

Slavery in Domestic Legislation

Palau

Trafficking

• [A BILL FOR AN ACT January 2005 Anti-People Smuggling and Trafficking Act.](#)

Legislation

Provision	Text
A BILL FOR AN ACT January 2005 Anti-People Smuggling and Trafficking Act.	To provide criminal penalties for smuggling people and trafficking in people in accordance with the Republic of Palau's international commitments, including the Nasonini Declaration, the Protocol Against the Smuggling of Migrants by Land, Sea, and Air, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime. THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIL ERA KELULAU DO ENACT AS FOLLOWS: Section 1. Short Title. This Act shall be known and may 1 be cited as the Anti-People Smuggling and Trafficking Act. Section 2. Definitions: (a) "Child" means a person who is less than 18 years of age. (b) "Commercial carrier" means a company, or the owner, operator or master of any means of transportation, that engages in the transportation of goods or people for commercial gain. (c) "Company" means a corporation , partnership, or other entity that is not an individual. (d) "Exploitation" means sexual servitude, exploitation of another person's prostitution, forced labor or services, slavery, or obtaining labor or services through deceit, fraud, or by means of a material misrepresentation. (e) "Fraudulent travel or identity document" means a travel or identity document that: (1) has been made or altered in a material way, by a person other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of the country that issued the document; or (2) has been issued or obtained through misrepresentation, bribery, corruption, duress, or in any other unlawful manner; or (3) is being improperly used by a person other than the rightful holder. (f) "Illegal entry" means crossing the border of the Republic of Palau or any other country without complying with the requirements for lawful entry of that country. (g) "People smuggling" means arranging or assisting a person's illegal entry into any country of which the person is not a citizen, including the Republic of Palau, either knowing or being reckless as to the fact that the person's entry is illegal. (h) "People trafficking" means the recruitment, transportation, transfer, harboring or receipt of a person for the purposes of exploitation as described in section 5 or 6. (i) "Receiving country" means any country into which a trafficked person is brought as part of an act of people trafficking. (j) "Smuggled person" means any person who is a victim or object of an act of people smuggling, regardless of whether that person participated in the people smuggling. (k) Trafficked person" means any person who is the victim or object of an act of people trafficking. Section 3. Offense of People Smuggling. Every person who engages in people smuggling shall be guilty of people smuggling regardless of whether the smuggled person arrives in the receiving country and upon conviction thereof shall be fined not more than \$25,000, or imprisoned not more than 10 years, or both. Section 4. Offense of Aggravated People Smuggling. Every person who engages in people smuggling under circumstances in which the life or safety of the smuggled person is, or is likely to be, endangered shall be guilty of aggravated people smuggling regardless of whether the smuggled person arrives in the receiving country, and upon conviction thereof shall be fined not more than \$50,000 or imprisoned not more than 15 years, or both. Section 5. Offense Relating to Fraudulent Travel or Identity Docuemnts. Every person who makes, obtains, gives, sells, or possesses a fraudulent travel or identity document for the purpose of facilitating people smuggling or facilitating the continued presence of a smuggled person in a receiving country shall be guilty of travel document fraud, and upon conviction thereof shall be fined not more than \$25,000, or imprisoned not more than 10 years, or both. Section 6. Offense of People Trafficking. Every person who knowingly or recklessly recruits, transports, transfers, harbors or receives any person or persons for the purpose of exploitation by threat, use of force, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, shall be guilty of people trafficking, and upon conviction thereof shall be fined not more than \$250,000, or imprisoned not more than 25 years, or both. Section 7. Offense of Trafficking in Children. Every person who knowingly or recklessly recruits, transports, transfers, harbors or receives a child by any means for the purposes of exploitation shall be guilty of trafficking in children and, upon conviction thereof, shall be fined not more than \$500,000, or imprisoned for not more than 50 years, or both. Section 8. Offense of Exploiting a Trafficked Person. Every person who knowingly or recklessly engages in participates in, or profits from the exploitation of a trafficked person shall be guilty of exploitation of a trafficked person and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned for not more than 10 years, or both.

Section 9. Consent of Trafficked Person Irrelevant. For **section 5,6** and 7 hereof, it is not a defense that the trafficked person consented to the people trafficking or to the exploitation.

Section 10. Immunity of Trafficked Person. A trafficked person shall not be subject to criminal prosecution with respect to:(a) The act of people trafficking; (b) That person's illegal entry into the receiving country; (c) That person's period of unlawful residence in the receiving country; and (d) That person's procurement or possession of any fraudulent travel or identity documents which he or she obtained, or with which he or she was supplied, for the purpose of entering the receiving country.

Section 11. Scope of Application. The offenses described in sections 2,3,4,5,6, and hereof apply, regardless of whether the conduct constituting the offense took place inside or outside the Republic of Palau if: (a) the Republic of Palau is the receiving country or the exploitation occurs in the Republic of Palau; (b) the receiving country is a foreign country but the people smuggling or people trafficking started in the Republic of Palau or transits the Republic of Palau; or (c) the person who engages in the people smuggling or people trafficking is a citizen of the Republic of Palau.

Section 12. Obligation of Commercial Carriers. If a commercial carriers carries a person into the Republic of Palau and, upon entry into the Republic of Palau, the person does not have the travel documents required for lawfully entry, the commercial carrier shall be liable to pay the costs of the person's detention in, and removal from, the Republic of Palau unless: (a) the carrier had reasonable grounds to believe that the documents that the person had were the travel documents required for lawful entry of that person into the Republic of Palau; or (b) the person possessed the travel documents required for lawful entry into the Republic of Palau when that person boarded, or last boarded, the means of transport to travel to the Republic of Palau; or (c) entry into the Republic of Palau occurred only because of illness of or injury to a person on board, stress of wether, or other circumstances beyond the control of the commercial carrier.

Section 13. Effective date. This Act shall take effect upon its approval by the President, or upon its becoming law without such approval, except as otherwise provided by law.



The Database was created by Dr. Jean Allain and Dr. Marie Lynch, School of Law, Queen's University, Belfast, through funding provided by The Leverhulme Trust. The Database is up to date as of October 2011.



The Leverhulme Trust