Human trafficking through Quetta
Human trafficking through Quetta

A report by Balochistan Chapter
Human Rights Commission of Pakistan
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</tr>
</tbody>
</table>
Human trafficking through Quetta

The recent case of the death of nearly 50 people of suffocation and other complications during their travel from Kabul to Quetta in a cargo container caused an outrage across the world. The victims were in a group of over 100 men who were being taken to undisclosed destinations in Europe to try their luck as illegal immigrants. The fact that the authors of the murderous operation had chosen to bring their clients from Afghanistan to Pakistan for crossing into Iran at a point on its border with Balochistan meant that this route was found more convenient than others.

A short while before this ghastly incident occurred the Human Rights Commission of Pakistan (HRCP) undertook a preliminary survey of trafficking cases dealt with by a special court in Quetta over four years (2005-2008).

The survey revealed that the cases of Pakistani migrants deported by Turkey and Iran are disposed of most expeditiously and the accused, who are victims of trafficking gangs’ criminal designs, get away by paying a small amount in fine. The cases of agents, or more correctly the front-persons of agents, also are decided without much delay and they too are somewhat leniently treated.

Contrary to the public impression. The Federal Investigating Agency has taken some basic steps to spread public awareness of human trafficking, largely through its website, but it is time these efforts were evaluated and possibilities of improvement seriously addressed.

HRCP also tried to compile some case studies. It so happened that the victims of trafficking in the FIA custody at the time of HRCP team’s call on them were all from Punjab’s Gujrat district. Their stories are almost identical but some of them suffered more than others and no one knows how many perished on the way before describing their ordeal.

The survey proves, if any one needed it, that most of the trafficking victims as well as the traffickers belong to the Punjab province. These findings should not fail to induce the Punjab government to take the lead in curbing the evil of human smuggling.

With a view to increasing citizens’ understanding of the legal regime devised to deal with human trafficking the texts of the relevant laws and protocols have been added as annexures.

The survey was carried out by HRCP’s Balochistan chapter while additional analysis and the selection of annexures was done at the HRCP secretariat.

HRCP
Human trafficking through Quetta

Newspaper headlines and stories on the different TV channels seem to imply that human trafficking is a recent phenomenon in Balochistan. In fact, movement of people across borders, enforced as well as voluntary, has as old a history as the laws of supply and demand. What is new is the volume of the traffic and the realization that little has been done to stem the tide.

Human trafficking is big business. In many regions of the world, including Pakistan, trafficking is a highly organized crime: big groups are linked with each other. There is a standard profile of traffickers including political figures, landlords, local agents, labour brokers and police officers. The traffickers are as varied as the circumstances of their victims. Although some trafficking victims are lured with bright dreams by the agents, most leave their homes voluntarily.

There is considerable trafficking in women and children (and, more rarely, young men) for prostitution through Pakistan but trafficking in labour is probably more widespread.

Trafficking started attracting serious notice in the late 1980s and early 1990s, thanks to NGOs in Thailand and the Philippines that campaigned against sex tourism and child sexual exploitation by people from rich countries. In October 1994, the Global Alliance Against Traffic in Women (GAATW) was formed at the International Workshop on Migration and Traffic in Women in Chiang Mai, Thailand. Facing international recognition and pressure, the U.S. and the European Union began taking initiatives to combat trafficking in the late 1990s.

Eventually, “the international community seized the opportunity to address trafficking as a matter of international criminal law through a trafficking-specific protocol to the UN Convention against Transnational Crime.” In January 1999, the U.S. and Argentina introduced the first draft of the “Trafficking in Persons Protocol” (aka: Palermo Protocol), which was adopted two years later by the General Assembly. The three purposes of the Palermo Protocol were: the prevention and combating of trafficking; the protection and support of trafficking victims; and the promotion of cooperation between State parties. The Palermo Protocol also established an internationally accepted definition of trafficking.

In Pakistan the government established in 2003 the court of a Special Sessions Judge and a Special Immigration Judge in Quetta to deal with human trafficking cases. The court was allowed 10 staff members. Since the day of its inception the position of the judge has never been vacant. While examining the cases coming up before this court over four years (2005-2008), it was found that most of the people arrested/deported were from Punjab. During this period FIA initiated cases involving 31,306 people. Out of them 313 (1%) were from other parts of Pakistan and 30,978 (99%) belonged to the Punjab province. Further, all the accused pleaded guilty and were sentenced to a fine of Rs. 8,000/- each. As all deportees plead guilty on the very first hearing, at the moment no case is pending.
Cases involving human traffickers

Comparative statement of the deportees for 2005 to November 2008

<table>
<thead>
<tr>
<th>S#</th>
<th>Month</th>
<th>Year 2005</th>
<th>Year 2006</th>
<th>Year 2007</th>
<th>Year 2008</th>
<th>Grand Total</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>January</td>
<td>488</td>
<td>327</td>
<td>174</td>
<td>37</td>
<td>1026</td>
</tr>
<tr>
<td>2</td>
<td>February</td>
<td>111</td>
<td>189</td>
<td>265</td>
<td>171</td>
<td>796</td>
</tr>
<tr>
<td>3</td>
<td>March</td>
<td>209</td>
<td>136</td>
<td>231</td>
<td>253</td>
<td>829</td>
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<tr>
<td>4</td>
<td>April</td>
<td>366</td>
<td>419</td>
<td>629</td>
<td>1041</td>
<td>2455</td>
</tr>
<tr>
<td>5</td>
<td>May</td>
<td>851</td>
<td>313</td>
<td>391</td>
<td>1190</td>
<td>2745</td>
</tr>
<tr>
<td>6</td>
<td>June</td>
<td>970</td>
<td>529</td>
<td>493</td>
<td>580</td>
<td>2572</td>
</tr>
<tr>
<td>7</td>
<td>July</td>
<td>1277</td>
<td>444</td>
<td>666</td>
<td>659</td>
<td>3046</td>
</tr>
<tr>
<td>8</td>
<td>August</td>
<td>1923</td>
<td>569</td>
<td>557</td>
<td>834</td>
<td>3883</td>
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<tr>
<td>9</td>
<td>September</td>
<td>1904</td>
<td>343</td>
<td>1043</td>
<td>1153</td>
<td>4443</td>
</tr>
<tr>
<td>10</td>
<td>October</td>
<td>2767</td>
<td>763</td>
<td>895</td>
<td>775</td>
<td>5200</td>
</tr>
<tr>
<td>11</td>
<td>November</td>
<td>1584</td>
<td>376</td>
<td>436</td>
<td>609</td>
<td>3005</td>
</tr>
<tr>
<td>12</td>
<td>December</td>
<td>642</td>
<td>424</td>
<td>300</td>
<td>-</td>
<td>1366</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>13,092</td>
<td>4,832</td>
<td>6,080</td>
<td>7,302</td>
<td>31,306</td>
</tr>
</tbody>
</table>

Number of cases decided year wise

<table>
<thead>
<tr>
<th>S#</th>
<th>Month</th>
<th>Year 2005</th>
<th>Year 2006</th>
<th>Year 2007</th>
<th>Year 2008</th>
<th>Grand Total</th>
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<td>May</td>
<td>851</td>
<td>313</td>
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<td>1190</td>
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</tr>
<tr>
<td>6</td>
<td>June</td>
<td>970</td>
<td>529</td>
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<td>580</td>
<td>2572</td>
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<td>7</td>
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<td>8</td>
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<td>1923</td>
<td>569</td>
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<td>642</td>
<td>424</td>
<td>300</td>
<td>-</td>
<td>1366</td>
</tr>
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<td></td>
<td>Total</td>
<td>13,092</td>
<td>4,832</td>
<td>6,080</td>
<td>7,302</td>
<td>31,306</td>
</tr>
</tbody>
</table>
When the court was established the punishment for illegal migrants deported by Iran was a fine of Rs. 200/- only but in view of in the large number of cases the court increased the amount to Rs. 5,000 in 2007 and to Rs. 8,000/- in 2008. 99.5% of the deportees pay the penalty through lawyers/agents, and 5% are detained for 15 days each in Quetta central jail.

Chart of the accused by domicile (Percentage of the total)

<table>
<thead>
<tr>
<th>S#</th>
<th>Province</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>Total %</th>
<th>Total deportees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Balochistan</td>
<td>0</td>
<td>.1</td>
<td>.02</td>
<td>.04</td>
<td>.07</td>
<td>219</td>
</tr>
<tr>
<td>2</td>
<td>Sindh</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>NWFP</td>
<td>0</td>
<td>.1</td>
<td>.01</td>
<td>.01</td>
<td>.03</td>
<td>94</td>
</tr>
<tr>
<td>4</td>
<td>Punjab</td>
<td>100</td>
<td>99.9</td>
<td>99.7</td>
<td>99.5</td>
<td>99</td>
<td>30,993</td>
</tr>
<tr>
<td>5</td>
<td>Total %</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>31,306</td>
</tr>
</tbody>
</table>

Age groups of accused

<table>
<thead>
<tr>
<th>S#</th>
<th>Below 15</th>
<th>15 to 25</th>
<th>24-35</th>
<th>35-60</th>
<th>60 and above</th>
<th>Total %</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5%</td>
<td>40%</td>
<td>30%</td>
<td>24%</td>
<td>1%</td>
<td>100%</td>
<td>31,306</td>
</tr>
</tbody>
</table>
No: | 1,565    | 12,522   | 9,392 | 7,514 | 313          |         | 31,306      |

Most of the accused belong to poor families and they are farmers or daily wagers. The destination invariably is Europe. 99% of the deportees try to cross the border with the help of agents and only 1% go on their own. The latter are those that have attempted more than twice and failed. Now they know most of the routes. Some of them have now become agents.

Number of agents arrested year wise

<table>
<thead>
<tr>
<th>S#</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0</td>
<td>16</td>
<td>19</td>
<td>11</td>
<td>45</td>
</tr>
</tbody>
</table>

The arrested agents are kept under the custody of FIA for interrogation. After about 15 days they are sent to the judicial lockup. In most cases they manage to secure release on bail within a week or so.

A probe into the affairs of agents shows that in Quetta the main agents have sub-agents and they may be policemen, lawyers or transporters.

When a deportee is presented in the court the sub-agent pays the fine on his behalf and then takes him to an unknown location to be kept there until his family pays the bill which includes the fine, fee of the advocate and food and board charges.
Information gathered by HRCP from official sources shows that during 2004-2008, twenty-seven cases against human traffickers were decided by judicial magistrates in Quetta.

The accused in these cases numbered 38 twenty-four of them belonged to Punjab (5 from Lahore, 4 from D.G. Khan and Gujrat each, 3 from Mandi Bahauddin, 2 from Jhelum and Gujranwala each, and one each from Rahim Yar Khan and Sialkot). Twelve accused belonged to Balochistan (Quetta 6, Nushki 5, Chaman 1), while only one accused belonged to Sindh (Sukkur). The domicile of one accused could not be ascertained. The accused included four women all from Punjab (three from D.G. Khan and one from Rahim Yar Khan).

All the accused, except for three in two cases, were charged under section 3(1) of the Prevention and Control of Human Trafficking Ordinance 2002*, which reads as follows:

3. Punishment for human trafficking. The human trafficking shall be punishable as under:-

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

Provided that in case of an accused who, in addition to committing an offence as aforesaid has also been guilty of kidnapping or abducting or any attempt thereto in connection with such offence, the imprisonment may extend to ten years with fine;

Provided further that whoever plans to commit an offence under this clause but has not as yet executed the same shall be punishable with a term of imprisonment which may extent to five years and shall also be liable to fine.

In two cases the accused were also charged under the Pakistan Penal Code sections 419 (cheating by personation), 420 (fraud), 467 (forgery), 468 (forgery) and 109 (abetment).

Details of these cases are as follows:

In 2009 a judicial magistrate at Gwadar started hearing cases against human smugglers and had decided five cases till April 13, 2009.

* For the Ordinance and the Rules see Annexures C and D.
<table>
<thead>
<tr>
<th>Accused and address</th>
<th>Punishment awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Mrs Sakeena, Rahim Yar Khan</td>
<td>Both accused were found guilty of smuggling of child and sentenced to 3 years RI each and a fine of Rs 40,000/-each</td>
</tr>
<tr>
<td>2) Riaz-ul-Haq Rohi, district Sukkur</td>
<td></td>
</tr>
<tr>
<td>2 Manak Khan, Wasu Sohawa Bolani, district Mandi Bahauddin</td>
<td>RI for 10 months and a fine Rs.10,000/-</td>
</tr>
<tr>
<td>3) Sakhawat Hussan, Jhelum</td>
<td>RI 2 ½ months Fine of Rs 15,000/-</td>
</tr>
<tr>
<td>4) Haji Ishaq, Quetta</td>
<td>RI 2 Months and Fine 10,000/-</td>
</tr>
<tr>
<td>5) Abdul Samad Alias Mullah Nazar, Nushki</td>
<td>RI 1 ½ years and a fine of 15,000/-</td>
</tr>
<tr>
<td>6) Ghulam Mustafa, Phaliya, Mandi Bahauddin</td>
<td>RI 15 days and a fine Rs. 15,000/-</td>
</tr>
<tr>
<td>7) 1) Mrs Anwar Mai, 2) Mrs Nasreen Mai, 3) Mrs Naseem, 4) Ghulam Fareed, Dera Ghazi Khan</td>
<td>RI 1 ½ years and a fine of 15,000/- each</td>
</tr>
<tr>
<td>8) Adnan Younas, Lahore</td>
<td>RI 15 days and fine Rs. 5,000/-</td>
</tr>
<tr>
<td>9) Zafar Iqbal, Lahore</td>
<td>RI 9 months and fine Rs. 5,000/-</td>
</tr>
<tr>
<td>10) Muhammad Iqbal, Boma Butt, Phalia, Mandi Bahauddin</td>
<td>RI 1 month and a fine Rs. 10,000/-</td>
</tr>
<tr>
<td>11) 1) Zafar Iqbal, 2) Altaf, 3) Subhan, 4) Zulfiqar, Lahore</td>
<td>RI 15 days to accused # 2 &amp; 4 and fine of 30,000/- each and RI 1 month and fine of 7,000/- each to accused # 1, 2, &amp; 3</td>
</tr>
<tr>
<td>12) Muhammad Asif, Lahore</td>
<td>RI 1 month and fine Rs. 5,000/-</td>
</tr>
<tr>
<td>13) Amir Bilal, Jhelum</td>
<td>RI 3 months and fine Rs. 14,000/-</td>
</tr>
<tr>
<td>14) Sabir Hussain alias Safullah Warrach, Wadhila, Gujranwala</td>
<td>RI 2 ½ years, fine Rs. 25,000/-</td>
</tr>
<tr>
<td>15) Khair Muhammad, Quetta</td>
<td>RI 2 ½ years, fine Rs. 20,000/-</td>
</tr>
<tr>
<td>16) Aslam Wala, Dinka, Gujrat</td>
<td>RI 2 months, fine Rs. 5,000/-</td>
</tr>
<tr>
<td>17) 1) Sadaa Hazara, Quetta 2) Raja Ansar, Gujrat (Absconder)</td>
<td>For the period undergone and fine of Rs. 5,000/-</td>
</tr>
<tr>
<td>18) Nabi Ahmad</td>
<td>Undergone and a fine Rs. 30,000/-</td>
</tr>
<tr>
<td>19) Nabi Ahmad</td>
<td>Undergone and a fine Rs. 20,000/-</td>
</tr>
<tr>
<td>20) Ismail Hassan Shargo, Quetta</td>
<td>Undergone and a fine Rs. 10,000/-</td>
</tr>
<tr>
<td>21) 1) Mehmoody Akhtar, Gujranwala 2) Muhammad Ateeq, Quetta</td>
<td>Undergone and a fine Rs. 10,000/-</td>
</tr>
<tr>
<td>22) 1) Abdul Hakeem 2) Ahmad Ali 3) Abdul Wali, Nushki</td>
<td>Accused # 1 and 2 were sentenced for 18 months and fine of 30,000/- each and accused 3 was convicted for 2 years and fine of 50,000/-</td>
</tr>
<tr>
<td>23) Sultan Mehmood, Badho Chak Malika Tehsil Kharian, Gujrat</td>
<td>RI 3 months and a fine Rs. 30,000/-</td>
</tr>
</tbody>
</table>
In some immigration cases decided in Quetta by the courts of Sessions Judge (Emigration), between May 2007 and December 2008, all the accused were charged under section 22 (b) of the Emigration Ordinance of 1979*. Their particulars are as follows.

<table>
<thead>
<tr>
<th>S #</th>
<th>Name of Accused and address</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Muhammad Irfan, Sialkot</td>
<td>Period undergone and fine Rs. 20,000</td>
</tr>
<tr>
<td>2</td>
<td>Mulla Naeem, Quetta</td>
<td>Period undergone and fine Rs. 8,000</td>
</tr>
<tr>
<td>3</td>
<td>Khuda-e-Nazar, Nushki</td>
<td>Period undergone and fine Rs. 10,000</td>
</tr>
<tr>
<td>4</td>
<td>Agha hassan Iraqi, Quetta</td>
<td>Period undergone and fine Rs. 26,000</td>
</tr>
<tr>
<td>5</td>
<td>Khalid Bangali, Mand Billo</td>
<td>RI 1 month and fine Rs. 20,000</td>
</tr>
<tr>
<td>6</td>
<td>Arshad Bangali, Mand Billo</td>
<td>RI 1 month and fine Rs. 15,000</td>
</tr>
<tr>
<td>7</td>
<td>Subhan, Quetta</td>
<td>Undergone and fine Rs. 4,000</td>
</tr>
<tr>
<td>8</td>
<td>Safar Ali</td>
<td>RI 4 months and fine Rs. 10,000</td>
</tr>
<tr>
<td>9</td>
<td>Azhar Cheema</td>
<td>RI 6 months and fine Rs. 15,000</td>
</tr>
<tr>
<td>10</td>
<td>Shehzad Ali, Sialkot</td>
<td>RI 1 month and fine Rs. 20,000</td>
</tr>
<tr>
<td>11</td>
<td>Khalil Baloch, Taftan</td>
<td>RI 1 month and fine Rs. 50,000</td>
</tr>
<tr>
<td>12</td>
<td>Muhammad Ali</td>
<td>Accused Muhammad Ali Shad absconded while Kazim Ali &amp; Irfan were acquitted. Case was made dormant.</td>
</tr>
</tbody>
</table>

* For the text of the ordinance see Annexure E
Ali Akbar
The 22-year-old Ali Akbar was living happily with his parents in a mud house in a village of district Gujrat. Along with a younger brother he was helping his father on land. He could not continue his studies after matriculation because of poverty.

One of his friends introduced him to Rasheed Mehmood who was praised as a well-wisher of the villagers. Mehmood told Ali Akbar of a bright future in Europe. He not only convinced him of the benefits of going to Europe but also promised to help in reaching his destination, as he had already sent many people to different countries. Ali Akbar discussed the matter with his parents, and they also decided to meet Rasheed Mehmood. After meeting him they were convinced that the best thing was to send Ali Akbar to Europe.

They took a loan from some relatives and decided to sell the land after their son had reached Europe. They paid Rs 50,000 to the agent for traveling expenses and Rs 700,000 were to be paid when Ali had reached Greece.

On the given date Mehmood (agent) was standing at the bus stand waiting for his clients. The family of Ali Akbar also came there. Before he boarded the bus Ali was given a few instructions by the agent. The key rule was that Ali Akbar was not to speak to any other passenger or anyone else during his travel. The first stop was Karachi. Then came a 24-hour drive from Karachi to Mand (Iran border). Some other boys joined the group in Karachi. They too were told not to speak to anyone while travelling.

After traveling for more than 36 hours they were taken to a house where more than 20 young men were kept in a small room. They spent next day in the same room. They were given insufficient food and water. At night at about 2 o’clock they crossed over into Iran without any problem. “We could see the checkpoints of law enforcement agencies but we were not checked,” Ali Akbar says. They were told to be careful about the FIA and not to worry about anyone else.

Says Ali Akbar: “In Iran we were received by a person named Malik Sheraz. He took us to a safe house (a place so described by the Iranians). The safe house had none of the basic facilities. It was a house located in jungle. At night we were ordered to be ready at 4 am in the morning for going to our next destination.

“Travelling was getting more and more difficult. One day we walked for more than 10 hours and once again we were kept in a safe house like animals. In this safe house we were kept for five days because of a high security alert in that area.
“On the 6th day we were told to be ready to go to our next destination. The next day we travelled in a taxi for a whole day. We were not given any food or water, and we were taken to another safe house and told to take rest. But after barely two hours they came and told us to start moving again. This was the most dangerous area, called Bomb checkpoints. We were told we could be killed by the law enforcement agencies. In jungle and the mountainous area we had to run fast on a narrow track without taking rest. Whoever would stop will be himself responsible for his death. I felt it was the most difficult day of my life as I did not know the difficulties and problems waiting for us.

“Now we were handed over to a new person named Afzal, who was to remain with us till we reached Greece. We were being taken from one place to another as if we were the biggest terrorists in the world. We were kept in different secret places. One night we were told our next destination was an area called Awan. We did not know where we were or when we would reach our final destination.

“In the morning we again started walking. Suddenly some five/six people with guns appeared and told us to put our hands up. They searched us and took all our money and whatever else we had. They started beating us brutally and many of our friends suffered injuries and fractures, I had a fracture in my hand. After two hours they left us empty handed.

“As we again started our journey we were arrested by security forces and taken to a checkpost and all 20 of us were stripped and searched. We learnt we were in Turkey and the date was September 7, 2008. It was 20 days since we had left our homes. I remembered my family, the love of my mother and my friends as I was thinking now I was going to be killed. For two days we were given neither food nor water.

“On the 3rd day a person came and said if anyone needed food he had to pay 50 dollars. A few men had money. They were able to buy some food and water. At night we were also given something to eat and then handed over to the Iranian government. Now the Iranian security staff interrogated us. We were stripped and tortured. Even after the interrogation they did not let us sleep and humiliated us while giving us food as if we were not human beings.

“On the 16th of September we were handed over to Pakistani forces at Taftan border. We were brought to Quetta where we are being interrogated by FIA officials. Tomorrow we will be presented in a court. When I am released I will go back home will never again try to cross the border like a thief. I will also try to prevent others from falling into the trap of glib-tongued immigration agents.”

Mustafa Butt

I was 23 when I was married to one of my relatives. After Two years of our marriage we had a very sweet daughter. Now I am 42 years old and have four daughters. They are of marriageable age now. I am a resident of Narowal, P.S. Ganja, in district Gujrat. I have been living in a rented house.

I was very much worried about the marriage of my daughters. I knew I could not afford the required dowry. As I knew many young men were going to Europe for jobs, I decided to try my luck and contacted Rasheed Mehmood as he had sent many people to Europe.
Rasheed Mehmood told me he knew I was a poor person so he would charge Rs 50,000 as advance and will charge Rs 700,000 when I had reached Greece. The only property I had was a cow. I sold it and paid 50,000 to the agent. Before leaving he gave me few instructions on running and advised me to develop my stamina for running for 20 kilometres.

Rasheed Mehmood told me to meet him at the railway station. When I arrived at the railway station I saw him standing with several other boys. He gave me my train ticket and we left for Karachi. From Karachi we went to Mand, on Iran border. In Iran we were received by one Malik and we were told the next day we were to start our travel. Our bad luck, in the morning we were arrested by the Iranian security forces. After investigations they handed us over to Pakistani forces. After my release I will try to cross into Iran again because now I have other options and the agent has promised to offer me three chances to reach Europe against the money I have paid him.

Syed Nasir Ali Shah

My name is Syed Nasir Ali Shah and I belong to Jahangirpur, police station Kunjah, district Gujrat. On December 23, 2008 I will be 20. I was doing well with my studies in FSc class and I wanted to become a doctor.

My misfortune started when my father asked me to get ready for going to Europe as a 'good' man had promised a good job and a great future for me. I was reluctant to accept this offer but my father prevailed on me and took me to meet the 'benefactor', whose name I subsequently learnt was Rasheed Mehmood. He was sitting with many people around him, all of whom wanted to go to Europe. He said he would honour his pledge to my father and send me to Europe. His fee was Rs 750,000. My father paid Rs 50,000 on the spot and the balance (Rs 700,000) was to be paid after I had reached Greece.

On August 03, 2008 I boarded a train for Karachi. There I was told that a guide would take me to Mand, district Kech, on the border with Iran. At first I enjoyed the bus ride to Mand but soon I started feeling homesick. It was my second night away from my family from whom I had never been separated. The journey to Mand took 25 hours. At Mand I was taken to a house where more than 15 young men were already present. They were very happy at the prospect of going to Europe.

The agent took us to the border at midnight and all 25 or so of us went across without any problem. In Iran we were handed over to one Mr Malik. He constantly abused us and misbehaved with us but we could do nothing. He kept shifting us from one place to another. Sometimes he kept us in a cage for two days, sometimes for seven days. We were made to walk for 5 to 14 hours without food or water.

On a bright day we were walking along a mountain trail when somebody noticed Iranian security guards. Soon they came close to us. We were told by the agent to run fast. The guards opened fire. I got a bullet in my leg and fell down. The security people arrested me and several others. The rest of the boys and the agent escaped. Then I was handed over to Pakistan authorities. Now I am in hospital. I wanted to be a doctor but I do not think that is possible now.

Mohammad Nawaz
Mohammad Nawaz (22), resident of Pindi Hasna, police station and district Gujrat, tells
his story in the following words.

I belong to a poor family of farmers. As the eldest son of my parents I shared their worries about the marriages of my four sisters. We had prepared some dowry for them a few items of jewellery and some household goods, but it was not enough.

On a hot July day my mother excitedly told me about a young relative who had made it to Europe and had sent home precious gifts and money for his sister’s marriage. She said the problems of my sisters’ marriages and a younger brother’s studies could be solved if I went to Europe and I agreed.

Through an acquaintance I met Rasheed Mehmood who assured me I could be in Europe within a month. He was to be paid Rs 50,000 immediately and Rs 700,000 when I had reached Europe. Rs 50,000 were raised by selling my sisters’ ornaments and for the balance of the agent’s fees the ancestral house was to be sold. Rasheed Mehmood told me to be at the railway station on August 3, 2008.

The train journey was uneventful. At Karachi I was put up at a small hotel. A day later a man came to accompany me on a 25-hour journey to Mand on the border with Iran. At Mand I joined over a dozen young men. Eventually, our group of 25 crossed into Iran at midnight. We were made to walk for many days till one day we ran into Iranian security guards. The latter opened fire on us. Some of my team-mates were hurt and some others arrested. Unfortunately I was among those who escaped along with the agent (Malik).

The agent took us to a house where we stayed for three days. After that he took us to another place where we were handed over to another guide, Afzal. We were now 16 men. We did not know how many out of the group had been killed. Afzal told us not to worry about anybody’s death. If someone died in Iran’s mountains that was his fate.

On the 28th day of our travels on foot we were told we had reached the last Turkish outpost. Beyond it lay Greece, our destination. But the next day we were caught by a Turkish force. After a most painful interrogation we were handed over to the Iranian authorities. After treating us most harshly the latter delivered us to Pakistan’s security guards. Now I am in FIA office in Quetta. I do not know when I will be able to rejoin my family. I do not know how I will face my sisters. What will I tell them?

Zaheer Abbas

Working on a daily wage basis I had difficulty in making the two ends meet. One day a friend told me he was going to Europe and asked me to join him. I declined his invitation. After some time my friend’s family threw a party because he had reached Greece. Now I regretted my failure to join him. As I had recently got married my economic plight worsened. I called my friend in Greece and got the address of the recruitment agent. My wife sold her ornaments and we took a loan from our relations and thus we paid the agent Rs 50,000.

I travelled from Gujrat to Karachi by bus and from there to Mand. Crossing into Iran was easy. In Iran we were received by a man called Malik Shiraz. He guided us to our first stop in Iran.
Then one night we were told to run fast through a hilly area and cross two mountains before dawn. We managed to reach the second stop. There we were kept for three days. Afterwards we were told that we would proceed further in a container. In the container we literally sat on one another. Some of us were very young. One boy appeared to be no more than 14 years old.

After an arduous journey in a container for 8-10 hours we were told to rest near a mountain. The next day we were to start on the most dangerous part of our journey. We were told to run as fast as we could through the mountains. It was a cold day when we started this trek. While climbing the mountain a boy fell down hundreds of feet below and died instantly. The agent told us not to waste time over his burial and to save ourselves instead. After eight hours or so we were handed over to a new agent, Fazal.

Afzal told us our next destination was an area called Awan. We were walking through a mountainous area when about 30 armed men caught us and took us to their hideout. We learnt we had fallen into the hands of a gang of Turkish highwaymen. They herded us in a small room, deprived us of whatever money and clothes we had and then summoned us one by one to be told that we could be free only after getting 10,000 dollars each from our families. My protest that I was absolutely poor made no impression on them.

We were tortured for 15 days. One by one the group members got released after money was received from their families. Eventually I called my family and they did send the money I needed to regain freedom. But then I was arrested by the Turkish security guards; they handed me over to the Iranians who in turn passed me on to the Pakistani guards. Here I am now in Quetta in the custody of the FIA.

I do not know how my family found the money they sent for my release or what will I do now. The face of the kid who perished on the mountain haunts me all the time. Who knows his mother might still be waiting to receive gifts and good news from Europe.
A Discussion with Mr Akbar Baloch Acting Director FIA Quetta Zone

Mr. Akbar Baloch took his post as Deputy Director FIA, Quetta Zone, in December 2002 when human smuggling agents and the deportees from different countries were first presented before the special court for more investigation and trial.

According to him human trafficking is defined in Section 2 of the Prevention and Control of Human Trafficking Ordinance 2002 as under:-

“Human trafficking means obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding his implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such person’s subsequent transportation out of or into Pakistan by any means whatsoever for any of the purposes mentioned in section 3.”

Mr. Baloch said since December 2002 FIA Quetta Zone had arrested hundreds of agents and filed thousands of cases against the deportees in courts.

According to Mr. Baloch most of the victims of the human trafficking agents are from three district of Punjab Gujrat, Gujranwala and Sialkot. The agents offer the victims dreams of a bright future and good job opportunities in Europe and the victims are taken in. There are more then 1,000 agents in different parts of the country. A person who attempts going to Europe twice or thrice, fails and gets arrested becomes familiar with all the routes. Such people become agents for taking people illegally to other countries. The number of agents is thus rising day by day.

Most of the agents use the Balochistan border for human trafficking and the routes are through Iran.

Mr Baloch said the number of people going abroad illegally was increasing as a result of agents’ propaganda that if Pakistanis could go to Europe in a particular month, they would get green card and jobs without any problem. Now the agents were demanding only 50,000 in advance and the rest of their fees would be payable when the victim reached Europe.

When asked about the steps the government was taking, Mr. Baloch said the Government had taken several steps to overcome the crime of human smuggling/trafficking, such as
• Working closely with civil society and international organizations
• Strengthening regional/international cooperation
• Promoting cooperation amongst the government agencies concerned
• Having more comprehensive interventions targeting rural, remote areas and vulnerable groups to raise their awareness of trafficking in persons
• Issuing separate laws or legislative frameworks and policies relating to trafficking in persons

An inter-agencies task force has been established to overcome human trafficking. This task force is headed by FIA and the other forces (members) are FC, Coastguard, ISI and IB.

Mr Baloch reviewed the Prevention & Control of Human Trafficking Ordinance (P&CHTO) 2002 in the following words:

No specific law existed prior to the promulgation of P&CHTO 2002 to deal with the offences relating to human trafficking and the culprits. Promulgated in 2002 the ordinance is in accord with national and international requirements.

The Rules under the ordinance were framed in 2004 and these provide guidelines to the law enforcing agencies regarding investigation and prosecution under the ordinance, security and welfare of the victims, referral of victims to shelter homes, association of NGOs for security and welfare of victims and their rehabilitation, and repatriation of victims to their countries of origin

Establishment of Anti-Trafficking Unit
A steering committee has been established in the Ministry of Interior to monitor and review the efforts to combat human trafficking. The Joint Secretary (Security) in the Interior Ministry has been declared as the focal point for coordination and exchange of information.

As the lead Agency, FIA has established a special unit called Anti-Trafficking Unit (ATU) at FIA HQs to deal all matters relating to human trafficking more effectively.

To ensure countrywide coverage of human trafficking, sub-units of ATU have been established in all Zonal Directorates of FIA at Karachi, Lahore, Rawalpindi, Peshawar and Quetta.

The tasks of the Anti-Trafficking Unit are: To prevent trafficking and protect the victims; to investigate cases and prosecute the culprits; to build a data base of human traffickers; to liaise with NAS of US Embassy, NGOs, provincial police etc; to develop a referral mechanism for the transportation of victims to shelter homes and their repatriation to their home countries.

Mass awareness campaign
Human trafficking and smuggling have local, regional and international ramifications. Public awareness and cooperation at all levels are required to control it effectively. The following steps have been taken:-
Cooperation between FIA and other law enforcement agencies is being enhanced at regional and international levels for exchange of information and legal action against the organized gangs operating internationally.

To enhance coordination and cooperation between the various government agencies and departments, meetings, conference and seminars are organized.

Awareness is being spread among the general public through print and electronic media. All high profile cases/arrests are given vide coverage in the press which is giving a strong message to the culprits and also causing awareness among the general public.

As for problems, Mr. Baloch said: The victims usually don't reveal names and identity of the agents as they have been told that if they told the names of agents they will not be accepted as clients again.

FIA doesn't have adequate force to completely stop human trafficking. It also doesn't have budget to provide food to deportees as they are in hundreds. It doesn't have a proper detention centre either.

**Mr Tahir Hussain, Advocate**

Mr Tahir Hussain, an advocate of the High Court of Balochistan and a member of the HRCP executive council, has dealt with hundreds of human trafficking cases so as to get the rights of victims secured and the offenders punished.

Asked to give his views on the extent of human trafficking via Quetta, Mr Tahir Husain Khan said:

I believe the issue of trafficking in persons in Pakistan, as in other parts of the world, is becoming more and more complicated and serious. The social problem is also becoming acute as Balochistan has become the transit route from Punjab to Europe. We have not met the need for preventing human trafficking and supporting its victims. Much greater effort by government, civil society, and other stakeholders is required to manage trafficking in human persons.

Mr Hussain said a chain was involved in human trafficking which included different law enforcement agencies, so called respectable citizens of our society, owners of hotels, transportation companies and some hidden faces. When the victims were taken from one place to another, they were treated worse than animals, they were sold from one person to an other. As for arrangements for crossing borders, he said many crossed borders illegally without any papers or they were given false documents. “As I have said already a chain is involved to help them enter another country illegally,” He added. If the victims are caught in any foreign country they are treated very badly. If any one of them does reach Greece the agents are already there to extort money from him for securing work permit or illegal jobs.

Mr Tahir Hussain was of the view that the illegal migrants suffered hugely. They were not given food, proper transportation, or emergency health care. Some victims of human trafficking died in the custody of law enforcement agencies. When asked as to why did any people go abroad illegally, he said the people went out of
Pakistan for two main reasons:
1. The freedom of expression was not adequately respected.
2. The people did not have reasonable opportunities of employment, especially employment for which one was qualified.

"Sixty years after independence the people think they are not free. They don't have the right to express their views, and they are killed or injured on account of religious and sectarian biases. No one knows he/she will go to his/her house safely. Human rights violations are at a peak.

"Young and educated boys and girls are wandering in cities in search of jobs but they cannot get low paid jobs even without giving bribe.

"I am sure if people are given the right to a free and safe life and guaranteed work according to one's abilities and qualifications, no one would need to go to any other country. At the same time, the agents and all others involved in the criminal act of human trafficking must be severely punished," he said.

Mr. Waseem Kamran, Advocate

Mr. Waseem Kamran is an advocate of the High Court of Balochistan and a social worker. For many years he has been working as a volunteer on rehabilitation of minorities, women, children and other vulnerable people through free legal aid and counseling and psychotherapeutic services. Recovery and repatriation of trafficked/smuggled human beings, especially women and children and those detained under the Foreigners Act, are also areas of his work.

Mr. Waseem Kamran strongly condemned human trafficking, especially the exploitation of children as camel jockeys. According to him well organized gangs are involved in this nefarious business. They pay a small amount of money to the parents of children and take them to race camels in the UAE and other countries.

"Camel racing was a traditional desert sport of Beduin tribes. Today the desert racing rules have been modified for modern racetracks. The most unfortunate aspect of this sport is the use of innocent children as camel jockeys. The ages of these children are between 5 to 12 years. Quite a few children are said to have died and many more have suffered permanent disablement.

"The situation is quite bad for Pakistan as in the recent past hundreds of children were trafficked to the Gulf states for these races. Analysis of the information showed that most of these children belong to districts Rahimyar Khan and Bahawalpur.

Mr Waseem said many people exposed their children to serious risk because of poverty. He believes it is necessary to work along the following lines.

• Close liaison with civil society & international organizations
• Strengthening of regional/international cooperation
• Promoting cooperation amongst related government agencies
• Having more comprehensive interventions targeting rural, remote areas and vulnerable groups to raise their awareness of trafficking in persons

Experts' view
Laws & Conventions
Annexure - A

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1 Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2 Statement of purpose

The purposes of this Protocol are:
(a) To prevent and combat trafficking in persons, paying particular attention to women and children;
(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
(c) To promote cooperation among States Parties in order to meet those objectives.

Article 3 Use of terms

For the purposes of this Protocol:
(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual 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) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
(c) The recruitment, transportation, transfer, harbouring 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;
(D) “Child” shall mean any person under eighteen years of age.

Article 4 Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5 Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this
Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6 Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;
(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;
(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
(c) Medical, psychological and material assistance; and
(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this
article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

**Article 7. Status of victims of trafficking in persons in receiving States**

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

**Article 8 Repatriation of victims of trafficking in persons**

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.
6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9 Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:
   (a) To prevent and combat trafficking in persons; and
   (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10 Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:
   (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
   (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
   (c) The means and methods used by organized criminal groups for the purpose of
trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11 Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12 Security and control of documents

Each State Party shall take such measures as may be necessary, within available
means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

**Article 13 Legitimacy and validity of documents**

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

**IV. Final provisions**

**Article 14 Saving clause**

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

**Article 15 Settlement of disputes**

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.
Article 16 Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17 Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18 Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has
been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19 Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20 Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.
Annexure - B

PROTOCOL AGAINST THE SMUGGLING OF MIGRANTS BY LAND, SEA AND AIR, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Preamble

The States Parties to this Protocol,
Declaring that effective action to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach, including cooperation, the exchange of information and other appropriate measures, including socio-economic measures, at the national, regional and international levels,
Recalling General Assembly resolution 54/212 of 22 December 1999, in which the Assembly urged Member States and the United Nations system to strengthen international cooperation in the area of international migration and development in order to address the root causes of migration, especially those related to poverty, and to maximize the benefits of international migration to those concerned, and encouraged, where relevant, interregional, regional and subregional mechanisms to continue to address the question of migration and development,
Convinced of the need to provide migrants with humane treatment and full protection of their rights,
Taking into account the fact that, despite work undertaken in other international forums, there is no universal instrument that addresses all aspects of smuggling of migrants and other related issues,
Concerned at the significant increase in the activities of organized criminal groups in smuggling of migrants and other related criminal activities set forth in this Protocol, which bring great harm to the States concerned,
Also concerned that the smuggling of migrants can endanger the lives or security of the migrants involved,
Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing illegal trafficking in and transporting of migrants, including by sea,
Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument against the smuggling of migrants by land, sea and air will be useful in preventing and combating that crime,
Have agreed as follows:
I. General provisions

Article 1 Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 6 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2 Statement of purpose

The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants.

Article 3 Use of terms For the purposes of this Protocol:

(a) “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;

(b) “Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

(c) “Fraudulent travel or identity document” shall mean any travel or identity document:

(i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or

(ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or

(iii) That is being used by a person other than the rightful holder;

(d) “Vessel” shall mean any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.

Article 4 Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 6 of this Protocol, where the offences are transnational in nature and involve an organized criminal group, as well as to the protection of the rights of persons who have been the object of such offences.
Article 5 Criminal liability of migrants

Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol.

Article 6 Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:
   (a) The smuggling of migrants;
   (b) When committed for the purpose of enabling the smuggling of migrants:
      (i) Producing a fraudulent travel or identity document; (ii) Procuring, providing or possessing such a document;
   (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
   (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
   (b) Participating as an accomplice in an offence established in accordance with paragraph 1 (a), (b) (i) or (c) of this article and, subject to the basic concepts of its legal system, participating as an accomplice in an offence established in accordance with paragraph 1 (b) (ii) of this article;
   (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as aggravating circumstances to the offences established in accordance with paragraph 1 (a), (b) (i) and (c) of this article and, subject to the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances:
   (a) That endanger, or are likely to endanger, the lives or safety of the migrants concerned; or
   (b) That entail inhuman or degrading treatment, including for exploitation, of such migrants.

4. Nothing in this Protocol shall prevent a State Party from taking measures against
a person whose conduct constitutes an offence under its domestic law.

II. Smuggling of migrants by sea

**Article 7 Cooperation**

States Parties shall cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea.

**Article 8 Measures against the smuggling of migrants by sea**

1. A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned is engaged in the smuggling of migrants by sea may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.

2. A State Party that has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying the marks of registry of another State Party is engaged in the smuggling of migrants by sea may so notify the flag State, request confirmation of registry and, if confirmed, request authorization from the flag State to take appropriate measures with regard to that vessel. The flag State may authorize the requesting State, inter alia:
   (a) To board the vessel;
   (b) To search the vessel; and
   (c) If evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take appropriate measures with respect to the vessel and persons and cargo on board, as authorized by the flag State.

3. A State Party that has taken any measure in accordance with paragraph 2 of this article shall promptly inform the flag State concerned of the results of that measure.

4. A State Party shall respond expeditiously to a request from another State Party to determine whether a vessel that is claiming its registry or flying its flag is entitled to do so and to a request for authorization made in accordance with paragraph 2 of this article.

5. A flag State may, consistent with article 7 of this Protocol, subject its authorization to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorization of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.

6. Each State Party shall designate an authority or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of registry or of the right of a vessel to fly its flag and for authorization to take appropriate measures. Such designation shall be notified through the Secretary-General to all other States Parties within one month of the designation.

7. A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality or may be assimilated to a vessel without nationality may board and search the vessel. If evidence confirming the
suspicion is found, that State Party shall take appropriate measures in accordance with relevant domestic and international law.

Article 9 Safeguard clauses

1. Where a State Party takes measures against a vessel in accordance with article 8 of this Protocol, it shall:
   (a) Ensure the safety and humane treatment of the persons on board;
   (b) Take due account of the need not to endanger the security of the vessel or its cargo;
   (c) Take due account of the need not to prejudice the commercial or legal interests of the flag State or any other interested State;
   (d) Ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.

2. Where the grounds for measures taken pursuant to article 8 of this Protocol prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken.

3. Any measure taken, adopted or implemented in accordance with this chapter shall take due account of the need not to interfere with or to affect:
   (a) The rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or
   (b) The authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the vessel.

4. Any measure taken at sea pursuant to this chapter shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

III. Prevention, cooperation and other measures

Article 10 Information

1. Without prejudice to articles 27 and 28 of the Convention, States Parties, in particular those with common borders or located on routes along which migrants are smuggled, shall, for the purpose of achieving the objectives of this Protocol, exchange among themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters such as:
   (a) Embarkation and destination points, as well as routes, carriers and means of transportation, known to be or suspected of being used by an organized criminal group engaged in conduct set forth in article 6 of this Protocol;
   (b) The identity and methods of organizations or organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol;
   (c) The authenticity and proper form of travel documents issued by a State Party and the theft or related misuse of blank travel or identity documents;
(d) Means and methods of concealment and transportation of persons, the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents used in conduct set forth in article 6 of this Protocol and ways of detecting them;

(e) Legislative experiences and practices and measures to prevent and combat the conduct set forth in article 6 of this Protocol; and

(f) Scientific and technological information useful to law enforcement, so as to enhance each other's ability to prevent, detect and investigate the conduct set forth in article 6 of this Protocol and to prosecute those involved.

2. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11 Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of the offence established in accordance with article 6, paragraph 1 (a), of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12 Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13 Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for purposes of conduct set forth in article 6 of this Protocol.

Article 14 Training and technical cooperation

1. States Parties shall provide or strengthen specialized training for immigration and other relevant officials in preventing the conduct set forth in article 6 of this Protocol and in the humane treatment of migrants who have been the object of such conduct, while respecting their rights as set forth in this Protocol.

2. States Parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate the conduct set forth in article 6 of this Protocol and to protect the rights of migrants who have been the object of such conduct. Such training shall include:
   (a) Improving the security and quality of travel documents;
   (b) Recognizing and detecting fraudulent travel or identity documents;
   (c) Gathering criminal intelligence, relating in particular to the identification of organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of conduct set forth in article 6 and the means of concealment used in the smuggling of migrants;
   (d) Improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and
   (e) The humane treatment of migrants and the protection of their rights as set forth in this Protocol.

3. States Parties with relevant expertise shall consider providing technical assistance to States that are frequently countries of origin or transit for persons who have been the object of conduct set forth in article 6 of this Protocol. States Parties shall make every effort to provide the necessary resources, such as vehicles, computer systems and document readers, to combat the conduct set forth in article 6.

Article 15 Other prevention measures

1. Each State Party shall take measures to ensure that it provides or strengthens information programmes to increase public awareness of the fact that the conduct set forth in article 6 of this Protocol is a criminal activity frequently perpetrated by organized criminal groups for profit and that it poses serious risks to the migrants concerned.

2. In accordance with article 31 of the Convention, States Parties shall cooperate in the field of public information for the purpose of preventing potential migrants from falling
victim to organized criminal groups.

3. Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.

**Article 16 Protection and assistance measures**

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.

3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.

4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

5. In the case of the detention of a person who has been the object of conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations, where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

**Article 17 Agreements and arrangements**

States Parties shall consider the conclusion of bilateral or regional agreements or operational arrangements or understandings aimed at:

(a) Establishing the most appropriate and effective measures to prevent and combat the conduct set forth in article 6 of this Protocol; or

(b) Enhancing the provisions of this Protocol among themselves.

**Article 18 Return of smuggled migrants**

1. Each State Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who is its national or who has the right of permanent residence in its territory at the time of return.

2. Each State Party shall consider the possibility of facilitating and accepting the
return of a person who has been the object of conduct set forth in article 6 of this Protocol and who had the right of permanent residence in its territory at the time of entry into the receiving State in accordance with its domestic law.

3. At the request of the receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who has been the object of conduct set forth in article 6 of this Protocol is its national or has the right of permanent residence in its territory.

4. In order to facilitate the return of a person who has been the object of conduct set forth in article 6 of this Protocol and is without proper documentation, the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. Each State Party involved with the return of a person who has been the object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.

6. States Parties may cooperate with relevant international organizations in the implementation of this article.

7. This article shall be without prejudice to any right afforded to persons who have been the object of conduct set forth in article 6 of this Protocol by any domestic law of the receiving State Party.

8. This article shall not affect the obligations entered into under any other applicable treaty, bilateral or multilateral, or any other applicable operational agreement or arrangement that governs, in whole or in part, the return of persons who have been the object of conduct set forth in article 6 of this Protocol.

IV. Final provisions

Article 19 Saving clause

1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 20 Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or
application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

**Article 21 Signature, ratification, acceptance, approval and accession**

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

**Article 22 Entry into force**

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it
shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

**Article 23 Amendment**

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

**Article 24 Denunciation**

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

**Article 25 Depositary and languages**

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1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.
Annexure - C

Prevention and Control of Human Trafficking Ordinance, 2002

ORDINANCE

to prevent and control human trafficking

WHEREAS the offences relating to traffic in human beings are incompatible with the dignity and worth of human being and endanger the welfare of the individual, the family and the community;

AND WHEREAS it is expedient and necessary to provide effective measures to prevent offences related to human trafficking and to protect and assist victims of such trafficking;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:

1. Short title, extent and commencement.---(1) This Ordinance may be called the Prevention and Control of Human Trafficking Ordinance, 2002.
(2) It extends to the whole of Pakistan.
(3) It shall come into force at once

2. Definition.---In this Ordinance, unless there is anything repugnant in the subject or context, ---
(a) “benefit” includes monetary profit, proceeds or payment in cash or in kind;
(b) “child” means any person who has not attained the age of eighteen years;
(c) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);
(d) “coercion” means the use of force, violence, physical restraint, deception, fraud or acts or circumstances not necessarily including physical force but calculated to have the same effect, such as the credible threat of force or of infliction of serious harm;
(e) “document” related to human trafficking includes a passport, a travel documents and any identification document used by law enforcement authorities;
(f) “exploitative entertainment” means all activities in connection with human sports or sexual practices or sex and related abusive practices;
(g) “Government” means the Federal Government;

(h) “human trafficking” means obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding his implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such person's subsequent transportation out of or into Pakistan by any means whatsoever for any of the purposes mentioned in section 3;

(i) “inhuman sports” include all sports involving, as a matter of normal course, infliction of physical or mental injury on a person against his will, intention or reasonable expectation;

(j) “organized criminal group” means a structured group of two or more persons, existing for a period of time and acting in concert with the aim of committing any offence under this Ordinance, in order to obtain, directly or indirectly, any financial or other material benefit and includes a person knowingly receiving or disbursing benefits accruing from the commission of any offence in relation to human trafficking by an organized criminal group; and

(k) “victim” means the person who is the subject of or against whom any offence under this Ordinance has been committed.

3. Punishment for human trafficking. ---The human trafficking shall be punishable as under:

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

Provided that in case of an accused who, in addition to committing an offence as aforesaid has also been guilty of kidnapping or abducting or any attempt thereto in connection with such offence, the imprisonment may extend to ten years with fine:

Provided further that whoever plans to commit an offence under this clause but has not as yet executed the same shall be punishable with a term of imprisonment, which may extend to five years and shall also be liable to fine.

(ii) Whoever knowingly provides, obtains or employs the labour or services of a person by coercion, scheme, plan or method intended to make such person believe that in the event of non-performance of such labour or service, he or any other person may suffer from serious harm or physical restraint or legal proceedings, shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine:

Provided that if the commission of the offences under this clause involves kidnapping or abduction or any attempt thereto, the term of imprisonment may extend to ten years with fine:
Provided further that payment of any remuneration in lieu of services or labour of the victim shall not be treated as mitigating circumstance while awarding the punishment.

(iii) Whoever knowingly purchases, sells, harbours, transports, provides, detains or obtains a child or a woman through coercion, kidnapping or abduction, or by giving or receiving any benefit for trafficking him or her into or out of Pakistan or with intention thereof, for the purpose of exploitative entertainment by any person and has received or expects to receive some benefit in lieu thereof shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine:

Provided that if the commission of the offence under this clause involves kidnapping or abduction or any attempt thereto of the victim, the term of imprisonment may extend to fourteen years with fine:

Provided further that plea, if any, taken by the biological parents of the child shall not prejudice the commission of offence under this clause.

(iv) Whoever knowingly takes, confiscates, possesses, conceals, removes or destroys any document related to human trafficking in furtherance of any offence committed under this Ordinance or to prevent or restrict or attempt to prevent or restrict, without lawful authority, a person's liberty to move or travel shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.

4. Offences committed by organized criminal groups. --- Where an organized criminal group is guilty of any offence under clauses (i), (ii), (iii) or (iv) of section 3, the term of imprisonment or each member of such group involved in the commission of such offence shall not be less than ten years imprisonment and may extend to fourteen years where the purpose of trafficking of a victim is exploitative entertainment and shall also be liable to fine.

5. Repetition of commission of offences. -- Whoever repeats the commission of an offence under this Ordinance, the term of imprisonment may extend to fourteen years and the off under shall also be liable to fine.

6. Compensation etc. to the victim. --- The court trying an offence under this Ordinance may where appropriate direct:

(i) the competent authorities of the Government, at any stage of the trial to allow or extend the stay of the victim in Pakistan till such time, as the court deems necessary;

(ii) payment of compensation and expenses to the victim in accordance with section 545 of the Code;

(iii) Government to make arrangements for the shelter, food and medical treatment of victim being an unaccompanied child or a destitute woman.

7. Proceedings under the Ordinance to be in addition to and not in derogation of any other law. The proceedings under the Ordinance shall be in addition to and not in derogation of any other proceedings initiated under any other law for the time being in force.
8. Offences to be cognizable etc.—All offences under the Ordinance shall be
cognizable, non bailable, and non-compoundable as construed by the Code.

9. Investigation. Notwithstanding anything contained in the Code or any other law for
the time being in force, the investigation of the offences under the Ordinance shall be
carried out by only such persons or agencies as are specially empowered by the
Government in that behalf.

10. Cognizance of offences etc.—No court inferior to that of a Magistrate of the First
Class shall try an offence punishable under this Ordinance.

(2) Notwithstanding anything contained in section 32 of the Code, it shall be lawful for
a Magistrate of the First Class to pass any sentence authorized by this Ordinance.

11. Indemnity. No suit, prosecution or any other legal proceedings shall lie against the
Government or any other person exercising any power or performing any function under
this Ordinance or the rules made there under for anything done in good faith.

12. Power to make rules. The Government may, by a notification in official gazette,
make rules to carry out the purposes of this Ordinance.

GENERAL
PERVEZ MUSHARRAF,
President.

Mr. JUSTICE
MANSOOR AHMED,
Secretary
Annexure - D

Islamabad, 29 November 2004

S.R.O.970 (1)/2004. In exercise of powers conferred by section 12 of the Prevention and Control of Human Trafficking Ordinance, 2002, (LIX of 2002), the Federal Government is pleased to make the following rules, namely: -

1. Short title and commencement (1) These rules may be called the Prevention and Control of Human Trafficking Rules, 2004.
2. (2) They shall come into force at once.

2. Definitions.- In these Rules, unless there is anything repugnant in the subject or context,-

(a) “court” means the court having jurisdiction to try the offences under the Ordinance;

(b) “Government” means the Federal Government.

(c) “Non-Governmental Organizations” means the Non-Governmental Organizations notified by the Government under these rules from time to time;

(d) “Ordinance” means the Prevent and Control of Human Trafficking Ordinance 2002 (LIX of 2002); and

(e) “victim” shall have the same meaning as defined in the Ordinance.

(2) Words and expression used but not defined in these rules shall have the same meaning as in the Ordinance.

3. Recording statement and custody of the victim.- (1) A victim of an offence under the Ordinance, shall be produced before the court for recording his statement under section 164 of the Code of Criminal Procedure, 1998 (V of 1998), except where the victim is unable, or otherwise not feasible for any reason to be recorded in writing, to get his statement recorded.

(2) In case the victim is an un-accompanied child or a destitute women, the court before whom such victim is produced may pass an order to keep him in a shelter home established by the Government or by the Non-Government Organizations for accommodation, food and medical treatment;

Provided that where the victim is not satisfied with the Non-Governmental Organization to which his custody was given by the court, he may apply to the court for alternate shelter.

(3) The court may, for the welfare of the victim, hand over the custody to any of his blood relation after requiring a bound from the custodian for safe custody of the victim.
and his production before the court at the time and place mentioned in the bond and shall continue to produce until otherwise directed.

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

5. Responsibilities of Non-Governmental Organizations.- (1) The Non-Governmental Organizations to which the victims are handed over, shall be responsible for proper shelter, food and medical treatment at a notified place which shall be open to inspection by an inspecting officer notified by the Government.

(2) In case any Non-Governmental Organization is found involved in maltreatment with the victim or fails to fulfill its responsibilities of providing proper shelter, food and medical treatment, its notification may be cancelled, after giving an opportunity of being heard.

6. Legal assistance to the victim.- (1) The Government shall and the Non-Governmental Organizations may provide necessary legal assistance to the victim during trial of the case and other legal proceedings under the Ordinance.

(2) The Government shall allocate appropriate funds for providing legal assistance to the victims.

7. Recording evidence and repatriation of the victim.- (1) Where a victim is not a citizen of Pakistan, the court shall record the evidence of the victim at the earliest. If the victim is no more required for the trial, the court may direct the Government to facilitate such victim for repatriation;

Provided that the victim whose presence is considered necessary by the court for the trial of the case or his immediate repatriation is not possible, shall be entitled to apply to the National Alien Registration Authority for his temporary registration as alien or for work permit.

(2) If the repatriation of the victim is decided, the Government shall in consultation with the concerned Embassy or, as the case may be, the High Commission of the country to which the victim belongs, make necessary arrangements for its safe return.

(3) The Non-Governmental Organizations may provide assistance to the Government in the process of repatriation of the victim.

(4) The Government shall establish special funds for repatriation of the victim.

(4) The Government shall establish special funds for preparation of the victim

[Ministry of Interior No.13/54/2002-FIA PO]

MRS. AMNA IMRAN KHAN
Deputy Secretary (FIA)
Annexure - E

THE EMIGRATION ORDINANCE, 1979
(ORDINANCE XVIII OF 1979)

Whereas it is expedient to repeal and, with certain modifications, re-enact the Emigration Act, 1922 (VII of 1922), and whereas the President is satisfied that circumstances exist which render it necessary to take immediate action.

Now, therefore in pursuance of the Proclamation of the Fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in promulgate the following Ordinance.

Chapter-I
PRELIMINARY

1. Short Title, extent application and commencement:

(1) This Ordinance may be called the Emigration Ordinance, 1979.
(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan, wherever they may be.
(3) It shall come into force at once.

2. Definitions: In this Ordinance, unless there is anything repugnant in the subject or context:

(a) "Bureau" means the Bureau of Emigration and overseas Employment.
(b) "Conveyance" means any vehicle, aircraft or ship used for the transportation of emigrants.
(c) "Corporation" means the Overseas Employment Corporation Limited.
(d) "Depart" and "departure" means the departure out of Pakistan of any person for employment or self-employment by any means.
(e) "Dependent", in relation to an emigrant, means the spouse, sons not above the age of twenty-one years, and unmarried sisters and daughters of the emigrant, and includes aged or incapacitated parents, incapacitated sons above the age of twenty one years and widowed and divorced divorced sisters and daughters of the emigrant wholly dependent upon and residing with the emigrant and the sons not above the age of twenty one years, and dependent unmarried daughters, of such widowed or divorced sisters or daughters.
(f) "Director-General" means the Director-General, Bureau of Emigration and Overseas Employment appointed under section 3, and includes any person for the time being discharging the functions of Director-General.
(g) "Emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Ordinance and includes any dependent of an emigrant.
(h) "Emigrate" and "emigration" means the departure by sea, air or land out of Pakistan of any person for the purpose, or with the intention, of working for hire or engaging in any trade profession or calling in any country beyond the limits of Pakistan.
(i) "Foreign service agreement" means an agreement between an emigrant and his prospective employer abroad or his authorized Overseas employment promoter in Pakistan containing terms and conditions of his employment and duly registered with the prescribed authority.
(j) "Overseas Employment Promoter" means a person licensed as such under section 12.
(k) "Prescribed" means prescribed by rules.
(l) " Protector of Emigrants" means a Protector of Emigrant appointed under section 5.
(m) "Rules" means rules made under this Ordinance.
In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether any person is an emigrant within the meaning of this Ordinance, the question shall be determined by the Federal Government, and such determination shall be final.

Chapter II

DIRECTOR-GENERAL AND PROTECTOR OF EMIGRANT

3. Director-General, Bureau of Emigration and Overseas Employment:

4. Function of Director-General: Subject to the provisions of this Ordinance and the overall supervision and control of the Federal Government, the Director General shall take such measures as may be necessary.

5. Appointment of Protectors of Emigrants:

6. General Duties of Protector of Emigrants: Every Protector of emigrants shall discharge such duties as may be assigned to him by the Federal Government.

"[4-A_FUNCTION OF CORPORATION: Subject to provisions of this ordinance and the overall supervision and control of the Federal Government the corporation shall take such measures as may be necessary to promote emigration of citizens of Pakistan."

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### Chapter-III
#### EMIGRATION

8. Regulation of Emigration

1. Emigration from Pakistan to all countries of the world for the time being recognized by Pakistan shall be lawful if it is in conformity with the provisions of this Ordinance and the rules.

2. Subject to the provisions of this Ordinance and the rules and any other law for the time being in force, the emigration of a citizen of Pakistan shall be lawful if he is in possession of a letter of appointment of a work permit from a foreign employer or an employment visa or an emigration visa from foreign Government or he has been selected for emigration by the foreign employer through the Director-General or by an Overseas Employment Promoter or under an agreement or treaty between the Government of Pakistan and a foreign Government.

3. If the Federal Government, having regard to the occupation, profession, provocation or qualifications of any person or class of persons, is satisfied that emigration of such person or class of persons, or class of person is not in the public interest, it may, by rules, regulate emigration of such person or class of person, and the departure of such person or class of persons otherwise than in accordance with such rules shall not be lawful.

4. The Federal Government may, by notification in the official Gazette, prohibit, from a date and for reasons to be specified in the notification, all persons or any specified class of persons from emigrating to all or any specified country.

### Chapter-IV
#### GENERAL

9. Prohibition of advertisement, etc.: No person other than the Corporation shall recruit a citizen of Pakistan or issue an advertisement or publish any material or hold any interview or examination for such recruitment for the purpose of emigration, except with the prior permission of the Director-General or the Protector of Emigrant of the area, in accordance with such conditions, if any, as may be prescribed.

10. Advisory Committee: The Federal Government may, for the purpose of advising the Government, constitute an Advisory Committee, in such manner as it may think fit, and may prescribe the procedure to be followed and the function to be performed by such committee.

11. Power to search and detain vessels, etc.: The Director-General, a protector of emigrants or any officer authorized by the Federal Government may, for the purpose of preventing the commission any offence under this Ordinance, exercise all the powers conferred on the officers of customs by the Customs Act, 1969 (IV of 1969), with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof and, for this purpose, he shall have the authority to enter any port or point of entry or departure of inspect any conveyance carrying or bringing or believed to be carrying or bringing any emigrant.
Chapter-V
APPOINTMENT OF OVERSEAS EMPLOYMENT PROMOTERS

12. Grant of Overseas Employment Promoters License:

1. Whoever desire to engage, or to assist or to recruit any person to emigrate shall apply for a license to the Federal Government and shall with his application furnish such information and documents, pay such security and fee, and at such time and in such manner as may be prescribed.

2. On receiving any application under sub-section (1), the Federal Government may, after such inquiry as it may deem necessary, grant or refuse the license applied for on such terms and conditions, if any, and on payment of such fee as and on furnishing such security, as may be prescribed, or withhold such license, and the decision of the Federal Government shall be final.

3. If at any time during the period for which a license is valid the Federal Government is satisfied, after making such inquiry as it may deem necessary, that the license has been guilty of misconduct, or that his conduct and performance as licensee has been otherwise unsatisfactory, or that he has committed a breach of any of the provisions of this Ordinance or the rules or the prescribed code of conduct, the Federal Government may, by order in writing, cancel the license or suspend it for a specified period and also pass orders in regard to the forfeiture of the security furnished under sub-section (2) in whole or in part, and the decision of the Federal Government shall be final.

4. Before an order is passed under sub-section (3), the licensee shall be afforded an opportunity of being heard.

13. Power to withdraw Licenses: Notwithstanding anything contained in this Ordinance, if, at any time, it appears to the Federal Government that, in the public interest, it is necessary to discontinue the practice of granting licences to overseas employment promoters, it may, by notification in the official Gazette, withdraw all such licences and entrust the functions concerning emigration for employment aboard to the corporation or any other institution established or controlled by Government, in such manner as it may deem fit.

14. Delegation of Power to Director-General to receive and dispose of application:

1. The Federal Government may, by notification in the official Gazette, delegate its powers under section 12 to the Director-General or any other officer, provided that an appeal shall lie to the Federal Government from any order passed by the Director-General or any other officer in exercise of the power so delegated to him, and the decision of the Federal Government taken after the appellant has been afforded an opportunity of being heard shall, subject to sub-section (2), be final.

2. The Federal Government may review its decision under sub-section (1) and the decision of the Federal Government in review shall be final. Provided that, before a decision is taken in review, the licensee when the decision relates shall be afforded an opportunity of being heard.

3. The Director-General shall maintain, in such form as may be prescribed, a register of the names of all persons to whom licenses have been granted under sub-section (2) of section 12.
15. Appearance of engaged persons before, and registration of names by, protector of emigrants: Before any person emigrates, he shall appear in person, along with the overseas employment promoter by whom he has been engaged or assisted or recruited for employment abroad or his duly authorized representative, before the protector of Emigrants and furnish to him such information as may be prescribed.


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<th>Rule</th>
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<td>16.</td>
<td><strong>Power to make Rules:</strong></td>
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<td>The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.</td>
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<td>In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:</td>
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<td>(a) the powers and duties of the several officers appointed by the Federal Government under this Ordinance.</td>
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<td>(b) the licensing, supervision and control of overseas employment promoters and the prohibition of unlicensed persons from being engaged in causing or assisting or recruiting persons to emigrate and in the conveyance and accommodation of emigrants.</td>
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<td>(c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there.</td>
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<td>(d) the forms to be maintained and the returns to be submitted by the overseas employment promoters and the corporation.</td>
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<td>(e) the information to be furnished by overseas employment promoters to emigrants and the language in which such information is to be furnished.</td>
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<td>(f) the production and examination of emigrants before the Protector of emigrants or such other authorities as may be appointed in this behalf.</td>
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<td>(g) the age below which person of either sex may not emigrate except as dependents.</td>
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<td>(h) the reception and the despatch to their homes of returning emigrants.</td>
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<td>(i) the fees, if any, payable by overseas employment promoters to the protectors of emigrants for each emigrant departing from Pakistan.</td>
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<td>(j) Execution of a bond by an emigrant, or a person proceeding abroad for education, studies or training, or any other purpose, in which he undertakes to return to Pakistan after a specific period.</td>
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<td>(k) Setting up of training centers and orientation and briefing centers to guide and advise intending emigrants and their dependents proceeding abroad.</td>
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<td>(l) The recall and repatriation in the public interest of such emigrants as may be prescribed.</td>
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<td>(m) The time within which an appeal under the provision to sub-section (1) of section 14 may be preferred.</td>
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<td>(n) Creation of welfare fund and measures for the welfare of emigrants and their dependents and establishment of machinery at home and abroad for the implementation of such rules.</td>
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<td>(o) The disposal of complaint against overseas employment promoters.</td>
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<td>(p) The formation of an Overseas Employment Promoters Association and code of conduct to be observed by overseas employment promoters.</td>
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<td>(q) The service charges to be paid to overseas employment promoters and the corporation by the emigrants.</td>
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<td></td>
<td>(r) The depositing of fees and securities by overseas employment promoters.</td>
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Chapter-VII
OFFENCES, PENALTIES AND PROCEDURE

17. Unlawful emigration, etc.

(1) Whoever, except in conformity with the provisions of this Ordinance and the rules, emigrates or departs or attempts to emigrate or depart shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) Whoever, except in conformity with the provisions of this Ordinance or the rules

(a) makes, or attempts to make any agreement with any person purporting to bind that person, or any other person, to emigrate or depart, or

(b) causes or assist or attempts to cause or assist, any person to emigrate or depart or to attempt to emigrate or depart or to leave any place for the purpose of emigrating or departing, or

(c) causes any person engaged, assisted or recruited by him, after grant of the license referred to in section 12, to depart without appearing before the Protector of Emigrants as required by section 15 shall be punishable

(d) for a first offence, with imprisonment for a term which may extend to five years, or with fine, or with both, and

(e) for a second or subsequent offence, with imprisonment for a term which may extend to seven years, or with fine, or with both.

18. Fraudulently Inducing to Emigrate:

(a) Forges any document required for, or relating to, the emigration of any person, or has in his possession or under his control any instrument or article which may be used for the purpose of such forgery, or

(b) By means of cause or induces, any person to emigrate, or enters into any agreement to emigrate or leaves any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine, or with both.

19. False representation of Government Authority: Falsely represents that any emigrant is required by the Government or is to be engaged on behalf of the Government shall be punishable with imprisonment for a terms which may extend to five years, or with fine or with both.

20. Violation, of terms of agreement with foreign employer by emigrant. Whoever violates the terms of the agreement with his foreign employer by abandoning his employment or otherwise shall, after his repatriation to Pakistan be punishable with fine which may extend to ten thousand rupees.

21. Certain amount recoverable as arrears of Land Revenue: The amount of any
expenditure incurred by the Federal Government for the repatriation to Pakistan of a person who is convicted of an offence punishable under subsection (1) of section 17 or section 20, or the amount payable by any person in pursuance of an agreement or bond or undertaking executed in pursuance of this Ordinance or the rules, shall be recoverable from such person as an arrear of land revenue.

22. Receiving money, etc., for providing foreign employment. Whoever, for providing or securing, or on the pretext of providing or securing, to or for any person employment in any country beyond the limits of Pakistan,

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<td>(a)</td>
<td>being an overseas employment promoter, charges any fee in addition to the prescribed amount, or</td>
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<td>(b)</td>
<td>not being such a promoter, demands or receives, or attempts to receive, for himself or for any other valuable thing shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine or with both.</td>
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23. Penalty for other offences. Whoever contravenes, or fails to comply with any of the provisions of this Ordinance or the rules shall, if another penalty is provided by this Ordinance for such contravention or failure, be punishable with imprisonment for a term which may extend to one year and with fine.

24. Special Courts.

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<td>(1)</td>
<td>The Federal Government may, by notification in the official Gazette, set up as many Special Courts as it considers necessary and, where it sets up more than one Special Court, shall specify in the notification the head-quarters of each Special Court and the territorial limits within which it shall exercise jurisdiction under this Ordinance.</td>
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<td>(2)</td>
<td>A Special Court shall consist of a person who is or has been a Sessions Judge, or an Additional Sessions Judge.</td>
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<td>(3)</td>
<td>Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) an offence punishable under this Ordinance shall be tried exclusively by a Special Court.</td>
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<td>(4)</td>
<td>The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as they are not inconsistent with the provisions of this Ordinance, shall apply to the proceedings of a Special Court and such Court shall be deemed to be Court of Session for the purposes of the necessary modifications, shall apply to the trial of cases by a Special Court under this Ordinance, and a person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor.</td>
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<td>(5)</td>
<td>For the purposes of subsection (4), the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if an offence punishable under this Ordinance were one of the offences referred to in subsection (1) of section 337 of the Code.</td>
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<td>(6)</td>
<td>(a) A Special Court shall take cognizance of, and have jurisdiction to try, an offence punishable under this Ordinance only upon a complaint in writing which is accompanied by the previous sanction of the Federal Government. Provided that in a case in which the complaint is not accompanied by such sanction, the Special Court shall, immediately on its receipt, refer the matter to the Federal Government; and, if the required sanction is not received or refused within sixty days of the receipt of the reference by the Federal Government, such sanction shall be deemed to have been duly accorded.)</td>
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"24A. Appeal. A person sentenced by a Special Court may within forty-five days of the order, prefer an appeal in the High Court."

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<td>(1)</td>
<td>Where a Special Court has passed an order of acquittal,</td>
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<td>(2)</td>
<td>The Federal Government may direct any of its Law Officer to present an appeal; and</td>
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| (3) | In the case of a prosecution for any offence punishable under this Ordinance, the person in respect of whom the offence is alleged to have been committed may, within a period of forty-five days, appeal to the High Court against the order."
25. Indemnity. No suit, prosecution or other legal proceeding shall lie against any person for anything which is good faith done in pursuance of this Ordinance or any rule.

Chapter-VIII
VALIDATION, SAVINGS, ETC.

26. Validation. Any power of function of the Federal Government, the Director-General or a Protector of Emigrants under the emigration Act, 1922 (VII of 1922), or the rules made thereunder exercised or performed, before the commencement of this Ordinance, by any officer subordinate to the Federal Government shall be deemed to have been validly exercised or performed.

27. Saving. Nothing in this Ordinance shall be deemed to apply to the departure of a person

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<td>(i)</td>
<td>Who is not a citizen of Pakistan.</td>
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<td>(ii)</td>
<td>Who is in the service of Pakistan, or in the service of a local authority or a corporation owned or controlled by the Federal Government or a Provincial Government and is proceeding on duty or for employment with any international organization or for training or on leave, with the permission of the Federal Government.</td>
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<td>(iii)</td>
<td>Who is proceeding under a foreign scholarship or training scheme approved by the Federal Government.</td>
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<td>(iv)</td>
<td>Who is engaged as crew on board a foreign-going vessel.</td>
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<tr>
<td>(v)</td>
<td>Who is engaged as crew on board a foreign-going aircraft in accordance with the provisions of Civil Aviation Ordinance, 1950 (XIII of 1950), and the rules made thereunder.</td>
</tr>
<tr>
<td>(vi)</td>
<td>Who is proceeding abroad for Haj or Ziarat and is certified by the Federal Government or an officer authorized by it in this behalf to be so proceeding.</td>
</tr>
<tr>
<td>(vii)</td>
<td>Who is a dependent of a citizen of Pakistan who is already settled or employed in foreign country; or</td>
</tr>
<tr>
<td>(viii)</td>
<td>Who is already settled or employed in a foreign country and is on a temporary visit to Pakistan.</td>
</tr>
</tbody>
</table>

28. Repeal. The Emigration Act, 1922 (VII of 1922), is hereby repealed.