



**NATIONAL ASSEMBLY OF THE EIGHTH PARLIAMENT OF
GUYANA**

REPORT

OF THE

SPECIAL SELECT COMMITTEE

ON THE

**COMBATING TRAFFICKING IN PERSONS BILL 2004
(Bill No. 12 of 2004)**

Presented to the National Assembly

By the Chairperson of the Committee

On

Thursday, 30th December, 2004.

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REPORT OF THE SPECIAL SELECT COMMITTEE OF
THE NATIONAL ASSEMBLY ON THE
COMBATING TRAFFICKING IN PERSONS BILL 2004

Publication and First Reading

The Combating Trafficking in Persons Bill 2004 (Bill Bo. 12 of 2004) was published in the Gazette on the 27th July, 2004 and read the first time on 5th August, 2004.

Second Reading and Committal to Select Committee

2. On 21st October, 2004, the Bill was debated in the National Assembly, read the second time and was, thereafter, committed for consideration by a Special Select Committee.

Members of the Select Committee

3. At a meeting on 27th October, 2004, the Committee of Selection nominated the following nine Members of the National Assembly to comprise the Special Select Committee to consider the Combating Trafficking in Persons Bill 2004 -

Members of the Peoples Progressive Party/Civic (5)

The Hon. Bibi S. Shadick, M.P.

The Hon. Manzoor Nadir, M.P.

The Hon. Carolyn Rodrigues, M.P.

Mrs. Indranie Chandarpal, M.P.

Mr. Ramesh C. Rajkumar, M.P.

Members of the People's National Congress/Reform (3)

Mrs. Deborah J. Backer, M.P.

Mr. Basil Williams, M.P.

Mrs. Volda Lawrence, M.P.

Member from the Guyana Action Party/Working People's Alliance (GAP/WPA) (1)

Mrs. Shirley Melville, M.P.

First Meeting of the Committee – Election of Chairman

4. At its first meeting held on 4th November, 2004, the Select Committee elected the Hon. Bibi S. Shadick, M.P., Minister in the Ministry of Labour, Human Services and Social Security to be Chairman of the Committee.

Other Meetings of the Committee

5. The Committee met on the following other four occasions:

Thursday, 11th November, 2004

Tuesday, 23rd November, 2004,

Thursday, 2nd December, 2004, and

Wednesday, 8th December, 2004.

Chief Parliamentary Counsel

6. The Committee had the benefit of the advice and assistance of the Chief Parliamentary Counsel and his Deputy.

Consideration of Bill

7. The name of the Bill was amended to read **“COMBATING OF TRAFFICKING IN PERSONS BILL 2004”**.
8. The Committee considered the clauses of the Bill.
9. Of the 38 clauses of the Bill, the following 7 clauses were agreed to as printed:

Clauses 1, 11, 14
16, 34, 35 and 37.

10. The following clauses were amended:

2, 3, 4, 5, 6, 7, 8,
9, 10, 12, 13, 15,
17, 18, 19, 20, 21,
22, 23, 24, 25, 26,
27, 28, 29, 30, 31,
32, 33, 36 and 38.

Texts of Amendments

11. A list of the texts of the amendments made by the Committee is attached at Appendix I.
12. **Bill With Amendments**

Also attached at Appendix II is a copy of the Bill showing the amendments incorporated therein as prepared by the Chief Parliamentary Counsel.

Report of the Select Committee

13. At its meeting on 8th December, 2004, the Committee agreed that this Report on its consideration of the Bill and the Minutes of its meetings should be presented to the National Assembly for adoption.

14. The Report is accordingly hereby submitted to the National Assembly for adoption.

Verbatim Records

15. The Verbatim Records of the Proceedings of the Committee have been prepared and are available at Parliament Office.

Bibi Shadick

**Bibi S. Shadick, M.P.,
Minister in the Ministry of Labour, Human Services & Social Security,
Chairperson.**

December, 2004.

**THE NATIONAL ASSEMBLY OF THE SECOND SESSION
OF THE EIGHTH PARLIAMENT OF GUYANA (2002 – 2004)**

**MINUTES OF THE
1ST MEETING OF THE SPECIAL SELECT COMMITTEE
ON THE COMBATING AND TRAFFICKING IN PERSONS BILL 2004 -
BILL NO. 12/2004**

**HELD AT 4.15 P.M.
ON THURSDAY, 4TH NOVEMBER, 2004
AT THE CONVENTION CENTRE, OCEAN VIEW INTERNATIONAL HOTEL
LILIENDAAL, GREATER GEORGETOWN**

ATTENDANCE

The Hon. Hari N. Ramkarran, S.C., M.P.
Speaker of the National Assembly
(As Presiding Officer for the Election of the Chairman)

MEMBERS OF THE COMMITTEE

From the Peoples Progressive Party/Civic PPP/C (5)
Nominated by the Committee of Selection on 27th October, 2004

The Hon. Bibi S. Shadick, M.P.
Minister in the Ministry of Labour Human Services and Social Security

Mr. Manzoor Nadir, M.P.
Minister of Tourism, Industry and Commerce

The Hon. Carolyn Rodrigues, M.P.
Minister of Amerindians Affairs

Mrs. Indranie Chandarpal, M.P.

Mr. Ramesh C. Rajkumar, M.P.

From the Peoples National Congress/Reform PNC/R (3)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Deborah Backer, M.P.

Mr. Basil Williams, M.P.

Mrs. Volda A. Lawrence, M.P.

From the Guyana Action Party/Working People's Alliance GAP/WPA (1)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Shirley Melville, M.P

Officers

Mr. Sherlock E. Isaacs - Clerk of the National Assembly
Mr. Maurice B. Henry - Head of Committees Division
Ms. Debra H. Cadogan - Assistant Head of Committees Division

ITEM 1: CALL TO ORDER

- 1.1 The Speaker as Presiding Officer for the election of a Chairman of the Committee called the meeting to order at 4.15 pm.

**ITEM 2: ELECTION OF CHAIRMAN OF THE COMBATING OF
TRAFFICKING IN PERSONS BILL 2004 – BILL NO.
12/2004**

- 2.1 The Speaker called for the nominations of a Chairman of the Committee.
- 2.1.1 Mrs. Indranie Chandarpal proposed and the Hon. Manzoor Nadir seconded the nomination of the Hon. Bibi S. Shadick.
- 2.1.2 There being no other nominations, the Speaker declared the Hon. Bibi S. Shadick, the Chairperson of the Committee.

Adjournment

At 4.17 p.m. the meeting was adjourned *sine dine*.

Confirmed on this 11th day of November, 2004.

.....*Bibi S. Shadick*.....
Hon. Bibi S. Shadick, M.P.
Chairperson

**THE NATIONAL ASSEMBLY OF THE SECOND SESSION
OF THE EIGHTH PARLIAMENT OF GUYANA (2002 - 2004)**

**MINUTES OF THE
2nd MEETING OF THE SPECIAL SELECT COMMITTEE
ON THE COMBATING AND TRAFFICKING IN PERSONS BILL 2004 -
BILL NO. 12/2004
HELD AT 1.00 P.M.
ON THURSDAY 11th NOVEMBER, 2004
AT THE PARLIAMENTARY LIBRARY, PUBLIC BUILDINGS**

ATTENDANCE

The Hon. Bibi S. Shadick, M.P.
Minister in the Ministry of Labour, Human Services and Social Security(Chairperson)

MEMBERS OF THE COMMITTEE

From the Peoples' Progressive Party/Civic PPP/C (5)
Nominated by the Committee of Selection on 27th October, 2004

Mr. Manzoor Nadir, M.P.
Minister of Tourism, Industry and Commerce

The Hon. Carolyn Rodrigues, M.P.
Minister of Amerindians Affairs

Mrs. Indranie Chandarpal, M.P.

Mr. Ramesh C. Rajkumar, M.P.

From the Peoples' National Congress/Reform PNC/R (3)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Deborah Backer, M.P.

Mr. Basil Williams, M.P.

Mrs. Volda A. Lawrence, M.P. - Excused

From the Guyana Action Party/Working People's Alliance GAP/WPA (1)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Shirley Melville, M.P

Officers

Mr. Maurice B. Henry - Head of Committees Division
Ms. Deborah Gray - Assistant Clerk of Committees

ITEM 1: CALL TO ORDER

1.1 The Meeting was called to order at 1.00p.m by the Chairperson.

ITEM 2: ANNOUNCEMENTS

2.1 Excuses

2.1.1 Mrs Volda Lawrence had asked to be excused from the meeting.

2.2 Approach

2.2.1 The Chairperson announced that she anticipated the business of the Committee would be concluded within a short time-frame. In this regard, it was suggested and agreed that the Committee would examine the Bill with a matter of urgency.

2.2.2 She further advised that all concerns relating to any amendments would be addressed with the Chief Parliamentary Counsel and invited Members to contribute to any changes.

ITEM 3: CIRCULATION OF DOCUMENTS

3.1 The following documents were circulated prior to the meeting:

(i) Notice dated 8th November, to attend Meeting on Thursday, 11th November, 2004

(ii) Minutes of the 1st Meeting held on 4th November, 2004

ITEM 4: BUSINESS OF MEETING

4.1 Confirmation of Minutes of the 1st Meeting held on 4th November, 2004.

4.1.1 The Minutes were confirmed without corrections on a Motion moved by Mr Ramesh Rajkumar and seconded by the Hon. Carolyn Rodrigues.

4.2 Examination and consideration of Combating Trafficking in Persons Bill No. 12 of 2004

4.2.1 Clause 1 was accepted as presented.

4.2.2 Clause 2: delete "or" from the beginning of (c) (iii) and insert it at the end of (c) (ii).

Clause 2 was then accepted as amended.

4.2.3 Clause 3: in subsection (1) delete paragraphs (a), (b) and (c), and insert the following-

(i) Upon summary conviction:

- (a) be sentenced from three to five years imprisonment
- (b) be subject to forfeiture of property under section 7;
and
- (c) be ordered to pay full restitution to the trafficked person or persons under section 6.

(ii) Upon conviction on indictment:

- (a) be sentenced to not less than five years or life imprisonment;
- (b) be subject to forfeiture of property under section 7;
and
- (c) be ordered to pay full restitution to the trafficked person or persons under section 6.

The Chief Parliamentary Counsel should be advised to include in this section a proviso as obtained in the Narcotic Drugs and Psychotropic Substances(Control) Act(1988) concerning bail.

4.2.4 Clause 4: (i) insert the words "for the purpose of trafficking in persons," after the words "who," in line 1.

(ii) insert the word "summary" immediately before the word "conviction" in the penultimate line;

(iii) insert the word "for" immediately before the word "not" in the last line.

Clause 4 was then accepted as amended.

- 4.2.5 **Clause 5:** (i) in subsection (1) insert the words "within Guyana or" immediately before the word "across" in line 3;
- (ii) in subsection 5(2) substitute the words "five years" and "ten years" for "ten years" and "twenty years", respectively, in lines 3 and 5.

Subsection (2) should be re-drafted to differentiate the penalty to be imposed upon a summary conviction and upon conviction on indictment.

Clause 5 was then accepted as amended at this stage.

- 4.2.6 **Clause 8:** in subsection (1):
- (i) delete paragraph (f) and re-number paragraphs (g), (h) and (i) as (f), (g) and (h), respectively.
- (ii) insert the words "on indictment" immediately after the word "convicted" in line 2.

The following salient points were raised concerning the contents of paragraphs (a) to (h) as re-numbered -

- (a) the criminal laws covered these provisions and, therefore, they appeared to be superfluous;
- (b) would the paragraphs as drafted, fit in the criminal laws of Guyana?
- (c) The actual additional years for aggravated factors in the commission of the crime of trafficking in persons should not be stated in the Bill, but a directive to a judge could be as follows-

... the judge shall take into consideration the following when sentencing a person convicted on indictment of the crime of trafficking in persons

ITEM 5: ANY OTHER BUSINESS

5.1 Amendments

- 5.1.1 The Chairman informed Members that she would be forwarding the amendments made at the meeting to the legal draft person for further advice prior to the next meeting.

5.2 Meeting Time

- 5.2.1 It was generally agreed by Members that 1.00 p.m was not conducive to meeting and it was, therefore, decided that meetings would be held at 4.00 p.m.

ADJOURNMENT

At 3.00 p.m, the meeting was adjourned to 4.00 p.m on Thursday 18th November, 2004 in the Parliamentary Library.

Confirmed this Day of November, 2004

Bibi Shadick
.....
Bibi S. Shadick, M.P.
Chairperson

**THE NATIONAL ASSEMBLY OF THE SECOND SESSION
OF THE EIGHTH PARLIAMENT OF GUYANA (2002 B 2004)**

**MINUTES OF THE
3RD MEETING OF THE SPECIAL SELECT COMMITTEE
ON THE COMBATING AND TRAFFICKING IN PERSONS BILL 2004 -
BILL NO. 12/2004
HELD AT 4.05 P.M.
ON TUESDAY, 23RD NOVEMBER, 2004
AT THE PARLIAMENTARY LIBRARY, PUBLIC BUILDINGS**

ATTENDANCE

The Hon. Bibi S. Shadick, M.P.
Minister in the Ministry of Labour, Human Services and Social Security (Chairperson)

MEMBERS OF THE COMMITTEE

From the Peoples' Progressive Party/Civic PPP/C (5)
Nominated by the Committee of Selection on 27th October, 2004

Mr. Manzoor Nadir, M.P. - Absent
Minister of Tourism, Industry and Commerce

The Hon. Carolyn Rodrigues, M.P. - Absent
Minister of Amerindian Affairs

Mrs. Indranie Chandarpal, M.P.

Mr. Ramesh C. Rajkumar, M.P.

From the Peoples' National Congress/Reform PNC/R (3)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Deborah Backer, M.P.

Mr. Basil Williams, M.P. - Absent

Mrs. Volda A. Lawrence, M.P.

From the Guyana Action Party/Working People's Alliance GAP/WPA (1)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Shirley Melville, M.P. - Excused

Officers

Mr. Maurice B. Henry - Head of Committees Division
Ms. Deborah Gray - Assistant Clerk of Committees

ITEM 1: CALL TO ORDER

- 1.1 The Meeting was called to order at 4.05 p.m by the Chairperson who welcomed Members and thanked them for being present.

ITEM 2: ANNOUNCEMENTS

2.1 Excuses:

- 2.1.1 Mrs. Shirley Melville had asked to be excused from the meeting.

2.2 Poor Recording:

- 2.2.1 The Chairperson announced that the verbatim transcribers were encountering difficulties in the preparation of the Minutes. It was felt that Members were not making appropriate use of the microphones, resulting in the poor recording of the discussions.

- 2.2.2 Members were, therefore, asked to co-operate by making use of the microphones that were placed before them.

ITEM 3: CIRCULATION OF DOCUMENTS

- 3.1 The following documents were circulated prior to the meeting:

- (i) Notice dated 17th November, 2004 to attend Meeting on Tuesday, 23rd November, 2004;
- (ii) Minutes of the 2nd Meeting held on 11th November, 2004.

ITEM 4: BUSINESS OF MEETING

4.1 Confirmation and correction of Minutes of the 2nd Meeting held on 11th November, 2004.

4.1.1 Page 3 paragraph 4.2.3:

It was agreed that the final paragraph should be deleted.

4.1.2 Without any further corrections, the Minutes were confirmed on a Motion moved by Mrs. Indranie Chandarpal and seconded by Mrs. Deborah Backer.

4.2 Continue consideration of the Clauses of the Combating Trafficking in Persons Bill No. 12/2004.

4.2.1 Clause 5:

- (i) in subsection (1) insert the word “summary” before the word “conviction” in the penultimate line.
- (ii) in subsection (2) substitute the following for the words “Persons..... Years”

“Persons convicted of the crime of transporting a person for the purpose of exploiting that person’s prostitution shall be liable to a fine of not less than five hundred thousand dollars and not more than one million dollars and shall be imprisoned for not more than three years, but the presence of any one of the following aggravating factors resulting from acts of the defendant can permit a longer sentence up to a maximum of five years together with forfeiture of conveyance used for transporting victim or victims-”.

Clause 5 was then agreed to as amended.

4.2.2 Clause 6:

- (i) in subsection (1) -
substitute the words “this Act” for the words “section 3” in line 2;
- (ii) in subsection (3) -
substitute the words “normal place of residence in Guyana” for the words “home country”.

Clause 6 was then agreed to as amended.

4.2.3 Clause 7:

It was agreed that a 'proviso' in relation to forfeiture as obtained in the Narcotic Drugs and Psychotropic Substance Control Act 1988 with suitable amendments would be included in this clause. The Chief Parliamentary Counsel was requested to give consideration to this inclusion.

4.2.4 Clause 8:

in subsection (1) -

- (i) delete the words "or enhancements to the sentence" in line 2 after the words "minimum sentence";
- (ii) insert the words "on indictment" after the word "convicted" in line 2;
- (iii) substitute the word "may" for the word "shall" in line 3;
- (iv) insert the word "to" after the word "threatened" in line 1 in paragraph (a);
- (v) substitute the word "may" for the word "shall" in paragraphs (a) to (h) as renumbered.

4.2.5 in subsection 2 -

substitute the word "inflicting" for the word "inflecting" in line 3 of paragraph (a).

Clause 8 was then agreed to as amended.

4.2.6 Clause 9:

in subsection (1) substitute "2k" for "2j" in line 4.

Clause 9 was then agreed to as amended.

4.2.7 Clause 10:

It was agreed that the Chief Parliamentary Counsel would redraft this clause.

4.2.8 Clause 11 was agreed to as printed.

4.2.9 Clause 12:

It was agreed that the clause be redrafted as follows:-

"A person charged with trafficking in persons shall be extradited on substantially the same terms and to substantially the same extent as a person charged with other serious crimes".

4.3 Consideration of Part III – Assistance and Protection For Victims

4.3.1 Clauses 13 and 14 were agreed to as printed.

4.3.2 Clause 15:

It was agreed that the Chief Parliamentary Counsel would include a penalty in this clause.

4.3.3 Clause 16 was agreed to as printed.

4.3.4 Clause 17:

- (i) Mrs. Backer expressed reservations with regard to the content of this clause. After a brief discussion, it was agreed that she would submit her proposal for its amendment at the next meeting.
- (ii) Mrs. Backer sought and was granted permission to leave at 5.45 p.m. However, it was agreed, at her request, that the Committee would continue to consider the remaining clauses of the Bill on her departure, but would revisit the following **clauses/subsections** at the next meeting:

clauses 18(3), 19(2), 20, 21, 26(3), 27 28, 29(2), 20(2), 31(3) and 33(1).

4.3.5 Clause 18

- (i) in subsection (1) delete the words "Within one year of the enactment of this Act" before the word "the" in line 1.
- (ii) in subsection (2) -
 - (a) substitute the word "may" for the word "shall" in line 1;
 - (b) delete the words "for the duration of their presence in Guyana" after the word "authorisation" in line 2;
- (iii) in subsection (4) substitute the word "may" for the word "shall" in line 2;

(iv) in subsection (5) substitute the word "may" for the word "shall" in line 1.

4.3.6 Clause 19:

(i) in subsection (2) substitute the word "may" for the word "shall" in line 5;

Further consideration of this subsection was deferred to the next meeting.

(ii) in subsection (3) substitute the word "may" for the word "shall" in line 2.

4.3.7 Clauses 20 and 21 were deferred for discussion at the next meeting.

4.3.8 Clause 22(1)

(i) delete the words "Within six months of the enactment of this Act" at the beginning of line 1;

(ii) substitute the words "Ministries of Home Affairs and Foreign Affairs" for the words "Ministry of Home Affairs" in line 2.

Clause 22 was then agreed to as amended.

4.3.9 Clause 23:

(i) in subsection (1) delete paragraph (f) and re-number paragraph (g) as (f);

(ii) in subsection (3) substitute the word "assign" for the word "delegate" in line 1.

Clause 23 was then agreed to as amended.

4.3.10 Clause 24:

(i) in subsection (1) delete the letter "s" at the end of the word "programmess" in line 2;

(ii) delete subsection (2).

Clause 24 was then agreed to as amended.

4.3.11 Clause 25:

(i) insert the word "this" after the word "in" in line 1;

(ii) delete "III" after the word "Part" in line 1;

- (iii) substitute the word "children's" for the word "child" in line 2;
- (iv) substitute the words "the children's" for the word "their" in line 3;
- (v) in paragraph (a) insert the word "a" after the word "of" in line 1;
- (vi) in paragraph (b)
 - (a) insert a "," after the word "guardian" and delete "or" in line 2;
 - (b) insert the words "or social worker" after the word "parent" in line 2;
- (vii) in paragraph (c) substitute the word "shall" for the word "should" in line 1;
- (viii) in paragraph (d) substitute the word "children's" for the words "the child";
- (ix) in paragraph (e) –
 - (a) substitute the word "Guyana" for the words the words "the country of origin or resettlement in a new country";
 - (b) substitute the word "shall" for the word "should" in line 2.

Clause 25 was then agreed to as amended.

4.4 Consideration of Part IV - Misuse of Commercial Transportation

4.4.1 Clauses 26 and 27:

The Committee agreed to defer these two clauses for discussion at the next meeting. The Chief Parliamentary Counsel, was, however, requested to consider them with a view to including *local companies and private individuals*.

4.4.2 Clause 28:

- (i) delete the letter "s" at the end of the word "Governments" in line 1;
- (ii) substitute the word "shall" for the word "should" in lines 1,2 and 5.

Clause 28 was then agreed to as amended.

4.4.3 Clause 29:

in subsection (1) insert the words "within or" after the word "travelling" in line 3.

Consideration of Subsections (2) and (3) were deferred to the next meeting.

4.5 Consideration of Part V - Prevention of Trafficking

4.5.1 Clause 30:

- (i) in subsection (1) substitute the word "inter" for the word "international" in line 1;
- (ii) in subsection (2) insert the words " Amerindian Affairs" after the words "Social Security" in line 3.

Clause 30 was then agreed to as amended.

4.5.2 Clause 31:

- (i) in subsection (1) substitute the word "Ministry" for the word "Minister" in line 1;
- (ii) in subsection (2) substitute the word "Ministry" for the word Minister in line 1;
- (iii) subsection (3) was deferred for discussion at the next meeting.

4.5.3 Clause 32:

- (i) in subsection (1) substitute the word "Ministry" for the word "Minister" in line 1;
- (iii) in subsection (3) –
 - (a) substitute the word "Ministry" for the word "Minister" in line 1;
 - (b) insert the words "other Ministries and" after the word "of" in line 2.

Clause 32 was then agreed to as amended.

4.5.4 Clause 33:

- (i) in subsection (1) -
 - delete the words "For those at risk of becoming trafficking victims" at the beginning of line 1;

(ii) in subsection (2) -

insert the words "or place of residence in Guyana" after the word "countries" in line 6.

Clause 33 was then agreed to as amended.

4.5.5 Clause 34:

substitute the word "Ministry" for the word "Minister" in line 1.

Clause 34 was then agreed to as amended.

4.5.6 Clause 35:

substitute the word "Ministry" for the word "Minister" in line 1.

Clause 35 was then agreed to as amended.

4.5.7 Clause 36:

in subsection (2) substitute the words "responsible for" for the word "of" in line 1.

Clause 36 was then agreed to as amended.

4.6 Consideration of Part VI - Security and Control of Documents

4.6.1 Clause 37 was then agreed to as printed

ADJOURNMENT

At 6.20 p.m the meeting was adjourned to 4.00 p.m on Thursday, 2nd December, 2004 in the Parliamentary Library.

Confirmed this 2nd day of December, 2004

Bibi Shadick

.....
*Bibi S. Shadick, M.P.
Chairperson.*

**THE NATIONAL ASSEMBLY OF THE SECOND SESSION
OF THE EIGHTH PARLIAMENT OF GUYANA (2002 - 2004)**

**MINUTES OF THE
4TH MEETING OF THE SPECIAL SELECT COMMITTEE
ON THE COMBATING TRAFFICKING IN PERSONS BILL 2004
BILL NO. 12/2004
HELD AT 4.05 P.M.
ON THURSDAY 2ND DECEMBER, 2004
AT THE PARLIAMENTARY LIBRARY, PUBLIC BUILDINGS**

ATTENDANCE

Chairperson

The Hon. Bibi S. Shadick, M.P.
Minister in the Ministry of Labour, Human Services and Social Security

MEMBERS OF THE COMMITTEE

**From the Peoples' Progressive Party/Civic PPP/C (5)
Nominated by the Committee of Selection on 27th October, 2004**

Mr. Manzoor Nadir, M.P.
Minister of Tourism, Industry and Commerce

The Hon. Carolyn Rodrigues, M.P.
Minister of Amerindian Affairs

Mrs. Indranie Chandarpal, M.P. - Excused

Mr. Ramesh C. Rajkumar, M.P.

**From the Peoples' National Congress/Reform PNC/R (3)
Nominated by the Committee of Selection on 27th October, 2004**

Mrs. Deborah Backer, M.P.

Mr. Basil Williams, M.P.

Mrs. Volda A. Lawrence, M.P.

From the Guyana Action Party/Working People's Alliance GAP/WPA (1)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Shirley Melville, M.P

Officers

Mr. Maurice B. Henry - Head of Committees Division
Ms. Deborah Gray - Assistant Clerk of Committees

ITEM 1: CALL TO ORDER

1.1 The meeting was called to order at 4.05 p.m by the Chairperson.

ITEM 2: ANNOUNCEMENTS

2.1 **Excuse:**

2.1.1 Mrs. Indranie Chandarpal was excused from the meeting.

ITEM 3: CIRCULATION OF DOCUMENTS

3.1 The following documents were circulated prior to the meeting:

- (i) Notice dated 29th November, 2004 to attend the 4th Meeting to be held on Thursday, 2nd December, 2004;
- (ii) Minutes of the 3rd Meeting held on 23rd November, 2004;
- (iii) Copy of draft report of the Special Select Committee on Combating Trafficking in Persons Bill 2004;
- (iv) Copy of draft Notice of Motion to be moved in the National Assembly.

3.2 The following document was circulated at the meeting:

- List of amendments to the Combating Trafficking in Persons Bill 2004 (No. 12 of 2004) submitted by the Chief Parliamentary Counsel.

**ITEM 4: CONFIRMATION AND CORRECTIONS OF MINUTES OF THE
3RD MEETING HELD ON 23RD NOVEMBER, 2004**

4.1 Page 5 paragraph 4.3.2 - Clause 15

Insert the words "Hearings shall be held in camera" at the end of the sentence.

4.1.1 Page 5 paragraph 4.3.5 – Clause 18

Insert as item (iii) the following:

In subsection (3) substitute the word "may" for the word "shall" in line 2 and re-number item "iii" as "iv."

4.1.2 Page 9 paragraph 4.6.1 – Clauses 37 and 38

The sentence shall be re-worded as:

"Clauses 37 and 38 were agreed to as printed."

4.1.3 Without any further corrections the Minutes were confirmed on a motion moved by Mrs. Volda Lawrence and seconded by Mr. Ramesh Rajkumar.

4.2 Matters Arising

4.2.1 Page 3 paragraph 4.2.1 – Clause 5

Clause 5 was agreed to as amended.

4.2.2 Page 4 paragraph 4.2.3 – Clause 7

The Committee approved of the re-draft of the clause by the Chief Parliamentary Counsel.

Clause 7 was then agreed to as amended.

4.2.3 Page 4 paragraph 4.2.7 – Clause 10

This following redraft of the clause was submitted by the Chief Parliamentary Counsel:

"Age of consent of a child shall not be used as a defence to trafficking in persons".

However, the Committee finally agreed to the following re-draft:

“Age of consent to sex or legal age of marriage, shall not be used as a defence to trafficking in persons”.

Clause 10 was then agreed to as amended.

4.3 Continue Consideration of the clauses of the Combating Trafficking in Persons Bill 2004(Bill No. 12/2004)

4.3.1 Clause 15:

The clause was further amended by the insertion of the words “if the court so orders” after the words “Hearings shall be held in camera” at the end of the sentence.

Clause 15 was then agreed to as amended.

4.3.2 Clause 17:

Mrs. Backer proposed that this clause should be excluded from the Bill as, in her view, it contradicted the *Evidence Act*.

The Members of the PNC/R strongly dissented to what they described as the vagueness of the wording of the first sentence of the clause. They posited that if the words “appropriate stages” were omitted and the victim were allowed to present the victim’s views “after conviction” but “before sentencing, the framework of the drafting might be more acceptable.

After further discussion the Committee agreed to substitute the word “court” for the words “Director of Public Prosecution”.

Clause 17 was then agreed to as amended.

4.3.3 Clause 18(6):

Delete the word “absent” at the beginning of line 1 and insert the words “in the absence of” before the word “exigent” in line 1.

Clause 18(6) was then agreed to as amended.

4.3.4 Clause 19(2):

Insert the word “the” before the word “Immigration” in line 2.

Clause 19(2) was then agreed to as amended.

4.3.5 Clause 20(1):

Substitute the word "Guyana" for the words "another country" in line 4.

Clause 20(1) was then agreed to as amended.

4.3.6 Clause 21(1):

For the marginal note substitute the word "citizenship" for the word "citizen".

Clause 21(1) was then agreed to as amended.

4.3.7 Clause 22(1):

Substitute the words "non-governmental organisations" for "NGO's".

Clause 22(1) was then agreed to as amended.

4.3.8 Clause 26(3):

Shall be re-worded to read as follows:

"Companies and persons who fail to comply with any requirements of this section may be sanctioned by the revocation of licenses to operate after a hearing before the competent authority".

Clause 26(3) was then agreed to as amended.

4.3.9 Clause 27:

The Committee agreed to the following amendments:

- (i) insert the words "or individual" after the word "company" in line 1;
- (ii) substitute the word "Guyana" for the words "a country" after the word "into" in line 2;
- (iii) insert the words "or individual" after the word "company" in line 2;
- (iv) delete the word "residency" and insert the words "a normal place of residence" at the end of the sentence.

clause 27 was then agreed to as amended.

4.3.10 Clause 29(2):

The Committee agreed to the following amendments:

- (i) insert the words "destination point or" after the word "every" in line 1;
- (ii) insert the words "or other" after the word "immigration" in line 1;
- (iii) substitute the word "shall" for the word "should" after the word "authority" in line 1;
- (iv) insert the words "under the age of 16" after the word "children" in line 2.

Clause 29(2) was then agreed to as amended.

4.3.11 Clause 30(2):

It was agreed that this clause would be re-drafted by the Chief Parliamentary Counsel.

4.3.12 Clauses 31 and 32:

Substitute the word "Minister" for the word "Ministry" wherever it appeared in the clauses.

Clauses 31 and 32 were then agreed to as amended.

4.3.13 Clause 33:

This clause was further amended.

In sub-section (2):

- (i) substitute the words "Non-Governmental Organisations" for the word "NGOs" in line 3;
- (ii) insert the words "or place of residence in Guyana" after the word "countries" in line 6.

In sub-section (3):

- (i) substitute the words "Non-Governmental Organisations" for the word "NGO's" in line 3.

Clause 33 was then agreed to as amended.

4.3.14 Clauses 34 and 35:

Substitute the word "Minister" for the word "Ministry" in sub-sections 1 of clauses 34 and 35.

Clauses 34 and 35 were then agreed to as amended.

4.3.15 Clause 36(2):

Delete the word "of" and substitute the words "responsible for" after the word "Ministry" in line 1.

Clause 36(2) was then agreed to as amended.

4.3.16 Clauses 37 and 38:

Substitute the word "Minister" for the word "Ministry" in the sub-sections the clauses.

Clauses 37 and 38 were then agreed to as amended.

4.4 Draft Report

4.4.1 The Committee agreed to Mrs. Backer's proposal that it should meet to concur on the changes made before any submission of a Report to the National Assembly.

4.4.2 The Chief Parliamentary Counsel was requested to make the relevant corrections and incorporate the amendments in the Bill that would allow for good reading.

4.4.3 The corrected document would be circulated to Members by Wednesday, 8th December, 2004.

Adjournment

At 6.20 p.m the Meeting was adjourned to 5.00 p.m on Wednesday, 8th December, 2004 in the Parliamentary Library.

Confirmed this ...8th...day of December, 2004

Bibi Shadick
.....
Bibi S. Shadick, M.P.
Chairperson

**THE NATIONAL ASSEMBLY OF THE SECOND SESSION
OF THE EIGHTH PARLIAMENT OF GUYANA (2002 - 2004)**

**MINUTES OF THE
5TH MEETING OF THE SPECIAL SELECT COMMITTEE
ON THE COMBATING TRAFFICKING IN PERSONS BILL 2004
BILL NO. 12/2004
HELD AT 5.07 P.M.
ON WEDNESDAY, 8TH DECEMBER, 2004
AT THE PARLIAMENTARY LIBRARY, PUBLIC BUILDINGS**

ATTENDANCE

Chairperson

The Hon. Bibi S. Shadick, M.P.
Minister in the Ministry of Labour, Human Services and Social Security

MEMBERS OF THE COMMITTEE

**From the Peoples' Progressive Party/Civic PPP/C (5)
Nominated by the Committee of Selection on 27th October, 2004**

The Hon. Manzoor Nadir, M.P.
Minister of Tourism, Industry and Commerce

The Hon. Carolyn Rodrigues, M.P.
Minister of Amerindian Affairs - (Excused)

Mrs. Indranie Chandarpal, M.P.

Mr. Ramesh C. Rajkumar, M.P.

**From the Peoples' National Congress/Reform PNC/R (3)
Nominated by the Committee of Selection on 27th October, 2004**

Mrs. Deborah Backer, M.P.

Mr. Basil Williams, M.P.

Mrs. Volda A. Lawrence, M.P.

From the Guyana Action Party/Working People's Alliance GAP/WPA (1)
Nominated by the Committee of Selection on 27th October, 2004

Mrs. Shirley Melville, M.P

Officers

Mr. Maurice B. Henry - Head of Committees Division
Ms. Deborah Gray - Assistant Clerk of Committees

ITEM 1: CALL TO ORDER

1.1 The meeting was called to order at 5.07 p.m by the Chairperson.

ITEM 2: ANNOUNCEMENTS

2.1 Excuse:

2.1.1 The Hon. Carolyn Rodrigues was excused from the meeting.

ITEM 3: CIRCULATION OF DOCUMENTS

3.1 The following documents were circulated prior to the meeting:

- (i) Notice dated 7th December, 2004 to attend the 5th Meeting to be held on Wednesday, 8th December, 2004;
- (ii) Minutes of the 4th Meeting held on 2nd December, 2004;
- (iii) Copy of draft report of the Special Select Committee on the Combating Trafficking In Persons Bill 2004;
- (iv) Copy of a Minute dated 3rd December, 2004 from the Head of Committees Division to the Chairperson re: "Re-draft of Combating Trafficking In Persons Bill 2004 with Amendments".

3.2 The following documents were circulated at the meeting:

- (i) Revised list of amendments to the Combating Trafficking in Persons Bill 2004 (No. 12 of 2004) submitted by the Chief Parliamentary Counsel;

- (ii) Re-drafted Combating Trafficking in Persons Bill 2004 (No. 12 of 2004).

ITEM 4: CORRECTION AND CONFIRMATION OF MINUTES OF THE 4TH MEETING HELD ON THURSDAY, 2ND DECEMBER, 2004

4.1 Corrections

4.1.1 Page 4, paragraph 4.3.2

The paragraph was corrected to read as follows:

“Mrs. Backer proposed that this clause should be excluded from the Bill as in her view, it contradicted the *Evidence Act* and goes against the basic tenet of the *Criminal Act*.

The Committee agreed to the substitution of the word “court” for the words “Director of Public Prosecution”.

Thereafter the clause was put and carried on the following division:

Ayes

The Hon. Manzoor Nadir
The Hon. Carolyn Rodrigues
Mr. Ramesh C. Rajkumar
Mrs. Shirley Melville

4

Noes

Mrs. Deborah Backer
Mr. Basil Williams
Mrs. Volda Lawrence”

3

Clause 17 was then agreed to as amended.

4.2 Consideration of re-drafted Combating Trafficking in Persons Bill 2004(N. 12/2004)

4.2.1 The Committee agreed to the amendment of the name of the Bill to read- “COMBATING OF TRAFFICKING IN PERSONS BILL 2004”.

4.2.2 The Committee considered the re-drafted Combating Trafficking in Persons Bill clause by clause.

4.2.3 **Clauses 1 and 2** were agreed to as presented.

4.2.4 **Clause 3** The following corrections were made:

deletion of the first sub-paragraph of subsection (1) and the removal of the second sub- paragraphs (b) and (c) from paragraph (ii) to paragraph (i).

4.2.5 **Clause 4** was agreed to as presented.

4.2.6 **Clause 5** The following correction was made:

insertion of the word “summary” before the word “conviction” in line five.

4.2.7 **Clause 6** The following corrections were made:

- (i) for the word “his” substitute the words “the victim’s”
- (ii) insertion of the words “, normal place of residence in Guyana” immediately after the words “home country”.

4.2.8 **Clauses 7, 8, 9, 10 and 11** were agreed to as presented.

4.2.9 **Clause 12** The following correction was made:

insertion of the word “other” immediately after the word “with” in line 3.

4.2.10 **Clauses 13, 14, 15, 16, 17, 18 and 19** were agreed to with the word “Minister” substituted for the word “Ministry” wherever it appeared.

4.2.11 **Clause 20** The following corrections were made:

- (i) for the word “Ministry” in subsections (1), (2), and (4) the substitution of the word “Minister” ;
- (ii) insertion of the word “and” immediately after the word “Guyana” in subsection (1);
- (iii) for the word “it” in line 1 of subsection (2) substitution of the word “Guyana’s”.

4.2.12 **Clause 21** was agreed to with the word “Minster” substituted for the word “Ministry” wherever it appeared.

4.2.13 **Clause 22** The following corrections were made:

- (i) for the word “Ministries” the substitution of the word “Ministers” in line 1 of subsection (1);

- (ii) for the words "Ministry of Foreign Affairs" the substitution of the words "Ministers of Home Affairs and Foreign Affairs" in lines 4 and 5 of subsection (1).

4.2.14 **Clause 23** The following corrections were made:

- (i) insertion of the word "or" at the end of subsection (1)(e);
- (ii) for the word "Ministry" in subsection (4) the substitution of the word "Minister".

4.2.15 **Clause 24** was agreed to as presented.

4.2.16 **Clause 25** The following corrections were made:

- (i) insertion of a full stop immediately after the word "Part" in line 6;
- (ii) for the words "the country" at the end of paragraph (e), the substitution of the word "Guyana".

4.2.17 **PART IV** The Committee agreed to the following amendment:

deletion of the word "COMMERCIAL" from the caption.

4.2.18 **Clause 26** The following corrections were made:

- (i) insertion of the word "and individuals" immediately after the word "companies" in the marginal note;
- (ii) insertion of the words "of the" immediately after the word "any" in line 1, and a "," immediately after the word "operate" in line 3.

4.2.19 **Clause 27** The following corrections were made:

- (i) insertion of the word "and individuals" in the marginal note;
- (ii) deletion of the words "into Guyana" in line 2;
- (iii) insertion of the word " in Guyana" immediately after the word "residence" in the last line.

4.2.20 **Clause 28** The following correction was made:

for the word "Governments" the substitution of the word "Government" in line 1.

4.2.21 Clause 29 The following corrections were made:

- (i) insertion of the words “ or other authority” immediately after the word “authority” at the end of subsection (1);
- (ii) insertion of the words “under the age of sixteen” immediately after the word children in line 3 of subsection (2);
- (iii) insertion of the word “such” immediately after the word “every” in line 4 of subsection (3).

4.2.22 Clause 30 The following correction was made:

insertion of the word “other” immediately before the word “appropriate” in the last line of subsection (2).

4.2.23 Clause 31 was agreed to as presented.

4.2.24 Clause 32 The word “Minister” was substituted for the word “Ministry” in subsections (2) and (3).

4.2.25 Clauses 34 and 35 were agreed to as presented.

4.2.26 Clause 36 The word “Minister” was substituted for the word “Ministry” in subsection (2).

4.2.27 Clauses 37 and 38 were agreed to as presented.

4.3 Approval of re-drafted Bill

4.3.1 Thereafter the Committee approved of the re-drafted Bill and decided that it forms part of the Committee’s report to the National Assembly.

4.4 General Corrections

4.4.1 The words “Non Governmental Organisations” were corrected to read “Non-Governmental Organisations” wherever they appeared.

4.5 Consideration of the Committee’s Report to the National Assembly

4.5.1 The Committee considered the draft report paragraph by paragraph.

4.5.2 Paragraphs 1 to 4 were approved.

4.5.3 Paragraph 5 was approved with the following amendment-
for the words “three occasions” substitute the words “four occasions”.

4.5.4 **Paragraph 6** was approved.

4.5.5 The following was inserted as paragraph 7:

The name of the Bill was amended to read “Combating Of Trafficking In Persons Bill 2004”.

4.5.6 **Paragraphs 7 to 14** were renumbered **paragraph 8 to 15** respectively.

4.5.7 **Paragraph 8** as renumbered was approved.

4.5.8 **Paragraph 9** as renumbered was approved with the following amendments-

- (i) the substitution of the figure “7” for the Figure “13” in the first line;
- (ii) the substitution of the following for the clauses agreed to as printed:

Clauses 1, 11, 14, 16, 34, 35, and 37.

4.5.9 **Paragraph 10** as renumbered was approved with the following amendment –

deletion of the figures 34 and 35.

4.5.10 **Paragraphs 11 and 12** as renumbered were approved.

4.5.11 **Paragraph 13** as renumbered was approved with the following amendment –

The substitution of “8th December, 2004” for the 2nd December, 2004”.

4.5.12 **Paragraphs 14 and 15** as renumbered were approved.

4.5.13 Thereafter the Committee directed that the report be submitted to the Assembly by its Chairperson.

4.6 Thanks

4.6.1 The Chairperson thanked her colleagues for their co-operation in ensuring that the Bill was properly and speedily considered by the Committee.

Adjournment

At 6.20 p.m. the meeting of the Committee was adjourned.

**I hereby certify that this is an accurate record of the proceedings of the
5th meeting of the Special Select Committee on the Combating
Trafficking in Persons Bill 2004 (Bill No. 12 of 2004).**

Bibi Shadick
.....

**Bibi S. Shadick, M.P.
Minister in the Ministry of Labour,
Human Services and Social Security
Chairperson**

BBS
.....December, 2004.

**COMBATING OF TRAFFICKING
IN PERSONS BILL 2004
(No. 12 of 2004)**

Amendments made by the Special Select Committee.

Name of Bill	For the words "COMBATING TRAFFICKING IN PERSONS BILL 2004" substitute the words "COMBATING OF TRAFFICKING IN PERSONS BILL 2004".
ARRANGEMENT OF SECTIONS	
Section 21	For the word "citizen" substitute the word "citizenship".
Section 26	Delete the word "international".
Section 27	Delete the word "international".
Clause 2 in the definition of "coercion"	Paragraph (ii), insert the word "or" at the end after the semicolon. Paragraph (iii), delete the word "or" at the beginning
Clause 3 (1)	(a) Substitute for the words - "(a) be sentenced to any term of years or life imprisonment;" of the words - "(i) on summary conviction - (a) be sentenced to not less than three years nor more than five years imprisonment;" (b) Insert immediately after paragraph (i), so re-lettered, of the following as paragraph (ii);

(ii) on conviction on indictment-

(a) be sentenced to not less than five years or to life imprisonment;

(b) be subject to forfeiture of property under section 7; and

(c) be ordered to pay full restitution to the trafficked person or persons under section 6.

Clause 4

(a) For the words "Any person who" substitute the words, "Any person who for the purpose of trafficking in persons, and";

(b) Insert the word "summary" immediately before the word "conviction";

(c) For the words "and imprisoned" substitute the words "together with imprisonment for".

Clause 5 (1)

(a) For the words "any person" substitute the words "any person in Guyana or";

(b) Insert the word "summary" immediately before the word "conviction".

Clause 5 (2)
in the
opening part.

Substitute the following-

"Persons convicted of the crime of transporting a person for the purpose of exploiting that person's prostitution shall be liable to a fine of not less than five hundred thousand dollars and not more than one million dollars and shall be imprisoned for not more than three years, but the presence of any one of the following aggravating factors resulting from acts of the defendant can permit a longer sentence up to a maximum of five years

together with forfeiture of the conveyance used for transporting the victim”.

Clause 6(1)

For the words “section 3” substitute the words “this Act”.

Clause 6(3)

For the words “his home country” substitute the words “the victim’s home country, normal place of residence in Guyana,”

Clause 7

(a) For the words “section 3” substitute the words “this Act”;

(b) For the full stop at the end substitute a colon;

(c) Insert the following proviso-

Provided that if the court, is satisfied beyond any reasonable doubt that-

(a) the person who was the owner of the conveyance; and

(b) in the case of an aircraft or ship, every person who was a responsible officer thereof,

when it was made use of for the purpose of trafficking in persons, was not concerned in or privy to such use, the conveyance shall be restored to the owner thereof by the court on application of the owner and this proviso shall mutatis mutandis apply to a forfeiture of a conveyance under section 5 (2).

Clause 8 (1) in the opening part

(a) Delete the words “the minimum sentence, or enhancements to” and

insert the words “on indictment” immediately after the word “convicted”;

(b) Substitute for the word “shall” the word “may”;

(c) Delete paragraph “f”;

(d) Re-letter paragraphs “(g)” to “(i)” as paragraphs “(f)” to “(h)”.

Clause 8(1) (a) to (h) as re-lettered (inclusive) other than paragraph (f)

Substitute for the word “shall” the word “may” and delete the word “minimum”.

Clause 8 (1) (f)

For the word “minimum” substitute the word “sentence”.

Clause 8 (2) (a)

For the word “inflecting” substitute the word “inflicting”.

Clause 8(2)(b)

For the word “HIV” substitute the words “Human Immuno Deficiency Virus”

Clause 9 (1)

For the words “2(j)” substitute the words “2(k)”.

Clause 10

Substitute “Age of consent to sex or legal age of marriage shall not be used as a defence to trafficking in persons”.

Clause 12

Substitute “A person charged with trafficking in persons shall be extradited on substantially the same terms and to substantially the same extent as a person charged with other serious crimes.”.

Clause 13

For the word “victim” substitute the word “victim’s” where it occurs for the second time.

Clause 15

(a) Re-number as subsection (1) and in subsection (1) as so re-numbered for the words “section 3” substitute the words “this Act”;

(b) Insert the following as subsections (2) and (3) -

“(2) A hearing under this section shall be held in camera if the court so orders.

(3) A person who commits a breach of the confidentiality enjoined by this section shall be guilty of an offence and shall on summary conviction be fined one hundred thousand dollars.”.

Clause 16

For the word “Ministry” substitute the word “Minister”.

Clause 17

(a) For the words “Director of Public Prosecutions” substitute the word “court”

(b) For the word "should" substitute the word "shall".

Clause 18 (1)

(a) For the words "within one year of the enactment of this Act, the" substitute the word "The".

(b) For the word "Ministry" substitute the word "Minister" whenever it occurs;

(c) For the word "Resources" substitute the word "Services".

Clause 18 (2)

(a) For the word "shall" substitute the word "may";

(b) Delete the words "for the duration of their presence in Guyana".

Clause 18 (3)

For the word "shall" substitute the word "may".

Clause 18(4)

For the word "shall" substitute the word "may".

Clause 18(5)

For the word "shall" substitute the word "may".

Clause 18(6)

For the word "Absent" substitute the words "In the absence of"

Clause 19(1)

(a) For the word "Ministry" substitute the word "Minister";

(b) For the word "shall" substitute the word "may".

Clause 19(2)

(a) For the word "shall" substitute the word "may".

(b) For the marginal note "Cap. 14:07" substitute "Cap. 14:02".

Clause 19(3)

For the word "shall" substitute the word "may".

Clause 20 (1)
the opening
part

(a) For the word "Ministry" substitute the word "Minister";

(b) For the words "its diplomatic" substitute the words "Guyana's diplomatic";

(c) Insert the word "and" immediately after the word "country".

Clause 20(1)(c)

For the words "his country" substitute the word "Guyana".

Clause 20(1)(d)

For the words "their country" substitute the word "Guyana".

Clause 20(2)

(a) For the word "Ministry" substitute the word "Minister";

(b) For the words "its diplomatic" substitute the words "Guyana's diplomatic".

Clause 20 (4)

- (a) For the word "Ministry" substitute the word "Minister";
- (b) For the words "within six months of the enactment of this Act" substitute the words "as are reasonably convenient".

Clause 21(1)

- (a) For the word "Ministry" substitute the word "Minister";
- (b) For the words "victim or" substitute the words "victim of" and in the marginal note for the word "citizen" substitute the word "citizenship";

Clause 21(2)

- (a) Insert the word "the" immediately after the word "State,";
- (b) For the word "Ministry" substitute the word "Minister";

Clause 22 (1)

- (a) For the words "Within six months of the enactment of this Act, the" substitute the word "The";
- (b) For the words "Ministry of Home Affairs" substitute the words "Ministers of Home Affairs and Foreign Affairs" wherever the words occur;
- (c) Insert the words "places of residence" immediately after the word "their".
- (d) For the word "NGO's" substitute the word "non governmental organisations";

Clause 23 (1)

Delete paragraph (f) and re-letter paragraph (g) as paragraph (f).

Clause 23 (3)

For the word "delegate" substitute the word "assign".

Clause 23(4)

For the word "Ministry" substitute the word "Minister".

Clause 24 (1)

- (a) Re-number as section 24.
- (b) For the word "programmess" substitute the word "programmes".

Clause 24 (2)

Delete.

Clause 25
in the opening
part

(a) For the words "Part III" substitute the words "this Part" wherever the words occurs;

(b) For the word "child's" substitute the word "children's";

(c) For the words "their situation" substitute the words "children's situation";

(d) For the word "should" substitute the word "shall".

Clause 25 (a)

Insert the word "a" immediately after the word "of".

Clause 25 (b)

Insert the word "a" after the word "with".

For the words "or foster parent" substitute the words ", foster parent or social worker".

Clause 25 (c)

(a) For the word "should" substitute the word "shall";

(b) For the words "country of origin or destination country" substitute the word "Guyana".

Clause 25 (d)

For the words "the child's needs" substitute the words "children's needs".

Clause 25 (e)

(a) For the words "the country of origin or resettlement in a new country" substitute the word "Guyana".

(b) For the word "should" substitute the word "shall";

(c) For the words "the country" substitute the word "Guyana";

PART IV the
heading.

Delete the word "COMMERCIAL";

Clause 26 (1)

(a) For the words "International Transportation" substitute the word "Transportation" and in the marginal note delete the word "International" and insert the words "or individuals" at the end thereof;

(b) For the word "must" substitute the word "shall".

Clause 26 (3)

Substitute "Companies and persons who fail to comply with any of the requirements of this section may be sanctioned by the revocation of licences to operate after a hearing before the competent authority."

Clause 27

(a) Insert the words "or individual" immediately after the word "company" wherever it occurs;

(b) Delete the words "into Guyana";

(c) For the words "victim holds residency" substitute the words "victim holds a normal place of residence in Guyana".

Clause 28

(a) For the words "Governments should" substitute the words "The Government shall";

(b) For the word "should" substitute the word "shall" wherever it occurs.

Clause 28(c)

For the words "HIV/AIDS" and other STDs substitute the words Human Immuno Deficiency Virus/Acquired Immune Deficiency Syndrome" and other "Sexually Transmitted Diseases".

Clause 29 (1)

(a) For the words "and buses" substitute the words "buses and boats";

(b) Insert the words "under sixteen years of age" immediately after the word children;

(c) For the words "into Guyana" substitute the words "within or into Guyana";

(d) Insert the words "or other authority" immediately after the word "authority".

Clause 29 (2)

(a) Insert the words "destination point or" after the word "every".

(b) Insert the words "or other authority" after the word "authority".

(c) For the words "authority should" substitute the words "authority shall".

(d) Insert the words “under sixteen years of age” immediately after the word “children”.

Clause 29(3)

(a) Insert the words “under sixteen years of age” immediately after the word “children”;

(b) For the words “into Guyana” substitute the words “within or into Guyana”;

(c) For the word “conviction” substitute the words “summary conviction”;

(d) For the word “fifteen” substitute the word “fifty”;

(e) Insert the word “such” immediately after the word “every”.

Clause 30 (1)

For the word “international” substitute the word “inter”.

Clause 30 (2)

(a) For the words “and Home Affairs and” substitute the words “,Amerindian Affairs, Home Affairs,”;

(b) Insert at the end thereof the words “and appropriate non-governmental organisations”.

Clause 31(3)(b)

For the word “etc” substitute the words “and other relevant information”.

Clause 31 (3)(d)

For the word “foot” substitute the words “on foot”.

Clause 31(3)(e)

For the words “issues (with fraudulent documents, without)” substitute the words “without legal travel documents”.

Clause 32(3)

Insert immediately after the words “participation of” the words “other Ministries,”.

Clause 33 (1)

(a) For the words “For those at risk of becoming trafficking victims the” substitute the word “The”.

(b) For the word “Ministry” substitute the word “Minister”;

(c)For the words “HIV/AIDS” substitute the words Human Immuno Deficiency Virus/Acquired Immune Deficiency Syndrome”.

Clause 33 (2)

(a)For the word “Ministry” substitute the word “Minister”.

(b)For the words “NGOs” substitute the words “non-governmental organisations”;

(c)Insert immediately after the word “countries” the words “or places of residence in Guyana”.

Clause 33(3)

(a)For the word “Ministry” substitute the word “Minister”;

(b)For the words “NGOs” substitute the words “non-governmental organisations”;

Clause 36(1)

For the word “Ministry” substitute the word “Minister”;

Clause 36 (2)

For the words “Ministry of” substitute the words “Ministry responsible for”.

Clause 37(1)

For the word “Ministry” substitute the word “Minister”.

Clause 38

For the word “Ministry” substitute the word “Minister” wherever it occurs.

Clause 38(2)

For the word “designate” substitute the word “assign”.

Bill with the Amendments made by the Special Select Committee incorporated

GUYANA

BILL No. 12 of 2004

COMBATING OF TRAFFICKING IN PERSONS BILL 2004

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**A BILL
Intituled**

AN ACT to provide comprehensive measures to combat trafficking in persons.

A.D. 2004

Enacted by the Parliament of Guyana:-

Short title.

1. This Act may be cited as the Combating of Trafficking in Persons Act
2004.

Interpretation.

2. In this Act-

- (a) "abuse of a position of vulnerability" means such abuse that the person believes he has no reasonable alternative but to submit to the labour or service demanded of the person, and includes but is not limited to taking advantage of the vulnerabilities resulting from the person having entered the country illegally or without proper documentation, pregnancy, any physical or mental disease or disability of the person, including addiction to the use of any substance, or reduce capacity to form judgments by virtue of being a child;
- (b) "child" means any person under eighteen years of age;
- (c) "coercion" includes violent as well as some forms of non-violent or psychological coercion, including -
 - (i) threats of serious harm to or physical restraint against any person;

- (ii) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any persons; or
 - (iii) the abuse or threatened abuse of the legal process;
- (d) “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;
- (e) “exploitation” means-
 - (i) keeping a person in a state of slavery;
 - (ii) subjecting a person to practices similar to slavery;
 - (iii) compelling or causing a person to provide forced labour or services;
 - (iv) keeping a person in a state of servitude, including sexual servitude;
 - (v) exploitation of prostitution of another;
 - (vi) engaging in any form of commercial sexual exploitation, including but not limited to pimping, pandering, procuring, profiting from prostitution, maintaining a brothel, child pornography;

- (vi) illicit removal of human organs;
- (f) “force labour” means labour or services obtained or maintained through force, threat of force, or other means of coercion or physical restraint;
- (g) “illicit removal of organs” refers to the unlawful conduct, and not to legitimate medical procedures for which proper consent has been obtained;
- (h) “practices similar to slavery” includes, in general, debt bondage, serfdom, forced or servile marriages and delivery of children for exploitation;
- (i) “servitude” means a condition of dependency in which the labour or services of a person are provided or obtained by threats of serious harm to that person or another person, or through any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labour or services, that person or another person would suffer serious harm;
- (j) “slavery” means the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised;
- (k) “trafficking in persons” means the recruitment, transportation, transfer, harbouring or receipt of a person by means of the threat or use of force or other means of coercion, or by

abduction, fraud, deception, abuse of power or of a position of vulnerability, or by the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.

PART II CRIMINAL OFFENCES AND RELATED PROVISIONS

Trafficking in persons.

3.(1) Whoever engages in or conspires to engage in, or attempts to engage in, or assist another person to engage in or organises or directs other persons to engage in "trafficking in persons" shall -

- (i) on summary conviction -
 - (a) be sentenced to not less than three years nor more than five years imprisonment;
 - (b) be forfeiture of property under section 7; and
 - (c) be ordered to pay full restitution to the trafficked person or persons under section 6.

- (ii) on conviction on indictment -
 - (a) be sentenced to not less than five years or to life imprisonment;
 - (b) be subject to forfeiture of property under section 7; and
 - (c) be ordered to pay full restitution to the trafficked person or persons under section 6.

(2) The recruitment, transportation, transfer, harbouring, or receipt of any child, or the giving of payments or benefits to obtain the consent of a person having control of a child, for the purpose of exploitation shall constitute trafficking in persons irrespective of whether any of the means described in section 2(k) have been established.

Unlawful withholding of identification papers.

4. Any person who for the purpose of trafficking in persons, and acting or purporting to act as another person's employer, manager, supervisor, contractor, employment agent, or solicitor of clients such as a pimp, knowingly procures, destroys, conceals, removes, confiscates, or possesses any passport, immigration document, or other government identification document, whether actual or purported, belonging to another person commits an offence and shall on summary conviction be fined one million dollars together with imprisonment for not more than five years.

Transporting a person for the purpose of exploiting such person's prostitution.

5.(1) Whoever knowingly transports or conspires to transport, or attempts to transport or assists another person engaged in transporting any person in Guyana or across an international border for the purpose of exploiting that person's prostitution commits an offence and shall be liable on summary conviction to be punished in accordance with subsection (2).

(2) Persons convicted of the crime of transporting a person for the purpose of exploiting that person's prostitution shall be liable to a fine of not less than five hundred thousand dollars and not more than one million dollars and shall

be imprisoned for not more than three years, but the presence of any one of the following aggravating factors resulting from acts of the defendant can permit a

longer sentence up to a maximum of five years together with forfeiture of the conveyance used for transporting the victim -

- (a) transporting two or more persons at the same time;
- (b) permanent or life-threatening bodily injury to a person transported;
- (c) transportation of one or more children; or
- (d) transporting as part of the activity of an organised criminal group.

Restitution.

6.(1) Where a defendant is convicted of trafficking in persons under this Act, the court shall order the defendant to pay restitution to the victim.

- (2) Restitution shall compensate the victim for –
 - (a) costs of medical and psychological treatment;
 - (b) costs of physical and occupational therapy and rehabilitation;
 - (c) costs of necessary transportation, temporary housing, and child care;
 - (d) lost income;
 - (e) attorney's fees and other cost such as victim advocate fees;
 - (f) compensation for emotional distress, pain and suffering; and
 - (g) any other losses suffered by the victim.

(3) Restitution shall be paid to the victim promptly upon the conviction of the defendant, with the proceeds from the property forfeiture under section 7 applied first to payment of restitution. The return of the victim to the victim's home country, normal place of residence in Guyana, or other absence of victim from the jurisdiction shall not prejudice the victim's right to receive restitution.

Forfeiture.

7. All property, including but not limited to money, valuables and other movable and immovable property, of persons convicted of the crime of trafficking in persons under this Act that was used or intended to be used, or was obtained in the course of the crime, or benefits gained from the proceeds of the crime, shall be forfeited to the State. Overseas assets of persons convicted of trafficking in persons shall also be subject to forfeiture to the extent they can be retrieved by Government:

Provided that if the court, is satisfied beyond any reasonable doubt that -

- (a) the person who was the owner of the conveyance; and
- (b) in the case of an aircraft or ship, every person who was a responsible officer thereof,

when it was made use of for the purpose of trafficking in persons, was not concerned in or privy to such use, the conveyance shall be restored to the owner thereof by the court on application of the owner and this proviso shall mutatis mutandis apply to a forfeiture of a conveyance under section 5(2).

8.(1) As factually appropriate, the following adjustments to the sentence of a person convicted on indictment of the crime of trafficking in persons may apply -

- (a) if the convicted person used, threatened use, or caused another to use or threaten use of a dangerous weapon, two years may be added to the sentence;
- (b) if a trafficked person suffers a serious bodily injury, or if the convicted person commits a sexual assault against a trafficked person, five years may be added to the sentence;
- (c) if the trafficked person had not attained the age of eighteen years, five years may be added to the sentence;
- (d) if, in the course of trafficking or subsequent exploitation, the convicted person recklessly caused a trafficked person to be exposed to a life threatening illness, or if the convicted person intentionally caused a trafficked person to become addicted to any drug or medication, five years may be added to the sentence;
- (e) if a trafficked person suffers a permanent or life threatening injury, ten years may be added to the sentence;
- (f) if the trafficking was part of the activity of an organised criminal group three years may be added to the sentence; or
- (g) if trafficking was part of the activity of an organised criminal

group and the convicted person organised the group or directed its activities, five years may be added to the sentence;

- (h) if the trafficking occurred as the result of abuse of power or position of authority, including but not limited to a parent or guardian, teacher, children's club leader, or any other person who has been entrusted with the care or supervision of the child, four years may be added to the sentence.

(2) In this section -

- (a) "dangerous weapon" means (i) an instrument capable of inflicting death or serious bodily injury; or (ii) an object that is not an instrument capable of inflicting death or serious bodily injury but (I) closely resembles such an instrument; or (II) is used in such a way that it creates the impression that the object is an instrument capable of inflicting death or serious bodily injury;
- (b) "life-threatening illness" means any illness that involves a substantial risk of death, and included Human Immuno Deficiency Virus infection and tuberculosis;
- (c) "organised criminal group" means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more offences established under this section in order to obtain, directly or indirectly, a financial or other material benefit;

- (d) “permanent or life –threatening bodily injury” mean injury involving a substantial risk of death; loss or substantial impairment of the function of a bodily member, organ or mental faculty that is likely to be permanent; or an obvious disfigurement that is likely to be permanent. Maltreatment to a life-threatening degree, such as by denial of food or medical care that results in substantial impairment of function, constitutes life-threatening bodily injury;
- (e) “serious bodily injury” means injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ or mental faculty; or requiring medical intervention such as surgery, hospitalisation, or physical rehabilitation;
- (f) “sexual assault” means causing another to engage in a sexual act by using force against that person, threatening or placing that person in fear that any person will be subjected to death, serious bodily injury, or kidnapping, and engaging in a sexual act with an incapacitated person, or a person who cannot express consent or with a minor that constitutes statutory rape.

Consent or past sexual behaviour history of victim is irrelevant..

9.(1) In a prosecution for trafficking in persons under section 3, the alleged consent of a person to the intended or realised exploitation is irrelevant once any of means or circumstances set forth in section 2(k) is established.

(2) In a prosecution for trafficking in persons under section 3, evidence of

a victim's past sexual behaviour is irrelevant and inadmissible for the purpose of providing that the victim engaged in other sexual behavior, or to prove the victim's sexual predisposition.

Legal age of consent to sex not a defence in trafficking.

10. Age of consent to sex or legal age of marriage shall not be used as a defence to trafficking in persons.

Victim immunity from prosecution.

11. A victim of trafficking is not criminally liable for any migration-related offence, prostitution, or any other criminal offence that was a direct result from being trafficked.

Extradition.

12. A person charged with trafficking in persons shall be extradited on substantially the same terms and to substantially the same extent as a person charged with other serious crimes.

PART III ASSISTANCE AND PROTECTION FOR VICTIMS

Protection for the safety of victims.

13. Investigative, prosecutorial, and other appropriate authorities shall take all steps necessary to identify victims of trafficking. Once victims are identified, these authorities shall provide reasonable protection to victims of trafficking to prevent recapture by the traffickers and their associates, secure the victim and the victim's family if they reside in Guyana from threats, reprisals or intimidation by the traffickers and their associates, and ensure the victim has an opportunity to consult with a victim's advocate or other appropriate person to develop a safety plan.

Witness
protection.

14. Victims of trafficking who are witnesses or potential witnesses may be eligible for applicable witness relocation and protection programmes for victims of organised criminal activity or other serious offences, if it is determined that an offence involving a crime of violence directed at the witness or potential witness is likely to be committed. The programmes may include -

- (a) relocation;
- (b) new identity, documents establishing identity;
- (c) new residence;
- (d) employment work permits;
- (e) protection of confidentiality of identity and location.

Protection for
the privacy of
victims.

15.(1) In a prosecution for trafficking in persons under this Act or unlawful use of documents under section 4, the identity of the victim and the victim's family should be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant.

(2) A hearing under this section shall be held in camera if the court so orders.

(3) A person who commits a breach of the confidentiality enjoined by this section shall be guilty of an offence and shall on summary conviction be fined one hundred thousand dollars.

Information
for victims.

16. The Minister of Home Affairs shall inform victims of trafficking, in a language they can understand, of their legal rights and the progress of relevant court and administrative proceedings, as appropriate, including but not limited to prosecution of the criminal offenders, proceedings for the return of the victims to their country of citizenship or lawful residence, and procedures for seeking legal immigration status under section 19.

Opportunity
for
presentation
of victim's
views and
concerns.

17. The court shall provide an opportunity to a victim of trafficking, if the victim desires it, to present the victim's views and concerns at appropriate stages of criminal proceedings against traffickers, in a manner not prejudicial to the rights of defendant. An interpreter who speaks a language the victim understands shall be made available to the victim during the course of legal proceedings.

Support for
victims.

18.(1) The Minister of Home Affairs in conjunction with the Minister of Labour, Human Services and Social Security shall develop plans, in consultation with non-governmental organisations and other representatives of civil society, for the provision of appropriate services, from governmental and non-governmental sources, for victims of trafficking and dependent children accompanying the victims, including -

- (a) appropriate housing, taking into account the person's status as a victim of crime and including safe conditions for sleeping, food and personal hygiene;
- (b) psychological counselling in a language the victim can

understand;

- (c) medical assistance in a language the victim can understand;
- (d) other medical assistance as appropriate;
- (e) employment, educational, and training opportunities; and
- (f) legal assistance or legal information in a language the victim understands.

(2) Victims of trafficking may be eligible to work and to receive proof of work authorisation.

(3) Victims of trafficking and their accompanying dependent children may be entitled to receive social benefits for the duration of their stay in Guyana as may be determined by the Minister responsible for social security.

(4) Residence in shelters or other facilities established under this section may be voluntary, and victims may decline to stay in shelters.

(5) Victims may have the option to communicate with and receive visits from family, friends and attorneys-at-law.

(6) In the absence of exigent circumstances, victims of trafficking, once identified as such, shall not be housed in prisons or other detention facilities for accused or convicted criminals. Child victims of trafficking, once identified as such, shall not be housed in prisons or other detention facilities for accused or convicted criminals under any circumstances.

(7) The authorities mentioned under subsection (1) shall take into account the age, gender and special needs of victims and accompanying dependent children in formulating plans to provide services to them and in delivering such services.

(8) Plans developed in accordance with subsection (1) shall be submitted for approval to the Cabinet and the said authorities shall also undertake periodic reviews of the plans and their implementation to ensure compliance with the requirements of this section and to ensure that all victims are treated with respect for their human rights and dignity.

Immigration
status of
victims.

19.(1) The Minister of Home Affairs may provide victims of trafficking and accompanying dependent children with appropriate visas or other required authorisation to permit them to remain in Guyana for the duration of the criminal prosecution against the traffickers, provided that the victim is willing to comply with the reasonable requests, if any, to assist in the investigation or prosecution of the traffickers.

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(2) Victims of trafficking may be eligible for residence in Guyana in the manner prescribed in the Immigration Act, provided they have complied with reasonable requests, if any, for assistance in the investigation or prosecution of acts of trafficking. Dependent children accompanying the victim also shall be eligible for resident status in Guyana in the manner prescribed in the said Act.

(3) A victim's spouse and children, and in the case of child victims, the parents or guardian, and the victim's siblings, may be eligible to join the victim in Guyana as part of the victim's initial application for residence under the preceding subsections.

Assistance for
citizen
permanent
resident
victims
abroad

20.(1) The Minister of Foreign Affairs, through Guyana's diplomatic missions and consular offices abroad, where practicable, shall offer assistance to citizens of or persons holding permanent residency in another country and who are victims of trafficking in persons located abroad, including but not limited –

- (a) assistance in understanding the laws of the foreign country to which they have been trafficked, including their rights as victims, options for reporting the crime, and opportunities for seeking restitution or other benefits that are available under the laws of that country;
- (b) assistance in obtaining emergency services, including but not limited to medical care and counseling;
- (c) at the request of either the victim or the appropriate authorities in the other country, replacement or provision of passports and other travel documents necessary for the victim to return to Guyana without undue or unreasonable delay;
- (d) material assistance in returning to their last place of residence in Guyana in the same manner provided for other citizens or persons with right of permanent residency who become stranded abroad when the country to which the victim was trafficked does not provide such assistance.

(2) The Minister of Foreign Affairs, through Guyana's diplomatic missions and consular offices abroad, shall publish and disseminate information on the rights of victims of trafficking under the laws of Guyana and the country or countries for which the diplomatic mission has responsibility both to the appropriate authorities in that country and to possible victims of trafficking who are citizens of Guyana. In the case of diplomatic missions and consular offices of countries of destination of trafficking victims, such information shall be provided to appropriate authorities and to potential trafficking victims who are citizens or lawful residents of the country for which the mission or office has responsibility.

(3) Diplomatic missions of Guyana abroad shall appoint an officer to be responsible for implementing and supervising plans ensuring the provision of services required under this section.

(4) The Minister of Foreign Affairs in cooperation with other appropriate authorities shall develop plans as are reasonably convenient for the safe, orderly return without undue or unreasonable delay of citizens or persons holding permanent residency in Guyana.

Verification of
citizenship,
permanent
resident status
and age.

21.(1) Upon request by the appropriate authority or representative of another State, the Minister of Home Affairs shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is a citizen, or national of, or holds permanent residency in Guyana.

(2) Upon request by the appropriate authority or representative of another State, the Minister of Home Affairs shall, without undue or unreasonable delay,

verify (1) the age of a person who is a victim of trafficking in persons and who is suspected of being a minor and (2) whether the victim is a citizen, national of, holds permanent residency in Guyana, or any other immigration status the victim may have in Guyana.

(3) The Minister of Home Affairs shall designate an appropriate officer to respond to inquires mentioned in subsections (1) and (2).

Return of victims to country of citizenship, permanent residence.

22.(1) The Ministers of Home Affairs and Foreign Affairs in conjunction with other appropriate authorities shall develop plans for the safe return of victims to their place of residence, country of citizenship or a country in which they hold permanent residency. Where possible, the Ministers of Home Affairs and Foreign Affairs shall work closely with international organizations and non-governmental organisations in this process.

(2) Plans developed under subsection (1) shall take into account the right of victims to seek temporary or permanent residence under the provisions of section 19 and other rights guaranteed under other applicable laws.

Victims unable to prove citizenship status through normal means.

23.(1) Victims of trafficking abroad who claim to be citizens or persons holding permanent residency in Guyana, but whose identity cannot be verified through ordinary means, can establish their right to return to Guyana by demonstrating significant connections to this country through such factors as -

- (a) place of birth;
- (b) presence of family members;

- (c) presence of friends;
- (d) significant knowledge of specific geographical areas or neighbourhoods;
- (e) long-term residence in this country; or
- (f) any other means.

(2) This list of factors in subsection (1) is not exhaustive, and not every factor is required to make the determination. Determinations under this section are to be made with due concern for compassion and justice to victims. The fact that the victim would not be eligible for citizenship based on the showing made under this section shall not be a bar to re-entry.

(3) Diplomatic missions abroad shall assign a specific diplomat to make determinations under this section. Victims may appeal an adverse determination to the Minister of Legal Affairs.

(4) Where the Minister of Legal Affairs determines an individual is eligible to re-enter Guyana under this section, the diplomatic mission abroad shall issue a certificate of identity, permitting re-entry.

24. Victims of trafficking who return from abroad shall have access to educational and training programmes provided by any governmental or private entity without being differentiated from other participants on the basis of having been trafficked.

Services for
returned
victims of
trafficking.

Appropriate
implementation
for child
victims.

25. The assistance in this Part shall be provided to trafficking victims who are children in a manner that is in the children's best interests and appropriate to children's situation. Child trafficking victims shall be provided with appropriate services, which may include understanding of their rights, privacy, housing, care and age-appropriate support and rights specified in this Part. Special programmes shall be developed to accommodate child witnesses including -

- (a) testimony of a minor conducted outside court setting or by video;
- (b) all testimony and court proceedings take place with a parent, legal guardian, foster parent or social worker present;
- (c) whenever safe and possible, children shall be reunited with family members in Guyana;
- (d) special mental and physical medical care tailored to children's needs;
- (e) upon return to Guyana, child victims of trafficking shall be guaranteed education which at least matches the general standard of education in Guyana.

PART IV MISUSE OF TRANSPORTATION

Responsibilities
of
transportation
companies or
individuals.

26.(1) Transportation companies or individuals who transport persons shall verify that every passenger possesses the necessary travel documents, including passports and visas, to enter the destination country and any transit countries.

(2) The requirement in subsection (1) applies both to staff selling or issuing tickets, boarding passes or similar travel documents and to staff collecting or checking tickets prior to or subsequent to boarding .

(3) Companies and persons who fail to comply with any of the requirements of this section may be sanctioned by the revocation of licences to operate, after a hearing before the competent authority.

Liability of transportation companies or individuals.

27. When a transportation company or individual knowingly transports victims of trafficking, that company or individual shall be liable for costs associated with providing accommodation and meals for the victim and any accompanying dependent children for the duration of the victim's stay in facilities designated under section 18 and shall bear the costs of their transportation to a port of entry of the country of which the victim is a citizen or in which the victim holds a normal place of residence in Guyana.

Role of Government.

28. The Government shall take steps to educate citizens about sex tourism. It shall warn citizens that traveling to another country to engage in sex with a minor or a trafficked person may be a crime in the destination country or in the home country, or may constitute child abuse. These steps shall include –

- (a) cooperating with airline industry, hotel industry, taxi industry, and others to jointly produce educational materials alerting them to evidence of sex tourism by their customers and warning them against facilitating such behaviours;

- (b) warning citizens and employees in the industries mentioned in section 29 that a crime may be committed when someone engages in sex with a minor, sex tourism, or frequents a brothel holding trafficked women and children;
- (c) giving up to date information about the links between the Human Immuno Deficiency Virus/Acquired Immune Deficiency Syndrome and other Sexually Transmitted Diseases and trafficking.

Measures to ensure the safety of children travelling unattended across international borders..

29. (1) Operators or crews of commercial vehicles, including airplanes, trains, buses and boats shall hold the travel documents of children under sixteen years of age travelling within or into Guyana without a parent, guardian, or other responsible adult from the time the child boards the vehicle and shall surrender the documents upon arrival to the appropriate immigration authority or other authority.

(2) At every destination point or port of entry, the immigration authority or other authority shall, if practicable, provide officers to meet children under sixteen years of age travelling without a parent, guardian or other responsible adult, receive the child's travel documents from the operator of the commercial vehicle, and assist the child in passing through immigration and customs inspections. The officer shall surrender the child only to a parent, guardian, or other responsible adult upon presentation of appropriate identifying documents, and shall obtain a receipt indicating final destination, purpose of travel, and identification and address information of the receiving adult.

(3) Operators or owners of commercial vehicles delivering children under sixteen years of age travelling without a parent, guardian or other responsible adult within or into Guyana commit an offence and shall on summary conviction pay a fine of fifty thousand dollars for every such child that arrives without necessary travel documents.

PART V PREVENTION OF TRAFFICKING

National Task
Force for
prevention of
trafficking.

30.(1) The President shall establish an inter agency task force to develop and implement a National Plan for the Prevention of Trafficking in Persons. Such a task force should include all aspects of trafficking including sex trafficking and labour trafficking.

(2) The President shall appoint the members of the task force, which shall include the Ministers of Legal Affairs, Foreign Affairs, Labour, Human Services and Social Security, Amerindian Affairs, Home Affairs, other appropriate high-level government officials including officials with responsibility for law enforcement, immigration, and human and social services and appropriate non-governmental organisations.

(3) The task force shall carry out the following activities either directly or via one or more of the constituent ministries as appropriate –

- (a) develop the National Plan for the Prevention of Trafficking in Persons;
- (b) co-ordinate the implementation of the Plan;

- (c) co-ordinate the collection and sharing of trafficking data among government agencies. All data collected shall respect the privacy of victims of trafficking;
- (d) co-ordinate the sharing of information between agencies for the purposes of determining whether individuals crossing or attempting to cross the international border of Guyana with travel documents belonging to other persons or without travel documents are perpetrators of victims of trafficking in persons; and detecting criminal groups engaged in trafficking;
- (e) identify and engage in efforts to facilitate cooperation with foreign countries, particularly those which are a significant source of victims, transit location, or destination of victims. This cooperation shall aim to strengthen bilateral, multilateral, local and regional capacities to assist trafficking victims, prevent trafficking, prosecute traffickers, and assist in the appropriate reintegration of victims of trafficking;
- (f) establish policies to enable Guyana Government to work with non-governmental organisations and other elements of civil society to prevent trafficking and provide assistance to victims.

31.(1) The Minister of Home Affairs shall collect and periodically publish statistical data on trafficking.

Data and
collection and
dissemination.

(2) The Minister of Home Affairs shall elicit the cooperation and assistance of government agencies, non-governmental organisations, and other elements of civil society as appropriate to assist in the data collection required under subsection (1).

(3) The Minister of Home Affairs shall make the best efforts to collect information relevant of tracking progress on trafficking, including but not limited to

- (a) number of arrests, prosecutions, and successful convictions of traffickers and those committing trafficking related crimes (pimping, pandering, procuring, maintaining a brothel, visa fraud, document fraud, and other crimes related to trafficking);
- (b) statistics on the number of victims, including age, method of recruitment and other relevant information;
- (c) trafficking routes and patterns (country of origin, transit countries);
- (d) method of transportation (car, boat, plane, on foot);
- (e) border crossing without legal travel documents.

Training.

32.(1) The Minister of Home Affairs shall provide training for law enforcement, immigration, and other relevant officials in addressing trafficking in persons.

(2) Such training shall focus on –

- (a) methods use in identifying victims of trafficking;

- (b) methods for prosecuting traffickers;
- (c) methods for protecting the rights of victims, taking into account the need to consider human rights and special needs of women and children victims, and that victims should be treated as victims rather than criminals; and
- (d) methods for promoting the safety of victims, including, for example, the training of police and immigration officers to recognise victims of trafficking quickly.

(3) The Minister of Home Affairs shall seek the input and participation of other Ministries, appropriate non-governmental organisations and other organisations in the preparation and presentation of training called for in this section.

Public
awareness.

33.(1) The Minister of Education in cooperation with other appropriate governmental agencies and appropriate non-governmental organisations shall prepare public awareness programmes designed to educate potential victims of trafficking in persons and their families of the risk of victimisation. Such public awareness programmes shall include but shall not be limited to –

- (a) information about the risk of becoming a victim, including information about common recruitment techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure of Human Immuno Deficiency Virus/Acquired Immune Deficiency Syndrome and other sexually transmitted diseases, and psychological harm related to the victimisation in trafficking cases; and

(b) information about potential victims' rights in Guyana and in major destination countries and under international law, as well as methods for reporting suspected recruitment activities.

(2) For trafficked persons the Minister of Labour, Human Services and Social Security in cooperation with the other appropriate governmental agencies and appropriate non-governmental organisations shall prepare and disseminate educational materials designed to inform victims of trafficking in Guyana of their rights, the measures in place to ensure their safety, recovery, and safe return to their home countries or places of residence in Guyana, and how to contact appropriate law enforcement authorities. Such materials shall include, as appropriate, pamphlets, brochures, posters, advertisements in mass media, and any other methods appropriate for reaching victims of trafficking.

(3) The Minister of Labour, Human Services and Social Security in cooperation with other appropriate governmental agencies and appropriate non-governmental organisations shall prepare and disseminate public awareness materials designed to discourage the demand that foster the exploitation of persons, especially women and children, and that leads to trafficking –

(a) such materials may include information on impact of trafficking on individual victims, aggregate information on trafficking world-wide and domestically, as well as warnings of the potential for criminal consequences for taking part in trafficking. Such materials may include, as appropriate,

pamphlets, brochures, posters, advertisements in mass media, and any appropriate methods.

(b) materials described in this section may include information on the impact of trafficking on individual victims. However, any information on the experiences of individual victims shall preserve the privacy of the victim and the victim's family.

(4) All public awareness programmes established under this section shall be evaluated periodically to ensure their effectiveness.

Exclusion of persons implicated in trafficking.

34.(1) The Minister of Home Affairs shall periodically identify, in a public report, every person who is a trafficker of persons, or who had knowingly assisted or conspired with another to traffic in persons.

(2) Persons identified in reports under subsection (1), or whom an overseas consular official knows or has reason to believe is a trafficker of persons, or who has knowingly assisted or conspired with a trafficker to traffic in persons, shall not receive an entrance or transit visa.

(3) The visas of persons identified in reports under subsection (1) shall be revoked.

Integrity of travel and identity documents.

35.(1) The Minister of Home Affairs shall implement policies to screen persons entering or leaving the country to determine if they are victims of trafficking in persons.

(2) Such screening shall be undertaken with consideration for the right of individuals to travel, and shall not result in undue invasion of the individual's privacy or undue restriction of the individual's freedom of movement.

Applicability
of labour
standards.

36.(1) Standards for working conditions specified in the labour laws shall apply equally to persons with or without the legal right to work in this country.

(2) The Minister responsible for Labour shall investigate complaints of unlawful working conditions without regard to the immigration status of complainants and without regard to the nature of the work or services involved.

PART VI SECURITY AND CONTROL OF DOCUMENTS

Border
inspection.

37.(1) The Minister of Home Affairs shall appoint a committee to monitor the quality of travel and identity documents issued by the Ministry of Home Affairs to ensure that they comply with International Civil Aviation Organisation standards and that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated, or issued.

- (2) The task of the committee shall include, but not be limited to –
- (a) monitoring technical developments in the field of anti-counterfeiting in order to recommend improvements to such documents as they develop;
 - (b) monitoring the issuance of travel documents abroad, with attention to patterns of abuse such as misrepresentation, corruption and fraud;

- (c) monitoring the issuance of travel documents domestically, with attention to patterns of abuse such as misrepresentation, corruption and fraud; and
- (d) forwarding examples of abuse described in the paragraphs (b) and (c) to the appropriate authorities for investigation.

Verification
of legitimacy
and validity
of documents.

38.(1) Upon request by the appropriate authority or representative of another state, the Minister of Home Affairs shall verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued by such authority and suspected of being used for trafficking in persons.

(2) The Minister of Home Affairs shall assign an appropriate officer to respond to inquiries mentioned in subsection (1) or to establish procedures for responding to such inquiries in a regular and timely fashion.

EXPLANATORY MEMORANDUM

This Bill provides comprehensive measures to combat trafficking in persons.

PART I of the Bill contains the short title of the Act and defines a number of words and expressions. "Abuse of a position of vulnerability" means the abuse that the person believes he has no alternative but to submit to. "Debt bondage means the conditions of a debtor arising from his pledge of personal services as a security for a debt when the services are not limited and defined. Words defined include "exploitation", "servitude", "slavery".

PART II of the Bill deals with criminal offences and related provisions. Clause 3 prescribes the penalty for trafficking in persons. The unlawful withholding of identification papers is an offence (clause 4). Transporting a person across an international border for the purpose of exploiting such person's prostitution is an offence with a fine of two million dollars and imprisonment for ten years.

Where a defendant is convicted of trafficking in persons the court shall order the payment of restitution to the victim and all property of the defendant used in the course of the crime shall be forfeited to the State (clauses 6 and 7). Legal age of consent to sex or of marriage shall not be used as a defence to trafficking (clause 10).

PART III deals with assistance and protection for victims. Investigative and other authorities shall identify victims of trafficking to prevent their re-capture. (clause 13).

In any prosecution for trafficking in persons the identity of the victims should be kept confidential; they should be informed of their legal rights and provided an opportunity to present their views and concerns (clauses 15, 16, 17). Support services should be provided for victims of trafficking including housing, counseling, medical and legal assistance. Victims shall be eligible to work (clause 18). Victims shall be provided permits to remain in Guyana: they shall be eligible for residence in Guyana.(clause 19)

The Government through its diplomatic missions and consular offices abroad shall offer assistance to citizens or persons holding permanent residency in another country who are victims of trafficking in persons located abroad. (clause 20). Upon request by another State Guyana shall verify if a person who is a victim of trafficking in persons is a citizen or national of or holds permanent residency in, Guyana. (clause 21). Victims of trafficking shall be returned to their country of citizenship and victims abroad unable to prove citizenship of Guyana through normal channels may do so by demonstrating significant connections to this country, (clause 22 and 23).

PART IV deals with misuse of commercial transportation. International transportation companies have a duty to verify that passengers possess the necessary travel documents – passports, visas, to enter the destination country or a transit country and repeated failure to comply with this provision may lead to revocation of licences. (clause 26) Governments should take steps to educate citizens about sex tourism and there should be measures in place to ensure the safety of children traveling unattended across international borders. (clause 28 and 29).

PART V deals with prevention of trafficking for which there shall be an international task force including all aspects of trafficking – sex trafficking and labour trafficking (clause 30). The Government shall collect and periodically publish data on trafficking and provide training for law enforcement, immigration and other officials and prepare public awareness programmes to educate potential victims of trafficking of the risk of becoming victims through the use of debt bondage, exposure to HIV/AIDS and other sexually transmitted diseases.

PART VI deals with security and control of documents. Such documents should be of such a standard that they cannot easily be misused, readily falsified or unlawfully altered, replicated or issued. Upon request by another State the Government shall verify the validity of travel or identity documents.

Bibi Shadick.

Minister within the Ministry of Labour, Human Services and Social Security.