



BARRISTER ABDUS SALEEM AND LAW ASSOCIATES

LEGAL PRISM LAW CLINIC AND LEGAL RESEARCH  
CENTRE-Summer Project 22'

**REPORT ON INTERNAL HUMAN TRAFFICKING**

**LEGAL ANALYSIS, GROUND REALITIES AND  
RECOMMENDATIONS**

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## **Abstract**

This report aims to discuss the laws pertaining to Human Trafficking specifically targeting the legislation of the Trafficking in Persons Act 2018 (PTPA). The mentioned act covers the entire ambit related to Human Trafficking which includes; Child Labour, Bonded Labour, Commercial Sex, Forced marriages, and recruitment of child soldiers by nonstate armed groups. In this research, we aim to provide the reader with an idea of the indicators of internal Human Trafficking Laws and their indicators in Pakistan. The report will extensively cover how these trafficking rings operate, the practical loopholes in the Substantial and procedural laws, and our recommendations to enhance the reporting and conviction rate with regard to the concerned law.

## **Acknowledgment**

I would like to acknowledge Social Sustainable Development Organization (SSDO) for their collaboration with Barrister Abdus Saleem & Law Associates in establishing a human trafficking helpline. Social Sustainable Development Organization (SSDO) is a non-governmental organization established in 2015. It is a research-based advocacy organization. Their purpose is to provide peace and sustainable development while engaging all relevant stakeholders and citizens.

I would like to extend gratitude to BAS SENIOR PARTNERS **ASC ZAHID SALEEM AND ADV. REHMAN SALEEM** for facilitating us throughout this publication.

**Advocate Shiza Qurashi**

**Project Head**

## Public Service Announcement

Barrister Abdus Saleem & Law Associates and Sustainable Social Development Organization (SSDO) have collaborated to establish a helpline for reporting human trafficking on The following Whatsapp number: **0336-214-0181**. Furthermore, Barrister Abdus Saleem & Law Associates will be taking on pro bono cases that surface through this helpline for those in need and who meet certain criteria.

Other relevant helplines and forums include

- Child Protection Bureau Helpline: 1121
- Punjab Police Helpline: 1787
- Punjab Police-Women Safety App on Google Play for Android users

**SSDO poster used for Human Trafficking across the country for awareness campaign**

In addition we have filed a Writ Petition W.P NO----- in the Lahore High Court for the implementation of this law.

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## Glossary of Terms

UNODC-United Nations Office on Drugs and Crime

TIP -Trafficking in Persons

SOM - Smuggling of Migrants

UNTOC -United Nations Convention against Transnational Organized Crime

TIP Protocol- Protocol to Prevent, Suppress and Punish Trafficking in Persons

PACHTO - Prevention & Control of Human Trafficking Ordinance, 2002

ILO-International Labor Organization

IOM-International Organization of Migrants

FIA- Federal Investigation Agency

PPC-Pakistan Penal Code

DHS - U.S. Department of Homeland Security

IDPs- Internally Displaced Persons

BLSA- Bonded Labour System (Abolition) Act, 1992

UN - United Nations

UNGA - United Nations General Assembly

SDGs- Sustainable Development Goals

Eo- Emigration Ordinance, 1979

AHTC - Anti Human Trafficking Circle

## **EXECUTIVE SUMMARY /NEED OF THE REPORT**

Pakistan has been under international pressure to take larger counter-trafficking steps to curtail and tackle this heinous crime, as trafficking practices such as debt bondage, forced labor, and sexual slavery are being witnessed on an unprecedented level today in Pakistan. Poverty, gender discrimination, lack of education, and ignorance about fundamental and legal rights serve as major contributions to this area of crime. Therefore, numerous interventions are required for the prevention of trafficking, protection of the victims, and prosecution of the trafficker. Thus the Government of Pakistan (GOP) enacted the Prevention of Trafficking Act (2018) which specifically caters to human trafficking-related crimes. We have two major domestic laws about Human trafficking practices, which are governed by the Pakistan Penal Code PPC and the Code of Criminal Procedure CRPC.

Ironically even in the presence of special law extreme paucity of cases has been witnessed in this area. Substantial factors such as no official training of Police officers/Investigating agencies, lack of practical mechanisms, and public education system contribute to no conviction rate under this law. This report in detail focuses on the areas of improvements required in this bit of legislation and proclaims recommendations to increase the applicability of this law. The analysis of this report is based on personal research, and statistical and comparative analysis between the domestic and international legislations to ascertain the essential areas of improvement in our law in order to enhance execution, mitigate the effects of trafficking and ensure justice.

## **Introduction to Human Trafficking, What is Trafficking In Persons**



The UNODC's Global Report on Trafficking in Persons was the "first global assessment of the scope of human trafficking" that collected data from 155 nations.<sup>1</sup> According to the UNODC Report, most governments fail to report or prosecute human trafficking cases. Also, two out of five countries covered by the report had never had a single conviction for this crime. Pakistan is also among those countries which have zero convictions for this crime. Pakistan lacks sufficient understanding, research, and information to build a confident picture of the patterns of human trafficking. The data gathered by the US State Department's Trafficking in-person report of Pakistan shows that it has not been taking enough steps to address the issue of trafficking in persons in line with the US Trafficking Victims Protection Act's minimum standards.<sup>2</sup> In 2018 and 2019 Pakistan's ranking was improved to Tier 2 with the promulgation of the Prevention of Trafficking in Persons Act, 2018. In 2021, the country was placed on Tier 2 watch list for the second year in a row due to insufficient efforts to prosecute cases of sex trafficking and forced labour, especially in Punjab and Sindh, and for lack of apportionment of resources for victim care.<sup>3</sup> There has been a period of increased attention to the issue since then and Pakistan was removed from the watch list and was added to Tier 2 in 2022. A Tier 2 country is one whose government is not fully compliant with all human trafficking prevention requirements but is making significant efforts to comply with them.<sup>4</sup>

### **Definition of Human Trafficking in International Law:**

*"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*

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<sup>1</sup> UNODC, 'UNODC report on human trafficking exposes modern form of slavery' <<https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>>

<sup>2</sup> US Department of State, '2021 Trafficking in Persons Report: Pakistan' OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS <<https://www.state.gov/reports/2021-trafficking-in-persons-report/pakistan/>>

<sup>3</sup> Ibid

<sup>4</sup> US Department of State, '2022 Trafficking in Persons Report: Pakistan' OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

*exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”<sup>5</sup>*

**Definition of Human Trafficking in domestic law (PTPA 2018):**

*“Any person who recruits, harbours, transports, provides or obtains another person, or attempts to do so, for compelled labour or commercial sex acts through the use of force, fraud or coercion, commits an offence of trafficking in persons and shall be punished with imprisonment which may extend to seven years or with fine which may extend to one million rupees or with both.”<sup>6</sup>*

The first law that Pakistan passed on Human trafficking was Prevention and Control of Human Trafficking Ordinance (PACHTO) 2002, although PACHTO was a commendable piece of legislation that acknowledged the presence of trafficking in the country, it had serious limitations, one of them was that it blurred the distinction between human smuggling and trafficking, as both offences were being addressed in the same law. This limitation was also one of the reasons that two separate legislations were passed Prevention of Smuggling of Migrants Act 2018 and the Prevention of Trafficking in Persons Act (PTPA) 2018 to address both the offences separately. Furthermore, PACHTO also did not take notice of internal trafficking and only addressed cross-border trafficking. It's important to know what differentiates human trafficking from human smuggling and all its indicators, patterns and trends.

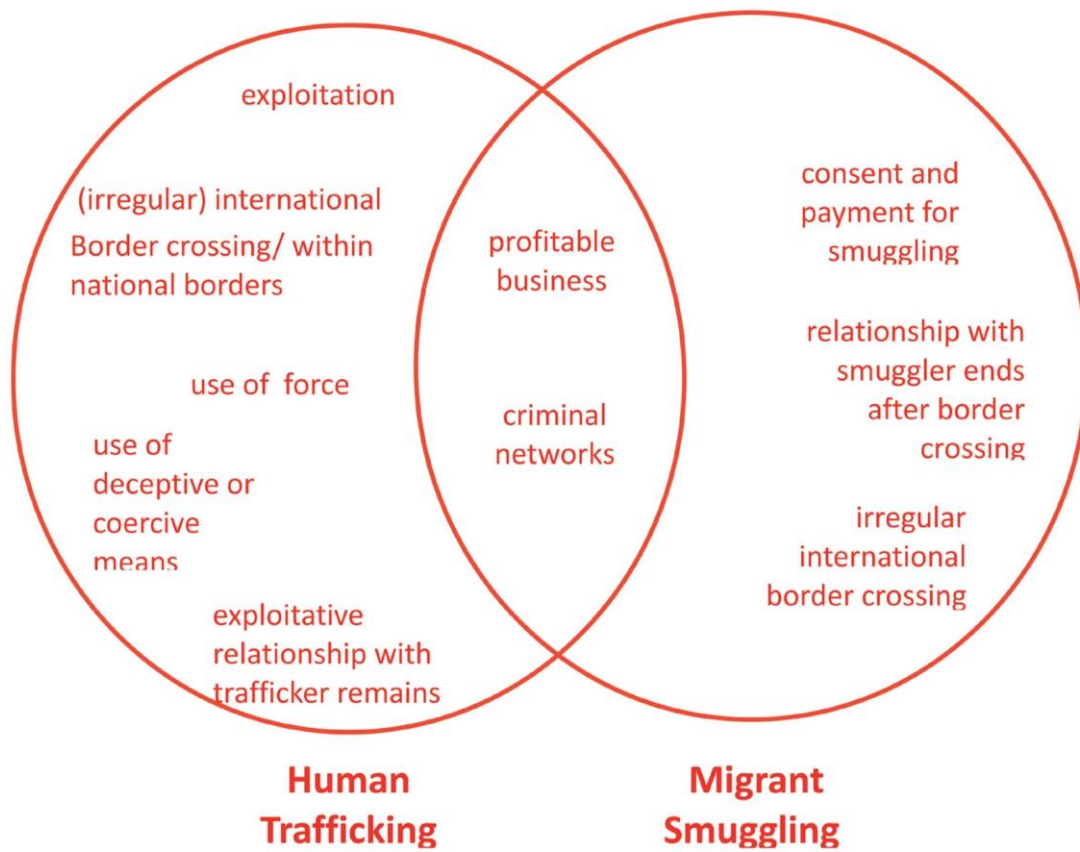
There may be difficulty to make a determination between the two in the initial phase, as trafficking often includes elements of smuggling especially the unlawful crossing of border, as in some cases the victim may think they are being smuggled, but are being trafficked as they are oblivious of their fate. For example, the victim may believe they being smuggled to another country for a better job and decent wage, not realizing that the trafficker would take nearly all of their income, subject them to physical force or sexual violence and keep them in bondage. As per UNODC, there are four major distinctions between human trafficking and migrant smuggling. First is consent, individuals consent

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<sup>5</sup> UNGA, 'United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime-- (2000) 55/25

<sup>6</sup> -Prevention of Trafficking in Persons Act 2018; section 3

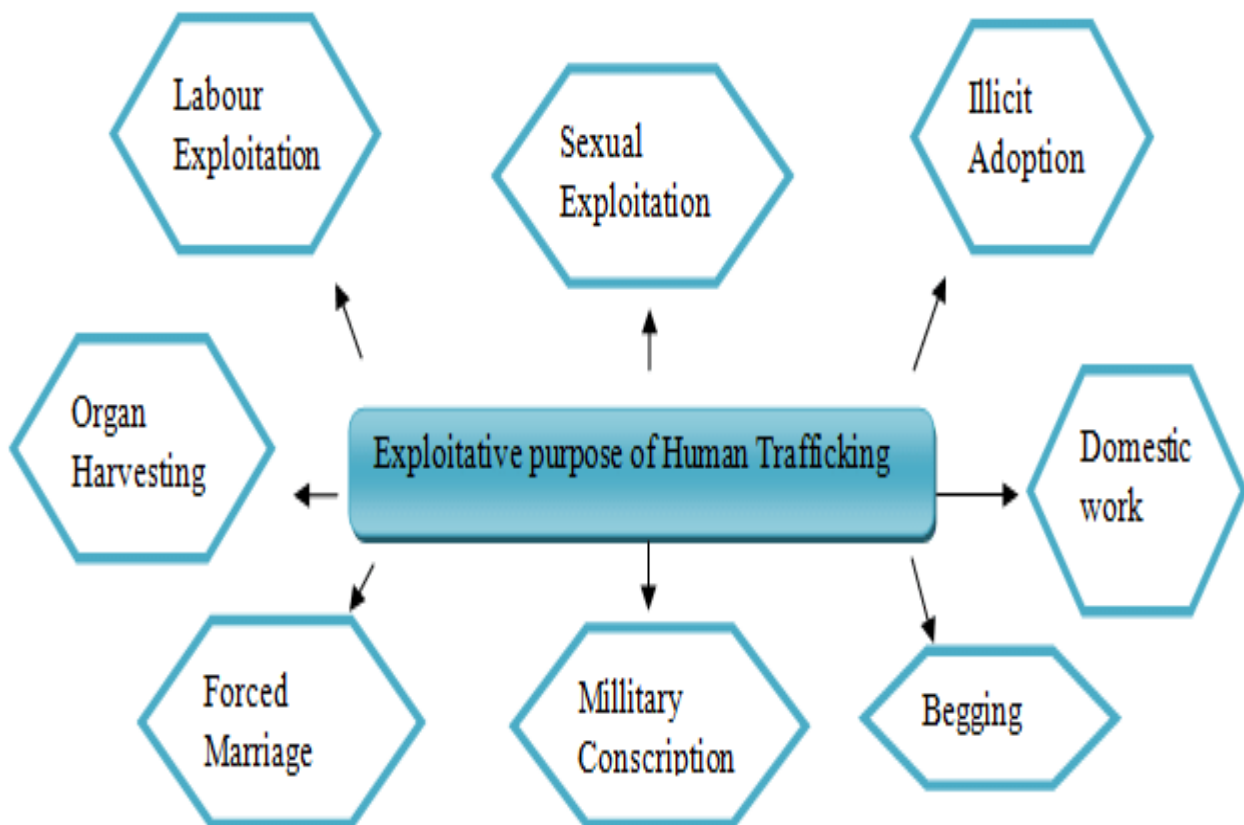
to be moved across a border. A victim of trafficking on the hand either may have never given consent or even if the consent was given initially, it is rendered insignificant by exploitation, abuse, coercion, and deception. Secondly, smuggling has three possible end results, 1) the migrant perishes during the trip or gets arrested 2) the smuggler vanishes with the migrant's money, 3) the migrant makes it to the desired place and smuggling ends on reaching the destination. Trafficking involves continuous exploitation whether it's domestic or national. Third, trafficking can happen within the country or can include border crossings. Smuggling is always transnational. Lastly, profits in trafficking are acquired from exploitation, in the case of smuggling profits are obtained from the transportation of individuals from one country to another.



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<sup>7</sup> [https://www.ban-ying.de/fileadmin/banying/publikationen/Handbook\\_FinalwithAuthors.pdf](https://www.ban-ying.de/fileadmin/banying/publikationen/Handbook_FinalwithAuthors.pdf)

**INDICATORS OF INTERNAL HUMAN TRAFFICKING ILLUSTRATED BELOW:**



<sup>8</sup> Human Trafficking an Overview With Special Emphasis on India and West Bengal Himika Deb1 and Dr.Tanmay Sanyal Corresponding Author iosr jhss vol22 issue 9 version 5 - Scientific Figure on ResearchGate. Available from: [https://www.researchgate.net/figure/Law-Enforcement-of-Near-East\\_fig11\\_319998554](https://www.researchgate.net/figure/Law-Enforcement-of-Near-East_fig11_319998554) [accessed 4 Oct, 2022]

## **Relationship Of Trafficking with Human Rights :**

As per United Nations Universal Declaration of Human Rights, every individual is born free and is equal in terms of their rights and dignity. [Article 1] Furthermore, every human possesses the right to life, liberty, and security [article 3]. Additionally, no human being shall be held in slavery or servitude, and any form of slavery and slave trade is prohibited [article 4]. As per [Article 7], all human beings are entitled to equal protection of the law. Likewise, all persons possess freedom of movement within borders of a state, to leave any country, and to return to any country (including their own) as per [article 13]. In terms of employment, every human being has the right to work, and that too, free of choice. Fair and reasonable work conditions along with protection from unemployment must be provided along with equal pay for equal work and the employment should be one that takes into consideration favourable compensation, human dignity, and social protection along with the right to rest and limitations in work hours [article 23 & 24]. In addition, all children are entitled to the same social protection [article 25].

Pakistan's Prevention of Trafficking in Persons Act, 2018 proclaims using "force" and "coercion" to make a victim engage in compelled labor or commercial sex acts. This is against that victim's dignity, liberty, and security, and contradictory to the prohibition of slavery clause as per [articles 1-4]. Additionally, "compelled labour" goes against the right of an individual to work free of choice, with favourable work conditions all the while enjoying reasonable compensation and social protection as per [articles 23-24].

As per the Constitution of Pakistan, 1973 Article 11, slavery and forced labor are prohibited and this includes children below 14 years of age working in factories, mines, and other forms of hazardous employment. All citizens enjoy the freedom of movement within Pakistan as per [Article 15]. As per Article 37 of the principles of policy, there is to be a promotion of social justice and eradication of social evils, which includes women and children not being employed in positions contrary to their gender and age. Additionally, prostitution is strictly prohibited.

As per the Prevention of Trafficking in Persons Act, 2018 there are higher consequences of human trafficking if it involves children and women which constitutes imprisonment of 2-10 years or a 1 million rupees fine or both in relation to articles 11 & 37 of the Constitution of Pakistan, 1973. Furthermore, prostitution falls directly under the category of “commercial sex acts” and is strictly prohibited as per Article 37 of the principles of policy. Additionally, “transports” includes restricting the freedom of movement as per article 15. The promotion of social justice and social evils promoted by section 37 is contrary to the description of trafficking in persons as per the Act.

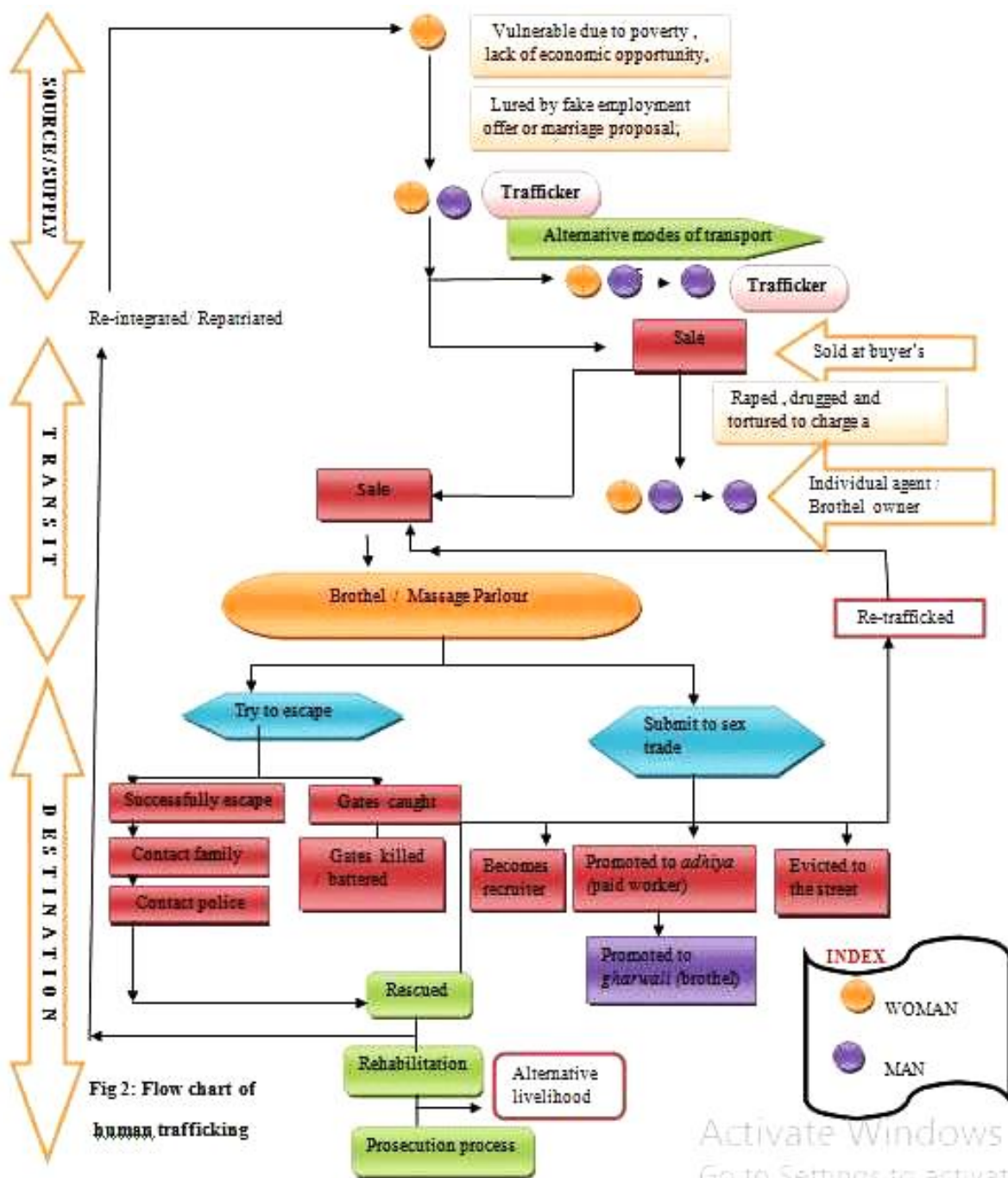


Fig 2: Flow chart of human trafficking

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<sup>9</sup> Human Trafficking an Overview With Special Emphasis on India and West Bengal Himika Deb1 and Dr.Tanmay Sanyal Corresponding Author iosr jhss vol22 issue 9 version 5 - Scientific Figure on ResearchGate. Available from: [https://www.researchgate.net/figure/Law-Enforcement-of-Near-East\\_fig11\\_319998554](https://www.researchgate.net/figure/Law-Enforcement-of-Near-East_fig11_319998554) [accessed 4 Oct, 2022]



## Postmortem of Pakistan's legislations ( PTPA and TIP 2018)

### for Trafficking- A Detailed Discussion

The law of Prevention of Trafficking in Persons Act (**PTPA**) 2018 stands to be the landmark legislation in regards to human trafficking crimes. The legislation specifically discussed the indicators of internal human trafficking and successfully differentiates between human smuggling and internal human trafficking; generically we are unable to differentiate between these aforementioned offences. The act entails a coherent definition of what constitutes trafficking and highlights the indicators of human trafficking which includes; Forced Marriage, Commercial sex, Forced and Bonded child labour, Organ selling and compelled begging. Any offender who commits the acts mentioned above shall be convicted under the offence.

The degree of punishment enshrined in the act varies with the magnitude of breach committed. As Section 4 of the Act enhances the severity of punishment in cases involving a) serious injuries, life threatening illness, death of the victim or another person; (b) activity of organised criminal group; (c) confiscation or destruction of any travel document of the victim; or (d) repetition of the offence by the same offender in such circumstances the offender shall be liable for fourteen year imprisonment which must not be less than three years.<sup>10</sup>

In addition, the pre-eminent piece of legislation encompasses overall aspects related to human trafficking in persons from convicting the offender to protecting the victim as well. The act in its **Section 6** talks about the '**victim protection**' clause which proscribes charging the victims under this offence. For instance, in a raid carried out by investigating agencies, "A victim shall not be criminally liable for an offence under this Act but may become a witness in the case."<sup>11</sup> The provision not only conforms with the non-punishment international principle but it also complies with the cogent edifice of Islamic rules which prohibit punishing the victim of an offence.

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<sup>10</sup> PTPA 2018; sec 4

<sup>11</sup> PTPA; sec 6

Moving on, **Section 7** of the Act endorses the conviction of the offender which involves a minor by having a '**Presumptuous clause**' which forgoes the requirement of proving consent in case of a child victim even if it includes consent of Parents/Guardians.

The authorities responsible for the administration and application of the act are described under section 8 of the act, which includes the Police for internal trafficking cases and grants jurisdiction to the Federal Investigation Agency respectively for across-the-border cases. In addition, the act renders the crime of trafficking a 'cognizable' offence and a non-bailable one, while directing a first-class magistrate to try the case under this offence.

The Act ensures the implementation of these provisions by ordering the relevant authorities to initiate such informative programs which help spread awareness of this law, addressing the root cause of the ever spreading trafficking cases in collaboration with other national or international corporations in order to establish appropriate procedures and protocols to mitigate the issue. (**section 14 PTPA**)

However, despite having a comprehensive set of laws to combat human trafficking our authorities have failed to mitigate the situation of trafficking within Pakistan. In the following paragraphs, the report will highlight and discuss the practical factors which have hindered the application of this law.

### **Issues pertaining to the Applicability of the Law**

This segment addresses the most critical part of the report, in which we shall discuss the barriers and factors hindering the implementation of the law (PTPA) 2018. As per a news report; **‘A total of 731 cases were registered against human traffickers, however, the agency managed to arrest only 275 traffickers last year, Pakistan Today has learnt.’**<sup>12</sup> The following findings are based on research carried out by BAS legal research team, the collected data consists of case law research from all four provinces, on ground visits to Courts, FIA and CCPO’s Office Lahore which shall also be mentioned below.

The substantial hindrance which lies between the application of this law is the unawareness regarding the law. and official training of the relevant authorities concerned with the application of this law. Commonly, new enactments require certain informative programs to be carried out in order to enhance the awareness about it. Similarly, **Section 14 of PTPA Act 2018** has also bestowed a duty upon the government to initiate and develop such measures to achieve that aim, however, unfortunately no such actions has been witnessed in that regard.<sup>13</sup> The on ground efforts of the BAS legal research team led us to reveal that no such informative programs or domestic legislative frameworks had been put in place, thus obliviousness in regards to the law of PTPA was found.

In addition, where knowledge of this law was found but unacceptability of applying it also prevailed, meaning by the authorities concerned showed reluctance for applying the new law instead they conformed to the mother law offences enshrined under Pakistan Penal Code. Basically, multiplicity of laws on the similar offences and hesitation of applying the new law also seems to be one of the hurdles for the low application ratio of this law. The reasonable explanation behind inapplicability of the law seems to be lack of understanding and concept regarding the offence.

The increased figures of legislation is serving as one of the major structural flaws hindering effective prosecution. For instance, there are several laws regulating the same offences being covered by **PTPA provisions**; which include Penal code sections such as **[Section 362]**

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<sup>12</sup> Pakistan Today, FIA Anti-Human Trafficking wing’s performance ‘unsatisfactory’ in 2017 <<https://bit.ly/3SzN1Vt>> accessed on 4th Oct, 2022.

<sup>13</sup> PTPA 2018; sec 14

**Abduction,<sup>14</sup> [Section 370] Buying or disposing of any person as a slave,<sup>15</sup> [375] Rape and related offences such as selling a person for prostitution.<sup>16</sup>** In addition, we have **S 371 (a) and (b)**, which handles ‘**selling and buying of a person for the purposes of prostitution**’ then we have **Bonded Labour Abolition Act Punjab 1992. Bricklin Act**, to regulate child labour offences. In the existence of these laws the act of PTPA has failed to get acknowledgment and thus application and this has also become a main reason for the authorities not to apply the new law as they prefer to stick with the old ways of practices.

What must be understood is that special laws like PTPA are enacted to cater the issue effectively by having all similar ranges of illegal offences under one umbrella. The authorities must consider the consequences of applying the mother law offences and not the specific laws like **Prevention of Trafficking in Person 2018** are grave and endless. It is due to this reason the conviction rate under this offence is alarmingly low, the statistics section of this report highlights only eighteen cases were registered under this act.

Further ramification of involves complicating the litigation process as logically a case would be comparatively more convenient containing a higher chance of rightful conviction if a single offence is applied which covers all the offences under a single charge instead of several mother law offences. Secondly, multiple application of charges provides the defendant with increased options of defences and loopholes in those laws to get the charges dropped, for example;

**- “Since section 375 Rape, does not covers the concept of ‘marital rape’ in Pakistan, the traffickers in backward areas may arrange such marriage contracts to sell a female child for specifically those purposes. The respective offence of Rape fails to cover that ambit, whereas the Act of trafficking covers both the offences, selling a person for prostitution and forced marriage. While there are separate laws for the committed offences however applying sole offence speeds up the litigation process”**

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<sup>14</sup> Pakistan Penal Code (Act XLV of 1860); section 362.

<sup>15</sup> PPC; section 370.

<sup>16</sup> PPC; section 375.

In addition, by applying other charges instead of PTPA 2018 for trafficking cases, we are yet again faced with a problem of punishment variations in laws. The punishment in the act of PTPA for the listed trafficking offences is ten years which may not be less than two years.<sup>17</sup> However, similar laws such as **Bricklin Act 2016** which has set the limit of only six months imprisonment but which shall not be less than seven days<sup>18</sup>; the drastic variation amongst the laws also becomes one of the reasons the justified law of PTPA shall apply to uphold accountability.

Moreover, what needs to be understood is that every offence carries with it its own weight of culpability which must be punished accordingly. By not applying the charge of PTPA we also fail to provide justice to the trafficked victim. An offender must be punished as per the magnitude of law infringement, which also fulfils the proportionality principle. Human trafficking itself is a separate offence, no other charge can substitute its ambit. As it carries with it a specific *Mens rea* element of the trafficker which is to abduct, recruit, harbour, obtain or provide someone for compelled labour, child labour, organ transplant or for commercial sex. Thus it is extremely crucial that its offender be labelled with this charge so that rightful conviction can be obtained to achieve the ends of justice.

### **Victim identification**

In human trafficking crimes apprehending the offender is not the only object instead the nature of this offence is such that it requires immunity of the victim as well. As articulated by the OHCHR, the non-punishment principle sets out that “trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as a trafficked person.”<sup>19</sup>

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<sup>17</sup> Prevention of Trafficking in Persons 2018; section 3 (2)

<sup>18</sup> Bricklin Act 2016; section 13

<sup>19</sup> OHCHR, ‘Recommended Principles on Human Rights and Human Trafficking’, section 7.

The domestic law of PTPA 2018 section 6 entails provision in this regard; which prohibits the liability of the victim under this offence. The law requires when determining the status of a person as a victim of human trafficking, officers of an investigating agency shall consider all the circumstances of the particular case, including the following guiding principles that may be relevant in a particular case. However, no such practical measures or training had been carried out to achieve that aim and most often, victims are charged for the offences committed by them during the course of trafficking.

The main hindrances in the elimination of the problem are lack of sufficient information on the issue which includes adequate knowledge regarding safe migration, the absence of shelter and rehabilitation programmes, lack of political commitment on the part of Governments, and the lack of proper law enforcement due to which the victim is also punished for crimes they did not commit. Traffickers, recruiters and agents on the other hand, are working in the organised groups and have clear links to shine the trade. Trafficking is an international as well as regional concern that needs to be faced on a priority basis.

The **UNODC** has recognised this and substantially advocated for the enactment in 2018, which explicitly includes the non-punishment principle, but only in a limited way. The grave conditions of trafficked victims in Pakistan require detailed legislative frameworks to combat the matter.<sup>20</sup>

Whilst, the **PTPA** recognises victims of human trafficking and eliminates criminal culpability for offences thereunder, it does not absolve victims of human trafficking from criminal liability for offences prescribed under other laws, such as the ***Control of Narcotics Substances Act 1997 (CNSA)***. Thus, an individual who was trafficked to transport drugs, could technically still be prosecuted and convicted under the CNSA, for offences carrying the death penalty. In addition, there is no mechanism in place to provide the victim special protection and rehabilitation after they are recovered from instances of trafficking which plays a crucial role in preventing them from being revictimized, moreover aid in reviving their lives.

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<sup>20</sup> US State Department, '2020 Trafficking in Persons Report: Saudi Arabia' (1 December 2020) accessed at: [https://www.state.gov/reports/2020-trafficking-in-persons-report/saudi-arabia/#report-toc\\_section-5](https://www.state.gov/reports/2020-trafficking-in-persons-report/saudi-arabia/#report-toc_section-5).

There are many cases that go unreported because of archaic family customs and a misplaced concept of honour. They do their best to prevent the word from spreading. The practice of silence may be a response to the cumbersome justice system prevailing in the country and the loopholes present in the system that facilitate the perpetrator's escape from punishment. Whereas the culprits will fearlessly meander in the vicinity and will proudly tell people of what he has done and how he has escaped from being convicted. The Government and ministry of Human rights of Pakistan need to tend to this matter to establish such informative and rehabilitation programs for victim protection purposes.

### **Cross Border Laws of trafficking**

Human trafficking is a global problem and one of the world's most heinous crimes effecting the lives of millions of people around the world. Discussing and comparing the human trafficking laws within the UK, US, and Pakistan. We can examine that there are multiple laws initiated and established from the past many years in these countries except Pakistan.

### **Human Trafficking Legislation in United Kingdom**

The lucrative business of human trafficking also prevails in the UK. There is no doubt that trafficking does exist in the UK but compared to other countries the UK's government has taken various evolutionary measures to effectively tackle and combat trafficking. Before the ***Modern Slavery Act 2015 (MSA 2015)*** came into force on 31 July 2015, the UK's anti-trafficking laws were a patchwork of different rules found in a few different statutes. These included: Nationality, Immigration, and Asylum Act – made the trafficking of people for reasons of prostitution illegal. ***Sexual Offences Act 2003 (SOA 2003)***<sup>21</sup> – made trafficking for all forms of sexual exploitation illegal. Asylum and Immigration (Treatment of Claimants) Act – criminalized human trafficking for all purposes, including forced labor.<sup>22</sup> ***Coroners and Justice Act 2009***<sup>23</sup> – made it illegal for an individual to force

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<sup>21</sup> Sexual Offences Act 2003

<sup>22</sup> Human Trafficking. (2022). Retrieved 4 October 2022, from <https://www.mea.gov.in/human-trafficking.htm>

<sup>23</sup> Coroners and Justice Act 2009

another into forced labour. **Modern Slavery Act 2015** it repeals and replaces the offenses of human trafficking and consolidates existing UK legislation on slavery, child labour and human trafficking and defined slavery (which includes servitude and forced and compulsory labour) as existing when a person is "held" or "forced" against their will by another person who knows or ought to know that the other person is being held in slavery or servitude or forced to perform compulsory labour. It introduced an Anti-Slavery Commissioner, new measures to protect victims and stiffer penalties for those convicted. The Anti-Slavery Commissioner encourages good practice in the prevention, detection, investigation and prosecution of slavery and human trafficking offences.

### **Conventions and protocols dealing with human trafficking**

In May 2005, the Council of Europe formally adopted the Convention on Action against Trafficking in Human Beings. The Convention provides for further legal protection and minimum standards of care for individuals who have been victims of human trafficking. The legal protection and minimum standards of care for victims includes a minimum recovery and reflection period, temporary residence permits for those who may be in danger if they return to their country of origin, temporary residence permits for children if it is in their best interests to remain in the UK, access to specialist support, emergency medical care, legal advice, and the provision of safe housing. The Convention was adopted by the UK in 2009. The UK Human Trafficking center was also created to ensure the obligations under the Convention are adhered to.<sup>24</sup>

### **US Anti-Trafficking Laws**

Federal Anti-Trafficking Laws: ***The Trafficking Victims Protection Act (TVPA) of 2000*** is the first comprehensive federal law to address trafficking in persons. The Act authorised the establishment of the State Department's TIP Office and the President's Interagency Task Force to Monitor and Combat Trafficking in Persons to assist in the coordination of anti-trafficking efforts. The law provides a three-pronged approach that includes prevention, protection, and prosecution. The TVPA was reauthorized through the ***Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, 2005, 2008,***

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<sup>24</sup> Human Trafficking Task Force e-Guide. (2022). Retrieved 4 October 2022, from <https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/14-human-trafficking-laws/#:~:text=Victims%20of%20Trafficking%20an>



**2013, and 2017.** Under U.S. federal law, “*severe forms of trafficking in persons*” includes both sex trafficking and labor trafficking.<sup>25</sup>

### **Comparative Analysis with Pakistan:**

The United Kingdom and United States Law both cater to transparency in Commercial Organisations and businesses and make them sign a slavery and human trafficking statement for each financial year to make sure that no business is engaged themselves or with another business that is involved in human trafficking, slavery and bonded labour. Pakistan’s special law on the other hand makes no mention of transparency in the supply chain, even though many industries in Pakistan are involved in illegal activities for example agricultural sector, brick kilns, sports industries, carpet industries, mining, etc that engage bonded labourers and underage children to get their work done.

The United States has a special law that establishes a task force to monitor and combat trafficking. United Kingdom’s Law also mentions the appointment of Anti-Slavery Commissioner that promotes good practice in the prevention, detection, investigation and prosecution of slavery and human trafficking offences.<sup>26</sup> Pakistan also requires a special task force that aids police and FIA in trafficking cases since our police does not have the capacity and understanding to deal with human trafficking. The special law also lacks provision that provides immediate protection to the victims susceptible to harm, as the UK’s law does in the form of Slavery and trafficking risk orders. United States has also legislated on providing shelter to minor victims of human trafficking. Our law also lacks to address this issue. There should be special shelter homes which cater to victims of human trafficking. Legislations in United Kingdom and United States with regards to Modern Slavery and trafficking are very comprehensive as compared to Pakistan. Pakistan needs to analyse the laws of other countries to propose amendments in its own special and cover all areas that direly need state attention.

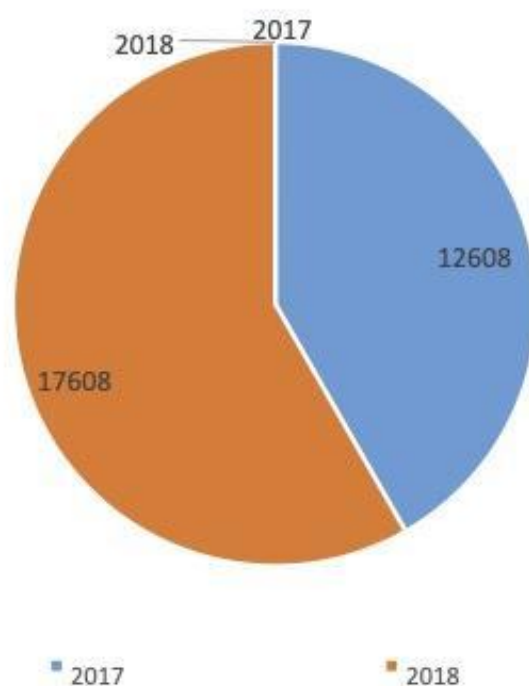
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<sup>25</sup> International and Domestic Law - United States Department of State. (2022). Retrieved 4 October 2022, from <https://www.state.gov/international-and-domestic-law/>

<sup>26</sup> Human Trafficking and Prevention under UK Law - InBrief.co.uk. (2022). Retrieved 4 October 2022, from <https://www.inbrief.co.uk/offences/human-trafficking-uk-law/#:~:text=Someone%20found%20guilty%20of%20human,maximum%20sentence%20is%20life%20imprisonment>

**Quantitative display of the Data Collected by the Research Team regarding the Practicality of the Law**

**Prosecution and Conviction in Sex Trafficking Cases**



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<sup>27</sup> Report: Countering Human trafficking and smuggling in Pakistan.

SUMMARY OF TIP CASES SINDH PROVINCE FROM MARCH 2022 TO JUNE 2022												
Month	Total Cases Registered	TIP Cases (sex trafficking)	TIP Cases (Force Labour Cases)	TIP Cases (unspecified exploitation)	Conviction	Procecuted	Victims	Victims Identified by Government	Victims Identified by NGO	Victims reffered by Govt.	Victims received services from NGOs without Govt. Support	Victims Repatriated source country
March	90	70	20	0	0	2	96	96	0	0	0	0
April	42	33	9	0	0	2	67	67	0	0	0	0
May	63	50	13	0	0	3	88	88	0	0	0	0
June	73	68	0	5	0	0	74	74	0	0	0	0
<b>G.Total</b>	<b>268</b>	<b>221</b>	<b>42</b>	<b>5</b>	<b>0</b>	<b>7</b>	<b>325</b>	<b>325</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Note: All Victims handed over to parents &amp; Guardians</b>												

*Table 1: Cases and arrests under Trafficking in Persons Act 2018 (in 2020)*

Zone	Cases Registered	Arrested (Men)	Arrested (Women)
Islamabad	1	1	0
Punjab-I	10	11	2
Punjab-II	3	4	2
Sindh-I	1	2	-
KP	3	8	0
Total	18	26	4

*Table 2: Number of victims identified and support provided*

Zone	Number of Victims			Support Provided to Victims		
	Men	Women	Children	Psychological Aid	Legal Aid	Financial Aid
Islamabad	7	0	0	0	0	0
Punjab-I	6	2	0	0	6	0
Punjab-II	0	4	0	0	0	0
Sindh-I	-	1	-	-	-	-
KP	3	0	0	0	0	0
<b>Total</b>	<b>16</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>0</b>

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**Status of Cases Under Trafficking in Persons Act 2018 (2020)**

<b>Zone</b>	<b>Under Investigation</b>	<b>Challan</b>	<b>Under Trial</b>
Islamabad	0	1	1
Punjab-I	4	6	6
Punjab-II	2	1	1
Sindh-I	1	-	-
KP	3	0	0
<b>Total</b>	<b>10</b>	<b>8</b>	<b>8</b>

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<sup>29</sup> ibid

<sup>30</sup> ibid

## DISTRICT-WISE BREAKDOWN: OFFICIAL DATA

District Name	Child Abuse	Child Labour	Child Marriage	Domestic Violence	Rape of Women	Kidnapping of Women	Violence Against Women	Honor Killing of Women	Workplace Harassment	Sexual Abuse
Mirpur Khas	21	0	1	0	18	96	10	0	1	16
Larkana	20	0	1	4	26	245	4	69	0	
Hyderabad	37	0	0	7	48	356	57	0	33	11
Total Karachi	324	10	7	0	120	1603	63	2	66	2
Sukkur	10	1	0	0	6	176	30	20	0	
Shaheed Benazirabad (formally Nawabshah)	32	0	6	19	16	121	54	15	9	1
<b>Total</b>	<b>444</b>	<b>11</b>	<b>15</b>	<b>30</b>	<b>234</b>	<b>2597</b>	<b>218</b>	<b>106</b>	<b>109</b>	<b>30</b>

## DISTRICT-WISE BREAKDOWN: OFFICIAL DATA

District Name	Child Abuse	Child Labour	Child Marriage	Domestic Violence	Rape of Women	Kidnapping of Women	Violence Against Women	Honor Killing of Women
Awaran	0	0	0	0	0	0	0	0
Chagai	0	0	0	0	0	0	0	0
Chaman	0	0	0	0	0	0	0	0
Duki	1	0	0	0	0	1	1	0
Gawadar	0	0	0	6	0	0	0	0
Jafarabad	1	0	0	4	0	12	12	4
Jhal Magsi	0	0	0	0	0	0	0	0
Kachhi(Bolan)	3	0	0	2	0	4	0	0
Kalat	0	0	0	0	0	0	0	0
Kharan	0	0	0	0	0	0	0	0
Khuzdar	0	0	0	6	0	4	1	0
Killa Abdullah	0	0	0	0	0	0		0
Kurram	0	0	0	0	0	0	0	0
Kech	0	0	0	0	0	1	1	0
Lasbela	1	0	0	9	3	7	1	0
Nushki	0	0	0	0	0	1	0	0
Panjgur	0	0	0	0	0	1	2	0
Shaheed Sikandarabad	0	0	0	0	0	0	0	0
Sohbatpur	0	0	0	0	0	6	0	0
Washuk	0	0	0	0	0	0	0	0
Mastung	1	0	0	0	0	0	0	0
Musakhel	0	0	0	0	0	0	0	0
Barkhan	0	0	0	0	0	0	0	0
Dera bugtii	0	0	0	2	0	1	0	0
Harnai	0	0	0	0	0	1	1	0
Pishin	0	0	0	0	0	0	1	0
Quetta	21	0	1	17	4	54	47	3
Killa Saifullah	3	0	0	0	0	2	0	0
Sherani	0	0	0	0	0	0	0	0
Sibi	0	0	0		0	0	0	0
Kohlu	0	0	0	0	0	0	0	0
Loralai	0	0	0	0	0	3	0	0
Lehri	0	0	0	0	0	0	0	0
Nasirabad	2	0	0	25	0	22	0	21
Harnai	0	0	0	0	0	0	0	0
Zhob	1	0	0	0	0	1	0	0
Ziarat	0	0	0	0	0	0	1	0
Total	34	0	1	72	7	120	67	28

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## DISTRICT-WISE BREAKDOWN: OFFICIAL DATA

District Name	Child Abuse	Child Labour	Child Marriage	Domestic Violence Against Women	Rape of Women	Kidnapping of Women	Violence Against Women	Honor Killing of Women
Attock	30	4	1	17	43	163	296	2
Bahawalnagar	25	1	0	9	134	381	657	7
Bahawalpur	64	3	2	29	195	608	961	2
Bhakar	13	4	0	0	52	160	192	0
Chakwal	13	0	0	0	25	103	157	4
Chiniot	14	6	0	16	76	148	312	4
D.G Khan	24	5	1	4	88	196	385	4
Faisalabad	50	33	3	62	327	1011	1726	16
Gujranwala	78	19	1	143	161	536	885	11
Gujrat	18	12	0	23	60	389	650	8
Hafizabad	27	2	0	39	84	182	357	9
Jhelum	23	5	0	10	71	146	251	5
Jhang	26	7	0	6	85	204	299	2
Kasur	106	10	0	5	174	588	1312	4
Khanewal	60	0	3	0	119	447	574	7
Khushab	3	2	0	0	22	106	152	8
Lahore	397	39	1	155	645	3939	5595	6
Layyah	9	0	0	19	107	172	337	3
Lodhran	21	4	5	2	81	213	368	7
Mandi Bahauddin	9	0	0	0	46	223	355	5
Mianwali	2	1	0	7	25	118	160	4
Multan	70	12	1	12	169	656	764	4
Muzaffargarh	89	0	3	0	260	342	690	8
Nankana sab	34	8	0	0	45	199	417	5
Narowal	38	6	0	0	57	201	447	5
Okara	38	1	1	17	161	563	1003	8
Pakpattan	14	1	0	5	107	224	384	2
Rahim Yar Khan	22	0	3	5	167	542	744	13
Rajanpur	52	1	1	0	69	221	462	11
Rawalpindi	49	4	0	46	94	935	1119	3
Sahiwal	27	0	2	19	83	308	447	1
Sarghoda	27	12	1	16	110	522	702	14
Sheikhupura	56	16	0	2	134	746	1157	4
Sialkot	40	6	0	2	91	417	516	4
Toba Tek Singh	51	2	0	0	86	226	350	0
Vehari	30	1	1	83	76	348	568	5
<b>Total</b>	<b>1649</b>	<b>227</b>	<b>30</b>	<b>753</b>	<b>4329</b>	<b>16483</b>	<b>25751</b>	<b>197</b>

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## DISTRICT-WISE BREAKDOWN: OFFICIAL DATA

District Name	Child Abuse	Child Labour	Child Marriage	Domestic Violence	Rape of Women	Kidnapping of Women	Violence Against Women	Honor Killing of Women
Peshawar	45	0	0	23	3	1	158	8
Charsada	11	0	0	0	3	1	66	2
Nowshera	18	0	0	6	5	1	48	5
Mardan	17	0	0	32	6	1	99	1
Swabi	11	0	0	1	6	0	20	1
Kohat	7	0	0	0	2	0	66	2
Hangu	2	0	0	0	0	2	7	3
Karak	0	0	0	3	1	1	39	0
Abbottabad	2	0	0	2	0	0	70	0
Haripur	1	0	0	3	8	1	34	0
Mansera	10	0	0	8	21	0	80	0
Battagram	0	0	0	0	4	0	29	0
Kohistan L	0	0	0	0	0	0	1	2
Kohistan U	0	0	0	0	0	0	0	0
Kohistan KP	0	0	0	0	0	0	0	0
Torghar	6	0	0	0	0	0	2	0
Bannu	3	0	0	6	1	0	30	4
Lakki	23	0	0	0	1	0	45	0
DI Khan	0	0	0	2	7	0	96	1
Tank	12	0	0	0	0	0	6	0
Swat	3	0	0	1	9	0	5	8
Shangla	3	0	0	1	3	0	21	0
Bunair	8	0	0	4	0	0	9	1
Dir Lower	2	0	0	2	2	0	15	7
Dir Uppper	0	0	0	2	1	0	8	5
Chitral Lower	0	0	0	0	0	0	12	0
Chitral Upper	0	0	0	0	0	0	0	0
Bannu	0	0	0	0	0	0	0	0
Mohammad	0	0	0	0	3	0	12	0
Khyber	0	0	0	0	0	0	2	0
Dergai	0	0	0	0	0	0	1	0
Kurram	0	0	0	0	0	0	0	0
N. Waziristan	0	0	0	0	0	0	0	0
S. Waziristan	0	0	0	0	0	0	0	0
<b>Total</b>	<b>184</b>	<b>0</b>	<b>0</b>	<b>96</b>	<b>86</b>	<b>8</b>	<b>981</b>	<b>50</b>

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## **Recommendations for all Stakeholders**

While the stats mentioned above show the ongoing grave situation of trafficking in Pakistan, it is equally important that measures be taken to curb this menace. First of all, the most important thing which requires immediate attention is the issue regarding its awareness which can only be resolved through informative/training programs. This factor requires prompt action to enable the application of this law.

### **Informative programs**

The Police on a high priority basis must set in place special informative programs regarding this law to enlighten our on duty officers about the existence and implementation of this law. The Police must know about the trafficking indicators and should also be able to identify them when encountering such a case of trafficking in order to apply the rightful charge of PTPA. The acknowledgment of this law serves as the paramount step to prevent further injustice of letting the criminal walk free under this offence. The Ministries must also take notice of this thing and ensure the Police departments carry out these training sessions.

**BAS legal research team also planned to conduct informative sessions to enhance awareness of this crime. The lack of knowledge regarding the existence of this law serves as a major hindrance to its application of it.**

The Judiciary must also be trained in this regard, specific units are established like the Anti-Human Smuggling Courts under FIA to tackle this heinous offence. Immediate informative sessions on the internal trafficking issues are conducted to enlighten the honorable Judges about the issue. Reports on the progress of trafficking cases must be produced on a quarterly basis to track the conviction rate under the offence. Judiciary must be directed to accept the charge of new legislation of PTPA for trafficking like offence and should also guide the counsels presenting the cases to use the appropriate charge instead of utilizing outdated mother law offences.

Furthermore, no leniency shall be shown towards any minor offender involved in trafficking cases while passing the judgments as every major/minor individual plays a substantial role in carrying out this offence.

### **Formation of Special Task Force**

An important recommendation (while keeping into account the current implementation rate of this law); We ought to have a special body/task force to combat trafficking whose function is not similar to that of the Police, instead the task force ensures the implementation of this law by functioning as the watchdog over the relevant authorities to maintain accountability on this issue. It should arrange training programs in collaboration with national and international bodies to help the relevant investigating agencies. However, it may also generate annual reports to gauge the positive progress towards trafficking in order to assist eradicate the Human trafficking issue to a maximum extent.

### **Training for victim identification**

Victim identification serves as one of the most components of this law, failure to identify the victims leads to several wrongful convictions; as discussed in the report the Police must acknowledge the victim in a trafficking case and not charge them with any offences as they are not in that position by choice. Hence, training related to victim identification needs to be carried out by the Police department as per the demands of the law under PTPA.

Addressing the long-term vulnerabilities of trafficked women and girls is extremely important to protect them from revictimization. The government should develop a comprehensive strategy for rehabilitation and reintegration of trafficked women and girls into mainstream society. Only short-term protection is not enough. A significant number of trafficked women and girls are revictimized. There is hardly any information available on how women and girls survive trafficking in the long run. Therefore, a study should be conducted to highlight factors that help victims survive trafficking. The government should also introduce national human trafficking hotline to report any potential case of trafficking and that can offer support by relevant forces.

## **Victim Protection and Rehabilitation**

A mechanism for victim rehabilitation is required in order to prevent them from similar experience. A victim due to their vulnerable state needs extra protection and the environment to get their lives back. First of all, the authorities must provide them with extra protection from their oppressors, secondly adequate health facilities and shelter be provided which shall be arranged in collaboration with institutes like '**Darul-Amaan**' for shelter purposes.

Moreover, education for trafficked child victims as soon as they recover must be provided to help them live a standard life, as the right to education is proclaimed under *25 (A) of The Constitution of Pakistan*. In the case of adults, as soon as they recover, the government or NGOs must arrange for '**Counselling of the victims**' and equip them with skills so that they can live a normal life again.

### **Rehabilitation In specific to sex workers:**

- i) Vulnerability mapping of children living in red light areas and children at risk to be trafficked (Nomadic and Semi- Nomadic tribes mostly living in border areas of the State) and preparation of individual child care plans by the Child Welfare Committee in each district.
- (ii) Linkage of vulnerable families with Government Schemes.
- (iii) Ensuring enrolment and retention of vulnerable children in school.
- (iv) Creating gender resource centres in the blocks where the vulnerability of children is high.
- (v) Imparting life skills and job ready skills to the youth living in red light areas and linking the children from red light areas to sustainable livelihood opportunities.
- (vi) Monthly monitoring of vulnerable children by the notified officer, who should submit a report, on the basis of which appropriate action shall be taken by the Social Welfare Department.
- (vii) Police to work as a watchdog against known traffickers.
- (viii) Protection to the sex workers from their kingpins who threaten the victims in their areas and coerce them for this work. (Victim Protection)

## **Ministry of Human Rights**

The Ministry of Human Rights must take notice of Pakistan's ranking in the eyes of the United Nation in regards to Human trafficking issue. Thereby, the officials should play its role and take effective and immediate steps to help combat this crime; the steps may include:

Proactively protecting the rights of its citizens not just on international forums but on national level § The Ministry must work with its national citizens and advocate their rights to the Government § It should **ensure** the implementation of the wage rate laws, as poverty serves to be one of the reasons for the exploitation of victims § Enhance Awareness about child labour by collaborating with Media channels and social activists. § It should work with the relevant authorities/institutes to establish a victim rehabilitation system. § Aiding in progressive Educational reforms.

## **Floods & the Human trafficking**

Flooding acts as a catalyst in providing assistance to the traffickers to commence their unlawful acts of trafficking humans. There are predators who may take advantage of this disaster and chaos it has caused. Lack of government infrastructure, awareness and resources in Pakistan will only make it harder for the appropriate Government to ensure the safety of flood victims. The people who are at most risk of trafficking are children and women, leading to organ transplant, prostitution, debt bondage, slavery, child labour etc. The crimes are already on the rise as the natural disaster has led to extreme poverty and human mobility on a massive scale. The government must take measures to mobilise a special task force to protect the flood victims especially children and women, arrange shelters, homes and the means to earn a living for themselves, otherwise the predators will wreak havoc taking advantage of their current condition.

## **Summarised Recommendations**

- Acknowledgement of the law in the Police department/Informative and training sessions.
- Judicial training; acceptance and encouragement of the new law on relevant cases. No leniency be shown to even minor offenders of the offence.
- Victim Protection - Victim rehabilitation: Measures be set in place to identify the victim,

## **Brief Roundup of Pakistan's Legislations with Regards To Human Trafficking Indicators**

### **a) Constitution of Pakistan 1973**

#### **Article 9: Security of person.**

No person shall be deprived of life or liberty save in accordance with law

#### **Article 11: Slavery, forced labour, etc Prohibited**

- 1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.
- 2) All forms of forced labour and traffic in human beings are prohibited.
- 3) No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

**Article 15: Freedom of Movement:** Every citizen shall have the right to remain in, and, subject, to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.

## SECTIONS From Pakistan Penal Code 1860

- Trafficking by way of kidnapping or abduction. [Section 359-366]
- Procuration of minor girl [Section 366-A]
- Importation of girl from a foreign country [Section 366-B]
- Kidnapping or abducting in order to subject person to grievous hurt, slavery [Section 367]
- Buying or disposing of any person as a slave [Section 370]
- Habitual dealing in slaves [Section 371]
- Selling minor for purposes of prostitution, etc. [Section 372]
- Buying minor for purposes of prostitution, etc. [Section 373]
- Unlawful compulsory labour [Section 37]
- Rape

## b) Prevention of Trafficking in Persons Act 2018

### **Section 3.**

Trafficking in persons -Any person who recruits' harbours' transports, provides or obtains another person' or attempts to do so' for compelled labour or commercial sex acts through the use of force' fraud or coercion, commits an offence of trafficking in persons and shall be punished with imprisonment which may extend to seven years or with fine which may extend to one million rupees or with both

## C- Rules on Trafficking in Persons 2020:

### Response to information regarding trafficking in persons

#### **3. Actions and obligations on receiving information disclosing trafficking in persons**

Whenever an officer of an investigating agency develops reasonable suspicion on receipt of a complaint or oral or written information or his own initiative to believe that the offence of trafficking in person under sections 3, 4 or 5 of the Act is being or has been committed.

#### **(b) Receives any information from an anonymous or confidential source**

concerning a possible trafficking in persons irrespective of the fact that such information does not on its face constitute a reasonable suspicion, the investigating agency shall

- (i) promptly investigate the possible trafficking in persons violation in accordance with the provisions of the Act and the Code; or
- (ii) promptly refer the matter to the appropriate investigating agency having jurisdiction to investigate the offence.

(2) **An officer of the investigating agency receiving a request by any person for assistance** from trafficking in persons shall respond to such request and shall offer protection in a case of alleged trafficking in persons, even where the person reporting is not the victim of the trafficking.

(3) **Officers of the investigating agency receiving information disclosing an offence of trafficking in persons**

shall take appropriate actions as are necessary to protect the immediate safety and security of persons who may be the victims of trafficking and shall make certain that all inquiries and investigations are properly coordinated and the rights of these victims are respected and safeguarded.

(4) **Where an officer of the investigating agency has reason to believe that it is necessary to rescue a person without delay**

In case of any imminent danger to the life of such person or the serious exploitative circumstances such person is facing; the officer shall act to remove such person from any place or premises and may cause him or her to be produced before the Court in accordance to the provisions of the Code.

(5) **Failure to respond to a request for assistance or to inquire into or investigate**

the alleged offence under the Act shall be a misconduct and the officer who fails to respond to a request for assistance or to initiate inquiry of investigation shall, on a report filed by the complainant to a superior officer, be subject to disciplinary action according to applicable rules and procedure related to efficiency and discipline of the investigating agency.

## **Identification of victims of trafficking:**

### **4. Guiding principles for identification of victims**

When determining the status of a person as a victim of human trafficking, officers shall consider all the circumstances of the particular case, including the following guiding principles that may be relevant in a particular case.

(a) whether the person is in an exploitative situation through one or more of the following means:

- i violence, force, coercion, intimidation, undue influence, or threats;
- ii threats of violence against the family members or friends of the person;
- iii forcing the person to use narcotic drugs or causing the person to be addicted to drugs;
- iv (photographing or video-recording a person for the purpose of blackmailing the person;
- v forcing the person to witness the beating, rape or murder of any other persons as a demonstration of what will happen to the person if the person fails to obey; or
- vi threatening the person with arrest by the police for being in the country illegally or for an offence committed as a direct result of the trafficking.

## **Protection of victims and witnesses:**

### 10. **Protective measures for victims :**

The investigating officer shall conduct an evaluation of the existing risks to a victim, following which the investigating officer shall inform the victim of the possible risks and of the protection and security measures that need to be adopted.

### 11. **Protection of information regarding victims and witnesses**

In any proceedings, be it before, during or after trial, the investigating officer or any officer or employee of the investigating agency, or any prosecutor or a person connected with the prosecution, or any person connected with the shelter home where the victim or witness resides, shall not reveal the name or address, or include any particulars calculated to lead to the identification of any victim, or a member of the family of a victim, or a witness to any proceedings to any person.

## **D-THE PUNJAB BONDED LABOUR SYSTEM (ABOLITION) ACT, 1992:**

1. **Bonded debt** means an advance ( peshgi ) obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded and forced labor system.
2. **Bonded labour** means any labor or service rendered under the bonded and forced labor system.
3. **Bonded labourer** means a labour who incurs, or has, or is presumed to have, incurred, a bonded debt.
4. **Abolition of bonded labour system.** On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged from any obligation to render any bonded labour.

(2) No person shall make any advance under, or in pursuance of, the bonded labour system or compel any person to render any bonded labor or other form of forced labour.

[3] An employer shall not make or receive any advance (peshgi) inconsistent with, or in violation of, any law for the time being in force or beyond the prescribed limit.

(4) The advance (peshgi) under subsection (3) shall be recovered in such manner as may be prescribed.

11. **Punishment for enforcement of bonded labor:** Whoever, after the commencement of this Act compels any person to render any bonded labor shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years, or with fine which [18][which may extend to two hundred thousand rupees but] shall not be less than fifty thousand rupees, or with both.

Apart from this legislation in Punjab we have these legislations for other provinces.



- Bonded Labour System (Abolition) Act, 1992 (applicable to ICT and Balochistan)
- Bonded Labour System (Abolition) Act, 1992 (adopted by Punjab in 2012)
- Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act, 2015
- Sindh Bonded Labour System (Abolition) Act, 2015

## **The Islamabad Prevention of Beggary Act, 2020**

### 1. **Power to require a person found begging to appear before Court:-**

Any police officer or other person authorised in this behalf by the District Magistrate may arrest without warrant any person who is found begging.

### 2. **Summary inquiry in respect of persons detention:-**

Where a person is brought before a Court under section 3, the Court shall make a summary inquiry in the prescribed manner as regards the allegation that he was found begging.

3. **Penalty for begging after detention as beggars:** certified detention of not less than 3 years and not more than 7 years or may convert such detention into imprisonment of not less than 1 year extending to like a period.

4. **Report of Medical Officer before the committee:** The court which finds a person to be guilty of an offence of begging under section 4 or section 5, shall, before passing any sentence of his committal to a Certified Institution, send such person to the Medical Officer in charge of the federal public hospital.

## **The Punjab Restriction of Employment of Children Act 2016**

### 3. **Prohibition on employment.-**

An occupier shall not employ or permit a child to work in the establishment. An occupier shall not employ or permit an adolescent to perform any hazardous work in the establishment.

### 4. **Provincial Committee on Child Labour :**

The Government shall, by notification, constitute a Committee to be called the Provincial Committee on Child Labour to advise the Government for appropriate legislative, administrative and other measures for the eradication of child labour and, subject to Article 11 of the Constitution, to propose the

#### 5. **Duration of work:**

the occupier shall fix the period of work not exceeding three hours in a day; and, if the adolescent is required to work for more than three hours in a day, the occupier shall, after the initial period of three hours, provide a mandatory interval of at least one hour to the adolescent.

(2) The total period of work of an adolescent in a day, including the mandatory interval for rest, shall, in no case, exceed seven hours.

(3) The occupier shall:

(a) arrange the hours of work of an adolescent in such manner that the working hours are not in

conflict with the timings of the educational or vocational institution where the adolescent is enrolled;

(b) not require or permit an adolescent to work between 7.00 pm and 8.00 am.

(c) not require or permit an adolescent to work in the establishment on any day on which the adolescent has worked in any other establishment.

6. **Weekly holidays:**

An occupier shall allow an adolescent employed in the establishment a holiday of at least one whole day in a week. The occupier shall specify the holiday through a notice permanently displayed at a conspicuous place in the establishment and the occupier shall not alter the day of the holiday more than once in three months.

11. **Penalties. :**

An occupier, who employs or permits a child to work in an establishment, shall be liable to punishment with imprisonment for a term which may extend to six months, but which shall not be less than seven days and with a fine which may extend to fifty thousand rupees, but which shall not be less than ten thousand rupees.

## **THE PUNJAB PROHIBITION OF CHILD LABOUR AT BRICK KILNS ACT 2016**

3. **Contract of engagement on work:**

Every engagement or appointment of a worker shall be subject to a written contract in the prescribed Form between the worker and the occupier showing the terms and conditions of his employment or engagement including:

- (a) the amount of advance
- (b) the amount of wage
- (c) the payback schedule of the advance

5. **Prohibition of employment:-**

Notwithstanding the provisions of any other law, an occupier shall not employ, engage or permit a child to work at the brick kiln.

13. **Penalty:**

An occupier who contravenes any provisions of section 3, 4 or 5 of the Act, shall be liable to punishment with simple imprisonment which may extend to six months but which shall not be less than seven days and fine which may extend to five hundred thousand rupees but which shall not be less than fifty thousand rupees.



## **THE TRANSPLANT OF HUMAN ORGAN AND TISSUE ACT 2010** **APPLICABLE IN PUNJAB**

### **10. Punishment for removal of human organ without authority.-**

Whoever renders his services to or at any medical institution or hospital and who for the purposes of transplantation, conducts, associates with or helps in any manner, in the removal of any human organ without authority, shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to one million rupees.

(2) Where any person convicted under sub-section (1) is a registered **medical practitioner**, his name shall also be reported to the Pakistan Medical and Dental Council for appropriate action including removal of his name from the register of the Council for a period of three years for the first offence and permanently for subsequent offence.

### **11. Punishment for commercial dealings in human organ.-**

Whoever, makes or receives any payment for the supply of, or for an offer to supply, any human organ, seeks to find a person willing to supply for payment of any human organ, offers to supply any human organ for payment, initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply any human organ—

(i) takes part in the management or control of a body of persons, whether a society, firm, or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or

(ii) publishes or distributes or causes to be published or distributed any advertisement,—

(a) inviting persons to supply for payment of any human organ;

(b) offering to supply any human organ for payment; or

(c) indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d),

shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to one million rupees.

### **13. Offences by companies.—**

Where any offence, punishable under this Act has been committed by a company, its Chief Executive or Director or any other person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly

## **PSOM**

**3. Punishment of smuggling of migrants:** Whoever intentionally engages in or attempts to engage in the smuggling of migrants shall be punished with imprisonment which may extend to five years but which shall not be less than three years and with fine up to one million rupees.

**5. Offence of harbouring illegal residents for benefit-** Whoever intentionally, for the purpose of getting benefit, harbours or attempts to harbour a person who is not a citizen or permanent resident of Pakistan and who has not complied with the necessary requirements for legally remaining in Pakistan commits an offence and shall be punished with imprisonment which may extend to three years but which shall not be less than one year and with fine up to one million rupees.

**11. Investigating Agency -** the federal investigation agency, or such other agency *as may be specially empowered by the government through notification in the official gazette, shall be responsible for investigation of offences under this act.*

**12. National and international cooperation:** The Federal Investigation Agency or such other agency notified under section 11 co-operate with relevant authorities in Pakistan and in other countries of origin, transit, and destination of smuggled migrants and make reciprocal arrangements after due administrative process to share, request and receive information relating to smuggling of migrants; and

**(b)** maintain liaison with all relevant national or international authorities, organisations, bodies, associations and societies and represent Pakistan.



## **REPORTED CASES WITH ELEMENTS OF TRAFFICKING IN PERSONS:**

Since we have very less /nearly no reported cases under this law, So we have added case laws which has elements of Internal Human trafficking.

### **Selling minors for purposes of prostitution, etc. [Section 372]**

#### **2009 Y L R 1013**

*‘When the parents of the girl had also disputed the case of the prosecution and they had been joined as co-accused in the crime, case of accused as to her involvement in the commission of offence needed further inquiry. Was yet to be seen whether the little girl was purchased by accused; whether she was recovered from her custody; and whether she though was aged 4/5 years, was to be used in future for the purpose of prostitution. Accused according to the prosecution case, though was apprehended on spy information, but the police did not bother to take any private Mashir for the arrest of accused and alleged recovery of girl from her custody. Accused was released on bail, under circumstances’*

### **Buying minor for purposes of prostitution, etc.**

#### **1970. P Cr. L J 120**

*“A girl below 18 years was, through fraud, brought by the accused to his house and kept there forcibly to lead an immoral life. The wife of the accused also exercised effective control over the girl and used to take money from persons who outraged the modesty of the girl. It was held that possession of the girl by the wife was consistent with the purpose of prostitution and illicit inter course and as such she was guilty. The contention that there being no evidence that the wife obtained possession of the girl from the husband or any other person she could not be convicted under section 373, was rejected and it was held that the offence of the wife, in circumstances, falls more appropriately under section 373, P. P. C. than section 366-A”*

## **Habitual dealing in slaves [Section 371]**

### **1990 P Cr. L J 50**

*“Minor children were recovered from accused who had allegedly kidnapped them for being exported to other countries as slaves. Parents of some children, during investigation, gave affidavits that they had handed over the children to accused for employment. Such affidavits at that stage could not be considered as evidence. A prima facie case under Ss. 364-A & 371, P.P.C. Appeared against parents and accused from whose possession minors and passports were secured Parents could not be given licence to deal with minors as they might consider fit in contravention of S.371, P.P.C. where there is no exception to parents and same is punishable for abetment. Bail applications of accused who were found directly involved in the offence were dismissed. Accused against whom there was no direct charge were however admitted to bail”*

### **P L D 1997 Lahore 428**

*“S.491-Constitution of Pakistan (1973), Art.11, Penal Code, Ss.371 & 374 **Bonded Labour System (Abolition) Act**. Police could not recover and produce the detenues in Court---Women and children of the petitioner's family, prima facie, had been made victims of forced labour under the bonded labour system with his connivance **Brick-kiln owner** could not engage labour after making advance payments under the bonded labour system which was not only in negation of the fundamental right guaranteed under Art.11 of the Constitution but was an offence under Ss. 11 & 12 of the Bonded Labour System (Abolition) Act, 1992 as well as under Ss.371 & 374, P.P.C. in appropriate cases. Police was consequently directed to register a case against the petitioner and the brick-kiln owner who had been dealing the detenues under the bonded labour system. Police was also directed to recover the detenues and set them at liberty”*

## **Unlawful compulsory labour [Section 374]**

### **2018 Y L R 1171**

*“Ss. 3 & 11 Penal Code, S. 374 Criminal Procedure Code, Ss. 100 & 561-A **Bonded Labour System (Abolition) Act**, S.2 Inherent jurisdiction of High Court Child employment. Wrongly confined person Recovery. Petitioner sought indulgence of High Court for recovery of his wife and niece aged 11 years allegedly placed under restraint by respondent with whom she was working as housemaid. Validity Acquiescence of child could not be construed or equated by any stretch of imagination with his willingness to drudge on in an alien household. All those, including parents as well as facilitators were equally*



*culpable to bring a child in such a vulnerable situation. High Court directed the police to locate the minor girl from wherever she was and proceed further as per disclosure strictly in accordance with law. Petition was disposed of accordingly”*

### **P L D 1997 Lahore 428**

*“S. 491-Constitution of .Pakistan (1973), Art.11-Penal Code (XLV of 1860), Ss. 371 & 374-Bonded Labour System (Abolition) Act (III of 1992), Ss. 11 & 12-Habeas corpus petition-Police could not recover and produce the detenues in Court-Women and children of the potitioner's family, prima facie, had been made victims of forced labour under the bonded labour system with his connivance-Brick-kiln owner could not engage labour after making advance payments under the bonded labour system which was not only in negation of the fundamental right guaranteed under Art. 11 of the Constitution but was an offence under Ss. 11 & 12 of the Bonded Labour System (Abolition) Act, 1992 as well as under Ss.371 & 374, P.P.C. in appropriate cases.Police was consequently directed to register a case against the petitioner and the brick-kiln owner who had been dealing the detenues under the bonded labour system-- Police was also directed to recover the detenues and set them at liberty”*

### **Forced marriage**

### **PLJ 2013 CrPC 529**

*“365(b)/376 allegation of zina bil jabr-allegations of the abductee regarding commission of zina bil jabr with her by the two petitioners in the motorcar in juxtaposition with her medical report and the negative fsl report qua her vaginal swab. section 365-b, p.p.c. signifies the carrying away of a woman by any means with an aim that she may be **compelled to marriage or forced** or made to illicit intercourse, against her will-two main components and ingredients of the offence, firstly, there must be kidnapping or abduction of a woman and secondly, the first act of abduction and kidnapping, must be with intent that she may be compelled to marriage or be forced or seduced to illicit intercourse in the instant case all the above said elements are missing”*

## **Conclusive Remarks:**

Criminal activity, including the trade of human life, has been steadily rising in the modern world. A serious breach of human rights is the heinous and abominable crime of trafficking. There are currently 45.8 million of people in slavery worldwide, the statistics collected by the Walk Free Foundation. According to the United Nations, two-thirds of confirmed trafficking victims worldwide are women and 79% of victims are trafficked for sexual exploitation. The suffering, plight, and helplessness of victims are also ignorant in a society like Pakistan. Our constitution provides a safeguard against this heinous crime in section 11 which states that human trafficking and child labor are prohibited. Our society is in dire need of necessary institutional mechanisms to protect and assist victims of human trafficking, victim identification procedures, protect their confidentiality, and help them restore their lives, which will have been invariably damaged by the traffickers who stole their freedom and also provides penalties for violations to the criminals. Our culture despises women who work in the prostitution industry so much, regardless of their circumstances, they are treated more like criminals than like victims of social injustice. The heinous act for the whole of humanity becomes more shocking, as how a majority of society is unaware of. Understanding what trafficking is also an important aspect to significantly undermine the ability of possible measures to combat this crime. The Criminal Justice System needs to have a rapid, efficient and binding response to eradicate trafficking. A large number of cases have become a pending conundrum for the experts due to no distinction between trafficking and smuggling. Judicial proceedings mostly rely upon the victim's statement. There are more than 400 reported cases of trafficking in which no conviction takes place on the bases of PTPA. Then why are not the law enforcing bodies aware of how serious these problems are? What makes it so hard for our legal system to understand that engaging in human trafficking, using intimidation to extract confessions from victims, and other forms of victimization are extremely simple and widespread in Pakistan? The situation is also exacerbated by official corruption, which is a major impediment to any success in preventing and controlling trafficking. Our country's biggest problem is that it takes longer to understand the severity of crime without thinking about the reputation of states in the eyes of international forums. The lack of seriousness and incompetence towards the legislative and judicial reforms is astonishingly oppressive. Even though trafficking is tantamount to a gross violation of human rights law, the government still demonstrates an insignificant interest to advance the framework. They should aim to highlight modernised ways to formulate a comprehensive set of procedural principles through which the stakeholders can fill out the lacunae in the practices. The government must work towards ways to conduct proper investigation and prosecution to eradicate the

malpractices. Furthermore, a reliable process of evidence collection is also introduced. If the criminal justice system is not resolved in time it will result in immense disarray in society. To solve a crime, a modernized system to process the crime scene is a prerequisite we can no longer run away from. We shouldn't allow life to be traded away for anyone's interests. Let's put an end to human trafficking by doing everything in our power. It is only possible if we synergize our actions with scientific approaches. An adequate mechanism for the prevention of trafficking is mandatory to maintain social integration and social regulation.

### **Sources of The Research Compilation:**

- a) **The Constitution of Pakistan 1973**
- b) **PATCHO 2002 (Repealed after the subsequent legislation)**
- c) **Trafficking in Persons ACT (TIP ACT) 2018**
- d) **Trafficking in Persons RULES 22'**
- e) **The Bonded labour act**
- f) **The Brick kiln act**
- g) **Underage labour restraint act**
- h) **The Anti-beggary Act Islamabad**
- i) **PPC sections**
- j) **US State Department Report 21' & 22'**
- k) **Report by KSA ,**
- l) **UNO report**
- m) **UDHR,**
- n) **UNTOC & the Palermo Protocol**
- o) **CATW**
- p) **European Parliament (1997)**
- q) **ILO**
- r) **GAATW**
- s) **UN trafficking protocol 2000 (ratified by 117 countries)**

- t) migrants protocol 1998
- u) UNODC REPORT 2014
- v) Slavery convention 1926

**KEYWORDS:**

**Human Trafficking, Internal Human trafficking, FIA, Police, Smuggling, Bonded labour, Begging, exploitation, servitude, commercial sex, prostitution, compelled labour, slavery, debt bondage, coercion, fraud, forced marriage, domestic violence, illegal organ transplant, sexual exploitation, UNODC, PPC, abetment, criminal conspiracy, child, women, brick kiln, underage warriors, abduction, kidnapping, forced detention, US State department, illegal immigrants, criminal offence, child labour, SSDO, SDGs, Human Rights, Fundamental Rights, Constitution, legal analysis, recommendation, Punjab, Balochistan, KPK, Sindh, helpline, victim protection, women safety, child rights, UNTOC, TIP Protocol, Palermo Protocol, IDPs, UN, AHTC, Report,**