



# Trends & Causes of Women Trafficking in NWFP, Pakistan

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Community Appraisal & Motivation Programme (CAMP)  
A Research Study on the Trends & Causes of Women Trafficking in NWFP, Pakistan

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# PREFACE

Pakistan is a country of origin, destination, and transit for human trafficking. It is also a major destination for trafficked women and girls in South Asia. Although there are no formal estimates available for human trafficking within the country, there is no denying the fact that trafficking of girls and women has grown substantially over the last few years. According to the US State Department's Trafficking in Persons Report 2009, Pakistan was placed in tier 2 watch list for its limited efforts to address the issue holistically regarding prevention, persecution and protection.

CAMP's ongoing project 'Capacity Building of Stakeholders on Countering Women/Girls Trafficking' aims to address the issue of women's trafficking by strengthening the capacities of law enforcement agencies [judiciary and public prosecutors], provincial legislative body, lawyers community, media and NGOs at the provincial level. Specialized training workshops have been conducted for sensitization and deeper understanding of techniques on countering women trafficking.

For effective networking and strong referrals between civil society organizations and relevant government departments, an Inter-institutional Referral System (IRS) has been set up which assists victims for accessing free legal aid, health facilities, shelter, and other rehabilitation.

The Counter Trafficking Technical Working Group (CTTWG), comprising of legal experts, journalists, women rights activists and political leaders is a thematic forum established under the project for review and analysis of the existing laws/policies and has helped in understanding the various aspects of the issue and drawing some positive recommendations for drastic reforms.

This research study is also part of CAMP's ongoing project and is an attempt to assess trafficking of women from and into the North West Frontier Province (NWFP); identifying the main areas of origin, transit and destination of trafficking. The report highlights the efforts registered so far and support available in NWFP for victims of trafficking. The study also takes into account awareness among stakeholders regarding the crime of trafficking in the province, and looks into support mechanisms available for the victims of trafficking, their accessibility to these services and gaps therein.

I would like to thank the United Nations Development Programme (UNDP) Gender Justice & Protection (GJP) project for supporting this research study, which is the first of its kind at the provincial level. I am also indebted to Mr. Amin, the independent consultant, and his team for conducting this research, as well as the many organizations and individuals who shared valuable information during the research. Those who gave formal interviews or agreed to be named are listed in Annex 3, and we are equally grateful to those people who do not wish to be named, but contributed important information. Finally, I would like to acknowledge the assistance of CAMP staff that supported the project in various ways.

We hope that this report, although a small step, will contribute towards the larger cause of countering women trafficking in Pakistan.

Naveed Ahmad Shinwari  
Chief Executive, CAMP

April 2010

## List of Abbreviations

ADA	Anjuman Dawat-e-Azeemat
AHTC	Anti Human Trafficking Circles
AIDS	Acquired Immune Deficiency Syndrome
AJK	Azad Jammu and Kashmir
ATU	Anti Trafficking Unit
BEFARe	Basic Education for Awareness Reforms and Empowerment/ Basic Education for Afghan Refugees
BoE	Bureau of Emigration and Overseas Employment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CATW	Coalition Against Trafficking of Women
CPMIS	Child Protection Management Information System
DFD	Document Fraud Detection
DOSWD	Department of Social Welfare and Women Development
EBDM	Enterprise for Business and Development Management
EO	Emigration Ordinance
FANA	Federally Administered Northern Areas
FATA	Federally Administered Tribal Areas
FIA	Federal Investigation Agency
HIV	Human Immunodeficiency Virus
HRCP	Human Rights Commission of Pakistan
IATF	Inter Agency Task Force
ICMPD	International Centre for Migration Policy Development
IDP	Internally Displaced Person
ILO	International Labour Organization
IOM	International Organization for Migration
MoFA	Ministry of Foreign Affairs
Mol	Ministry of Interior
MoLMOP	Ministry of Labour, Manpower and Overseas Pakistanis
MoSW	Ministry of Social Welfare and Special Education

MoU	Memorandum of Understanding
NADRA	National Database and Registration Authority
NARA	National Aliens Registration Authority
NCCWD	National Commission for Child Welfare and Development
NCPP	National Child Protection Policy
NET	Noor Education Trust
NMP	National Migration Policy
NWFP	North West Frontier Province
OPF	Overseas Pakistanis Foundation
PA	Passport Act
PACHTO	Prevention and Control of Human Trafficking Ordinance
RSPN	Rural Support Programme Network
SAARC	South Asian Association for Regional Cooperation
SDPI	Sustainable Development Policy Institute
SIU	Special Investigation Unit
SOP	Standard Operating Procedures
SPARC	Society for the Protection of the Rights of the Child
TET	The Earth Times
THTP	The Human Trafficking Project
TIP	Trafficking in Persons
TVPA	Trafficking Victims Protection Act
UAE	United Arab Emirates
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Funds for Women
UNFPA	United Nations Fund for Population Activities
UNHCR	United Nations High Commissioner for Refugees
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNODC	United Nations Office on Drugs and Crime

## EXECUTIVE SUMMARY

Trafficking in Women is a recognized form of violence against women. It not only violates the basic human rights, but also perpetuates objectification of women leading to lifelong distress and debasement. Although little research has been done on the subject in Pakistan, trafficking has a high incidence rate as per informal and undocumented evidence.

As the issue of trafficking, in particular women and children's trafficking, has gained international support, the pressure on developing countries to address this issue has also grown. In this regard, the Community Appraisal and Motivation Programme (CAMP), with the technical and financial support of Gender Justice and Protection project, UNDP initiated a project on combating Women Trafficking in NWFP. The eighteen month project builds on CAMP's earlier work on combating trafficking funded by the European Union. The project is in the process of creating provincial level response groups including lawyers, government officials and members of CSOs. Specialized training workshops are underway for law enforcement officers, lawyers, journalists and members of the civil society organizations, to create an institutional response to combat women trafficking, as well as creating general awareness on trafficking issues.

CAMP is a national non-profit and non-governmental organisation established and registered in May 2002. We work with some of the most underprivileged communities in the Federally Administered Tribal Areas (FATA) and North West Frontier Province (NWFP) of Pakistan; responding to emergencies, improving access to quality health and education, creating livelihood opportunities and working closely with communities and government departments to promote human rights, peace and security.

CAMP commissioned this study to provide a baseline for the project and with the objective of creating an information base and resource for future programmatic initiatives. The survey focuses to determine the extent of trafficking of women from and into NWFP province, including the main areas of origin, transit and destination of trafficking in NWFP. The study also identifies the efforts registered so far and support available for victims of trafficking in NWFP. It also highlights the levels of awareness among the stakeholders regarding the crime of trafficking in the NWFP and if support mechanisms are available, how these are accessed and where the gaps are.

Women's trafficking is a national and transnational crime, found in almost every country of the world. According to the US State Department Report (2008), almost



80% of the transnational victims of trafficking are women and girls. This report also focuses on trafficking of women in NWFP.

The geographical coverage of the study included a few districts of NWFP, as many areas in the province were insecure and difficult to access. The study included the areas of Chitral, Mardan, Swabi and Landikotal. The study combined primary data collected through the interviews of trafficking victims, law enforcement officials, shelter homes staff and NGO representatives. The final findings are based on interviews with 50 victims of trafficking, 15 law enforcement officials, 15 NGO experts, 5 Journalists and 10 religious leaders.

Trafficking which is mostly practiced under the guise of customary practices in NWFP is extremely difficult to reveal. Traditional practices like *walvar*, *sar paisa*, and *swara* are deep rooted and accepted, which makes it even more challenging to sift information. Numbers and magnitude of the issue are also difficult to ascertain because victims are well 'hidden' and society accepts this as a social practice.

As most of the victims are trafficked to other provinces in the country, most families are in no position to follow up. This research establishes that the most vulnerable group is young girls from big families and of humble backgrounds. Among those 32% victims have left home for marriage, while 28% have been taken by force, 18% have left homes for jobs and 16% because of the negative attitude of the family.

The greatest contribution of the study is the detail provided regarding district Chitral which is known to be the most notorious for trafficking in the province. The local movement to counter trafficking under the banner of Anjuman Dawat-e-Azeemat is commendable. Training and support to such communities to counter trafficking should be the key in future interventions, and enable them to address the problem in a locally sensitive and acceptable manner.

The survey shows the role and function of Pakistan's law enforcement agencies that are responsible for combating human trafficking. The Federal Investigation Agency (FIA) is the main body responsible for regulation and control of immigration, smuggling and cross border movement of people. In addition the Frontier Constabulary (FC) and Police have jurisdiction in tribal and settled areas respectively. The Passport Offices across the province are run under the jurisdiction of the Federal Interior Ministry and are called upon to determine whether an applicant is a genuine Pakistani citizen or an illegal resident.

To conduct household surveys in the vulnerable communities identified by NGOs would provide a good basis to estimate the scale and trends of human trafficking in

the province. The communities and districts should be ranked accordingly for future interventions. The most glaring gap in the current policy is the omission of human trafficking within the country from the P&CHTO. Addressing this gap would require defining the role of police and their enhanced cooperation with FIA for which the framework of IATF already exists.

The scope of current trafficking law P&CHTO should be revised to include internal trafficking and the role of FC and police. The revised law should also define its linkage to the other relevant laws already in force.

Rehabilitation of victims is another aspect of trafficking covered by the research. Women crises centers along with dar-ul-amans also played a special role in the rehabilitation process. The most surprising element encountered during the survey was that a shelter run by Noor Education Trust, an NGO, was found the most friendly and accessible shelter home for victims of trafficking and domestic violence. The survey has identified all the support mechanisms available within the province for victims of trafficking.

# CHAPTER ONE

## INTRODUCTION

# INTRODUCTION

CAMP commissioned this study to provide a baseline for the project and with the objective of creating an information base and resource for future programmatic initiatives. The survey focuses to determine the extent of trafficking of women from and into NWFP province, including the main areas of origin, transit and destination of trafficking in NWFP. The study also identifies the efforts registered so far and support available for victims of trafficking in NWFP. It also highlights the levels of awareness among the stakeholders regarding the crime of trafficking in the NWFP and if support mechanisms are available, how these are practiced and where the gaps are.

The study covered a very sensitive topic that has not been addressed by local organizations in such depth. A sample size for victims among the vulnerable group was taken for interviews, at shelters both managed by Government and Civil Society Organizations and prisons. The data was collected to identify the trends in trafficking from this part of the country; additionally the stakeholders' understanding has also been analyzed to address this transnational crime. The local customs and how it is creating space for trafficking of women have also been scrutinized.

The support systems available in the province for victims of trafficking have also been covered with a view to identify the the gaps and difficulties that victims face when accessing these institutions, and whether these institutions are fulfilling the needs of the victims. The understanding of specific laws related to crime of trafficking among judiciary and law enforcement agencies has also been analyzed.

## 1.1 Study Design and Methodology

The study was designed as per the geographical locations mentioned in the guidelines given for this study. The geographical area selected comprised of the valley of Chitral the settled districts of Mardan and Swabi as well as the international border crossing point of Torkhum.

A team was selected for the task based on their previous experience. They were trained on the subject through various means. The team was responsible for visiting the identified areas to gather information required and analyze the trends and quantum of the problem.

A mechanism of various questionnaires was designed for each member of the targeted group to have his/her view on the subject. The questionnaire was designed

to analyze various tricky and difficult questions especially from victims. A special session was conducted to train the survey team on confidentiality of the victims and to give due attention to the point during the course of their assignment. A work plan was designed to cover the diverse area and stakeholders and activities were launched in the field.

## 1.2 Desk Review

The desk review of literature related to this crime of modern day slavery was conducted. This review included international reports covering Pakistan's profile related to trafficking, actions taken by the Government of Pakistan, and national literature generated and available on the subject. Media reports were also analyzed. Following is a list of documents reviewed:

- 1) There is an international annual monitoring report generated by United States Department of State Office to monitor and combat trafficking in persons known as the 'TIP Report.' The Pakistan chapter in the annual report of TIP from 2001 to 2009 was reviewed.
- 2) The efforts and material generated by the International Organization for Migration (IOM) country office in Pakistan on the subject.
- 3) The material generated on the subject by Aurat Foundation's office in Peshawar.
- 4) The survey conducted by Noor Education Trust on the subject in the province.
- 5) Survey of the newspapers and periodicals on the subject with special focus on NWFP.
- 6) Books written on *swara*, a practice which has led to trafficking of women at times.
- 7) Unpublished data sources such as historical record and notes of journalists: Efforts were made to acquire unpublished data from various sources such as government offices, civil society organizations, etc.
- 8) De-classified official documents: Government departments, especially police department, home ministry, and home and tribal affairs department, was approached and requests were made for documents.

## 1.3 Development of tools and initial identification of victims

The tools for this study have been developed on the basis of secondary data and desk review, and stakeholders and areas were identified. Different techniques were applied to design tools according to the selected groups. Questionnaires have been designed for victims and other stakeholders. Areas have been selected to be visited - a fact finding mission was identified for Chitral as the area is associated with internal

trafficking but without an incisive analysis of the situation.

The following groups were taken into account while developing tools for the evaluation study:

1. Communities of the affected areas
2. Civil Society Organizations, Local Associations
3. Prison
4. Shelters and Darul-Aman in the mentioned areas
5. Law enforcement officials and officials at the related ministries
6. Victims of trafficking
7. Experts on the subject of trafficking

#### 1.4 Study Phases and Survey Coverage

The study was carried out initially to visit the areas mentioned in the report like Chitral, Mardan and Swabi, and the border point at Torkhum in Khyber Agency. The idea there was to find civil society organizations and individuals to get information and their perspective about internal trafficking from the area. The next phase was to interview all the selected groups in the table below, along with the probable victims of trafficking which have to be 50 in numbers to find the exact detail

Target Group	Numbers
1. Government Officials	
1.1. Provincial Police Officials	15
1.2. Ministry of Social Welfare Officials	05
1.3. Ministry of Law and Justice Officials	05
1.4 FIA and <i>Khasadars</i> at Border point	05
2. NGOs Working on HR and legal issues	15
3. Journalists	05
4. Victims: Wardens of Darul-Aman, Crisis Centers and shelters, and jails, etc	50
5. Religious Leaders	10
<b>Total</b>	<b>110</b>

#### 1.5 Data Processing, Analysis and Report Writing

The data gathered from the interview forms was processed along with the

secondary data gathered from interviews and desk review of various literature available.

## 1.6 Constraints

**Geographical overstretch:** one of the areas selected for this study was Chitral which in terms of distance from the provincial metropolis is less than four hundred kilometers. However, the study was planned during winter when most of the area is cut off from the rest of the country due to heavy snow fall. The team visited the area in November and was caught unprepared by an early snowfall, forcing them to stay well over the required period. There was no land or air transport available during the time and the team had to bear the extreme weather without prior preparation.

**Holding information due to culture:** The team observed that although it was perhaps the first time that questions regarding trafficking were asked in some areas, the effort was highly appreciated by the local communities especially in Chitral. It was clear that there is an internal urge and very strong movement to check this trend in Chitral, but despite that people were not ready to share the number of missing girls married to outsiders coming from other parts of the country. They were holding information because according to them disclosing their details could dishonor the community and the pride of the community would be hurt.

**Confusion of terminologies and judgmental attitude:** It was found during the course of the study that there is very little understanding about the transnational crime of trafficking among key stakeholders including the government departments, which makes it very difficult to get to the root of the problem. It was also found that Government officials were rushing into conclusions and insisting that the phenomenon does not exist in this part of the world.

**Worsening law and order situation:** The province of NWFP continues to bear the brunt of terrorism and a large part of the province has been a conflict zone. Travel to the border point was very difficult to materialize and the request was forwarded to organizations functional in the area to conduct the required interviews from officials posted at the border. The study did not

include the area of Swat where according to various sources the practice of bride price started for the first time<sup>1</sup> and with time was imitated by other areas. Currently, Swat is the worst affected area in NWFP and suffering from the rise of extremism of its own kind. It is unfortunate that due to security situation this area has not been covered in this study.

**Identification and search for victims:** The team experienced great difficulty in this regard. The management of shelters both from Governmental sector and civil society were found reluctant to give access to the victims. They used various pretexts like the victims are not victims of trafficking and they are victims of domestic violence etc. It was also found during the study that the Governmental shelters were hardly hosting any victims because of the rules and regulation, which is dissuading victims rather than providing hope and shelter at a time when they need it. Even in prisons it was with great difficulty that the team was allowed to interview the inmates and to identify victims of trafficking through probing.

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<sup>1</sup> The information provided by Mr.Jamshed an Activist of Dawat-e-Azeemat Chitral



## CHAPTER TWO

# SCOPE AND EXTENT OF TRAFFICKING IN PERSONS

# Scope and Extent of Trafficking in Persons

## 2.1 Trafficking: A Global Problem

Human Trafficking, the darkest form of irregular migration is also known as modern day slavery. Human trafficking is a multi-dimensional issue. It is a crime that deprives people of their human rights and freedom, increases global health risks, fuels growing networks of organized crime, and can sustain level of poverty and impede development in certain areas. The human trafficking phenomenon affects virtually every country in the world.

The common denominator of trafficking scenarios is the use of force, fraud, or coercion to exploit a person for profit. Traffickers can subject victims to labor exploitation, sexual exploitation, or both. Trafficking for labor exploitation, the form of trafficking claiming the greatest number of victims includes traditional chattel slavery, forced labor, and debt bondage. Trafficking for sexual exploitation typically includes abuse within the commercial sex industry. In other cases, individuals exploit victims in private homes, often demanding both sex and work. The use of force or coercion can be direct and violent or psychological.

A wide range of estimates exist on the scope and magnitude of modern-day slavery. The International Labor Organization (ILO) charged with addressing labor standards, employment and social protection issues, estimates that there are at least 12.3 million adults and children in forced labor<sup>2</sup>, bonded labor, and commercial sexual servitude at any given time.

Of these victims, the ILO estimates that at least 1.39 million are victims of commercial sexual servitude, both transnational and within countries. According to the ILO, 56 percent of all forced labor victims are women and girls. Human traffickers prey on the weak. Targeting vulnerable men, women, and children, they use creative and ruthless ploys designed to trick, coerce, and win the confidence of potential victims. Very often these ruses involve promises of a better life through employment, educational opportunities, or marriage.

Although the global scale of human trafficking is difficult to quantify; according to the International Organization for Migration (IOM)<sup>3</sup>, as many as 800,000 people may be trafficked across international borders annually, with many more trafficked

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<sup>2</sup>Trafficking in Person Report 2009

<sup>3</sup>International Organization for Migration

within the borders of their own country.

According to one estimate in South Asia around 225,000<sup>4</sup> women, children and men are trafficked annually from Bangladesh, Nepal, Pakistan, India and Afghanistan. The number of Asian women and children victim of trafficking in last 30 years has reached to 30 million.

The nationalities of trafficked people are as diverse as the world's cultures. Some leave developing countries, seeking to improve their lives through low-skilled jobs in more prosperous countries. Others fall victim to forced or bonded labor in their own countries. Women, eager for a better future, are susceptible to promises of jobs abroad as babysitters, housekeepers, waitresses, or models - jobs that traffickers turn into the nightmare of forced prostitution without exit. Some families give children to adults, often relatives, who promise education and opportunity but instead sell children into exploitative situations for money. But poverty alone does not explain this tragedy, which is driven by fraudulent recruiters, employers, and corrupt officials who seek to reap profits from others' desperation. Organized criminal gangs are earning billions of dollars in profits from trafficking and exploiting people, many of whom suffer violations to their human rights.

There has been a global consensus since long to outlaw and abolish slavery which is evident from the 300 agreements signed<sup>5</sup> between 1815 to 1957 to achieve this objective. It was not until November 2000 when a specific international instrument was approved to confront this challenge.

## 2.2 Definition of Trafficking in Persons

Trafficking in persons is generally defined as the illicit and clandestine movement of persons across national borders with the end goal of forcing women, girls and children and sometimes men, into sexually oppressive and exploitative situations for profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking such as forced labor, false marriages, clandestine employment and false adoption.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (hereafter referred to as the Trafficking Protocol)<sup>6</sup> in

<sup>4</sup>Huda 2006

Human Trafficking, Human Smuggling and Illegal Migration to and from Pakistan:

<sup>5</sup>A review of the Government Policies and Programmes by Farooq Azam

<sup>6</sup>United Nations Convention Against Transnational Organized Crime, 2000

its Article 3, defines trafficking as:

- Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving for receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at the minimum, the exploitation of the prostitution of others or other forms of sexual exploitation forced labor or services, slavery or practices similar to slavery, servitude or removal of organs.
- The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article. Child shall mean any person less than 18 years of age.

The most important aspect in understanding human trafficking is, that it is mostly confused with human smuggling which is another transnational crime and defined in a separate international instrument

- “Smuggling of migrants” or human smuggling means “the procurement in order to obtain, directly or indirectly a financial or other material benefit of the illegal entry of person to a state party of which a person is not a party or permanent resident.”

It is critical not to confuse the phenomenon of human trafficking with human smuggling as there are fundamental differences between the two. A person can be trafficked within a country or abroad whereas human smuggling invariably involves crossing of international borders. The person trafficked is a victim of extreme exploitation and deception while the smuggled migrant is not a victim, entering into the arrangement with the smuggler with full knowledge of the goal and the means to achieve the goal. There is no valid consent of the person being trafficked, while the migrant being smuggled is 'in' with the 'smuggler.' The trafficked victim remains under full control of the trafficker during the transit and at destination, often the control being exercised through coercion; this is not the case for a migrant being smuggled<sup>7</sup>.

In addition, there are trafficking situations where a person either migrates legally or

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<sup>7</sup>Iselin 2003

is smuggled to another country but ends up there facing oppressive, exploitative and coercive work conditions. Human trafficking is considered to be a far greater crime than human smuggling or any other form of illegal migration.

## 2.3 Elements of human trafficking

On the basis of the definition given in the Trafficking in Persons Protocol, it is evident that trafficking in persons has three constituent elements<sup>8</sup>;

1. **The Act** (What is done)  
Recruitment, transportation, transfer, harbouring or receipt of persons;
2. **The Means** (How it is done)  
Threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim;
3. **The Purpose** (Why it is done)  
For the purpose of exploitation, this includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.

To ascertain whether a particular circumstance constitutes trafficking in persons, consider the definition of trafficking in the 'Trafficking in Persons Protocol' and the

Figure 1  
Element of trafficking (Source UNODC)

<b>ACT</b>		<b>MEANS</b>		<b>PURPOSE</b>	
Recruitment		Threat or use of force		Exploitation, including	
Transport		Coercion		Prostitution of others	
Transfer		Abduction		Sexual exploitation	
Harbouring		Fraud		Forced labour	
Receipt of persons	+	Deception	+	Slavery or similar practices	
		Abuse of power or vulnerability		Removal of organs	
		Giving payments or benefits		Other types of exploitation	
					<b>= TRAFFICKING</b>

<sup>8</sup>United Nations Office on Drugs and Crime (UNODC)

constituent elements of the offense, as defined by relevant domestic legislation. Human trafficking is committed in different parts of the world with a variety of criminal tactics but the basic elements of human trafficking will be found everywhere and only the traffickers are benefited at the cost of victims' exploitation.

## 2.4 Trafficking in relation to NWFP and main areas

The North-West Frontier Province<sup>9</sup> (NWFP), runs for over 1,100 kilometers (680 miles) along the border with Afghanistan. A historic gateway to South Asia and the heart of ancient Gandhara Kingdom, the province has a unique heritage. The classical Gandhara territory was part of the present day Peshawar valley including hilly areas of Swat and Dir extending to the east and beyond the Indus to Taxila.

The region has been historically and strategically important due to passes leading into India (before partition), through which great invaders came from Central Asia. Alexander the Great conquered the region in 326 B.C. The Pukhtoos arrived in the 7th century, and by the 10th century the conquerors from Afghanistan had made Islam the dominant religion of the region. In 12th century, Babar annexed it to his Mughal Empire and the region paid nominal allegiance to the Mughals in the 16th and 17th century. After Nadir Shah's invasion in 1738, it became a stronghold of the Afghan Durrani's kingdom. The Sikhs later on held the area, which passed over to Great Britain in 1849. The British maintained large military forces and paid heavy subsidies to pacify the Pukhtoon resistance.

North West Frontier Province is a province of the Islamic Republic of Pakistan, located on both banks of the river Indus and stretches from the



Map of NWFP<sup>10</sup>

<sup>9</sup>The official website of the NWFP Government ([www.nwfp.gov.pk](http://www.nwfp.gov.pk))

<sup>10</sup>The official website of the NWFP Government [www.nwfp.gov.pk](http://www.nwfp.gov.pk)

Himalayas in the north to the deserts in the south where it is bordered by the Baluchistan and Punjab provinces. To its west is the rugged terrain of neighboring country Afghanistan, which is accessed via the historic Khyber Pass through the mountains of the Suleiman Range. Its borders touch or are close to those of China, Tajikistan and the disputed territory of the state of Jammu and Kashmir in the north. The capital of the province is the city of Peshawar.

It covers an area of 74,521 sq. km. According to the 1998 census, the total population of N.W.F.P. was approximately 14 million out of whom 52% are males and 48% females. The northern zone is cold and snowy in winters with heavy rainfall and pleasant summers with the exception of Peshawar basin which is hot in summer and cold in winter. It has moderate rainfall. Its climate varies from very cold (Chitral in the north) to very hot in places like D.I. Khan. Once the cradle of Gandhara civilization, the area is now known for its devout Muslims who jealously guard their religion and culture and the way of life which they have been following for centuries.

There are certain traditional practices in NWFP which may be a strong catalyst for localized forms and trends of trafficking.

According to the baseline study conducted by BEFARe<sup>11</sup> the major forms of trafficking practiced in Pakistan are given in below table.

Figure: Common forms of external and internal trafficking in Pakistan

<b>External trafficking forms</b>	<b>Internal trafficking forms</b>
Child trafficking for camel jookeying	Bride price
Girls and women trafficking for sexual exploitation	Bonded labour
Trafficking for forced labour	Watta Satta or Bride exchange
Commercial sexual exploitation	Forced labour
Organ trafficking	Sexual abuse
Trafficking by adoption of children	Commercial sexual exploitation

<sup>11</sup> Baseline of illegal migration; human trafficking and human smuggling in Pakistan by BEFARe 2009

The types of human trafficking present in different regions, cultures and communities in Pakistan have been documented in this baseline study. The main difficulty in establishing various forms of trafficking is that this crime is embedded in other forms of

exploitation or harmful cultural practices. It is difficult to separate women trafficking as a separate category of human trafficking as it is strongly embedded in forms of child trafficking, bride exchange, and bride price. However, a focused analysis of women trafficking allows us to understand the characteristics of female trafficking victims and context of their exploitation in Pakistan.

The most notorious form of women trafficking from NWFP is the practice of selling young brides for a price. The practice is common in many districts of poverty-stricken regions of the North-West Frontier Province where it is known as *walvar* and is also found in other provinces of Pakistan. The custom is also found among the Bengali and Afghani communities in the urban centers or refugee camps.

In case of NWFP, the demand is mostly from men from Lahore, Faisalabad, Gujranwala, Sheikhupura, Jhelum, Rawalpindi and other parts of Punjab. Men from Peshawar, Mardan and Charsadda have also been found to approach middle-men for such marriages. There is also evidence that girls may also be brought into prostitution or resold for commercial sex later on. The spread of the demand for bride-price trafficking is because of the commercial form that the local custom has acquired in recent years. The main factors driving bride-price trafficking is extreme poverty, unemployment and large household sizes. In addition, illiteracy, lack of women rights and low social justice play a role in the continuation of such cultural

According to Nosheen<sup>12</sup> her marriage took place two years ago. She had no children. Two years ago her cell phone developed a fault and she went to repair shop with her father to have it fixed. The shopkeeper's name was Wasim and while he fixed the phone, he noted her number. He started calling Nosheen and offered to meet her. When Nosheen agreed to meet him, Wasim forcefully took away her gold earrings. "Next time when I went to meet him, Wasim and his friends abducted me and we got married. We didn't have children after one year of our marriage. One day Wasim abducted another girl and she also started living with us. Wasim and the girl were attacked and killed by some unknown persons. The blame of the double murder came on me. Wasim's parents are following my case while my own relatives are not, and I am in prison waiting for the court's decision..."

Source: Primary data from interviews.

<sup>12</sup> Real names have been changed to protect victims identity



malpractices in the region.

The practice is far more common in the NWFP and therefore the research is relatively better on the subject on the region. Over the last few decades *walvar* marriages have spread from a confined group of districts like Swat, Chitral and tribal areas to the larger mainstream settled districts including Mardan, Swabi, Charssadda and Nowshera. There is also evidence that in some areas of district Malakand and Provincially Administered Tribal Areas (PATA), the traditional custom has transformed into a business that is becoming acceptable as a valid form

of commercial business (Shah; 2004). The families most vulnerable to the practice are the poorest and those at the lowest end of the social ladder. These groups generally have no property and survival is a challenge for them every day of their lives. The Gujar, Kohistani and Kalami communities are the most vulnerable; and particularly a social group of local dancers located in Mingora practices *walvar* more often (Shah; 2004). Reports by non-governmental organizations have shown that the mafia has targeted the poorest families in some areas of the district Swat like Butkara, Barama, Kokarai, Dangram, Jameal, Odigram, Qambar, Marghzar, Madiyan, and Bahrain (CSEC;2005).

Yasmeen<sup>13</sup> was doing a nursing course from one of the hospitals in Peshawar. One day, on her way home from the hostel, some people sitting in a car forced her in to their car. When she opened her eyes next, she found herself in a room. There were four men in that room who called her father and demanded five hundred thousand rupees (Rs. 500,000) from him. "My father told them that his daughter (me) was now dead for him. You people either marry her or kill her because I have lost my honor in the family. I was exploited for five days by the captors and they left me in a deserted place. A police man found me on the way and sent me to the women crisis center which has been my home since that day...."

Source: Primary data from interviews.

There are two types of mafias involved in *walvar* trade: local operators based in the Swat district and middlemen partners from the Punjab. Research conducted by the Sustainable Development Policy Institute (2004) indicates that Punjabi groups generally stay within their provincial boundaries because of the ethnic and linguistic differences and the traveling costs involved. Moreover, local gangs have an important role to play at the village or city level as they provide assistance and protection to religious leaders, police and government officials. The Punjabi groups therefore depend on the local

<sup>13</sup> Real names have been changed to conceal the identity of the victims

gangs for the supply of girls. The victims are generally over eleven years old, however the consideration is not so much the age of the bride or bridegroom but the 'bride-price' that will be distributed among the deal makers, middleman, and protectors. In majority of these cases, the price ranges from Rs.100,000 to Rs.150,000 and is distributed among shareholders where the family usually receives a third of the amount (Shah; 2004). The acceptance of the custom in the local culture, the secrecy of the trade, the weak regulatory system and the lack of enforcement in the region has not allowed researchers to determine the magnitude of the trade in this region.

A valuable research study on the practice of bride price in NWFP has been conducted by the Noor Education Trust in Peshawar that establishes the link between trafficking and the customary practice of bride price in the region. The NET study (NET; 2008) interviewed 175 civil society respondents and interviewed 195 victims/survivors for the study. One of the main findings of the study is that the bride price trafficking is concentrated in the northern regions of the province in areas such as Swat, Malakand, Chitral and Dir districts. However, the practice is on the rise in the central region of the province; in districts Mardan, Swabi, Nowshera, Charsadda and Peshawar. The survey of victims reveals that the majority of women are trafficked as children and the most vulnerable groups are aged between 10-15, and 16-20. The study reveals that Pashtun girls are most vulnerable to trafficking and especially those that belong to illiterate and semi-literate background. Poverty of the victim's family has been identified as main factor in their consent to the marriage for money.

Chitral is undoubtedly the most romantic, captivating and enchanting place in the majestic Hindukush range<sup>14</sup>. It is a mountainous area in the extreme north of Pakistan. The landscape of Chitral is extremely mysterious, with its steep harsh mountains, lush green valleys, beautiful meadows and big glaciers, which have made it one of the most difficult and inaccessible areas of the world. It is surrounded by the Wakhan, Badkhsan, Asmar and Nooristan area of Afghanistan in the north, west and south-west. On its southern boundary lies Dir. In the east lies Gilgit agency and Swat Kohistan. In the pages of history Chitral was known as an independent princely state. After independence, Chitral was the first state to declare accession to Pakistan. In 1970, it was declared as district of Pakistan and attached to the Malakand Division.

The Chitrali community is the most humble and simple in the entire province, perhaps also making them more vulnerable to practices like trafficking. Chitral is notorious throughout Pakistan for a practice like *walvar* or bride price. The marriage proposals from the individuals coming from all over the country are

<sup>14</sup> [www.chitraltimes.com](http://www.chitraltimes.com)

accepted with little investigation, which has led to women trafficking under the guise of legal marriages. The district remains cut off from the rest of the country for half a year due to the snow covered Lowari top closure which is the only land route to Chitral. It is also the main reason for the abject poverty of the district and has put the population under psychological pressure, which is a push factor for the families to accept proposals with minimum investigation and flexible terms as compared to other places in the country. This has been the trend for many years and Chitrali girls are married off to people from all over the country.

It is pertinent to mention that the marriage proposals are seldom for the first marriage of the bridegroom. Most of these proposals are for second marriages of the bridegrooms, a widower or a divorcee. At times the age difference between the pair is unbelievable; the girls could be as young as the daughters or even granddaughters of their new male partners. There are a number of active middlemen in Chitral who are connected with people in other parts of the country and arrange the bride price between the parents and the groom.

This study found that there has been a general reawakening in the area towards such marriages, after reports of missing girls taken from Chitral surfaced in the area. According to the Chitrali people this trend came to Chitral from Swat, and the bride price is actually spent on dowry for the bride and to entertain guests on the wedding day. The money ranges from fifty thousand to hundred thousand Pakistani rupees. There were certain cases where girls' dead bodies were sent back to their villages in Chitral, under mysterious circumstances<sup>15</sup>.

These events and the general reputation of the district notorious for such marriages created a local urge to unite and deal with the situation. The local movement took the form of an organization known as 'Anjuman-e Dawat-e Azeemat' (ADA). The self-help organization is active for the last few years and serves as a watchdog to prevent marriages of Chitrali women to any suspicious individual coming from outside the area. The organization has seventeen units in all the main towns and villages of Chitral and is supported through donation from its thirty members. The ADA has passed a resolution in the Chitral district council assembly that the middlemen involved as a bridge will give guarantee of the safety and well being of the girl after her marriage, and in failure he will pay an amount up to five hundred thousand Pakistani rupees as a fine. The ADA is now scrutinizing all the marriage proposals that come from outside their own area. The interested individual is interviewed, cross questioned and against a guarantee from the middlemen, the case is decided on merit.

<sup>15</sup> Mr. Jamshed is active member of the Anjuman Dawat Azeemat, a local organization in Chitral.

According to ADA during 2007, the organization accepted 200 such proposals for chitrali girls out of 700, which means 500 cases were rejected. ADA also reported that there are more than one hundred middlemen active in chitral, some of them are very notorious and try to evade the ADA during the deal to get maximum benefit. As ADA is the result of local movement, it has the support of locals from all walks of life, including transporters, shopkeepers, and hoteliers as well the local administration including police. Whenever a suspected individual or family is found in chitral while purchasing items required for marriages, they immediately inform ADA, which intervenes and takes appropriate action. The ADA and the local people have even publically punished a few middlemen found trapping poor families for personal gain. Despite the hectic efforts by the team, the ADA was not sharing details about the number of missing girls in the past due to cultural stigma, nor were they ready to provide details about the families that suffered due to this evil practice.

## 2.5 Estimates of Trafficking Victims

Pakistan<sup>16</sup> is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labor and sexual exploitation. The country's largest human trafficking problem is that of bonded labor, which is concentrated in Sindh and Punjab provinces, particularly in industries like brick kilns, carpet-making, agriculture, fishing, mining, leather tanning, and production of glass bangles. Estimates of Pakistani victims of bonded labor, including men, women, and children vary widely but are likely to be over one million. Parents sell their daughters into domestic servitude, prostitution, or forced marriages, and women are traded between tribal groups to settle disputes or as payment for debts. Pakistani women and men migrate voluntarily to Gulf states, Iran, and Greece for low-skilled work as domestic servants or in the construction industry. As a result of fraudulent job offers and high fees charged during recruitment, however, some find themselves in conditions of involuntary servitude or debt bondage once abroad, including restrictions on movement, non-payment of wages, threats, and physical or sexual abuse. Moreover, NGOs contend that Pakistani girls are trafficked to the Middle East for sexual exploitation. Pakistan is also a destination for women and children from Afghanistan, Azerbaijan, Bangladesh, India, Iran, and Nepal trafficked primarily for forced labor. Women from Bangladesh and Nepal are trafficked through Pakistan to the Gulf States.

There is a dearth of statistics about victims of trafficking around the globe and the

<sup>16</sup>Trafficking in Person (TIP) 2009 Report prepared by US Department of State office to monitor and combat trafficking in persons

trend is the same in Pakistan .One of the main challenges in the field has been locating trafficking victims because of the covert nature of the crime as well as lack of awareness on the subject among stakeholders. In many cases trafficking victims do not consent to an interview because of security and privacy concerns. The most difficult population to locate and interview with reliable evidence are female victims and especially those who have been trafficked for prostitution or sexual abuse. Interviews have only been possible where social workers in the field have already developed relationships with the victims. Searching, identifying and developing relationships with trafficking victims for a single interview is a time consuming process and a major hindrance in a time-bound research. Similarly, the surveyors have to take into consideration cultural sensitivity, ethical considerations and victim privacy.

Samina<sup>18</sup> is a graduate and a Primary School teacher. One day, she eloped with a boy. The boy told her that after running away he would marry her and they would live a happy and prosperous life together. Some of her friends helped her plan how she would get away from home. They left their homes and reached Murree. After spending one night with Samina, the boy invited his friends over. To her shock, they all disgraced her. Samina had a pistol and ended up killing one of them; during the scuffle she also got injured. The boy's friends handed Samina over to the police. She was sentenced to twenty five years in prison for a murder case and is in jail waiting to complete her term....

**Source: Primary data from interviews.**

As Pakistan was declared at Tier 3 in the TIP Report 2001<sup>17</sup>, the Government of Pakistan responded in the form of Prevention & Control of Human Trafficking Ordinance (P&CHTO) 2002. Since then, only three attempts have been made so far to conduct a survey to get an estimate of trafficking victims in Pakistan. The first attempt was made by the International Organization for Migration (IOM) through a survey "Situation Analysis of Trafficking in Persons in Pakistan" conducted by R A A S T A Development consultants, which is the only research study that has attempted to provide a national overview of human trafficking in Pakistan. The IOM study conducted in 2005 collected data on 201

trafficking victims out of which 124 were women and 77 were children. One of the challenges that the study faced was identifying and screening trafficking victims.

<sup>17</sup>TIP 2001 Report published by US Department of State office

<sup>18</sup>The real names of the victims have been changed to conceal their identity

The IOM study concluded that trafficking victims are mostly women and children, both cross border and internal. Moreover the IOM study revealed that more than 40 percent of female victims were deceived by promises of jobs, marriages, recreation, and 23 were coerced into forced marriages. Out of the 125 female victims, 61 percent were internally trafficked Pakistani women, while around 35 victims or 28 percent of women were of Bengali origin. Similarly, 77 cases were of child victims that represent 38 percent of the sample size of 201 victims. 50 percent of the child victims were abducted and more than a quarter were deceived by promises of employment.

The second attempt was made by Noor Education Trust (NET) through a research study titled "Brides for Sale". The NET study (NET; 2008) interviewed 175 civil society respondents and interviewed 195 victims/survivors for the study. The survey of victims revealed that the majority of women are trafficked as children and the most vulnerable groups are aged between 10-15 and 16-20. The study also revealed that Pashtun girls are most vulnerable to trafficking and especially those that belong to illiterate, uneducated and semi-literate background. The limitation of the study is that it has covered only a few districts in NWFP.

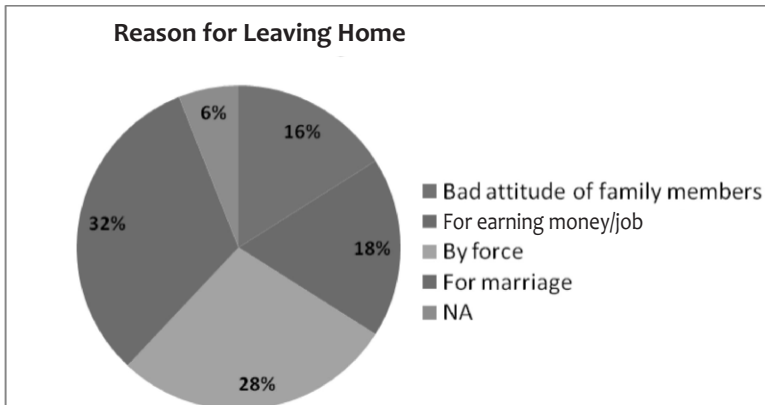
The third attempt in this realm is made by BEFAre that conducted a baseline study in its project areas to find the extent of trafficking and smuggling in Pakistan. A total of 58 female trafficking victims have been interviewed in the baseline survey that represents approximately 34 percent of the trafficking victim sample size. The majority of the females have been trafficked for prostitution (36%) and sexual abuse (24%) as shown in Table 5-19. Overall, 50 percent of the females have been victims of sexual exploitation. In the second tier, female victims are forced labour victims that represent 16 percent of female trafficking victims in the study. In terms of recruitment, majority of female victims have been recruited through 'forced marriage' (13%) while most others have been victims of 'deception for employment' and 'deception by marriage' (see Table 5-23). The baseline survey findings confirm the reports of secondary studies that commercial and non-commercial sexual exploitation are one of the more common forms of women trafficking in Pakistan.

A group of fifty probable victims of trafficking were interviewed through a questionnaire under this study to find the trend and dimension of women trafficking in NWFP.

The highest number, 32% of those victims, have left home for marriage while 28% have been taken by force, 18% have left homes for jobs, 16% because of the bad attitude of their families.

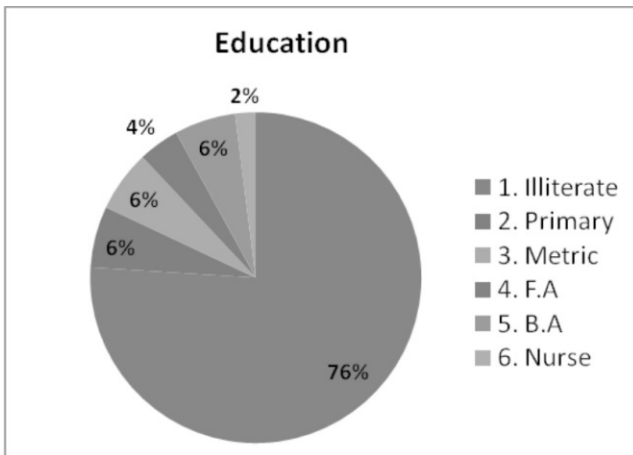
The highest number, 32% of those victims, have left home for marriage while 28% have been taken by force, 18% have left homes for jobs, 16% because of the bad attitude of their families.

Reasons	Frequency	Percent
1. Bad attitude of family members	8	16
2. For earning money/job	9	18
3. By force	14	28
4. For marriage	16	32
5. NA	3	6
<b>Total</b>	<b>50</b>	<b>100</b>



As evident from the table below, 76% of the victims were illiterate, 6% were primary, Metric level and B. A, 4% were F.A and two of them were nurses.

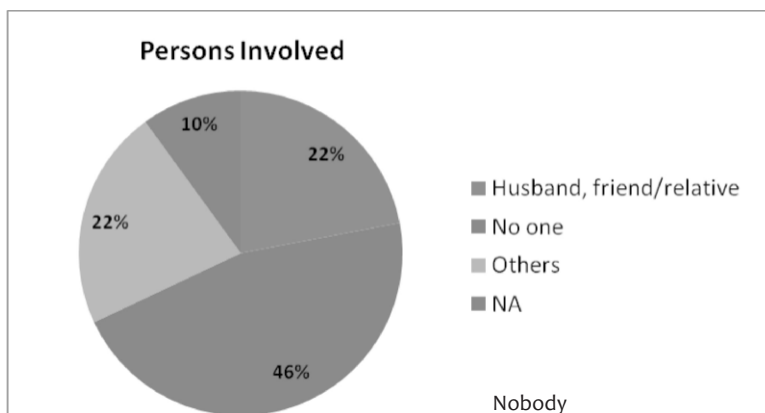
Education level	Frequency	Percent
1. Illiterate	38	76
2. Primary	3	6
3. Metric	3	6
4. F.A	2	4
5. B.A	3	6
6. Nurse	1	2
<b>Total</b>	<b>50</b>	<b>100</b>





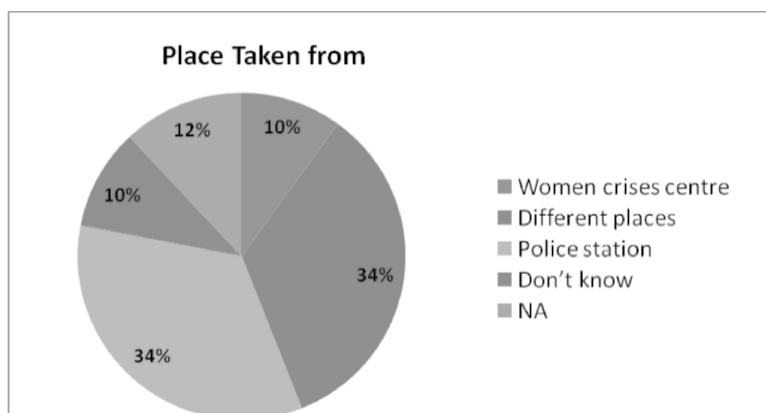
According to the statistics provided 46% of the victims left homes themselves while in 22% cases blood relatives and in another 22% cases, neighbours were involved.

Person	Frequency	Percent
1. Husband, friend/ relative	11	22
2. Nobody	23	46
3. Others (neighbours, stranger, police)	11	22
4. NA	5	10
<b>Total</b>	<b>50</b>	<b>100</b>



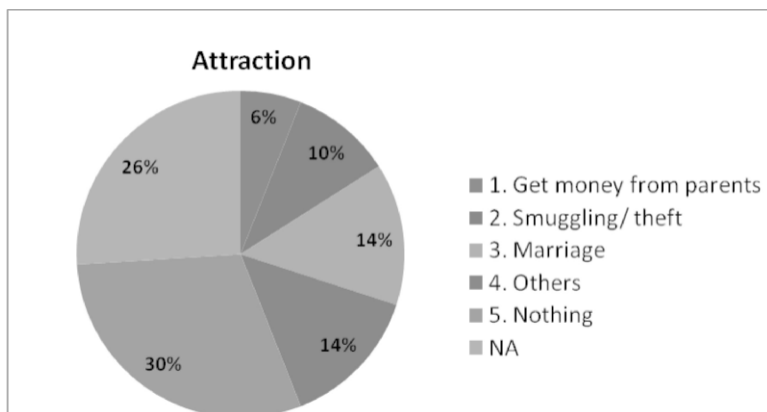
The last destination of majority of those victims was the police station, while 34% mentioned the last destinations as Peshawar, Batkhela and Murree. A very small percentage, 10%, reached women crises centre as their final destination.

Place	Frequency	Percent
1. Women crises centre	5	10
2. Different places(Peshawar, Batkhela, Murree)	17	34
3. Police station	17	34
4. Don't know	5	10
5. NA	6	12
<b>Total</b>	<b>50</b>	<b>100</b>



Among the victims 14% were subjected to sexual exploitation, 14% were compelled for marriage, 6% were asked to get money from parents, 10% were compelled for theft and smuggling of contraband items.

Response	Frequency	Percent
1. Get money from parents	3	6
2. Smuggling/ theft	5	10
3. Marriage	7	14
4. Others(Sexual abuse, parents/relative attitude)	7	14
5. Nothing	15	30
NA	13	26
<b>Total</b>	<b>50</b>	<b>100</b>



## CHAPTER THREE

# CONTEXT OF TRAFFICKING IN NWFP AND TYPES OF TRAFFICKING

## CONTEXT OF TRAFFICKING IN NWFP AND TYPES OF TRAFFICKING

### 3.1 People Affected by Cultural Practices - Swara

“Kwende Chay Keenee, Roona Stae; Roona Chay Keenee, Khowendy Swaray Kay”, says a verse from a Pashto wedding song meaning: when sisters come together; they praise their brothers; when brothers meet; they give their sisters away as Swara!

The above verse embodies the protest of the womenfolk in the conservative North West Frontier Province (NWFP) where sisters and daughters are given away as *swara* to settle tribal disputes and feuds.

Swara is the Pukhtun tradition of giving, and in most cases an unwilling, daughter/female of the clan to the enemy in order to end an old rivalry or to settle blood feud between them<sup>19</sup>. Girls are given into *swara* marriage as compensation for murder, adultery, abduction and kidnapping committed by the men of the family. Women are sacrificed for crimes committed by their fathers, brothers or uncles. Jirga decides the fate of women and the pronouncement of *swara* without the consent of the women concerned. These Jirgas constitute only the male members of the village or community

The centuries old Pukhtun code of conduct or 'Pukhtunwali' found *swara* to be a means to stop bloodshed among rival clans. Traditionally it is thought that the children born to the girls from the rival warring faction belong to both families, thus the feuding will definitely stop in the next generation<sup>20</sup>.

In such a male-dominated society, the kind of life a woman goes through is deplorable. She is totally at the mercy of a man, despite the fact that she gives birth to him. In such a society, thinking about the basic Human Rights of a woman become necessary where breaking the writ of law is easy but bypassing traditional norms and values is difficult.

Incidents of *swara* occur frequently in Pakistan but the Pukhtoon society has shown a growing trend in cases of *swara*. According to Ms. Samar Minallah, some 60 cases of *swara* took place in two districts of NWFP - Mardan and Swabi - in just four months (May-Aug 2006)<sup>21</sup>.

<sup>19</sup> <http://www.pukhtunwomen.org/Swara>

<sup>20</sup> Zafar Ali Usafzai, Daily Statesman Peshawar : Dated February 20, 2004)

<sup>21</sup> Anthropologist and director of Ethnomedia Samar Minallah

Following are the different types of *swara*:

**One-sided *swara*:** one- sided *swara* is the most commonly practiced form. The aggressor party gives a woman to the aggrieved party. The aggrieved party, on the other hand, will have to give their word to the *Jirga* that there will be no further bloodshed. The surety bond may comprise cash money or a piece of land. If the aggrieved do not abide by their word, they are to be condemned by the *Jirga*. The pride and honour of the aggrieved in the *Jirga* is no more intact and they will have no say in future *Jirga* meetings.

**Two-sided *swara*:** both parties (i.e. the aggressor and the aggrieved) exchange *swara* to strengthen their relationship and to ensure an end to enmity. The aggressor will also have to give some piece of land, cash etc. to the aggrieved party in case of violation.

**Three-sided *swara*:** this is a unique kind of *swara*. Like the previous kinds of *swara*, the aggressor party will give one woman as *swara*. But in addition to that, two more *swara*, one from each side will be exchanged so as to strengthen the relationship between the hostile tribes.<sup>23</sup>

### How it got the name *swara*?

The word *swara* in Persian literally stands for a woman who is riding on a horse/camel or any conveyance (carriage). Since in the old days there were no other means of carriage except animals, the palanquins in marriage ceremonies were carried on horses/camels. In the same way when girls (given in compromise to the rival party) were sent to their “new house” on the back of a camel/horse, the word *swara* became popular for this practice.

### Different circumstances for *swara*:

The practice of handing over a female in reconciliation to a male of an enemy family can happen under different circumstances. The most common is when a young girl is given as a compensation when a homicide happens; a murder committed by her brother, father or even an uncle. In order to settle the rivalries and disputes and bring peace between the rival families, a *jirga* is often called. It strives for reaching a reconciliation and compensation that may end in the form of a monetary payment or the handing over of a girl or woman of the guilty party to the aggrieved and affected party.

*Jirga* is the meeting of tribal men that has the authority to investigate and settle

<sup>22</sup> *Swara*, women as property, by Muhammad Ali Babakhel.

disputes or tribal matter in a manner acceptable to all sides. The *jirga* is convened to reconcile tribes or bring about an agreement among various tribes on some important issues. This *jirga* mostly consists of respected, noble and influential personalities of the area or tribe which after listening to the arguments and comments of both the parties involved in the dispute passes its judgment. The *jirga* usually consists of male members of both the accused and the deceased parties. Both the parties have to accept the judgment passed by the *jirga*, otherwise the party not abiding by the decision is held liable. In order to settle the dispute and to make a truce, the *jirga* may fix some cash money, a piece of land, animals, guns and one or two or more maidens to be given by the accused party to the aggrieved party. A female given in such a compromise is called “*swara*.”

The use of women as part of a compensation is thought to be an effective way of putting a permanent end to enmity as the link of marriage brings the families together and the offspring keeps the two families from further fighting. If the *swara* is adult or mature, she is handed over to the rival party, but in case she has not attained maturity, she is kept in trust at her parent's home. It is totally

at the discretion of the aggrieved party which decides whether to perform the *nikah* then or later at its own will to further disgrace her family. On such occasions, even the concerned female is not consulted as to whether she consents to be handed over or not.

The other circumstance where *swara* is given is when a man and woman elope and marry of their own will. This is considered by the girl's family as kidnapping and a severe blow to their honor. Therefore it demands a *swara* in compensation.

*Swara* is also practiced where the victim or the heirs of a murdered victim whose case is settled in the court can lawfully withdraw a criminal charge by accepting some monetary or other compensation. This compensation is mostly accepted in

Ranhra<sup>23</sup> is a resident of Karak. Her father went to work in Saudi Arabia but never returned. Her uncle married a woman without the consent of his in laws. The dispute was settled when Ranhra was given as *swara*. The family brought her to Peshawar when she was just three years old. She was badly treated over the next sixteen years. When the elder of the family, the only kind hearted person passed away, Ranhra decided to run away. She is now in a *darul aman* through a court order.

Source: Primary data from interviews.

<sup>23</sup>Real names has been changed to protect the identity of victims

the form of *swara*. In this way the criminal can be pardoned at any stage before the execution of the sentence by the sacrifice of a woman. The court is obliged to accept the compromise if the "deal" between the victim's family and the perpetrators is presented to it.

### **Treatment of *swara* in "her new house"**

The *swara* agrees to going to the enemy's house in a bid to secure the lives of the male members of her family. Once a girl is given away as *swara*, there is little chance of a happy life for her because of obvious reasons. Most girls married under *swara* spend their lives in torment because their in-laws consider them symbols of a rival family. Every body hates her as she reminds them of their deceased kin. She is destined to go through immense torture because she is not respected by her in-laws and mistreated.

In an interview, Khaliqdad Umeed, a well known Pushto dramatist shared an incident of *swara* in Dargai, Malakand Agency: a woman was handed over as *swara* thirty years ago and suffered so much because of her husband's family that she became mentally ill. Though 30 years have passed, her condition has not improved. There have been reports of the *swara* victim committing suicide in order to escape the wrath of her in-laws. *Swara* lives a life worse even than a maid servant. The innocent *Swara* has to bear the brunt of a crime she has never committed. Her ordeal is heart-wrenching as such a woman usually does not enjoy the full rights of a married woman. She is treated as a slave who has no say in her own life.

### **Status of *Swara* in Islam**

*Swara* is in absolute contradiction to the Holy Quran, Sunah and Shariah. Islam does not allow any sort of marriage without the consent of the woman. Two facts should be kept in mind, which are relevant to Islamic law and jurisprudence. These are:

1. Every sensible and adult Muslim woman is permitted to marry according to her own will/choice.
2. Every minor or infant girl can annul her marriage (*nikah*) as soon as she reaches the age of puberty.

Islam matrimonial law never allows parents or guardians to thrust their choice on their daughters or sisters. Imam Bukhari's well known book "Kitab-un-nikah" contains the relevant Hadith (tradition of the Holy Prophet-PBUH) in this context (Ref: Sahee Bukhari, Kitab-un-Nikah, and Vol.4, Hadith 29). Moreover, even if an adult and sensible woman is forced by her parents or guardians to marry contrary to



her own choice, she can annul it any time. In the same book an incident from the life of the Holy Prophet (PBUH) has been narrated in which the Holy Prophet (PBUH) annulled a woman's *nikah* on the complaint that it was not according to her choice. (Ref Hadith, Ibid)

The above references help us determine the status of *swara* in Islam and Shariah. It is very clear that Islam has granted the right to choose a life partner to every sensible and adult Muslim woman, and she can annul her *nikah* if it is not according to her consent.

### **Law and *Swara***

In the Pakistan Penal Code (PPC), under the Qisas and Diyat law, the right to qisas [punishment equal to the offence] in murder cases can be compounded, i.e. compensation (*badal-i-sulh*) can be accepted by the family of the victim in lieu of punishment. Thus section 310 of the PPC stipulates that the giving of a woman in compensation is not a valid form of *badal-i-sulh* but it does not explicitly prohibit the practice.

It is worth mentioning that a ruling of the Peshawar High Court regarding the practicing of *swara* has described the act as tyrannical, illegal and against the Islamic law. It has suggested that a penalty be imposed on anyone upholding this custom and directed the lower courts not to accept any such agreement. It has also held that a marriage contract is void if it is made in the context of *swara*.

This judgment has been ignored as the practice of *swara* continues, especially in murder cases across the country. This may be because there is no punishment for those who are found involved in this inhuman act. The Shariat Bill, which has been passed unanimously by the NWFP Assembly, provides for the enforcement of the Quran-based Islamic law covering judiciary, education, and the eradication of social evils. It also calls for a law banning honor killing and *swara*. Although the move is applaudable, the law needs to be implemented in its true spirit. Drawing the attention of the decision makers, opinion leaders and general public towards this important issue is the need of the hour.<sup>24</sup>

### **Awareness about *swara***

It is quite encouraging that awareness regarding different customs in the society, especially *swara* is spreading slowly. The issue has been brought to the limelight in

<sup>24</sup>Zafar Ali Usafzai Daily Statesman Peshawar

recent years by human rights organizations and activists.

Recently a well known Anthropologist, Samar Minallah, has produced a documentary named “Swara” - A Bridge over Troubled Waters”, which explores the various dimensions of the *swara* custom. The film, shot in Darra Adam Khel, Khyber Agency, Mardan, Swabi and Peshawar, also includes interviews of the tribal elders, a religious scholar and a judge of the Federal Shariat Court. It also shows *swara* victims and their parents. The effort is laudable and the documentary should be screened widely on television as so that people from all walks of life can watch, and learn a lesson from it.

Mohammad Ali Babakhel, a superintendent of police presently serving in NHMP, has also penned a book named “Women as Property” on *swara*. Pakistan Television, Peshawar centre telecast a live talk show on the subject in order create awareness which was appreciated by the masses in general. NGOs like Aurat Foundation, Shirkat Gah and Noor Education Trust also continue working for the protection of women's rights and highlighting the evil consequences of *swara*.

There is an urgent need to create awareness within the society at large about this inhuman custom which is deeply entrenched in the Pukhtoon culture particularly. *Swara* which literally violates the fundamental human rights needs to be stopped as it puts a woman on a path that ultimately leads to darkness. In such an oppressive situation, they do not have the courage to speak a word against the norms of such wretched society. Indeed it is high time for the government of Pakistan to pass legislation on the issue of *swara*. The family courts should discourage all sorts of marriages below the age of 18. *Jirga* members should try their best to find some other solution to the problems and disputes which they try to solve except that of *swara*. NGOs can play an effective role in society, thus these organizations must fight against this inhuman act by creating awareness. Both electronic and print media should take up the issue and create open debate. Religious scholars should make proper use of their platform in highlighting this issue, and condemn this practice which is against the Shariat.

### 3.2 Trafficking out of NWFP

Women Trafficking from NWFP is mostly to the other provinces especially Punjab, which is notorious as a destination for trafficking under the guise of bride price. The demand is mostly from men hailing from Lahore, Faisalabad, Gujranwala, Sheikupura, Jhelum, Rawalpindi and other parts of Punjab. Men from Peshawar, Mardan and Charssadda have also been found to approach middle-men for such marriages. There are reports of men from Karachi, Multan have been found in

Chitral making marriage proposals to the locals but it is not confirmed that every such marriage deal ends in trafficking. There is also evidence that girls may also be brought into prostitution or resold for commercial sex. The spread of the demand for bride-price trafficking is because of the commercial form that the local custom has acquired in recent years. The main factors driving bride-price trafficking is extreme poverty, unemployment and large household sizes. In addition, illiteracy, lack of women rights and low social justice play a role in the continuation of such cultural practices in the region.

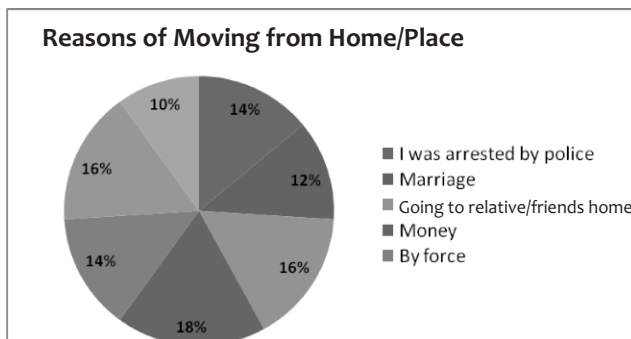
The predominant clientele is from Punjab<sup>25</sup>, while the demand from Sindh, Afghanistan, Kashmir and Baluchistan is also emerging, although to a lesser degree. As the scope of the survey was limited, it could only identify the trends. The destinations should be visited for interviewing victims, who could give more details on the extent of trafficking out of NWFP to those areas.

### 3.3 Victims Situation after Trafficking

The survey conducted for this study and the sample size collected for victim of trafficking shows the following with a group of 50.

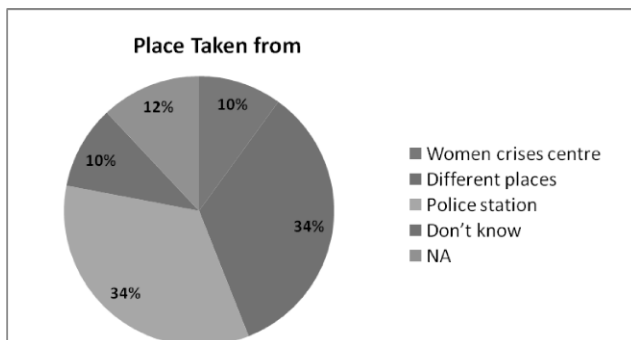
Reasons	Frequency	Percent
1. I was arrested by police	7	14
2. Marriage	6	12
3. Going to relatives/friends home	8	16
4. Money	9	18
5. By force	7	14
6. Nothing	8	16
7. NA	5	10
<b>Total</b>	<b>50</b>	<b>100</b>

<sup>25</sup> Bride for Sale by NET



The final destination of only 10% of the victims was a women crisis center, 34% ended up at police stations.

Place	Frequency	Percent
1. Women crises centre	5	10
2. Different places(Peshawar, .Batkhela, Murree)	17	34
3. Police station	17	34
4. Don't know	5	10
5. NA	6	12
<b>Total</b>	<b>50</b>	<b>100</b>



### 3.4 Vulnerable Groups

The issue of trafficking in persons in NWFP has to be understood in a wider context of social norms, legal status of women, poverty, calamities, and war and power relations. All these factors have an impact on the tolerance for trafficking in Pushtoon society and the reluctance of courts to take action. Based on a study of the routes and types of trafficking and primary data, many of the reported movements of victims are in agreement with what the human rights organizations have been saying and with what is being reported in the press. It is also clear that internal trafficking seems to be on the rise.

It can be concluded that there are vulnerable populations that are especially at risk in terms of trafficking in persons. These groups can be put in the following categories:

- Young girls (16-18) from poor and lower middle class families across the province (from within NWFP)
- Victims of war and ethnic persecution (from Afghanistan)
- Girls and women suffering violence of husbands, fathers and brothers (and therefore more likely to be lured away by traffickers)
- Girls and women from poor families that are in debt or that have been embroiled in settling honor disputes through tribal and *jirga* systems
- Girls from the areas which remain cut off from the rest of the country due to snow.

## CHAPTER FOUR

# ADDRESSING THE NEEDS OF VICTIMS

## ADDRESSING THE NEEDS OF VICTIMS

### 4.1 Victims Seeking Legal Aid

#### **Trafficking Victims Seeking Legal Aid: NWFP Perspective**

Human trafficking is more than just an illegal migration flow – it is a modern form of slavery. A person that is subjected to oppression, hardship, sexual abuse, or any other form of mistreatment, through coercive tactics, trickery or abduction is a victim; a victim of human trafficking is a person who is a victim of the crime of trafficking in persons. The victims could be men, women or children falling under this definition. Most cases of trafficking remain unreported because victims are reluctant to go to the authorities, or are unable to do because of intimidation and fear of reprisal. Victims falling in different categories of human trafficking are most of the times unaware that they are victims of trafficking and there exist laws or institutions working to curb the issue and assist them.

There are a number of organizations working to curb the issue in Pakistan, but in NWFP there are very few including; the Aurat Foundation, Noor Education Trust, Samaji Behbood Rabita Committee, CAMP, SPARC, and BEAFRe.

According to the laws and policies devised to control human trafficking, victims of trafficking must be given protection including establishment of secure shelters with arrangements for legal advice, psychological counseling, medical treatment and food; ensuring victim's safety during trial; maintaining confidentiality of information relating to the victims and sensitizing media accordingly; sensitizing the law enforcement agencies on how to deal with victims; and linking shelter homes to rehabilitation services.

The crisis centers established by the government provide shelter to the victims but are unable to provide any legal aid. They depend on NGOs or lawyer associations which could provide free legal aid to the victims. The organizations providing legal aid to the victims of trafficking in NWFP are Aurat Foundation, Noor Education Trust (NET), Human Rights Commission of Pakistan, Pakistan Women Lawyers Association (PAWLA) and Sahil.

Sahil is a non-government organization that was established in 1996 and is the only organization in Pakistan that works exclusively against the issue of child sexual abuse and exploitation. In NWFP, Sahil is working in Swat and Abbottabad. The requirements for providing free legal aid are:

- A request letter signed by the victim party to avail the services of free legal aid provided by Sahil
- Copy of FIR and Medico Legal Report (MLR)
- If the FIR is not registered and medical of the victim is not done, Sahil facilitates the victim
- The case is followed by the lawyer in court after Sahil receives *vakalatnama* signed by the victim party
- Sahil refers the cases to Senate Human Rights Committee in case of delay in registration of FIR, or if the accused threatens the victim party.

PAWLA is a non-government organization delivering professional legal services and economic counseling to women by networking with Government, legal bodies, donors and NGOs. Its head office is in Karachi while it deals with cases all over Pakistan. In NWFP Ms. Musarrat Hilali is the Vice President who deals with cases, and provides legal aid to the victims. PAWLA can establish offices in any city in Pakistan and provide expert lawyers if it is provided with financial assistance by organizations or donors.

The NOOR EDUCATION TRUST (NET) is a non-government organization. Its mission is to work for the protection and empowerment of the vulnerable and marginalized groups of our society and promote awareness and education regarding their fundamental human rights. The trust has three components; 'Mera Ghar' is a crisis intervention program with a shelter known by the same name. The Mera Ghar (MG) component of the trust seeks to support women survivors of violence through safe shelter, psychological, medical & legal aid programs. Second component known as Children's home called 'Rar'ran' (meaning light) works for promotion and protection of child rights. The third component of the trust 'Pohantoon' (a Pushto word used for a place of learning & knowledge), is the central brain of the organization and plans and carries out research, projects on specific issues related to human rights violation, Gender Based Violence and protection of women & children etc. Pohantoon ensures that the project/program experiences are continually evaluated, that local expertise on prevention and management of gender-based violence is developed and that the lessons learnt in the course of any project experience are made available to other initiatives aiming to prevent and manage gender based violence in Pakistan. Mera Ghar is a comprehensive crisis intervention program offering shelter to women who have suffered various forms of violence or oppression, and have been forced to leave their homes. This violence may be physical, sexual, emotional or psychological. Mera Ghar provides survivors of violence with temporary shelter in a secure environment while they obtain appropriate legal, medical and psychological support. Mera Ghar Women Crisis Centre has five main program components as following:



1. Drop-In center: Drop-In Centre is not only the central or initial point for a victim or a survivor to seek help; it also plays a pivotal role in managing and organizing multiple activities for residential and non-residential clients.
2. Shelter: Running a safe shelter is a complete program in itself. Shelter rehabilitation program consists of different set of management tools. An in-house administrative system provides necessary services to the residents.
3. Legal Aid Cell: Aurat Foundation and NET jointly run the Legal aid cell, located at the drop-in center, as collaborative partners. While the remaining program components are managed through the Mera Ghar staff and volunteers including professional voluntary groups.
4. Psychological Counseling Unit: Services through the counseling unit are provided to both the resident and non-resident clients.
5. Out Reach and Follow-up support Unit: Helps in social reintegration of survivors.

## 4.2 Interaction of Victims with Law Enforcement Agencies

The role and function of Pakistan's law enforcement agencies is to contain trafficking in persons in NWFP like any other area in the country. The Federal Investigation Agency (FIA) is the main federal organization responsible for regulation and control of immigration, smuggling and cross border movement of people. In addition, the Frontier Constabulary is responsible at borders and Police have jurisdiction in the settled areas. The Passport Offices across the province are run under the jurisdiction of the Federal Interior Ministry and are called upon to determine whether an applicant is a genuine Pakistani citizen or an illegal resident.

The FIA is a premier Federal Law Enforcement Agency created under an Act of Parliament, which deals with all cases of human trafficking and smuggling all over Pakistan. Recent efforts include the formation of the anti-human-trafficking wing which is responsible to main 22 exits / entry points all over the country (Airports 11, Seaports 04, Land Route 07). In order to prevent illegal immigration, unlawful emigration & human trafficking, Anti Trafficking Units at FIA headquarters and its ten sub units in other cities are available to deal with all matters relating to human trafficking more effectively. The FIA has also undertaken other initiatives to support its counter trafficking work. A website has been set up by FIA to create public awareness against human trafficking. It contains a list of authorized recruitment agents for legal overseas work, and also fake and illegal agents uncovered by FIA, to warn the public. FIA has also established a help line (111 345 786) and a control room that deals with cases related to human trafficking. Apart from FIA ATU there are other agencies working against this crime like Frontier Constabulary (FC), guarding boarders between tribal and settled areas of North West Frontier Province.

Besides the FC is responsible to stop tribal incursions either by tribes or groups, check outlaws, stop kidnappings and act as second line of defence in emergency situation.

Although these agencies are working to curb illegal migration, unfortunately very few people are aware of them because they don't have access to this information. On the other hand the numbers of people, who know a little about these agencies, consider them as crime controller rather than to curb human trafficking & smuggling. Moreover their rules, regulations and procedures are very complicated and difficult to follow and understand especially for people from rural areas. They are usually afraid to seek help from law enforcement officials, who treat them as criminals rather than victims of trafficking. Most concerned authorities in Pakistan do not differentiate between human trafficking and smuggling, which means that the statistics on human trafficking cannot be relied upon. These authorities are often unable to help the victims due to of lack of resources. The low credibility of LEAs is another reason which makes the people reluctant to interact with these agencies. A newspaper report of June 2007 quoted the then Interior Minister Mr. Aftab Ahmad Sherpao as stating on the floor of the National Assembly that during the last three years 27 high and low ranking officials of the FIA were dismissed or sent on forced retirement on charges of being involved in human trafficking. It was also reported that there are clear links between the local and overseas traffickers and politicians, law enforcement officials and travel agents.

According to the data analysis it was found that only 34% of victims had reached the police, which show lack of awareness of vulnerable groups. The law enforcement agencies should sponsor anti-trafficking advertisements in major Urdu, English and Pushto language newspapers, and officials should visit identified major source areas to convene discussions with community leaders, religious leaders and *Jirgas* to get their support.

Research in this area shows that all those trafficked women and children who come to the attention of the authorities have been fortunate enough to escape their captors and abusers, or discovered after the police raids. They are often subjected to criminal laws or alien laws whereas the clients and agents involved walk unscathed and fear no social boycott. The victims of the trade alone face ostracism by society as are usually manifested by society's denial of alternative modes of employment once their background is known.

#### 4.3 Access to Shelters and Provision of Services

The Government of Pakistan after the promulgation of P&CHTO has also framed

rules in 2004, which provides guidelines to the law enforcing agencies for the following purposes:

1. Investigation and prosecution under P&CHTO
2. Security and welfare of the victims
3. Referral of victims to shelter homes
4. Association of NGOs for security & welfare of the victims and their rehabilitation
5. Repatriation of victims to their country of origin

By definition victim means an “unfortunate person who suffers from some adverse circumstance”. Most trafficking victims will not readily volunteer information about their status because of fear and abuse they have suffered at the hands of their trafficker. They may also be reluctant to come forward with information from despair, discouragement, and a sense that there are no viable options to escape their situation. Even if pressurized, they may not identify themselves as someone held in bondage for fear of retribution to themselves or family members.

Trafficked individuals may be treated as disposable possessions without much attention given to their mental or physical health. Accordingly, some of the health problems that may be evident in a victim include:

- Malnutrition, dehydration or poor personal hygiene
- Sexually transmitted diseases
- Signs of rape or sexual abuse
- Bruising, broken bones, or other signs of untreated medical problems
- Critical illnesses including diabetes, cancer or heart disease
- Post-traumatic stress or psychological disorders

In addition to some of the obvious physical and mental indicators of trafficking, there are other signs that an individual is being controlled by someone else. The individual:

- Does not hold his/her own identity or travel documents
- Suffers from verbal or psychological abuse designed to intimidate, degrade and frighten the individual
- Has a trafficker or pimp who controls all the money; victim will have very little or no pocket money

Government and NGOs have established shelters, for the protection and other needs of the trafficking victims in order to provide safety, access to independent

advice and counseling, medical health and rehabilitation from trauma, while giving special attention to security of the victims, confidentiality and privacy. These shelters also provide the linkage to facilitating the victims' future reintegration. The purpose of providing secure accommodation is to protect victims, suspected victims and witnesses, help them meet their relevant needs, and create a safe environment for them. 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.

In NWFP, the Federal Government has established four drop in centers named as "Shaheed Benazir Bhutto Center for Women" located in Peshawar, Abbottabad, Mansehra and Kohat in NWFP while they have 25 centers over all in Pakistan. The establishment of such centers was initiated in May 2005. The aim of these centers is to protect women in crisis and deliver basic legal, medical and counseling services. Such women are also referred to other concerned institutions for assistance if and when necessary. The centre helps these cases as well as others referred from other crisis centers of the country.

To provide an overview of the performance of the Peshawar center, the list below shows categories of cases dealt by them and the frequency of these cases over the years:

## Detail of cases in Shaheed Bhutto Women Centre Peshawar

	Categories	2005-06	2006-07	2007-08	2008-09
01	Rape/Gang Rape				
02	Honor Killing	1			
03	Sexual Assault		3	2	1
04	Domestic Violence	1	6		1
05	Women Trafficking	3	1	2	1
06	Hurt/Medical Aid	85	10	4	4
07	Unlawful Marriages	1	1		
08	Dissolution of Marriage/ Divorce/Maintance/Dowry/Child Custody	32	22	25	30
09	Murder Cases	3	1		
10	Family Problem		3		
11	Refer to Shelter	1	3	8	7
12	Property related Cases	8	9	4	9
13	Financial Support/ Micro Credit	2			
14	Violence in custody & Divorce	7			
15	Miscellaneous	9	34	11	18
16	Social/Psychological/Legal/ Counseling/ Reconciling	20	23	26	26
17	Legal Aid			7	
18	Total Legal Cases	66	78	48	43
	<b>Total</b>	173	116	89	97

The center provided a monthly overview of the cases during the year 2009 and shared the following details:

## Month wise detail of cases in Shaheed Bhutto Center Women Centre Peshawar

**Jan 2009**

S.No	Categories	No of Cases
1	Legal	7
2	Medical	1
3	Counseling	2
4	Miscellaneous	2
5	Shelter	3
	Total	15

**Feb 2009**

S.No	Categories	No of Cases
1	Legal	5
2	Medical	3
3	Counseling	2
4	Miscellaneous	2
5	Shelter	1
	Total	13

**March 2009**

S.No	Categories	No of Cases
1	Legal	4
2	Medical	
3	Counseling	1
4	Miscellaneous	2
5	Shelter	
	Total	7

**April 2009**

S.No	Categories	No of Cases
1	Legal	3
2	Medical	
3	Counseling	2
4	Miscellaneous	2
5	Shelter	
	Total	7

**May 2009**

S.No	Categories	No of Cases
1	Legal	2
2	Medical	
3	Counseling	2
4	Miscellaneous	2
	Total	6

**Jun 2009**

S.No	Categories	No of Cases
1	Legal	1
2	Medical	
3	Counseling	2
4	Miscellaneous	2
5	Shelter	1
	Total	6

**Total Cases of 2009**

S.No	Categories	No of Cases
1	Legal	23
2	Medical	4
3	Counseling	11
4	Miscellaneous	12
5	Shelter	4
	Total	54

There is a shelter home in Peshawar working under provincial government namely 'Women Crises Center' while one shelter home is being run by an NGO 'Noor Education Trust (NET) by the name of 'Mera Ghar' which has already been discussed in detail in the previous topics.

The biggest problem encountered by the victims related to the federal shelter is its timing and location. The center due to its limited staff operates only one shift of eight hours at day time, while its location is another problem for victims because it is established in Hayatabad, a residential area adjacent to Khyber Agency.

#### 4.4 Conclusions on Support to Victims

From an analysis of the data on rehabilitation, it can be concluded that victims have been helped by law enforcers. There are precedents of how law enforcement agencies have interacted with them more positively than previously thought, and that the Dar-ul- Amans, far from being jail-like institutions, actually have and do facilitate some reintegration.

Shelters do assist victims in their rehabilitation process and also assist them in contacting their families. There are two problems in seeking contact with families; either they are involved in the trafficking of the victims, or the victims see themselves as 'sullied' or 'tainted' and do not wish to dishonor their families. In the first instance it would be to send children and women to those families that sold them knowingly. In cases where poverty and customs made them do something they regretted, there may be a chance to reconcile with their daughters or sons. This requires counseling sessions with the victim and family. This is an area where well-resourced NGOs can step in.

It can be concluded that the attitude of the law enforcement agencies and the role played by them in supporting and providing help to victims is not as bad as made out to be. A significant percentage of the victims admitted that they had been assisted by the law enforcement personnel and were not mistreated. The mistreatment of victims by the law enforcement agencies can be attributed to the inability of law enforcement personnel to differentiate between the victim and the culprit and often the victim ends up being the criminal. There is a strong need to inculcate the differences between trafficking, migration, and smuggling amongst law enforcers.



## CHAPTER FIVE

# MAIN CONCLUSIONS AND RECOMMENDATIONS

## MAIN CONCLUSIONS AND RECOMMENDATIONS

The primary research, although limited in scope, establishes the fact that trafficking of women is a widespread crime and has many facets. This report has found that trafficking of women is common, which is called internal trafficking. It was also found due to mixture of this crime with cultural practices the victims are well concealed, difficult to trace and do not like to come forward because of fear of their 'protectors' and also because they have merged into society at large and do not want to draw attention to themselves. Very few end up in shelters and fewer get support or rehabilitation. It is therefore very difficult to put a definitive figure to the scope and extent of women trafficking in NWFP.

The trap around the victims is always very tight. Indeed some respondents shared stories of their experiences where trafficked girls, once trapped by an agent, could hardly ever get help from anyone. These are the girls who are never interviewed, never recorded in a file or a database. They are, for all intents and purposes, 'invisible'.

While the Prevention and Control of Human Trafficking Ordinance 2002, is helping to apprehend human traffickers, illegal operators, fake recruitment agencies etc. the number of people they actually succeeded in trafficking cannot be established from the official reports. The huge figures on trafficking, especially of women, reported by NGOs and in newspapers, without data sources has clouded the real situation of trafficking rather than elucidating it.

Given the issue of low resources in Pakistan, the recommendations below do not call for significant investments in infrastructure. Instead they concentrate on the need of the relevant agencies to be mandated and empowered to apprehend traffickers (instead of victims) which is manageable with few additional resources.

### Human Trafficking Law Reforms

The scope of current trafficking law P&CHTO should be revised to include internal trafficking and the role of police. The revised law should also define its linkage to the other relevant laws already in force. The current law is silent on the measures to be introduced to prevent human trafficking, services to victims relating to HIV and AIDS and their rehabilitation. The revised law should also make it mandatory on law enforcement agencies to maintain and disseminate human trafficking data duly

disaggregated according to nationality, gender and age groups.

The revised law should address the technical weaknesses amply experienced in the current law by separating each offence and its punishments under separate sections, doing away with conditions that are hard to prove (e.g. “structured groups”), reviewing all definitions of terms to remove any ambiguities that could be exploited by offenders to their advantage, and defining minimum punishment levels so that criminals do not walk away with lighter sentences. The revised law should follow the normal arrangement and designate only those judges who have the powers to award the punishments involved. Also, the human trafficking offences should be tried by special courts.

The revised law should be passed following the due process of its review and approval by the Parliament, which would help to remove any weaknesses and anomalies. The revised law should also incorporate or amend the PPC clauses where necessary, as opposed to its current status of a special law, so that it is more integrated with the main criminal law and hence in the academic courses of the law students. The current policy provides for the sensitization of lawyers and judges on the concept of human trafficking to help them interpret the law. This is a pivotal activity expected to contribute significantly towards successful prosecution.

### **Information Dissemination**

There is a dire need of information dissemination and assistance measures:

- Desks at main railway stations and bus terminals manned 24 hours, to monitor main entry and exit points. Announcements can be made to help lost people (especially children). If identified, the victims of violence and forced movement can be immediately helped.
- Warnings and details on the way traffickers operate aired repeatedly and regularly at peak hours from radio, TV and cable networks, as well as the local newspapers.
- Orientation of Family Courts towards forced marriages, so that they may read the signs when presented with petitions and pleas for help, and can take immediate action for protection of women victims seeking *khula* (divorce through court). Orientation of marriage registrars to be vigilant to the signs of forced marriages.
- Special orientation to teachers, children and school staff in areas which are known to be recruitment grounds for camel jockeys.
- Coordination with Social Welfare and Education Departments (as they both have structures right down to the lowest tier of local government) to carry out orientation in educational institutions and among vulnerable groups

- Sustained lobbying for the repeal of all discriminatory laws in the country that affect women negatively.
- Cooperation with shelters, NGOs and legal aid organizations to provide immediate and 'seamless service' to victims.

### Capacity building of Law Enforcement Agencies through Training

It can be safely concluded that the law enforcement agencies lack the orientation and empathy to recognize and proactively identify trafficking victims, are subject to turning a blind eye to traffickers, and in many cases, lack the support of clear cut instructions to counter trafficking and do not have the skills and training to maintain appropriate data and data management & reporting systems.

The following types of training and orientations are recommended for law enforcement agencies (in addition to what the FIA staff has already received):

- Capacity building of law enforcement agencies and other identified government agencies **together**, so they can learn their roles in the 'seamless service'. There is also a need for exchange of information among various law enforcement agencies so that trafficking can be understood, victims identified, and perpetrators caught. All relevant LEAs should be able to recognize trafficking victims and be able send them to the right agency.
- Training for judiciary, police, civil servants and NGOs to recognize trafficking situations and cases and distinguish them from other types of cases in which women find themselves embroiled. Training should be mandatory for LEAs, for them to identify trafficking situations and victims, to keep records and carry out periodic reporting. It is also important for all personnel of law enforcement agencies to be familiar with the First Information Report and what it contains. Law enforcers should be able to record all relevant information in the FIR as it is the foremost document to establish a case of trafficking.
- Orientation to LEA officials such that they are not led astray from investigation on the plea that because the perpetrator has 'married' a victim, the police have no further business with the perpetrator.
- Orientation to LEA officials to be able to recognize trafficking situations in women being exchanged for settling disputes, foreign women without papers, children and teenage girls missing from home.

## Development of Social Support

There is a need to focus on social, economic and political reasons which are pushing women to be trafficked. The government should:

- Establish programs to deal with gender discrimination.
- Work with a wide network of NGOs and other members of civil society.
- Initiate vocational training and literacy programs, including those specially designed for women.

More Research on the causes, consequences and estimates of Trafficking

The study has indicated that NWFP is an origin for women trafficking mostly under the guise of the customary practices. Therefore more work is required on the subject in future to find the extent of trafficking in vulnerable districts and all over the province, as well as a wider research across the country.

# ANNEXES

## ANNEX 1

### **LEGAL ASPECTS OF HUMAN TRAFFICKING**

#### **INTERNATIONAL TREATIES AND CONVENTIONS RELEVANT TO TRAFFICKING**

There is a history of how international treaties and conventions have dealt with aspects of human trafficking, even if the exact term is of more current usage. This history can be seen in the many UN conventions that have a bearing on the trafficking issue.

- OCHRE Recommended Principles and Guidelines on Human Rights and Human Trafficking, May 2002
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography adopted by General Assembly resolution A/RES/54/263 of 25 May 2000 and entered in force on, 18 January 2002
- United Nations Convention against Transnational Organized Crime and Protocol on Human Trafficking, 2000
- United Nations Declaration on the Elimination of Violence Against Women, 1993
- United Nations Convention on the Rights of the Child, 1989
- United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979
- International Covenant on Civil and Political Rights, 1966
- International Covenant on Social and Cultural Rights, 1966
- United Nations Convention on Human Trafficking, 1959
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956
- United Nations Convention for the Suppression of Traffic in Persons, 1949
- Universal Declaration of Human Rights, 1948
- United Nations Charter, 1948
- Slavery Convention, 1926
- United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

## United Nations Convention against Transnational Organized Crime, 2000

International law has developed from general rights as guaranteed under the UN Charter, through conventions dealing with human rights and with specific issues including the rights of children, women, workers, the abolition of slavery, the elimination of discrimination and violence against women.

The most important development in the fight against trafficking is the United Nations Convention against Trans-National Organized Crime, 2000 (the "Convention") and the Protocol there-under which sets out the international definition of trafficking in persons:

"(a) 'Trafficking in persons' shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

"(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) shall be irrelevant where any of the means set forth in subparagraph (a) are established;"

The convention deals with the fight against organized crime in general and some of the major activities in which transnational organized crime is commonly involved, such as money laundering, corruption and the obstruction of investigations or prosecutions. To supplement the convention, two protocols also address specific areas of transnational organized crime that are of particular concern to member states. These are:

- **The Protocol against the Smuggling of Migrants** which deals with the growing problem of organized criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders.
- **The Protocol against Trafficking in Persons** which deals with the problem of modern slavery, in which the desire of people to seek a better life is taken advantage of by organized criminal groups. Migrants are often confined or coerced into exploitive or oppressive forms of employment, often in the sex trade or in dangerous occupations, with the illicit incomes generated from these activities going to organized crime.

The protocols also commit countries which ratify them to making the basic subject of the protocol a criminal offence and to adopting other specific measures, such as controls on travel documents, to combat the problem. These supplement more



general measures found in the convention, and countries must become parties to the convention itself before they can become parties to any of the protocols.

In general, a distinction has been made between 'trafficking' and 'smuggling', although there is no uniform interpretation of these terms; the term 'trafficking' tends to describe movements of individuals against their will, whereas 'smuggling' refers to voluntary movement on the part of the migrant.

- **The Protocol against Smuggling of Migrants defines smuggling as:** 'the procurement of the illegal entry into or illegal residence of a person in a State Party of which the person is not a national or a permanent resident in order to obtain, directly or indirectly, a financial or other material benefit'.

The main element which differentiates trafficking from smuggling is the exploitation and abuse of power which characterizes trafficking in persons.

## PAKISTANI LAWS ON TRAFFICKING

### **Ordinance to Prevent and Control Human Trafficking, 2002**

Pakistan promulgated the Prevention and Control of Human Trafficking Ordinance, 2002 (the 'Ordinance'). The government also made the Prevention and Control of Human Trafficking Rules, 2004 (the "Rules"). The Ordinance and Rules there-under are the most important piece of legislation dealing with human trafficking in Pakistan; the Ordinance defines Human Trafficking as:

'obtaining, securing, selling, purchasing, recruiting, detaining, harboring or receiving a person, notwithstanding his implicit or explicit consent, by use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such persons, subsequent transportation out of or into (emphasis supplied) Pakistan by any means whatsoever for any of the purposes mentioned in Section 3"'.

Under the definition human trafficking transportation of trafficked persons is restricted to out of or into Pakistan. It does not include transportation of trafficked persons within Pakistan. The definition should be amended to include the word within. Section 3 of the Ordinance details the punishments for human trafficking; it deals with exploitative entertainment, slavery, forced labor, adoption. This is extended to situations where the person is under threat of serious harm or legal proceedings.

By making all offences under the Ordinance cognizable, non bail-able and non-compoundable, it criminalizes all aspects of trafficking, from recruitment and transporting to receiving a person.

The Ordinance also defines inhuman sports, which would include various types of prize fighting sports, but more importantly deals with the growing problem of 'camel kids' or children who are taken to the Gulf States to race camels.

The Rules deal, inter alia, with the safe custody of victims and making provisions for shelter homes, whether provided by the State or nongovernmental organizations, and security of the victims. The Rules also require that the victim be provided legal aid, but fall short of providing this assistance to victims.

### **Other Pakistan Legislation relevant to Trafficking**

There are other Pakistani legislations that have a bearing on human trafficking. These are:

- Constitution of the Islamic Republic of Pakistan
- The Evidence Act, 1984
- The Exit from Pakistan (Control) Ordinance, 1981
- The Hudood Ordinances, 1979
- Registration of Foreigners Rules, 1966
- Registration of Foreigners (Exemption) Order, 1966
- Pakistan Citizenship Act, 1951
- The Foreigners Act, 1946
- The Registration of Foreigners Act, 1939
- The Child Marriage Restraint Act, 1929
- Naturalization Act, 1926
- The Prisons Act, 1894
- Pakistan Penal Code, 1860

## ANNEX 2

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## ANNEX 3

### LIST OF PEOPLE INTERVIEWED

#### **Commissionerate of Afghan Refugees**

Peshawar

Mr. Abdul Waheed Khattak

Project Director

#### **Department of Social Welfare**

Peshawar

Mr. Shamroz Khan

Chief

Social Protection Reform Unit

#### **Federal Investigation Agency**

Mr. Inamullah Khan

Assistant Director

Anti-Trafficking Unit

Mr. Shahid Ilyas

Inspector

Anti-Trafficking Unit

Mr. Ayyaz-ul-Haq

Inspector Legal

Anti-Trafficking Unit

#### **Ministry of Interior**

Ms. Usman Ghani

Section Officer FIA, Ministry of Interior

#### **Provincial government NWFP**

Mr. Abid

SI, Crime Branch Peshawar Police

#### **NGOs & Media**

Ms. Sadia

Shift In charge, EDHI Foundation for Children and Women

Mr. Humayun

Dehleez Foundation Peshawar  
Mr. Mehmood Jan Babar  
Journalist SAMA TV

Mr. Ibrahim Shinwari  
Journalist Dewa Radio

Mr. Muqarram Khan  
Journalist , Dunya TV  
Mr. Shams ul Qamar  
SAMA TV

Mr. Wahid Jan  
AVT Khyber

Ms.Momina Arifeen  
NET Peshawar

Madam Zubaida Noor  
NET Peshawar

Mr. Ghulam Dastageer  
HRCP

Mr. Ali Qazi  
Barrister

Moulana Haseen ullah  
Peshawar

Moulana Hakeem Jan  
Mardan

Mr. Jamashed  
ADA Chitral

Mr. Nadeem  
ADA chitral

Mr. Muhammad Daud  
Chitral

Mr. Qasim  
AIG Prison Peshawar

Ms. Rubeena  
Women Crisis Center Peshawar

## ANNEX 4

### LIST OF SERVICE DELIVERY AND SUPPORT ORGANIZATIONS

- Benazir Bhutto Shaheed Center Hayatabad Peshawar
- Provincial Darul Aman, Faqirabad Peshawar
- Afghan Refugees (Headquarter), Afghan Commission-rate, Peshawar
- Abdul Sattar Edhi Foundation for Children and Women, Peshawar
- Dar ul Aman, Abbottabad
- Benazir Bhutto Shaheed Center Kohat
- Benazir Bhutto Shaheed Center Abbottabad
- Benazir Bhutto Shaheed Center Mansehra



## ANNEX 5

### LIST OF TOOLS AND SAMPLE QUESTIONNAIRE

#### SAMPLE QUESTIONNAIRE

##### *Interview Guidelines for Victims and / or their Families*

City/Location: \_\_\_\_\_ Woman \_\_\_\_\_ Child: \_\_\_\_\_  
 Direct interview: \_\_\_\_\_ Other interview: \_\_\_\_\_ Files/record: \_\_\_\_\_

#### PROFILE

1. Name (optional):
2. Sex: \_\_\_\_\_ Age: \_\_\_\_\_
3. Marital Status: \_\_\_\_\_ Nationality: \_\_\_\_\_
4. Language (mother tongue): \_\_\_\_\_ Other languages: \_\_\_\_\_
5. Education: \_\_\_\_\_ Occupation(s): \_\_\_\_\_
- 5a. Family background (original): (*Probe = > no. of family members, economic status, caste, religion etc*)
- 5b. Family background (current): (*Probe = > no. of family members, economic status, caste, religion etc*)

#### BACKGROUND INFORMATION

- 6a. How did you leave your house / what made you leave your house?  
(origin/place of living)  
OR
- 6b. When and where were you taken from? (for the first time)
7. Who lured you away from home? (*Probe = > agent, family member, relative, friend, teacher, employer acquaintance, stranger*)

8. Who else was involved? Do you know who they were?
9. What were you told before you were moved from your home/ place? (Probe = > coerced, deceived e.g. type of jobs promised, abducted, threatened, forced, abuse of power or position of vulnerability, payments or benefits given or received, recruited, transferred, transit)
10. What was the mode of transportation used? (Probe = > plane, train, ship, private car, public transport (bus/van), taxi, on foot)
11. Where were you taken (and subsequently taken)? What was your last destination? (Probe = > main routes of trafficking, trafficked to or from Pakistan, trafficked within Pakistan)
12. How many times did this occur with you (repeat questions 10-15)?
13. Describe your travel and living conditions during this phase? (Probe = > food, clothing, handling, behavior of perpetrators etc)
14. What were you asked or made to do? (Probe = > Forced prostitution, forced labor/slavery, forced marriage via abduction/debt release, exchange for dispute settlement, domestic slavery, beggary, sport, removal of organs, any other)
15. Did you come across other people like yourself (women/children) facing similar situation during this whole process? (Probe = > routes and destinations)
16. How do you feel about what happened to you? (Probe = > state of physical/ mental health)
17. Did you know where you could go to for justice and how would you go back home?

#### PRESENT STATUS

18. How did you reach the present place of stay? (Probe = > family/relatives, human rights people, jail/police, dar-ul-aman, NGOs, etc)
19. Is this your transitory or permanent place of stay? (Probe = > length or period of stay)

24. Were you given a medical checkup or access to medical facilities?
25. Did you get in touch with your family now?
26. What has been the attitude of your family in accepting you back?  
(Probe = > individual reactions and attitude of family members)
27. What has been the attitude of the community in general? (*Probe = > will they accept you*)
  - Home community:
  - Host community:
28. How do you earn your living now? (*Probe = > present economic situation*)

#### LEGAL AID/HELP

29. Did you seek any legal advice/help?
  - if yes, on whose advice and help (*Probe = > current status and results*)
  - if no, why not (*Probe = > lack of awareness/resources*)
30. What are the problems faced during the whole process of seeking legal support and help? (*Probe = > associated risks and security concerns*)

#### POLICE / LEAs

31. Were you at anytime picked up by the protection/law enforcement agencies?
32. How did these agencies behave with you?
33. Did these ever help you in anyway (to come out of the situation)?
34. Are you happy with your living conditions now? (*Probe = > why, why not, what is missing*)

#### REHABILITATION (shelters/NGOs)

35. Did you seek any help or protection?
  - if yes, how (*Probe = > current status and results*)

- if no, why not (*Probe = > lack of awareness/resources*)
- 36. Are you happy with your living conditions now? (*Probe = > why, why not, what is missing*)
- 37. What problems did you face during the whole process of rehabilitation? (*Probe = > associated health risks, security concerns, socio-economic reinsertion*)
- 38. Have you had any counseling? (*Probe = > determine emotional and mental health*)

### SUGGESTIONS

- 39. What can be done to prevent what happened to you, from happening to other people? (*Probe = > specific activities / initiatives to control and counter trafficking*)
- 40. Do you have any fears at present?
- 41. What are your future plans and what do you want to do with your life?

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