

Israel

Prohibition of Trafficking in Persons

(Legislative Amendments) Law, 5766 – 2006

1. Amendment of the Penal Law

In the Penal Law, 5737 - 1977^[1] –

- (1) The end of section 15(b), beginning with the word "bigamy", shall be replaced by "one of these, and it is committed by a person who was a citizen of Israel at the time of the commission of the offense:
 - (1) bigamy according to section 176;
 - (2) an offense according to Article 10 of Chapter 8 that was committed on, or in connection with, a minor;
 - (3) conveying a person beyond the boundaries of the State according to section 370;
 - (4) Instigating a person to leave the State for purposes of prostitution or slavery according to section 376B;
 - (5) Trafficking in persons according to section 377A.
- (2) Section 203A is hereby repealed;
- (3) In section 203B, , "202, 203 or 203A" shall be replaced by "202 or 203";
- (4) In section 368D(h), the definition "offense" shall be replaced by ""offense" – one of these:
 - (1) prostitution and obscenity offense according to sections 199, 201, 202, 203, 203B, 203C, 205A and 214(B1);
 - (2) an offense of endangering life and health according to section 337;
 - (3) a sexual offense according to sections 345, 346, 347, 347A, 348 and 351;

^[1] *Sefer Ha-Chukkim* 5737, p. 226; 5766, p. 230.

- (4) an offense of abandonment or neglect according to sections 361 and 362;
 - (5) an offense of assault or abuse according to sections 368B and 368C;
 - (6) an offence of trafficking in persons according to section 377A";
- (5) In section 370 –
- (a) The head note shall be replaced by "Conveying a Person Beyond the Boundaries of the State";
 - (b) after "beyond the boundaries of the State" shall be inserted "in which the said person is staying";
 - (c) "imprisonment for twenty years" shall be replaced by "ten years imprisonment ";
- (6) In section 374 –
- (a) in the head note, "or a sexual offense" shall be replaced by "Grievous";
 - (b) "grievous, to prohibited sexual contact or a life of prostitution" shall be replaced by "grievous";
- (7) After section 374 shall be added:
- "374A. Abducting for Purposes of Trafficking in Persons
- One who abducts a person for one of the purposes set forth in section 377A(a) or in order to place the person in one of the dangers set forth in the said section shall be liable to twenty years imprisonment ."
- (8) After section 375 shall be added:
- "375A. Holding a Person under Conditions of Slavery
- (a) Anyone holding a person under conditions of slavery for the purposes of work or services, including sex services - is liable to sixteen years imprisonment.

(b) Where an offense according to subsection (a) is committed against a minor, the offender is liable to twenty years imprisonment.

(c) In this article, "slavery" means a situation under which powers generally exercised towards property are exercised over a person; in this matter, substantive control over the life of a person or denial of his liberty shall be deemed use of powers as stated."

(9) Section 376 shall be replaced by the following:

"376. Forced Labor

Anyone who unlawfully forces a person to work, by using force or other means of pressure or by threat of one of these, or by consent elicited by means of fraud, whether or not for consideration, shall be liable to seven years imprisonment."

(10) In section 376A, "imprisonment for one year" shall be replaced by "three years imprisonment ; a person who so acts for one of the purposes set forth in section 377A(a) or by so doing places the person in one of the dangers set forth in the said section shall be liable to five years imprisonment";

(11) After section 376A shall be added:

376B Causing a Person to Leave A State for Purposes of Prostitution or Slavery

(a) Anyone who causes another person to leave the State in which he lives for purposes of engaging the person in prostitution or holding that person under conditions of slavery shall be liable to ten years imprisonment;

(b) Where an offense according to subsection (a) is committed against a minor, the offender is liable to fifteen years imprisonment."

(12) After section 377, before the heading "Article 8: Assault" shall be inserted:

377A. Trafficking in Persons

Anyone who carries on a transaction in a person for one of the following purposes or in so acting places the person in danger of one of the following, shall be liable to sixteen years imprisonment:

- (1) removing an organ from the person's body;
 - (2) giving birth to a child and taking the child away;
 - (3) subjecting the person to slavery;
 - (4) subjecting the person to forced labor;
 - (5) instigating the person to commit an act of prostitution;
 - (6) instigating the person to take part in an obscene publication or obscene display;
 - (7) committing a sexual offense against the person.
- (b) Where an offense according to subsection (a) is committed against a minor, the offender is liable to twenty years imprisonment.
- (c) The middleman in trafficking in a person as stated in subsection (a), whether or not for consideration, shall be considered as the trafficker of the said person.
- (d) In this section, "transaction in a person" means selling or buying a person or carrying out another transaction in a person, whether or not for consideration.

377B. Minimal Punishment for the Offense of Holding a Person under Conditions of Slavery and Trafficking in Persons

- (a) Where a person is convicted of an offense according to section 375A or 377A, the sentence imposed shall not be less than one-quarter of the maximum sentence set forth for the said offense, unless the court has decided, for special reasons that shall be recorded, to impose a more lenient sentence.

- (b) A sentence of imprisonment according to subsection (a) shall not be wholly suspended, unless there are no special reasons.

377C. Obligation to Detail Reasons for not Awarding a Compensation

Where a person is convicted of an offense according to section 375A or 377A, and the court does not award compensatory damages according to section 77, the court shall specify in its judgment the reasons for the failure to order compensation as stated.

377D. Forfeiture

- (a) In this section and in section 377E –

"Combating Criminal Organizations Law" means the Combating Criminal Organizations Law, 5763 – 2003^[2];

"victim of an offense" means a person who is directly injured by an offense and a family member of a person who died as a result of the offense;

"offense" means the offense of holding under conditions of slavery according to section 375A and the offense of trafficking in persons according to section 377A;

"property" and "property related to an offense" have the same meaning as in the Combating Criminal Organizations Law.

- (b) The provisions of sections 5 to 33 of the Combating Criminal Organizations Law, except for sections 8, 14(2) and 31 of the said law, shall apply to the forfeiture of property related to an offense, as the case may be and *mutatis mutandis*.

- (c) Subject to the provisions of subsection (b), property that is subject to forfeiture according to the provisions of this part and also according to the provisions of the Combating Criminal Organizations Law or the Prohibition of Money

^[2] *Sefer Ha-Chukkim* 5763, p. 502.

Laundering Law, 5760 – 2000,^[3] shall be forfeited according to the provisions of this Law, unless there are special reasons justifying that the forfeiture of the property not be carried out according to the provisions of this part.

- (d) The Minister of Justice, with the approval of the Constitution, Law and Justice Committee of the Knesset, shall promulgate in regulations provisions regarding procedural rules in the matter of an application for a forfeiture order in a criminal or civil proceeding, proceedings for the hearing of objections to the forfeiture, application for steps to safeguard property, temporary relief, rehearing, appeal, and also provisions on the ways to effectuate the forfeiture, administer the assets and give notice to persons claiming right in the property.

377E. Special Fund

- (a) The decision of the court on forfeiture according to section 377D shall serve as a basis for the Administrator General to seize the forfeited property; property that has been forfeited, or the consideration thereof, shall be transferred to the Administrator General and deposited by him in a special fund that shall be administered in accordance with the regulations that shall be promulgated according to subsection (d) (in this section – the Fund).
- (b) A fine imposed by the court for an offense shall be deposited in the Fund.
- (c) Where a victim of an offense presents, to an entity determined by the Minister of Justice for this purpose, a judgment for compensation and shows that he has no reasonable possibility to realize all or part of the judgment, according to any law, the victim of the offense shall be paid

^[3] *Sefer Ha-Chukkim*, p. 293.

from the Fund the compensation set forth in the judgment that has not been paid, all or part thereof; for the purposes of this section, "judgment" means a judgment that may no longer be appealed.

(d) The Minister of Justice, with the approval of the Constitution, Law and Justice Committee of the Knesset, shall promulgate in regulations the methods of administering the Fund, the use to be made of the Fund's assets, and the manner of their distribution for these purposes:

- (1) rehabilitation, treatment, and protection of victims of an offense; for this purpose, there shall be allocated annually an amount not less than one half of the Fund's assets in one year;
- (2) payment of compensation awarded in a judgment to a victim of an offense, in accordance with the provisions of subsection (c);
- (3) prevention of the commission of an offense;
- (4) carrying out the functions of law enforcement authorities in enforcing the provisions of this Law in respect to an offense."

(13) In section 431, at the beginning, "one year imprisonment" shall be replaced by "three years imprisonment".

2. Amendment of Procedure (Interrogation of Witnesses) Law

In the Amendment of Procedure (Examination of Witnesses) Law, 5718 – 1957^[4] –

(1) In section 2B –

- (a) In every place, the words "for the purpose of prostitution" shall be deleted;

^[4] *Sefer Ha-Chukkim* 5718, p. 16; 5764, p. 532.

(b) In subsection (e), the definition of "offense of trafficking in persons for the purpose of prostitution" shall be replaced by:

" "offense of trafficking in persons" - the offense of trafficking in persons for one of the purposes set forth in paragraphs (5) to (7) in section 377A(a) of the Penal Law or which action places the person in one of the dangers set forth in the said paragraphs";

(2) In section 2C(c), the words "for the purpose of prostitution" shall be deleted;

(3) In the Schedule, in paragraph (a), the word "203A," shall be deleted, and after "351(a), (b), (c)(1) and (c)(2)" shall be inserted "and the offense of trafficking in persons according to section 377A(a)(5)".

3. Amendment of the Legal Aid Law

In the Legal Aid Law, 5732 - 1972^[5] (hereafter – the Legal Aid Law), in the Schedule, in paragraph 1, "section 203A" shall be replaced by "section 377A(a)(5)".

4. Legal Aid Law – Temporary Order

During the period from the date of publication of this law to 15 Elul 5768 (15 September 2008), paragraph 1 in the First Schedule to the Legal Aid Law shall be read in the wording of section 3 of this Law, as if instead of "section 377A(a)(5)" is stated "section 375A or 377A(a)".

5. Amendment of the Criminal Procedure Law [Consolidated Version], 5742 – 1982^[6] –

(1) In section 62A(a), in the definition of "sexual offense or offense of violence", the word "203A," shall be deleted, and after "377 under aggravated circumstances" shall be inserted "offense of trafficking in persons according to section 377A(a)(5),";

(2) In section 117(b), "according to section 203A" shall be replaced by "according to section 377A".

^[5] *Sefer Ha-Chukkim* 5732, p. 95; 5765, p. 422.

^[6] *Sefer Ha-Chukkim* 5742, p. 43; 5766, p. 391.

6. Amendment of the Courts Law

In the Courts Law [Consolidated Version], 5744 – 1984^[7] –

(1) In section 68(b), after paragraph (8), shall be inserted:

"(9) For purpose of protecting the matter of a complainant or a victim of an offense according to section 377A of the Penal Law, 5737 – 1977.^[8]"

(2) In section 70(c), "sections 345 to 358, section 360 and sections 208 to 214" shall be replaced by "sections 208, 214, 345 to 352 and 377A".

7. Amendment of the Legal Assistance between States Law

In the Legal Assistance between States Law, 5758 – 1998, in the Second Schedule –

(1) In paragraph C2, at the beginning, the words "5737 – 1977" shall be deleted;

(2) After paragraph i shall be added:

"j. Offenses according to sections 375A and 377A of the Penal Law."

8. Amendment of the Prohibition of Money Laundering Law

In the Prohibition of Money Laundering Law, 5760 – 2000,^[9] in paragraph (3) of the First Schedule, the word "203A," shall be deleted.

9. Amendment of the Rights of Victims of an Offense Law

In the Rights of Victims of an Offense Law, 5761 – 2001 -^[10]

(1) In the First Schedule, in the part under the heading "Offenses in the Penal Law"–

(a) In paragraph 2, the word "203A," shall be deleted;

(b) In paragraph 7, "375, 376 and 377" shall be replaced by "374A, 375, 375A, 376, 376B, 377 and 377A";

^[7] *Sefer Ha-Chukkim* 5744, p. 198; 5766, p. 385.

^[8] *Sefer Ha-Chukkim* 5737, p. 226; 5765, p...

^[9] *Sefer Ha-Chukkim* 5760, p. 293; 5765, p. 913.

^[10] *Sefer Ha-Chukkim* 5761, p. 183; 5766, p. 244.

(2) In part 1, paragraph 6 of the First Schedule A, "in paragraph 7, except according to section 376" shall be replaced by "in paragraph 7".

10. Amendment of the Restriction on Use of a Place for Purposes of Preventing Commission of Offenses Law

In the Restriction on Use of a Place for Purposes of Preventing Commission of Offenses Law, 5765 – 2005,^[11] in section 1, in the definition "offense," in paragraph (3), "to engage in prostitution according to section 203A" shall be replaced by "according to section 377A(a)(5)".

^[11] *Sefer Ha-Chukkim* 5765, p. 426.