



Fight against Trafficking in Human Beings and Organised Crime – Phase 2 (THB/IFS/2)

Overview of the Referral, Assistance and Protection Systems for Victims and Potential Victims of Trafficking in Pakistan

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Acronyms

EC	European Commission
EF	Expertise France
EO	Emigration Ordinance
EU	European Union
FIIAPP	Fundación Internacional y para Iberoamérica de Administración y Políticas Públicas (International Foundation of Administration and Public Policies of Spain)
FIA	Federal Investigation Agency
IOM	International Organisation for Migration
ICMPD	International Centre for Migration Policy Development
NAP	National Plan of Action
NADRA	National Database and Registration Authority
NARA	National Alien Registration Authority
NPB	National Police Bureau
MoHR	Ministry of Human Rights
MoLJ	Ministry of Law and Justice
MRC	Migrant Resource Centre
OPF	Pakistani Overseas Foundation
PACHTO	Prevention and Control of Human Trafficking Ordinance
THB	Trafficking in Human Beings
TRM	Transnational Referral Mechanism
UNHCR	United Nations Refugee Agency
UNODC	United Nations Office for Drugs and Crime

A Note on Methodology

This report was compiled between September 2015 and May 2016. Most of the information comes from background desk research conducted by the ICMPD project team, based in Vienna, Austria, and informal conversations and interviews with anti-trafficking stakeholders in Pakistan by the project Country Project Officer (CPO), based in Islamabad, Pakistan

This is not a “full” assessment on the extent and status of victim referral processes in Pakistan. Instead it is conceived as an overview which will primarily function to guide the activities in Pakistan of the Fight Against Trafficking in Human Beings and Organised Crime Project (THB/IFS/2). The reason for not conducting a full assessment is that there is no referral mechanism, formal or informal, in Pakistan that can be assessed at the time of this report. As some basic enquiries demonstrated, many of the anti-trafficking systems and policies that are cited in literature and reports on Pakistan do not in fact exist in practice, or are now obsolete. This being said, there are indications of the Government of Pakistan showing greater awareness, and at times, signs of increased commitment to take action against trafficking in human beings.

It is the intention of this overview to therefore inform actions in Pakistan, and to be built upon as a more substantive response to trafficking in human beings is crafted between the government, civil society and the international community.

Trafficking in Human Beings in PAKISTAN – A Brief Overview

Pakistan has not signed the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*. It has introduced some relevant documents, however, such as the *Prevention and Control of Human Trafficking Ordinance (PACHTO)* in 2002, the *Prevention and Control of Human Trafficking Rules* in 2004 and the *Pakistan National Action Plan for Combating Human Trafficking* in 2009. PACHTO is the first national law to recognise the need for protection of victims of human trafficking and to criminalise trafficking for the purpose of “exploitative entertainment, slavery or forced labour or adoption in or out of Pakistan.” The Ordinance also provides a definition for human trafficking.

PACHTO authorises the court to direct the competent authorities to provide compensation to victims, which may result in arrangements for shelter, food, medical treatment or financial compensation for the victim. The penalties for the crime of human trafficking vary from 5 to 14 years of imprisonment, depending on the perpetrator’s involvement. The law only covers cross-border human trafficking however, and does not address internal trafficking.¹

According to the National Action Plan adopted in 2009, the Additional Director General (Immigration) of the Federal Investigation Agency (FIA) acts as National Rapporteur on human trafficking and coordinates anti-trafficking actions in Pakistan. As part of its anti-trafficking efforts, the Anti-Human Smuggling Wing of FIA created so-called Anti-Human Trafficking Circles (previously known as ‘Passport Circles’) in 16 major cities of Pakistan. In addition, ‘Anti Human Trafficking Units’ have been established at the Provincial Police Headquarters, FIA Headquarters and FIA Zone Headquarters and a ‘Human Trafficking Information System’ has been installed. In May 2014, the FIA established a research and analysis centre responsible for collecting and analysing data and trends related to human trafficking and smuggling. Moreover, the FIA have previously sponsored public awareness campaigns, especially in the Punjab province, and organised training modules for law enforcement officials on how to investigate trafficking cases and treat victims.²

According to the U.S. Trafficking in Persons Report and UNODC, authorities in Pakistan still do not always distinguish between trafficking and smuggling, and victims are penalized for acts committed as a result of being trafficked. Victim identification should be improved, especially with regard to vulnerable groups, such as street children, people in prostitution, Afghan refugees and labourers in brick kilns and agriculture. While there were some reports in 2014 of the FIA and Police introducing standard operating procedures for the identification and referral of trafficking victims to protection services, there is no evidence that these SOPs were actually introduced or adopted.³

Trafficking for labour exploitation is of particular concern; internal trafficking for labour exploitation continues to be a problem in brickmaking and agricultural sectors in Pakistan. In addition, there is growing evidence of a link between internal trafficking of men for labour exploitation and international trafficking of Pakistani men for labour exploitation. The latest

¹PACHTO (2002) Article 3 (i) “Whoever knowingly plans or executes any such plan for human trafficking into or out of Pakistan for the purpose of attaining any benefit, or for the purpose of exploitative entertainment, slavery or forced labour or adoption in or out of Pakistan shall be punishable with imprisonment, which may extend to seven years and shall also be liable to fine”

² ICMPD, (2014) *Pakistan. Migration Country Report*, p. 28; and U.S. Department of State (2014), *Pakistan Country Report, Trafficking in Persons Report 2014*

³ U.S. Department of State (2015), ‘Pakistan Country Report’ *Trafficking in Persons Report 2015*, and UNODC (2013), *Recent Trends of Human Trafficking and Migrant Smuggling to and from Pakistan*.

UNODC report thus recommends the training of FIA and law enforcement agencies in the identification of victims of forced labour.⁴

Another area of concern is the lack of reliable data due to a lack of standardised data management within the relevant governmental agencies. According to recent research conducted by UNODC, different anti-trafficking centres use different classifications to track rates of prosecutions and conviction and each centre appears to collect different data. It is thus recommended that the FIA improves its data collection and management and that standardised data collection is implemented across the anti-trafficking centres in Pakistan.⁵

LEGAL FRAMEWORK

The definition and punishment for human trafficking in Pakistan (not covering internal trafficking however) is set out and established in the *Prevention and Control of Human Trafficking Ordinance (PACHTO) of 2002*. It should be noted however that the concepts of human trafficking and migrant smuggling are often conflated by national actors, media reporting and policy documents, and PACHTO has reportedly been used to prosecute cases of migrant smuggling.

PACHTO defines human trafficking as

Obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, not withstanding his implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such person's subsequent transportation out of or into Pakistan by any means whatsoever for any of the purposes mentioned in section 3 (stated as for the purpose of attaining any benefit, or for the purpose of exploitative entertainment, slavery or forced labour or adoption in or out of Pakistan.)

A victim of trafficking is defined in PACHTO as “the person who is the subject of or against whom any offence under this Ordinance has been committed.” According to UNODC reports, Pakistani law enforcement and judicial officials have previously stated that they find the inclusion of “giving or receiving any payment or benefit” as well as “for the purpose of attaining any benefit” suggests a crime of migrant smuggling, rather than trafficking.

Furthermore, the caveat of trafficking occurring “in or out of Pakistan” endorses the misconception and belief that human trafficking is a cross border crime and defines it as such. This is contrary to international good practice.

The UNODC report notes that PACHTO does not cover the international definition of migrant smuggling, it has been observed regardless that conflation of the terms by Pakistani stakeholders is common, with trafficking being used imprecisely as terminology when referring to migrant smuggling, including in official documents, reporting and data analysis, and even prosecution of migrant smugglers under PACHTO.⁶

⁴ UNODC (2013), *Recent trends of human trafficking and migrant smuggling to and from Pakistan*, p.45-46.

⁵ Ibid. p.8.

⁶ Ibid. p.12

Victim Assistance and Protection Legal Frameworks – Victim’s Rights in Pakistan

Regarding victim protection and assistance, the PACHTO stipulates that the government will “make arrangements for the shelter, food and medical treatment of victims being an unaccompanied child or destitute women” via a court order (s6 iii PACHTO) The Prevention and Control of Human Trafficking Rules (2004) accompanying the PACHTO expand upon this in s 3 (2),(3) and s4. The Rules provide directions for the recording of victims’ statements, the custody of victims including unaccompanied children with blood relatives, access to government or NGO run shelters for victims, the provision of legal assistance and repatriation services for victims. S4 of the Rules stipulate the establishment of accommodation for victims of human trafficking

“The Government shall establish shelter homes for safe custody of the victims and shall also make necessary security arrangement for the protection of the victims in the shelter homes whether established by the Government or the Non-Governmental Organizations.”

Despite PACHTO and the Rules providing for the above mentioned services, there is no inclusion of a non-punishment clause for victims in the legal framework.

Most significantly, the PACHTO and Rules do not apply to Pakistani nationals that fall victim to domestic trafficking. The legal framework is designed and implemented in practice to regulate the rights, status and processes applied for cases involving foreign victims of trafficking identified within Pakistan. This is a significant challenge considering reports of widespread internal trafficking for bonded and forced labour exploitation, in particularly of street children, people working in prostitution, labours in agriculture and brick kilns.

There are two other primary pieces of legislation directly relevant to human trafficking cases in Pakistan, and a number of laws with a tangential impact.

The Emigration Ordinance (1979) is the primary Pakistani law regulating the legal means for the emigration of Pakistani citizens, as well as prosecution of irregular migration offences. The Ordinance stipulates that emigration from Pakistan may be legally conducted provided (1) the subject has a letter of appointment and work permit from a foreign employer or an employment visa or emigration visa from a foreign government, or (2) the subject has been selected for emigration by a foreign employer through a Pakistani government institution, an Overseas Employment Promoter or under an agreement or treaty between the Government of Pakistan and a foreign government. Conversely, the Emigration Ordinance also stipulates a punishment of between five years (first offence) and seven years (second offence) imprisonment and a fine as a result of emigration attempts via irregular channels.

The second main legal instrument of relevance to trafficking in human beings is the Pakistan Penal Code. The Penal Code includes the following sections covering offences related to THB;

- Kidnapping or abduction of a person for slavery and a person under 14 for slavery or sexual exploitation (s.367-A and s.364-A)
- Kidnapping or abduction or inducing women to compel for and her marriage etc.(s.365-A and s.366-A PPC)

The following offences covered by the Penal Code may also be related to human trafficking

- s. 340 - Wrongful Confinement
- s.342 – Punishment for wrongful confinement
- s. 364 - Kidnapping or abducting a person under the age of fourteen
- s. 366A - Procuration of minor girl
- s. 366B - Importation of girl from foreign country
- s. 367 - Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.:
- s. 370 - Buying or disposing of any person as a slave
- s. 371 - Habitual dealing in slaves
- s. 371 A - Selling person for purposes of prostitution,
- s. 371 B - Buying person for purposes of prostitution
- s. 374 - Unlawful compulsory labour.

Other relevant legal instruments in Pakistan include the Foreigners' Act (1946), the Passport Act (1947); and the Exit from Pakistan (Control) Ordinance (1981)

In practice the implementation of the legal framework to address THB is problematic, according to UNODC. The conflation of human trafficking and migrant smuggling terminology by Pakistani stakeholders and in policy documents prevents a conclusive assessment of the legal response to THB, as available data are not disaggregated between the two crimes and there are reports of migrant smuggling crimes being prosecuted under *PACHTO*. Significantly, Pakistani returnees that leave Pakistan by irregular means may be prosecuted under this law upon their return. In situations when the Pakistani returnee is a victim or potential victim of trafficking, the *PACHTO* law is only applied in cases when the subject can identify the trafficker to authorities immediately. In cases where this is not possible, or the victim is unable or unwilling to do so, they may be prosecuted under the Emigration Ordinance for illegal emigration and will not be recognised as a victim. Reportedly, the aspect of exploitation and trafficking may be ignored during a prosecution at the expense of focusing on aspects of the trafficked person's irregular emigration from Pakistan.

UNODC received data for 2012 of all first information reports and subsequent convictions for migration related crimes including THB and migrant smuggling, processed by seven regional FIA Anti-Human Trafficking Centres. The four pieces of legislation these crimes were prosecuted under were the *Emigration Ordinance*, *Passport Act*, *Pakistan Penal Code* and *PACHTO*. Analysis of the data (see Annex 1) identified that the majority of reports and subsequent convictions made by the centres are processed under the *Emigration Ordinance*, with a far smaller number of prosecutions under *PACHTO*. It is not possible through the data to identify the role of the defendant (overseas labour recruiter/ facilitator, intending migrant/ returnee, etc.), or whether individual offenders were charged with multiple offences across different legislation, and thus duplicated in the data set.

It is believed that the reason for the majority of prosecutions falling under the *Emigration Ordinance*, specifically under EO Section 17 on unlawful emigration⁷, is due to the broad and

⁷ Emigration Ordinance (1979) S17 (1) Chapter VII "Whosoever, except in conformity with the provisions of this ordinance and the rules, emigrates or departs or attempts to emigrate or depart shall be punishable with imprisonment for a term, which may extend to five years, or with fine or with both"

easily understood nature of the law, which can be applied to prosecute intending emigrants, returnees, facilitators and agents. The reliance on this law may also in part be due to the reported challenges of applying the definition of THB provided in PACHTO to actual cases.⁸

In addition to the wrongful prosecution of Pakistani nationals trafficked to third countries and subsequently returned to Pakistan, it is reported that the Foreigners Act (1946), while not relevant to the prosecution of traffickers, is regularly invoked *against foreign victims* who have been trafficked into Pakistan but are not recognised as victims. This group are considered as illegal immigrants and detained and treated as such.

According to UNODC however, the FIA rarely prosecutes migrants attempting irregular migration or returnees unless they are “repeat offenders” i.e. the person has been caught at least three times attempting irregular migration.⁹

POLICY FRAMEWORK

A *National Plan of Action for Combating Trafficking (NAP)* was adopted in 2009 by the Federal Investigation Agency (FIA). The NAP identifies the Additional Director General (Immigration) of the FIA as the National Rapporteur on human trafficking.

The National Action Plan also provides more detailed guidance on victim care, shelter and assistance:

- i. Establishing shelters for the protection and other needs of the trafficking victims in order to provide safety, access to independent advice and counselling, medical health and rehabilitation from trauma, while giving special attention to security of the victims, confidentiality and privacy. These shelters will also be provided the linkage to facilitating the victims’ future reintegration.
- ii. The purpose of providing secure accommodation shall be to protect victims, suspected victims and witnesses, help them, meet their relevant needs, and create a safe environment for those persons. A shelter shall in no case be considered a place of confinement and the persons placed therein shall be treated as victims or suspected victims. Secure accommodation shall also ensure suitable conditions for rehabilitation and reintegration. At the same time, secure accommodation shall provide a safe environment to the victims awaiting their repatriation and that of witnesses that have presented evidence.
- iii. iv. Secure accommodation shall have the following facilities: properly secured building with appropriate living conditions; access to telephone; access to medical care; and psychological counselling; possibility of legal assistance; opportunity to have a translator; and a separate place for conversation; ensuring confidentiality of information about the person placed in the accommodation.¹⁰

There is no available information regarding the implementation of the 2009 National Action Plan, and the status of the above-mentioned measures cannot be verified.

Pakistan’s National Action Plan to Combat Human Trafficking and Migrant Smuggling (2015-2020) is in the process of being approved by the FIA. Elaborated with the support of UNODC

⁸ UNODC (2013) p.58

⁹Ibid. p.59

¹⁰ UNODC (2011), *Trafficking in Persons in Pakistan: A Review of National Laws and Treaty Compliance* p.39

Pakistan and input of key stakeholders in the field, it aims at addressing current gaps in the implementation of anti-human trafficking and anti-migrant smuggling efforts in the country. This includes in particular on inter-agency cooperation, public-private partnerships (for example with NGOs in relation to assistance to victims and/or deportees), standardised data collection and addressing corruption. The Action Plan also includes a section on the UN Protocol against the Smuggling of Migrants by Land, Sea and Air and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, clarifying the difference between human trafficking and migrant smuggling. Although these Protocols have not been signed or ratified, the Action Plan intends to help improve distinctions between the two concepts in future government actions.

No formal announcement regarding the launch of this new National Action Plan has been made however, and the current status of the Plan's adoption and implementation by the FIA is unknown. UNODC were approached for information on the status of the NAP, however no information was provided.

In 2016 the Ministry of Human Rights published the *Action Plan to Improve Human Rights Situation in Pakistan*. The Action Plan highlights human trafficking as one of the human rights issues afflicting Pakistan, and in part attributes the causes to lack of education and awareness, and the prevalence of certain social and cultural discriminatory patterns and taboos. The Action Plan specifically mentions priorities actions to address human trafficking in a number of areas:

Under Thematic Area 1: Policy and Legal Reforms, a legislative review of PACHTO is planned to commence in December 2016, conducted by the Ministry of Interior and Ministry of Religious Affairs and Interfaith Harmony. The legislative review will seek to review and enforce the legislation in line with the fundamental rights enshrined in the Pakistani Constitution and UN Conventions ratified by the Government of Pakistan.

Under Thematic Area 2: Implementing Key Human Rights Priorities / Protection of child rights, action 4 focuses on increasing effective law enforcement action to protect children from trafficking for the purposes of prostitution, organ transplant, forced labour, drug smuggling, begging, forced child marriages and other exploitative forms of work. This action is led by the Ministry of Interior.

Anti-trafficking Structures and Stakeholders in PAKISTAN

GOVERNMENT

FEDERAL INVESTIGATION AGENCY (FIA)

According to the National Action Plan adopted in 2009, the Federal Investigation Agency (FIA) acts as National Rapporteur on human trafficking and coordinates anti-trafficking actions in Pakistan. The FIA is a department within the Ministry of Interior of Pakistan responsible for investigating, prosecuting and preventing serious and organised crime. The FIA's mandate includes anti-corruption, economic crime, immigration crime including migrant smuggling and trafficking in human beings, and counter terrorism.

The Anti-Trafficking Unit (ATU) is based in the Anti-Human Smuggling Wing of the FIA to deal with all trafficking in human beings related issues and coordinate anti-THB activities. The Anti-Trafficking Unit maintains sub-units in the FIA Zonal Directorates in Karachi (Sindh),

Lahore (Punjab), Islamabad/Rawalpindi, Peshawar (Kyber Pakhtunkhwa), and Quetta (Balochistan)¹¹

Furthermore, as part of its anti-trafficking efforts, Anti-Human Trafficking Circles (previously known as 'Passport Circles') were set up and operate under the Anti-Human Smuggling Wing of FIA in 16 major cities of Pakistan. The Anti-Human Trafficking Circles are responsible for the FIA operational response to all forms of undocumented immigration, migrant smuggling and trafficking in human beings. According to UNODC, the Circles are tasked with the operational investigation and prosecution of migrant smuggling and trafficking in human beings cases, as well as deportation and return of people with irregular immigration status in Pakistan. The Circles are therefore tasked with enforcing offences under PACHTO, the Emigration Ordinance, the Passport Act and Pakistan's Penal Code.¹²

Each Anti-Human Trafficking Circle has to send a progress report on a daily basis to the FIA Headquarters in Islamabad including information and progress on each specific inquiry and case. This includes all immigration crimes under PACHTO, the Emigration Ordinance, Passport Act and Pakistan Penal Code, and therefore may be referring to either trafficking in human beings or migrant smuggling. The conflation of terminology between these two crimes throughout Pakistan, encountered in official documents, media reporting and usage by officials is apparent in data, with the result that there is no disaggregation between the two crimes in data collected.

In theory, the data collected and sent to the FIA headquarters apparently includes specific information on individuals such as personal data (name, age, date of birth, nationality, etc.) as well as the modus operandi of irregular migration attempts and any information collected related to this such as routes, smugglers used, etc. The FIA headquarters collects and analyses this data, and periodically checks on the progress of each case with the field offices on the status of cases. This includes how many persons have been convicted, cases dropped, judicial actions taken etc. There is no further public information available on this however.¹³ In May 2014, the US State Department reported that the FIA had established a research and analysis centre, run jointly with UNODC, which is responsible for collecting and analysing data and trends related to smuggling of migrants.¹⁴

In practice however, according to consultation between the country project officer and local stakeholders, there is no dedicated system for collecting and analysing data on human trafficking, and there is no available data on the phenomenon. Furthermore, it is reported that the frequent conflation by Pakistani practitioners and policy makers of the concepts of trafficking in human beings and smuggling of migrants further complicates attempts to gather and assess data.

NATIONAL POLICE BUREAU (NPB)

The National Police Bureau is the largest law enforcement agency in Pakistan, with approximately 430,000 active Police officers on the force. The Police are responsible for

¹¹ Federal Investigation Agency (2016), "About Anti-Trafficking Unit", <http://www.fia.gov.pk/en/ahtc.php> [accessed 13.04.2016]

¹² UNODC (2011), p.20

¹³ Hendow, Meagan, Anderson-Pucher, Jenny (2015) "*Study on Smuggling of Migrants Characteristics, Responses and Cooperation with Third Countries: Case Study 3: Pakistan – Turkey – Greece*", unpublished. p.61

¹⁴ US J/TIP Office, 2014; 2015

maintaining general law and order at the local level, but they do not have a mandate to investigate THB, which rests with the FIA. As such the primary focus of the NPB is enforcing the Pakistan Penal Code. The estimated knowledge of THB among the street level Police officer's is not sufficient to recognise or detect THB, although awareness raising training for NPB officers has been conducted by ICMPD in 2015 and 2016.

Throughout Pakistan, the Police force is divided between four territorial Police services covering the four provinces; Punjab, Khyber-Paktunkhwa, Sindh and Balochistan, which also each subsidiary units such as the Balochistan Levies & Frontier Corps (covering Western and North Western provinces and borders) and Pakistan Rangers (covering Eastern provinces borders).

While the Police do not have an official mandate to investigate and pursue trafficking in human beings cases, they have significant potential to identify and refer cases to the FIA, as noted during ICMPD activities in Pakistan, as well as by UNODC.¹⁵ Current operational cooperation between the NPB and FIA on identification and referral of THB cases is based on direct referral of cases between each other when outside their individual mandates. There is no formal system or agreement governing this referral however.

INTER-AGENCY TASK FORCE

The Inter-Agency Task Force was established in 2005, to coordinate responses to irregular migration identified outside of the border posts (as irregular migration is under the responsibility of the FIA, but the FIA only operates at the official border posts). The Inter-Agency Task Force includes representatives from all four provincial Police forces, as well as relevant paramilitary forces including the Frontier Corps and Balochistan Levies, as well as the Coast Guard. Although the impact of the Inter-Agency Task Force reportedly meets on a quarterly basis, and has reported an increase in manpower devoted to this issue on the part of all stakeholders involved. The extent that the Task Force focuses on trafficking in human beings over other forms of irregular migration is unknown however.¹⁶

NATIONAL DATABASE AND REGISTRATION AUTHORITY (NADRA) AND NATIONAL ALIEN REGISTRATION AUTHORITY (NARA)

NADRA is responsible for issuing passports and ID cards, and ensuring Pakistani travel documents are of sufficient quality to prevent forgery. Currently, NADRA does not collect specific data on trafficking in human beings cases or activities currently, however there is specific potential for the authority to play a role in multi-agency response to the phenomenon alongside the Ministry of Interior, specifically FIA and NPB.

To cater for the need for robust identification and verification systems, NADRA developed the Automated Border Control (ABC) system which serves as a tool for law-enforcement agencies in eradicating illegal immigration and human trafficking. The Automated Border Control System is fully automated immigration control system linked with the central Passport server. It authenticates e-Passport, identity and other travel documents by performing on-the-spot Facial Recognition and Fingerprint Identification. The system maintains records of

¹⁵ UNODC (2013) p.59

¹⁶ Hendow, Anderson-Pucher, (2015) p.66

automated data verification, passenger travel history, flight information, destination, port-of-origin, nationality, verification log and immigration officer comments. While the ABC system is in place, no data is shared on its use by law enforcement agencies.

Following a decision of the Prime Minister, the National Alien Registration Authority (NARA) was merged with NADRA in March 2016, following the former department's failure on its stated mission. Previously it was NARA's responsibility to register foreign nationals staying in the country, while NADRA was responsible for registering local people. As a result of the merge between the two departments, NADRA is now also responsible for compiling data on foreigners in Pakistan as well as locals. The merger of the two departments was intended to expose the number of irregular migrants residing in Pakistan that had been previously issued with a Computerised National Identify Cards (CNIC).¹⁷ To date however, NADRA has not published data on this issue.

MINISTRY OF LAW AND JUSTICE (MOLJ)

The Ministry of Law and Justice is responsible for the judicial response to THB through judges and prosecutors. Judges that prosecute THB cases apparently lack a clear understanding of the definition of THB vs migrant smuggling. They are also reported to be unfamiliar with the national legal framework related to THB, such as application of PACHTO.

In the absence of an updated National Action Plan against trafficking, the specific role and planned actions to address THB by the Ministry of Law and Justice is unclear. According to local practitioners consulted for this report, it is imperative that judges and prosecutors' awareness of THB is improved, specifically in order to identify trafficking cases and subsequently apply anti-trafficking legislation in an effective manner.

MINISTRY OF HUMAN RIGHTS (MOHR)

The Ministry of Human Rights (MoHR) is responsible for reviewing the human rights situation in Pakistan and adopting appropriate laws, policies and measures to address short-falls. The MoHR also leads on harmonization of Pakistani legislation, regulations and practices with the international conventions and agreements to which Pakistan is a signatory.

MoHR may refer and recommend investigations and inquiries into cases of human rights violations, develop and conduct public awareness programmes on human rights and integrating human rights programmes within educational institutes and curricula. There have not however been any previous reports of the MoHR being involved in a trafficking case. Following the adoption of the *Action Plan to Improve Human Rights Situation in Pakistan* in 2016, the MoHR now follows six thematic areas which cover all human rights dimensions include Policy and Legal Reforms, Implementing Key Human Rights Priorities, Cross Cutting Interventions for promotion and protection of human rights, International/UN Treaty Implementation, Institutional Interventions and an Implementation and Monitoring Mechanism

¹⁷The CNIC is an identify card issued by NADRA at the age of 18. The card serves as an identity document and is mandatory in order to vote; open and operate a bank account; obtain a Pakistani passport; obtain a driving license; purchase a vehicle or land; purchase a plane or train ticket; obtain a mobile phone SIM card; obtain electricity, gas, water; secure admission to college and post-graduate institutions; and conduct major financial transactions. It is thus considered a de facto necessity for meaningful civil life in Pakistan Source: Wikipedia https://en.wikipedia.org/wiki/Computerised_National_Identity_Card

for the Action Plan. The previous section of this report dealt in detail with where the Action Plan touches on THB.

MINISTRY OF FOREIGN AFFAIRS

The MFA is responsible for signing, ratification and implementation of the necessary international conventions, protocols, agreements and other instruments relevant to trafficking in human beings. The MFA is also responsible for enhancing coordinating with countries of transit and destination, as well as exchanging information and cooperating with international organisations active against trafficking in human beings.

PAKISTANI OVERSEAS FOUNDATION (OPF)

The OPF is responsible for supporting Pakistani emigrants living in foreign countries, and preparing emigrants for departure from Pakistan. Their main remit is focused on supporting citizens encountering difficulties abroad, support the transference of remittances back to Pakistan, and to develop vocational training, awareness and educational institutions that encourage legal migration from Pakistan. Their main role related to THB may therefore be preventative through the encouragement for migrants to use legal migration channels and be aware of risks, however there is no available information on any specific measures taken by the OPF that have directly addressed the risks of trafficking.

NON-GOVERNMENTAL ORGANISATIONS

The following NGOs were identified based on desk research and consultation with partners by the ICMPD Country Project Officer in Pakistan. It should be noted that none of these NGOs provide direct assistance to victims of trafficking. As noted in the next section, only a limited number of shelters providing direct assistance are available in Pakistan, most often catering for women and child victims of domestic violence, and not specifically victims of trafficking. A full mapping of NGOs and viable assistance structures is therefore required in Pakistan, as only a limited number were able to be identified within the scope of this activity.

CHILD CARE FOUNDATION

The Child Care Foundation of Pakistan is a non-profit, non-governmental organization set up in October 1996, under the Societies Act 1860 with public-private partnership for charitable, scientific and education purposes as its chief objective. CCF mandate is to develop comprehensive strategies in collaboration with other relevant stakeholders to ensure the prevention, elimination and rehabilitation of all forms of child labour in Pakistan. The CCF's activities primarily focus on providing access to education opportunities for children as a means to reduce their risk of working as child labourers.

THE AURAT FOUNDATION

The Aurat Foundation is an NGO focused on gender equality based in Islamabad. The AF's objective is "to create widespread awareness and commitment for a just, democratic and caring society in Pakistan, where women and men are recognised as equals, with the right to lead their lives with self-respect and dignity." The Foundation works on large scale projects covering areas such as grant-making to NGO and government entities, increasing female participation in democratic processes and social protection programmes, policy and data

monitoring - all focused on increasing women's access to justice and human rights, economic empowerment, combating gender-based violence and building the capacity of Pakistan's NGOs in this area.

Aurat Foundation is head quartered in Islamabad. There are five regional offices in the provincial capitals in Lahore, Karachi, Peshawar, Quetta and Gilgit, and 37 Field Offices. Furthermore, the foundation maintains a countrywide network of voluntary citizens' groups and individual activists in 128 districts in the country. These groups include Citizens Action Committees (CACs), Resource Groups and Aurat Foundation Resource Centres (AF-RCs) and Information Network Centres (INCs).¹⁸

The Aurat Foundation has previously suggested "building links between the Police and journalists" as a means to begin the process of addressing the issues around internal trafficking in Pakistan. The Foundation is not currently working on a project/ activity directly addressing internal trafficking, however the organisation has great potential to do so through its network and previous experience of working on women's rights and related issues.

PAKISTAN RURAL WORKERS SOCIAL WELFARE ORGANIZATION (PRWSWO)

Pakistan Rural Workers Social Welfare Organization (PRWSWO) is based in Bahawalpur; in the South Region of Punjab. The organisation was founded in 1997 by a group of community workers interested in improving the standard of life of disadvantaged sections of society through a variety of socio economic services.

PRWSWO's key areas of programming are education and literacy; human rights, governance and accountability; women and youth empowerment; child rights and development; combating human trafficking and safe migration; reproductive health; and, water and sanitation. PRWSWO has previously implemented projects in Pakistan in partnership with ILO/IPEC, UNICEF, AUSAID, the EU, IOM, Groupie Development France, the Law & Justice Commission of Pakistan, Punjab Education Foundation, Save the Children Sweden, the Commonwealth Foundation (UK), The Asia Foundation, UNOHCR, British Council Pakistan, USAID and the National Commission for Human Development (NCHD) etc.

MIGRANT RESOURCE CENTRE (MRC)

A Migrant Resource Centre (MRC) was established in April 2016 in Islamabad. The centre provides a range of services to intended migrant workers, migrant workers and their families through counselling, pre-departure orientation and referral to prevent migrant workers from exploitation and abuse in the migration cycle. The centre was established through partnership between the Ministry of Overseas Pakistanis and Human Resource Development (MoOP&HRD) with the support of the ILO-EU funded "South Asia Labour Migration Governance Project (SALM) " and the ICMPD-EU funded project "Silk Routes Partnership for Migration".

¹⁸ Aurat Foundation (2016) "About Aurat Foundation", <http://www.af.org.pk/about.php> [accessed on 20.04.2016]

Victim Referral and assistance in PAKISTAN

There are limited provisions for the referral of victims of trafficking and providing assistance in Pakistan. The failure to include a definition of domestic trafficking within PACHTO, coupled with the limited remit of the FIA to only investigate international cases of THB means that no formal government referral mechanism exists for cases of domestic trafficking. This is of particular concern considering the observations of the US State Department and UN agencies highlighting the large and widespread nature of internal trafficking in Pakistan, in particular in the agricultural and brick kiln industries.

The FIA is mandated to identify and investigate trafficking cases involving foreign victims, as well as referring and protecting victims. There are no standardised referral mechanisms or processes in Pakistan, and no central repository of data is maintained on victim referrals. According to consultations with local stakeholders, referral occurs on an ad-hoc basis when a foreign victim is encountered by FIA officials. Once the referral is made, the FIA informs the respective international organisations and the victim's Embassy in Pakistan. Local NGOs and international organisations, specifically UNODC and UNHCR, are contacted to provide facilitation and support to provide the victim with accommodation, food, counselling and support to travel back home. The government does not have any resettlement or repatriation plan for such individuals at the moment.

According to discussions with government stakeholders, the Government of Pakistan and FIA have no projects or ongoing initiatives catering to support victims of trafficking, in terms of providing assistance for basic living needs or psychological counselling. The FIA does have a 24-hour phone helpline for reporting cases of migrant smuggling, however this is not used for THB cases. The organization reports that on average they receive 25 complaints per day through the helpline and a further 10 through FIA website and email account.

There are a number of functioning shelters for women and children, Dar-ul –Aman shelters in Lahore and the wider Punjab¹⁹ and approximately seven shelter homes and orphanages run by the Edhi Foundation in Karachi²⁰. These shelters provide accommodation and basic assistance for female and child victims of domestic violence, and do not cater specifically for victims of trafficking. These shelters receive no financial support from the government, and as a result they are reported to struggle to maintain acceptable standards of care and upkeep. According to reports these shelters are overcrowded, underfunded, and in some cases described as counter-productive to the emotional and environmental needs of victims.²¹

Dar-ul Aman is type of Pakistani institution operating as a shelter home for women, however media reports suggest that they are typically overcrowded and underfunded. The exact number of these shelters that are operational across Pakistan, or the number of victims of trafficking assisted through them is not available. Further information is required on viable NGOs and shelters that can provide support for identified victims.

¹⁹ Dawn (2009) "Darul Aman in Punjab" <http://www.dawn.com/news/868127/darul-aman-in-punjab> [accessed 20.04.2016]

²⁰ Edhi Foundation (2016), "About Edhi Foundation", <https://edhi.org/index.php/about-us/about-edhi-foundation> [accessed 20.04.2016]

²¹ Dawn (2009)

In cases of internal trafficking encountered by the FIA, apparently the family of the victim is contacted, and in case no one appears to collect the victim, the FIA sends them to a shelter. Quite how the FIA decides if a person is an internal victim of trafficking or exploitation is unclear, as there is no provision in the current legal code to define and identify an internal victim of trafficking in Pakistan. This form of referral is however reported to occur on an ad-hoc basis.

In summary, there is no formal victim referral mechanism at a policy level, nor are there any formal cooperation agreements or processes between government authorities on cooperation or collection, analysis and sharing of data related to trafficking cases. In practice, the FIA refer victims to international organisations, shelters and local NGOs when necessary, primarily for foreign victims of trafficking identified in Pakistan. There is no government funding or support for victim referral, assistance and rehabilitation processes in Pakistan. Furthermore, there is no mechanism for reintegration or support for Pakistani victims trafficked internationally.

Conclusions

- Authorities in Pakistan still do not always distinguish between trafficking and smuggling, and victims are penalized for acts committed as a result of being trafficked;
- There is a lack of clear distinction between trafficking and smuggling at all levels of Pakistan's anti-trafficking response, including in the legal code, usage of terminology by officials throughout all government institutions, and through reporting on the issue in the media;
- Victim identification occurs on an ad-hoc basis, and often fails to identify cases of trafficking among the most vulnerable groups, such as street children, people in prostitution, Afghan refugees and labourers in brick kilns and the agricultural sector;
- Trafficking for labour exploitation is of particular concern, and may be linked with emerging trends of international trafficking of Pakistani men for labour exploitation;
- Information and data necessary to assess the actual scale and nature of human trafficking in Pakistan is not collected
- There are no standardised government procedures for data management or victim identification and referral currently in place.
- The current law (PACHTO) fails to 'deal' with human trafficking that occurs within the territory of Pakistan i.e. domestic trafficking.
- At a policy level, the National Action Plan to combat THB is out of date, and the status of an updated plan is unclear.
- There is no clear guidance or framework for the Police, FIA and other government ministries to work together, at strategic or operational levels, or on investigations or victim referrals.
- The limited remit of the FIA to only investigate international cases of THB means that no formal government referral mechanism exists for cases of domestic trafficking.
- There are limited provisions for the referral of victims of trafficking and providing assistance in Pakistan. Currently, only a limited number of shelters are available for victims of trafficking.
- There is no government funding or support for victim referral, assistance and rehabilitation processes in Pakistan.
- There is no mechanism for reintegration or support for Pakistani victims trafficked internationally.

Recommendations

Further in-depth research is required to identify specific priorities and actions to strengthen Pakistan's response to trafficking; however a number of initial recommendations may be made based on the information presented here:

In order to strengthen the **legislative framework**:

- the **PACHTO law should be amended** to remove ambiguity on the definition of THB and provide a clear definition of domestic trafficking within the law. The law should provide a clear legal distinction between trafficking and smuggling crimes;

- Amendment of PACHTO should be supported by **training for judges, prosecutors and investigators**, as well as paralegal professionals on awareness and correct application of the law.

To strengthen the **policy and institutional framework**:

- The Government of Pakistan, with the support of International Organisations, should **conduct a mapping assessment on the scale and form of THB in Pakistan**, as well as map **the range and capacity of civil society actors** in Pakistan that are able to support and play a role in anti-trafficking activities;
- The Government of Pakistan, specifically the FIA, should **publish a revised and fully funded National Action Plan** on Action to Combat Trafficking in Human Beings. A new NAP should include clearly indicated outcomes, responsible owners, milestones and timeline of activities, as well as an assessment of the required resources and necessary monitoring and evaluation criteria for assessing implementation;
- Implementation of the ***Action Plan to Improve Human Rights Situation in Pakistan*** should **proceed without delay**, specifically those actions addressing trafficking - a legislative review of PACHTO in line with international standards (Priority Area 1), and increasing effective law enforcement action to protect children from all forms of trafficking (Priority Area 2); This Action Plan represents an opportunity to address the current legal framework's failure to define internal trafficking, as well as the obscure wording of certain articles contained in the law to clarify the distinction between THB and migrant smuggling.
- In line with revising the National Action Plan, **clear guidance must be developed on the role of different governmental institutions** with specific reference to their role and cooperation with other Pakistani stakeholders. This is of particular importance to establish both effective data management processes and a functioning referral mechanism for victims of trafficking.
- There is an urgent need to **establish guidelines and procedures for a functioning, fully-funded National Referral Mechanism** for victims of trafficking in Pakistan. An NRM should seek to identify and include the participation of civil society actors where possible, particularly in the area of providing victim assistance.
- In parallel with developing a NRM, **enhance the capacity for data collection, research and analysis in relevant law enforcement agencies**, specifically the FIA and the NPB with the support of NADRA, in order to recognize trends and lead to the formulation of more effective policies.

To strengthen the **Victim Protection response** in Pakistan

- The Government of Pakistan and International Organisations should work to **identify credible civil society organisations and victim shelters** that can support victims of trafficking and work in cooperation with government agencies.
- The Government of Pakistan should **establish clear victim referral processes and guidelines**, taking account of the multiple stakeholders in Pakistan from government and non-governmental bodies that have a role to play in victim protection.
- The Government of Pakistan should seek to **identify sustainable sources of funding** to support the establishment and maintenance of shelters specifically catering for the needs of victims of trafficking, in particularly male victims and especially vulnerable groups.

- Support the establishment of victim care standards and referral processes through **multi-disciplinary training for civil society organisations** working with victims of trafficking.

To strengthen the **Law Enforcement** response in Pakistan

- Provide **training to enhance the specialised technical investigation skills** of relevant law enforcement agencies (mainly the FIA but also the NPB) in line with new modes of communication and money transfer methods being used by human trafficking and organised crime groups.
- Provide training to **enhance the basic awareness of trafficking among frontline law enforcement practitioners**, specifically the FIA and NPB, in the areas of identification, referral and investigation.
- Develop guidelines and training on **processes for data collection, research and analysis** in relevant law enforcement agencies.
- At an international level there is a clear need for **increased cross-border collaboration** between relevant Pakistani Law Enforcement Agencies and the governments of major identified destination countries.

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Annex 1

FIA data on First Information Report (FIR) of an offence, and subsequent convictions, as recorded under the Emigration Ordinance, Passport Act, Pakistan Penal Code and PACHTO in 2012, from UNODC, *Recent trends of human trafficking and migrant smuggling to and from Pakistan*, 2013, p.58

2012		EO17/18/22	PA3/4	PA6	PPC 419/420/468/471	PACHTO	Total
	FIRs	166	0	11	9	2	188
Peshawar	Convictions	77	1	12	6	1	97
	FIRs						
	Registered	518	6	40	46	0	610
Quetta	Convictions	508	97			0	
	FIRs						
	Registered	856		33	27	15	931
Lahore	Convictions	132		18	6	0	156
	FIRs						
	Registered	947	1	42	4	94	1088
Gujranwala	Convictions	139		17		7	163
	FIRs						
	Registered	193		13		0	206
Faisalabad	Convictions	63		2		0	65
	FIRs						
	Registered	169				1	170
Multan	Convictions	14				1	15
	FIRs						114
Gwadar	Registered	0	112			2	
	Convictions	ND	ND		ND	ND	0