

The Law and the Church

**AN OVERVIEW OF THE LEGAL
FRAMEWORK PROTECTING
CHILDREN IN TRINIDAD
AND TOBAGO**

**LA ROMAINE
25TH JUNE, 2011.**

Law Protecting Children

- Issues concerning children are governed by the following Acts:
- Children Act - Ch 46:01
- Sexual Offences Act - Ch 11:28
- Trafficking In Persons Act – Act No. 14 of 2011
- Family Law (Guardianship of Minors, Domicile and Maintenance) Act- Ch 46:08
- Domestic Violence Act - Ch 45:56

Children Act Ch 46:01

- “child” means a person under the age of **fourteen (14) years**;

Sexual Offences Act: Ch 11: 28
Child – person **under 18 yrs**
Family Law(Guardianship of Minors)
Act Ch 46:08: a person **under the age of 18 years** is referred to as ‘a minor’;

Children Act Ch 46:01

- “**guardian**”: any person who, in the opinion of the Court...“**hasthe charge of / control over** the child,
- **legal guardian**”: a person **appointed**, according to law, to be guardian of the child by Deed, Will, or order of a Court of competent jurisdiction.

Children Act Ch 46:01

s3 Cruelty

(1) If any person over the age of sixteen years, who has the custody, charge, or care of any child or young person, wilfully **assaults, ill-treats, neglects, abandons, or exposes** the child or young person,

Children Act Ch 46:01

- **or causes or procures the child or young person to be assaulted, ill-treated, neglected, abandoned, or exposed**, in a manner likely to cause the child or young person unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement),

Children Act Ch 46:01

that person is liable,

- a) on conviction on indictment, to a fine of \$10,000.00, and /or 2 years imprisonment; and
- (b) on summary conviction, to a fine of \$5000.00 and /or 6 months imprisonment.

Children Act Ch 46:01

Neglect is defined as:

“the failure by a parent or other person responsible for maintaining a child or young person to provide **adequate food, clothing, medical aid, or lodging for the child or young person.**”

Children Act Ch 46:01

s4. **Death of infant**

Where it is proved that the death of an infant under three years of age was caused by **suffocation** (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) whilst the infant was in bed with some other person over sixteen years of age,

Children Act Ch 46:01

and that the other person was at the time of going to bed **under the influence of drink**, that other person shall be deemed to have neglected the infant in a manner likely to cause injury to its health within the meaning of this part.

Children Act Ch 46:01

s5 Begging

- (1) If any person **causes or procures any child or young person**, or, having the custody, charge, or care of a child or young person, **allows** that child or young person, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms, whether or not there is any **pretence of singing, playing, dancing, performing, offering anything for sale or otherwise**,

Children Act Ch 46:01

, **that person is liable, on summary conviction**, to a fine of one thousand dollars, or alternatively, or in addition thereto, to imprisonment for three months.

Children Act Ch 46:01

s6– Risk of burning

If any person over the age of 16 who has custody, charge or care of a child under the age of 7 years allows that child to be exposed to the risk of being burnt or scalded by a fire without taking reasonable precautions against that risk, and by reason thereof the child is killed or suffers serious injury is liable on summary conviction to a fine of **\$400.00**

Children Act Ch 46:01

S7 Child prostitution

(1) If any person having the custody, charge, or care of a child or young person between the ages of four and sixteen allows that child or young person **to reside in or to frequent a brothel**, he is liable, on conviction on indictment or summarily, to a fine of one thousand dollars, and /or to imprisonment for six months.

Children Act Ch 46:01

s8 (1) If any person having the custody, charge, or care of a child or young person under the age of sixteen years causes or **encourages the seduction or prostitution or unlawful carnal knowledge** of that child or young person, he is liable, on conviction on indictment, to **imprisonment for 5 years.**

Sexual Offences Act

s6 Sex with a minor

(1) Sex with a child under 14, whether or not she consents is an offence punishable with **life imprisonment**; whether or not at the time of the intercourse he believed her to be 14 years of age or more.

Sexual Offences Act

s7(1) Where a male person has sexual intercourse with a female person **who is not his wife, with her consent** and who is between the ages of **14 -16 yrs** he is guilty of an offence, and is liable on conviction to **imprisonment for 12 yrs for a first and 15 yrs for a subsequent offence.**

Sexual Offences Act

- (2) A male person is not guilty of an offence under subsection (1):
- (a) if he **honestly believed** that the female person was 16 years of age or more; or (b) if the male person is not more than three years older than the female person and the Court is of the opinion that the evidence discloses that as between the male person and the female person, the male person is **not wholly or chiefly to blame.**

Sexual Offences Act

s8. (1) Where a **female adult** has sexual intercourse with a male person who is not her husband and who is **under the age of 16 years, whether or not the male person consented to the intercourse**, she is guilty of an offence and is liable on conviction to imprisonment for 5 years.

Sexual Offences Act

- 2) A female adult is not guilty of an offence under subsection (1)—
- (a) if she **honestly believed** that the male person was sixteen years of age or more; or
- (b) if the female adult is not more than three years older than the male person and the Court is of the opinion that the evidence discloses that as between the female adult and the male person, the female adult is not wholly or chiefly to blame.

Sexual Offences Act

• S9 – Incest

9 (1) A person commits the offence of incest who, **knowing** that another person is by **blood relationship**, his or her parent, child, brother, sister, grandparent, grand-child, uncle, niece, aunt or nephew, has sexual intercourse with that person.

Sexual Offences Act

- (2) A person who commits the offence of incest is liable on conviction to imprisonment—
- (a) if committed by an adult with a person under fourteen years of age, **for life**;
- (b) if committed by an adult with a person fourteen years of age or more, **for life**;
- (c) if committed **between minors** fourteen years of age or more, **for two years**.

Sexual Offences Act

- (3) A person is not guilty of an offence under this section if that person committed the offence **under restraint, duress or fear**.
- (4) In this section,... “brother” includes half-brother and “sister” includes half-sister.

Sexual Offences Act

- s10. (1) An adult who has sexual intercourse with a minor who is the adult's **adopted child, stepchild, foster child, ward or dependant** in the adult's custody is guilty of an offence.
- (2) An adult who commits an offence under this section is liable on conviction to imprisonment—
 - (a) if committed with a minor under 14 years of age, **for life**;
 - (b) if committed with a minor 14 -18 yrs for **25 years**.
 - (3) An adult shall not be guilty of an offence under this section if the minor is the spouse of the adult.

Sexual Offences Act

- **11.** (1) An adult who has sexual intercourse with a minor who—
- (a) is in the **adult's employment**; or
- (b) is in respect of any employment or work under or in any way subject to the adult's control or direction; or
- (c) receives his or her wages or salary directly or indirectly from the adult, is guilty of an offence and is liable on conviction to imprisonment for 25 years.
- .

Sexual Offences Act

- (2) For the purposes of subsection (1) it is a defence for the adult to prove that the minor employee **consented** to the intercourse.
- (3) An adult shall not be guilty of an offence under this section if the minor is the spouse of the adult.

Sexual Offences Act

- **s13 Buggery**
- (1) A person who commits **buggery** is guilty of an offence and is liable on conviction to imprisonment—
- (a) if committed by an adult on a minor, **for life**;
- (b) if committed by an adult on another adult, for **25 years**;
- .

Sexual Offences Act

- (c) if committed by a minor, for 5 years.
- (2) In this section “buggery” means sexual intercourse per anum by a male person with a male person or by a male person with a female person.

Sexual Offences Act

- **s31. Duty to report**
- (1) Any person who:
 - (a) is the **parent or guardian** of a minor;
 - (b) has the **actual custody, charge or control** of a minor;
 - (c) has the **temporary custody, care, charge or control** of a minor for a special purpose, as his **attendant, employer or teacher** or **in any other capacity**,

Sexual Offences Act

- or (d) is a **medical practitioner**, or a **registered nurse** or **midwife**, and has performed a medical examination in respect of a minor, and who has **reasonable grounds for believing that a sexual offence has been committed** in respect of that minor, **shall report** the grounds for his belief to a police officer as soon as reasonably practicable.

Sexual Offences Act

- (2) Any person who **without reasonable excuse fails to comply** with the requirements of subsection (1), is guilty of an offence and is liable on summary conviction to a fine of **\$15,000.00** dollars or to imprisonment for a term of **7 years** or to **both** such fine and imprisonment.

Sexual Offences Act

- (3) No report made to a police officer under the provisions of subsection (1) shall, if such report was made in **good faith** for the purpose of complying with those provisions, subject the person who made the report to any action, liability, claim or demand whatsoever.

Sexual Offences Act

31A. Where a person prevents a minor from
 (a) giving a statement to the police; or
 (b) testifying,
 in proceedings relating to a sexual offence, he commits an offence and is liable on summary conviction to a fine of **\$25,000.00** dollars and to imprisonment for a term of **10 years**.

What Is Child Trafficking?



Definition of Human Trafficking

COLUMN 1 <i>Mobilization (Activity/ process)</i>	COLUMN 2 <i>By means of:</i>	COLUMN 3 <i>For the purpose of exploitation:</i>	= trafficking in persons
Recruitment	Threat or use of force of other forms of coercion	Prostitution of others or other forms of sexual exploitation	+
Transportation	Abduction	Forced labour or services	
Transfer	Fraud	Slavery or practices similar to slavery	
Harboring	Deception	Servitude	
Receipt	Abuse of power or of position of vulnerability	Organ removal	
	Giving or receiving of payments or benefits		

Trafficking In Persons Protocol – Article 3

- (b) The consent of a victim of trafficking in persons to the intended exploitation... shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) 'Child' shall mean any person under eighteen years of age."

Definition of Child Trafficking

COLUMN 1 Mobilization <i>Activity / process</i>		COLUMN 2 <i>For the purpose of exploitation:</i>	
Recruitment		Prostitution of others or other forms of sexual exploitation	= trafficking in persons (children)
Transportation	+	Forced labour or services	
Transfer		Slavery or practices similar to slavery	
Hlabouring		Servitude	
Receipt		Organ removal	

- ### Definition of Human Trafficking
- HT may occur where persons cross borders
 - HT may occur within a country
 - HT may involve non-nationals (migrants)
 - HT may involve nationals
 - Sex Trafficking may involve local as well as foreign women and girls in the commercial sex trade
 - Pornography, lewd dancing, escort services, massage parlours, prostitution, mail-order brides
 - Consent to the exploitation is NOT relevant!

Key Statistics on Child Trafficking

Every year, an estimated 1.2 million child victims are trafficked for sexual exploitation or cheap labour – UNICEF 2007

The proportion of minors involved in all forms of human trafficking has increased between 2003 and 2007 from about 15% to nearly 22% – UNODC

Children are trafficked for sexual exploitation in or through virtually all countries of the world - ECPAT

- ### Who Can Be Trafficked?
- Men
 - Women
 - Children
 - Vulnerable Persons
 - Ambitious Persons
 - Educated Persons
- YOU!!!**

Legal Fight Against Child Trafficking

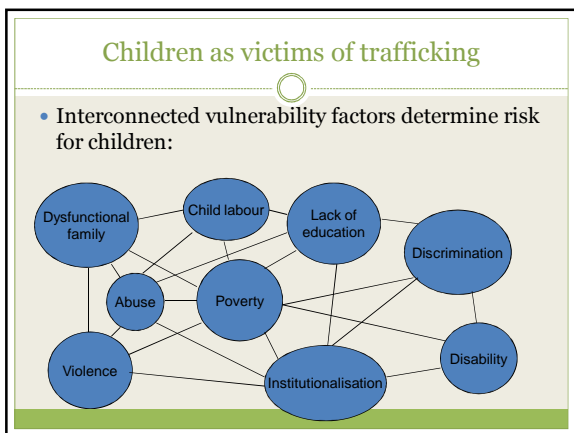
UN Convention on the Rights of the Child

UN Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography (2002)

TIP Protocol (2003)

World Congress III against the Sexual Exploitation of Children and Adolescents - 137 participating governments signed up to the Rio Declaration and Plan for Action (2008)

- ### Children are often trafficked into:-
- * Adoption (illegal)
 - * Begging
 - * Commercial sexual exploitation
 - * Criminal Activities
 - * Domestic servants
 - * Forced labour
 - * Forced Marriage
 - * Organ sales
 - * Ritual sacrifice
 - * Soldiers



Other Risk Factors

HIV/AIDS pandemic - children more vulnerable as they may have to supplement family income while being exposed to the stigma of having relatives with HIV or AIDS. Where HIV/AIDS is widespread, men may prefer to pay for sex with children thinking children are free from the disease.

Humanitarian crises such as floods, drought or armed conflicts also contribute to leaving children without the necessary care and protection, thus increasing their vulnerability to trafficking.

THE DEMAND FOR SEX WITH CHILDREN

Commercial Sexual Exploitation of Children

- “The use of children for sexual gratification by adults for remuneration in cash or kind to the child or a third person(s).”
- It includes pornography, prostitution and the trafficking and sale of children as well as other forms of sexual exploitation – escort services, massage parlours, lewd dancing, etc.

Child Sex Tourism (CST)

Child sex tourism (CST) is the sexual exploitation of children by a person or persons who travel from their home district, home geographical region, or home country and have sexual contact with children.

Child sex tourists can be domestic travellers or they can be international tourists.

CST often involves the use of accommodation, transportation, and other tourism-related services which facilitate contact with children and which enable him or her to be anonymous to the surrounding population.

Where Do CSEC and CST Occur?


- Brothels and clubs
- Beach and streets in tourism destinations
- Hotels and guesthouses
- Rented accommodation (residences, apartments, villas, etc.)
- Are there any in YOUR neighbourhood?

Who Commits CSEC and CST?

- **Paedophile**
Suffering from a clinical condition or a pathological disorder, the paedophile desires sexual contact with children exclusively and not with adults.

Usually, this preference is for pre-pubescent children.

Very small minority of child sex offenders



Who Commits CSEC and CST?

- **Preferential Child Sex Offender**
Active sexual preference for children.

The preferential sex offender can be someone who prefers sexual contact with children in general or someone who feels sexual desire for children exclusively.



Minority of child sex tourists

Who Commits CSEC and CST?

- **Situational Child Sex Offender**
Abuses children by way of experimentation, sexual indiscrimination, or through anonymity and impunity as a tourist.

He or she does not have an exclusive sexual inclination for children.



Majority of child sex tourists

Child Trafficking in Trinidad & Tobago

Domestic Trafficking – 9 year old girl pimped out by her mother in neighbouring village

Youths recruited from rural to urban areas to pickpocket or for housebreaking

Classified Ads – erotic massages, escort services

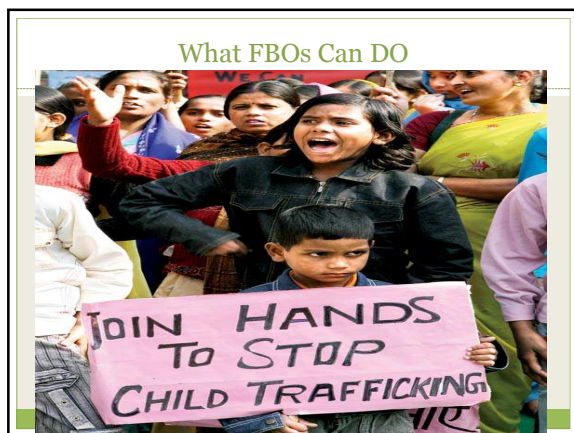
Cross-border Trafficking – Latin teens have been kidnapped or tricked into coming here and put to work in brothels

TRAFFICKING IN PERSONS ACT, 2011

- 1st April, 2011 – one week following the first national observance of an annual day of awareness against Trafficking In Persons on March 25, 2011 the Bill was introduced in Parliament.
- The Opposition on Friday 8th April, 2011 made a commitment to support the Government in passing the Bill.
- Bill passed in both Houses of Parliament and it was assented to on 9th June 2011 and is Act No. 14 of 2011.
- It will come into operation when proclaimed by the President.

TRAFFICKING IN PERSONS ACT, 2011

- S. 18, 19 - Any person who commits the offence of trafficking in children is liable on conviction on indictment to a fine of not less than \$1 million dollars and imprisonment for not less than 20 years
- S. 21 - Power of the Court to impose higher sentences for aggravated circumstances
- S. 26 - A person who receives or obtains a financial or other benefit, knowing that it results from the offence of trafficking in children commits an offence and is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for 20 years.



Responding to the challenge

Prevention

- ✦ Raising awareness (education and sensitization)
- ✦ Research
- ✦ Seminars / networking
- ✦ Information campaigns
- ✦ Media
- ✦ Regional cooperation

Responding to the challenge

Protection

- ✦ Identification
- ✦ Shelter
- ✦ Medical / psychological assistance
- ✦ Visa options
- ✦ Voluntary return and reintegration
- ✦ Safety
- ✦ Information and awareness-raising

Responding to the challenge

Partnership

- ✦ Use existing local FBO networks to join hands to intervene
- ✦ Use regional and global networks to provide support for victims and families
- ✦ People of faith throughout NGOs, CBOs, FBOs, the media, private sector, academic institutions and the general public can Collaborate to give effect to Prevention, Protection and Prosecution.

Global Examples of FBO Responses

- ✦ Publish Position Statement against all forms of Trafficking
- ✦ Challenge licence applications of brothels, etc. in local courts
- ✦ Publish and distribute awareness resources throughout community, esp. to vulnerable persons
- ✦ Teach counter-trafficking curriculum in schools to all ages
- ✦ Teach males to value women and girls so as to reduce demand for sex trafficking
- ✦ Provide shelter to victims and their families
- ✦ Provide financial assistance to vulnerable families

“Freedom Friday” – A Local FBO Response

- ✦ A response by FBOs to promote awareness of and encourage prayer against Trafficking In Persons
- ✦ Launched by CURB on March 25, 2011 with support of the T&T Council of Evangelical Churches
- ✦ Coincided with the first observance of Human Trafficking Awareness Day
- ✦ Occurs every quarter every year
- ✦ Today’s workshop is part of our Freedom Friday observance this quarter to make YOU aware of Trafficking In Persons and empower YOU to ACTION!

How to Observe “Freedom Friday”

- ✦ To highlight Human Trafficking in your congregation at any time FBO Leaders can do the following:-
 1. Preach Sermons related to the issue,
 2. Focus Bible Study sessions on ways to prevent exploitation and protect the vulnerable,
 3. Focus Prayer Meetings against Trafficking and for Trafficked Victims,
 4. Show “Amazing Grace” and other films for modern day abolitionists.

Plans for Next Freedom Friday

Regional Partnership Effort vs. Trafficking

- ✦ Join the Caribbean Counter-Trafficking Directory (CCTD) set up by CURB.
- ✦ It is FREE to join.
- ✦ Invaluable resources for FBOs, Schools, etc.
- ✦ Go to <http://traffick.curberime.org>
- ✦ Click on Network to End Slavery
- ✦ Follow instructions to register your FBO
- ✦ CURB will contact you with the passcode to access our Network Resources Page.

What Will YOU Do?

2.2 MILLION CHILDREN ARE SOLD INTO THE SEX TRADE EVERY YEAR.

THAT MEANS OVER FOUR CHILDREN PER MINUTE! WHAT ARE YOU GOING TO DO ABOUT IT?

Brainstorming Session

Take FIVE minutes to collaborate with your colleagues and identify FOUR things your local church or denomination WILL do to combat human trafficking.

Identify them in the context of Short, Medium, Long term and Ongoing strategies.

Feedback

