

# Child Trafficking and Abduction



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***“The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation.”***

UN Convention against Transnational Organized Crime 2000

***“Reducing to or holding a child in compelled service.”***

Luis CdeBaca, Ambassador-at-Large, Office to Monitor and Combat Trafficking in Persons, US State Department

Human trafficking is a crime that ruthlessly exploits women, children and men for numerous purposes. The ILO estimates that millions are trafficked globally each year. The United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons 2012 reveals trends showing an increase in child victims of trafficking. From 2007 to 2010, the percentage of child victims had risen to 27%. Girl children are especially vulnerable to trafficking and related crimes as out of every three child victims, two are girls.

The US State Department Trafficking in Persons Report 2013 classifies Pakistan as a source, transit, and destination country for men, women, and children trafficked to settle debts and disputes, or forced into sexual exploitation or domestic servitude, with a large percentage of trafficking occurring within Pakistan. Source or origin means the place from where the victims are sent; transit means the place where the victims might be moved through and temporarily kept on the way to their final destination; and destination – where the victims finally end up.

The US State Department's trafficking report identifies bonded labor as the major triggering factor behind human trafficking in Pakistan, whereby traffickers or recruiters exploit an initial debt assumed by a worker as part of the terms of employment, which sometimes persists through generations. In Pakistan, bonded labor is mainly concentrated in the Sindh and Punjab provinces; however, cases of debt bondage have also been reported from the other two provinces. In the above context, mining, carpet weaving, brick kiln and fishing industries in the four provinces rely heavily on bonded labor.

## Child Trafficking in Pakistan

Child trafficking in Pakistan, has remained entrenched due to natural disasters, a large number of Afghan refugees, porous borders, entrenched poverty and the presence of organized trafficking networks. External and internal human trafficking takes place but there is no reliable data to enumerate the actual number of incidents or to distinguish whether the reported cases are of internal or external trafficking. According to the Karachi based Madadgaar National Helpline, 190 cases of human trafficking were reported in Pakistan in the first three months of 2012. The victims included 112 men, 33 women and 45 children.

In the majority of the cases of child or woman trafficking, 'employers' pick up victims in remote areas with the promise of getting them jobs in cities. However, once the money is paid to the potential 'employee's' family, he/she is treated like a slave. The sale of children in forced begging rings, domestic servitude and prostitution also reinforces internal human and child trafficking in the country. Forced marriages of girls also contribute to cross border trafficking when their 'husbands' sell them off.

Militant groups are sometimes seen as serious threats to children as they are said to coerce parents into giving away their children who are then used by them as child soldiers, spies and suicide bombers.

## Child Abduction in Pakistan

The trend to kidnap children for ransom is increasing on a fast pace in the country due to rising poverty and militancy. According to Madadgaar National Helpline, 170 children went missing or were kidnapped from Karachi alone in the first nine months of 2012. A total of 384 children were kidnapped from around the country in 2011. This shows a steep increase in cases of kidnapping for ransom and missing children in 2012. Kidnappings for ransom were at an all time high in Lahore where 400 cases of kidnappings were registered in the first three months of 2012 as kidnapers continued to target children, young girls and women in the city. In January alone, 22 cases of child kidnapping (of children aged between five to ten years) were reported from Lahore.

## International Law

### UN Convention on the Rights of the Child (UNCRC) 1989

#### Article 35

*“States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”*

## Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography (OPSC) 2000

Pakistan signed the OPSC on September 26, 2001 and ratified it on July 5, 2011. However, it has yet to take new legal initiatives to revamp or buttress the existing legislation to conform it to the provisions of OPSC. The OPSC provides definitions of child prostitution, child pornography, and sale of children and exhorts signatory states to criminalize such activities through legislation. Legislation on these crimes can go a long way in counteracting child trafficking as prostitution; pornography and sale of children for monetary benefits are important triggers of child trafficking.

## UN Convention against Transnational Organized Crime (UNTOC) 2000

Pakistan signed the UNTOC on December 14, 2000 and ratified it on January 13, 2010. It was adopted by the UN General Assembly (UNGA) as the first comprehensive and global legally binding instrument to fight transnational organized crime.

The UNTOC is further supplemented by three Protocols, which target specific forms of organized crime:

- 1) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,
- 2) The Protocol against the Smuggling of Migrants by Land, Sea and Air,
- 3) The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

## Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women & Children (Palermo Protocol) 2000

The Palermo Protocol supplements the UNTOC which Pakistan has yet to sign and ratify. It defines 'trafficking in persons,' and a 'child' to be any person under 18 years of age. The Palermo Protocol implements a rights based approach to dealing with trafficking where States are to deal with trafficking victims through restoration and rehabilitation instead of deportation. It aims to prevent and combat trafficking in persons, paying particular attention to women and children. It also calls for the protection and assistance of the victims of trafficking with full respect for their human rights and aims to promote cooperation between State parties to meet these objectives.

The UNODC is responsible for implementing the Protocol. It offers practical help to States in drafting laws, creating comprehensive national anti trafficking strategies, and accessing resources to implement them.

## UN Global Plan of Action to Combat Trafficking in Persons 2010

In 2010, the UNGA marked another milestone in the multinational effort to combat human trafficking by adopting the United Nations Global Plan of Action to Combat Trafficking in Persons. Following the principles of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Member States' renewed their commitments through the Global Plan of Action using the commonly known approach of the “4 Ps”: Preventing trafficking in persons; protecting and assisting the victims; prosecuting the traffickers; and building partnerships.

## National Law

### Pakistan Penal Code (PPC) 1860

A number of sections of the PPC deal with abduction and kidnapping. Many of these sections are not child specific but generally address abduction or kidnapping, irrespective of the age of the victim. For instance, Sections 365, 365A, 367 and 368 all deal with the crime of kidnapping.

#### Section 364A

If a person abducts a child below 14 years of age with the intention that the latter be subjected to grievous hurt, slavery or lust of the concerned person then the penalty for such an act varies from a death penalty to life imprisonment (14 years in prison) with the imprisonment not being less than seven years in jail.

#### Section 369

If a person abducts a child with the intention of stealing from the child then he is liable to a punishment extending to seven years in prison.

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**Sections 366A** - procuring of a minor girl for sexual purposes punishable with an imprisonment extending to ten years in prison and a fine.

**Section 366 B** - importation of a girl from a foreign country for illicit purposes punishable with an imprisonment extending to ten years and a fine.

**Section 370** - buying and disposing of any person as a slave punishable with an imprisonment of up to seven years and a fine.

**Section 371** - habitual dealing in slaves punishable with an imprisonment term extending to ten years and a fine.

## **Prevention and Control of Human Trafficking Ordinance (PACHTO) 2002**

The Ordinance is used to prosecute some forms of transnational trafficking. However, the Ordinance fails to cover internal trafficking and cases where children are threatened, tricked or coerced into providing consent to be trafficked.

### **Section 3**

The planning or execution of human trafficking for the purpose of slavery, exploitative entertainment or forced labor is punishable with an imprisonment extending to five years and a fine.

If a person forces someone to perform labor and services under threat then he is punishable with an imprisonment of up to seven years and a fine.

A person who engages in child or female trafficking is punishable with an imprisonment extending to ten years and a fine. The term of imprisonment can be extended if the accused is directly involved in the act of kidnapping (14 years for child or female kidnapping and 10 years for other cases).

## National Action Plan for Combating Human Trafficking

The National Action Plan is renewed annually and implemented through FIA and its zonal offices across the country. The National Action Plan 2011 calls for the establishment of Anti Trafficking Units under the supervision of the Director General of the Federal Investigation Agency (FIA); the prevention of human trafficking through legislation and awareness raising campaigns by the Ministry of Foreign Affairs; the prosecution of offenders through cooperation among authorities, border measures, and trainings; and the protection of victims through the establishment of shelters for victims. The National Action Plan for 2012 reviewed and added strategies from the previous plan and included additional trainings of the Anti Human Trafficking Units and embassy staff as well as increased involvement between the provincial police and FIA.

## Recommendations

- The PACHTO fails to take into account internal human trafficking. This discrepancy should can and should be addressed by enacting the pending Criminal Law (Amendment) Bill 2013 which criminalizes internal trafficking as an offence under the PPC.
- Law should be enacted for dealing with internal and external trafficking from a rights based approach which offers structural as well as law enforcement solutions to trafficking in line with international law. Updated trafficking laws from around the world which are in line with the Palermo Protocol can be used as guidance in enacting Pakistan's own comprehensive anti trafficking law.
- The State should take special initiatives to criminalize the sale of children, child prostitution and child pornography in line with the OPSC.

- The State should establish specialized rehabilitation centers/ shelters for children victimized through trafficking, with trained staff to respond to their specific needs. A formally structured referral system also needs to be set up.
- The provincial governments should provide resources; work towards the training and sensitization of the provincial police for dealing with internal trafficking, dealing with the child victims of trafficking; as well as increased cooperation with the FIA to combat internal and external trafficking.
- Standards of institutional care and protection should be established for organizations providing support to children rescued from trafficking and sexual exploitation.
- The State must sign and ratify the Palermo Protocol. Furthermore, the State should take assistance from UNODC in the practical implementation of the Protocol.
- The government must allocate more resources to address human and child trafficking.
- Pakistan should make it a priority to submit its initial comprehensive report under Article 12 of the OPSC due in 2013.
- The media should avail its influence and work towards raising awareness on the issue of internal and external child trafficking as a public service.
- Increased cooperation among all stakeholders i.e. communities affected and victims of trafficking, the relevant ministries, FIA, provincial governments and police, civil society and the media to combat the problem.



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