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Fifth Session Second Parliament Republic of Trinidad  
and Tobago

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REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 27 of 1986

[L.S.]

AN ACT to repeal and replace the laws of Trinidad and Tobago relating to sexual crimes, to the procurement, abduction and prostitution of persons and to kindred offences.

*[Assented to 11th November, 1986]*

WHEREAS it is enacted *inter alia* by subsection (1) of <sup>Preamble</sup> section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

**Enactment** ENACTED by the Parliament of Trinidad and Tobago as follows:—

**Short title** 1. (1) This Act may be cited as the Sexual Offences Act, 1986.

**Act inconsistent with Constitution** (2) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

**Interpretation** 2. In this Act—  
 “adult” means a person eighteen years of age or more;  
 “brothel” means a place resorted to by persons of either sex for the purpose of prostitution;  
 “minor” means a person under eighteen years of age;  
 “prostitute” means a person of either sex who engages in prostitution;  
 “prostitution” means the offering of the body by a person of either sex for the purpose of arousing or gratifying the sexual desire of another for payment in return.

## PART I

### OFFENCES AND THE PROSECUTION AND PUNISHMENT OF OFFENCES

**Indictable offences** 3. The offences referred to in this Part are indictable offences.

**Rape** 4. (1) A male person commits the offence of rape when he has sexual intercourse with a female person who is not his wife either—  
 (a) without her consent where he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it; or

(b) with her consent where the consent—

- (i) is extorted by threats or fear of bodily harm to her or to another; or
- (ii) is obtained by personating her husband; or
- (iii) is obtained by false and fraudulent representations as to the nature of the act.

(2) A male person who commits the offence of rape is liable on conviction to imprisonment for life.

(3) A male person under the age of fourteen years is deemed incapable of committing the offence of rape.

5. (1) A husband commits the offence of sexual assault when he has sexual intercourse with his wife without her consent by force or fear—

Sexual assault by a husband in certain circumstances

(a) where there is in existence in relation to them—

- (i) a decree nisi of divorce;
- (ii) a decree of judicial separation;
- (iii) a separation agreement; or
- (iv) an order for the husband not to molest his wife or have sexual intercourse with her;

(b) where notice of proceedings have been served by one party on the other party under the Matrimonial Proceedings and Property Act for judicial separation, nullity or dissolution of marriage; or Chap. 45:51

(c) where the husband and wife are living apart within the meaning of section 4(5) of the Matrimonial Proceedings and Property Act. Chap. 45:51

(2) A husband who commits the offence of sexual assault is liable on conviction to imprisonment for fifteen years.

(3) No proceedings for an offence under this section shall be instituted except by or with the consent of the Director of Public Prosecutions.

Sexual intercourse  
with female  
under fourteen

6. (1) Where a male person has sexual intercourse with a female person who is not his wife and who is under the age of fourteen years, he is guilty of an offence, whether or not the female person consented to the intercourse and whether or not at the time of the intercourse he believed her to be fourteen years of age or more, and is liable on conviction to imprisonment for life.

(2) Where a marriage is invalid under section 13 of the Matrimonial Proceedings and Property Act, the invalidity does not make the husband guilty of an offence under this section because he has sexual intercourse with the wife, if he believes her to be his wife and has reasonable cause for the belief.

Sexual intercourse  
with female  
between fourteen  
and sixteen

7. (1) Where a male person has sexual intercourse with a female person who is not his wife with her consent and who has attained the age of fourteen years but has not yet attained the age of sixteen years he is guilty of an offence, and is liable on conviction to imprisonment for five years.

(2) A male person is not guilty of an offence under subsection (1)—

- (a) if he honestly believed that the female person was sixteen 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 intercourse  
with male under  
sixteen

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

(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.

9. (1) A person commits the offence of incest who, <sup>Incest</sup> knowing that another person is by blood relationship, his or her parent, child, brother, sister, grandparent, grandchild, uncle, niece, aunt or nephew, as the case may be, has sexual intercourse with that person.

(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 ten years;
- (c) if committed between minors fourteen years of age or more, for two years.

(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, any expression importing a relationship between two persons shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock, and "brother" includes half-brother and "sister" includes half-sister.

10. (1) An adult who has sexual intercourse with a minor who is the adult's adopted child, step-child, foster child, ward or dependant in the adult's custody is guilty of an offence. <sup>Sexual intercourse with adopted minor, etc.</sup>

(2) An adult who commits an offence under this section is liable on conviction to imprisonment—

- (a) if committed with a minor under fourteen years of age, for life;
- (b) if committed with a minor fourteen years of age or more, for ten years.

(3) An adult shall not be guilty of an offence under this section if the minor is the spouse of the adult.

Sexual intercourse  
with minor  
employee

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 ten years.

(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 intercourse  
with mentally  
subnormal person

12. (1) Where a person under circumstances that do not amount to rape has sexual intercourse with another who is mentally subnormal and who is not the person's spouse, that person is guilty of an offence and is liable on conviction to imprisonment for ten years.

(2) It is a defence for that person to prove that he did not know and had no reason to believe that the other person was mentally subnormal.

(3) In this section "mentally subnormal" means a state of arrested or incomplete development of mind which includes a significant impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.

(4) No proceedings for an offence under this section shall be instituted except by or with the consent of the Director of Public Prosecutions who shall have regard *inter alia* as to whether or not any abuse in relation to the mentally subnormal person has been committed.

Buggery

13. (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 ten years;

(c) if committed by a minor, for five 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.

14. (1) A person who commits bestiality is guilty of an offence and is liable on conviction to imprisonment for ten years. Bestiality

(2) In this section “bestiality” means sexual intercourse per anum or per vaginam by a male or female person with an animal.

15. (1) A person who indecently assaults another is guilty of an offence and is liable on conviction to imprisonment for five years. Indecent assault

(2) A person under the age of sixteen years cannot in law give any consent which would prevent an act being an assault for purposes of this section.

(3) In this section, “indecent assault” means an assault accompanied by words or circumstances indicating an indecent intention.

16. (1) A person who commits an act of serious indecency on or towards another is guilty of an offence and is liable on conviction to imprisonment— Serious indecency

(a) if committed on or towards a minor under sixteen years of age for ten years;

(b) if committed on or towards a person sixteen years of age or more for five years.

(2) Subsection (1) does not apply to an act of serious indecency committed in private between—

(a) a husband and his wife; or

(b) a male person and a female person each of whom is sixteen years of age or more, both of whom consent to the commission of the act.

(3) An act of “serious indecency” is an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of the genital organ for the purpose of arousing or gratifying sexual desire.

## Procuration

## 17. A person who—

- (a) procures a minor under sixteen years of age to have sexual intercourse with any person either in Trinidad and Tobago or elsewhere; or
- (b) procures another for prostitution, whether or not the person procured is already a prostitute, either in Trinidad and Tobago or elsewhere; or
- (c) procures another to become an inmate, whether or not the person procured is already an inmate elsewhere, of or to frequent a brothel either in Trinidad and Tobago or elsewhere,

is guilty of an offence and is liable on conviction to imprisonment for fifteen years.

## Procuring defilement of a person

## 18. A person who—

- (a) by threats or intimidation procures another to have sexual intercourse with any person either in Trinidad and Tobago or elsewhere; or
- (b) by deception procures another to have sexual intercourse with any person either in Trinidad and Tobago or elsewhere; or
- (c) applies, administers to or causes to be taken by any person any drug, matter or thing with intent to stupefy or overpower that person so as thereby to enable any other person to have sexual intercourse with that person,

is guilty of an offence and is liable on conviction to imprisonment for fifteen years.

## Detention of a person

## 19. (1) A person who detains another against that other's will—

- (a) in or upon any premises with intent that the person detained may have sexual intercourse with any person; or
- (b) in any brothel,

is guilty of an offence and is liable on conviction to imprisonment for ten years.

(2) A Magistrate or Justice who is satisfied upon oath that there is reasonable ground for believing that a person is unlawfully detained in any place for immoral purposes, may issue a warrant authorising any constable to

enter (if need be by force) and search any place specified in the warrant and to remove any person so detained and apprehend any person accused of the unlawful detention.

20. A person who takes away or detains a female person against her will with intent— Abduction of a female

- (a) to marry her or to have sexual intercourse with her; or
- (b) to cause her to marry or to have sexual intercourse with a male person,

is guilty of an offence and is liable on conviction to imprisonment for ten years.

21. (1) A person who—

- (a) being the owner, occupier or manager of premises; or
- (b) having control of premises or assisting in the management or control of premises,

Householder, etc., permitting defilement of a minor under sixteen years of age

permits a minor under sixteen years of age to resort to or to be in or upon the premises for the purpose of having sexual intercourse with any person is guilty of an offence and is liable on conviction to imprisonment for ten years.

(2) It is a defence for a person charged under this section to prove that he did not know or had no reason to believe or suspect that the minor was under the age of sixteen years.

(3) A person shall not be charged for an offence under this section if the minor is the spouse of that person.

22. A person who—

- (a) keeps or manages or acts or assists in the management of a brothel; or
- (b) being the tenant, lessee, occupier or person in charge of any premises, knowingly permits the premises or any part thereof to be used as a brothel or for the purposes of prostitution; or
- (c) being the lessor or landlord of any premises, or the agent of the lessor or landlord, lets the same or any part thereof with the knowledge that the premises or some part thereof are or is to be used as a brothel, or is wilfully a

Suppression of brothels

party to the continued use of the premises or any part thereof as a brothel,  
is guilty of an offence and is liable on conviction to imprisonment for five years.

Person living on earnings of prostitution

23. (1) A person who—

(a) knowingly lives wholly or in part on the earnings of prostitution; or

(b) in any place solicits for immoral purposes,  
is guilty of an offence and is liable on conviction to imprisonment for five years.

(2) If it appears to any Magistrate or Justice, by complaint on oath, that there is reason to suspect that any premises is used for purposes of prostitution and that any person residing in or frequenting the premises is living wholly or in part on the earnings of prostitution, the Magistrate or Justice may issue a warrant authorising any constable to enter (if need be by force) and search the premises and to arrest that person.

(3) Where a person is proved to live with or to be habitually in the company of a prostitute, or is proved to have exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that the person is aiding, abetting or compelling the prostitution with any other person or generally that person shall be deemed to be knowingly living on the earnings of prostitution unless the person proves the contrary.

Person aiding in prostitution

24. A person who for purposes of gain, exercises control, direction or influence over the movements of a prostitute in a way which shows that the person is aiding, abetting or compelling the prostitution is guilty of an offence and is liable on conviction to imprisonment for five years.

## PART II

### SUPPLEMENTAL PROVISIONS

Sexual intercourse

25. Where in any proceedings for an offence under this Act it is necessary to prove sexual intercourse (whether natural or unnatural) it shall not be necessary to prove the completion of the intercourse by the emission of seed but the intercourse shall be deemed complete upon proof of penetration only.

26. A person under the age of twelve years is deemed <sup>Age</sup> incapable of committing an offence under this Act.

27. Where at the trial of any offence under this Act, it is <sup>Divestment of authority</sup> proved to the satisfaction of the Court that the defilement of a minor has been caused, encouraged or favoured by the minor's father, mother, guardian or any other person who has lawful care or charge of the minor, the Court may divest such person of all authority over the minor and appoint any other suitable person willing to take charge of the minor to be the guardian until the minor becomes an adult and the Court shall have power to vary from time to time or rescind such order.

28. If at a trial for an offence under this Act the jury <sup>Consent</sup> has to consider whether a person believed that another was consenting to sexual intercourse or to any other sexual act, the judge shall direct the jury that the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters, in considering whether that person so believed.

29. The offences under sections 4 (rape), 5 (sexual assault) <sup>Hearing in camera</sup> and any offence involving children shall be heard *in camera* unless the Court otherwise directs.

30. (1) In proceedings in respect of an offence under this Act no evidence shall be adduced by or on behalf of the accused concerning the sexual activity of the complainant with any person other than the accused unless the Court on an application made by or on behalf of the accused, in the absence of the jury, thinks such evidence necessary for the fair trial of the accused. <sup>Evidence concerning sexual activity and sexual reputation</sup>

(2) Save as provided in subsection (1), no evidence of sexual reputation is admissible for the purpose of challenging or supporting the credibility of the complainant.

31. The Common Law rules relating to evidence of recent <sup>Recent complaint</sup> complaint in sexual offence cases are abolished.

32. (1) After a person is accused of an offence under this Act, no matter likely to lead members of the public to identify a person as the complainant or as the accused in relation to that accusation shall either be published in <sup>Anonymity of complainant and accused</sup>

Trinidad and Tobago in a written publication available to the public or be broadcast in Trinidad and Tobago except—

- (a) where, on the application of the complainant or the accused, the Court directs that the effect of the restriction is to impose a substantial and unreasonable restriction on the reporting of proceedings and that it is in the public interest to remove the restriction in respect of the applicant; or
- (b) in the case of an accused, after he has been tried and convicted of the offence.

(2) A person who publishes or broadcasts any matter contrary to subsection (1) is guilty of an offence and liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for five years.

(3) Subsection (2) refers to—

- (a) in the case of a publication in a newspaper or periodical, any proprietor, any editor and publisher of the newspaper or periodical;
- (b) in the case of any other publication, the person who publishes it; and
- (c) in the case of a broadcast a body corporate, which transmits or provides the programme in which the broadcast is made and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(4) In subsection (1)—

“accused” means—

- (a) a person named in an information laid alleging that that person has committed the offence;
- (b) a person who appears before a Court charged with the offence;

“complainant” includes in relation to a person accused of an offence under this Act, the person against whom the offence is alleged to have been committed.

33. (1) A Magistrate’s court inquiring into an offence under this Act may, if satisfied that all the evidence before the court (whether for the prosecution or for the defence)

consists of written statements tendered to the court under subsection (3), with or without exhibits, commit the accused for trial for the offence without consideration of the contents of those statements unless—

- (a) the accused or one of the accused is not represented by counsel or solicitor;
- (b) counsel or solicitor for the accused or one of the accused, as the case may be, has requested the court to consider a submission that the statements disclose insufficient evidence to put that accused on trial by jury for the offence.

(2) Section 4(1) of the Indictable Offences Chap. 12:01 (Preliminary Enquiry) Act, shall not apply to a committal for trial under this section.

(3) In committal proceedings a written statement by any person shall, if the conditions mentioned in the next following subsection are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(4) The conditions referred to in subsection (3) are that—

- (a) the statement purports to be signed by the person who made it;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;
- (c) before the statement is tendered in evidence a copy of the statement is given, by or on behalf of the party proposing to tender it, to each of the other parties to the proceedings; and
- (d) before the statement is tendered in evidence at the committal proceedings, none of the other parties objects to the statement being so tendered under this section.

(5) The following provisions also have effect in relation to any written statement tendered in evidence under this section, that is to say—

- (a) where the statement is made by a minor, it shall give his age;
- (b) where the statement is made by a person who cannot read, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read; and
- (c) where the statement refers to any other document as an exhibit, the copy given to any other party to the proceedings under paragraph (c) of subsection (4) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect that document or a copy thereof.

Alternative  
verdict

34. (1) If, upon the trial of any indictment for rape, or for an offence under section 5, the jury is satisfied that the defendant is guilty of an offence under section 8, 11, or 17, or of an indecent assault, but is not satisfied that the defendant is guilty of the offence charged in the indictment or of an attempt to commit the same, then and in every such case the jury may acquit the defendant of the offence and find him guilty of such offence as mentioned above or of an indecent assault, and thereupon the defendant is liable to be punished in the same manner as if he had been convicted upon an indictment for such offence as mentioned above or for the offence of indecent assault.

(2) If upon the trial of any indictment for incest by a person, the jury is satisfied that the defendant is guilty of an offence under section 5 or 11 or of an indecent assault but is not satisfied that the defendant is guilty of the charge of incest or of an attempt to commit the same then and in every such case the jury may find him guilty of an offence under section 5 or 11 or of indecent assault as the case may be.

Repeal  
First Schedule

35. (1) The enactment specified in the First Schedule is repealed to the extent specified therein.

Amendments  
Second Schedule

(2) The enactments specified in the Second Schedule are amended in the manner specified therein.

## FIRST SCHEDULE

[Section 35(1)]

## REPEAL

<i>Enactment</i>	<i>Extent of Repeal</i>
Offences Against the Person Act, Chap. 11:08	Sections 31 to 47, 49, 51 to 53, 59 to 61 and 64.

## SECOND SCHEDULE

[Section 35(2)]

## AMENDMENTS

<i>Enactment</i>	<i>Extent of Amendment</i>
Children Act, Chap. 46:01	(1) In section 7, subsection (2), for the words "section 36 of the Offences Against the Person Act" substitute the words "section 21 of the Sexual Offences Act".  (2) In section 44, subsection (1), paragraph (f) for the words "under section 34 or section 35 of the Offences Against the Person Act" substitute the words "under section 6 or section 12 of the Sexual Offences Act".
Evidence Act, Chap. 7:02	In the First Schedule delete after the word "Sections" the following—"31, 34, 35, 36, 37, 38, 39, 40, 45, 46, 47, 49 and 61", and add to the Schedule the following—"Sexual Offences Act, Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24".
Mental Health Act, Chap. 28:02	(1) In section 54, subsection (2), for the word "five" substitute the word "seven".  (2) Repeal and replace section 56 with the following— "56. Any person found guilty of an offence under section 55 is liable on conviction on indictment to a fine of ten thousand dollars and to imprisonment for five years".
Summary Courts Act, Chap. 4:20	(1) In the Second Schedule, paragraph 5, delete the following words and figures— "36 (where the girl in respect of whom the offence is committed is of or above the age of thirteen and under the age of fourteen years), 37, 38, 39, 40, 45, 60, 61".  (2) After paragraph 32, insert a new paragraph 33 as follows— "33. Offences under sections 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 of the Sexual Offences Act."

- (3) Renumber the original paragraph "33" as paragraph "34".
- (4) In the renumbered paragraph 34, for the words and figures "in paragraphs 1 to 32" substitute the words and figures "in paragraphs 1 to 33".

Passed in the House of Representatives this 29th day of October, 1986.

**R. L. GRIFFITH**  
*Acting Clerk of the House*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the Members of the House that is to say by the votes of 28 Members of the House.

**R. L. GRIFFITH**  
*Acting Clerk of the House*

Passed in the Senate this 4th day of November, 1986.

**M. CARRINGTON**  
*Acting Clerk of the Senate*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the Members of the Senate that is to say by the votes of 22 Senators.

**M. CARRINGTON**  
*Acting Clerk of the Senate*