Council of Representatives has approved

And the President of the Republic is promulgating the law whose text follows:

Article One: The new following chapter shall be added to Chapter Eight of Book Two of the Penal Code:

Chapter Three: Trafficking in Persons

Article 586.1: Trafficking in Persons is:

- A) luring, transporting, receiving, detaining, or finding shelter for a person;
- B) by using force or threatening to use force against someone who is subject to one's power; by kidnapping or deceiving another person; by using one's power against another person or exploiting that person's vulnerability; by giving or receiving sums of money or benefits; and by utilizing such methods against another person who is subject to perpetrator's authority;
- C) for the purpose of exploiting said other person or facilitating his exploitation by others.

The consent of a victim shall be given no consideration in case any of the methods shown in this Article are utilized.

Victim of Trafficking:

For the purposes of this law a victim of trafficking means any natural person who was the subject of trafficking in persons or who is reasonably considered by the competent authorities to be a victim of trafficking in persons, regardless of whether the perpetrator of the crime [of trafficking in persons] was identified, arrested, tried, or convicted.

¹ Translator's Note: This law appears in two columns printed on three pages. Each page has a header that shows the Arabic phrase for "previous page" printed on the right side and the Arabic phrase for "next page" printed on the left.

According to the provisions of this Article, compelling a person to participate in any of the following acts shall be considered exploitation:

- A) Acts that are punishable by law;
- B) Prostitution or exploitation of the prostitution of others;
- C) Sexual exploitation;
- D) Begging;
- E) Slavery or practices that resemble slavery;
- F) Forcible or compulsory work;
- G) This includes the forcible or mandatory recruitment of children to use them in armed conflicts;
- H) Forcible involvement in terrorist acts;
- I) Selling organs or tissue from the victim's body.

Consideration shall not be given to the consent that is given by the victim to exploitation that is to be committed and is indicated in this paragraph; nor shall consideration be given to the consent to such exploitation that is given by one of the victim's forefathers, legal guardian, or any other person who exercises legal or actual authority over the victim.

Luring, transporting, receiving, detaining, or providing shelter to victims who are under eighteen years of age for the purpose of exploiting them shall be considered trafficking in persons even if such activities were not accompanied by any of the methods indicated in Paragraph (1) (B) of this Article.

Article 586.2: The penalty for [a perpetrator of] the crime stipulated in Article 586.1 shall be according to the following:

- 1- Imprisonment² for five years and payment of a fine that can be from one hundred to two hundred times the official minimum wage if these actions were carried out in return for sums of money or any other benefits or the promise to grant or receive such sums or benefits.
- 2- Imprisonment for seven years and payment of a fine that can be from one hundred and fifty times to three hundred times the official minimum wage if these actions were carried out by using deception, violence, harsh acts or threats or by spending money on the victim or on a member of his family.

Article 586.3: The penalty for a perpetrator of the crime stipulated in Article 586.1 shall be imprisonment for ten years and payment of a fine that can be from two hundred to four hundred times the official minimum wage if said perpetrator, partner, accomplice, or instigator to the crime is:

- 1- A public official or any person charged with providing a public service, or a director of an employment office or an employee of such an office.
- 2- One of the victim's legal or non-legal forefathers, one of the members of his family, or any person who exercises legal authority or actual direct or indirect authority over the victim.

² Translator's Note: The Arabic terms, *i'tiqal* and *habs* appear to be used interchangeably in this law. *I'tiqal* usually refers to arrest, apprehension, or detention; *habs* is usually used to refer to imprisonment. Please note that *i'tiqal* is used in the Arabic text in 586.2.1, 586.2.2, 586.3, 586.4, and 370.2.1. The term, *habs*, is used in the Arabic text in 586.5, 524 (new), and 525 (new).

Article 586.4: The penalty for the crime stipulated in Article 586.1 shall be imprisonment for fifteen years and payment of a fine that can be from three hundred to six hundred times the official minimum wage if said crime was committed by:

- 1- A group of two or more persons committing criminal acts in Lebanon or in more than one country.
- 2- If the crime involved more than one victim.

Article 586.5: If any of the following conditions are present, criminal acts that are mentioned in Article 586.1 shall be punishable, and punishment shall be imprisonment from ten to twelve years and payment of a fine that can be from two hundred to four hundred times the official minimum wage:

- A) When the crime involves serious harm to the victim or to another person or when it involves the death of a victim or another person, including death as a result of suicide.
- B) When the crime involves a person who is in a state of special vulnerability, including pregnancy.
- C) When the crime exposes the victim to a life-threatening disease, including the HIV virus and the AIDS virus.
- D) When the victim is physically or mentally disabled.
- E) When the victim is under the age of eighteen.

Article 586.6: Penalties shall be waived for anyone who reports to the administrative or judicial authority information about the crimes that are stipulated in this chapter, making it possible for said authority to either uncover the crime before it is committed or arrest the perpetrators, partners, accomplices, or instigators, provided that the person making the report is not the perpetrator of the crime mentioned in Article 586.1.

Article 586.7: Anyone who provides the competent authorities with information about the crimes stipulated in this chapter after said crimes were committed shall benefit from the mitigating circumstances clause when the provision of such information would prevent the continuation of said crimes.

Article 586.8: A victim who proves that he was compelled to commit acts that are punishable by law or that he was compelled to violate the terms of [his] residency or work [permit] shall be given amnesty from punishment.

The investigating judge or the judge who is hearing the case may issue a decision allowing the victim to reside in Lebanon during the period of time required for the investigation procedures.

Article 586.9: The Minister of Justice may enter into agreements with specialized institutions or societies so that they may offer assistance and protection to the victims of the crimes stipulated in this chapter.

The conditions that must be met by these institutions and societies and the principles of offering assistance and protection shall be determined in a statute to be issued by the Council of Ministers based upon a proposal from the Minister of Justice.

Article 586.10: Sums of money that are earned from the crimes that are mentioned in this chapter shall be confiscated and deposited in a special account with the Ministry of Social Affairs to assist the victims of these crimes.

Regulations for this account shall be determined by statute to be issued by the Council of Ministers based upon a proposal from the Minister of Social Affairs.

Article 586.11: Lebanese courts shall have jurisdiction if any of the acts that constitute the crime is committed on Lebanese territory.

Article Two: The texts of Articles 524 and 525 of the Penal Code shall be superseded by the texts of the two following articles:

Article 524 (new): A person who, to appease the whims of another, takes action to tempt or lure another person or have him removed or taken away with his consent shall be punished by imprisonment for at least one year and payment of a fine that shall not be less than half the value of the official minimum wage.

Article 525 (new): A person who detains another person without his consent in a house of prostitution because of a debt to be paid shall be punished by imprisonment from two months to two years and payment of a fine that could be from one tenth of the official minimum wage to the full value of said wage.

Article Three:

- 1- The phrase, “or making him commit it [the crime],” shall be deleted from the text of Articles 508 and 509 of the Penal Code.
- 2- The phrase, “or making him commit it [the crime],” shall be deleted from the text of Article 510 of the Penal Code.

Article Four: Persons who are being persecuted before this Law goes into effect shall be punished pursuant to the provisions of Articles 524 and 525 of the Penal Code by imposing upon them the penalties that are stipulated in these two Articles before they were amended pursuant to this Law.

Article Five: The following new section shall be added to the Criminal Procedure Law after the Seventh Section of said Law:

Section Seven *bis*
Protection Procedures in the Crime of Trafficking in Persons

Article 370.2: An investigating judge may decide to hear the testimony of a person who is in possession of information and acting as a witness, and he may exclude from the official report information about the identity of the person providing the testimony if the following two conditions are met:

- 1- That the crime of trafficking in persons, which is the subject of the investigation, is one that is punishable by criminal penalties that are not less than imprisonment for a period of five years.

- 2- That there be fears that providing information about the crime could result in a threat to the life or safety of the person who is giving the testimony or to his family or one of his in-laws.

The [judge's] decision must show cause and must include the factual and concrete reasons upon which the decision was based.

The identity and the address of the person giving said testimony shall be recorded in a special report that shall not be added to the case file. Said report is to be filed and stored with the public defender at the Court of Cassation.

Article 370.3: In accordance with the provisions of the previous Article, a defendant may ask a sitting judge to disclose to him the identity of the person giving the testimony if he considers such a measure fundamental to the rights of the defense.

If the judge determines that the conditions for the request have been met, he shall decide to disclose the identity of the person giving testimony provided said person agrees. The judge may also suppress the written minutes of said testimony in accordance with the provisions of Article 270.2.

Article 370.4: A defendant may request that he face the person who gave the testimony in accordance with the provisions of Article 370.2. In this case a judge may decide to seek the assistance of technologies that would make the voice of said person unidentifiable.

The particulars of enforcing the provisions of this Article shall be determined by a statute to be issued by the Council of Ministers based upon a proposal from the Minister of Justice.

Article 370.5: Criminalization may not be limited to the testimony provided by the person whose testimony is being heard in accordance with the provisions of Article 370.2.³

Article 370.6: The penalty for anyone who discloses information about protection measures stipulated in this section shall be imprisonment from two to three years and payment of a fine from twenty million to thirty million Lebanese liras.

Article Six: This law shall go into effect upon its publication in the Official Gazette (*Al-Jaridah al-Rasmiyah*).

Ba'abda, August 24, 2011

Signature: Mishal Sulayman

Promulgated by the President of the Republic

The Prime Minister

Signature: Muhammad Najib Miqati

Prime Minister

Signature: Muhammad Najib Miqati

³ Translator's Note: The meaning of this sentence in Arabic is not quite clear. A possible meaning could be as follows: "The testimony of the person who is being heard in accordance with the provisions of Article 370.2 may not be the only basis for finding that the crime [of trafficking in persons] was committed."