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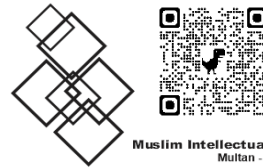
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TOPIC

EXAMINING THE LEGAL FRAMEWORK: TRAFFICKING OF WOMEN UNDER INTERNATIONAL AND PAKISTANI LAWS

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EXAMINING THE LEGAL FRAMEWORK: TRAFFICKING OF WOMEN UNDER INTERNATIONAL AND PAKISTANI LAWS

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Abstract

This research article assesses the legal landscape governing the trafficking of women under both international and Pakistani laws. It explores the alignment of Pakistan's domestic legal framework with international standards and obligations, shedding light on the strengths and weaknesses of the country's anti-trafficking measures. Through legal analysis, case studies, and empirical data, the study identifies gaps in the legal framework, challenges in enforcement, and gender-specific vulnerabilities faced by trafficked women. It emphasises the need for international cooperation to combat transnational human trafficking networks effectively. The research offers insights and recommendations for policymakers, legislators, and civil society to strengthen Pakistan's commitment to combating human trafficking and protecting the rights of trafficked women.

Keywords: Domestic Law, International Law, Legal Framework, Pakistan, Trafficking of Women

Introduction:

This research looks at the international legal actions implemented to combat women trafficking. There are two separate sections to the content. The first section examines the criminal control response inherent in the Trafficking Protocol and the 1949 Convention. The second portion, on the other hand, looks at numerous regional and international legal frameworks that approach women trafficking from the standpoint of human rights. These accords place a high priority on defending the rights of trafficking victims. In conclusion, the chapter assesses the need for tackling commercial sexual exploitation and human trafficking

through a thorough framework that blends the human rights-based strategy described in human rights instruments with the crime control measures indicated in the Trafficking Protocol (Weiss, A. M. 2012).

Through the protocol Designed to Avoid, Combat, and Punish Trafficking in Persons, Including Women and Children (also known as the Trafficking Protocol or the Palermo Protocol), the United Nations has recognized the wide-ranging effects of human trafficking. On December 25, 2003, this international agreement—which was made possible by the United Nations Convention against Transnational Organized Crime (CTOC)—went into force. One of three protocols is used in addition to the CTOC. The first Convention of its sort in nearly 50 years, the Trafficking Protocol addresses people smuggling on a global scale. It is also the only agreement that defines human traffickers in a way that is accepted by all. Facilitating international collaboration in the investigation and prosecution of human trafficking is one of its goals. Protecting and aiding individuals who have been the victims of human trafficking while also upholding their rights, as outlined in the UDHR, is another goal. The Trafficking Protocol, an international pact with 117 member nations and 173 cooperating countries as of October 2019 defines human trafficking legally. When someone in a position of authority uses force, intimidation, kidnapping, deceit, misuse of power, or takes advantage of someone else's vulnerability in order to gain their cooperation for the purpose of engaging in sexual exploitation, this is referred to as coercion. Various forms of sexual assault, forced labor, servitude, and slavery, including the removal, modification, or implantation of organs, are all considered forms of enslavement (Farrior, S. 1997).

If any of the procedures mentioned in paragraph (a) have been used, the consent of a victim of human trafficking to the deliberate mistreatment described in the subparagraph of this article is irrelevant.

Recruiting, getting around, transferring, sheltering, or collecting a person with the intent to abuse them is considered human trafficking, even if none of the techniques listed in this article's subsection (a) are used. People who are younger than eighteen are typically referred to as youngsters.

Human trafficking, especially human smuggling, is a global and pervasive criminal activity that generates profits via the exploitation of males, females, and children. Organized networks or individuals behind these lucrative operations exploit vulnerable individuals who are weak, destitute, or merely striving for a better life. The UNODC aims to eliminate these criminal activities by dismantling illicit enterprises involved in human trafficking and prosecuting the main perpetrators. Ultimately, our efforts safeguard individuals from the malevolence,

desertion, manipulation, and even homicide that these transgressions entail. Human traffickers are individuals who engage in the transportation of individuals for the explicit objectives of slave labor, sexual exploitation, or economic gain. This might involve providing consent to a partner for the occurrence of marital rape, as well as undergoing tissue or cell removal procedures, such as those used for surrogate and egg extraction (Kelly, E. 2002).

Human trafficking knows no boundaries. Human trafficking is a criminal offense committed against individuals, as it involves forcibly restricting the victim's freedom of movement. The illegal trade in persons, primarily women, is known as "human trafficking." The victim need not always be physically moved from one location to another. A similar operation, known as "people smuggling" or "human smuggling," requires the consent of the individual being carried. Under the influence of coercion and mistreatment, situations involving trafficking can deteriorate into instances of human smuggling. Victims of trafficking are forcibly confined and coerced into providing work or surrendering goods to the trafficking organization or other parties. The UN Office on Drugs and Crime (UNODC) conducted a report revealing that individuals from 162 distinct nationalities have been identified or expelled from 143 countries. However, it is important to note that this data represents just a fraction of the total number of victims. Numerous individuals from Sub-Saharan East Asia have been affected. While South Asia and Africa may have instances of individuals ending up on faraway continents, it is important to note that the bulk of trafficked individuals tend to stay within their own countries and regions (Sullivan, B. 2003).

The 1948 Udhr

Article 4: Freedom from Slavery

The practice of holding individuals in slavery or servitude is strictly forbidden. This includes all types of slavery and the trade of enslaved individuals. Article 4 of the Convention states that no individual shall be subjected to detention or slavery. In contrast to the majority of the Convention's fundamental provisions, Article 4 does not contain any exemptions and prohibits any deviation from its requirements as outlined in "Article 15", even in the event of a national emergency that poses a threat to the survival of the nation. Article 4 of the Convention explicitly prohibits the use of forced or coercive labor. Article 4 of the legislation defines forced or obligatory labor with the aim of protecting against severe forms of exploitation, including sex slavery, irrespective of whether the circumstances are related to human smuggling. Any behavior of this nature may possess elements that categorize it as servitude or subordination according to item 4 of the Convention, or it may give rise to apprehension under a different

item of the Convention. Article 4 of the Convention does not aim to limit rights, such as the rights mentioned in paragraph 2. Instead, it defines the scope of that right by connecting it with paragraph 2 and specifying what should not be considered as forced or coerced labor (Chuang, J. 1998).

The important case of *Siliadin v. France* (2005, no. 73316/01) addresses the problem of women trafficking in connection to article 4. "Mrs. D" paid for the transportation of a fifteen-year-old girl from Togo to France, confiscating her passports in the process. The girl was hired by Mrs. D with the condition that she pay back her airline costs, but after a few months, she was given a job with another couple. She was made to work for 15 hours a day, every day of the week, without receiving any payment, time off, official identification, or authorization for her immigration status. The girl lacked a personal living space and donned pre-owned garments. Upon becoming apprised of the matter, the government intervened despite the fact that servitude and slavery were not considered criminal offenses in France during that period. After concluding that the girl had been committed to servitude, the European Court of Human Rights held that France had violated its express responsibilities under the anti-slavery as well as anti-forced labor treaties. This occurred as a result of the girl not having particular and effective protection under French law.

Additionally, in a case concerning the accused of trafficking, the Court found insufficient evidence to establish that a small girl was a slave. Even if the person's father received a cash present associated with the alleged marriage, it was decided that under those particular circumstances, the contribution could not be regarded as payment for an exchange of ownership, thereby raising the issue of enslavement. The Court reiterated that weddings hold significant cultural and social significance, which can differ significantly across cultures. Consequently, the payment in question can be reasonably regarded as a gift exchanged between relatives, a tradition observed in numerous diverse cultures in the Western world.

Despite the fact that trafficking is covered in Article 4, it is possible that a particular kind of human trafficking activity could be covered by another Convention provision in the event that certain conditions are met. Determining whether a particular circumstance includes every aspect of human trafficking as well as is related to the problem of sex slavery is an objective question that requires a thorough analysis of all the case's circumstances (Tzvetkova, M. 2002). Regardless of whether the abuse was perpetrated by State agents or private individuals, the procedural protocols outlined in Article 4 remain consistent. There is no requirement for a petition from the deceased or their next of kin in order to conduct an examination. Instead, if the officials become aware of the circumstance, they must take action on their own accord. The

statement also emphasized that a successful inquiry must be independent of the individuals engaged in the tale and possess the necessary expertise to uncover and penalize the responsible parties. This need is primarily focused on the techniques used rather than the outcomes achieved. However, it is imperative for the police to employ all rational methods to collect evidence and acquire further knowledge regarding the factual details of the case. The investigation's conclusions must be based on a thorough, impartial, and unbiased analysis of all pertinent circumstances. In addition, it is essential to prioritize punctuality and fair effort in all situations. However, when there is a possibility of evacuating an individual from a hazardous situation, it is imperative to execute the investigation promptly.

In the end, it is critical to include the victim or loved ones in the proceedings to the degree required to protect their legal rights. The possible shortcomings in the pertinent processes and decision-making have to be substantial problems in order to give rise to concerns under Article 4. To put it plainly, the Tribunal is more concerned with serious flaws in the protocols and decisions being made that may jeopardize the investigation's capacity to establish the case's facts or pinpoint the accountable party (Miko, F. T. 2004).

Trafficking Protocol 1949

The term "trafficking in persons" is defined precisely in the Trafficking Protocol. The act of utilizing force, compulsion, attempted kidnapping, forgery, lying, abuse of authority, taking advantage of security flaws, or offering benefits or compensation in order to obtain control over and take advantage of another person is referred to as "human trafficking." Enslavement includes a wide range of exploitative practices, including forced labor, coercive work practices, prostitution, other sexual abuse, and activities that are similar to slavery. It also covers the illicit trafficking of human beings and the unapproved removal of organs.

According to Article 3, in circumstances of human trafficking, the victim's assent to the planned exploitation specified in subparagraph (a) of this article is immaterial if any of the processes stated in paragraph (a) have been used. Three prerequisites must be met in order for adult victims of human trafficking to be identified:

- (i) The act of recruiting individuals for a specific purpose. (ii) The use of threats as a method.
- (iii) The intention of exploiting individuals.

Sex trafficking victimizes individuals of all genders and age groups, encompassing a range of exploitative actions. Throughout history, human trafficking has been linked to the sexual exploitation of women and underage individuals. According to the aforementioned international legal definition, individuals of all genders and age groups, including males,

females, children, and adolescents, can be subjected to trafficking. The range of potentially exploitative actions linked to traffickers is extensive. The list of situations provided in the definition is not comprehensive, and future research may uncover new and additional predatory motives (Williams, P. 2012).

Crossing an international border is not a prerequisite for engaging in human trafficking. Both internal and cross-border smuggling fall within the scope of this phrase. It is legal for human trafficking to occur inside a single nation, even in the nation where the offender is from. Human trafficking and migrant smuggling are two different things. Migrant smuggling refers to the illicit and facilitated trafficking of individuals over national boundaries with the intention of obtaining financial profit. Migrant smuggling, in contrast to human trafficking, entails the use of deception and/or mistreatment in order to gain financial benefit from the migration process rather than exploiting individuals in the long run. Not every example of human trafficking calls for a physical relocation. Mobility is acknowledged as a possible means in the context of trafficking to satisfy the activity requirement. The phrases "receiving" and "harvesting" indicate that human trafficking includes both the act of putting a person into abusive situations and the upkeep of that person in those situations (Kelly, L., Regan, L., & Willis, C. F. 2000).

Supplementary Convention on the Abolition of Slavery 1957

A 1956 United Nations convention called the Supplementary Convention on the Abolition of Slavery, the Slave Trade, & Institutions and Practices Equivalent to Slavery. It is an addition to the 1926 Slavery Convention, which forbade slavery in the United States and is still in effect today. It also expands upon the 1930 Forced Labor Convention.

- Article 01: Both sides agree to work together to end child trafficking, marriage under duress, serfdom, and debt bondage.
- Article 02: Both parties mutually choose to set a minimum marriage age, support wedding registration, and encourage engagement announcements in public.
- Article 03: The act of transporting slaves shall be criminalized.
- According to Article 04, slaves who escape and seek refuge on the flagships of parties shall automatically acquire their freedom.
- Article 05: Prohibition of slavery and the marking of individuals as property (including through amputation and tagging).
- Article 06: Outlawing slavery and the practice of enslaving people.
- Article 07: Definitions of the phrases "servant," "slave trade," as well as "slave."

- Article 09: There can be no objections to this Convention.
- Article 12: This Convention covers all colonies, dependent estates, as well as other non-metropolitan regions that any State Party is in charge of managing internationally. (Khan, A., Bhatti, S. H., & Jillani, M. A. H. S. 2021).

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000

Three conditions must be met for a scenario to be considered human trafficking: the act of recruiting people, the use of coercive or deceptive tactics, and the intention of using them as slave labor.

Trafficking in persons refers to the act of using force, coercion, kidnapping, fraud, deceit, abuse of authority, exploiting security vulnerabilities, or offering and receiving payouts or benefits to gain complete control over another individual with the intention of enslaving them. Exploitation encompasses several forms of abuse, such as the coercion of individuals into prostitution, sexual abuse, forced labor, enslavement, and behaviors akin to slavery, servitude, or organ trafficking. The consent of a victim of human trafficking to the planned abuse indicated above is irrelevant if any of the mentioned measures have been used.

An extra document that supports the UN Convention regarding Transnational Organized Crime is the Protocol to Avoid, Suppress, and Punish Trafficking in Humans in Persons, Especially Women and Children. It is also known as the UN TIP Protocol or the Trafficking Protocol. This protocol is one of three that make up the Palermo Protocols; the other two are the ones that prohibit the illicit manufacture and trafficking of firearms and the ones that prohibit the unlawful entry of migrants by air, sea, and land. On December 25, 2003, the Convention went into effect after being approved by the UN GA in 2000. This has been approved by 178 countries as of May 2020 (Khan, A., Javed, K., Khan, A. S., & Rizwi, A. 2022).

The protocol's implementation will be handled by the UNODC. It helps states create comprehensive national anti-trafficking initiatives, draft legislation, and allocate funding to put them into action. The UNODC launched the Blue Heart Campaign in March 2009 with the intention of preventing human trafficking, increasing public awareness, encouraging participation, and inspiring employees. The Convention requires ratifying countries to pass legislation prohibiting and combating the trafficking of sexual minors, to protect and help trafficking victims, and to promote international cooperation in the pursuit of these objectives (Hussain, N., Khan, A., & Chandio, L. A. 2023).

The CEDAW 1981

Women and girls are frequently trafficked for the aim of being exploited sexually and economically. Participation in the sex trade, forced labor in fields like commercial farming and irrigation, forced marriages or being sold as wedding gowns, recruiting for armed conflicts, and carrying out crucial tasks like offering household services, transportation, and sexual favors during times of conflict are a few examples. When it comes to trafficking, women and young women experience it differently than when it comes to men and young men. The majority of victims are women and girls, while males who are trafficked face considerable obstacles in obtaining the victim support services that are now in place. This necessitates incorporating women's rights ideas into the creation and execution of laws and initiatives intended to stop human trafficking (Khan, A., Iqbal, N., & Ahmad, I. 2022).

A global legal agreement known as CEDAW requires nations to end all forms of discrimination against women and promote gender equality for women and girls in all spheres of life. UN Women's efforts to advance gender equality and the empowerment of women and girls are guided by the International Covenant on Economic, Social, and Cultural Rights, or CEDAW, a significant international pact. A young woman, as well as a young man, created CEDAW for Youth, a condensed version of CEDAW that is appropriate for and accessible to young people. This asset aims to elucidate the significance of CEDAW for young people, delineate the influence of CEDAW on global gender equality and equity for females, and provide a concise overview of CEDAW's articles, encompassing the specific forms of discrimination that necessitate eradication, as well as the methods employed to implement and uphold CEDAW (Khan, A. S., Bibi, A., Khan, A., & Ahmad, I. 2023).

The CEDAW requires Contracting States to implement all necessary measures, particularly legislation, to eradicate all types of trafficking in women and exploitation of women through trafficking. Despite the existence of multiple legislation and regulatory frameworks aimed at combating trafficking, women continue to constitute the majority of trafficked individuals globally, while offenders benefit from significant levels of impunity.

The Committee attributes the continuation of this situation to a lack of comprehension of the gender aspects of trafficking, particularly in relation to women and children who are victims of different forms of exploitation, such as sex trafficking. The failure to recognize the current economic and paternalistic structures, along with the harmful impact of labor, migration, and immigration policies imposed by States Parties, creates situations of security vulnerabilities

that result in the smuggling of girls and women. This analysis focuses on the gender-specific aspects of these violent acts.

Widespread economic policies that exert global dominance result in significant financial inequality among governments and individuals. This inequality manifests as the exploitation of workers, including firms, neglecting their responsibility to ensure that no trafficked individuals are involved in meeting their demands. Examples of globalized macroeconomic variables that worsen inequality and underemployment, with a disproportionate impact on females, include the privatization of public goods, deregulation of job markets, reduction of welfare programs, and implementation of austerity policies as part of structural adjustment programs and aid restrictions.

Measures such as reducing government spending on welfare services, privatizing essential public services, implementing punitive tax shifts, and making changes to employment market policies all hinder the ability of states to implement social and economic policies that aim to reduce inequalities, including gender-specific disparities and violations of women's human rights in different areas. Insufficient allocation of funds for social services also transfers the burden of providing necessary social services from the system to women. The causes mentioned here serve to perpetuate and strengthen social and cultural behaviors that result in the oppression of different groups of women (Khan, A., Hussain, N., & Oad, S., 2023).

Trafficking of Women Domestic Law of Pakistan

Human trafficking is a significant and urgent problem that modern society is facing, and it has evolved to manifest in various ways. A survey conducted by the International Labour Organization (ILO) and the Walk Free Foundation reveals that the current global population of modern-day slaves amounts to approximately 38 million individuals. The immense global profitability of this industry, amounting to a whopping USD 156 billion, has contributed to the proliferation of sex trafficking. Pakistan, a developing nation, has suffered from this trade as a result of pervasive poverty, limited public resources, and the government's failure to address the abhorrent practices outlined below. Women and children in Pakistan are particularly susceptible to becoming victims of human trafficking due to various factors.

Pakistan is frequently seen as both a destination and transit country for women who are trafficked for prostitution and forced labor. It was recently taken off of the Tier 2 classification that it was assigned due to its tardiness in adhering to the TVPA. Both girls and boys are frequently trafficked and employed in organized begging syndicates, coerced labor in households and agricultural settings, as well as brothels. Pakistan has been reported to have

slave markets by external observer groups and non-governmental groups, where females, girls, and children are trafficked in a dehumanizing manner.

Women are mostly smuggled into Pakistan for prostitution from Afghanistan, Iran, and Dhaka, according to the US State Department's 2013 report on human trafficking. Women have been subjected to human trafficking in and out of Pakistan since the inception of the country. During the partition of Pakistan and India, a significant number of women were abducted from both sides of the border and then subjected to trafficking or coerced into engaging in sexual activities. Over the course of more than 40 years, the development of Bangladesh has led to the displacement of numerous girls in Pakistan. The involvement of law enforcement officials, especially the police, in collusion, including active support and collaboration, poses a major obstacle to addressing the threat. The authorities have consistently demonstrated a deficiency in both political determination and capacity to address the issue. The authorities have not maintained records of the quantity of women who have been trafficked. There is a possibility that numerous instances of women trafficking, especially those that occur within a country, are not reported or officially recorded. The reputation of our police department is characterized by the practice of punishing those who have been victimized by human trafficking rather than focusing on apprehending and charging the actual perpetrators. The conspicuous lack of bilateral trade agreements signed by our administrations to handle the neighboring threat is highly noteworthy (Miko, F. T. 2004).

The primary purpose of human trafficking is to infringe upon the human rights of victims and subject them to oppression while depriving them of any opportunity for retribution. These criminal syndicates have specifically targeted underprivileged and marginalized individuals residing in remote areas of Pakistan. They engage in the abduction of children, subjecting them to sexual abuse. Additionally, they exploit women by forcing them into prostitution and subjecting them to sexual slavery. These gangs are involved in several other heinous crimes as well. The pervasive practice of enslaving and trafficking women has had profound and extensive repercussions that have extended to Pakistan. Women are subjected to exploitation through forced marriages, sexual abuse, and physical violence. The dire circumstances of poverty have forced many women to enter into marriages only for financial reasons, against their will, in order to support their impoverished families. Additionally, in rural areas, some women are being sold as a means of repaying debts. Families often force their children into prostitution and domestic servitude by arranging their weddings. In addition, women are traded as payment and a way to settle disputes across tribal groupings.

In Pakistan, where human trafficking is rampant, young individuals are bought, sold, and abducted to be used in begging rings, domestic servitude, and the sex trade. Children of all ages have been trafficked to other nations for the purpose of sexual exploitation, and some are being forced to work as forced laborers for smugglers and street vendors. Females are trafficked illegally from Dhaka, Myanmar, and other parts of South Asia to Pakistan in order to be acquired, while infants are sold to childless families or couples looking for a partner for their offspring. A media source reported that 20001 instances of women and children were victims of human trafficking. Making about 82% of the total, women and girls made up the majority of the casualties. Over 61% of these victims were Asian in origin. The Federal Investigation Agency of Pakistan revealed that Punjab has between 31 and 36 traffickers, the greatest number of any province. Thirty-one people in positions of power were investigated in 2013; as a result, one person's employment was terminated, and 34 others faced disciplinary action for their involvement in human trafficking (Niaz, U. 2003).

The Pakistani government has made great efforts, but it has not yet met all the necessary requirements to end human trafficking. These efforts included the first smuggler convictions under the state's strict laws prohibiting the smuggling of persons, the indictment of more smugglers for engaging in indentured servitude than the previous year, and an increase in the number of industrial establishments across the country. Furthermore, the authorities identified a greater number of individuals who were victims of trafficking compared to the previous fiscal quarter. Additionally, eight investigations were initiated against suspected individuals involved in the transportation of trafficked Pakistani individuals found overseas. In addition, federal and provincial agencies maintained their collaboration on anti-trafficking programs with overseas partners and governments.

The researcher does point out that, in contrast to the previous reporting period, there was no sign of a general increase in the administration's level of effort. The government's attempts to look into and prosecute sex trafficking instances have decreased. In the meantime, practically all cases of law enforcement action against trafficking, including 96% of arrests, have been disproportionately reported by Punjab province, which is home to more than half of the country's population.

Similar to past years, only two of Pakistan's six provinces were able to bring any traffickers to justice. Considering how big of an issue labor trafficking is, law enforcement's efforts to stop it have fallen short. The only province working together to stop the trafficking of bonded labor was Punjab. The number of convictions was higher overall than it was during the preceding reporting period, but it was lower for bonded work than it was in prior years. Sindh's local

government continues to use bonded labor in both industrial and agricultural settings without any consequences. Unlike the previous quarter of the fiscal year, the government is not responding to credible claims of official participation in human trafficking. Numerous groups have claimed that during the year, a number of high-profile cases involving human trafficking were dropped because of corruption and official collusion. Throughout the year, a number of notable cases of human trafficking were documented. Merely 5% of the total identified victims received care, indicating that the government is still short on resources for victim assistance. Pakistan was consequently demoted to the Tier 2 Watch List (Allain, J. 2014).

The US State Department releases a report on the global situation of human trafficking each year. The methodology utilizes a tiered framework to evaluate countries on a three-point rating system. A score of one denotes a high degree of effectiveness in the national fight against sex trafficking. A three indicates that there is a lot of space for improvement. Pakistan's response to human trafficking was rated as tier two in 2020. Bonded labour is the primary obstacle preventing Pakistan from achieving a tier-one grade. Indentured servitude refers to the practice of compelling an individual, regardless of gender or age, to work in order to repay a debt. This involves arduous manual work conducted in agricultural areas or industrial buildings. Debt figures often lack specificity, and workers are rarely provided with clear-cut agreements. Human traffickers have been reported to coerce entire families into forced labor under unclear circumstances for an indeterminate duration. Pakistan has made substantial advancements despite the remaining tasks.

Prevention and Control of Human Trafficking Ordinance, 2002

Acts that violate people's dignity and value and endanger their own, their families, and society's well-being are addressed by this act. A person is considered to be trafficked if they are acquired, secured, sold, purchased, recruited, detained, harbored, or received without their consent through the use of force, kidnapping, abduction, or by providing or receiving any kind of payment or benefit, according to Section 2(h). For the purposes listed in Section 3, this also includes giving or receiving a share for the person's transit into or out of Pakistan via whatever methods.

According to Section 2 (k), a victim is defined as one who is the target or recipient of several offenses under this Ordinance.

Human trafficking is subject to punishment under Section 3 I of the Act. This section specifies that anyone who knowingly devises or carries out a plan to traffic humans into or out of Pakistan with the intention of gaining any form of benefit or engaging in exploitative

entertainment, slavery, forced labor, or adoption shall be subject to imprisonment for a maximum of seven years and may also be fined. However, it should be noted that if a defendant has been convicted of abduction or unlawful confinement or any attempt to commit such acts in connection with the aforementioned offense, the punishment may be elevated to a 10-year jail term accompanied by a monetary penalty. Moreover, individuals who have the intention to conduct a serious crime as defined in this article but have not yet carried out the act shall be subject to a prison sentence of up to 5 years, in addition to a monetary penalty (Musharraf, G. P., & Mansoor, J. A. 2002).

Pakistan Penal Code 1860

By putting law enforcement mechanisms in place, the Pakistani government made great strides toward ending human trafficking in 2009. While the lack of comprehensive national legislation that expressly addressed human trafficking impeded the efficacy of law enforcement operations, many components of these crimes were addressed by other extant statutes. The Pakistan Penal Code 1860, together with provincial legislation, criminalizes slavery, the coercion of children into prostitution, and illegal forced labor. Offenders can face punishments ranging from fines to life imprisonment. The PACHTO criminalizes all forms of transnational human smuggling, carrying penalties that range from imprisonment for a period of seven to fourteen years. Government authorities and civilized society claim that judges in Pakistan face difficulties in applying PACHTO and imposing sufficiently severe punishments due to misunderstandings about definitions and associated offenses in the Pakistan Penal Code.

According to Section 361 of the legislation, kidnapping from lawful supervision is defined as the act of luring a mentally unstable individual or a minor under the age of sixteen if the person is female or under the age of fourteen if the person is male away from their legal guardian without the guardian's approval. This conduct is illegal since it is regarded as kidnapping. Moreover, anyone who abducts an individual from Pakistan or from their legal guardianship shall face imprisonment for a period of up to seven years, along with a potential fine.

Section 364-A pertains to the act of kidnapping or abducting an individual who is below the age of fourteen.

The act of kidnapping or abducting a person under the age of fourteen with the intention of causing their murder, serious harm, enslavement, or sexual exploitation, or putting them at risk of such harm, shall be met with the penalty of death, life imprisonment, or a term of rigorous imprisonment ranging from seven to fourteen years.

According to Section 366-A of the law, anyone who, by any means, induces a girl under the compulsory age of eighteen to leave a location or does any other action with the goal of coercing or luring her into having sex with someone else faces a ten-year prison sentence in addition to a possible fine.

The act of acquiring a female from a foreign nation is covered by Section 366-B.

It is against the law to bring a female under the compulsory age of twenty-one into Pakistan from another nation with the knowledge or intent that she will be forced to have an illicit sexual relationship with someone else. This offense carries a potential ten-year maximum sentence in jail in addition to a fine.

Section 367 pertains to the act of kidnapping or abducting someone with the intention of subjecting them to severe harm, slavery, or similar conditions.

The act of kidnapping or abducting an individual with the intention of causing them severe harm, enslavement, or placing them in a situation where they are at risk of such harm is punishable by imprisonment for a maximum of ten years, along with the possibility of a fine.

A number of activities connected to the trafficking of people and slavery are forbidden by Section 370 of the law. These operations encompass the importing, exporting, evacuating, purchasing, vending, or offloading of an individual as a slave. It also covers the acceptance, receipt, or incarceration of an individual as a slave against their choice. In addition to fines, those who break this rule may get sentences of up to seven years in prison.

Section 371-A pertains to the act of selling an individual for the purpose of engaging in prostitution or other related activities.

“Anyone who sells, rents out, or otherwise transfers ownership of a person with the intention that the person will be employed or used for the purpose of prostitution or illicit intercourse with another person, or for any unlawful and immoral purpose.”

Section 374 addresses the prohibition of forced labor.

Anyone found to have forced someone to labor against their will faces a maximum five-year prison sentence, a fine, or both. In addition, anyone who coerces a protected person or a prisoner of war into joining Pakistan's armed forces faces a maximum one-year sentence in jail (Code, P. P. 1860).

Critical Analysis of Integration of New Provisions in Pakistan Penal Code 1860

The authorities increased the number of labor trafficking-related charges and convictions while decreasing the number of sex trafficking prosecutions. It is illegal to engage in sexual exploitation and trafficking in Pakistan. The PTPA for 2018 was created. Sex trafficking and

labor trafficking are illegal activities that carry a ten-year prison sentence as punishment. The perpetrator may be sentenced to a maximum of one million Pakistani rupees (PKR) (\$6,460) in fines, imprisonment, or both if the victim is an adult male. The perpetrator may be sentenced to two to 10 years in jail, a fine of up to one million PKR (\$6,460), or both if the victim is a female adult. These penalties carried enough punishment. There are very serious consequences for being involved in sex trafficking. The punishments were justly severe. However, because they allowed for the imposition of a monetary penalty rather than incarceration, the sanctions for sex trafficking were not equivalent to those for more serious acts, such as rape. The Pakistan Penal Code (PPC) still has provisions that the state uses to punish different types of human trafficking. Prostitution-related purchases and sales of individuals were made illegal by Sections 371A and 371B. In addition, harsh penalties were set by these clauses, such as fines and up to 25 years in prison. The act of compelling someone to labor against their will was made illegal by Section 374, which also imposed fines and/or up to five years in jail.

Section 366A states that it is illegal to procure a girl who is younger than eighteen. This felony carries a potential ten-year jail sentence in addition to a monetary fine. Section 370 criminalized the act of buying or selling individuals as slaves, carrying potential penalties of imprisonment for up to 7 years and a fee. Furthermore, Section 371 forbade the regular trade of slaves and carried a fine if the prison term was less than ten years, in addition to a life sentence. In the case of sex trafficking, the punishments were just as severe as those imposed for other serious crimes like rape. The federal Bonded Work System (Abolition) Act (BLSA) made bonded work illegal. Depending on the seriousness of the infraction, penalties might include a fine of money, two to five years in jail, or both. Since 2010, most province governments have passed individual labor regulations, including prohibitions on bonded labor, as a result of a decentralization drive. Federal statutes are in effect until the provinces enact comparable legislation.

The government worked with a global organization to create and draft implementing guidelines for the 2018 PTPA during its time of force. Punjab conducted an undetermined number of trials for the two instances and people under the 2018 PTPA, found 14 traffickers guilty, and looked into 5 cases involving 85 criminals. It was revealed that some of the guilty traffickers were fined, but it was not stated if any of them received prison sentences. Under the 2018 PTPA, the KP provincial authorities opened an inquiry into four persons. As the reporting period came to an end, the investigation was still ongoing. According to the Penal Code, the government released statistics on trafficking-related investigations, charges, and convictions broken down by province and centrally controlled region.

Law enforcement organizations and courts looked into 918 instances of sexual assault in total, filed 566 charges, and found 130 people guilty of trafficking in persons. Compared to the previous reporting time frame, which saw 2,367 examinations, 2,212 charges, and an unknown number of convictions, these figures show a dramatic decline. With the exception of one case, Punjab was the site of almost all sex slavery-related inquiries and court rulings. Section 371A of the penal code of Pakistan, which expressly prohibits the sale of people for the intent of prostitution or any other comparable activity, was the legal basis for the prosecution of these instances. The repercussions for the convictions were kept a secret by the government. Three pieces of legislation address sexual exploitation in Sindh. The only province that refused to look into sex trafficking was Azad Jammu & Kashmir. Punjab continues to lead law enforcement efforts against sex trafficking, accounting for 84% of investigations, 79% of formal charges, and 96% of court decisions, per national data on sexual exploitation.

The government's attempts to combat bonded labor, a kind of labor trafficking, have proven to be futile. Bonded labor continued after the BLSA was passed because of inadequate enforcement of the legislation and the involvement of strong local authorities in the practice. Punjab was the sole state under the jurisdiction of the BLSA that conducted investigations, made arrests, or granted acquittals in cases involving drug trafficking. In the previous fiscal quarter, Punjab authorities conducted investigations into 78 cases of bonded labor, resulting in the trial of 21 individuals and the conviction of 19 smugglers. These numbers represent an increase from the previous reporting period, which saw 24 investigations, 25 indictments, and three convictions. However, they are still lower than the figures recorded in 2018, when there were 197 investigations, 208 prosecutions, and 35 convictions. Following the Punjab Prohibition of Child Labour from Brick Kilns Act, the CPWB filed 608 FIRs in total. A worldwide organization claimed that insufficient attempts by authorities, such as police silence on charges and lower court judges' lack of understanding of the law, were to blame for the BLSA's lack of enforcement. Furthermore, the DOL handled instances of forced labor in multiple regions, especially Sindh, and with the power to impose pecuniary penalties. Punjab started looking into and filing a lawsuit for the PPC's Section 374 offense of compelled labor. Although the 2018 PHTA in Sindh added PPC Section 369A, just one investigation was reported by the local authorities under this section. In line with previous reporting periods, the authorities in Sindh filed four inquiries and three prosecutions for slave trafficking under PPC Section 371. Six⁷⁶ bonded laborers were freed from their abusive jobs by the Sindh police during the reporting period. But as a result, no criminal investigations were opened. While it is the duty of prosecutors and law enforcement to file criminal charges, the authorities claim that

they have not done so because of the financial difficulties that those who cannot afford the expenses of prosecution confront. Additionally, the state supplied information on numerous penal code sections that make labor exploitation and other non-trafficking actions illegal; however, the numbers did not distinguish between cases that were connected to labor trafficking and those that were not.

Sindh courts occasionally hear cases involving human trafficking with the primary goal of separating victims from offenders; nevertheless, they do not prosecute alleged traffickers for offenses involving forced labor. Sindh enacted legislation outlawing bonded labor in 2014. It did not, however, establish any particular criminal or civil procedures to make these rules easier to apply. DVCs must be established in every province in order to guarantee the efficient enforcement of the BLSA, which includes filing and reporting cases of bonded labor. Nevertheless, the administration depended on bonded labor victims to possess knowledge of the BLSA, separate from their landholders beforehand, and initiate their own legal proceedings. Bonded laborers submitted claims, but the courts often ignored them or treated them in an administrative manner. As a result, people who were the victims of human trafficking and were able to flee occasionally had to deal with reprisals by their cunning captors.

The principal reporting and coordinating body for government initiatives to stop people smuggling continues to be the FIA. The group gave priority to looking into and prosecuting transnational crimes, leaving local law enforcement agencies to deal with cases of human trafficking within their jurisdiction. Although the FIA and provincial police occasionally worked together, overall coordination was still insufficient, which hindered data collection and law enforcement. Through its 24 joint task forces dedicated to combating human trafficking and migrant smuggling, the FIA looked into cases of migrant smuggling and local, regional, and national trafficking. Regular and systematic training is provided to FIA officials and newly hired personnel on combating migrant smuggling and human trafficking. The distinction between these two offenses is one of the lessons covered in this program. Still, some authorities continue to confuse these offenses.

Foreign nations and international organizations have provided support for the training of law enforcement officers, detectives, lawyers, and officials from the Federal Investigation Agency (FIA) in the field of human smuggling. Additionally, certain government bodies have offered assistance in the form of resources or services. Eight cases of human trafficking were forwarded to the FIA's Oman office for investigation, and the agency maintained satellite offices at three embassies across the globe. Authorities in the area were reportedly reluctant to file First Information Reports (FIRs), which are necessary to start an inquiry into a variety of crimes,

including human trafficking, according to organizations. Long-running trafficking cases and low incarceration rates are caused by the workload of prosecutors and judges, who frequently lack sufficient expertise. The government has taken part in eight international operations against people smuggling and migrant trafficking, will continue to maintain bilateral criminal justice cooperation with many countries, and extradited a sex trafficking ring to Great Britain. Throughout the reporting period, there was a significant issue with government cooperation in trafficking, which impeded efforts to combat trafficking. Contrary to ongoing assertions, the administration did not make any formal statements regarding the initiation of an investigation, filing of charges, or obtaining convictions against officials who were suspected of engaging in human trafficking. This is a decrease compared to the previous year. Between 2019 and 2020, a criminal network consisting of Pakistani and Chinese individuals transported more than 630 Pakistani women to Beijing under the pretense of legal marriages. However, it was discovered that many of these women were subjected to physical and sexual abuse by their husbands, and some were even coerced into engaging in the sex industry. An investigation was initiated by officials, including multiple Chinese persons, but later on, all 31 of them were cleared of any charges. According to Organizations and the press, influential government officials mandated the repetition of trials and reassigned those authorities who attempted to further investigate charges of human trafficking. In addition, although victims and the media consistently alleged collaboration between Chinese and Pakistani traffickers, the authorities did not find any Pakistani suspects under investigation. In July 2019, a 16-year-old domestic servant in Punjab made serious allegations of human trafficking, which included sexual abuse and torture, against her employer, who happened to be a politician. Although the complaints were lodged, the MP was not apprehended, allegedly due to the provincial administration's refusal to permit it. The lawmaker continued to exert pressure on the victim to retract the accusations.

In February 2020, the Supreme Court reversed the decision of a judge and his wife's extended three-year sentence for their cruel treatment of a 10-year-old girl, involving torture and domestic servitude. This case marked the first public acknowledgment of a government official aiding and abetting in human smuggling offenses in a decade. The Supreme Court restored the original one-year sentence. In November 2019, following allegations of mistreatment and forced labor, law enforcement removed an 11-year-old domestic worker from the residence of a Pakistani army captain, leading to the detention of the army major's spouse. The administration did not provide information regarding the status of the prosecution against the employers or the ongoing investigation of the assistant sub-inspector of police, who was first disciplined for failing to submit the case to the police.

The government took minimal effort to tackle the purportedly prevalent practice of local authority officials maintaining indentured servitude, resulting in a state of impunity for those who violated the law. Feudal lords and local factory owners utilized their political influence to facilitate the implementation of forced labor. Authorities refused to press charges and returned bound laborers to their traffickers when they attempted to escape or seek legal redress in specific situations. Organizations frequently document instances where perpetrators of bonded labor effectively lodge false allegations against victims, leading to their arrest and imprisonment, often with the assistance of law enforcement. There are allegations that certain police officers have assisted businesses in abducting workers who were previously liberated from exploitation by authorities or non-governmental organizations.

Police showed reluctance to investigate when individuals of wealth and influence, such as local politicians, were accused of engaging in bonded labor. As per reports, a number of police personnel responded to the issue of human trafficking solely in response to media pressure and advocacy efforts. Observers have reported instances of police corruption involving the acceptance of payments to overlook prostitution offenses, including sex trafficking. Additionally, it has been alleged that border authorities have been complicit in facilitating human trafficking. According to sources, the government declined to formally submit accusations of child sexual abuse, including sexual exploitation, unless the victim was compensated. Certain textile mills regularly provided monthly bribes to labor department authorities in order to evade safety inspections, while several manufacturers in Sindh prevented governmental officials from carrying out audits. During the month of October 2020, Punjab province, which houses 71% of the country's textile mills and has a significant prevalence of forced and bonded labor, prohibited labor investigators from accessing manufacturing sites (Miko, F. T. 2004).

Conclusion

Our examination of the legal framework governing the trafficking of women under both international and Pakistani law has revealed a complex landscape. Although international legal processes provide a detailed foundation for addressing this global issue, Pakistan presents challenges to its effective implementation at the state level. The research has stressed the need for a more robust and well-coordinated approach to combat the problem of domestic and international trafficking of women in Pakistan. Additionally, it has emphasized the value of addressing gender-specific vulnerabilities and improving processes for implementing laws to protect the rights of women who have been trafficked. As traffickers routinely operate across

borders, international coordination and cooperation are essential if we are to successfully combat the transnational nature of human trafficking. Our research's findings highlight the importance of bringing national laws into compliance with international standards and of giving trafficked women's welfare first priority. Given these insightful observations, it is imperative that legislators and policymakers carefully consider the suggestions made in this study. The goal is to make Pakistan even more committed to stopping human trafficking and defending the rights of trafficked women.

References

- Allain, J. (2014). No effective trafficking definition exists: Domestic implementation of the Palermo Protocol. *Alb. Gov't L. Rev.*, 7, 111.
- Chuang, J. (1998). Redirecting the debate over trafficking in women: Definitions, paradigms, and contexts. *Harv. Hum. Rts. J.*, 11, 65.
- Code, P. P. (1860). Chapter XVI. *Of kidnapping, abduction, slavery, and forced labour,*” Sections, 359-374.
- Farrior, S. (1997). The international law on trafficking in women and children for prostitution: Making it live up to its potential. *Harv. Hum. Rts. J.*, 10, 213.
- Hussain, N., Khan, A., & Chandio, L. A. (2023). Legal Safeguards against Mob Justice: An Analysis of Blasphemy Laws in Pakistan and International Human Rights Norms. *Al-Qamar*, 13-26.
- Kelly, E. (2002). *Journeys of jeopardy: A review of research on trafficking in women and children in Europe*. United Nations.
- Kelly, L., Regan, L., & Willis, C. F. (2000). *Stopping Traffic: Exploring the extent of, and responses to, trafficking in women for sexual exploitation in the UK* (Vol. 36). London: Home Office, Policing and Reducing Crime Unit.
- Khan, A. S., Bibi, A., Khan, A., & Ahmad, I. (2023). Responsibility of Sexual Violence Under International Law. *Journal of Social Sciences Review*, 3(1), 29-41.
- Khan, A., Bhatti, S. H., & Jillani, M. A. H. S. (2021). An overview on individual criminal liability for crime of aggression. *Liberal Arts & Social Sciences International Journal (LASSIJ)*.
- Khan, A., Hussain, N., & Oad, S. (2023). The Rome Statute: A Critical Review Of The Role Of The Swgca In Defining The Crime Of Aggression. *Pakistan Journal of International Affairs*, 6(1).

- Khan, A., Iqbal, N., & Ahmad, I. (2022). Human Trafficking in Pakistan: A Qualitative Analysis. *Journal of Social Sciences Review*, 2(3), 257-268.
- Khan, A., Javed, K., Khan, A. S., & Rizwi, A. (2022). Aggression and individual criminal responsibility in the perspective of Islamic law. *Competitive Social Science Research Journal*, 3(1), 35-48.
- Miko, F. T. (2004). Trafficking in women and children: the US and international response- updated March 26, 2004.
- Miko, F. T. (2004). Trafficking in women and children: the US and international response- updated March 26, 2004.
- Musharraf, G. P., & Mansoor, J. A. (2002). Prevention and Control of Human Trafficking Ordinance. Retrieved July 23, 2009, from Federal Investigation Agency, Government of Pakistan Web site: <http://www.fia.gov.pk/pchto2002.htm>.
- Niaz, U. (2003). Violence against women in South Asian countries. *Archives of women's mental health*, 6, 173-184.
- Sullivan, B. (2003). Trafficking in women. *International Feminist Journal of Politics*, 5(1), 67-91.
- Tzvetkova, M. (2002). NGO responses to trafficking in women. *Gender & Development*, 10(1), 60-68.
- Weiss, A. M. (2012). *Moving forward with the legal empowerment of women in Pakistan*. Washington: US Institute of Peace.
- Williams, P. (2012). Trafficking in women and children: A market perspective. In *Illegal Immigration and Commercial Sex* (pp. 145-170). Routledge.