

CONTENTS

I.	Introduction	1 - 1
II.	Revised Draft Articles of the Model Legislation Against Trafficking in Persons Especially Women and Children	2 - 10
	Article 1: Short Title and Extent	2 - 2
	Explanatory Notes on Article 1	2 - 2
	Article 2 – Purpose of the Act/Law	2 - 3
	Explanatory Notes on Article 2	3 - 3
	Article 3 - Definitions / Interpretations	3 - 4
	Explanatory Notes on Article 3	4 - 8
	Article 4 – Scope of Application	8 - 8
	Explanatory Notes on Article 4	8 - 9
	Article 5 – Application of other International Agreements	9 - 9
	Explanatory Notes on Article 5	9 - 10
	Article 6 – Criminalization	10 - 10
	Explanatory Notes on Article 6	10 – 10
	Annex – I	11 - 13

I. INTRODUCTION

1. At the Forty-Third Session (2004, Bali, Republic of Indonesia), resolution (RES/43/SP 1) reiterating the need to prepare an outline of the model law and to draft model legislation against trafficking in persons especially women and children was adopted.¹ As a preliminary step towards fulfilling this mandate entrusted to the Secretary-General of AALCO and as an initial step towards drafting a Model Law, the Secretariat had studied the national legislations received from the Member States of AALCO and prepared an outline of the model legislation. During the Forty-Fifth Session (2006, New Delhi, India) a set of draft Preamble and 5 Articles was prepared and circulated among the Member States.² At the Session, Member States were requested to give their valuable suggestion and comments, based on which the AALCO Secretariat had sent reminders to all its Member States. The People's Republic of Bangladesh had responded to the reminder letter and has provided to the Secretariat its written comments on the preliminary draft articles.³

2. This part of the Model Legislation is the **revised version of the Draft Articles**⁴ circulated to the Member States during the Forty-Fifth Session of AALCO. It would be highly appreciable if the Member States would provide the Secretariat with their valuable suggestions and changes for the adoption of the Model Legislation. Trafficking in persons especially women and children is a contemporary and complicated problem which requires a multifaceted approach. This model legislation could serve as the basis for facilitating further discussion among Member States and the Secretariat would highly appreciate comments and observations from the Member States.

3. After its presentation at the last session and carefully going through the contents of the model legislation it was realized that the earlier version presented by the Secretariat was in the form of a Convention which would have been more binding on Member States. However, the earlier model legislations prepared by the Secretariat were in the form of Model Acts, which could easily enacted in its national legislation by any State desirous of doing so. Also keeping in view the mandate given, the Secretariat reformulated the previous draft articles in the form of Model Act, which can be adopted as a national legislation by Member States once it is finalized.

¹ The resolution directed the Secretary-General to develop, in cooperation with Member States, a Model Law for the criminalisation of trafficking in persons as well as protection of victims of trafficking based on human rights approach with a view to developing a concrete action plan for a joint effort against trafficking in persons, especially women and children.

² The first set of Draft Preamble and Articles were circulated at the Session as an addendum-AALCO/45/HEADQUARTERS SESSION (NEW DELHI)/2006/SD/S 9/ADD.1.

³ The reply letter of People's Republic of Bangladesh, in response to the reminder letter sent by AALCO to all its Member States dated 19 December, 2006, has been annexed as Annex-1 to this document.

⁴ *The changed or the modified version of every draft articles would be italicized for the purpose of differentiating it from the earlier version. For the background information on draft articles please refer to the last year's addendum-AALCO/45/HEADQUARTERS SESSION (NEW DELHI)/2006/SD/S 9/ADD.1. Issues on how women are trafficked, interface between trafficking and refugee protection, causes of trafficking in persons, counter-trafficking strategy: A gender and human Rights perspective etc..., have been discussed at length in the above-mentioned addendum.*

II. REVISED DRAFT ARTICLES OF THE MODEL LEGISLATION AGAINST TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN

An Act/Law for the prevention, penalization and eradication of trafficking in persons especially women and children within the territory of this State.

Be it enacted by (as, for example, the Parliament, or the President and Parliament, etc of the concerned country) as follows:

ARTICLE 1 –TITLE AND EXTENT

1. *This Act/Law shall be called **Prevention, Penalization and Eradication of Trafficking in Persons, Especially Women and Children Act/Law**, --- {Name of the State and year of enactment}.*
2. *It extends to the whole of {Name of the State}.*

Explanatory notes

On

ARTICLE 1: TITLE AND EXTENT

4. The draft articles for the proposed model legislation is framed as per the mandate entrusted to the Secretary-General of AALCO vide resolution (RES/43/SP 1) adopted at the Forty-Third Session of AALCO held in Bali (Republic of Indonesia) in 2004. The short title has been drafted with an objective to solve the problem of trafficking within a State (especially AALCO Member State) and to combat and eradicate this menace from the State. The word ‘*prevention*’ and ‘*penalization*’ has been taken from the Trafficking in Persons Protocol and the word ‘*eradication*’ has been taken from the National Policy and Plan of Action for the Prevention and Eradication of the Commercial Sexual Exploitation of Children, 1996 from Thailand.⁵

ARTICLE 2 –PURPOSE OF THE ACT / LAW

The purposes of *this Act/Law are to combat and criminalise* trafficking in persons, especially women and children, within this State, *inter alia*;

⁵ Thailand had previously given its existing policies and legislations to the Secretariat on the issue of trafficking in women and children, namely; (i) National Policy and Plan of Action for the Prevention and Eradication of the Commercial Sexual Exploitation of Children, 1996; (ii) The Prostitution Prevention and Suppression Act, 1996; (iii) The Measures in Prevention and Suppression of Trafficking in Women and Children Act, 1997; and (iv) The Penal Code Amendment Act, 1997.

- (a) To prevent and combat trafficking in persons, and accord to them full protection of law, including those who seek asylum and also people smuggled as migrant workers;
- (b) To protect and assist the victims of such trafficking by guaranteeing to them their basic human rights apart from repatriating and rehabilitating the victims of trafficking; and
- (c) To promote cooperation among *its regulatory authorities and take measures regionally or bilaterally* to attain those objectives.

Explanatory notes

On

ARTICLE 2: PURPOSE OF THE ACT / LAW

5. This provision has been drafted in accordance with Article 2 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children read with Guideline 1 of the Office of the High Commissioner for Human Rights (hereafter referred to as OHCHR) Recommended Principles on Promotion and Protection of Human Rights. This provision further emphasizes the rights of the trafficked person. The intention for the inclusion of the rights of the asylum seekers is in accordance with Convention relating to the Status of Refugees, 1951 and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

ARTICLE 3 – DEFINITIONS / INTERPRETATIONS

For the purpose of this *Act/Law*:

- 1. “Child” means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.
- 2. “Trafficking in Persons” shall mean any act of selling or buying, recruitment, transportation, transfer, hiring, harbouring or receipt of persons including a child, by means of threat or use of force or other forms of coercion, or abduction, kidnapping, of fraud, deception, of the abuse of power or of a position of vulnerability or by giving or receiving of payments as consideration or favours in order to achieve the consent of a person including a child, having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery servitudes or the removal of organs.
- 3. “Traffickers” means any person, group of persons, agencies or entities or institutions and also organizations engaged in any form of trafficking as mentioned under the definition of trafficking in persons in Article 3(2) of this Act/Law.

4. “Prostitution” shall include sexual exploitation or abuse of persons, forcing a person to use one’s body for sexual activities or intercourse, with or without the consent of the person trafficked, for some consideration. Such an act of prostitution may also be the result of the trafficked person or victims being either a refugee or a migrant worker who was smuggled into the State.
5. “Criminal offence” shall include
 - (a) Any act of trafficking, attempt to traffic for the purpose of prostitution, exploitation, forced labour, slavery, servitude etc.
 - (b) An accomplice, participating in the conspiracy to traffic persons especially women and children or commit any offence mentioned under Article 3(5)(a); and
 - (c) Organizing or directing other persons to commit such an offence as mentioned under this definition.

Explanatory notes

On

ARTICLE 3: DEFINITIONS / INTERPRETATIONS⁶

6. “**Child**”: The definition of child has been taken from Article 1 of the Convention on the Rights of Child, 1989. Article 1 of the said Convention reads thus:

“For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

7. As per the commentaries and elaboration of the definition of child, it says that a child is a person under 18, unless national laws recognize the age of majority earlier. The Convention clearly specifies the upper age limit for childhood as 18 years, but recognizes that the majority can be obtained at an earlier age under laws applicable to the child. The article thus accommodates the concept of advancement of majority at an earlier age in accordance with the laws of the country. Further, most of the national legislations of the Member States of AALCO (sent by Member States upon the request of the Secretariat to draft the model legislation)⁷ defines ‘child’ as defined in this Draft model legislation. Trafficking occurs when a child's protective environment collapses from such things as conflict, economic hardship and discrimination. The underlying causes of commercial

⁶ The word ‘interpretation’ has been used because few of AALCO’s Member States have referred to the definition clause as Interpretations.

⁷ So far the Secretariat has received responses from the following Member States relating to their respective national legislations on the topic: **Tanzania, Sultanate of Oman, Singapore, People’s Republic of China, Republic of Korea, Philippines, Japan, Mauritius, Cyprus, Ghana, Qatar, United Arab Emirates, Sudan, Nepal, Lebanon, Myanmar, Syrian Arab Republic, Arab Republic of Egypt, Malaysia, The Republic of Uganda, Thailand and Kuwait.**

sexual exploitation of children include poverty, gender discrimination, war, organized crime, globalization, greed, traditions and beliefs, family dysfunction, and the drug trade. Traditional attitudes and practices, early marriage, and lack of birth registration further increase the vulnerability of children and women exploitation (since the lack of birth registration leads to difficulties in proving the national identity of the children). Poverty can create a desperate situation for many women and children, making them marks for manipulation. Other important factors are sexual and economic exploitation, including the demand for cheap domestic and agricultural labour. The conflict-related demand for child soldiers; demand related to adoption; and the trafficking in body parts.

8. **“Trafficking in Persons”**: Unlike the definition in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children⁸ and South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children, this definition is broader and exhaustive. The definition though similar to the definition in Protocol, it includes words like “selling or buying” as given under SAARC Convention, “hiring”, “including a child”, “kidnapping”, “as consideration or favours in order to achieve” etc (which has been underlined) in order to combat trafficking and regulate the factors responsible for trafficking in any form. The intention for inclusion of the phrase ‘consent of the child’ is to acknowledge the fact that often consent of the child is obtained fraudulently and children are more vulnerable to kidnapping by the chain of traffickers.

9. **“Selling or buying”**: The practice of trafficking within the countries of South-Asia is widely known for the sale and purchase of young girls or children for the purpose of prostitution. Such a sale or purchase of girls is generally through agents upon payment of some money to the parents of the child. Such a meager amount which the parents or near relatives (due to social causes like poverty) receive in lieu of the child is known as “price” or consideration. Later, the child or then the victim is required to repay this “price” or consideration as a ‘debt’ towards the recruitment of the child to the job. Under these circumstances, it becomes necessary to curtail this practice of selling or buying.

10. **Hiring**: This can be termed as a confirmation of the crime wherein the trafficker uses the persons, women or children as a ‘goods’ and gives them to the next chain of the traffickers. This means, in the case of women and children who have been fraudulently migrated to another country on false travel documents as migrant workers’ or ‘recruited jobs are handed over to pimps, or brothel owners. These pimps and brothel owners would hire them and then train them (by forcing them) before they become adjusted to their ‘jobs’.

⁸ Article 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children defines "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

11. “Including a child”: Often the demand for young girls between the age-group of 12-15 years is high. These children are the ones who fall prey to such selling or buying. Hence they are to be included in this category. Further, the advantage lies in the fact that they can be easily forced to give consent to this crime.

12. “Kidnapping” is a word used for taking a person forcibly and fraudulently from the custody of lawful guardianship. This includes two kinds of kidnapping:

- (i) Kidnapping from one’s own country
- (ii) Kidnapping from the custody of lawful guardianship of parents or from whose custody the person lives.

13. Though there is a widespread consensus that forced recruitment, through practices such as kidnapping, is ‘rare’, research evidence, however, suggests that about 10% of detected girls were kidnapped, and that there are even higher rates in some countries and areas. Both these kinds of kidnapping is highly essential in curbing trafficking because this form of kidnapping or luring young girls and boys for the purpose of prostitution or forced labour is prevalent in every community, though it is punishable under their respective national criminal laws.

14. “Traffickers”: The definition includes the words “group of persons” which though not included in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and SAARC Convention, is significant because the conspirer and the one who facilitates the recruitment need not necessarily be any organization. Therefore, it means more than one or two persons who have been involved in conspiring to traffic or smuggle persons within the State or into another country. Every conspirer involved in even one stage of trafficking is regarded as a criminal and hence the whole group consists of a network of traffickers. Hence are subject to be made liable for such criminal offence.

15. “Prostitution”: Prostitution as defined by Thailand’s legislation on “The Prostitution and Suppression Act, 1996” under Section 4 reads thus;

“Prostitution means the acceptance of sexual intercourse, the acceptance of any other act, or the commission of any act for sexual gratification of another person in a promiscuous manner, in order to gain financial or other benefits, no matter whether the person who accepts such act and the person who commits such act are of the same or opposite sex.”

16. The term “forced prostitution” has been advocated in UN circles ever since the Fourth World Women's Conference in Beijing which resulted in the adoption of United Nations Declaration on Violence against Women and the Platform of Action.⁹ The necessity of defining the term “prostitution” arises because majority of the persons are compelled to work as a prostitute (including those persons who are smuggled as migrant workers too and also those who seek asylum as refugee). It literally means sexual exploitation for the commercial purposes. The term ‘with or without consent’ is included

⁹ Beijing Declaration and Platform for Action, Report of the Fourth World Conference on Women, UN Doc. A/CONF.177/20, Para. 145 (d).

to emphasize that those countries which has legalized prostitution, make necessary amendments to their national laws in order to rehabilitate these prostitutes who would like to come out of such a profession and wants to start a new life. Therefore, they should not be revictimized. But, under this pretext brothel owners and the head of brothels cannot be included.

17. Hence, only those women and children, who work under some superior or recruiting person, or employer, shall be allowed to plead for rehabilitation and confessions. There are in fact two views: (i) legalized prostitution where it is 'sex work' and workers argue and demand for better working and health conditions; and (ii) where, people consider prostitution per se as violative of women's rights.

- Many non-government organizations (NGOs) view trafficking in women as an important issue. There is disagreement on whether prostitution is violence against women or not (when there is a consent on the part of the victim),¹⁰ on how to handle trafficking and prostitution. Wherein the key conflict lies in differing viewpoints on prostitution itself. On the one hand, it is accepted that prostitution is a menace and violative of women's basic human rights and on the other hand, it is considered as a sex work which argues for the more protection to prostitutes in terms of their labour rights.
- Some organizations want to treat trafficking and prostitution as aspects of the same problem and consequently fight both at the same time. This approach causes problems for organizations wanting to stop trafficking in women and simultaneously wants to legalize prostitution in order to argue for better standards for the prostitutes. Discussions are underway and many NGOs try to exclude prostitution from the discussion of trafficking in order to obtain some sort of consensus.

18. However, when examining the nature of prostitution deeply, its health effects, its dynamics, it is clear that notions of legalizing prostitution are incompatible with maintaining the dignity of a human being. Prostitution and trafficking are not victimless crimes, or just another form of work, as pimps and apologists for the sex industry would have us believe. Even when women voluntarily enter into these situations, in hope of making money or finding a better life, the dynamics of the brutal, often illegal sex industry, quickly leave the women with few other options and powerless to leave the 'job'. Observers of the evolution of the United Nations World Conferences on Women would attest that building a consensus for resolutions has not come easily at many of these forums. The objectives of women from Third World countries, more preoccupied with economic marginalization, debt crises, restrictive monetary policies, and militarization, had different perspectives and priorities than women from the more privileged nations. The responses of many women from Third World countries to Western feminists' demands for reproductive rights were dismissive. The First World Conference on Women, held in Mexico City in 1975, the agenda was marked by conflict

¹⁰ Janice G. Raymond, "Prostitution As Violence Against Women: Ngo Stonewalling In Beijing And Elsewhere" *Women's Studies International Forum*, Vol. 21, No. 1, pp. 1-9, 1998.

regarding who should define its focus and parameters. The second conference in Copenhagen in 1980 and the conference in Nairobi in 1985 were equally controversial.¹¹

19. Since the trafficking of women for purposes of sexual exploitation is not a new phenomenon and international laws were drafted and ratified in the earlier half of this century, in 1949, the United Nations General Assembly passed the Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others. The Convention states "prostitution and the accompanying evil of the trafficking in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community." The 1949 United Nations Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others has not been widely ratified and lacks a monitoring body, so it has had limited impact against the transnational trafficking of women.

20. **"Criminal offence"**: It makes every offence, related to trafficking, attempting organizing, for the purpose of prostitution as violative of penal laws. Hence, those who commit such a criminal offence is liable to be punished with imprisonment and fine, which shall be used to rehabilitate the prostitutes. The exhaustive definition of "traffickers" and "criminal offence" is for the purpose of making persons engaged in organizing, attempting or conspiring to traffic to be punished provided the grievousness of the penalty would depend upon the nature of the criminal offence committed.

ARTICLE 4 - SCOPE OF APPLICATION

1. This *Act/Law* shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with Article 3(5) and Article 6 of this *Act/Law*, where those offences are committed within the territory of this State and involves an organized criminal group.

2. *Notwithstanding anything contained in this article, this Act/Law may ensure the protection of victims of such offences assuring that those victims shall not be revictimized and criminalized in future.*

Explanatory notes On

ARTICLE 4 – SCOPE OF APPLICATION

21. This provision is similar to the Article 4 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, with addition of few words in the provision such as "assuring that those victims shall not be revictimized and criminalized in future". The inclusion of such a phrase is for the purpose of protecting the victim from revictimization and for guaranteeing their human rights. States shall

¹¹ L. Amede Obiora, Feminism, Globalism and Culture 4 Ind. J. Global Legal Stud. 2 (1999) at <http://www.law.indiana.edu/glsj/vol4/no2/obipgp.html>.

include in their national legislation, ways and means to rehabilitate the prostitutes or victims of trafficking through providing them with education, to undertake training programmes so that they can stay independently at a later stage etc. Moreover, if any criminal proceedings are initiated against trafficked person, they shall be not be denied their right as an accused which primarily includes right to receive legal aid, right to be heard, right to defend their case, etc. and not to be subjected to humiliating and inhumane treatment, torture etc. in order to adduce evidence.

ARTICLE 5 - APPLICATION OF OTHER INTERNATIONAL AGREEMENTS

The application and interpretation of law with respect to enforcing victim's human rights must be consistent with internationally recognized human rights as enshrined under the human rights treaties and be without any adverse distinction found on grounds such as gender, age, race, colour, language, religion or belief, political or other opinion, national ethnic or social origin, wealth, birth or other status.

Explanatory notes

On

ARTICLE 5 - APPLICATION OF OTHER INTERNATIONAL AGREEMENT

22. Application of the International Agreement shall be with a view to uphold the human rights treaties and trafficking Convention for enforcing the human rights of the victims. The Conventions that have significance here are UN Convention against Transnational Organized Crime, 2000; Protocol to Prevent, Suppress and punish Trafficking in Persons, especially Women and Children 2000; Recommended Principles and Guidelines on Human Rights and Human Trafficking: Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council; Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights, 1966; Convention against Torture and other Cruel, Inhuman or Degrading treatment or Punishment, 1984; Convention on the Elimination of All Forms of Discrimination against Women, 1979; International Convention on the Elimination of All Forms of Racial Discrimination, 1965; Convention on the Rights of the Child, 1989; Optional Protocol to the Convention on the Rights of Child on the Sale of Children, Child Prostitution and Child Pornography, 2000; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956; ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (ILO Convention No. 182); Convention relating to the Status of Refugees, 1951 and its 1967 Protocol.

23. Application of these international conventions shall be essential for the victim for arguing their case on the legal proceedings initiated, if any, against them. Further, during trial they should not be subjected to torture or any other inhuman treatment, which may

be inflicted in order to adduce evidences. Hence, there is a need to protect the victims by guaranteeing and restoring their basic human rights. The word ‘wealth’ has been included to emphasize that there shall be no discrimination among the victims in terms of their economic position. This however does not imply that this ground should be treated as an exception to extract the proceeds of the crime, rather the larger the network and the proceeds of the crime, the heavier should be the penalty to be inflicted upon the persons involved in trafficking.

ARTICLE 6 – CRIMINALIZATION

1. *The State shall ensure that all acts of trafficking are offences under its criminal law. Every act or omission, attempt to commit trafficking, on the part of trafficker shall be subject to severe penalties.*

2. *The State shall consider trafficking in persons, especially, women and children as serious criminal offence and the offender shall be made subject to appropriate penalties in accordance with this Act/Law or under its criminal law.*

Explanatory notes

On

ARTICLE 6 – CRIMINALIZATION

24. This provision has been formulated in accordance with Article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1948.¹² The significance of this provision lies in the emphasis it gives to ‘all acts of trafficking’ which covers every act of trafficking and the group of persons who commit it, provided the punishment for each crime shall be given in accordance with the nature and gravity of the offence committed. Further, each State must make provisions in their criminal law, which shall be applied to punish the trafficker. The nature of the penalties shall depend on the criminal laws of the respective Member States.

¹² Article 4 –

(i) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

(ii) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

ANNEX - I

Ministry of Foreign Affairs
Government of the People's Republic of Bangladesh,
Dhaka.

No.DLA(LTM)-257/07

The Ministry of Foreign Affairs of the Government of the People's Republic of Bangladesh presents its compliments to the Asian-African Legal Consultative Organization (AALCO) Secretariat and has the honour to refer to the latter's letter No.ETAW&C/211/211/2006/AALCO of 19 December, 2006 on soliciting of member states comments suggestions on the draft Legislation Against Trafficking in Persons Especially Women & Children and would like to inform that some Comments/suggestions on the draft Model Legislation have been formulated in consultation with the relevant authorities (Comments enclosed herewith).

The Ministry of Foreign Affairs of the government of the People's Republic of Bangladesh avails itself of this opportunity to renew to the AALCO Secretariat of it's highest consideration.

Enclo: Bangladesh Comments/Suggestions on the AALCO
draft model Legislation Against Trafficking in Persons
Especially, Women & Children (One page).

Dated: 20 February 2007

The Asian-African Legal Consultative Organization (AALCO) Secretariat
E-66 Vasant Marg, Vasant Vihar
New Delhi – 110057, INDIA,
Fax: 091-11-26152041, E-mail: aalcc@vsnl.com

Copy for kind information to : Bangladesh High Commission, New Delhi, India.

Ministry of Foreign Affairs
Government of the People's Republic of Bangladesh,
Dhaka

No.DLA(LATM)-257(1)07

20 February 2007

Subject: Soliciting of AALCO Member States Comments on the draft model Legislation Against Trafficking in Persons Especially Women & Children.

Reference: AALCO Secretariat letter No.ETAW&C/211/2006/AALCO of 19 December, 2006.

Bangladesh highly appreciates the important and noble task of drafting the Model Legislation Against Trafficking in Persons Especially Women & Children by the AALCO Secretariat. Relevant authorities of the Government of Bangladesh including the Legal & Treaty Wing of the Ministry of Foreign Affairs Examined the draft Legislation with keen interest.

And taking the opportunity of Resolution No.RES/45/S9 dated 8 April, 2006 adopted at the Forty Five Session, following comments/suggestions are made for consideration of AALCO Secretariat.

1. Now a days trafficking of human being, especially Women & Children has become a cross-border offence, With a view to address this cross-border issue effectively close cooperation between the states appears to be imperative. So, some more articles/Provisions may be incorporated in the convention as regards following:
 - (a) Provision for coordination between the law enforcing agencies of state parties;
 - (b) Provisions for bilateral or multilateral agreements for extradition of traffickers, their abettors for the purpose of prosecution;
 - (c) Provisions for treating offences under this convention as extraditable offences;
 - (d) Provision for extending Legal & Judicial Assistance for the purpose of arrest, investigation and prosecution of traffickers and their abettors;
 - (e) Provisions for treatment and repatriation of the trafficked persons to their country of origin;
 - (f) Provision for setting up of a International monitoring body for exchanging information;
 - (g) Provision for providing appropriate counseling and legal assistance to the victims by the Judicial authorities in member states;
 - (h) Provision empowering member states/state parties to this convention for adopting in accordance with their respective Constitution the legislative and other measures necessary to ensure the implementation of the Conventions;
 - (i) Provision for signature, Ratification/accession by the member states;
 - (j) Provision for designation of a depositary;
 - (k) Provision for entry into force of the convention;

- (1) Provision for 'Depositing' of the Convention with the designated depositary.
2. The draft Model Legislation contains only 5 Articles and appears to be in exhaustive Therefore, with a view to make the Convention more exhaustive and meaningful aiming at fulfilling the objects & purposes of the Convention, comments/suggestions made above may be taken into consideration for incorporating those in the body of the draft Legislation.

With thanks.

(Mohammad Tarik Haider)
Deputy Legal Adviser
Tel: 9556027, Fax: 9555283 (O)

The Asian-African Legal Consultative Organization (AALCO) Secretariat.
E-66, Vasant Marg, Vasant Vihar
New Delhi-110057, INDIA.
Fax: 091-11-26152041 E-Mail: aalcc@vsnl.com