



**UNODC**

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Country Office Pakistan

## Recent trends of human trafficking and migrant smuggling to and from Pakistan



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## Foreward

This report was commissioned to better understand the emerging situation in Pakistan related to human trafficking and migrant smuggling.

The United Nations Office on Drugs and Crime (UNODC) in Pakistan developed the Country Programme (2010-2014) in collaboration with the Government of Pakistan. As part of the programme our office in Pakistan is committed to provide technical assistance to our government counterparts in combating human trafficking and migrant smuggling.

Thus, we have conducted this research study to further understand human trafficking and migrant smuggling situation in Pakistan by developing profiles of transnational migratory movements to and from Pakistan. It identifies emerging trends and describes the different methods used by traffickers and smugglers. The report is designed to recommend specific actions that can be taken by the Government of Pakistan – and in particular the Federal Investigation Agency-to increase effective intervention against human trafficking and migrant smuggling.

It would assist the law enforcement agencies in Pakistan to plan more effectively and allocate resources based on priority areas which are identified in the report.

Lastly, I would like to extend my gratitude towards the Federal Investigation Agency (FIA) for providing statistics and important feedback for this research.

We shall endeavor to continue assisting our national counterparts in our fight against human trafficking and migrant smuggling.

Thank you

César Guedes  
Country Representative



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## Contents

<b>1</b>	<b>Executive summary.....</b>	<b>1</b>
1.1	Smuggling of migrants to Pakistan .....	1
1.2	Smuggling of migrants from Pakistan.....	1
1.3	Trafficking in persons to Pakistan.....	2
1.4	Trafficking in persons from Pakistan .....	3
1.5	Law enforcement response and recommendations .....	3
1.5.1	Interdiction.....	4
1.5.2	Prosecution.....	4
1.5.3	Protection and prevention.....	5
<b>2</b>	<b>Introduction .....</b>	<b>7</b>
2.1	Objectives .....	8
2.2	The problem of data.....	8
2.3	Methodology and limitations .....	9
<b>3</b>	<b>Fundamental confusion: victims or offenders? .....</b>	<b>11</b>
3.1	Ambiguities in the Prevention and Control of Human Trafficking Ordinance .....	11
3.2	Implications for law enforcement .....	12
3.3	Terminology and structure.....	14
<b>4</b>	<b>Smuggling of migrants .....</b>	<b>17</b>
4.1	Pakistan as destination country.....	17
4.1.1	Legal framework .....	17
4.1.2	Scale and trend.....	17
4.1.3	Afghans.....	19
4.1.4	Bengali, Bangladeshi, and Burmese .....	20
4.2	Pakistan as a transit country.....	22
4.3	Pakistan as source country .....	23
4.3.1	Legal framework .....	23
4.3.2	Scale and trend.....	23
4.3.3	Destination Europe .....	26
4.3.3	Destination Australia .....	36
<b>5</b>	<b>Trafficking in persons.....</b>	<b>43</b>
5.1	Legal framework .....	43
5.2	Distinguishing smuggling of migrants from trafficking in persons .....	43
5.3	Pakistan as destination country.....	44

5.4	Pakistan as a source country.....	45
5.4.1	Destination Europe: male victims.....	45
5.4.2	Destination Gulf: dancing girls.....	46
<b>6</b>	<b>Law enforcement response .....</b>	<b>53</b>
6.1	Interdiction.....	54
6.2	Prosecution .....	57
6.2.1	Compoundable offences.....	61
6.2.2	Use of the Prevention and Control of Human Trafficking Ordinance.....	64
6.3	Protection.....	66
<b>7</b>	<b>References .....</b>	<b>69</b>
7.1	Reports and books .....	69
7.2	Media reports .....	71

## Abbreviations

ARA	Annual Risk Analysis, Frontex
CAR	Commissioner for Afghan Refugees
DIAC	Department of Immigration and Citizenship, Australia
EO	Emigration Ordinance 1979, Pakistan
EU	European Union
FIA	Federal Investigation Agency, Pakistan
GOP	Government of Pakistan
ICMPD	International Centre for Migration Policy Development, Vienna
ILO	International Labour Organisation
IOM	International Organisation for Migration
NARA	National Aliens Registration Authority, Pakistan
ND	No data
PA	Passport Act 1974, Pakistan
PACHTO	Prevention and Control of Human Trafficking Ordinance 2002, Pakistan
PKR	Pakistani rupee
PPC	Pakistan Penal Code 1860, Pakistan
SAFRON	Ministry of States and Frontier Regions, Pakistan
UAE	United Arab Emirates
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
USD	United States dollar

## Definitions

Frontex	European Agency for the Management or Operational Cooperation at the External Borders of the Members of the European Union, established by Council Regulation (EC) 2007/2004.
Blue border	Sea border that is in between official border check posts.
Green border	Land border that is in between official border check posts.



## 1 Executive summary

Pakistan is a destination, transit, and source country for smuggling of migrants and trafficking in persons. It has taken some important steps in combating these transnational crimes, including the promulgation of domestic legislation such as the *Prevention and Control of Human Trafficking Ordinance* also known as (PAC HTO) in 2002 as well as establishing Anti-Human Trafficking Units and Circles under the jurisdiction of the Federal Investigation Agency. However, migrant smuggling and human trafficking remain issues of concern.

### 1.1 Smuggling of migrants to Pakistan

The best estimate of irregular migrants to Pakistan puts the population at more than four million. Afghans are the largest group at approximately 2.7 million, followed by the combined population of Bengali, Bangladeshi, and Burmese nationals at more than one million. However, Pakistan as a destination country for irregular migration is not a new phenomenon. Irregular migration to Pakistan has two key features: historic and protracted. Approximately 74 per cent of all Afghan nationals in the country were born in Pakistan, and 80 per cent of Afghan households arrived in Pakistan before 1985. Similarly, a majority of the Bengali, Bangladeshi, and Burmese nationals arrived prior to 1997.

The number of new arrivals of irregular migrants is very small when compared to the existing population in Pakistan. The attractiveness of Pakistan as a destination country has declined due to its political and economic circumstances. Border management and interdiction of new arrivals will only have limited impact on the regulation of the existing population of irregular migrants. As such, Pakistan must explore ways to regularise and regulate the status of the existing irregular migrant population. UNODC recommends to the Government, in cooperation with UNHCR to find long-term solutions for the Afghan population in Pakistan, particularly as the Proof of Registration Cards for 1.6 million Afghans expired on 30 June 2013.<sup>2</sup> In addition, with UN assistance, the Government should also find solutions for the combined Bengali, Bangladeshi, and Burmese population, including stateless people.

### 1.2 Smuggling of migrants from Pakistan

Pakistani nationals are among the ten most-detected nationalities that attempt irregular migration to the European Union (EU) and Australia. At the same time, Afghans are also one of the most detected nationalities for irregular migration. The number of Afghan nationals using smuggling networks to enter the EU and Australia far exceeds the number of Pakistanis. However, the migration patterns of the two populations are entangled, and both populations use the same routes and smuggling networks. Moreover, Pakistan is a key transit country for Afghans.

To enter the EU, Pakistani and Afghan nationals predominantly use the Eastern Mediterranean Route, by both land and sea. Pakistani, Afghan, and Bangladeshi nationals have reported they rendezvous in Iran and travel in a mixed group to the EU through Turkey and then Greece. Pakistani and Afghan nationals both feature prominently on the Western Balkans Route for secondary movement within the EU and the Schengen Zone. Both have also been detected in significant numbers along the sea route from Greece to the southern Italian regions of Apulia and Calabria. The vast majority of Pakistani and Afghan nationals attempt to enter the EU through blue and green borders. The number that attempts clandestine entry at border check posts is low. Irregular migrants

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<sup>2</sup> At the time of writing, the validity of the Proof of Registration Cards had not been extended by the Government of Pakistan

appear to use a combination of tactics; clandestine crossing of blue and green borders and legal entry or exits at border check posts using legitimate but fraudulently obtained documentation.

The volume of migration appears to be sensitive to push factors in the countries of origin. For example, the 2010 floods in Pakistan appear to have led to an exceptional spike in the volume of EU migration in 2011 by Pakistani nationals. Moreover, the routes used for smuggling of migrants appear to be responsive to changing interdiction and border control tactics. For example, improved land interdiction led to an increase in the use of sea routes. Changing status of a country – such as accession to EU membership – also has an impact on the routes used. With the recent economic downturn in the EU, particularly in Greece, Spain, and Italy, it is anticipated that some secondary movement by Pakistani and Afghan nationals will be detected as they seek better economic opportunities.

Although the number of Afghan irregular migrants far exceeds the number of Pakistanis, more Pakistanis are found to use fraudulent documentation. Further, more Pakistanis are detected as facilitators of smuggling. This suggests that the smuggling networks are more organised and sophisticated in Pakistan, and that both Pakistani and Afghan nationals use Pakistani networks. In addition, the European Union raised concerns about the increased use of legitimate but fraudulently obtained documentation.

As an island country, almost all irregular migrants to Australia arrive by sea from Indonesia. The number of irregular maritime arrivals from Afghanistan also far exceeds the number from Pakistan, but both populations are of concern to Australia. Again, smugglers use a combination of tactics; irregular migrants often exit Pakistan on valid passports and visas, and then travel by air to Malaysia or Thailand. From there, they travel clandestinely over land and sea to Indonesia, from where they attempt the final segment of the journey to Australia by sea.

The majority of Pakistani and Afghan nationals that attempt irregular migration to Australia by sea are religious or ethnic minorities. They lodge protection applications on arrival and their claims have had an extremely high rate of acceptance, demonstrating that they have legitimate and compelling flight reasons. Members of the community tend to view smugglers as providing a necessary service to help them escape the persecution they suffer in their countries of origin.

Smugglers that operate on this route appear to be well established and known to the community. They do not appear to recruit, but find business through word of mouth recommendations from successful migrants. Intending migrants approach the smugglers proactively. Businesses that claim to be visa consultants are often involved in smuggling rings. Facilitators and agents generally have ties to the migrant community and have often attempted or succeeded on the same route. Visa consultants often operate as fronts for smuggling networks. Therefore, UNODC recommends that the Government of Pakistan considers implementing regulation of visa consultancies.

### **1.3 Trafficking in persons to Pakistan**

There is little information on trafficking of persons to Pakistan. Anecdotal evidence suggests that victims of trafficking are among the large number of irregular migrants to Pakistan. In particular, there is evidence of women and children being trafficked to Pakistan for sexual exploitation, sometimes in the form of forced marriages. NGO workers have reported the presence of Chinese, Russian, Nepali, Iranian, and Bangladeshi women in Pakistan; these women are believed to have been trafficked for the purposes of sexual exploitation, however, no details are available. There is no reliable statistical information to indicate the magnitude of the problem.

#### 1.4 Trafficking in persons from Pakistan

Trafficking of Pakistani males to the European Union (EU) for forced labour is an emerging area of concern. The number of male potential victims detected became statistically significant in 2011, comprising approximately 25 per cent of the total number of third-country victims going to the EU. Pakistani and Chinese nationals were among the most-detected male victims. A majority of Pakistani victims are found in Spain, and are trafficked for the purpose of forced labour. This finding from the EU appears to be consistent with the problem of internal trafficking of men within Pakistan for the purpose of forced labour. The rise in transnational trafficking of Pakistani men for the purpose of forced labour, and its link to internal trafficking, is an area that requires further research. Moreover, FIA and law enforcement agencies should be trained in the identification of victims of forced labour, using the ILO Indicators of Forced Labour.

The trafficking of women and children to the Persian Gulf for sexual exploitation continues. No reliable statistics indicate the magnitude of the problem. However, anecdotal evidence suggests that women and girls are trafficked to the United Arab Emirates regularly to work as dancers but are subsequently subjected to sexual exploitation. Minors are regularly trafficked using fraudulently obtained documents that certify them to be adults. Document fraud begins with a false birth certificate, which becomes the basis of an application for identity documents and passports.

There is a poor understanding of human trafficking in the community, even among professionals in key areas that have contact with women and girls engaged in sex work and vulnerable to trafficking. Specifically, there is poor understanding of the concepts of consent and coercion. Economic pressure and non-physical forms of violence are not considered coercion. Consent from the family, even when obtained by payment, is considered legitimate consent on behalf of a woman or girl to engage in sex work. It is not clear the extent of misrepresentation used to obtain the initial consent from women and girls who consent to travel to Gulf states to dance.

The criminal networks engaged in the trafficking of women and girls are highly organised and sophisticated". There are transnational partners, particularly at venues and hotels in the United Arab Emirates, involved in the application for visas. Notably, trafficked victims leave Pakistan on authentic but fraudulently obtained passports and legitimate visas as entertainers. This means that interdiction at the point of border crossing is difficult.

It is likely that similar networks of recruiters and agents are at work for international and internal trafficking of women and girls. The link between internal and international trafficking of girls and women for sexual exploitation needs further research.

#### 1.5 Law enforcement response and recommendations

Pakistan has not adopted specific legislation against the smuggling of migrants. UNODC reiterates its previous recommendation to the Government to adopt the *Model Law against Trafficking in Persons and Smuggling of Migrants*. In addition, in line with previous recommendations, provisions of the *Prevention and Control of Human Trafficking Ordinance 2002* should be amended in accordance with the UNODC Model Law for clarity and to bring it to full compliance with international law.

Moreover, Pakistan continues to conflate trafficking in persons and smuggling of migrants into one hybrid crime. Specifically, trafficking is imprecisely used as a synonym for smuggling. The Federal Investigation Agency must amend its literature to ensure the accurate use of key terms such as trafficking and smuggling. Law enforcement officials must maintain clear conceptual distinction

between smuggling and trafficking. Law enforcement responses must also deal with these two crimes separately. As such, provisions of the *Prevention and Control of Human Trafficking Ordinance* should not be used to prosecute smuggling of migrants.

Conceptual confusion between trafficking and smuggling has had significant impact on the law enforcement response in Pakistan. Current data collection, management, and reporting methods have not been able to provide disaggregated statistics and information in relation to trafficking and smuggling. A standardised data collection and management system should be implemented across "Anti-Human Trafficking and Smuggling Circles in Pakistan. This will contribute to better coordination both in reporting and in investigations across Pakistan as a whole. UNODC recommends that FIA allocates resources to developing a data collection and management system and train its staff in data management and reporting.

### 1.5.1 Interdiction

The role of Federal Investigation Agency in border interdiction is primarily located at 24 official immigration check posts. Interdiction efforts at these points can be significantly improved, particularly at Chaman. However, irregular migrants increasingly attempt to illegally enter or exit Pakistan along blue and green borders, rather than at immigration check posts. Other partners within the Inter-Agency Task Force can significantly contribute to interdiction and border control. Their capacity to patrol and monitor the borders needs to be enhanced. The shift to blue and green borders is evident in both incoming and outgoing irregular migration, thus suggesting that the same smuggling networks are used or that the networks have access to the same law enforcement information.

### 1.5.2 Prosecution

A majority of migration-related offences are prosecuted under the *Emigration Ordinance 1979*, with related offences prosecuted under the *Passport Act 1974* and the *Pakistan Penal Code 1860*. A relatively small number of prosecutions take place under the *Prevention and Control of Human Trafficking Ordinance 2002*. However, it is not clear whether these relate to human trafficking cases or more general migration violations. The rate of conviction, particularly under the *Emigration Ordinance*, varies significantly across Anti-Human Trafficking Circles. At the same time, sentences imposed tend to be light. However, due to the current methods of data collection, it is not clear whether the convictions recorded are against interdicted-migrants or facilitators and agents.

In addition, the compoundable nature of some migration offences significantly diminishes the ability of the Federal Investigation Agency to vigorously prosecute offenders. In particular, offences under the *Pakistan Penal Code* sections 419 and 420 are compoundable and appear to give incentives to the accused to find a compromise with the "interdicted migrant to avoid prosecution. The impact of these compoundable offences, however, goes beyond the provisions themselves. A complainant who accepts a financial settlement from the accused generally does not go on to provide evidence against the accused for other related offences. Therefore, the use of compoundable offences to prosecute facilitators and agents should be avoided. Alternatively, provisions under the *Emigration Ordinance* can be used to prosecute facilitators. The FIA should also pursue more severe sentences against facilitators and agents.

The *Prevention and Control of Human Trafficking Ordinance* is not yet effectively used and there is a low conviction rate of around 12 per cent from the First Information Reports registered. This suggests challenges in evidence gathering for FIA prosecutors. There is a low level of coordination and cooperation between FIA and other law enforcement agencies. UNODC recommends that FIA

establishes a mechanism for cooperation with other law enforcement agencies to enable joint or multi-agency investigations into migrant smuggling and human trafficking offences and improve the ability of FIA to collect evidence other than witness testimonies. Improved coordination and cooperation between FIA investigators and prosecutors can also increase conviction rates through more effective use of evidence.

The low conviction rate may also be due to the misapplication of the Ordinance to people smuggling cases. There needs to be more systematic data collection on the use of the Ordinance. However, at the same time, in light of the high instances of trafficking of minors to the United Arab Emirates, the use of alternative legislation - such as the *Punjab Destitute and Neglected Children's Act 2004* and non-compoundable offences related to kidnapping and abduction under the *Pakistan Penal Code* - should be considered.

Across migration-related offences, the majority of sentences passed are fines, with very few prosecutions leading to custodial sentences. The fines administered are also relatively light, far below the profits that can be made by participating in people smuggling or human trafficking. Therefore, the fines do not have a deterrent effect.

In addition, in cases where foreign national victims of trafficking are identified, the FIA should vigorously prosecute the human traffickers. Protection of the victims should be implemented so that evidence against traffickers can be gathered.

### 1.5.3 Protection and prevention

There is poor understanding of human trafficking in the community, even among key professional groups. Specifically, the concepts of coercion and consent are not well understood. This reduces the ability of the Government to identify potential victims of trafficking. Public awareness of trafficking in persons must be improved, particularly among key groups such as border control officials, social workers, and civil society members. The Government should also promote better understanding of coercion and consent in the context of human trafficking, in line with the definition of trafficking in persons in Article 3 of the Trafficking in Persons Protocol. In addition, a provision ensuring the non-punishment of victims of trafficking should be inserted into the *Prevention and Control of Human Trafficking Ordinance 2002*.

The Government should implement the provisions of the *Prevention and Control of Human Trafficking Rules 2004* and designate Non-Governmental Organisations under the Rules in order to provide assistance to victims, as well as set up a mechanism and budget for providing legal assistance to victims. This will also improve evidence collection against traffickers for prosecution.

Where foreign nationals are identified as victims of trafficking, the Government should cooperate with UNHCR and explore protection solutions for the victims. Improved protection of victims will also facilitate the collection of evidence against human traffickers.



## 2 Introduction

Irregular migration, particularly in the forms of migrant smuggling and human trafficking, as well as associated criminal activities, is of concern to Pakistan. In one of the first attempts to measure the economic scale of irregular migration, a conservative assessment put the value of the illegal economy associated with irregular migration in Pakistan to be USD 108.6 million in 2010<sup>3</sup>.

Since 2010, Pakistan has been ranked as a Tier 2 country according to the US State Department *Trafficking in Persons Report*<sup>4</sup>. It faces significant challenges in border management. It shares a highly porous land border with Afghanistan, covering more than 2500 kilometres. With Iran it shares more than 900 kilometres of land border and has a coastline on the Arabian Sea in Balochistan and Sindh that is more than 1000 kilometres in length.

Millions of Afghans have arrived in Pakistan over the last 30 years due to political instability and conflict in Afghanistan, as well as the ethnic and kinship ties that extend between the two countries. Many of them still have no legal status in Pakistan. In addition, Pakistan is a major transit country for Afghans who then attempt irregular migration to third countries, particularly to Europe and Australia. Both Pakistani and Afghan nationals have been populations of concern to third countries, and have consistently featured in the lists of top ten nationalities for border violators, irregular arrivals, illegal residents, and deportees.

Pakistan is also a destination, transit, and source country for human trafficking. Pakistan's largest problem in human trafficking appears to be internal rather than transnational. In particular, Sindh and Punjab provinces have high instances of bonded labour in agriculture, brickmaking and other industries<sup>5</sup>. Despite the fact that much of Pakistan's human trafficking problem is domestic in nature, the trafficking of Pakistani male nationals to Europe for forced labour is an emerging problem. At the same time, the trafficking of women and girls for sexual exploitation to the Gulf states continues.

In response to migrant smuggling and human trafficking issues, the Government of Pakistan has taken important steps in developing strategies to combat these crimes and protect the rights of victims. In 2002, the *Prevention and Control of Human Trafficking Ordinance* (PACHTO), was enacted. This was followed by the development of a *National Action Plan for Combating Human Trafficking*. However, as this report will show, more strategic actions are necessary.

Pakistan's Federal Investigation Agency is the country's chief national law enforcement agency with the mandate to prevent and suppress trafficking in persons and smuggling of migrants. While it is uniquely positioned to play a role in combating trafficking and smuggling, it cannot do so alone due to jurisdiction and capacity limitations. Members of the Inter-Agency Task Force also have important parts to play.

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<sup>3</sup> UNODC Pakistan and SDPI, *Examining the Dimensions, Scale and Dynamics of the Illegal Economy: A Study of Pakistan in the Region, December 2011*. Another report, however, estimates the combined total industry revenue of irregular migration in Pakistan and Afghanistan to be approximately USD 959 million: see UNODC Pakistan, *Crime Facilitating Migration from Pakistan and Afghanistan*, January 2010.

<sup>4</sup> US State Department, *Trafficking in Persons Report 2013: Pakistan*, June 2013, available at: <http://www.state.gov/documents/organization/210741.pdf>.

<sup>5</sup> US State Department, *TIP 2013*.

## 2.1 Objectives

This report was commissioned to further understanding of human trafficking and migrant smuggling by developing profiles of transnational movers to, from, and through Pakistan: both irregular migrants and victims of trafficking, as well as those agents and facilitators who profit from the crimes. The report will identify trends in irregular migration and human trafficking and describe, in as much detail as possible, the methods used by irregular movers and facilitators to circumvent border controls.

The report is designed to recommend specific actions that can be taken by the Government of Pakistan – and in particular the Federal Investigation Agency - to increase effective intervention against human trafficking and migrant smuggling.

## 2.2 The problem of data

The collection of updated and reliable statistical data was a significant challenge. Previous research relied on anecdotal evidence and small samples of data. For example, the *Baseline Study on Illegal Migration, Human Smuggling and Trafficking in Pakistan* published by Enterprise for Business & Development Management (EBDM) in 2009 is often cited in subsequent reports. Its primary data collection involved interviews and questionnaires administered to illegal migrants and victims of trafficking. However, the actual number of responses gathered for the study was only 304; 131 were classified as illegal migrants and 172 as victims of trafficking. Among the number of illegal migrants, 79 were Pakistani and 52 were foreign nationals<sup>6</sup>. While the study is valuable in many ways, this small sample size cannot be reliably extrapolated to reflect the whole population of irregular migrants in Pakistan, which is estimated at between 3.35 and 5 million people.

This report, like others before it, also relies substantially on data supplied by government agencies in Pakistan, particularly the Federal Investigation Agency. This data, however, was sometimes found to be inconsistent across different reports and in different formats. This made comparisons across time and districts difficult. Different Anti-Human Trafficking Centres used different classifications to track rates of prosecutions and conviction, and each Centre appeared to collect slightly different data. Moreover, the quality and accuracy of the data could not be guaranteed, partly due to a lack of standardised data management. Discrepancies in data were found: different reports released by the same agency will often contain slightly different numbers<sup>7</sup>. Where discrepancies were noted, only reconcilable data is used in this report. Unreliable data is not used here. Occasionally, data is used but discrepancies and potential errors are noted.

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<sup>6</sup>EBDM, *Baseline Study on Illegal Migration, Human Smuggling and Trafficking in Pakistan*, June 2009, at p23.

<sup>7</sup>For example: the total number of deportees provided by the FIA to the researcher differed from the numbers presented to the Global Forum on Migration and Development in Batumi, Georgia, in 2011.

It is a recommendation of this report that the FIA improves its data collection and management. Standardised data collection must be implemented across Anti-Human Trafficking Centres in Pakistan so that comparable data can be collected. There must be a common understanding across Centres in the country about how to collect data and what data to collect. Definitions, particularly in relation to migrant smuggling and human trafficking, must be clearly understood and agreed upon across Centres. The source of data must be clearly documented.

#### **Findings and recommendations**

- FIA seeks assistance to improve its data collection and data management capacity.
- FIA to allocate resources to development data collection and data management systems, as well as providing relevant training to its staff.
- A standardised data collection system should be implemented across Anti-Human Trafficking Centres in Pakistan.

### **2.3 Methodology and limitations**

This report relies primarily on a survey of open source material, as well as previous studies conducted by UNODC and other agencies. In some cases, unpublished research material provided by NGOs and other stakeholders has been used. The report also draws on interviews conducted with FIA officials and civil society members.

In addition, requests for information were sent to the FIA seeking statistical and narrative data. Six Anti-Human Trafficking Centres responded to the data request: Peshawar, Quetta, Lahore, Gujranwala, Faisalabad, and Multan. The information provided is incorporated into the report. The researcher was also provided with Pakistan's response to the US State Department's *TIP Report Questionnaire*. Again, where relevant, the responses have been analysed and incorporated. The researcher also had the opportunity to meet with several Federal Investigation Agency officials, including two incumbents of the post of the Director of Immigration. Information provided at those meetings was invaluable and incorporated into the report.

Due to the security situation in Pakistan, the researcher could not carry out field research. This limited the opportunity to collect or generate new data. The researcher was not able to observe any Federal Investigation Agency check posts in operation. Consultant was also unable to conduct field visits to border areas. Furthermore, the researcher was not able to conduct first-hand interviews with irregular migrants, victims of trafficking or convicted offenders under migration legislation. Lastly, the researcher was also unable to gain access to a large number of case files for prosecutions related to migrant smuggling and human trafficking. Although two case files from the FIA in Lahore were sighted as examples, files are kept in a combination of Urdu and English and so not fully accessible to the researcher. As such, no systemic analysis of case files was done for the purposes of this report.

In order to compensate for the paucity of data available in Pakistan, this report broadens the search and uses alternative sources. Where possible, Government of Pakistan data has been supplemented by statistical data collected by other border control agencies, including the European Union's Frontex and Australia's Department of Immigration and Citizenship (DIAC). In particular, Frontex and DIAC reports have been used to understand the volume and magnitude of irregular migration to these countries from Pakistan and Afghanistan.

In addition to statistical data, this report uses case studies to provide an in-depth illustration of

particular movements, for example: Hazaras who are smuggled to Australia, and women and girls trafficked to the Gulf. By using case studies that offer ethnographic detail on particular incidents, the report draws patterns from a relatively small sample size in order to provide more nuance and descriptive detail. As new ethnographic research was not possible within the limitations of this report, the case studies are drawn from previous studies or from reputable media outlets. Cases from previous studies have been re-analysed. The use of journalistic accounts and previous case studies provide a rich source of qualitative data for the report, in circumstances where interviews with participants of smuggling and trafficking were not possible.

Despite the magnitude of internal trafficking in Pakistan, a detailed examination of it is beyond the scope of this study. The exclusion of internal trafficking in this study does not diminish the importance or scale of the phenomena, nor does it belittle the suffering caused. There is a scarcity of data. Further, the extent to which internal trafficking falls within the jurisdiction of the FIA is contested and ambiguous. However, where possible and appropriate, the study will examine links between internal and transnational trafficking in persons.

Similarly, Pakistan's regulation of migrant workers who seek work abroad is outside of the scope of the study.<sup>8</sup> However, the report will highlight links between documented and undocumented migration, where appropriate.

Finally, a detailed review of international and domestic laws is also beyond the scope of this study. It is also unnecessary, as several existing reports have already undertaken a detailed analysis of Pakistan's national legislation and its compliance with international treaty.<sup>9</sup>

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<sup>8</sup> For discussions on the control of migrant workers including those from Pakistan see, for example: Pakistan Institute of Labour Education & Research (PILER), *Migrant Workers in SAARC: Dignity and Freedom Across Borders*, c.2010.

<sup>9</sup> UNODC Pakistan, *Smuggling of Migrants by Land, Air and Sea in Pakistan: A Review of National Laws and Treaty Compliance*, October 2011; UNODC Pakistan, *Trafficking in Persons in Pakistan: A Review of National Laws and Treaty Compliance*, October 2011; UNODC Pakistan, *Pakistan's Law Enforcement Response to the Smuggling of Migrants and Trafficking in Persons*, October 2011.

### 3 Fundamental confusion: victims or offenders?

Pakistan signed the *United Nations Convention against Transnational Organized Crime* in 2000 and ratified it on 13 January 2010.<sup>10</sup> However, Pakistan is not a signatory to the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, nor the *Protocol against the Smuggling of Migrants by Land Sea and Air*. In 2002, Pakistan promulgated its own national legislation, the *Prevention and Control of Human Trafficking Ordinance*. Though there is a widespread perception that the Ordinance is the principal anti-migrant smuggling and anti-human trafficking legislation, as previous research has demonstrated, this is incorrect.<sup>11</sup>

There continues to be confusion, not just in Pakistan, between smuggling of migrants and trafficking in persons. In Pakistan, however, there is a tendency to conflate the two concepts at the official level, even within the law enforcement agency community. Human trafficking and people smuggling are often used interchangeably, roughly describing irregular migration. The conflation is reflected in the naming of the Anti-Human Trafficking Units and Anti-Human Trafficking Centres under the jurisdiction of the Federal Investigation Agency across Pakistan.<sup>12</sup> As the main law enforcement agency mandated to combat human trafficking, the units are something of a misnomer as the majority of cases they deal with appear to be of migrant smuggling, not human trafficking.<sup>13</sup>

The conceptual intermingling may be due, in part, to the similar routes or modes of travel used by human traffickers and people smugglers. More troubling, however, as discussed in Section 3.1 below, it is also due to the ambiguous definition of human trafficking in the *Prevention and Control of Human Trafficking Ordinance*.

#### 3.1 Ambiguities in the Prevention and Control of Human Trafficking Ordinance

The *Prevention and Control of Human Trafficking Ordinance* defines human trafficking in section 2(h) as follows:

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 an means whatsoever for any of the purposes mentioned in section 3.

Section 3 of the Ordinance elaborates additional elements of the crime of human trafficking, including prohibited purposes such as "attaining any benefit"; exploitation of various kinds; and coercion and facilitation. It also stipulates applicable sentences, provides a heavier sentence for the trafficking of women and children, and crimes related to abuse of documentation.

Previous research found that some law enforcement and judicial officers consider section 2(h) as defining a hybrid crime, one that also covers migrant smuggling;

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<sup>10</sup> Pakistan ratified the *United Nations Convention against Transnational Organized Crime* with reservation as to Article 35(2), see: [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en)

<sup>11</sup> UNODC Pakistan, *Smuggling of Migrants*, pp10-16.

<sup>12</sup> Currently 13 Units are functioning, according to GOP's response to the US Department of State's 2013 *Questionnaire for MOI/Police and FIA* in relation to the *Trafficking in Persons Report*, which requests information for 2012. Hereafter, the FIA's response is cited as: GOP, *Response to USSD TIP Questionnaire*, 2013

<sup>13</sup> US State Department, *TIP 2013*.

Pakistani law enforcement and judicial officials suggest that s 2(h)'s inclusion of 'recruiting ...  
...  
harbouring or receiving a person ... by ... receiving any payment or benefit, or sharing or receiving a share for such person's subsequent transportation out of ... Pakistan', combined with section 3 repetition that one of the covered purposes is of 'attaining any benefit', amounts to criminalisation of smuggling.<sup>14</sup>

Despite the perception, however, the Ordinance's definition of human trafficking does not simultaneously and adequately capture trafficking in persons and migrant smuggling. It lacks the core element required to define smuggling of migrants<sup>15</sup>. Crucially, according to international law, for an act to constitute migrant smuggling the offender must procure the illegal entry of a person in order to obtain a financial or material benefit<sup>16</sup>. The requirement for illegal entry of a person into a State is not present in the definition of human trafficking under the Pakistani Ordinance. In the *Prevention and Control of Human Trafficking Ordinance*, the provisions are not concerned with the legality of entry or exit, but only with the "transportation out of or into Pakistan". On one analysis, migrant smuggling relates to a specific act: the procurement of illegal entry of a person. In comparison, human trafficking covers a broader range of acts: obtaining or recruiting victims and transporting them for an exploitative purpose.

### 3.2 Implications for law enforcement

The confusion and conflation between human trafficking and migrant smuggling has implications for the ability of law enforcement agencies to combat these crimes. An imprecise use of the term trafficker to also mean smuggler – including in official Federal Investigation Agency documents – perpetuates the problem. It leads to inaccurate descriptions of cases as well as problems with data collection and reporting. This reduces the ability of the Government to understand and analyse these crimes and the effectiveness of its response.

For example, one of the FIA's flagship publications is the *Red Book of Most Wanted Human Traffickers*. The volume, in fact, contains mostly agents that facilitate migrant smuggling rather than human traffickers. In the 2012 edition of the Red Book, Raja Humayun from Gujrat is listed as a "most wanted trafficker". He is, in fact, an agent who facilitated migrant smuggling overland through Turkey and who was subsequently arrested after publication of the book.<sup>17</sup>

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<sup>14</sup> UNODC Pakistan, *Crime Facilitating Migration*, p50

<sup>15</sup> UNODC Pakistan, *Smuggling of Migrants*, pp14-15.

<sup>16</sup> UN, *Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Crime*, Article 3(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.

<sup>17</sup> FIA, *Red Book*, 2012; provided by FIA to the researcher in 2013. Previous 2009 edition of the *Red Book* is available at: <http://www.fia.gov.pk/redbooks/redbooktriff.pdf>. The case of Raja Humayun is discussed in more detail in section 6.2.1.

In Pakistan's answers to the *Questionnaire for MOI/Police and FIA-2013 for the Department of State Trafficking in Persons Report*,<sup>18</sup> the lack of distinction between people smuggling and human trafficking is clear. For example:

**Question 16:** What is the total number of trafficking victims identified during 2012? Of these, how many victims were referred to care facilities for assistance?

**Pakistan's response:**

All the 22,424 deportees arriving in bulk from Oman, Iran, Turkey and other countries are treated as victims and are dealt with under the law including provision of meal, legal counselling and protection etc, transportation, medical treatment, legal advice, transportation charges for their home town. However, the repeaters or identified agents/sub-agents are treated as offenders.

**Question 17:** Do police and FIA have any plan to begin to distinguish between people who have been smuggled and victims who have been trafficked? If yes how? Please provide any numbers or details for 2012.

**Pakistan's response:**

Yes. FIA very clearly distinguishes between persons trafficked/smuggled and victims who have been trafficked. On receipt of the persons they are very thoroughly investigated by FIA, if they have been exploited with or without consent, they are deemed to be victims under PACHTO 2002. Natural parents even cannot exploit their children. UNODC & IOM also organised seminars for officers of FIA and Police on working level.

It emerges from Pakistan's responses that in an attempt to take a victim-centred approach to human trafficking, the term trafficking is used loosely to also mean smuggling. In the response to question 16, Pakistan stated that it treated 22,424 deportees as victims of trafficking. Moreover, those who appeared to have been trafficked more than once were deemed to be offenders. The classification of repeat victims as offenders is illogical: victims of trafficking – even if re-trafficked – remain victims. This suggests that the FIA is, in fact, dealing with irregular migrants rather than victims of trafficking. Moreover, Oman is a transit and destination country for Pakistani irregular migrants, and Iran and Turkey are two key transit countries for irregular migrants from Pakistan heading to Europe. Again, this suggests that the bulk of deportees are migrants who are smuggled rather than victims who were trafficked. To question 17, the reference to "persons trafficked/smuggled and victims who have been trafficked" clearly demonstrates the misuse of the term trafficked. The reference to individuals being "exploited with or without consent" also suggests that the response covers both migrants who have been smuggled and victims of trafficking.

Notably, confusion appears to be primarily one-way: trafficker is used to mean both trafficking and smuggling. However, the term smuggling is rarely used in relation to migrants and does not appear to substitute for trafficking. The inaccurate use of key terminology such as trafficking or smuggling has important implications for law enforcement agencies. First, it impacts the Government of Pakistan's ability to collect accurate data and gather information about each activity. The Government is currently unable to provide statistical data that disaggregates the

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<sup>18</sup> GOP, *Response to USSD TIP Questionnaire, 2013*.

number of smuggled and the number of victims trafficked in a way that is consistent with definitions in international law.

In addition, the perceived ambiguities in the national legislation PACHTO have shaped the way in which law enforcement and judicial officials have acted against migrant smuggling and human trafficking. In practice, the Ordinance appears to be used to prosecute people smugglers as well as human traffickers. As discussed in Section 6.2 of this report, the Ordinance does not appear to be an effective legislative tool against migrant smugglers, as convictions are low and sentences are light. Moreover, the use of the Ordinance to prosecute migrant smuggling creates another data collection problem. The two offences are not distinguished in statistical analysis, thus leading to a possible over-reporting of prosecution and conviction figures in relation to human trafficking.

Outside of the Ordinance, offences and other provisions relating directly and indirectly to people smuggling are scattered across a number of legislative and regulatory instruments. These have already been surveyed in previous research.<sup>19</sup> The most significant are provisions in the *Foreigners Act 1946* and the *Emigration Ordinance 1979*, which regulate the movement of foreign nationals and Pakistani nationals in and out of Pakistan. As this report examines, in Section 6.2 below, a vast majority of prosecutions against irregular migrants are under the *Emigration Ordinance* and other related legislation such as the *Passport Act 1974* and the *Pakistan Penal Code 1860*.

#### Findings and recommendations:

- The Government of Pakistan to enact comprehensive legislation against smuggling of migrants and trafficking in persons by adopting the *Model Law against Trafficking in Persons and Smuggling of Migrants* as previously submitted by UNODC.
- FIA provide training to its officials to ensure a clear conceptual distinction between smuggling and trafficking, and promote a strict use of language and terminology in relation to these crimes to their Anti-Human Trafficking Circles.
- FIA's data collection must clearly and accurately deploy the term *smuggling* versus *trafficking*, as well as *smuggled migrants* versus victims of *trafficking in persons*.
- Revise language in FIA literature to clearly distinguish between *trafficking* and *smuggling*.
- Amend the *Prevention and Control of Human Trafficking Ordinance* so that the definition of human trafficking is clearly distinguished from – and excludes migrant smuggling. The definition of human trafficking in Pakistan's domestic legislation should be consistent with the *Model Law against the Trafficking in Persons* as previously submitted to the Government by UNODC.
- FIA should avoid the use of the *Prevention and Control of Human Trafficking Ordinance* to prosecute migrant smuggling.

### 3.3 Terminology and structure

In the absence of legislation in Pakistan that specifically defines smuggling of migrants, this report will use the following definition from Article 3(a) of the *Smuggling of migrants Protocol*:

Smuggling of migrants shall mean the procurement, in order to obtain, directly or

<sup>19</sup> UNODC Pakistan, *Trafficking in Persons in Pakistan: A Review of National Laws and Treaty Compliance*, October 2011.

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.

As noted earlier, smuggling of migrants is a transnational crime and involves the illegal crossing of borders. This report will examine both the illegal entry of foreigners into Pakistan, as well as the illegal entry of Pakistani nationals into third countries. The report will also examine the phenomenon of foreigners who transit through Pakistan for onward travel to third countries. Such transit involves at least two illegal entries, first into Pakistan and then onto a third country.

Under Article 3(a) of the *Trafficking in Persons Protocol*, trafficking in persons is defined as:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of 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 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.

This definition criminalises trafficking that takes place both internally within a State as well as international cross-border trafficking. Moreover, the Protocol criminalises a wide range of means by which trafficking can occur, including: by fraud, deception, abuse of power or position of vulnerability.

As noted earlier, in Pakistan the operational definition of human trafficking is contained in section 2(h) of the *Prevention and Control of Human Trafficking Ordinance*. Under the Ordinance, only trafficking that involves “transportation out of or into Pakistan” is criminalised. The definition, therefore, only criminalises international trafficking and does not address internal trafficking at all.

For the purposes of this report, the Ordinance definition of human trafficking is used. As such, internal trafficking within Pakistan is beyond the scope of this report. However, references will be made to internal trafficking where relevant to issues of international trafficking. However, this report reiterates the call for the amendment of the *Prevention and Control of Human Trafficking Ordinance* in line with the *Model Law against the Trafficking in Persons*, as previously recommended by UNODC.<sup>20</sup>

This report is structured to maintain the distinction between migrant smuggling and human trafficking. Section 4 deals with smuggling of migrants to, through, and from Pakistan. Section 5 deals with people trafficking to, through, and from Pakistan. As the routes of movement between smuggling and trafficking are often the same, this section focuses on the *modus operandi* of trafficking where it differs from smuggling.

As demonstrated above, law enforcement agencies in Pakistan have tended to conflate smuggling and trafficking into one phenomenon. As such, the report will survey law enforcement responses to trafficking and smuggling together as the data collection and information provided are entangled. However, recommendations to law enforcement agencies will address the response to trafficking and smuggling separately to encourage conceptual clarity in the future.

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<sup>20</sup> UNODC Pakistan, *Trafficking in Persons in Pakistan: A Review of National Laws and Treaty Compliance*, October 2011.



## 4 Smuggling of migrants

### 4.1 Pakistan as destination country

#### 4.1.1 Legal framework

Under section 14(2) of the *Foreigners Act 1946*, any foreigner who “knowingly enters into Pakistan illegally” shall be guilty of an offence under the Act and be subject to imprisonment up to 10 years and a fine up to PKR 10,000.<sup>21</sup> Further, any foreigners without permission to stay in Pakistan may be held in custody or deported under sections 14A to 14C. It is also an offence to assist an individual to enter into Pakistan illegally or to employ an illegal entrant (sections 13A and 13B). The *Foreigners Act* also imposes obligations on masters of vessels and aircraft carriers, as well as hotel keepers, to provide information about foreigners (sections 6 and 7).

Pakistan is not a signatory of the 1951 *Convention relating to the Status of Refugees* or its 1967 Protocol, and it has no national laws related to the protection of refugees. In accordance with the Cooperation Agreement between the Government of Pakistan and UNHCR, since September 1993, UNHCR has carried out individual refugee status determination in accordance with its mandate in Pakistan. In practice, the Government has generously hosted one of the largest and protracted refugee populations in the world. However, under the national law of Pakistan, foreigners recognised by UNHCR as refugees remain illegal under the *Foreigners Act*.

The National Aliens Registration Authority, also referred as NARA, was established under section 14D of the *Foreigners Act* and tasked to register irregular migrants. For irregular migrants who are eligible for NARA registration, it does not legalise their residence in Pakistan. Instead, it grants a temporary residence and work permit to registered foreigners.

Registration with NARA, however, is only available to those irregular migrants who were present in Pakistan immediately before the commencement of the *Foreigners (Amendment) Ordinance 2000* – being 10 July 2000 (section 14D(2)). Irregular migrants who arrived in Pakistan after this time are not eligible for NARA registration. In 2003, the responsibility for the registration of Afghan nationals moved from NARA to the Ministry of States and Frontier Regions. In the same year, under a Memorandum of Understanding with UNHCR, NARA registration was extended to foreigners not originating from Afghanistan and who had been recognised as refugees by UNHCR even if they arrived in Pakistan after 2000. Nationals from India and from African countries are only registered subject to a security clearance.<sup>22</sup> In practice, this made NARA registration difficult for many foreign nationals.

#### 4.1.2 Scale and trend

Due to the clandestine nature of illegal immigration, the exact number of irregular migrants in Pakistan is difficult to estimate. The restrictions relating to National Aliens Registration Authority (NARA) registration also limit the ability of the authority to collect accurate data. As of 2008, only 125,987 foreigners have registered with NARA.<sup>23</sup> In April 2013, there were indications that NARA will renew efforts to register illegal foreigners.<sup>24</sup>

Before NARA registration began, according to the population census of 1998, there were

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<sup>21</sup> GOP, *Foreigners Act 1946*, unofficial translation available at: <http://www.refworld.org/docid/3ae6b4f314.htm>; and GOP, *Foreigners (Amendment) Ordinance 2000*, unofficial publication available at: <http://legaladvicepk.com/foreigners-amendment-ordinance-2000-3572.html>.

<sup>22</sup> EBDM, *Baseline Study*, pp39-40

<sup>23</sup> EBDM, *Baseline Study*, pp39-40.

<sup>24</sup> For example: <http://dailynewspaperadspk.blogspot.com/2013/04/get-registered-with-national-aliens.html>

approximately 1.9 million irregular migrants in Pakistan.<sup>25</sup> In 2009, NARA estimated that there were approximately 3.35 million irregular migrants with the majority located in Karachi.<sup>26</sup> A majority were Afghan nationals, including refugees, estimated at 2.21 million. This represented 66 per cent of the irregular migrant population. More recently, it was estimated that there are 2.7 million Afghans in Pakistan.<sup>27</sup> Bengalis are the second largest group, estimated at 1.03 million people or 31 per cent of the population. Burmese nationals comprise the third largest group, with 100,000 individuals in Pakistan. There were also approximately 4000 people from Nigeria and Somalia, with an additional 6000 individuals from other countries.<sup>28</sup> More recently, in December 2011, the Federal Investigation Agency estimated that the number of illegal migrants in Pakistan could be as high as 5 million, with 2.8 million residing in Karachi alone.<sup>29</sup>

<b>Country of origin</b>	<b>Estimated population</b>
Afghanistan	2.7 million
Bangladesh	1.03 to 2 million
Burma (Myanmar)	100,000
Others	10,000
Total	4.11 to 4.81 million

Many Afghan, Bengali, and Burmese irregular migrants have resided in Pakistan for protracted periods. One study in 2005, based on a survey of 3000 irregular migrants residing in Karachi, showed that 80 per cent of the group were second-generation migrants who were born in Pakistan to parents who had not acquired Pakistani citizenship.<sup>30</sup> In addition, according to the *Afghan Population, Profiling, Verification and Response Household Survey* conducted between 2010 and 2011 (based on questionnaires administered to 135,452 households and 974,961 individuals), 45 per cent of Afghans arrived in Pakistan between 1980 and 1985 and another 35 per cent arrived in Pakistan before 1980. This means that a majority of the Afghan population (80%) have been in Pakistan for approximately 30 years. Only two per cent of Afghans came to Pakistan after 2000.<sup>31</sup> Moreover, 74 per cent of Afghan nationals in the country were born in Pakistan.<sup>32</sup>

Irregular immigration to Pakistan has two key features: historic and protracted. The vast majority of illegal entrants to Pakistan occurred before the year 2000 and they have taken up long-term residence. These entrants have lived, married, had children and died in Pakistan. Some irregular migrants have been in Pakistan for at least three generations. This suggests that any growth in the population of irregular migrants to Pakistan is not due to new arrivals. Rather, the population growth is likely to be the result of births among irregular migrants who have long been settled in Pakistan. Increases in the number of irregular migrants may also be a product of improved data collection since 2000.

<sup>25</sup> EBDM, *Baseline Study*, p39.

<sup>26</sup> However, *The Nation* reported on 9 January 2010 that MOI estimates the number of illegal migrants at more than two million.

<sup>27</sup> Asad Hashim, 'Afghans stranded in Pakistan's no-man's land', *Al Jazeera*, 26 April 2013, available at: <http://www.aljazeera.com/indepth/features/2013/04/2013425133226754963.html>.

<sup>28</sup> EBDM, *Baseline Study*, p41.

<sup>29</sup> UNODC Pakistan, *Smuggling of Migrants and Trafficking in Persons: A Situational Analysis of Pakistan*, December 2011, p11; and The Express Tribune, 'Five million illegal immigrants residing in Pakistan', 16 January 2012, available at: <http://tribune.com.pk/story/322325/five-million-illegal-immigrants-residing-in-pakistan/>.

<sup>30</sup> EBDM, *Baseline Study*, p43, citing a 2005 study by the Collective for Social Science Research. Although the children of irregular migrants born in Pakistan are not technically 'migrants', they count within the estimated population of irregular migrants because they have no legal right of residence.

<sup>31</sup> The data showed that 8 per cent of respondents did not indicate a date of arrival.

<sup>32</sup> SAFRON, CAR and UNHCR, *Population Profiling, Verification and Response Survey of Afghans in Pakistan 2011, Final Report*, Doc Ref: PPVR/HHS/MAR 2012, available at: <http://unhcrpk.org/wp-content/uploads/2012/11/PPVR-Report.pdf>, see Table 5.5.1a and Table 5.5.1b at p81.

Therefore, interdiction of new entrants will only have a limited impact on the number of irregular migrants in Pakistan due to the low numbers of arrivals in comparison to the pre-existing population. Combating illegal migration to Pakistan needs to focus on regularisation and regulation of the population that have already taken up residence in the country.

### 4.1.3 Afghans

By far, the largest group of foreigners in Pakistan is the Afghans, who have been coming to Pakistan since the late 1970s and 1980s due to armed conflict and political instability in that neighbouring country. As discussed earlier, the majority of Afghan nationals arrived in Pakistan before 1985. The Population Census Organisation conducted the first ever census of Afghans in Pakistan in 2005, and determined that there were 3.049 million Afghan people in the country.<sup>33</sup> This figure included Afghan nationals who were born in Pakistan, migrant labourers, refugees, and other irregular migrants.

Since March 2002, UNHCR has facilitated the return of almost 3.8 million registered Afghans. However, as of January 2013 there remained approximately 1.6 million registered Afghans in Pakistan. In addition, there are an estimated 1.1 million unregistered Afghans who are considered illegal migrants.<sup>34</sup> This figure includes second and third-generation Afghans who were born in Pakistan.

From October 2006 to February 2007 the National Database and Registration Authority conducted a registration exercise for Afghan nationals residing in Pakistan in order to provide official documentation to them. More than 2.1 million Afghans were registered during the four-month exercise. All registered Afghans over the age of five were issued Proof of Registration cards valid until December 2009. The cards recognised the Afghans as temporary residents in Pakistan and provided them protection from unwarranted arrest under the *Foreigners Act*. Afghans without cards were, and continue to be, considered irregular migrants.<sup>35</sup> In 2010, the Government of Pakistan endorsed UNHCR's *Strategy for the Management of Afghans* in Pakistan, which included the extension of the validity of cards until the end of 2012. Under the same agreement it was also anticipated that new *Secure Cards for Afghan Citizens*, with identification features, would replace the Proof of Registration cards.<sup>36</sup> In December 2012, the Government extended the validity of the cards for a further six months until the end of June 2013.<sup>37</sup>

On 28 June 2013, Afghanistan, Pakistan, and UNHCR agreed that the Government would issue clear instructions to all provincial governments and relevant departments that no adverse action should be taken against Afghan refugees with expired Proof of Registration cards until the approval of the *National Policy for Afghan Refugees in Pakistan*. Although UNHCR stated that this agreement means that refugees have continued protection and “no gaps” in their legal status, it is notable that the validity of the cards has not been extended.<sup>38</sup> One interpretation of the latest agreement is that it amounts to an executive order not to implement the punitive measures of the *Foreigners Act* against the 1.6 million Afghans with expired cards who are now, technically, irregular migrants. From this

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<sup>33</sup> SAFRON, Brief on Afghan Refugee, undated, available at: <http://www.safron.gov.pk/gop/index.php?q=aHR0cDovLzE5Mi4xNjguZuAuMTM2L3NhZnJvbi9mcm1EZXRhaWxzLmFzcHg%2FaWQ9MiZhbXA7b3B0PXBybGJjaWVz> accessed 06/03/2013; and also EBDM, Baseline Study, p51,

<sup>34</sup> Asad Hashim, 'Afghans stranded in Pakistan's no-man's land', Al Jazeera, 26 April 2013, available at: <http://www.aljazeera.com/indepth/features/2013/04/2013425133226754963.html>.

<sup>35</sup> UNHCR, *Briefing Notes: Registration of Afghans in Pakistan*, 16 February 2007, available at: <http://www.unhcr.org/45d58a692.html>.

<sup>36</sup> UNHCR, *Press Releases: UNHCR welcomes Pakistan's decision to extend validity of registration cards for Afghan refugees*, 25 March 2010, available at: <http://www.unhcr.org/4bab73086.html>; and CAR Punjab, *FAQ*, available at: <http://car.punjab.gov.pk/?q=faq#q9>; and The News, 'NADRA launches secure cards for Afghan refugees', 15 October 2010, available at: <http://images.thenews.com.pk/15-10-2010/islamabad/10120.htm>.

<sup>37</sup> Alex Rodriguez, 'Pakistan extends refugee status for Afghans by six months' in LA Times, 13 December 2012, available at: <http://articles.latimes.com/2012/dec/13/news/la-pakistan-afghan-refugees-20121213>.

<sup>38</sup> UNHCR, 'Press release: Afghanistan, Pakistan, UNHCR agree on protection for Afghan refugees in Pakistan beyond 30 June in the search for solutions', 28 June 2013.

perspective, as of 1 July 2013, Pakistan has a total of 2.7 million irregular migrants who originated from Afghanistan.

<b>Afghans</b>	
Population	Estimated at 2.7 million including 1.6 registered Afghans with expired Proof of Registration cards.
Main locations	Peshawar, Quetta and Karachi
Arrival dates	Majority before 1985
Drivers	Armed conflict and political instability in Afghanistan, particularly during the Soviet invasion between 1980 and 1985.
Routes	By land via Torkham and Chaman check posts
Features	Over 83% are ethnic Pashtuns

A majority of Afghans in Pakistan are concentrated in and around Peshawar. Some Afghans have engaged in secondary movement within Pakistan for economic opportunities or due to natural disasters. To earn livelihoods some Afghans have travelled to Quetta and Malir, while some moved to Kohat following the 2005 earthquake or to Nowshera after the 2010 floods. Only 22 per cent of the Afghan's surveyed were economically active, with a predominantly male workforce. The dominant occupations are as refuse workers and vendors (47%).<sup>39</sup>

The situation of Afghans in Pakistan is protracted. A majority of Afghan nationals in Pakistan are second or third-generation migrants or refugees born in Pakistan (74%). Of those who are born in Afghanistan (26%), a majority (72%) come from Nangarhar, Kunduz, Kabul, Jowzjan, Baghlan, and Ghazni Provinces. A majority of Afghans arrived before 1985, with the largest group of Afghans (45%) of mixed ethnicity arriving between 1980 and 1985 during the Soviet invasion of Afghanistan.<sup>40</sup>

#### 4.1.4 Bengali, Bangladeshi, and Burmese

In 2008, the National Database and Registration Authority (NAPRA) estimated the number of irregular migrants from Bangladesh in Pakistan to be approximately 1.03 million.<sup>41</sup> A 2010 study puts the official estimate at about 2 million Bengalis in Karachi, citing Farooq Sattar, Deputy Convenor of the Mutahida Qaumi Movement (MQM) and then Federal Minister for Overseas Pakistanis.<sup>42</sup> However, estimates on the population of Bengalis have varied from between 1.2 and 3 million people, depending on the source.<sup>43</sup> Non-Bengali Muslims, the Biharis, who migrated to East Pakistan after Partition in 1947 became stranded after the 1971 independence of Bangladesh and have remained in Pakistan. While the majority of Bengali migrants appear to have arrived in Pakistan prior to 1971, *EBDM's Baseline Study of 2009* suggests that the inward flow of migrants from Bangladesh has continued. However, the relative stability of Bangladesh may have diminished the attractiveness of Pakistan as a destination. However, Pakistan continues to be used as a transit country to the Gulf states and beyond.<sup>44</sup> Bengalis are often exploited in Pakistan, working as domestic servants, labourers, garbage collectors, street vendors or working in garment factories, on printing presses, and in the fishing industry.<sup>45</sup>

<sup>39</sup> SAFRON, CAR and UNHCR, *PPVR Final Report*, pp14 and 52.

<sup>40</sup> SAFRON, CAR and UNHCR, *PPVR Final Report*, pp80 and 81.

<sup>41</sup> EBDM, *Baseline Study*, p39.

<sup>42</sup> Syed Sikander Mehdi, *Illegal Migration, Human Smuggling and Trafficking: From Bangladesh to Pakistan and Beyond*, (Study conducted for BEFARe, in collaboration with ActionAid Pakistan and European Commission), 2010, p48.

<sup>43</sup> Mehdi, *Bangladesh to Pakistan*, p48

<sup>44</sup> Mehdi, *Bangladesh to Pakistan*, p47

<sup>45</sup> UNODC Pakistan, *Situational Analysis*, p19. For an illustrative example, see Case Study A.

<b>Bengali, Bangladeshi, and Burmese</b>	
Population	Estimated at between 1.03 and 2.1 million
Main locations	Karachi
Arrival dates	1971 to 1990s
Drivers	Independence of Pakistan and Bangladesh; Burma citizenship laws in relation to Rohingyas; economic opportunities and family links.
Routes	From Bangladesh through India on land From Burma, through Bangladesh and India
Features	Majority arrived prior to 1997; stateless

The number of irregular migrants in Pakistan originating from Myanmar, formerly known as Burma, is also unclear. Burmese irregular migrants are likely to be Rohingyas, a Muslim minority from Burma who are mostly farmers and labourers from the Rakhine region. Rohingyas were stripped of their Burmese citizenship and became stateless with the passing of Myanmar's 1982 Citizenship Act. It is estimated that Bangladesh hosts more than 200,000 Rohingya refugees.<sup>46</sup> In Pakistan, the NAPRA estimated the number of Burmese irregular migrants to be 100,000. They are reportedly concentrated in the suburbs of Karachi, including Korangi, Orangi, and Landhi. Many Rohingyas also live in Bengali settlements and are often mistakenly identified as Bengalis.<sup>47</sup> The Burmese reportedly came to Pakistan in the 1990s, likely via Bangladesh, and mainly work in the textile industry or as labourers.

#### **Case Study A: Bengali irregular migrant:<sup>48</sup>**

A Bengali female domestic worker in an upscale area in Karachi. She arrived in Pakistan in 1997 and travelled via India by train. She does not have any legal right of residence in Pakistan. At the time of the research, in 2009, the woman was planning to travel back to Bangladesh to visit and care for her ailing mother. She planned to return to Pakistan a few months later and also planned to bring another relative with her. She planned to travel by air to Bangladesh and was paying a smuggler PKR 50,000 to accompany her on the trip and to provide travel documentation including a passport and identification. The agent belonged to the same village in Bangladesh. For the return trip, the worker planned to again travel through India overland, where she had relatives.<sup>49</sup>

An IOM study from 2004 based on 1,637 illegal migrants in Karachi and surrounding areas suggests that a majority of Bengalis and Burmese came to Pakistan seeking better economic opportunities. Family connections and links also influenced their decision.<sup>50</sup> A majority of the migrants appear to have funded the travel costs themselves with a smaller proportion of individuals drawing on the assistance of family and relatives. It is likely that most Bengali and Bangladeshi migrants travelled to Pakistan through India using land routes. Research also suggests that there continues to be irregular movement between Bangladesh and Pakistan, with illegal migrants using smugglers to travel back to Bangladesh to visit family and then return to Pakistan.<sup>51</sup>

<sup>46</sup> Refugee International, 'Bangladesh', available at: <http://www.refugeesinternational.org/where-we-work/asia/bangladesh>

<sup>47</sup> Mehdi, *Bangladesh to Pakistan*, p47.

<sup>48</sup> EBDM, *Baseline Study*, p48.

<sup>49</sup> There are two trains travelling between India and Pakistan: Friendship Express and Thar Express

<sup>50</sup> There are two trains travelling between India and Pakistan: Friendship Express and Thar Express

<sup>51</sup> EBDM, *Baseline Study*, p48

### Findings and recommendations:

- Alien with an illegal immigration status to Pakistan is historic and protracted.
- A majority of illegal aliens have been long-term residents or were born in Pakistan.
- Afghans are the largest group of irregular migrants in Pakistan, comprising approximately 2.7 million individuals. However, 74 per cent of Afghan nationals in Pakistan were born in Pakistan.
- Bengali, Bangladeshi, and Burmese nationals combined are the second largest group of irregular migrants in Pakistan, with between 1.03 and 2.1 million individuals concentrated in Karachi. A majority of the population arrived in Pakistan prior to 1997.
- New arrivals of irregular migrants are very small in number compared to the existing population of irregular migrants in Pakistan.
- Due to the historic and protracted nature of irregular migration in Pakistan, interdiction will only have a limited impact.
- The Government of Pakistan should explore ways to regularise and regulate the status of the large population of irregular migrants who have resided in Pakistan for an extended period.
- The Government of Pakistan might consider acceding to the 1951 Refugee Convention and extend refugee protection to those categories of persons entitled to it under international law."

## 4.2 Pakistan as a transit country

Pakistan's economic and political circumstances limit its appeal to irregular migrants as a destination country. Although irregular migration is often driven by disparities in economic opportunities or relative physical and legal security, Pakistan is often not the intended final destination for irregular migrants. Those from Afghanistan and Bangladesh – the two largest groups – use Pakistan as a transit country to reach the Gulf states, Europe, and Australia. However, currently there are no statistics on how many foreign nationals use Pakistan as a transit country for onward migration.

Existing research shows that migration patterns from Afghanistan and Pakistan are entangled. In addition, irregular migrants from Pakistan and Afghanistan use the same services from smugglers. Previous research also shows that irregular migrants from Pakistan and Afghanistan occasionally claim to originate from the other and use fraudulent documents to support such claims. This has induced destination countries to often treat irregular migration from Pakistan and Afghanistan as a joint phenomenon.<sup>52</sup>

Similarly, previous research shows that the second largest group of inward irregular migrants to Pakistan – Bengalis and Bangladeshis – also use Pakistan as a transit country to the Gulf, the Middle East and further afield to Turkey, Greece, and Europe.<sup>53</sup> Although Pakistan's appeal as a destination state has declined it remains an attractive transit point, particularly through Karachi.<sup>54</sup> There is also some evidence that Bengali migrants use Karachi as a transit point to seek opportunities in Iran.<sup>55</sup> However, there is no information available on the magnitude of Bengalis using Karachi as a transit point.<sup>56</sup> Like Afghan and Pakistani irregular migrants, Bengalis too have used fraudulent Pakistani identity documents. This has led some third countries to deport Bengalis back to Pakistan as Pakistani nationals.

<sup>52</sup> UNODC Pakistan, *Crime Facilitating Migration*, p7

<sup>53</sup> EBDM, *Baseline Study*, p 48; and Mehdi, *Bangladesh to Pakistan*, p2

<sup>54</sup> Mehdi, *Bangladesh to Pakistan*, p2

<sup>55</sup> EBDM, *Baseline Study*, p48

<sup>56</sup> Between 1999 and 2009, there has been a significant increase in the amount of remittances from the Gulf states to Bangladesh. Remittances from Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, UAE, and Iran totalled USD 1.24 billion in 1998-1999 and increased to USD 6.38 billion in 2008-2009. In the same period, remittances from Saudi Arabia to Bangladesh alone increased from USD 685 million to 2.86 billion. This suggests a significant increase of Bangladeshi/Bengali migrants (both legal and irregular) to these destinations. See Mehdi, *Bangladesh to Pakistan*, p24.

## 4.3 Pakistan as source country

### 4.3.1 Legal framework

As noted in Section 3.1 of this report, the *Prevention and Control of Human Trafficking Ordinance* is not the appropriate legislation to regulate trafficking in persons or smuggling of migrants. Offences and other provisions relating directly and indirectly to irregular migration from Pakistan are scattered in a number of other pieces of legislation. For Pakistani nationals intending to emigrate, the most important provisions are contained in the *Emigration Ordinance 1979*, the *Passport Act 1974* and the *Pakistan Penal Code 1860*. Provisions in these laws cover conduct of the intending migrant and that of facilitators and agents.

The *Passport Act* prohibits any citizen of Pakistan to depart without a passport or a valid visa for the destination country (PA 3). It also proscribes a range of conduct related to obtaining a passport through fraudulent means and other forms of passport fraud (PA 6). The *Emigration Ordinance* regulates the emigration of Pakistani nationals, including the migration of workers as arranged by Overseas Employment Promoters. Offences described by these provisions are broad and cover both the intending migrant's and the facilitator's actions relating to people smuggling and irregular migration. Offences include attempts to fraudulently induce to emigrate (EO 18) and receiving money unlawfully in connection with emigration (EO 22). Provisions of the *Pakistan Penal Code* related to "cheating" and "forgery" cover conduct on the part of facilitators and agents in smuggling networks (PPC 419, 420, 468 and 471).<sup>57</sup>

### 4.3.2 Scale and trend

Pakistan is a source country for irregular migrants to the Gulf states, Europe, and the United Kingdom, as well as Australia. Previous research shows that a majority of irregular migrants from Pakistan originate from central and southern Punjab as well as parts of Sindh and the frontier regions.<sup>58</sup> As discussed, Afghans also use Pakistan as a transit country and use the same routes of travel as Pakistani nationals. The mixed population of Afghan and Pakistani nationals who attempt irregular migration have caused concern in some destination countries. Nationals of both countries have featured regularly in the lists of top ten nationalities for illegal crossings, irregular arrivals, overstay, deportees, and asylum seekers in destination countries.

According to Federal Investigation Agency figures, the number of Pakistani nationals deported back for immigration violations in third countries has remained relatively stable at more than 52,000 individuals per year since 2009. There was a small decrease of 11 per cent in 2010 with figures again returning to previous levels in 2011 and holding in 2012. The total number of deportees includes Pakistanis detected when attempting illegal border crossings, as well as those deported for illegal stays in third countries. From 2010 to 2012, more than one third of annual deportees have been returned from Iran, Turkey, Greece, Oman, and Spain. These represent the main transit and destination countries for Pakistani nationals heading to Europe. This suggests that European countries remain one of the key destinations for Pakistani nationals. Although with the recent economic downturn in Europe, several informants have suggested that the European Union is becoming a less attractive destination. Australia is an alternative destination country, with transit through Malaysia, Thailand, and Indonesia. The Gulf states remain another destination for irregular migrants.

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<sup>57</sup> A full list of relevant provisions is in Annex I; see Section 6.2 for a full discussion of prosecution against people smuggling.

<sup>58</sup> UNODC Pakistan, *Situational Analysis*, p14.



**Table 2:  
Deportees returned to Pakistan (FIA)<sup>59</sup>**

	2007	2008	2009	2010	2011	2012
<b>General deportees</b>	61,364	44,259	52,005	46,032	53,868	54,257
<b>Deportees from ITGOS<sup>60</sup></b>	11,341	18,024	13,580	16,530	23,196	22,424
<b>% share of ITGOS of general deportees</b>	18	41	26	36	43	41

**Table 3:  
Breakdown of deportees from ITGOS countries (FIA)<sup>61</sup>**

	2008	2009	2010
<b>Deportees from ITGOS</b>	18,024	13,580	16,530
<b>Iran</b>	7788	4688	8478
<b>Turkey</b>	6220	1775	1275
<b>Greece</b>	135	576	725
<b>Oman</b>	3692	6460	5978
<b>Spain</b>	189	81	74

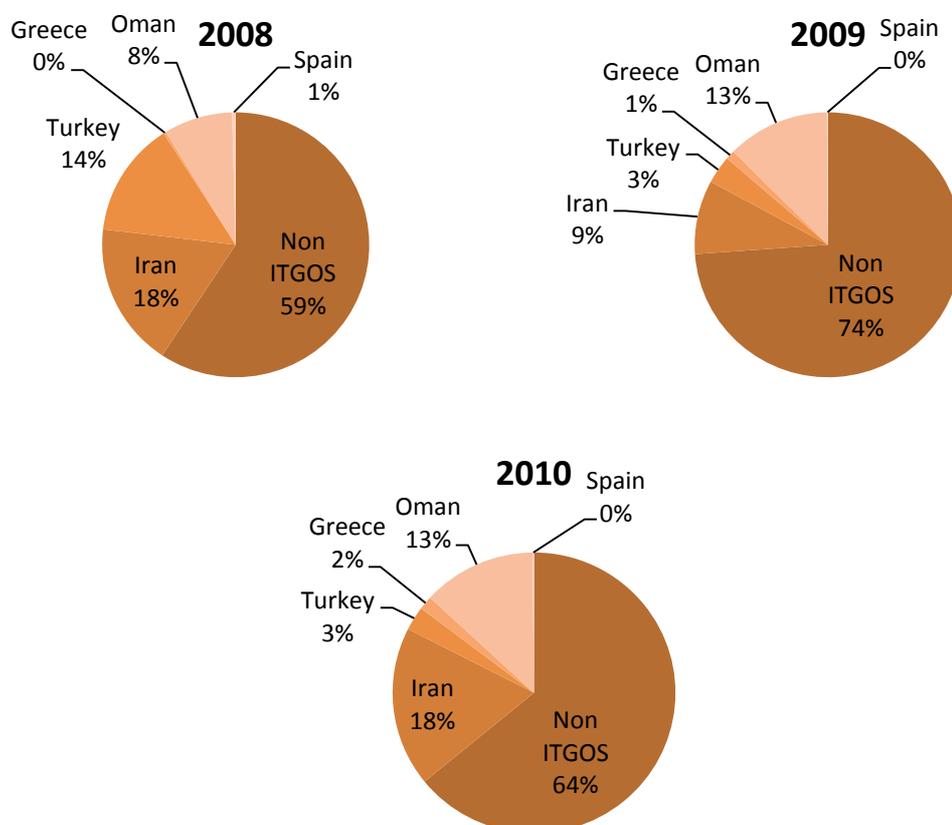
<sup>59</sup> Data provided to the researcher by the FIA included figures for 2007 to 2012. However, there are discrepancies between these figures and the figures provided by the FIA at a presentation to the Global Forum on Migration and Development in Batumi Georgia on 12-13 July 2011 (available at: [http://www.gfmd.org/documents/switzerland/batumi/gfmd\\_swiss11\\_batumi\\_pakistan.pdf](http://www.gfmd.org/documents/switzerland/batumi/gfmd_swiss11_batumi_pakistan.pdf)). For the purposes of the report, where there are discrepancies in the data, the researcher has used figures provided by the FIA in 2013.

<sup>60</sup> ITGOS countries include Iran, Turkey, Greece, Oman, and Spain

<sup>61</sup> FIA presentation to the Global Forum on Migration and Development in Batumi Georgia on 12-13 July 2011 (available at: [http://www.gfmd.org/documents/switzerland/batumi/gfmd\\_swiss11\\_batumi\\_pakistan.pdf](http://www.gfmd.org/documents/switzerland/batumi/gfmd_swiss11_batumi_pakistan.pdf)).

**Chart 2:**

**Percentage of deportees to Pakistan by country of return from 2008 to 2010 (FIA)**



Not all destination countries return immigrants intercepted or detected to their countries of origin. One estimate puts the cost of deportation of an individual from Europe to South East Asia to be EUR 4000 per person.<sup>62</sup> Moreover, deportation statistics do not include irregular migrants who voluntarily return to Pakistan. In addition, the Federal Investigation Agency also prevents departures of would-be migrants with suspect or false documentation (see Table 4).

	2007	2008	2009	2010	2011	2012
<b>Intercepted on exit from Pakistan</b>	435	572	669	504	369	367

In order to gain a more comprehensive view of irregular migration originating from and through Pakistan, this study relies on quantitative data from destination countries as well as from Pakistan. Moreover, due to the intertwined nature of Pakistani and Afghan irregular migration, statistics for

<sup>62</sup> CLANDESTINO, *Final Report*, November 2009, available at: <http://cordis.europa.eu/documents/documentlibrary/126625701EN6.pdf>, p71.

<sup>63</sup> FIA data provided to the researcher in 2013.

Afghan migration are also provided, where relevant, as a comparison.

### 4.3.3 Destination Europe

According to the International Centre for Migration Policy Development in Vienna, Pakistani and Afghan nationals were among the top nationalities for border violations within Central and Eastern Europe, including Turkey, in 2006, 2007 and 2008. Pakistani and Afghan nationals have also featured in the list of top ten nationalities of irregular migrants to Europe consistently since Frontex began to collect monthly statistics in late 2007.<sup>64</sup> For both Pakistani and Afghan nationals, a vast majority of illegal crossings take place between border check posts, along blue or green external borders. By contrast, the number of attempted crossings at check posts through clandestine means is minute. There was a dramatic increase in the number of Pakistan nationals detected in 2011 but this dropped sharply in 2012. The exceptional rise in 2011 may be attributed to internal push factors in Pakistan, including the floods of 2010 that created massive internal displacement. The subsequent drop in 2012 appears to be partly due to interdiction and detection efforts implemented by Frontex.

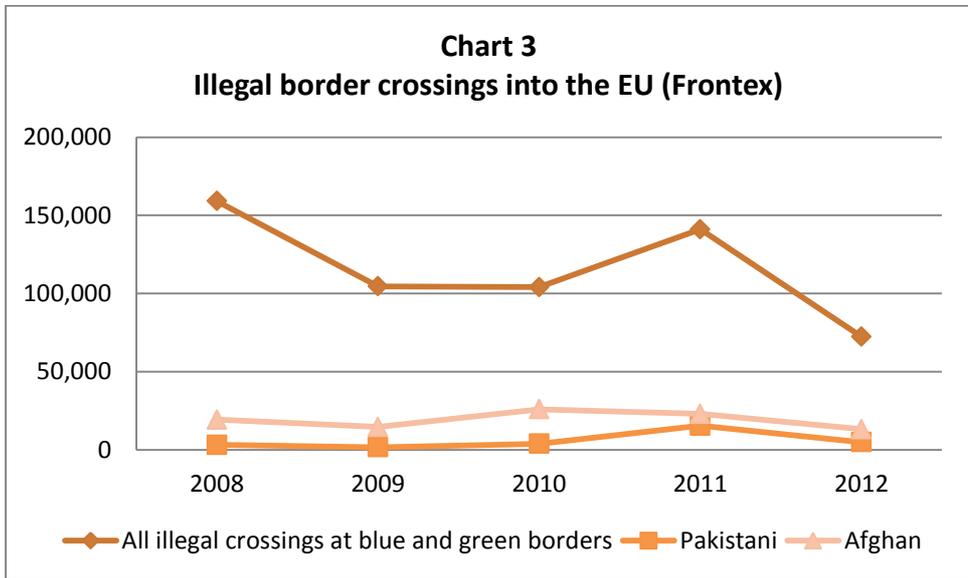
	2006 <sup>66</sup>	2007	2008
Pakistan	4,170	10,840	15,834
Top hotspot for Pakistanis	Turkey	Turkey	Turkey
# in hotspot	3,508	6,970	9,186
Afghanistan	3,786	18,322	38,798
Top hotspot for Afghans	Turkey	Greece	Greece
# in hotspot	3,665	11,611	25,577

<sup>64</sup>Data from Frontex, *Extract from Annual Risks Analysis 2010*, Warsaw 2010; Frontex, *Annual Risk Analysis 2011*, Warsaw 2011; Frontex, *Annual Risk Analysis 2012*, Warsaw 2012; Frontex, *Annual Risk Analysis 2013*, Warsaw April 2013; all available at: <http://frontex.europa.eu/publications/>.

<sup>65</sup>Data from ICPMD, *Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe*, 2007; and ICPMD, *Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe in 2008*, 2010. Both available at: <http://research.icmpd.org/1250.html>. Where figures are inconsistent in the two reports, the most recent figures from the 2008 Yearbook are used. For comparison, ICPMD data is presented separately in this study because the method of calculation differs from Frontex. ICPMD border violation data includes both detections of illegal crossings and other violations including overstays and illegal residence.

<sup>66</sup>Greece did not report in the ICPMD 2007 Yearbook. Considering the importance of Greece as a destination and transit country for irregular migration, this diminishes the reliability of the statistics provided in 2006 as the basis for an overall assessment of the migration flows into Central and Eastern Europe.

<b>Table 6: Illegal border crossings into EU by nationals of Pakistan and Afghanistan (Frontex) 2008 2009 2010 2011 2012 2012 as % change on 2011</b>						
<b>Between BCPs<sup>67</sup></b>						
All borders total	159,100	104,599	104,060	141,051	72,437	-49
Pakistan	3,157	1,592	3,878	15,377	4,877	-68
Afghanistan	19,284	14,539	25,918	22,992	13,169	-43
Land border total	ND	57,440	89,800	69,879	49,183	-30
Pakistan	2,640	1,328	3,675	13,781	3,344	-76
Afghanistan	1,224	2,410	22,844	20,394	9,838	-52
Sea borders total	ND	47,159	14,260	71,172	23,254	-67
Pakistan	517	264	203	1,594	1,533	-3.8
Afghanistan	18,060	12,129	3,074	2,598	3,331	28
<b>Clandestine entries at BCPs<sup>68</sup></b>						
Sea border total	ND	137	168	159	486	208
Land border total	ND	159	74	123	115	-6.5
Pakistan	ND	2	12	10	24	140
Afghanistan	ND	18	8	58	190	228



Pakistanis are one of the most detected nationalities for illegal border crossings into Europe, and primarily use green and blue borders between border check posts. As such, the number of refusals

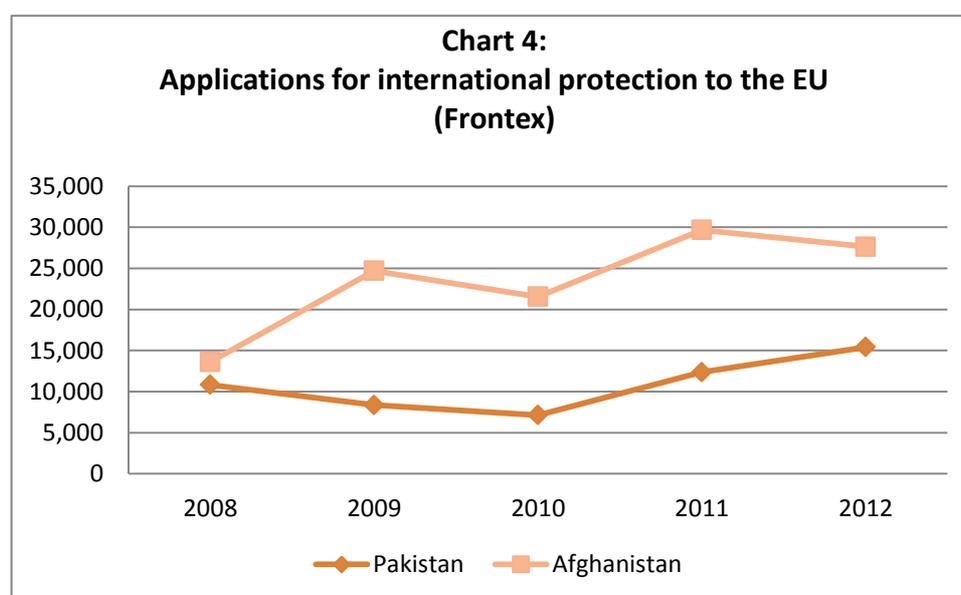
<sup>67</sup> Detection at the blue and green external borders of the EU: Frontex only provides disaggregated figures for the top ten nationalities.

<sup>68</sup> The number of third-country nationals detected by EU states when entering clandestinely or attempting to enter illegally (such as hiding in transport means or another physical way to avoid border checks) at border check points at external borders of EU only, whether or not they result in a refusal of entry or not. The figures do not include EU or Schengen Associated Country nationals.

of entry at check posts for Pakistani and Afghan nationals is comparatively low. Similarly, the number of clandestine entries attempted by Pakistani nationals is also modest, at 3 per cent of all attempts by Pakistanis. In one case, in 2011, 36 clandestine migrants (31 Afghans, 4 Pakistanis, and 1 Iranian) were found hidden in a lorry transporting engine oil from Greece to Germany.<sup>69</sup>

Data from Frontex since 2008 shows asylum applications from Pakistani nationals in the European Union fell to its lowest levels in 2010 but increased in 2011 and 2012. The 73 per cent increase in asylum applications between 2010 and 2011 is in line with the general and dramatic rise in irregular migration from Pakistan following the 2010 floods. However, applications from Pakistani nationals rose a further 25 per cent in 2012. This increase is contradictory to general trends, which showed a 6.9 per cent decrease across the board, including for Afghan nationals.

	2008	2009	2010	2011	2012	% change on 2011
<b>Total</b>	223,173	219,814	203,880	254,054	272,208	-6.9
Pakistan	10,828	8,358	7,129	12,355	15,417	25
Afghanistan	13,600	24,699	21,552	29,672	27,630	-6.9



Pakistanis and Afghans are also listed among the top ten nationalities illegally residing in Europe that lodged asylum claims and were returned to their countries of origin. In response, the European Union (EU) appears to have made a concerted effort to deport Pakistani nationals recently. Forced and voluntary returns of Pakistani nationals violating immigration rules in the EU increased in 2012 by 68 per cent. In contrast, the overall rate of effective returns increased by only 7 per cent. More than 7,192 Pakistanis were forcibly returned – ranking Pakistanis behind Albanians as the second most deported nationality from the EU. Compared to 2011, deportation of Pakistanis increased by 83 per cent, far above the overall increase of 2.3 per cent across all nationalities. The forcible return of Afghans increased by a more modest 6.7 per cent.

<sup>69</sup> Frontex, ARA 2013, p25.

<b>Table 8: Illegal stays detected in Europe and returns of nationals of Pakistan and Afghanistan (Frontex)</b>						
	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>% change on 2011</b>
<b>Illegal stays</b> <sup>70</sup>						
Pakistan	7,848*	9,058	10,508*	12,621	18,334	45
Afghanistan	29,042*	38,637	21,104	25,294	24,395	-3.6
<b>Return decisions issued</b> <sup>71</sup>						
Pakistan	ND	ND	ND	26,604	24,707	-7.1
Afghanistan	ND	ND	ND	27,274	23,147	-15
<b>Effective returns</b>						
Total	ND	ND	ND	149,045	159,490	7.0
Pakistan	ND	ND	ND	6,253	10,492	68
Afghanistan	ND	ND	ND	ND	ND	--
<b>Forced returns</b>						
Total	ND	ND	ND	80,809	82,630	2.3
Pakistan	ND	ND	ND	3,938	7,192	83
Afghanistan	ND	ND	ND	3,180	3,393	6.7
<b>Voluntary returns</b>						
Total	ND	ND	ND	57,170	65,562	15
Pakistan	ND	ND	ND	2,230	3,066	37
Afghanistan	ND	ND	ND	ND	ND	--

The rise in asylum applications from Pakistani nationals may be due to the increased rates of deportation of illegal residents by the European Union. Individuals who are illegally resident in a country often lodge an application for asylum in order to avoid or delay a return. Between 2011 and 2012, there was a dramatic increase in the number of returnees to Pakistan from the EU.

At the same time, the voluntary returns of Pakistani nationals also increased significantly. These include nationals who have had administrative or judicial decisions made against them, finding them in breach of immigration laws. Some have voluntarily returned with the assistance of IOM programs, rather than be forcibly removed. In 2012, more than 3000 Pakistanis voluntarily returned, a 35 per cent increase from the previous year. The number, however, is less than half of those recorded as being forcibly returned. The rate of increase (37%) in Pakistani voluntary returns was more than double the overall increase across all nationalities (15%).

#### 4.3.3.1 Routes

For irregular migrants from Pakistan and those transiting from Afghanistan, the most common route of exit from Pakistan is overland through Balochistan into Iran. Iran and Pakistan share nearly 1000 kilometres of land borders and there is only one legal border check point at Taftan which crosses into Mirjaveh on the Iranian side. Exactly how many people cross the border illegally is unclear. However, the Inter-Agency Task Force, which includes the Frontier Corps and the Balochistan Levies, has intercepted irregular migrants attempting to exit Pakistan at Taftan and Chaman crossings.

<sup>70</sup> Number of third country nationals detected by states to not fulfil or no longer fulfil conditions of their residence, irrespective of whether detection made in land or while exiting the territory. It also includes third country nationals who are not in possession of a valid visa, residence permit, travel document, overstays, or in breach of a decision to leave the country.

<sup>71</sup> Administrative or judicial decision declaring the stay of the third country national to be illegal in accordance with the EC Return Directive (Directive 2008/115/EC).

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>Interceptions by Inter-Agency Task Force (exit only)<sup>72</sup></b>	10,703	8,542	5,601	4,025	6,611	4,282

In addition to the Taftan border crossing, previous research shows that a substantial number of Pakistani nationals cross into Iran by road or on foot, crossing from Mand Bullo in Pakistan to Pishin in Iran.<sup>73</sup> There are no disaggregated statistics for the number of interceptions at border check posts compared to those along the green border.

From Iran, irregular migrants travel to Turkey to stage their entry into the European Union. Frontex has identified eight main routes used for illegal entry into the EU.<sup>74</sup> One of the most-attempted illegal crossings has been the Turkey to Greece route, by both land and sea. This is part of the Eastern Mediterranean Route. Bulgaria and Cyprus are also used as entry points on this route. In 2009, 2010, and 2012, this route recorded the highest number of illegal crossings to the EU: at 38.2 per cent, 53.5 per cent, and 51 per cent respectively. In 2011, although the Central Mediterranean Route had the highest numbers of illegal crossings due to a dramatic increase in irregular migrants from Tunisia following political unrest there, 40 per cent of all attempts were still made on the Eastern Mediterranean Route. Pakistani and Afghan nationals have been found to feature on his route.

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
By land	11,127	49,513	55,558	32,854
Pakistan	1,224	3,558	13,130	ND
Afghanistan	639	21,389	19,308	7,973
By sea	28,848	6,175	1,467	4,370
Pakistan	257	148	ND	ND
Afghanistan	11,758	1,373	310	1,593

Illegal crossings peaked in October 2010, with about 350 detections a day near the Greek city of Orestiada. The dramatic increase was due to a small area of vulnerability in the external borders of Greece, particularly a 12.5km stretch of land not delineated by the River Evros which elsewhere marks and defends the border between Greece and Turkey. This development triggered establishment of the first Rapid Border Intervention Team in November 2010 to improve interdiction.<sup>75</sup>

Although Afghan nationals dominated, Pakistan is among the list of the top ten most commonly detected nationalities of irregular migrants along the Eastern Mediterranean Route. In 2011, there was a massive increase in the detection of migrants from Pakistan at the Greek-Turkish land border, up 269 per cent compared to 2010. Overall, Pakistani nationals ranked third in the EU, with a total of

<sup>72</sup> FIA data provided to the researcher in 2013.

<sup>73</sup> HRCP, *Human Trafficking Through Quetta: A Report by the Balochistan Chapter*, 2010. All five case studies included in the study detailed movement from Gujrat to Karachi, then to Mand and into Iran.

<sup>74</sup> Frontex, ARA 2013, p 21; and Frontex, *Migratory Routes Map*, available at: <http://www.frontex.europa.eu/trends-and-routes/migratory-routes-map>.

<sup>75</sup> Frontex, ARA 2011, pp15-16.

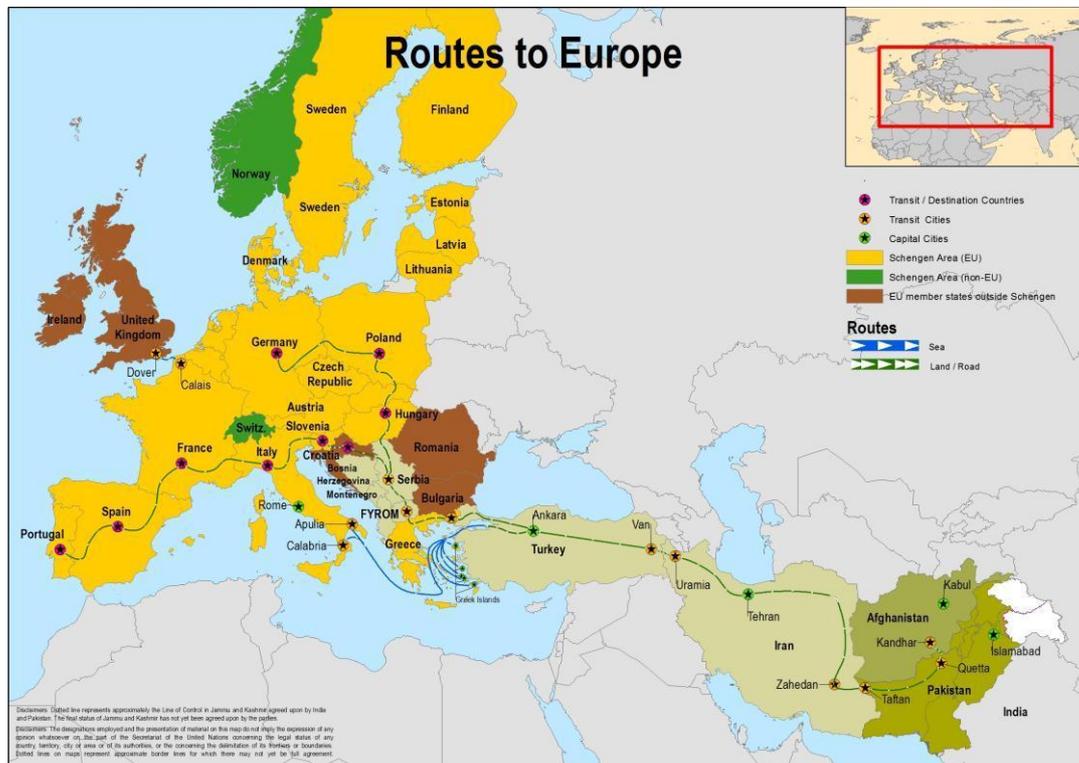
15,377 detections. The increase may have been due to floods in Pakistan in late 2010, which led to massive internal displacement in Khyber Pakhtunkhwa, Gilgit-Baltistan, Sindh, Punjab, and Balochistan. This created a compelling push factor from Pakistan. European intelligence suggested that most Pakistani nationals attempting illegal crossings were young males that were unskilled and previously unemployed economic migrants from the north east of Pakistan. They travelled overland to Greece with the help of facilitators and often with false documentation. In interviews, Pakistani nationals claimed that their intended destinations were Greece, Germany, Belgium, Italy, the United Kingdom, and France.<sup>76</sup>

Frontex implemented significant interdiction efforts in 2011 and 2012. In addition to continued implementation of the Aeneas, Hermes, and Poseidon Sea Joint Operations, Greek operations were conducted. Operation Xenios Zeus focused on inland detection of illegal stays in Greece and returns. Operations Aspida also enhanced surveillance on the Greek-Turkish land border. As a result, from August 2012 onwards, detections at the Greek-Turkish land border dropped significantly. Some of the irregular migrants appear to have shifted to the sea border. These were notably Afghans with a 414 per cent increase in sea border attempts between 2011 and 2012. Overall detections in the Aegean Sea between Greece and Turkey increased by 912 per cent as migrants considered the sea crossing an alternative to the land route. The increase in sea crossings was reported immediately following enhanced surveillance of the land border. The most targeted islands were Lesbos, Samos, Agathonisi, Farmakonisi, and Symi, with most migrants departing from Izmir on the western Turkish coast. Although no disaggregated statistics for Pakistani nationals are readily available, a shift from land to sea crossings is expected in line with the overall trend.<sup>77</sup>

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<sup>76</sup> Frontex, ARA 2012, p18.

<sup>77</sup> Frontex, ARA 2013, p25.



Pakistani migrants attempting to enter the European Union via the Greek-Turkish border were found to be primarily single male adults between the ages of 21 and 29, who were non-skilled Urdu-speaking workers and students. The most common place of origin for Pakistani nationals detected was northern Punjab. They were motivated to migrate to the EU for economic opportunities and to escape the high levels of unemployment and low salaries in Pakistan.<sup>78</sup> They tended to travel undocumented. Some reported their passports were held by facilitators in Turkey, with the assurance they would be sent to Greece.<sup>79</sup>

Pakistani, Afghan, and Bangladeshi nationals congregate in Iran and then travel together overland to Turkey and Greece. Most Bangladeshi nationals interviewed in 2012 claimed that they had departed from the Gulf states where they had been working in the construction industry. Following an economic crisis in this area, salaries fell and fewer jobs were available. Therefore, many decided to try to reach the EU for improved economic opportunities. Facilitators appeared to encourage the perception that there were good jobs and better salaries in Greece. Bangladeshi nationals reported that they travelled by car to Oman from where they crossed the Gulf of Oman to Iran via speedboats. From Bandar-e-Abbas in Iran they travelled in buses or vans to Tehran where they joined nationals from Pakistan and Afghanistan arriving from the east. From Tehran the migrants were transported to Urmia, the capital of West Azerbaijan Province which borders Turkey. From there they crossed the Iranian-Turkish border in large groups of up to 1,000 migrants heading towards the Turkish city of Van. In Van migrants were given false Turkish documents and used public transport to Istanbul. From Istanbul facilitators transported them to the River Evros or alternative routes to cross into Greece.<sup>80</sup> When crossing the River Evros migrants tended to travel at night in small groups and used small-size inflatable boats propelled by oars.<sup>81</sup>

Greece is a Schengen enclave and transit destination for most irregular migrants who continue their journey to other European states.<sup>82</sup> However, in 2010 some Pakistani nationals were detected that had stayed illegally and applied for asylum in Greece. More commonly, secondary movements from

<sup>78</sup> See also Matthew Carr, *Fortress Europe: Dispatches from a Gated Continent* (London: Hurst & Company, 2012), pp125-127, for examples for misconceptions among Afghan irregular migrants as to their prospects of employment and conditions in the EU.

<sup>79</sup> Frontex, ARA 2013, p25.

<sup>80</sup> Frontex, ARA 2013, pp25 and 26.

<sup>81</sup> Frontex, ARA 2012, p22.

<sup>82</sup> Greece was at risk of being excluded from the Schengen zone after complaints about Greece's lax border controls in 2011. Greece began to crackdown on illegal immigration in August 2012.

Greece are characterised by groups of migrants – usually of the same composition as the group that entered Greece – attempting to re-enter the Schengen area in order to travel onto the final destination. In particular, Pakistani and Afghan nationals use the Western Balkans Route for secondary travel. Some have also used the sea route to the southern Italian regions of Apulia and Calabria.<sup>83</sup>

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Total	3,089	2,371	4,658*	6,391
Pakistan	10	39	604*	861
Afghanistan	700	469	983*	1,665

\* There are some small inconsistencies in figures from Frontex. In these cases, the figures provided in the latest report have been used.

The Western Balkans is affected by the transit of migrants who enter illegally through the Greek-Turkish border. Migrants travelling within the European Union from Greece onto other destination states usually use the fastest possible route to re-enter the Schengen area, through Hungary or Slovenia.<sup>84</sup> Pakistani and Afghan migrants have also been found to illegally cross from Greece to the Former Yugoslav Republic of Macedonia, and then onto the green border between Serbia and Hungary, or between Croatia and Slovenia. In 2010, Frontex found that taxi services for migrants operated openly from Macedonia to Serbian borders. Some migrants arrived in Slovenia hidden in lorries.<sup>85</sup>

In 2011, Slovenian authorities reported an increase in the detection of Pakistanis and Afghans who tried to illegally enter the EU after claiming asylum in Croatia. The increase was significant enough for the Slovenian Ministry of Interior to issue a public warning calling on its citizens to report sightings of irregular migrants. Despite this, detections at the Romanian-Serbian border actually surpassed those at the Slovenian-Croatian border. Irregular migrants were detected close to the border area between Romania, Hungary, and Serbia, displaced from the main Serbian-Hungarian route where additional border control measures made crossings more difficult. Consistent with detections at the Greek-Turkish land border, Pakistani and Afghan nationals were the most detected nationalities.<sup>86</sup>

In 2012, the Slovenian-Croatian border reported a 95 per cent increase in detections, the highest increase in the region. Afghans continued to dominate the nationalities detected. At the same time, more migrants attempted clandestine entry at border check posts, rather than between check posts. Western Balkan countries and their neighbouring member states detected almost 1,676 or 87 per cent more people hiding in vehicles while trying to cross borders.<sup>87</sup> The border between Macedonia and Serbia experienced the largest number of movements, again with Afghans as the most detected nationality representing 45 per cent of the total.

<sup>83</sup> Frontex, ARA 2013, p28

<sup>84</sup> Frontex, ARA 2012, p20.

<sup>85</sup> Frontex, ARA 2011, p21.

<sup>86</sup> Frontex, ARA 2012, p20.

<sup>87</sup> Frontex, ARA 2013, p35.

<b>Table 12: Use of sea route through southern Italian regions of Apulia and Calabria (Frontex)</b>			
	<b>2010</b>	<b>2011</b>	<b>2012</b>
Total	2,788	5,259	5,502
Pakistan	53	992	1,156
Afghanistan	1,664	2,274	1,705

Another route that began to gain prominence is the sea route to southern Italy. In 2012, Afghan and Pakistani migrants steadily arrived at the blue borders around Calabria and Apulia, with a significant increase in the last quarter of 2012. Afghans represented around 30 per cent of the total share, with increases in the number of nationals from Pakistan, Syria, and Bangladesh, representing a 138 per cent increase from 2011.<sup>88</sup> Many of these are migrants initially intended to cross the land border between Greece and Turkey. Some of the migrants appeared to be engaged in secondary movement after extended stays in Greece. These movements were likely due to the economic crisis there, which limited job opportunities.<sup>89</sup>

#### 4.3.3.2 Method of operation: document fraud

In 2012, Pakistan and Afghanistan both entered the list of top ten nationalities that use false travel documents to attempt to enter the European Union. Compared to 2011, the number of Pakistani nationals found with false documentation rose by 96 per cent, and the number of Afghans increased by 124 per cent.

<b>Table 13: Persons detected using fraudulent documents (Frontex)</b>			
	<b>2011</b>	<b>2012</b>	<b>% change on 2011</b>
Pakistan	134	262	96
Afghanistan	90	202	124

The EU border-control community acknowledges document fraud to be of major concern. Not only does it allow irregular migrants to enter into the EU and move freely within the Schengen area, but it also makes it possible for individuals to assume bogus identities and operate within the black market. This poses serious threats to internal security as well as national social systems, and undermines international criminal investigations. With travel documents acquiring more advanced anti-fraud technological features, such as machine readability or the use of biometrics, forgeries require more sophisticated techniques. This has led the EU to raise concerns that document fraud is linked more closely and strongly with organised crime groups, which also increase their profits.<sup>90</sup>

In general, there are four broad categories of document fraud:<sup>91</sup>

- a. Forgeries – tampering with previously authentic documents.
- b. Counterfeits – entirely manufactured documents made to look like originals.
- c. Fraudulently obtained documents – authentic documents issued based on fraudulent applications or supporting documents.

<sup>88</sup> Frontex, ARA 2013, p27.

<sup>89</sup> Frontex ARA 2013, p28.

<sup>90</sup> Frontex, ARA 2013, pp37-38.

<sup>91</sup> Frontex, ARA 2013, p37.

d. Impersonators – authentic documents being used by an unauthorised look-alike.

In 2011, Frontex noted that impersonation ranked high among the methods of abuse encountered at the border. This may have been due to enhanced security features on passports which makes counterfeiting or forgeries more difficult. Impersonators use someone else's legitimate and genuine documents, which have no signs of tampering, and so can be potentially re-used many times.

According to German authorities, in 2011, airports in Dusseldorf, Frankfurt, and other locations appeared to be targeted by some nationalities, including Afghans. One third of arrivals from Turkey, Iran, Syria, Iraq, and Afghanistan had travelled from Turkish airports using falsified EU documents or falsified own-nationality documents. Approximately 75 per cent of these sought asylum in Germany.

The EU also reported false document use in support of applications for visas or resident permits. In addition, bogus marriages are also increasingly used to obtain permission to live within the EU. Marriages of convenience were used to fraudulently obtain legitimate visas for some nationals. In particular, Czech and Slovak females reported travelling to Pakistan to marry Pakistani males.<sup>92</sup>

Overall, the European Union detected a rising trend in the use of forged documents. A vast majority of detections (75%) were made at EU airports.<sup>93</sup> The abuse of EU passports is of particular concern because migrants using them may be less rigorously checked at external borders, and because the document can be used to access social welfare systems in member states or be reused for other migrants to attempt illegal entry.<sup>94</sup> The Pakistan Federal Investigation Agency also detected incidents of forgeries. One official reported that the FIA is aware of a cartel based in Africa that sells stolen or expired passports to smuggling networks in Pakistan, India, Bangladesh, and Egypt. Visas are lifted from the passports to be used as the basis for forgeries. FIA interdicted and offloaded passengers heading to Malaysia and the United Arab Emirates with forged visas; that is visas that were lifted from another passport and pasted into the intending migrant's authentic passport.<sup>95</sup>

The FIA also reported that visa consultants in Pakistan often offer full-service visas, that is, for different fees a visa consultant can arrange visas to specific destinations using a variety of fraudulent means. For example, a legitimate visa to the UK obtained by fraudulent means can cost between PKR 1,400,000 and 1,600,000 or USD 14,000 to 16,000. Such visas are obtained using false statements and fake supporting documents. In comparison, a forged visa on an authentic passport would cost significantly less at between PKR 200,000 and 300,000 or USD 2000 to 3000. One FIA informant noted that there is no regulation in Pakistan around visa consultants, which leaves opportunities for such businesses to act as fronts for smuggling networks. In addition, the guarantee system offered by the smugglers means that if a migrant is caught using fraudulent documents and returned to Pakistan, the price includes the supply of fresh documents for the migrant to attempt migration two more times. A total of three attempts is usually included in the price.<sup>96</sup>

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<sup>92</sup> Frontex, ARA 2011, p32.

<sup>93</sup> Frontex, ARA 2011, p31.

<sup>94</sup> Frontex, ARA 2011, p31.

<sup>95</sup> FIA information provided to the researcher in 2013.

<sup>96</sup> FIA information provided to the researcher in 2013; and UNODC, *Crime Facilitating Migration*, p25.

### Findings and recommendations

- Although the number of Afghan nationals attempting to enter the EU illegally exceeds the number of Pakistanis, both populations share similar routes and modes of travel.
- Pakistan and Afghan nationals predominantly use the Eastern Mediterranean Route by both land and sea to enter the EU. Bangladeshis and other nationals from Pakistan's neighbouring countries have also been found on this route.
- Pakistani and Afghan nationals both use the Western Balkans Route for secondary movement within the EU and the Schengen Zone. Both groups have also begun to use the sea route through the southern Italian regions of Apulia and Calabria.
- Both populations respond to changes in EU policies by changing routes, demonstrating sensitivity of smugglers' tactics to border control strategies.
- The volume of migration is sensitive to push factors in the countries of origin, including natural disasters such as floods.
- Secondary movement within the EU by Pakistani and Afghan irregular migrants is anticipated with changing economic opportunities.
- Although the number of Afghan nationals attempting irregular migration to the EU far exceeds the number of Pakistani nationals, a higher number of Pakistani nationals are detected using fraudulent documentation. This suggests that smuggling networks are more organised and sophisticated in Pakistan.
- Legitimate documents obtained through fraudulent means, either through false marriages or other misrepresentations, are on the increase. The Government of Pakistan must improve its ability to detect such fraud.
- Irregular migrants use a mix of illegal and legal means to travel, such as using a combination of legal but fraudulently obtained documents, legal exit from Pakistan, and illegal border crossings into the EU.
- The Government of Pakistan should regulate visa consultancies.

### 4.3.3 Destination Australia

Australia, as an island country, has an exceptional ability to control its borders. Its experience of irregular migration has been quite different from that of Europe or North America. Almost all of its irregular migrants arrive by boat, and the majority of irregular maritime arrivals (IMAs) to Australia come from just a handful of source countries: Afghanistan, Pakistan, Iran, Sri Lanka, and Iraq. These arrivals also include stateless people, such as Rohingyas, Palestinians, and Failsi Kurds. The only way an irregular maritime arrival who has arrived in Australia without documentation can remain is to claim asylum.<sup>97</sup>

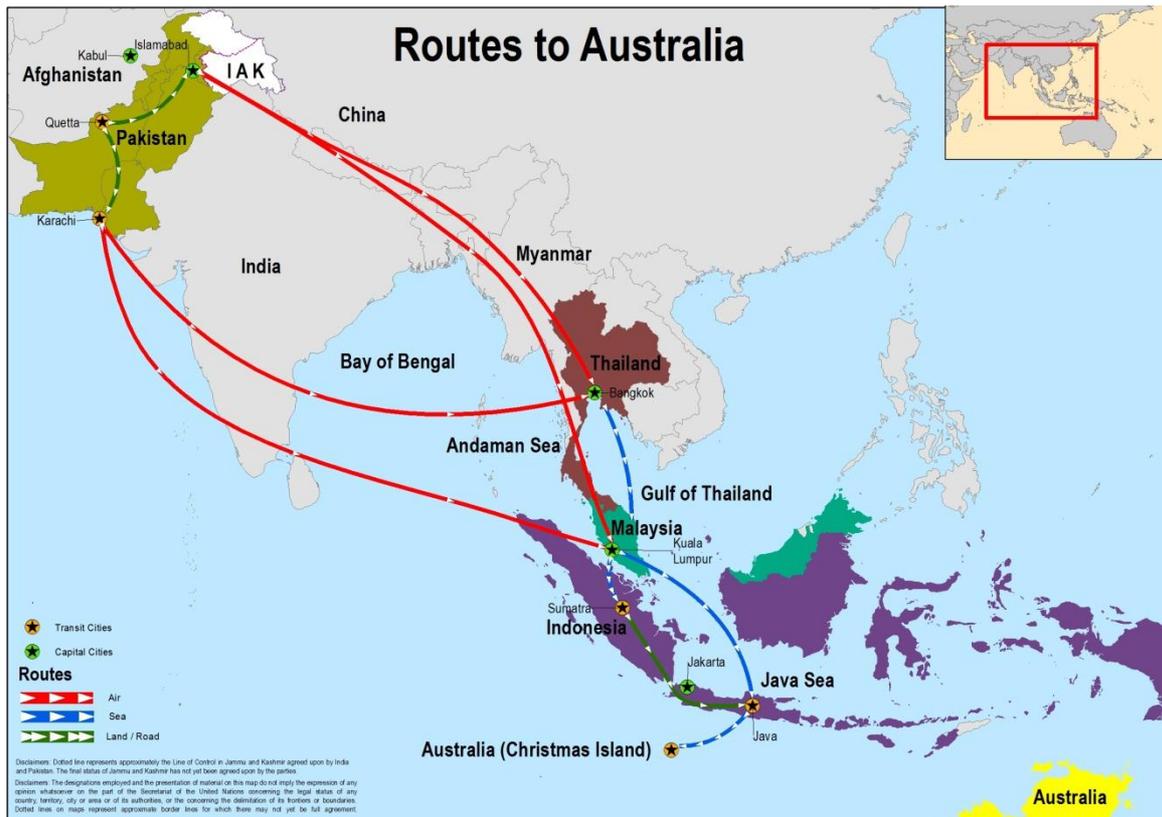
For Australia, Pakistan is important both as a source country and as a transit country for Afghans. Since 2009, Afghans have dominated irregular maritime arrivals to Australia, with no disaggregated figures for Pakistanis. Australia has taken a proactive approach in attempting to stop such arrivals from Pakistan and Afghanistan, and has spent significant resources in public information campaigns to warn potential irregular migrants in the two countries against attempting an illegal boat journey. This includes using billboards in Quetta, Pakistan, and television advertisements in Afghanistan at the cost of AUD 550,000.<sup>98</sup>

<sup>97</sup> Australian Government, *Report of the Expert Panel on Asylum Seekers*, August 2012, p68.

<sup>98</sup> Aubrey Belford, 'Desperate to Leave the Deathtrap of Quetta', *The Global Mail*, 12 December 2012, available at:

<http://www.theglobalmail.org/feature/desperate-to-leave-the-deathtrap-of-quetta/518/>; and Bridie Jabour, 'Australian TV ad warns off Hazaras', *The Guardian*, 11 June 2013, available at: <http://www.guardian.co.uk/world/2013/jun/11/australia-refugees-detention-afghanistan>.

On 19 July 2013, Australia announced a new policy in relation to irregular migrants in another attempt to combat migrant smuggling and eliminate any incentives for intending migrants. All irregular maritime arrivals – including women and children-will now have no access to protection in Australia, even if they are found to be refugees. All irregular maritime arrivals will be sent to Papua New Guinea for processing. If an individual is found to be a refugee, they will be granted resettlement or residency in Papua New Guinea or another participating regional state. The individuals will not be allowed to join family or relatives already in Australia.<sup>99</sup> The policy, however, is controversial and the implementation of the agreement between Papua New Guinea and Australia will be complex. Moreover, it is possible that the agreement will be challenged in court.<sup>100</sup> The impact of this policy on the flow of irregular migrants to Australia from Pakistan and Afghanistan remains to be seen.



**Table 14:  
Irregular maritime arrivals to Australia (DIAC)<sup>101</sup>**

	2009	2010	2011	2012 end July 2012)	Total
Total individuals	2,850	6,850	4,733	7,120	21,553
Vessels	60	134	69	102	365
Afghans	1,409	2,945	1,596	2,556	8,506
Afghans: % of total arrivals	49	43	34	36	39

Although far less in number than Afghans in terms of irregular maritime arrivals, Pakistanis are among the top five nationalities who seek asylum in Australia through applications for protection visas. This includes those irregular migrants that arrive by boat and those that do not.

<sup>99</sup> DIAC, 'Visas, Immigration and Refugees', available at: <http://www.immi.gov.au/visas/humanitarian/novisa/>, accessed 22/07/2013.

<sup>100</sup> Maria O'Sullivan, 'The PNG solution: as harsh as it is unprecedented', The Age, 22 July 2013, available at: <http://www.theage.com.au/comment/the-png-solution-as-harsh-as-it-is-unprecedented-20130721-2qccz.html>, accessed 22/07/2013.

<sup>101</sup> Data extracted from Australian Government, *Report of the Expert Panel*, p23.

<b>Table 15: Protection visa applications lodged (DIAC) <sup>102</sup></b>					
	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>		
			Sep Qtr	Dec Qtr	Mar Qtr
<b>Irregular maritime arrivals</b>					
Pakistan	70	618	239	58	519
Afghanistan	1621	3179	512	373	1622
<b>Non-irregular maritime</b>					

<b>arrivals</b>					
Pakistan	549	667	198	213	265
Afghanistan	98	138	38	31	23

There is a high rate of acceptance for asylum applications from Pakistani and Afghan nationals, particularly among irregular maritime arrivals.

<b>Table 16: Percentage of asylum claims accepted<sup>103</sup></b>					
	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>		
			Sep Qtr	Dec Qtr	Mar Qtr
<b>Irregular maritime arrivals</b>					
Pakistan	87.5	93.1	99.1	93.3	92.3
Afghanistan	93.8	95.8	98.8	92.9	95.4
<b>Non-irregular maritime arrivals</b>					
Pakistan	80.3	74.1	87.4	79.9	78.4
Afghanistan	78.7	92.3	69.2	97.1	100.0

For Pakistani nationals, the rate of acceptance for asylum is consistently higher among maritime arrivals than non-maritime arrivals. This suggests that the majority of those risking the perilous sea journey have compelling reasons for flight from Pakistan and are genuine refugees that need and deserve international protection. Anecdotal evidence suggests that a substantial number of refugees from Pakistan belong to the Hazara ethnic group. According to one report, there is an estimated 30,000 Hazaras from Quetta who have moved to Europe or Australia and send remittances home.<sup>104</sup>

Consistent with the dominance of Afghans among irregular maritime arrivals, relatively few asylum claims are lodged by Afghan nationals who are not irregular maritime arrivals. The rate of acceptance among Afghan maritime arrivals is consistently high, remaining at more than 90 per cent since 2010. Considering the large number of applications, the statistics again demonstrate that a vast majority of Afghans who risk irregular migration also have compelling reasons to leave their country and are genuine refugees. Push factors such as persecution in the country of origin appear to have a significant role in the decision of irregular migrants to leave.

<sup>102</sup> DIAC, *Asylum Statistics – Australia: Quarterly Tables March Quarter 2013*, 2013, pp4 and 10.

<sup>103</sup> DIAC, *Asylum Statistics: March 2013*, pp8 and 3 - Tables 11 and 21.

<sup>104</sup> Belford, 'Desperate to Leave', *The Global Mail*, 12 December 2012.

#### 4.3.4.1 Routes

The main route from Pakistan to Australia is via Thailand and/or Malaysia, with the final segment of travel from Indonesia to Australia by sea. A vast majority of irregular maritime arrivals originate from Quetta in Pakistan. This is due to the large population of ethnic Hazaras residing there. From Quetta, the migrants travel to Karachi or Islamabad and often exit Pakistan legally by air. Some fly to Thailand or Malaysia, others via Dubai. The intending migrants are then smuggled via sea and land to Indonesia, where they engage people smugglers and board small freighters or large fishing boats for the trip to Australia.

One report recently identified the town of Cisarua in Western Java, Indonesia, as a staging post for onward travel to Australia. From there, asylum seekers travel by land to Java's south coast where they board boats heading to Australia's Christmas Islands.<sup>105</sup>

#### 4.3.4.2 Method of operation

Notably, on this route, migrants tend to leave Pakistan via air to Thailand or Malaysia using valid passports and legitimate visas that have been fraudulently obtained. Previous research suggests that Malaysian visas are provided as a part of the package offered by smugglers. However, the Federal Investigation Agency in Pakistan reported that forged visas for Malaysia have been detected at check posts when individuals attempt to exit the country. In one case, the visa itself was a genuine and legitimate document but it had been lifted from another passport and pasted into the intending migrant's passport.<sup>106</sup> In one report, it costs USD 6000 for a legal flight from Pakistan to Thailand. Other asylum seekers reported paying USD 4000 up front to smugglers for the segment up to Malaysia and another USD 3000 for travel to Indonesia.<sup>107</sup> From Malaysia or Thailand, the next segment of the journey is travel to Indonesia by land and sea.<sup>108</sup> Onward travel from Indonesia to Australia with a smuggler costs an average of USD 5000 per person.<sup>109</sup>

Case Study B, below, is extracted from a detailed investigation by *The Guardian*. It is illustrative of the journey that is often undertaken by irregular maritime arrivals to Australia.

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<sup>105</sup> Aubrey Belford, 'Resort of Last Resort', *The Global Mail*, 5 April 2013, available at: <http://www.theglobalmail.org/feature/resort-of-last-resort/585/>.

<sup>106</sup> FIA information provided to the researcher in 2013

<sup>107</sup> Jason Burke, 'The night the refugee boat sank: victims tell their stories', *The Guardian*, 3 June 2013, available at: <http://www.guardian.co.uk/world/interactive/2013/jun/03/night-refugee-boat-sank-victims#undefined>.

<sup>108</sup> Aubrey Belford, 'Australia's Deadly Game', *The Global Mail*, 12 December 2012, available at: <http://www.theglobalmail.org/feature/australias-deadly-game/519/>

<sup>109</sup> Belford, 'Resort of Last Resort', *The Global Mail*, 5 April 2013.

### Case Study B: Pakistani irregular migrants to Australia<sup>110</sup>

On 21 June 2012 a boat carrying 204 asylum seekers heading to Australia sank, killing 94 people. Among the survivors was Ishaq, an Afghan national who had been living in Karachi since he was six years old. He decided to leave Pakistan after the attacks against Shias in Karachi escalated. Friends in Quetta put him in touch with smugglers. He paid USD 4000 up front to get to Malaysia by air, and another USD 3000 for onward travel to Indonesia by sea. Among the group were ten Hazaras from Parachinar in the tribal areas of Khurram Agency. The travel of these people was being funded by their community, which had collected USD 90,000 and paid an agent in Islamabad to take them to Australia.

Ishaq reported that when he arrived in Kuala Lumpur he bought a SIM card and called a number he had been given by facilitators in Karachi. A Malaysian man then picked him up and took him to some transit accommodation. Later, a dozen more Hazaras who had travelled on the same route joined Ishaq.

In Karachi, Ishaq's family paid a further USD 3000 to the agent for his onward travel. A week later Ishaq and the others were driven to a beach three hours from Kuala Lumpur. They boarded a boat and after travelling for four hours at night they landed in Indonesia. They were then picked up and taken to an airport where they flew to Jakarta. None of the group had visas so they stayed in a private home in the city of Bogor.

The next leg of travel to Australia required a further US 5000. Ishaq's travel was delayed because his family had difficulties raising the funds. During the wait he remained in hiding in the private home. After the money was raised his contact called him with new instructions. He went to a shopping centre in Jakarta where he met with other Afghan and Pakistani men. Another call gave him an address and instructed him to take a taxi there. This location was a bus stand. Four coaches were loaded with 200 men.

The buses took the men to a beach on the south coast of Java at around midnight. Smaller boats were waiting to take them to a larger vessel anchored miles offshore. However, as Ishaq approached the larger vessel he realised that it was overcrowded. Unable to turn back, he boarded the boat and managed to grab the last of the life jackets. The smugglers had confiscated his mobile phone. All he had were his clothes, passport, wallet, and a few hundred dollars.

The boat set off at dawn. For the more than 200 men on board, it was equipped with only a few bottles of water, some tinned cheese, and bags of dry noodles for the five to six day journey. The crew had one satellite phone.

On the night of 21 June, a crew member fell asleep and allowed the engine and pumps to run out of fuel. The boat began to rapidly fill with water and quickly capsized. It was around 2am and very dark. There were no life rafts and only half of the asylum seekers had managed to grab a life belt. About 30 or 40 people managed to clamber onto the hull and the rest were in water. Almost no one could swim. Ishaq held onto his lifejacket with one hand and treaded water. Bodies floated in the water around him.

After nearly 24 hours in the water a plane flew overhead and dropped a raft full of supplies but they landed far away from the asylum seekers. A second aircraft dropped an inflatable tube. Ishaq hung onto it. An hour later, an Australian naval vessel picked up the survivors and took them to Christmas Island.

<sup>110</sup> Burke, 'The night the refugee boat sank: victims tell their stories', The Guardian, 3 June 2013

An outfit called the Tajir Travel Agency, which had an office in Peshawar, acted as the front for the smugglers. It has since been wound up. A Pakistani policeman was arrested in Quetta and four others arrested in Islamabad in May 2013. They confessed to receiving more than USD 1 million from their clients. Two other members of the network were detained in Indonesia. One, Dawood Amiri, was an ethnic Hazara who had fled Pakistan and travelled to Indonesia hoping to cross to Australia. He was detained in Indonesia after having become the local representative of the Tajir Travel Agency. He had organised three previous sailings without incident. At the time of his arrest, Amiri was found with 84 mobile phones, all taken from refugees. He was sentenced in February 2013 to six years in prison.

The boat journey to Australia is fraught with danger. From late 2001 to June 2012, there have been 964 asylum seekers and crew lost at sea from known incidents involving irregular maritime arrivals to Australia. Of these, 604 people lost their lives since October 2009. More recently, Australia has seen an increase in the number of irregular maritime arrivals. In the first seven months of 2012, the number of such arrivals to Australia far exceeded the total numbers in 2011 and 2010; 7,120 in 2012 up from 4,733 in 2011 and 6,850 in 2010. Passenger numbers per boat arrival has also been increasing.<sup>111</sup>

A week before the incident described in Case Study B, 93 people died when another boat making its way to Christmas Island sank. A week later, a boat sank and killed approximately 65 asylum seekers. In the last days of August 2012, 100 people heading to Christmas Island drowned in two incidents. Other boats have simply disappeared. In March 2013, a boat sank with more than 200 people on board. In May 2013, news reached Quetta and Parachinar of another shipwreck in which approximately 60 people died.<sup>112</sup>

Case Study B illuminates several important features of the operation of the route to Australia. First, there appear to be facilitators in Karachi, Quetta, and other areas that are known to the Hazara and Shia communities. The facilitators do not need to recruit; intending migrants seek out the services of smugglers. The route described by the survivor is a common one: travel by air to Malaysia, then onto Indonesia by land and sea, and the final leg in a boat to Australia. The fee includes accommodation along the way in safe houses. There are also local agents who provide accommodation and facilitate local transportation.

As Case Study B shows, smugglers appear to be quite flexible with payment and accept instalments for each segment of the journey. Interestingly, the survivor did not report exploitation or coercion while he waited for a payment to be made by his family in Karachi.

The fact that a convoy of four buses carrying more than 200 men without visas could drive across the centre of Java – even at night – indicates that local law enforcement agents had been bribed. Networks in the east tend to be more integrated, acting as a courier system through which packages of people are moved along chains of intermediaries. In each location, local representatives develop relationships with the authorities in order to smooth the way. As a previous report suggests,<sup>113</sup> larger sums of money go to higher officials who sponsor the entry or movement of asylum seekers. At the local level, each police checkpoint on the 150-mile drive across Java required a bribe of USD 200 or more.

Moreover, Case Study B also reveals that failed migrants sometimes become facilitators or agents. The fact that irregular migrants have no right of work when they get stuck in a transit country can push them into working for the smuggling network. Facilitators often come from the same

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<sup>111</sup> Australian Government, *Report of the Expert Panel*, p22.

<sup>112</sup> Burke, 'The night the refugee boat sank: victims tell their stories', *The Guardian*, 3 June 2013.

<sup>113</sup> UNODC Pakistan, *Crime Facilitating Migration*, pp34-35

community as intending migrants and have personal experience of attempting the same smuggling routes.

**Findings and recommendations:**

- The majority of Pakistani and Afghan nationals who reach Australia via boats are predominantly ethnic or religious minorities, such as Hazaras.
- The high level of acceptance of refugee claims by Australia suggests that Pakistani and Afghan irregular maritime arrivals to Australia have compelling reasons of flight from their countries of origin and are genuine refugees. This highlights the importance of push factors from Pakistan and Afghanistan for some communities.
- Communities of persecuted minorities seek out the services of smugglers and pool their resources in order to send main income earners abroad.
- Irregular migrants use a mix of legal and illegal means to travel: they exit Pakistan legally by air and transit through Malaysia or Thailand, and then use illegal transport over land and sea to Indonesia and onto Australia.
- Smugglers generally have ethnic ties to the population that use their services.
- The smuggler network operates in chains; each segment of travel can be paid for separately. Local agents facilitate travel and accommodation at the transit points.
- Visa and travel consultancies act as fronts for smuggling networks at the point of origin within Pakistan.
- The Government of Pakistan should regulate visa and travel consultancies.

## 5 Trafficking in persons

Due to the confusion and conflation of human trafficking and migrant smuggling in Pakistan, it is a challenge to distinguish data related to each. Moreover, much of the literature on human trafficking in Pakistan does not substantially address transnational trafficking. Instead, as discussed earlier, reports on trafficking tend to deal substantially with migrant smuggling. Alternatively, reports on human trafficking have concentrated on internal trafficking.<sup>114</sup> As noted earlier, internal trafficking within Pakistan is beyond the scope of this report. However, there is very little information on the links between internal and international trafficking. It is likely, based on anecdotal evidence, that there are common networks of promoters and agents in operation for both internal and international trafficking. The nexus between internal and international trafficking is an area that requires further research.

### 5.1 Legal framework

The *Prevention and Control of Human Trafficking Ordinance*, promulgated in 2002, is the primary legislative instrument in Pakistan against offences of trafficking in persons. The Ordinance defines human trafficking in section 2(h). UNODC in Pakistan has assessed the degree of compliance of the Ordinance with international law.<sup>115</sup> This report reiterates the recommendations to refine the Ordinance for clarity and increased consistency with *UNODC Model Law submitted to the Government of Pakistan*. Trafficking in persons often also entails breaches of immigration regulations. Victims are transported in a clandestine manner across international borders through means that are similar to those used by irregular migrants. This irregular movement across international borders – a feature in both people smuggling and human trafficking – can lead to a conceptual confusion of the two. However, as discussed in more detail in Section 5.2, different elements constitute the two crimes. Therefore, while legislation that prohibits irregular movement, such as the *Pakistan Penal Code*, the *Passport Act* and the *Emigration Ordinance*, may be applied to prosecute some aspects of human trafficking, those provisions do not attack the crucial element of exploitation that is inherent in the crime of human trafficking.

### 5.2 Distinguishing smuggling of migrants from trafficking in persons

Although it is easy at the point of detection to confuse a smuggled migrant and a trafficked victim, there are key differences in the nature of the crimes. UNODC has expanded the distinction between the two offences in some detail.<sup>116</sup> In human trafficking, there is an identifiable human victim who is trafficked for the purpose of exploitation. Human trafficking is a human crime with an individual victim. In contrast, migrant smuggling involves no individual victim. The harm done is against the State through the violation of immigration laws. The relationship between the smuggler and the migrant is that of a commercial relationship. The State is the only victim and migrant smuggling is a crime against public order.

In human trafficking, the victim is treated like a commodity – something to be bought and sold. The primary financial transaction takes place between the recruiter who sources a victim and the

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<sup>114</sup> For example: Gender Equality Program and Aurat Foundation, *Internal Trafficking of Women and Girls in Pakistan*, December 2012; Sahil, *The Other Side of Childhood: Male Child Prostitution at a Bus Stand in Pakistan*, 2004; Sahil, *A Hidden Reality Unveiled: Public Perceptions on Child Abuse*, c.2008; Sahil, *Cruel Numbers 2011: A compilation of statistics on child sexual abuse of reported cases in Pakistan*, 2011; Salman Abid, *Commercial Sexual Exploitation of Girls in Lahore: A Baseline Study*, 2009.

<sup>115</sup> UNODC Pakistan, *Trafficking in Persons in Pakistan: A Review of National Laws and Treaty Compliance*, October 2011.

<sup>116</sup> UNODC Bangkok, *Distinguishing between Human Trafficking and People Smuggling*, 10 April 2003.

exploiter who uses that victim. In migrant smuggling, the services of the smugglers is the commodity being sought and bought. The primary financial relationship is between that of the intending migrant and the smuggler.

Moreover, all trafficking is undertaken without valid consent. A trafficked person will often consent to the movement in order to get to a place of employment, but such consent is nullified if any of the means as enumerated in Article 3 of the Trafficking in Persons Protocol were used (threat of use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability). The intention of the trafficked person is not to be exploited, but to seek opportunities elsewhere. Moreover, some fundamental values such as freedom from slavery are often considered inviolable, meaning that there can be no consent to be enslaved or there can be no consent to be enslaved or to be exploited in slave-like conditions. By contrast, smuggling occurs with the individual consent of the person being smuggled. In agreeing to be smuggled across the border, the migrant consents to acts that are consistent with getting across the border and the migrant is complicit.

The role of the intended destinations is also different. Human trafficking can be both international and domestic, but in all cases the traffickers must control the victim to and at the point of exploitation, which is also the destination. In contrast, migrant smuggling is by definition a transnational crime, as the crux of the offence is the illegal entry of an intending migrant to a State in which the person has no lawful right of residence. Migrant smugglers are less concerned with the intending migrants' final destination than with the facilitation of border crossings.

In human trafficking, a recruiter is someone who makes initial contact with the victim. The function of the first-level trafficker or recruiter is to find individuals who fit a certain demand, such as young girls for brothels. Traffickers or recruiters will often initiate contact with the victims, but even if the victim consents to the movement this consent is nullified by exploitation if it has been obtained through one of the means such as threat or use of force [etc.] in the definition of trafficking. By contrast, migrant smugglers often have no need to actively recruit. They are often an existing operation and may advertise their services generally rather than identify and lure victims. In Pakistan, substantial anecdotal evidence shows that the identity of facilitators is well known among local communities, and aspiring migrants often initiate contact with them in order to secure their services.<sup>117</sup>

It is important to also note that an individual who pays for the services of smugglers can also become a victim of trafficking along the way or at the point of destination. Anecdotal accounts from Pakistan suggest that men and women trafficked from Pakistan often start their journey willingly, believing that they have better job and economic opportunities elsewhere. Later, along the route or at the point of destination, they become victims of trafficking by being subjected to forced labour or sexual exploitation. However, evidence suggests that most incidents of illegal border crossings originating from Pakistan are voluntary. This does not exclude the possibility that intending migrants may become victims of coercion or deception. Some intending migrants become trafficked when they are subject to forced labour in order to pay for the cost of travel. Some are pressed into exploitative circumstances under the threat of exposure to immigration authorities in the destination country.

### 5.3 Pakistan as destination country

Although Pakistan is known as a destination country, it is difficult to distinguish the incoming flow of irregular migrants – particularly from Afghanistan – from victims of trafficking. Among the large numbers of Afghan refugees in Pakistan, anecdotal evidence shows that there are women and

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<sup>117</sup> See, for example, case studies in HRCP, *Human Trafficking through Quetta*.

children who are trafficked to Pakistan for sexual exploitation and bonded labour. UNHCR in Pakistan has dealt with cases of women trafficked to and through Pakistan for sexual exploitation, sometimes in the form of forced marriages. Some NGO workers have reported that there are Chinese and Russian women trafficked to Pakistan for sexual exploitation, as well as women from Nepal, Bangladesh, Iran, and Central Asia.<sup>118</sup> Pakistan reported repatriation of foreign nationals, including Russians, in 2012.<sup>119</sup> However, there are no available details about these cases and no statistics to determine the magnitude of the problem.

#### 5.4 Pakistan as a source country

According to the US State Department, Pakistan is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. Trafficking appears to have increased in 2011 following the floods in late 2010 and the deteriorating security situation. Exceptionally, in 2012, six Pakistani victims of trafficking were found in Malawi. However, no details about their cases are available.<sup>120</sup>

##### 5.4.1 Destination Europe: male victims

Although the literature has generally focused on the international trafficking of women and children, Frontex data shows that in recent years Pakistani nationals are among the most commonly found male victims trafficked to Europe, followed by Chinese and Vietnamese nationals. Statistical data from European Union (EU) member states and Schengen-associated countries shows that there were 3,023 potential victims of trafficking from third countries in 2009. This was a 27 per cent increase from 2008, during which only 2,075 cases were identified. Most of the potential victims came from West African countries, which showed a 75 per cent increase. The most significant rise was in the number of male victims, which was ten times higher in 2009 than in 2008.<sup>121</sup>

The rise in male victims of trafficking to the EU appears a relatively recent phenomenon. In 2008, a substantial number of male victims was detected for the first time, and 2009 saw a further ten-fold increase in numbers. By 2011, male trafficking had become statistically significant for the first time, comprising approximately 25 per cent of the total number of third-country national victims. This rise, however, may be attributed to better detection and identification of male victims rather than an absolute increase in the number of victims. Many organisations claim that male trafficking has always existed but that governments tended to perceive men as irregular migrants who had been smuggled into the country while women were more likely to be accepted as victims of trafficking.<sup>122</sup>

In 2008, all male victims were trafficked for labour exploitation. More than 70 per cent of male potential victims identified in 2009 were exploited for forced labour, followed by 11 per cent for sexual exploitation. More than half of the male potential victims came from Asia, with the highest numbers of male victims reported in Spain followed by the Netherlands. Male victims that were identified mostly came from Pakistan and China, followed by Bolivia and Vietnam. Pakistani victims were found predominantly in Spain.

The phenomenon of male victims of trafficking from Pakistan for forced labour is consistent with the high rate of internal trafficking for forced labour. Bonded labour is identified as Pakistan's largest trafficking problem, in which traffickers or recruiters exploit an initial debt as a part of the

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<sup>118</sup> Information provided to the researchers by Sheed in 2013

<sup>119</sup> GOP, *Response to USSD TIP Questionnaire*, 2013

<sup>120</sup> US State Department, TIP 2013.

<sup>121</sup> Frontex, *Situational Overview on Trafficking in Human Beings*, Warsaw 2011, p5.

<sup>122</sup> Frontex, *Situational Overview on Trafficking*, p16.

employment. Brickmaking and agriculture in Punjab appear to be the sectors most affected by human trafficking. To a lesser extent, mining, carpet manufacturing, glass bangle production, and fishing industries also use bonded labourers. Some sectors in Balochistan and Khyber Pakhtunkhwa are also affected. The Asian Development Bank estimates that 1.8 million people, about one per cent of Pakistan's total population, are bonded labourers.<sup>123</sup> However, bonded labourers seem to be largely an issue of internal trafficking. Although Afghans in Pakistan may also be caught in this modern form of slavery, there is no reliable data. The data from Europe suggests that there is a relationship between internal trafficking for bonded labour and international trafficking of Pakistani men for forced labour. This area will require further research.

Federal Investigative Agency must cooperate with other law enforcement agencies to combat the international trafficking of men for forced labour. This requires a better understanding of forced labour within Pakistan. As a first step, training should be conducted with FIA and other law enforcement agencies on recognising forced labour. UNODC recommends that FIA and other law enforcement agencies should be trained on the Indicators of Forced Labour as developed by the International Labour Organisation.<sup>124</sup> The eleven indicators developed by ILO are intended to help 'front line' law enforcement agencies to identify victims of forced labour.

#### Findings and recommendations:

- Trafficking of Pakistani males to Europe for forced labour is emerging as an area of concern.
- The link between internal trafficking of men for bonded labour and international trafficking for forced labour needs to be further researched.
- FIA and other law enforcement agencies should receive training on identifying victims of forced labour, including on the Indicators of Forced Labour as developed by ILO.

#### 5.4.2 Destination Gulf: dancing girls

The trafficking of women and children from Pakistan to the Gulf, particularly for the purposes of sexual exploitation and forced marriages, is well documented. However, since 2005, the incidence of young boys being trafficked to the Gulf as camel jockeys appears to have declined sharply.

The trafficking of girls and women to Dubai, Abu Dhabi, and other destinations in the United Arab Emirates (UAE) for dancing and sexual exploitation has been an area of concern. There is no reliable statistics to indicate the magnitude of the problem. However, local NGOs that provide assistance to sex workers in Pakistan, particularly from Lahore, have indicated that this is a common occurrence. Although estimates are unreliable, one source stated that at least 100 women and girls from the red light districts of Lahore go to the UAE at least once a year; another estimated that 30 to 40 groups of dancers travel to the UAE about every three months. Some of the women and girls will travel repeatedly to the UAE. There are also reports of dancing girls being trafficked to Bahrain and Oman. Each group comprises of approximately six to eight women and girls, and sometimes accompanying musicians.<sup>125</sup>

According to unpublished research based on fieldwork provided to the researcher, although Lahore's Heera Mandi area is the most famous of the red light districts the trade has relocated over the last 30 years.<sup>126</sup> Clients - intellectuals, industrialists, and landlord classes – have settled in newer parts of

<sup>123</sup> US State Department, *Trafficking in Persons Report: Pakistan*, 2012, p276.

<sup>124</sup> ILO, *ILO indicators of Forced Labour*, October 2012, available at: [http://www.ilo.org/sapfl/informationresources/Factsheetsandbrochures/WCMS\\_203832/lang-en/index.htm](http://www.ilo.org/sapfl/informationresources/Factsheetsandbrochures/WCMS_203832/lang-en/index.htm).

<sup>125</sup> S. M. Ali, *Perceptions and Realities: the Phenomena of Dancing Girls from Pakistan in UAE – A Preliminary Assessment*, unpublished report provided to the researcher by *Groupe Développement*; information provided to the researcher by Sheed.

<sup>126</sup> The research relies on extensive fieldwork and uses ethnographic methods. However, it does not supply reliable statistical data. The number of interviews conducted and sampling is limited.

the city that are less congested and no longer frequent the Heera Mandi. Brothels and *mujrahs* have moved to other neighbourhoods, such as Allama Iqbal Town and the Shah Noor Studio area in Lahore. Around the Shah Noor Studio girls are recruited into sex exploitation after they attempt to enter into the film industry.

Another area that has become a source for internal trafficking is Sargodha in Punjab, located 172 km northwest of Lahore and just off the motorway that connects Lahore and Islamabad. In Sargodha, approximately 50 female sex workers operate under the protection of an influential woman known as 'Chawdrahan', who is paid monthly by each of the women that work in her area.

Some women and girls enter into the sex work because their families, often mothers, are involved in the trade. Others have run away from home and become vulnerable to sexual exploitation. Family members often play a significant role in trafficking, either because a family member has already engaged in the work, sex work is perceived as a hereditary family trade, or because a family member sells a woman or girl into the trade. There are significant numbers of under-age girls being trafficked. These girls are trafficked using fraudulent documentation that certifies them to be adults.

According to one informant, there are networks of agents and promoters that operate in Lahore. Many girls are recruited from Punjab. There are approximately 30 to 35 well-known promoters that operate. They recruit girls and women to work primarily as dancers and singers and occasionally as domestic workers. Families often grant permission for the girls to travel, and the girls themselves also consent. However, it is not clear whether the consent is obtained with misrepresentation or whether the family, and in particular the girls, have prior knowledge that they will be expected to perform sex work.

## **Case Study C: Dancing girls in the UAE<sup>127</sup>**

### **Case Study C1**

S is a 15-year-old girl who was educated until class seven in public schools before dropping out. Her father has a television and radio repair store. Her mother and aunts were also dancers and had come from Sahiwal to Lahore for work. The women of the family have been in the sex trade since before Partition.

S was first sent to Dubai when she was 13 because her mother wanted her to go. Her father objected but her mother was able to persuade him. S had also been to Abu Dhabi. Within Pakistan she had travelled internally to cities such as Rawalpindi, Murree, and Lahore to entertain guests at functions. Her passport states that she is 21 years old.

### **Case Study C2**

B (18 years old) and D (20 years old), are women from the Kanjar community, a traditionally nomadic community that has long been associated with prostitution. They began to go abroad when they were 16 and 18 respectively. They have travelled four times: to the United Kingdom, Sharjah, Dubai, and Muscat. Their mother used to go to England as part of a dance troupe but stopped 25 years ago. The promoter and agent used by the women is their mother's first cousin. The women are paid approximately PKR 200,000 per person per trip. Although their mother denies that the women perform sex work, family friends and community members believe that B and D receive maintenance from men in Dubai, estimated at PKR 40,000 each.

### **Case Study C3**

G (approximately 18-19 years old) is from Sargodha. Her mother had come from Patogee and performed sex work in Lahore. G has been trafficked abroad eight times. She is the mistress of a man in Gujranwala who used to work in the United Arab Emirates. He sends PKR 25,000 per month to her family, which enabled the family to buy a house.

### **Case Study C4**

H is 18 years old and lives in Allama Iqbal Town in Lahore. Her mother died and her father remarried. Neglected, H was responsible for her younger siblings. H was introduced to her promoter and agent through her dance 'Ustad'. H travelled to Dubai for two months and received PKR 90,000.

### **Case Study C5**

M is 16 years old and belongs to a female-headed household. Her father died and she lives with her mother, three sisters and a younger brother. She was introduced to an agent and promoter through girls in her neighbourhood. One of her clients, found through her promoter, arranged for her to spend a night with him. M was paid PKR 400,000.

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<sup>127</sup> S. M. Ali, *Perceptions and Realities*, (unpublished).

According to informants in the industry, tours to the Gulf are professionally organised. Agents are responsible for local recruitment, which involves identifying women and girls and creating a troupe of girls, musicians, and singers. Agents often approach families of girls directly. The agents get paid for acting as the middleman between the girls and promoters. Some of the agents also have businesses providing musicians and entertainment to weddings and other functions. Once the girls are identified in Pakistan, their pictures are emailed to hotel managers and promoters at the venue. Once approved, copies of the girls' passports are forwarded to the venue so that visas can be issued.

The promoter is responsible for the girls' travel. He accompanies the group to the United Arab Emirates and deals with all aspects of their stay, including providing visas, arranging accommodation, and meeting clients. Promoters also act as guards because if a girl runs away the promoter is blamed. Promoters also provide the initial funds to pay for passports, travel tickets, and to cover small expenses. Moreover, sometimes the agent pays an advance to the 'owner' of a girl, such as the mother, brother or other relative or guardian. The advance is usually between PKR 50,000 and 100,000, and this is then deducted from the earnings of the girl.

Any expenses for visas, a passport, travel, accommodation, documentation, and other incidentals is deducted from the group's earnings in the first month. Whatever profit remaining is then shared between the venue or hotel, the promoter, and the girls. The exact division of profits is unclear: some sources state that the money is split with: 40 per cent going to the venue; 40 per cent to the performers, including the girls and musicians; and 20 per cent to the promoter. Other sources have estimated that the girls receive 60 per cent of the profits after all expenses are deducted, with the venue and promoter each receiving 20 per cent.<sup>128</sup> It also appears that some venues offer different packages with different inclusions, such as food, accommodation, and laundry, as well as profit-share arrangements. According to one promoter, the dancing girls can make between PKR 70,000 and 130,000 per month. For one night with a client, a 16-year-old girl reported that she earned PKR 84,000 PKR as well as gifts.<sup>129</sup>

From fieldwork conducted in Dubai, it appears that for the client, victims from South Asia are cheaper than European women. Women from Asia can be acquired for between PKR 8,400 and 14,000 per night. In comparison, European women are substantially more expensive at between PKR 22,400 and 42,000 per night. 'Higher-end' women and girls are also available in some expensive establishments for in excess of PKR 42,000.

From a client's perspective, it is relatively easy to make contact with a girl or dancing troupe. Bar owners, waiters, and restaurateurs can make introductions or provide addresses for a tip. In a bar specialising in promoting Pakistani entertainment to working-class clients, including migrant workers from Pakistan, several Pakistani girls under the age of 18 were found.

It appears to be relatively easy for under-age girls to obtain fraudulent documentation that states that they are adults by exploiting the lack of systemised birth registrations in Pakistan. For PKR 5000 to 8000, agents can have false birth certificates issued for girls with a fraudulent date of birth. Hospital staff are reportedly involved in issuing such birth certificates.

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<sup>128</sup> Ali, *Perceptions and Realities* (unpublished), p14; and information provided to the researcher by Sheed.

<sup>129</sup> Price for one night seems to vary widely. It is not clear what the market rate is with the small sample size and data.

With a fraudulent but authentic birth certificate, a girl can apply for a Computerised National Identity Card through regular procedures via a normal or fast-track process. Once the Card is issued it becomes the basis of an application for a passport, which can be obtained on an urgent basis. After that, the agent applies for a visa to the United Arab Emirates on behalf of the girl. Usually, a three-month performer's visa is issued through the sponsorship of the hotel or venue, which states that the girl is part of a delegation participating in cultural shows. The total cost of documentation, estimates one source, is between PKR 40,000 and 50,000 per person.

It is important to note that the women and girls travel on authentic but fraudulently obtained passports and visas. Their movement across international borders between Pakistan and the UAE is, on the face of it, legal because the documents they use are authentic. The means by which the agents and promoters obtain these authentic documents for the girls are fraudulent. This means that detection at the point of border crossing is extremely difficult as the travel documentation presented is authentic but fraudulently obtained.

Once in the UAE, the women and girls are kept at the venue. Some women and girls reported that they stayed together in the accommodation provided and had to be at the venue from evening to morning. The managers of the hotels are sometimes abusive if the women and girls do not attract enough clients. Clients are also sometimes abusive when their requests are not satisfied. The women and girls are not allowed to leave the hotel or the venue, but clients can book rooms for after the dance show. The women and girls are then escorted back to their accommodation and locked in. They are not allowed to meet anyone, not even the musicians that accompany the troupe. Occasionally, if a client wants to take a woman or girl out of the premises – sometimes to shop – a security guard accompanies them to ensure that the girl does not abscond. The women and girls are allowed to keep mobile phones, with which they keep in touch with their family and make arrangements with clients.

Notably, when interviewed, even NGO workers with extensive experience in assisting sex workers insisted that the girls and women were not forced into sexual exploitation in the Gulf. However, they added that if a girl wished to stop working after being sent to the Gulf, whether she would be permitted to stop or not would depend on her contract and debt. The implication, of course, is that a girl could be coerced into continuing sex work even if she wanted to refuse.

There is a significant misconception in Pakistan about what constitutes trafficking. Interestingly, none of the informants considered the girls and women to be victims of trafficking or under any coercion. The fact that the girls were not allowed freedom of movement and had little choice in the matter did not appear to change this perception. There appears to be some level of acceptance that this was a part of the business practice. None of the informants reported the use of physical violence against the girls and women, and they did not consider the detention or being kept under surveillance to be a form of coercion. The fact that family members sometimes received an advance payment and that the girls were then indebted to the promoter for expenses related to their travel also did not trigger any alarm. Similarly, though the women and girls are required to earn a certain amount to repay the promoters and may be forced to perform sex work in order to do so, this was accepted as part of the business deal.

As this demonstrates, the notions of consent and coercion as applicable in international law are not well understood in Pakistan. As much previous literature has pointed out, trafficking in girls and women is a difficult subject in Pakistan due to social norms. Traditional practices such as *swara*, *watta satta*, *vani* and the payment of bride prices are sometimes used as a means to facilitate internal trafficking. There is a high level of acceptance of arranged marriages and gender-based violence in the community. As such, the consent of the individual woman is considered to be less important or even irrelevant, particularly when a family gives consent for a girl or woman to be taken

out of Pakistan for sex work. In several cases, the women and girls reported that their earnings were sent to their family, rather than to them personally. The earnings are seen as a common good, used to support the entire family by, for example, buying a family home.

Coercion appears to be understood narrowly as the use of physical violence against the girls and women. The economic pressures applied against them are not perceived as a form of coercion. Yet, the women and girls are often subject to severe financial coercion. The debt, the poverty of their family that can be alleviated by sex work, and the threat of violence if they do not pay off their debts are all forms of coercion. The use of debt, including that incurred during the process of transporting them from Pakistan, is a form of bondage. The use of non-physical forms of threats, coercion, and bondage is consistent with the methods of traffickers in other parts of the world, such as in Nepal.<sup>130</sup> Similar to trafficking for the purposes of bonded labour, debt coupled with the threat of violence is a common means used to victims compliant and in sexual servitude. In addition, the means of trafficking in Article 3 of the Trafficking in Persons are broader than in PACHTO and in particular, include softer means such as abuse of power or a position of vulnerability.

As noted earlier, it is not clear whether girls and women sent to the UAE are aware of their intended occupation. If a woman initially consents to work as a dancer in the Gulf, she can still later withdraw her consent once the nature of her work becomes clear or simply because she no longer wants to engage in sex work. With the withdrawal of consent, the woman becomes a victim of trafficking if she is forced to continue. Further, consent obtained under misrepresentation or under coercion nullifies the validity of consent. Moreover, children under the age of 18 cannot consent to being trafficked for sex work.

#### **Findings and recommendations:**

- Although there are few statistics, fieldwork shows that the trafficking of women and girls to the Gulf as dancers and for sexual exploitation is an area of concern.
- Document fraud in relation to minors begins with a false birth certificate, which facilitates the acquisition of authentic identity documents and passports with false dates of birth. This allows minors to be trafficked as adults.
- The FIA must improve its ability to detect authentic documents obtained through fraudulent means.
- The link between women and girls trafficked internally and internationally for sexual exploitation needs to be further researched.
- There is a poor understanding of consent and coercion in the context of trafficking in persons in Pakistan, even among professionals who work with at-risk groups.
- The FIA should raise public awareness of what constitutes trafficking, particularly with key professionals that are in contact with at-risk groups.

<sup>130</sup> BBC News Magazine, 'Nepal: "I was 14 when I was sold"', 22 April 2013, available at: <http://www.bbc.co.uk/news/magazine-22250772>.



## 6 Law enforcement response

According to Frontex data, although the volume of irregular migrants to the European Union (EU) from Afghanistan is far greater than those from Pakistan, it is Pakistani nationals who are more often detected as facilitators.<sup>131</sup>

**Table 17:**  
**Number of facilitators detected in the EU (Frontex)**

	2009	2010	2011	2012	% of total	% change on 2011
Total	9,171	8,629	6,957	7,720	-	11
Pakistan	245	245	237	286	3.7	21

Although the figures are relatively modest, since 2011 Pakistan has been among the top ten nationalities of facilitators detected. The trend in 2012 is again that of an increase, both in terms of the number of Pakistani facilitators detected and as a percentage share of the total number of facilitators detected. In comparison, Afghan nationals are not among the top ten nationalities of facilitators.

Considering the use of Pakistan as a transit country for Afghan nationals, and the significantly higher numbers of Afghan irregular migrants that attempt to enter the EU and other destinations such as Australia, the significantly higher detection rate of Pakistani facilitators suggests that Afghans also use Pakistani smuggling networks. While Afghanistan generates more asylum seekers and irregular migrants, it appears that it is Pakistani nationals that are more actively profiting from the business. However, there is no detailed information on the roles of the Pakistani nationals found to be facilitators in the EU. This is an important aspect requiring further research.

It is also not clear whether the networks that facilitate migrant smuggling and human trafficking overlap. Previous research suggests that those involved in the migrant smuggling industry identify themselves as distinct from human traffickers. Based on information provided by participants in smuggling, people smugglers are reportedly concerned with their business reputation. Smugglers must remain untarnished by accusations of coercion or violence so that they can better recruit potential migrants.<sup>132</sup> Subsequent research has relied on this piece of information.<sup>133</sup>

While the distinction is made between migrant smuggling and human trafficking at the level of recruitment or at the origin point of the journey, it is likely that both human traffickers and migrant smugglers use similar routes and modes of operation to gain entry into third countries. Moreover, overlaps between the two activities are also likely higher up in the chain of command within the network, particularly at the levels of sponsors or regional coordinators.

As noted in Section 4.3.3.2 of this report, there is an increase in the use of document fraud in irregular migration, in particular by Pakistanis. At the same time, there is evidence to suggest that document fraud is an integral part of human trafficking, particularly in relation to girls and women going to the Gulf for sexual exploitation. As the European Union has noted, the sophistication of technology used to detect forged documentation has raised concerns that organised criminals are

<sup>131</sup> Frontex, ARA 2013, p 68; Frontex, ARA 2012, p 49; and Frontex, ARA 2011, p58.

<sup>132</sup> UNODC Pakistan, *Crime Facilitating Migration*, p58. The report cites one smuggler. The reliability of the smuggler's self-presentation must be cautiously viewed. Moreover, there appears to be insufficient data to draw any conclusions.

<sup>133</sup> UNODC Pakistan and SDPI, *Illegal Economy: Pakistan*, xiii.

involved. Therefore, it is likely that in Pakistan the acquisition of forged or fraudulently obtained documentation for the purposes of migrant smuggling and human trafficking involves the same networks.

It is notable that male Pakistani nationals are emerging as a significant group of victims trafficked for forced labour in the European Union. This suggests the possibility that would-be irregular migrants seeking employment opportunities in Europe are turning into victims of trafficking somewhere along the migration route. This may be due to a variety of reasons, such as: deception by recruiters from the outset, or a migrant's inability to pay the full amount of the smuggling fees which leads to exploitation and forced labour in order to compensate the smugglers. The profiles of the male victims of trafficking and potential irregular migrants from Pakistan are similar – young, working-age males from poor economic backgrounds. This also suggests a level of symbiosis between the trafficking and smuggling networks; they appear to be targeting the same demographic. Again, this is an area that requires further research.

#### **Findings and recommendations:**

- Pakistani nationals are among the top ten nationalities of detected facilitators in the EU.
- There are significantly more Pakistani nationals found to be facilitators than Afghan nationals, even though Afghan irregular migrants vastly outnumber Pakistani irregular migrants to the EU.
- Pakistani nationals are more often involved as facilitators in smuggling networks.
- Afghan nationals use Pakistani networks to facilitate travel to destination countries.
- The emergence of Pakistani male victims of trafficking for forced labour in the EU suggests an overlap between smuggling and trafficking networks.

### **6.1 Interdiction**

Afghanistan and Pakistan share 2,643 kilometres of land border, known as the Durand Line. Established in 1893, it demarcates Khyber Pakhtunkhwa, the Federally Administered Tribal Areas (FATA), and Balochistan from the southern and eastern provinces of Afghanistan. It is an extremely porous border, particularly for Afghans who can exit their country with relative ease.<sup>134</sup> Along the border there are two legal immigration check posts at Chaman and Torkham.

The busiest crossing is at Torkham, located in the Khyber Agency of FATA and bordering Nangarhar Province in Afghanistan. An estimated that 15,000 to 20,000 people cross the border – in and out of Pakistan – every day. Most people can pass through the border without a passport or identification documents. Located in one of the tribal areas of the semi-autonomous region, under Section 247 of the Constitution of Pakistan, no Act of the Federal Parliament applies to FATA unless the President of Pakistan authorises it. Therefore, the Federal Investigation Agency has no jurisdiction in Torkham and must obtain permission from the local Political Agent before any arrests can be made.<sup>135</sup> Even if the FIA deployed officers to Torkham it would only be able to perform a monitoring role and would not be able to enforce immigration laws.

FIA regulates the immigration flows at 13 airports, five land routes, four seaports and two railway stations.<sup>136</sup> The Chaman crossing in Balochistan is another major crossing point between the two

<sup>134</sup> UNODC Pakistan, *Crime Facilitating Migration*, p34.

<sup>135</sup> UNODC Pakistan, *Situational Analysis*, p13

<sup>136</sup> FIA, 'Immigration Wing', undated, available at [http://www.fia.gov.pk/dep\\_immigration.htm](http://www.fia.gov.pk/dep_immigration.htm)

countries and falls within the FIA's jurisdiction. Also located on the Durand Line, Chaman links two provincial capitals across the border: Quetta in Pakistan and Kandahar in Afghanistan. An estimated 10,000 to 20,000 individuals cross both ways each day. Although a biometric, computerised system to screen travellers was installed in January 2007 at Chaman, protests from Afghan tribesmen destroyed the system and forced the closure of the border for a time.<sup>137</sup>

In 2009, the FIA arrested an agent from Kuchlal accused of running a smuggling operation in which 47 Afghans died in a container truck. The FIA subsequently ordered that container trucks travelling into Pakistan from Afghanistan across Chaman had to leave their doors open.<sup>138</sup> Despite these efforts, the Chaman border remains porous. One report in 2010 stated that border guards can be bribed for the equivalent of less than a dollar or taxi drivers can simply drive passengers across the border for a similarly token fee. The border guards do not ask passengers for identification or search vehicle trunks.<sup>139</sup>

The lack of stringent checks at border posts, particularly at Chaman, means that there is an opportunity for marked improvement in interdiction there. The increased capacity of the FIA and other border control staff, together with anti-corruption measures, can have a significant impact.

Although the FIA has jurisdiction over the immigration check-post at Chaman, the Pakistan Frontier Corps has the responsibility for securing the long border. Along the rural stretches of the more than 1000 kilometres of border between Afghanistan and Balochistan, there are more than 276 posts on the Pakistani side. However, a border commander readily admitted that illicit goods eluded security officials and continued to enter Pakistan.<sup>140</sup>

In addition, Pakistan has a long coastline on the Arabian Sea in Balochistan and Sindh, covering more than 1000 kilometres. The Makran Coast Highway follows the coast and is more than 650km long. The Pakistani Coast Guard and Maritime Security Agency both have a role in securing the sea border.

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<sup>137</sup> Dawn, 'Biometric system to be revised along Afghan border: Malik', 20 October 2011, available at: <http://beta.dawn.com/news/667548/biometric-system-to-be-revived-along-afghan-border-malik>.

<sup>138</sup> Saleem Shahid, 'FIA arrest man accused of container tragedy', Dawn, 7 May 2009, available at: <http://archives.dawn.com/archives/145532>

<sup>139</sup> Souad Mekhennet and Richard A Opiel Jr, 'Even Where Pakistani Law Exists, Taliban Find a Porous Border', New York Times, 4 February 2010, available at: [http://www.nytimes.com/2010/02/05/world/asia/05baluch.html?\\_r=0](http://www.nytimes.com/2010/02/05/world/asia/05baluch.html?_r=0)

<sup>140</sup> Mekhennet and Opiel, 'Taliban Find a Porous Border', New York Times, 4 February 2010.

<b>Table 18:</b>									
<b>Interdiction of foreign nationals by Gwadar Anti-Human Trafficking Centre 2010-2013 (FIA)</b>									
		FIA	Coast Guard	Border Post - 250	Frontier Corps	Maritime Security Agency	Levies	Police	Total
2010	Total	179	244	0	1	1	ND	ND	425
	Afghans	177	244	0	1	0	ND	ND	422
2011	Total	617	188	0	0	1	ND	ND	806
	Afghans	602	184	0	0	0	ND	ND	786
2012	Total	45	379	0	223	0	76	10	733
	Afghans	45	375	0	223	0	75	10	728
2013 (up to 22/05/13)	Total	2	51	0	42	0	0	0	95
	Afghans	0	26	0	42	0	0	0	68

Although statistics from the Gwadar Anti-Human Trafficking Centre are not representative of the country as a whole, they are indicative due to Balochistan's long stretches of land and sea borders as well as its proximity to Afghanistan and Iran. Between 2010 and 2013, the vast majority of foreign nationals interdicted were Afghans, with some Iranians and a few from countries in Africa, including 15 Somalis in 2011. A majority of the detections occurred away from official border posts staffed by the FIA, along green and blue borders. There was a significant increase in detections from 2010 to 2011, suggesting that conflict in Afghanistan has pushed more people towards Pakistan. Moreover, between 2011 and 2012 there was a shift from detections by the FIA to green border detections by the Frontier Corps and blue border detections by the Pakistan Coast Guard. This suggests a change in tactics among Afghans seeking to enter Pakistan.

A similar trend can be observed in the interdiction of Pakistanis. Between 2011 and 2012 there was a significant movement away from interdictions at FIA border posts to green and blue borders patrolled by the Coast Guard, Frontier Corps, and others. In 2011, more than 91 per cent of all interdictions of Pakistanis attempting illegal emigration were detected at FIA border posts. In 2012, only 41 per cent of all interdictions were detected at FIA border posts. In the same period, the percentage of detections by the Coast Guard increased to 42 per cent from less than 10 per cent in the previous year. Similarly, data up to late May in 2013 shows that the trend away from border posts to green and blue borders continues, with the number of interdictions by Frontier Corps and Coast Guard exceeding those by the Federal Investigation Agency.

<b>Table 19:</b>								
<b>Interdictions of Pakistani nationals by Gwadar Anti-Human Trafficking Centre 2010-2013 (FIA)</b>								
	FIA	Coast Guard	Border Post - 250	Frontier Corps	Maritime Security Agency	Levies	Police	Total
2010	804	684	18	0	0	ND	ND	1506
2011	1121	108	31	0	0	ND	ND	1261
2012	580	648	52	139	0	107	5	1531
2013 (to 22/5/13)	89	140	0	15	0	0	0	244

Data shows that for irregular migrants both in and out of Pakistan, a significant portion of border crossing and movement increasingly occurs along green and blue borders. The reasons for the shift may reflect increasing effectiveness at official FIA check points. The synchronicity of the shift from border check posts to blue and green borders, by both incoming foreign nationals and outgoing Pakistani nationals, suggests that the same smuggling networks are being used. Alternatively, it may be that networks facilitating migration have access to the same information.

The visible displacement to green and blue borders means that an increase in border patrols for both land and sea borders is necessary. This is particularly the case along the land borders between Pakistan and Afghanistan and Pakistan and Iran, as well as the sea borders along the Makran Coast.

As statistics show, the FIA's role in interdiction is limited because the majority of traffic no longer passes through official immigration check posts under their jurisdiction. The capacity of other agencies within the Inter-Agency Task Force, particularly the Pakistan Coast Guard, the Frontier Corps, and the Levies will need to be strengthened in order to improve border patrol and interdictions.

#### **Findings and recommendations:**

- In 2012, there was a dramatic shift in attempts to illegally enter and exit Pakistan at blue and green borders away from FIA check posts.
- The synchronicity of the shift for both incoming and outgoing irregular migrants suggests that the same smuggling networks are used or that different networks have access to the same information in relation to law enforcement strategies.
- The FIA should improve its capacity to control the Chaman border check point.
- The capacity of other Inter-Agency Task Force agencies should be strengthened to improve border patrol and interdictions along blue and green borders.

## **6.2 Prosecution**

According to one set of data provided by the FIA, there were 6,276 First Information Reports pending at the beginning of 2012, with an additional 3,673 new migration-related cases registered during the year.<sup>141</sup> The total number of prosecutions was 9,949, leading to 3,847 convictions. Sentencing breakdowns for only 2337 cases was provided.<sup>142</sup> Of these, more than 70 per cent resulted in a fine only. Of the custodial sentences handed down in 666 cases, 83 per cent or 556 cases resulted in imprisonment of less than six months. Another 63 cases (9%) led to sentences of between six months and two years; while 28 cases (4%) led to sentences of between two and five years; 11 cases (1.7%) led to sentences of between five and ten years; and eight cases (1.2%) led to sentences of between ten and 14 years. No further details were provided on the cases. The number of prosecutions initiated when compared to the number of convictions, together with the trend of weak sentences where a vast majority result only in fines, suggests that the Federal Investigation Agency faces challenges to effective and full prosecution of migration-related offences.

In order to study the prosecution and conviction patterns of migration-related offences including migrant smuggling and human trafficking, the researcher requested statistical data on rates of

<sup>141</sup> GOP, *Response to USSD TIP Questionnaire*, 2013.

<sup>142</sup> GOP, *Response to USSD TIP Questionnaire*, 2013. No explanation provided in relation to the 1510 convicted cases for which there is no sentencing information.

prosecution and conviction from the Federal Investigation Agency’s Anti-Human Trafficking Centres. The FIA provided data for six Centres around Pakistan for 2011 and 2012. The dataset is not comprehensive. However, three of the Centres covered are from Punjab and includes the source hotspot of Gujranwala as well as Lahore and Faisalabad. It also includes data from Quetta, Gwadar, and Peshawar Centres, all of which are located in the border areas of Afghanistan and Iran. These Centres are concerned with both sea and land borders in these areas. As such, the data coverage provides an indicative picture of the law enforcement response to human trafficking and migrant smuggling.

However, not all Centres provided disaggregated data relating to specific offences. A list of relevant offences is set out in Annex I. Therefore, comparison across Anti-Human Trafficking Centres is only possible at legislation level for the *Emigration Ordinance* and the *Prevention and Control of Human Trafficking Ordinance*. Some disaggregated comparisons are possible under the *Passport Act* and the *Pakistan Penal Code*. Crucially, the data does not provide details on the type of defendant charged under the provisions. For example, it is not clear whether a particular provision is used to prosecute the intending migrant, the agents or facilitators or other participants. Moreover, the data does not specify the number of individuals charged under each case or, conversely, where one individual may have been charged with multiple offences.

<b>Table 20: Prosecution of offences against provisions of the EO, PA, PPC and PACTO – 2011 (FIA)</b>							
2011		EO17/18/22	PA3/ 4	PA6	PPC 419/420/468/471	PACTO	Total
Peshawar	FIRs	55	36	56	31	10	188
	Convictions	55	58	45	36	2	196
Quetta	FIRs Registered	575	31	35	57	1	699
	Convictions	581	118			1	
Lahore	FIRs Registered	820	0	52	24	84	980
	Convictions	430	0	21	10	10	471
Gujranwala	FIRs Registered	789	0	39	24	216	1068
	Convictions	311		23		86	420
Faisalabad	FIRs Registered	195	0	15	8	6	224
	Convictions	75				0	75
Multan	FIRs Registered	95	0	2	0	46	143
	Convictions	35				13	48
Gwadar	FIRs Registered	0	91			1	92
	Convictions	ND	D	D	ND	ND	

Table 21: Prosecution of offences against provisions of the EO, PA, PPC and PACHTO – 2012 (FIA)							
2012		EO17/18/22	PA3/4	PA6	PPC 419/420/468/471	PACHTO	Total
Peshawar	FIRs	166	0	11	9	2	188
	Convictions	77	1	12	6	1	97
Quetta	FIRs Registered	518	6	40	46	0	610
	Convictions	508	97			0	
Lahore	FIRs Registered	856		33	27	15	931
	Convictions	132		18	6	0	156
Gujranwala	FIRs Registered	947	1	42	4	94	1088
	Convictions	139		17		7	163
Faisalabad	FIRs Registered	193		13		0	206
	Convictions	63		2		0	65
Multan	FIRs Registered	169				1	170
	Convictions	14				1	15
Gwadar	FIRs Registered	0	112			2	114
	Convictions	ND	ND		ND	ND	0

In 2011, 2529 First Information Reports were registered under the *Emigration Ordinance*, from a total of 3395 reports made across the six Anti-Human Trafficking Centres. In 2012, 2849 First Information Reports were registered under the *PACHTO* from a total of 3307 reports. Despite the limitations in the data available, it nevertheless shows the importance of the *Emigration Ordinance*, which continues to be the primary legislation used in all areas. In particular, unlawful emigration (EO 17) is the most frequently prosecuted provision. This reflects the fact that section 17 of the *PACHTO* is broad and covers conduct by both intending emigrants and any facilitators or agents. It also covers conduct related to the Protector of Emigrants.

A majority of sentences handed down under *Emigration Ordinance* provisions attracted fines of between PKR 15,000 and 25,000. In particular, those found guilty of overcharging or fraudulently charging money to arrange overseas employment (EO 22) were generally fined PKR 25,000. It is notable that these fines are far below the expected profit levels for facilitators or agents engaged in people smuggling or human trafficking. The level of fines imposed is insufficient to act as a deterrent or proportionately punish the offenders.

The relatively low rate of First Information Reports registered and subsequent prosecutions and convictions, when compared to the number of irregular migrants from Pakistan, is partly due to the Federal Investigation Agency's policy of not targeting intending migrants. As noted earlier, people migrant smugglers often offer three attempts at migration, particularly on the route to Europe via either overland illegal border crossings or through the use of document fraud. Similarly, it appears that the FIA has an unofficial three-attempts policy in relation to prosecution. An FIA source stated that, in general, returned irregular migrants are not prosecuted unless they are "multiple repeaters".

In addition, however, the FIA reported difficulties in prosecuting agents and facilitators due to the lack of evidence and witnesses willing to testify against the suspects. Interdicted" or "Migrants who failed to cross the border have little incentive to provide evidence against their smugglers due to the three attempts system run by smugglers. Until their attempts are exhausted, the migrants are more interested in trying to reach their destination than pursuing prosecution of the smugglers. Moreover, for some irregular migrants – particularly those that have compelling asylum claims in third countries – smugglers are seen to provide a valuable service to the refugee-generating community.<sup>143</sup> However, even where the intending migrant may have an incentive to provide evidence against the smuggler, the compoundable nature of some offences means that the case may be compromised pending prosecution.

FIA appears to rely significantly on witness testimonies in order to secure convictions. It is notable that the FIA did not report any instances of joint-investigation with other law enforcement agencies in relation to migration-related offences. Moreover, there appears to be little use of forensic accounting or use of other circumstantial evidence to secure convictions. FIA should pursue evidence against people smugglers and human traffickers other than witness testimonies. Evidence gathering can be improved by FIA and other law enforcement agency if coordination is improved. While FIA has the primarily responsibility to prosecute migrant smuggling and human trafficking, other law enforcement agencies can also make significant contributions. For example, coordination between police and FIA has the potential to improve identification of victims of trafficking and the prosecution of traffickers. UNODC recommends that FIA develop mechanisms of cooperation and coordination with other law enforcement agencies to enable joint or multi-agency investigations and improve evidence collection.

In addition, within the FIA, cooperation between investigators and prosecutors can be improved. This will both contribute to the identification of evidence that can led to successful prosecution, and can also improve the effective use of evidence gathered. The rate of conviction can be improved if prosecutors and investigators can coordinate to ensure that evidence collected can lead to effective prosecutions.

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<sup>143</sup> ABC, 'Asylum seeker documents journey', *Lateline*, 11 June 2013, transcript and footage available at: <http://www.abc.net.au/lateline/content/2013/s3779628.htm>.

#### Case Study D: Prosecution of document fraud<sup>144</sup>

The Anti-Human Trafficking Centre in Lahore reported the arrest of a master forger in 2012. The accused was a man over 60 years of age, who had been arrested after the FIA received a tip-off that he was conducting illegal activities on his premises. Following receipt of the information, the FIA conducted a raid on the accused's premises and found a hidden room with a small three-foot high entrance obscured by boxes. In the room various tools for forgery and counterfeiting of visas were found. The forger admitted to having made forged visas on demand and was paid around PKR 40,000 to 50,000 per visa by an agent. The forger was subsequently charged with offences under the sections 17, 18, and 22 of the *Emigration Ordinance*, as well as sections 420, 468, and 472 of the *Pakistan Penal Code*.

The Centre in Lahore also reported the arrest of a man who acted as a courier for expired passports that were intended to be the basis for gaining forged travel documents. The individual was again arrested after a tip-off and was found with expired passports from France, the United Kingdom, and Canada. He stated that he was asked to pick up and deliver the passports from people he did not know. Contact was made by telephone and the number was blocked. Upon delivery of the passports he was to receive between PKR 2000 and 3000. The man was subsequently charged with offences under sections 17 and 22 of the *Emigration Ordinance*, and sections 420, 468, and 472 of the *Pakistan Penal Code*. He was sentenced to ten days rigorous imprisonment and a PKR 15,000 fine. If unable to pay the fine he would be subject to one month imprisonment.<sup>145</sup>

It is notable that the examples of success provided relied on tip-offs and serendipity rather than long-term systematic investigations by the FIA. While two cases is not representative of the FIA's broader work, it is notable that the Agency provided no examples of proactive or large-scale investigations. It is also not clear to what extent, if any, the Anti-Human Trafficking Centres cooperate across regional areas in Pakistan on investigations.

Moreover, as noted above in Section 4.3.3.2, there are broadly four categories of document fraud: forgeries; counterfeits; impersonation; and obtaining authentic documents by fraudulent means. The ability of the FIA to detect and prosecute offences relating to forgeries and counterfeits appears to be greater than other kinds of document fraud. In particular, the FIA appears to be weak on detecting and prosecuting the use of authentic documents obtained through fraudulent means. There is a sense that some FIA officials believe that authentic documents obtained through fraudulent means is beyond the jurisdiction of the FIA as it is impossible detect the fraud from the document itself.

#### 6.2.1 Compoundable offences

According to one Federal Investigation Agency official, the compoundable nature of some migration-related offences significantly reduces the ability of law enforcement agencies to prosecute facilitators and agents and other participants. Under section 345(2) of Pakistan's *Code of Criminal Procedure 1898*, offences under section 419 and 420 of the *Pakistan Penal Code* are compound offences that can be compromised by the person cheated or harmed by the offence, with the court's permission. This means that the complainant who files a case against the accused can agree to drop the charges if an agreement is reached between the parties.

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<sup>144</sup> Information provided by the FIA to the researcher in 2013.

<sup>145</sup> FIA information provided to the researcher in 2013.

*Pakistan Penal Code* sections 419 and 420 relate to cheating. Section 419 is more applicable to migrants themselves who may attempt document fraud through impersonation. Section 420, however, covers a wide range of conduct in relation to dishonestly inducing the delivery of property, including money. It also covers fraudulent behaviour in relation to “make, alter to destroy” valuable security. The term valuable security appears to be widely interpreted to include passports and other travel documents.

Forgers, couriers of passports, and other agents and facilitators have been charged under section 420 of the *Pakistan Penal Code*. If a migrant does not successfully reach the destination then there are grounds for a claim for cheating against the smuggler for the fees paid. However, the compoundable nature of the offence means that agents and facilitators can – with the permission of the court – provide satisfaction to the migrant so that the offence is compromised before prosecution proceeds. In practical terms, smugglers and agents can offer to refund the money paid by the failed migrant and thereby satisfy and resolve the complaint. If the migrant withdraws the complaint due to a compromise being reached, then the Federal Investigation Agency is unable to prosecute the agent or facilitator.

In order to avoid prosecution then, agents and facilitators can simply pay back the money received from the migrants. By returning the fees paid, that is by returning the property dishonestly induced, the smuggler can reach a compromise with the migrant in order for the charges to be dropped. Although only sections 419 and 420 under the *Pakistan Penal Code* are compoundable, the effect of this is much broader. In practice, a migrant who receives the return of his or her money from the agent or facilitator will not go on to give evidence against the offender for crimes under other provisions, including the *Emigration Ordinance* or other sections of the *Pakistan Penal Code*. Under the *Code of Criminal Procedure*, court permission is required for offences under sections 419 and 420 to be compounded. In practice, however, the courts appear to rarely assert their authority to prevent the compromise of compoundable offences.

For example, the FIA successfully arrested Raja Humayun, one of its most wanted traffickers resp. migrant smuggler. Humayun was from the Gujrat district and a well-known agent for the Turkey route. He had been operating for more than 15 years. He had more than ten complaints outstanding against him, which earned him a place in the FIA’s Red Book for 2012. Despite this, however, Humayun was released after only about two weeks in custody. He reimbursed the migrants their fees and therefore had the charges dropped because the complainants were no longer willing to offer evidence against him. Without the evidence of the complainants, the FIA could not pursue vigorous prosecution against Humayun.<sup>146</sup>

As the case of Raja Humayun illustrates, the use of compoundable offences under the *Pakistan Penal Code* to prosecute facilitators and agents is not effective. Using compoundable offences to prosecute crimes related to people smuggling is to recognise, and even legitimise, the commercial nature of the relationship between smuggler and migrant. Allowing the crime of migrant smuggling to be compromised between two parties, in the manner of a civil suit, is inconsistent with the nature of the crime. As UNODC has previously pointed out, migrant smuggling is a crime against the state and against the public order.<sup>147</sup> This means that offences related to migrant smuggling should not be compromised between the accused and the complainant. The courts do not appear to have used their powers to refuse such compromises in relation to migrant smuggling crimes.

Moreover, the use of compoundable offences to prosecute smugglers adversely impacts the ability

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<sup>146</sup> FIA information provided to the researcher in 2013.

<sup>147</sup> UNODC Bangkok, *Distinguishing between Human Trafficking and People Smuggling*, p3.

of the FIA to pursue other violations of law, such as those under the *Emigration Ordinance*, the *Passports Act* or other legislation. Therefore, where possible, the FIA should avoid the use of compoundable offences in relation to the prosecution of migration-related crimes. Provisions under the *Emigration Ordinance* carry substantial sentences that can also be used to prosecute facilitators and agents. With the adoption of the *Model Law against the Smuggling of Migrants*, it is important that all offences related to the smuggling of migrants are non-compoundable.

#### **Findings and recommendations:**

- The compoundable nature of offences under sections 419 and 420 under the *Pakistan Penal Code* substantially reduces the efforts of the FIA to effectively prosecute agents and facilitators.
- FIA prosecutors should avoid the use of sections 419 and 420 under the *Pakistan Penal Code* for the prosecution of facilitators and traffickers. This appears to give incentive and opportunity to the offenders to compromise the whole case prior to prosecution, and impacts on the prosecution of the offender under other legislation.
- All migration-related offences should be made non-compoundable thus strengthening the ability of the FIA to prosecute these crimes.
- The adoption of the *Model Laws against Smuggling of Migrants* must stipulate non-compoundable offences.
- Use of *Emigration Ordinance* provisions to prosecute facilitators and agents must be made. Offences under sections 17 and 18 of the *Emigration Ordinance* carry custodial sentences of between five and 14 years.
- An increase in the capacity of the FIA to detect document fraud, particularly in relation to the fraudulent acquisition of genuine documents, is required.
- Improve coordination between Anti-Human Trafficking Centres across Pakistan, both in relation to standardised data collection and investigations.
- FIA to set up mechanisms for cooperation and coordination with other law enforcement agencies to enable joint or multi-agency investigations and improve the collection of evidence other than witness testimonies.
- ♦ To improve coordination and cooperation between investigators and prosecutors within FIA to increase the rate of conviction through more effective use of evidence.

## 6.2.2 Use of the Prevention and Control of Human Trafficking Ordinance

Compared to the *Emigration Ordinance*, there are significantly fewer cases pursued under the *Prevention and Control of Human Trafficking Ordinance 2002 (PACHTO)*. The exception appears to be in Gujranwala in 2011 when more than 20 per cent of both prosecutions and convictions related to migration offences were conducted under *PACHTO*. In 2012, the number dropped down to less than 10 per cent of all prosecutions. However, in the data provided for Gujranwala there is some ambiguity as to the provisions of Ordinance used. While all First Information Reports registered were under section 4 of the *PACHTO*, provisions relating to the involvement of organised crime and human trafficking, there are no convictions recorded. Conversely, there were no First Information Reports registered under section 3, which prohibits human trafficking. Yet, all convictions were recorded against this provision. This appears to highlight a problem in data management.<sup>148</sup>

In separate data provided by the Federal Investigation Agency for 2012, 532 cases were registered under the *Prevention and Control of Human Trafficking Ordinance*, with 115 proceeding to prosecutions and 62 convictions recorded. Based on this data, there is a substantial rate of drop out between the number of cases registered and those that proceed to prosecution and conviction.<sup>149</sup> Only around 12 per cent of all cases registered under the *PACHTO* result in a conviction. This suggests challenges for FIA prosecutors in gathering evidence. As trafficking cases are substantially reliant on witness testimonies, this suggests that there is a lack of victims that are willing to act as witnesses. This also suggests the lack of a functioning witness protection system that may provide incentives for victims to give evidence against traffickers.

However, as noted earlier, the *Prevention and Control of Human Trafficking Ordinance* is also used to prosecute in cases of migrant smuggling. Therefore, the low conviction rate as compared to the number of First Information Reports registered may reflect the operation of the three attempts system that acts as a disincentive for the migrant to testify against the migrant smugglers, as he or she may wish to attempt irregular migration again.

Although no data on sentencing was provided for this study, previous research on migration-related cases in Gujranwala shows that there is a lack of correlation between the gravity of the offence and the fines imposed by the courts.<sup>150</sup> A vast majority of sentences handed down under the *Prevention and Control of Human Trafficking Ordinance* incurred fines of only PKR 4000. In separate data provided by the Federal Investigation Agency for 2012, 532 cases were registered under the *PACHTO*

with 115 proceeding to prosecutions and 62 convictions recorded.<sup>151</sup> The pattern of relatively light sentences under the *PACHTO* is again evident. Of all convictions, only nine resulted in custodial sentences. Of these, five cases led to sentences of less than six months in prison, and four cases led to sentences of between six months and two years in prison. The remainder of the sentences were only fines.<sup>152</sup> Considering sections 3 and 4 of the *PACHTO* provide for maximum sentences of five to 15 years, in addition to fines, it is clear that the courts have yet to impose maximum sentences.<sup>153</sup> Again, as the *PACHTO* is also used to prosecute human smugglers, the light sentences may reflect the fact that a majority of convictions recorded under the *PACHTO* are in fact migrant smuggling rather than human trafficking cases.

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<sup>148</sup> See Section 2.2.

<sup>149</sup> FIA data provided to the researcher in 2013. However, not all Anti-Human Trafficking Centres provided *challan* rates and therefore comparative analysis was not possible.

<sup>150</sup> STATT, *Judicial Response to Migration Crime in Gujranwala, Pakistan*, April 2013

<sup>151</sup> GOP, *Response to USSD TIP Questionnaire*, 2013.

<sup>152</sup> GOP, *Response to USSD TIP Questionnaire*, 2013.

<sup>153</sup> Due to the way the question is phrased in the USSD TIP Questionnaire, it is not clear if the data provided includes convictions related to trafficking for sexual exploitation.

The *Prevention and Control of Human Trafficking Ordinance* appears to be the only legislation applied to human traffickers. Yet there are provisions under the *Pakistan Penal Code* relevant to human trafficking, including those relating to kidnapping, abduction, and forced labour which can be used to prosecute traffickers. These are covered in sections 359 to 374, which are non-compoundable offences that carry custodial sentences. In addition, considering the high instances of trafficking of minors from Punjab – particularly of girls to the United Arab Emirates as dancers - the *Punjab Destitute and Neglected Children Act 2004* may also be applicable. However, there is no information on the use of these provisions in relation to cross-border human trafficking. FIA prosecution of human traffickers can more effectively use other legislation in addition to the *Prevention and Control of Human Trafficking Ordinance*.

As experience in the European Union shows, exploitation of victims usually begins after they have reached their destination and trafficking is not often reported at the external borders.<sup>154</sup> Moreover, at the moment of cross-border trafficking, the victims themselves are either unaware of their own situation or too afraid to collaborate with law enforcement authorities.<sup>155</sup> Most cases of trafficking are detected inland rather than at border crossings. This means that the FIA, as a border management agency staffing immigration check posts, may not be the most relevant agency for detection of potential victims. Instead, the wider community can play an important role, particularly NGOs and civil society that may come into contact with potential victims. The FIA must improve its coordination with NGOs and establish mechanisms of communication so that effective action can be taken when a potential victim of trafficking is identified. However, as demonstrated in 5.4.2 above, even among professionals who work with women who are at risk of being trafficked, the understanding of what constitutes trafficking remains poor. This suggests an under-identification of potential victims of trafficking. The Government of Pakistan can undertake actions to promote the awareness of trafficking to both identify victims and to prevent trafficking.

In addition, Pakistan reported 40 investigations into official complicity into human trafficking in 2012. One investigation led to dismissal from service of one official, 23 stoppages of annual increments, six warnings and four censures.<sup>156</sup> However, there are no details on the character or nature of the complicity and corruption.

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<sup>154</sup> Frontex, *Situational Overview on Trafficking*, p5.

<sup>155</sup> Frontex, ARA 2011, p38.

<sup>156</sup> GOP, *Response to USSD TIP Questionnaire*, 2013

#### Findings and recommendations:

- Improve data management and collection for investigations and prosecution under the *Prevention and Control of Human Trafficking Ordinance 2002*, including more accurate and standardised data entry across Anti-Human Trafficking Centres in Pakistan.
- Improve public awareness of human trafficking, particularly among groups of key professionals such as border staff and social workers, to improve identification of potential victims.
- Use alternative legislation to prosecute human trafficking and conduct related to human trafficking in order to improve rates of conviction and achieve increased sentences, for example by using non-compoundable offences under sections 350 to 374 of the *Pakistan Penal Code* and the *Punjab Destitute and Neglected Children's Act 2004*.

### 6.3 Protection

Pakistan reports that 823 victims of trafficking were referred to shelter homes during 2012. Of these, 135 were male victims, 628 were females, and 60 were minors. There is no information about the type of exploitation to which they were subjected. It is not clear how many of the victims referred to government shelters were repatriated from third countries after being trafficked out of Pakistan or how many are those were trafficked into Pakistan from third countries. In addition, Pakistan reported providing protection services for several foreign nationals who had been trafficked to Pakistan, including: five Nigerians, four Bangladeshis, one Dutch, one French, and a number of Russian, Uzbek, and Tanzanian nationals.<sup>157</sup> The government provided them with shelter, medical and legal aid, transportation, and repatriation. The gender of the foreign nationals, however, is not known. There are no details as to the purposes for which they were trafficked to Pakistan.

It is not clear if any of the cases resulted in prosecution or conviction of the traffickers, particularly for cases involving foreign nationals, assistance and incentives to provide evidence against traffickers must be provided. In addition, repatriation to their home country in some circumstances may not be in the best interests of the victims, particularly where organised crime may be involved and the victim is at risk of re-trafficking. In cases where foreign nationals are identified as victims of trafficking, Pakistan can cooperate with UNHCR to identify protection solutions. Without the protection of victims it is difficult to obtain evidence against traffickers. As a result, the ability of law enforcement agencies to combat trafficking is severely limited.

Under sections 3, 4 and 5 of the *Prevention and Control of Human Trafficking Rules 2004*, Non-Governmental Organisations are required to provide substantial assistance to victims. This includes providing shelter, food and medical treatment. It is not clear under the Rules what, if any, resources are allocated from the government to Non-Governmental Organisations in order to provide the necessary assistance to victims. In addition, it is not clear whether the government has designated any Non-Governmental Organisations under section 2 of the Rules. As such, these sections of the Rules still need to be implemented by the government by the designation of Non-Governmental Organisations under the Rules and the provision of resources to them in order to properly operationalize the obligations imposed by the Rules.

Notably, under section 6 of the Rules 2004, government and Non-Governmental Organisations can provide legal assistance to a victim during a trial under the *Prevention and Control of Human Trafficking Ordinance 2002*. It appears that no funds have been allocated despite the legislation.

<sup>157</sup> GOP, *Response to USSD TIP Questionnaire*, 2013.

Therefore, the Government of Pakistan must implement the Rules through the allocation of a budget for legal assistance.

In addition, although Pakistan has, in practice, demonstrated sensitivity to the protection needs of victims of trafficking, the *PACTO* does not include a non-punishment clause for victims. In order to enshrine the protection of victims as a part of the legislation on human trafficking, Pakistan should include a non-punishment provision in the *PACTO* in line with international standards.

**Findings and recommendations:**

- Improved data collection on potential victims identified to distinguish between victims of internal or international trafficking, and according to the purpose of exploitation.
- Implement the provisions of the *Prevention and Control of Human Trafficking Rules 2004* to designate Non-Governmental Organisations tasked to provide assistance to victims of trafficking.
- Implement the provisions of the *Prevention and Control of Human Trafficking Rules 2004* to set up a mechanism and budget for providing legal assistance to victims. This will also improve evidence collection against traffickers for prosecution.
- Ensure prosecution of traffickers where victims are clearly identified.
- Amend the *Prevention and Control of Human Trafficking Ordinance 2002* to include a provision relating to the non-punishment of victims.
- ♦ Cooperate with UNHCR to explore protection solutions for victims of trafficking from third countries.



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**Offences related to smuggling of migrants and trafficking in persons**  
**Pakistan national legislation**

Legislation	Clause
<p><b>EO 17</b></p> <p><b>Unlawful Emigration, etc</b></p>	<p>1) Whenever, except in conformity with the provisions of the Ordinance and the rules, emigrates or departs or attempts to emigrate or depart shall be punishable with imprisonment for a term which may be extended to five years, or with both.</p> <p>2) Whoever, except in conformity with the provisions of this ordinance or of the rules</p> <p>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</p> <p>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 immigrating or departing; or</p> <p>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.</p> <p>i) For a first offence, with imprisonment for a term which may extend to five years, or with fine, or with both; and</p> <p>ii) For a second or subsequent offence, with imprisonment for a term which may extend to seven years, or with fine, or with both.</p> <p>3) When, in the course of any proceeding in connection with emigration in which an Overseas Employment Promoter is concerned, a breach of the provisions of this Ordinance or of the rules is committed, such person shall be liable to punishment provided by subsection (2) unless he proved that commission of the breach.</p> <p>4) Whoever, in contravention of the provisions of section 9, recruits a citizen of Pakistan or holds an interview or examination or issues an advertisement for such recruitment, and the editor, printer and publisher of a newspaper in which advertisement is published, shall be liable to punishment provided by subsection (2).</p>
<p><b>EO 18</b></p> <p><b>Fraudulently inducing to emigrate:</b></p>	<p>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</p> <p>b) By means of cause of 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.</p>
<p><b>EO 22</b></p> <p><b>Receiving money, etc. for providing foreign employment.</b></p>	<p>Receiving money, etc. for providing foreign employment. Whoever, for providing or securing, or on the pretext of providing or securing, to or for person employment in any country; beyond the limits of Pakistan.</p> <p>a) Being an overseas employment promoter, charges any fee in addition to the prescribed amount, or</p> <p>b) 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.</p>
<p><b>PA 3</b></p> <p><b>Prohibition of departure from Pakistan</b></p>	<p>No citizen of Pakistan shall:-</p> <p>a) Depart from Pakistan by any means whatever unless he is in possession of a passport, not otherwise than from such port or place, by such route and in accordance with such conditions, as may be prescribed; or</p>

<b>without passport, etc.</b>	b) Visit a foreign country unless his passport is valid for such country.
<b>PA 3</b> <b>Punishment for contravention of section 3, etc</b>	<p>Punishment for contravention of section 3, etc.-</p> <ol style="list-style-type: none"> <li>1) A citizen of Pakistan who is of the age of twelve years or more shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both, if he:- <ol style="list-style-type: none"> <li>a) Contravenes or attempts to contravene or abets the contravention of any of the provisions of section 3; or</li> <li>b) Enters or attempts to enter Pakistan by any means whatever without being in possession of a passport or otherwise than at such port or place, or by such route, as may be prescribed.</li> </ol> </li> <li>2) A person departing from or entering, or attempting to depart from or enter, Pakistan in whose custody or charge a person who has not attained the age of twelve years departs from or enters, or attempts to depart from or enter Pakistan in contravention of section 3 or clause (b) of sub-section (1) shall, in addition to any penalty to which he may be otherwise liable, be liable to be provided for in that sub-section.</li> <li>3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) an offence punishable under sub-section (1) or sub-section (2) shall not be bailable.</li> </ol>
<b>PA 6</b> <b>Penalties for certain offences relating to passport</b>	<p>Penalties for certain offences relating to passport:-</p> <ol style="list-style-type: none"> <li>1) A person shall be punishable with imprisonment which may extend to three years, or with fine, or with both, if he :- <ol style="list-style-type: none"> <li>a) make or makes use of any statement which he knows or believes to be false in any document for obtaining passport; or</li> <li>b) attests or verifies statement which he knows or has reason to believe to be false in any document used for obtaining a passport; or</li> <li>c) willfully conceals any fact which under the circumstances he ought to disclose for the himself or any other person; or</li> <li>d) forges, alters or tampers with any passport or any document which he uses for obtaining a passport; or</li> <li>e) uses a passport which has been forged, altered or tampered with; or</li> <li>f) uses for obtaining a passport a document which has been forged, altered or tampered with; or</li> <li>g) is in wrongful possession of a passport not lawfully issued to him or allows his passport to be used by another person; or</li> <li>h) traffics in passports or and documents required for obtaining a passport; or</li> <li>i) willfully false or neglects to return a passport issued to him, if he is required to do so or if an order cancelling impounding or confiscating it is made [or]</li> <li>j) obtains more than one passport for himself either in the same or different names by concealing the fact of his already being in possession of a passport.</li> </ol> <p>Provided that a person guilty of an offence punishable under clause (h) shall be punished with rigorous imprisonment for a term which shall not be less than one thousand rupees.</p> </li> <li>2) Notwithstanding anything contained in the Code of criminal Procedure, 1898 (Act V of 1898), an offence punishable under clause (b) of sub-section (1) shall be a bailable offence.</li> </ol>
<b>PPC 419</b> <b>Punishment</b>	Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both

<p><b>for cheating by personation.</b></p>	
<p><b>PPC 420</b>  <b>Cheating and dishonestly including delivery of property.</b></p>	<p>Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any [art of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment, of either description for a term which may extend to seven years, and shall also be liable to fine.</p>
<p><b>PPC 468</b>  <b>Forgery for purpose of cheating:</b></p>	<p>Whoever commits forgery, intending that, the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.</p>
<p><b>PPC 471</b>  <b>Using as genuine a forged document:</b></p>	<p>Whoever fraudulently or dishonestly uses as genuine document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.</p>
<p><b>PACHTO 3</b>  <b>Punishment for human trafficking.</b></p>	<p>The human trafficking shall be punishable as under:-</p> <p>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:</p> <p>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.</p> <p>Provided further that whoever plans to commit an offence under this clause but has not as yet executed the same shall be punishable with term of imprisonment, which may extend to five years and shall also be liable to fine.</p> <p>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:</p> <p>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 10 years with fine.</p> <p>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.</p> <p>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 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.</p> <p>Provided that if the commission of the offences 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.</p> <p>Provided further that plea, if any, taken by the biological parents of the child shall not prejudice the commission of offence under this clause</p> <p>Whoever knowingly takes, confiscates, possesses, conceals, removes or destroys</p>

	<p>any document related to human trafficking in furtherance of 72 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 shaft also be liable to fine.</p>
<p><b>PACHTO 4</b> <b>Offences committed by organized criminal groups.</b></p>	<p>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.</p>





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