

# PAKISTAN'S GENDER AND HUMAN RIGHTS-BASED RESPONSE TO HUMAN TRAFFICKING & MIGRANT SMUGGLING

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**UNODC – Country Office Pakistan**

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## **ACRONYMS & ABBREVIATIONS**

AHTCs	Anti Human Trafficking Circles
BEOE	Bureau of Emigration and Overseas Employment
BLSA	Bonded Labor System (Abolition) Act
CPU	Child Protection Units
CPWB	Punjab Child Protection and Welfare Board
DOL	Department of Labor
DVCs	District Vigilance Committees
FIA	Federal Investigation Agency
FIR	First Information Report
HRCP	Human Rights Commission of Pakistan
HRMIS	Human Rights Management information System
IATF	Inter Agency Task Force
KP	Khyber Pakhtunkhwa
LEAs	Law Enforcement Agencies
MOFA	Ministry of Foreign Affairs
MOHR	Ministry of Human Rights
MOI	Ministry of Interior
NCHR	National Commission for Human Rights
MOPHRD	Ministry of Overseas Pakistanis & Human Resources Development
MWS/T	Most Wanted Human Smugglers / Traffickers
PACHTO	Prevention and Control of Human Trafficking Ordinance, 2002
PKR	Pakistan Rupees
PPC	Pakistan Penal Code
PSMA	Prevention of Smuggling of Migrants Acts, 2018
PTPA	Prevention of Trafficking in Persons Act, 2018
SDG	Sustainable Development Goals
SOM	Smuggling of Migrants
SOPs	Standard Operating Procedures
SP-I	Sub-Program I
TIP	Trafficking in Persons
TOCs	Transnational Organized Crimes
TVPA	Trafficking Victims Protection Act
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Program
UNESCO	United Nations Educational Scientific & Cultural Organization
UNODC	United Nations Office on Drugs and Crimes

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## 1. INTRODUCTION

### 1.1 Context

Trafficking in persons<sup>1</sup> and smuggling of migrants<sup>2</sup> (hereafter “TIP” and “SOM”) are serious human rights issues. Trafficking in human beings is a global problem, often fueled by growing economic inequalities, environmental crises, armed conflicts, political instability, persecution, and the search for a better life.<sup>3</sup>

Pakistan is a source, destination and transit country for men, women and children trafficked for the purpose of forced labor, sexual exploitation and organ removal.<sup>4</sup> Women are trafficked to Pakistan from Bangladesh, Afghanistan, Iran, Myanmar. Women and children trafficked from East Asian countries and Bangladesh often transit through Pakistan. According to the last few TIP reports published by US State Department, the Government of Pakistan does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.

On the other hand, lack of quantitative evidence does not allow the assessment of the scale of human trafficking for different purposes, however, there is a strong anecdotal evidence available to suggest that the following violations of human rights occur in Pakistan:<sup>5</sup>

- Child sex trafficking between Pakistan and Iran;
- Trafficking from Afghanistan and Iran, and to a lesser extent Bangladesh into Pakistan for the purposes of forced labor or prostitution;
- Trafficking of children and vulnerable adults with disabilities for forced begging in Pakistan and Iran;
- Sex trafficking and trafficking for the purpose of sexual slavery from Myanmar into Pakistan;
- Trafficking of young children to Gulf countries for camel racing (supposedly decreasing);

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<sup>1</sup> Article 3 (a) of the UN Trafficking Protocol 2000 defines trafficking in persons as the ‘recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation’. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

<sup>2</sup> The term “migrant” is used to refer to all migrants including economic migrants, asylum seekers and refugees traveling in mixed migration flows.

<sup>3</sup> Trafficking in Human Beings and Smuggling of Migrants in ACP Countries: Key Challenges and Ways Forward, published by IOM 2012. Page 22.

<sup>4</sup> ‘Pakistan Cracks Down on Illegal Organ Trade’, 19 February 2020. The Star

<https://www.thestar.com.my/news/regional/2020/02/19/pakistan-cracks-down-on-illegal-organ-trade>

<sup>5</sup> Kumar, C (2015). Human trafficking in the South Asian region: SAARC’s response and initiatives. *Journal of Social Sciences and Humanities*, 1 (1): 14-13.



- Trafficking via forced or fake marriages for the purpose of forced prostitution in Iran and Afghanistan; and
- Trafficking of men via fake marriages to be used as “slave grooms” for forced labor and domestic servitude in Hong Kong.

Pakistan is also a destination country for a large number of people from Bangladesh and Myanmar; it also hosts a smaller population of migrants from Nigeria and Somalia. They largely reside in Pakistan as illegal migrants who may have been smuggled or may be victims of trafficking. These groups might also use Pakistan as a transit country, before they are trafficked further afield.<sup>6</sup> Those who are smuggled often turn into victims of trafficking as they are subject to exploitation and coercion in transit or in the countries of destination.<sup>7</sup>

Although it is primarily known as a country of emigration (especially to Europe and the Middle East), it has also been, since its establishment (1947), both a country of immigration and a hosting country of refugees, mainly from India and Afghanistan.<sup>8</sup> Mass migration of millions of Muslims, Hindu and Sikhs from both sides of the border between Punjab and Sindh took place during the partition of Indian sub-continent. Nearly seven million Muslims migrated from India, mostly settled in Sindh and Punjab and six million Sikhs and Hindus migrated to India.<sup>9</sup> The country witnessed yet another crisis of migration in 1971 when East Pakistan declared independence and became a sovereign state called Bangladesh.

Although Pakistan is not a party to the 1951 Refugee Convention of the 1967 Protocol, it still has hosted one of the world’s largest refugee population<sup>10</sup> since 1979 when the war broke out in Afghanistan which pushed millions to move to Pakistan and Iran. Since March 2002, nearly 3.2 million Afghans have repatriated with UNHCR’s assistance, however, some 2.1 million registered Afghans remain in Pakistan.<sup>11</sup> In addition, a large number of Afghans cross the Pak-Afghan border to enter Pakistan without permission or without being assisted by the authorities at the border; most often through unregulated or less-regulated and un-guarded crossing points. However, there are only three official designated crossing between Pakistan and Afghanistan i.e. Torkham and Spin Boldak in Khyber Pakhtunkhwa [in former Federally Administered Tribal Areas] and Chaman in Balochistan. The extensive border between Pakistan and Afghanistan, that is a mountainous borderline of 1500 km with three central points of proximity-the North-West Frontier Province, the [former] Federally Administered Tribal Areas and Balochistan- includes 200 transit points that facilitate the daily movement of

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<sup>6</sup> UNODC (2013). Recent trends of human trafficking and migrant smuggling to and from Pakistan. Available online.

<sup>7</sup> Smuggling of Migrant and Trafficking in Person: A Situational Analysis of Pakistan, December 2011. UNODC.

<sup>8</sup> Yousef, K. (2013). The vicious circle of irregular migration from Pakistan to Greece and back to Pakistan. *IRMA research project, background report on Pakistan, ELIAMEP, Athens (Available in English and Greek from: <http://irma.eliamep.gr/publications/>)*. pp. 5.

<sup>9</sup> Ibid. pp. 6

<sup>10</sup> UNHCR Global Appeal 2008-2009, Page 267.

<sup>11</sup> Ibid.



populations of the two countries.<sup>12</sup> These three major migratory circulations have had a major impact on the demography, economy and ethno-cultural development of Pakistan.

Since Pakistan's creation, migration for work has originated from its underdeveloped areas to its metropolitan cities and the Gulf states. Peshawar, Rawalpindi, Lahore, Karachi and other cosmopolitan cities of Pakistan have remained their major destinations. It is also believed that the human trafficking occurring inside Pakistan in the form of bonded labor, in which an initial debt assumed by a worker as part of the terms of employment is exploited, ultimately entrapping other family members, sometimes for generations<sup>13</sup> - this happens specially in Punjab and Sindh where a conducive environment is available for bonded labor due to unchecked feudalism and industrialization.

Domestic trafficking, especially of women and children, is also of ongoing concern.<sup>14</sup> For instance, the 'war on terror' forced a large number of families out of former FATA ("Federally Administered Tribal Areas") and certain districts of Khyber Pakhtunkhwa. In this form of migration, not only men, but entire families were forced to migrate - including women, children and the elderly. The most vulnerable to exploitation among them are youth, and poor and women headed families.

*Case FIR No: 102/2020 AHTC Faisalabad dated 24.02.2020 – trial under process*

*Allurement of the victims for Emigration/work as beautician in a Beauty Salon in Oman by Arsalan Asghar and Zeeshan Asghar. Extortion of Rs. 250,000/- from each victim. Victims were held captive in women beauty salon in Oman. The victims were sexually abused and exploited under coercion by their sponsor Omani National and Zeeshan Asghar.*

**Source:** FIA AHTC Faisalabad:

Despite passing two important laws in 2018 — ***the Prevention of Trafficking in Persons Act*** and the ***Prevention of Smuggling of Migrants Act*** — to prevent trafficking and smuggling of migrants, Pakistan has been downgraded from 'Tier 2' to 'Tier 2 Watch List' in the 2020 Trafficking in Person Report of the US State Department. In 2019, the provincial police reported 19954<sup>15</sup> trafficking victims, including an overwhelming number of 15802<sup>16</sup> female victims or 79% of the total victims were females.

TIP and SOM are organized crimes and gendered phenomena; they affect men and women, individuals with variation in sex characteristics, diverse sexual orientation and/or diverse gender identities differently. In this study, attempts are made to analyze whether Pakistan's

<sup>12</sup> Yousef, K. (2013). The vicious circle of irregular migration from Pakistan to Greece and back to Pakistan. *IRMA research project, background report on Pakistan, ELIAMEP, Athens (Available in English and Greek from: <http://irma.eliamep.gr/publications/>)*. pp. 5.

<sup>13</sup> See e.g. The *US State Department Trafficking in Persons Report 2015*.

<sup>14</sup> Trafficking in Persons in Pakistan: A Review of National Laws and Treaty Compliance (October 2011, UNODC). Page 8

<sup>15</sup> Trafficking in Persons Report 2020- page 389-394-<https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>16</sup> Ibid.

legal framework and strategies are based on the principles of human rights and gender-sensitive enough to counter the growing trends in this area.

Learning from the first phase of the project, GLO.ACT Pakistan seeks to ensure that in rendering support to the government to implement the national response to trafficking in persons and smuggling of migrants, gender and human rights issues have a baseline from which to measure impact by the end of the project, as well as policy directions to ensure deliberate factoring in of measures to address gender and human rights gaps in implementation. It is recognized that ... “there are no gender-neutral inventions when the ultimate goal is to improve the lives of all people, women and men, girls and boys, as well as individuals of diverse bodily characteristics, diverse sexual orientation and /or diverse or plural genders.”<sup>17</sup> Furthermore an effective intervention follows a human rights based approach which acknowledges how human rights violations occur as part of the trafficking and smuggling cycles,<sup>18</sup> that governments have a responsibility to protect and promote the rights of all persons within their jurisdiction, including non-citizens, and therefore have a legal obligation to work towards elimination of TIP and SOM.<sup>19</sup>

The GLO.ACT project is piloting a Gender and Human Rights Tool which will be an important resource for developing the baseline. The findings of the baseline and resultant policy positions will also complement on-going initiatives at regional level that Pakistan is part of, such as the regional network of women champions in TIP and SOM (also supported by the GLO.ACT project). They will also inform development of the Pakistan’s national strategic framework and action plan scheduled for 2020/21.

In this regard, UNODC aims to conduct gender and human rights analysis of Pakistan’s TIP and SOM situation/response. This will be done in two phases, phase I is a desk review (as per the current TOR), while phase II will be a more in-depth data collection process using other research methodologies to obtain information from key stakeholders and affected populations.

## 1.2 Terms of Reference (TOR)

Working with the COPAK Team, the consultant was assigned to conduct research of **existing qualitative and quantitative data** to determine:

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<sup>17</sup> UNODC Gender Brief for UNODC Staff “Mainstreaming gender in Organized Crime and illicit Trafficking projects [https://www.unodc.org/documents/Gender/Thematic\\_Gender\\_Briefs\\_English/Org\\_crime\\_and\\_trafficking\\_brief\\_23\\_03\\_2020.pdf](https://www.unodc.org/documents/Gender/Thematic_Gender_Briefs_English/Org_crime_and_trafficking_brief_23_03_2020.pdf).

<sup>18</sup> United Nations Human Rights Office for the High Commissioner “Human Rights and Human Trafficking” [https://www.ohchr.org/Documents/Publications/FS36\\_en.pdf](https://www.ohchr.org/Documents/Publications/FS36_en.pdf).

<sup>19</sup> <https://www.ohchr.org/EN/Issues/Trafficking/TiP/Pages/Index.aspx>.

1. Community-level trends and societal perceptions of gender stereotypes and relations that have an impact on the perpetuation and response to TIP and SOM;
2. The relationship between gender inequality and drivers of TIP and SOM, as well as the role of women in combating TIP and SOM;
3. Structural issues leading to gender discrimination and human rights violations;
4. Whether the national TIP and SOM response (legislative, policy, operational levels) is likely to promote gender equality and human rights;
5. Aspects involved in TIP and SOM process that can be characterized as a violation of human rights, local context is NB; and
6. Whether and how human rights and gender can be integrated into the TIP/SOM agendas in Pakistan.

### **1.3 Research Limitations**

This study is based on review of publicly available qualitative and quantitative data. In Pakistan, there is a considerable dearth of relevant literature produced on aspects of gender stereotypes perpetuating TIP and SOM. With a few exceptions, there is a huge gap in the available data. Reports published by the US State Department (TIP), International Organization for Migration (IOM), and UNODC inter alia suggest these are mainly based on estimation and anecdotal stories. The FIA has remained the only lead law enforcement agency that has the authority, mandate, and responsibility to monitor human trafficking and smuggling of migrant in Pakistan. UNODC recently helped the FIA in revamping its data collection system and set up data collection indicators of TIP and SOM which with help FIA to provide a comprehensive national report that examines the trafficking and smuggling trends in the country. Although the recent passing of the PTIP Act 2018 has given the mandate to trace internal trafficking to the Provincial Police, it lacks clear policy and data collection capacity to identify cases of trafficking and smuggling from the vast crime-related data it gathers annually.

Therefore, this study faces challenges to find and review credible literature produced on societal perception of gender stereotypes and relations that have an impact on the perpetuation of TIP and SOM in Pakistan. This, in turn, justifies the need for a comprehensive research project to collect primary data on the subject.



## 2. ANALYSIS & FINDINGS

### 2.1 Trends and Societal Perceptions of Gender Stereotypes Perpetuating TIP and SOM

In Pakistani society, gender norms sustain patriarchal privilege and women's roles are limited to daughter, sister, mother or wife.<sup>20</sup> Patriarchy has strengthened over time due to unchanged conservative social norms. Gender inequalities and systemic social exclusion have adversely impacted women's agency to exercise their human rights, especially those coming from marginalized families and groups. In lower-middle and lower classes of the society, women are not encouraged to participate in public sphere due to social pressure. The majority of families in rural areas of Pakistan do not allow their daughters to attain education which has created huge education disparity between rural and urban women. Gendered stereotypes have played a major role in silencing women voices.

Gender based violence exists in numerous forms which affects women and girls psychologically and physically. Domestic violence as a common practice is often accepted by women themselves as an essential part of their life.<sup>21</sup> Considering the stereotypical behavior of the society, cases of rape and gender based violence (GBV) remain largely unreported. For example, the use of phrase '*izzat lut jana*' refers to a case of rape in Urdu which puts all the burden of honour on the rape survivor losing respect, however, the rapist's honour remains intact.<sup>22</sup> The rape survivor is also referred to as a '*daghi*' meaning stained.<sup>23</sup> According to the United Nations Population Fund, around 5000 females are killed annually in the name of honour all around the world and out of these approximately 1000 women are killed in Pakistan per year. In other words, it means that 25 per cent of the total honour killings in the world occur in Pakistan.<sup>24</sup> The prevailing gender norms inextricably link women to notions of 'honour' that is held in high esteem in the conservative society of Pakistan. In its second year, Aurat March gave women across Pakistan a public space to articulate their issues, but not without inviting undue criticism and harassment.<sup>25</sup>

Pakistani society is demographically heterogeneous where the status of woman varies from geography to geography and class to class. Every year, cases of honour killing and rape are reported in large numbers. Gender based violence and forced/early marriages are the leading

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<sup>20</sup> Saeed, Fouzia. *Taboo!: The hidden culture of a red light area*. Made For Success Publishing, 2015, p.4.

<sup>21</sup> *Mobilising men to help minimise violence against women*, Arifa Mazhar [http://www.sdpi.org/sdc/13thsdc/abstracts/ending\\_violence\\_against\\_women.html](http://www.sdpi.org/sdc/13thsdc/abstracts/ending_violence_against_women.html).

<sup>22</sup> Rouse, Shahnaz. "The outsider (s) within: Sovereignty and citizenship in Pakistan." *Appropriating gender: Women's activism and politicized gender in South Asia* (1998): 660-685.

<sup>23</sup> Saeed, Fouzia. *Taboo!: The hidden culture of a red light area*. Made For Success Publishing, 2015, p. 3.

<sup>24</sup> Gauhar, N. A. (2014). Honour crimes in Pakistan: unveiling reality and perception. CAMP. <http://www.camp.org.pk/wp-content/uploads/2016/03/HC-Report-CAMP.pdf>.

<sup>25</sup> 'The State of Human Rights', 2019, p. 12.



factors behind suicidal tendencies in women and girls.<sup>26</sup> There is high rate of acceptance and prevalence of violence against women embedded in Pakistan's traditional societies where women and girls are treated unequally. In the urban areas, tendency to report crimes against women is higher than the rural areas. Gender based violence and the underlying factors of these forms of violence are manifest in the forms of '*watta satta*<sup>27</sup>' and '*wanni*<sup>28</sup>' in Punjab and Sindh and '*swara*<sup>29</sup>' or '*ghag*<sup>30</sup>' in Khyber Pakhtunkhwa and Balochistan's Pashtun populated districts.

Due to the weak rule of law or fear of harassment, victims often reluctantly register First Investigation Report (FIRs) against perpetrators. For example, only in Punjab for the year 2014, the police actively colluded in *wanni* cases by protecting *panchayats* (in Gabber Arain, Tandaliyanwali and Muzaffargarh), to not taking any action against such panchayats (in Sargodha, Dera Ghazi Khan and Taunsa Sharif) to arresting panchayat members involved in such verdicts (in Jaranwala, Darya Khan, Mian Chanu, Rahim Yar Khan and Rohiwala).<sup>31</sup>

The religious identity along with gender and class characteristics particularly impact the minorities as they experience social exclusion. Minorities further face social intolerance due to negative perception of dominant social and religious groups and lack of support structures to protect their rights. As a result, every year around 1000 girls belonging to Christian and Hindu communities are converted to Islam and forced to marry Muslim men.<sup>32</sup>

Available research suggests that young girls from poverty-stricken families remain the most vulnerable group and easy targets for clandestine rackets engaged in human trafficking and smuggling of migrants.<sup>33</sup> This is not surprising, as the legal and administrative environment in Pakistan does little to protect the rights of its citizens, especially women, minorities and those who are living in poverty. Illiteracy is widespread and awareness regarding what can be termed as human trafficking or smuggling, and how to counteract these, is very low. A study

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<sup>26</sup> The State of Human Rights in 2018, HRCP. <http://hrqp-web.org/hrqpweb/wp-content/uploads/2019/04/State-of-Human-Rights-in-2018-English-1.pdf>.

<sup>27</sup> Customs found in parts of Pakistan; Watta Satta: exchange marriage within the families.

<sup>28</sup> *Wani*, found in Punjab, is a form of arranged or forced marriage and result of a punishment decided by a council of community elders.

<sup>29</sup> *Swara* is a practice prevalent in Pashtun rural areas. Girls, often minors, are given in marriage to an aggrieved family as compensation to end disputes, often murder.

<sup>30</sup> *Ghag* means a custom, usage, tradition or practice whereby a person forcibly demands or claims the hand of a woman without her own or her parents will and free consent by making an open declaration that the woman shall stand engaged to him and no other man shall make a marriage proposal to her; Khyber Pakhtunkhwa Elimination of Custom of Ghag Act 2013.

<sup>31</sup> National Commission on the Status of Women (NCSW) 2016. Women, Violence and Jirgas. Islamabad, Pakistan. P. 25. [http://af.org.pk/gep/images/publications/Research%20Studies%20\(Gender%20Based%20Violence\)/NB%20NCSW%20JIRG AS.pdf](http://af.org.pk/gep/images/publications/Research%20Studies%20(Gender%20Based%20Violence)/NB%20NCSW%20JIRG AS.pdf) Date accessed: 20 August, 2019.

<sup>32</sup> Forced Marriages & Forced Conversions In the Christian Community of Pakistan, 2014.

<sup>33</sup> 'Trends and Causes of Women Trafficking in NWFP'. Published by CAMP in 2009. <http://www.camp.org.pk/wp-content/uploads/2016/08/Trends-Causes-of-Women-Trafficking-in-NWFP-Pakistan.pdf>.



conducted in 2012 in *Rajanpur* revealed that the buying and selling of girls for money is a known practice in the region—however, this has been preceded by generations of social practices where a girl is sold off to settle murders or land disputes.<sup>34</sup> Pakistani society, especially in rural areas, often, does not raise objection to such practices.

A study conducted in Khyber Pakhtunkhwa investigated and determined the association between the familial environment and child trafficking.<sup>35</sup> The study argues that children from broken homes are more susceptible to trafficking, for example, broken families due to separation, conflict, death or divorce as a source of stress and strain for the parents that comes out in the form of child abuse and neglect.<sup>36</sup> Such neglected and abandoned children are more easily influenced and convinced by traffickers being the easiest target.

Patriarchal norms rooted in culture and traditions manifest in various forms of violence against women and girls. Furthermore, customary practices like ‘*walwar*<sup>37</sup>’ in Khyber Pakhtunkhwa disproportionately impacts women and girls from certain socio-economic classes. Human Rights Commission of Pakistan (HRCP) estimated that more than 10,000 women are victims of violence every year and ‘over 1,000 commit or attempt suicide due to the denial of their rights, extreme poverty, physical and sexual violence in Punjab.’ In 2018 HRCP’s own monitoring of report identified at least 199 victims, 153 of which were female.<sup>38</sup>

According to a study conducted in 2001, the International Labor Organization (ILO) roughly estimated that there were over one million men, women and children employed as bonded laborers in brick kilns in Pakistan.<sup>39</sup> ‘What is most unfortunate is that the children of those families grow up in an environment of fear and subjugation. Physically as well, the children grow up with skin and respiratory diseases due to exposure to intensive heat, clay and dust.’<sup>40</sup> In addition, there is a lack of protection from abuse and exploitation at workplaces, and child domestic workers have no protection under the law (UNICEF/GoP 2015).

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<sup>34</sup> Trafficking Lives, Roshaneh Zafar, Founder MD Kashf Foundation, Dawn, May 18, 2019- Accessed July 12, 2020- <https://www.dawn.com/news/1483034>.

<sup>35</sup> Ali, Syed Rashid, and Niaz Muhammad. "Child Trafficking: Analysis of the Leading Familial Determinants." *FWU Journal of Social Sciences* 8, no. 1 (2014): 36.

<sup>36</sup> *Ibid.*

<sup>37</sup> Walwar is girl married in exchange of money by would-be groom family.

<sup>38</sup> The State of Human Rights in 2018, HRCP. Pp. 71-72 <http://hrcp-web.org/hrcpweb/wp-content/uploads/2019/04/State-of-Human-Rights-in-2018-English-1.pdf>.

<sup>39</sup> Bonded labor in Pakistan, ILO Working Paper 2001 cited in Breaking the bondage: Bonded labor Situation and the Struggle for Dignity of Brick Kiln Workers in Pakistan (2013), Friedrich Ebert Stiftung Pakistan.

<sup>40</sup> Breaking the bondage: Bonded Labor Situation and the Struggle for Dignity of Brick Kiln Workers in Pakistan (2013), Friedrich Ebert Stiftung Pakistan.



## 2.2 Gender Inequality and Drivers of TIP-SOM

Gender inequality is evident in Pakistani society which is institutionalized in its systems and laws as well as deeply embedded in its social norms. Such inequalities and social exclusion have adversely impacted the exercise of human rights by women and girls.

In Pakistan, women constitute more than 50 per cent of its population, however, most of them do not possess national identity card.<sup>41</sup> Without formal identification, women are unable to avail benefits and social services. They are also excluded from participating in elections, to seek formal employment, and from exercising their social, economic, and political rights.<sup>42</sup> There were 26,992,877 women voters registered for the 2018 general elections out of a total of 60,672,870 voters – which was a slightly better women voter turnout compared to the 2013 elections.

The 2016 Global Gender Gap Report 2 ranked Pakistan the second worst in the world with regards to gender inequality, despite the country showing considerable improvement in women's literacy and a boost in educational attainment since 2006.<sup>43</sup> Women in Pakistan face a disproportionate burden of disease, with a high maternal mortality ratio—a key indicator of maternal health worldwide—due to low social status and inequities in access to basic health care, nutrition, and education.<sup>44</sup> Highly preventable female mortality rates make women's health a central focus of global health policies.<sup>45</sup>

Women and girls are the most at risk population groups who are exposed to multiple forms of vulnerabilities such as: sexual violence, trafficking for sex and bonded labor, and smuggling. Societal stereotypes and intersecting inequalities entrenched in the society have created barriers for women, girls, and men from marginalized groups to engage in political, economic and social processes leading to empowerment.

Data on victims of TIP and SOM reveal that females are disproportionately affected. These victims are promised employment with lucrative salaries, marriage, or an opportunity to live a better life in developed countries, particularly in Europe and the Middle East. However, they often find themselves trapped into a life of debt bondage or sexual slavery in their new destination. Young boys and men are typically get entangled in vicious rackets for the purpose

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<sup>41</sup> (ADB. 2013. Pakistan: Social Protection Development Program. Manila).

<sup>42</sup> (ADB. 2008. Releasing Women's Potential Contribution to Inclusive Economic Growth: Country Gender Assessment for Pakistan. Manila. p. 18).

<sup>43</sup> <https://www.thelancet.com/action/showPdf?pii=S2214-109X%2817%2930498-9>.

<sup>44</sup> Khan YP, Bhutta SZ, Munim S, Bhutta ZA. Maternal health and survival in Pakistan: issues and options. *J Obstet Gynaecol Can* 2009; 31: 920–29.

<sup>45</sup> Downs JA, Reif ML, Hokororo A, Fitzgerald DW. Increasing women in leadership in global health. *Acad Med* 2014; 89: 1103.



of forced labor. Young girls and women in particular are susceptible to sex trafficking, lured by promises of employment and new wealth awaiting them in other lands, or through the use of brute violence and kidnapping. “A disproportionate number of Pakistani women and girls, 2-50 years old, are trapped in the human trafficking trade. While it is difficult to collect accurate data on such undercover activity—a fact acknowledged by all organizations working to end the practice — the UN Global Report on Trafficking in Persons 2018, notes that girls accounted for 23 % of all trafficking victims in 2016, while women made up 49 %”<sup>46</sup>. Pakistani brides, mostly from poor Christian families in Punjab, married Chinese men in the hopes of a better life, only to find themselves sold into sexual slavery once they reached their new home in China.<sup>47</sup> The limited information available for Pakistan reveals that female victims accounted for 59 per cent of the total detected victims.<sup>48</sup> Moreover, with a global increase in the number of children being trafficked, 30 per cent of all detected victims, girls far outnumber boys.<sup>49</sup>

Most of the smuggled migrants are from the small towns and villages of Punjab, where agents with a vast network that extends to Tehran, Istanbul and the border regions of Greece operate and profit from human misery. While some are suffering from desperate poverty or belong to minority communities whose lives are threatened, others are fed with false dreams of wealth and freedom awaiting them in liberal societies by greedy and deceptive agents. In interviews with some 50 Pakistanis caught in migrant smuggling or trafficking, the NCHR (National Commission of Human Rights) found that young girls and women who had travelled to the Middle East in the hope of securing employment got trapped in prostitution rings.<sup>50</sup>

The link between gender disparities and trafficking in persons is found to be strong. There are several factors which contribute to trafficking in women. Their vulnerability, especially as a consequence of violence, and the demand for their sexual services are two leading factors which have received increased attention in recent years.<sup>51</sup> Gender disparities and social exclusion increase susceptibility and vulnerability to trafficking. Human trafficking and migrant smuggling reflect negative trends in human development in the region. These criminal activities often result in forced labor and servitude, leading to serious human rights violations.<sup>52</sup> Pakistan has not shown consistent improvement on the Gender Gap Index from 2008 to 2014 compared with Bangladesh and India.

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<sup>46</sup> Global Report on Trafficking in Person 2018 UNODC Page 10.

<sup>47</sup> Human Trafficking (Editorial) Dawn Aug 30 2019, Accessed July 12 2020- <https://www.dawn.com/news/1502550>.

<sup>48</sup> Global Report on Trafficking in Person 2018 UNODC Page 64.

<sup>49</sup> The 2018 Global Report on ‘Trafficking in Persons’ by the UN Office on Drugs and Crime (UNODC).

<sup>50</sup> Human Trafficking (editorial) Dawn April 26 2019, Accessed July 12, 2020-<https://www.dawn.com/news/1478451>.

<sup>51</sup> ‘The gender dimension of human trafficking’. Briefing, Feb. 2016. European Parliament [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577950/EPRS\\_BRI\(2016\)577950\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577950/EPRS_BRI(2016)577950_EN.pdf).

<sup>52</sup> UNODC Pakistan Website-Accessed August 06, 2020-<https://www.unodc.org/pakistan/en/country-profile-pakistan.html>.



The Human Rights Commission of Pakistan (HRCP) annual report 2019 states, “629 women had been trafficked (*for prostitution*) as brides to China”. A report titled *Unmet Promises, CEDAW Alternative CEDAW Report 2020 on Pakistan’s Fifth Periodic Report, under the title of Prostitution & Bride Trafficking*, observes that in 2019, the Federal Investigation Agency (FIA) cracked down on the trafficking of Pakistani girls to China. The report further elaborates that, “Aided by Pakistani and Chinese middlemen, a Chinese organization was allegedly targeting impoverished, mainly Christian, families since 2018, paying up to PKR 3 million for women to marry Chinese men”. The weak power-sharing at domestic and institutional levels does not guarantee an equitable access to economic and political power structures for women and girls. These underlying societal factors and permissive conditions that exacerbate gender and power disparities lead to high level of incidents of gender-based violence and modern slavery.

### **2.3 The role of Women in Combating TIP and SOP**

Women can play a significant role in combating TIP and SOM at different levels and in different capacities. However, there are significant gaps in numbers, capacity and policy-level arrangement which hinder women leaders to play their effective role in combating TIP and SOM at local and national levels.

The division of labor and limited space for woman in public domain has made women dependent and unequal member of the society. Women’s participation and leadership is essential in formal as well as in informal structures. The quota system for women institutionalized in local government laws in provinces acts as a political incubator for women with political aspirations. In the Senate of Pakistan, there are 20 women members including two on general seats, 17 on reserved and one on technocrat seat. Out of the 53 committees of the Senate, nine are presided by women members.<sup>53</sup> In the National Assembly of Pakistan, there are sixty-nine women members including eight on general seats, 60 on reserved seat and one on non-Muslim seat. Out of the 35 parliamentary secretaries in the National Assembly, 14 are women. One of the 33 Committees of the National Assembly is presided by a woman member.<sup>54</sup> At the policy level, after sensitization, women parliamentarians, at national and provincial levels, can effectively influence processes making legislations gender-sensitive.

Amongst all four provinces, Punjab showed a significant increase in nomination of women and other marginalized candidates for representation in the National and Punjab Assemblies. Punjab nominated 236 women candidates for National Assembly, an increase from 123

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<sup>53</sup> *Senate of Pakistan* [http://www.senate.gov.pk/en/all\\_committees.php?id=-1?id=-1&catid=90&subcatid=85&cattitle=Senate%20Committees](http://www.senate.gov.pk/en/all_committees.php?id=-1?id=-1&catid=90&subcatid=85&cattitle=Senate%20Committees).

<sup>54</sup> *National Assembly of Pakistan* [http://www.na.gov.pk/en/sectories\\_lists.php](http://www.na.gov.pk/en/sectories_lists.php).



women candidates nominated in 2013. In 2018 Punjab also nominated 664 women candidates for Punjab Assembly, a stark increase from the 231 women candidates nominated in 2013.<sup>55</sup> In most instances, however, women taking part in politics come from privileged families. Those male party leaders from various political parties often nominate their female family members as candidates on reserves seats.

Although the first appointment of women judges in Pakistan dates back to 1974, a significant appointment of female judges from 2009 onward has caused a jump in female representation to more than one third in family courts: a quiet move during the tumultuous years of the so-called Chaudhry Court.<sup>56</sup>

2018 <sup>57</sup>	Shariat Court		Supreme Court		High Court		District Courts		All courts total	%age
	M	F	M	F	M	F	M	F		
Federation	4	0	16	0					20	0
Islamabad Capital Territory					6	0	59	15	80	18.75%
Punjab					48	2	1,309	257	1,616	16.02%
Sindh					32	1	487	44	564	7.97%
Balochistan					9	1	197	22	229	10.04%
Khyber Pakhtunkhwa					19	1	323	84	427	19.90
<b>Total</b>	<b>4</b>	<b>0</b>	<b>16</b>	<b>0</b>	<b>114</b>	<b>5</b>	<b>2,375</b>	<b>422</b>	<b>2,936</b>	<b>14.54%</b>

The above table reflects only the latest data, however, in the previous years, the percentage for female judges was higher than the 2018, especially for Khyber Pakhtunkhwa which is consistently leading the table with a higher percentage amongst all four provinces.

Data shows that most female judges are appointed to the lower courts of Pakistan, where they work as district and session judges and, to a lesser extent, senior civil judges. Furthermore, over the past decades, the percentage of women enrolled in law schools has also increased, and there was a large pool of female law graduates ready to occupy the new positions in the judiciary.<sup>58</sup>

According to the National Police Bureau, Pakistani policewomen only make up 1.46% of the police force in the country.<sup>59</sup> The typical image of police and police station depicted in fiction (Pakistani fiction and entertainment industry) and real life discourage families to allow their females to choose a career in police service.

Generally, however, it is believed that women and girls are seen in leadership positions at community level through interventions by different NGOs or instances of women and girls heading CBOs. Considering the social structure of society, it is rare as women and girls are

<sup>55</sup> FAFEN 2018 report.

<sup>56</sup> Holden, Livia. "Women judges in Pakistan." *International Journal of the Legal Profession* 26, no. 1 (2019). pp. 89.

<sup>57</sup> Ibid. pp. 100.

<sup>58</sup> Mehdi, Rubya. "Lady judges of Pakistan: embodying the changing living tradition of Islam." *Women Judges in the Muslim World: A Comparative Study of Discourse and Practice* (2017): 204-236. pp. 208.

<sup>59</sup> Than, Women Make Up Less. "2pc of Country's Police Force: Report; 2017."



generally discouraged when it comes to community leadership and participation in political processes. There are very strong women leaders in the civil society sector who have been advocating for gender-sensitive legislations and implementation of laws to protect women and girls. Their inclusion will strengthen the efforts against TIP and SOM.

## **2.4 National TIP and SOM Response Promoting Gender Equality and Human Rights**

Eradicating human trafficking is on the list of the *UN Sustainable Development Goals (SDG) for 2030*. Under Goal 8 Decent Work and Economic Growth, the SDGs refer to “effective measures to eradicate forced labor, slavery and human trafficking” by year 2030.<sup>60</sup>

In line with the imperative of the global and national goals, Pakistan has signed and ratified a number of international conventions and protocols regarding trafficking in persons, smuggling of migrants, modern slavery and gender. To comply with the international human rights standards and to fulfil its obligation as part of the international community, Pakistan has also enacted a number of federal and provincial laws specific to TIP, SOM, human rights, and gender equality. This section identifies those international conventions and protocols and analyzes whether Pakistan’s legislative response to TIP and SOM have mainstreamed gender and human rights.

Pakistan signed<sup>61</sup> the Universal Declaration of Human Rights, 1948, on 10<sup>th</sup> December 1948. Its Article 4 prohibits slavery or servitude and the slave trade in all their forms. Interestingly, Pakistan signed *The International Convention for the Suppression of the Traffic in Women and Children (1921) and its Protocol* on 12<sup>th</sup> November 1947.<sup>62</sup> This is now superseded by and consolidated as *The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1947)*. On 23 June 2010, Pakistan ratified<sup>63</sup> the *International Covenant on Civil and Political Rights, 1966*.<sup>64</sup> This Convention prohibits a number of practices directly related to trafficking, including slavery, the slave trade, servitude and forced labor. Pakistan also acceded to the *Convention on the Elimination of all forms of Discrimination against Women (1979)* on March 12, 1996. On 14<sup>th</sup> December 2000, Pakistan signed *The United Nations Convention against Transnational Organized Crime (UNTOC) 2000*, yet the country has not signed either of its Protocols.<sup>65</sup> “Pakistan remains one of only a

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<sup>60</sup> UNDP Pakistan website accessed August 30 2020 - <https://www.pk.undp.org/content/pakistan/en/home/sustainable-development-goals/goal-8-decent-work-and-economic-growth.html>.

<sup>61</sup>Signature constitutes a preliminary endorsement of the Convention or Protocol. Signing the instrument does not create a binding legal obligation but does demonstrate the State’s intent to examine the treaty domestically and consider ratifying it. While signing does not commit a State to ratification, it does oblige the State to refrain from acts that would defeat or undermine the treaty’s objective and purpose.

<sup>62</sup>[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=VII-2&chapter=7&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VII-2&chapter=7&clang=en).

<sup>63</sup>Ratification or accession signifies an agreement to be legally bound by the terms of the Convention. Though accession has the same legal effect as ratification, the procedures differ. In the case of ratification, the State first signs and then ratifies the treaty. The procedure for accession has only one step—it is not preceded by an act of signature.

<sup>64</sup>[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en).

<sup>65</sup><http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>.

handful of countries that”<sup>66</sup> “is not Party to the “*Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children*”, supplementing the “*United Nations Convention against Transnational Organized Crime*”.<sup>67</sup> Pakistan, however, has taken important legislative steps to combat TIP & SOM.

Article 11 of the Constitution of Pakistan prohibits slavery in any form; it also prohibits all forms of forced labor and traffic in human beings.<sup>68</sup> A report by the US Department of States has also suggested that 17 – 23 of the Emigration Ordinance 1979 (Pakistan) criminalize instances of domestic trafficking.<sup>69</sup> This suggestion may, however, be mistaken as the offences, including unlawful emigration<sup>70</sup>, fraudulent inducement to emigrate<sup>71</sup>, false representation of government authority<sup>72</sup>, violation of terms of agreement with foreign employer by emigrant<sup>73</sup>, and receiving money for foreign employment<sup>74</sup>, all cover conduct that reaches across the national borders of Pakistan. Pakistan has taken important legislative steps to combat these crimes (TIP & SOM), including the promulgation of:

- a) “*The Prevention of Trafficking in Persons Act (PPTA), 2018*” which extends to the whole of Pakistan and Repealed the Prevention and Control of Human Trafficking Ordinance (2002); and
- b) “*The Prevention of Smuggling of Migrants Acts (PSMA), 2018*”.

These Acts empower the law enforcement agencies of Pakistan to effectively prosecute organized gangs perpetuating and benefitting from these crimes, while providing safeguards to the rights of victims of human trafficking and smuggled migrants.<sup>75</sup> These laws were drafted by the Federal Investigation Agency (FIA) with the technical support of the United Nations Office on Drugs and Crime (UNODC), in line with international guidelines.

While trafficking in persons may involve men and women of any age, the specific reference to ‘women and children’ highlights the fact that women and children are especially vulnerable to trafficking. The Prevention of Trafficking in Persons Bill was aimed at introducing measures to prevent and combat human trafficking, especially of women and children. It is generally believed that the new bill is comprehensive, covers internal trafficking as well, and is gender-

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<sup>66</sup> Human Trafficking (editorial) Dawn June 30 2020, Accessed July 12 2020- <https://www.dawn.com/news/1566073>.

<sup>67</sup> Trafficking in Persons Report 2020- page 43-<https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>68</sup> Article 11, Constitution of Pakistan

<sup>69</sup> US, Department of State, Trafficking in Persons Report (2009) p.232.

<sup>70</sup> Section 17 Emigration Ordinance, 1979.

<sup>71</sup> Section 18 Emigration Ordinance, 1979.

<sup>72</sup> Section 19 Emigration Ordinance, 1979.

<sup>73</sup> Section 20 Emigration Ordinance, 1979.

<sup>74</sup> Section 22 Emigration Ordinance, 1979.

<sup>75</sup> UNODC Pakistan Website-Accessed August 06, 2020-<https://www.unodc.org/pakistan/en/country-profile-pakistan.html>.

sensitive by providing for more tough punishments in case the victims are women and children. It explicitly says, “Anyone who commits the offence of trafficking in person is liable to be punished with imprisonment up to seven years or fine up to one million or both. But if this offence is committed in respect of women and children the punishment has been extended up to ten years.” The Act also stresses the need to promote and facilitate national and international cooperation in protecting the trafficking victims and in helping on related matters.<sup>76</sup> The US Department of State Trafficking in Persons Report 2020 observes that the penalties prescribed in the new law were sufficiently stringent. However, with regard to sex trafficking, by allowing for a fine in lieu of imprisonment, these penalties were not commensurate with those for other serious crimes, such as rape.<sup>77</sup>

In parallel, however, the government also uses other sections of the Pakistan Penal Code (PPC) that are gender-sensitive and criminalize various forms of women trafficking. For example:

- a) Section 371A and 371B criminalized the buying and selling of a person for prostitution and prescribed penalties of up to 25 years’ imprisonment and fines;
- b) Section 366A criminalized procurement of a “minor girl under 18” and prescribed penalties of up to 10 years’ imprisonment and a fine;
- c) Section 366-B: Importation of girl under the age of twenty-one years from foreign country for illicit intercourse with another person with prescribed penalty of imprisonment which may extend to ten years and shall also be liable to fine;
- d) Section 369: Kidnapping or abducting child under ten years with intent to steal from its person with prescribed penalty of imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;
- e) Section 370 criminalized buying or disposing of any person as a slave and prescribed penalties of up to seven years’ imprisonment and a fine; and
- f) Section 371 criminalized habitual dealing in slaves and prescribed penalties of up to life imprisonment and a fine if the imprisonment was less than 10 years.

These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other grave crimes, such as rape. Most of the provincial governments have adopted or in the process of adopting their own laws, under devolution

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<sup>76</sup> UNODC Pakistan Website-Accessed August 06, 2020 - <https://www.unodc.org/pakistan/en/stories/fia---inspector-irfan-abdul-nabi--in-charge-immigration-and-anti-human-smuggling-at-fia-taftan-border.html>.

<sup>77</sup> TIP Report 2020, p. 390.

process that began in 2010, and federal laws apply until provinces enact corresponding laws.”<sup>78</sup>

There are other laws mentioned by the FIA which contribute to preventing TIP and SOM:

- Emigration Ordinance, 1979;
- Federal Investigation Agency Act, 1974;
- Passport Act 1974; and
- Foreigners Act, 1946.<sup>79</sup>

Other laws that are specific to women and children that the Ministry of Human Rights (MOHR) have drafted and pursuing the Pakistani parliament for its approval are:

Bill	Status
The Zainab Alert, Response and Recovery Bill, Act 2020	On the Gazette.
Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, 2018	prepared by MoHR placed before CCLC on 6 <sup>th</sup> February, 2019. Legal vetting of Bill awaited.
Christian Marriage and Divorce Bill, 2019	Sent to Cabinet for in principle approval.
ICT Domestic Violence (Prevention and Protection) Bill, 2019	Sent to Cabinet for in principle approval.
Child Employment Amendment Act 1991	Child Domestic Labor Proscribed under 1991 Child Employment Act-valid for ICT but provinces can adopt through a simple provincial assembly resolution.

It also refers to the Action Plan on Women Empowerment Package, and Human Rights Management Information System (HRMIS) with support from UNDP.<sup>80</sup>

The Fifth periodic report submitted by Pakistan on October 23, 2018 for the period covering 2013-2017 under article 18 of the Convention (CEDAW) states that: “the Government of Pakistan (GoP) follows a progressive and well-defined agenda for gender equality and women empowerment in the country. Guiding principles for the promotion and protection of women are embedded in provisions of the Constitution of Pakistan. Since the 18th Constitutional

<sup>78</sup> Trafficking in Persons Report 2020 - <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

<sup>79</sup> Ibid

<sup>80</sup> Ministry of HR Pakistan Official Website-Accessed August 30, 2020-  
<http://www.mohr.gov.pk/Detail/MmY4YmZhNzctMjE0My00OTJhLWFiYiQtZWYyZm2YjM3ZmUx>



Amendment, 2010, the main responsibility to implement National and International obligations lies with the Provincial Governments which are continuously undertaking steps to improve the lives of women and to fulfill Pakistan's national and international commitments." The report claims that after the 18<sup>th</sup> Amendment in 2010, the Provincial CEDAW Committees (PCC) were revitalized/reconstituted to ensure implementation of CEDAW at provincial level. The report states that an Inter Provincial Ministerial Group (IPMG) has also been constituted to help the provinces harmonize their gender equality policies and legislations, and to encourage the sharing of best practices. Provincial CEDAW Committees (PCCs), IPMG, National and Provincial Treaty Implementation Cells (TICs), Provincial Women Development Departments and women Commissions play their roles in monitoring of the implementation of the Convention and in providing relevant data on measures adopted throughout Pakistan.

As an independent statutory body, the National Commission on Status of Women (NCSW) has complete financial and human resource independence and autonomy. NCSW is established with the specific purpose to examine policies, programmes, and other measures taken by the Government for women's development and gender equality; review laws, rules and regulations affecting the status of women; monitor mechanisms and institutional procedures for redress of violations of women's rights and individual grievances; encourage and sponsor research to generate information, analysis, and studies relating to women and gender issues; develop and maintain interaction and dialogue with NGOs, experts, and individuals in society at the national, regional, and international level; any other function assigned to it by the Federal Government.<sup>81</sup> The Women Development Departments at provincial level operate for women empowerment through legislative, policy, and executive measures.<sup>82</sup>

An important piece of analysis conducted by Shirkat Gah is worth mentioning here, being the 'Unmet Promises, Alternative CEDAW Report 2020' on Pakistan's Fifth Report. The report observes, "Pakistan has passed numerous laws and formulated policies to promote women's rights in this period, however, unfortunately, many lack enabling laws, regulations, rules and actions to be effective."<sup>83</sup> The report further observes, "A *2018 national Sustainable Development Goals Framework* sets targets to be achieved by 2030 against each goal, and national priority indicators, but does not specify by when data gaps will be filled and baselines established for meaningful monitoring. Important targets and indicators for the realization of gender equality under SDG 5 are missing while several indicators and targets are not gender-disaggregated."<sup>84</sup>

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<sup>81</sup> NCSW website, retrieved information on 20 August 2020. [http://www.mohr.gov.pk/index.php/home/paps\\_page/14](http://www.mohr.gov.pk/index.php/home/paps_page/14)

<sup>82</sup> The Fifth Periodic Report Submitted by Pakistan On October 23 2018 For the Period March 2013-March 2017 Under Article 18 Of the Convention (CEDAW) Due In 2017;

<sup>83</sup> [https://www.ecoi.net/en/file/local/2023281/INT\\_CEDAW\\_CSS\\_PAK\\_41115\\_E.pdf](https://www.ecoi.net/en/file/local/2023281/INT_CEDAW_CSS_PAK_41115_E.pdf)

<sup>84</sup> *Beijing - 25 Years On: Pakistan Parallel Report*. October 2019. Available at <http://shirkatgah.org/shirkat/?p=14237> p. 4.

The comprehensive review of data sources by the Federal SDGs Support Unit in 2017 confirms that numerous data is available at national, provincial, and district levels.<sup>85</sup> However, the data is not disaggregated by gender, age, education, marital status, and other important indicators, etc. This underscores a failure to understand the inter-linkages of all SDGs to gender equality and progress, as well as the vitality of gendered data to understand the complexities that obstruct gender equality.<sup>86</sup>

After analyzing the legislative environment, it appears that Pakistan has covered a wide range of areas where gender dimensions and human rights are seriously and clearly considered. However, the administrative arrangement and implementation of those laws are either weak or non-existent which needs a thorough analysis. Although there has been a strong commitment of FIA to implement the Anti Trafficking Law, its principle is still to be mainstreamed in the administration. Specifically, it is important to coordinate FIA efforts with magistrates, police officers, and lawyers in charge of effective implementation in respect of the Ordinance, to prevent internal and external trafficking. Moreover, the process of prosecution and conviction is slow, particularly of forced and bonded labor, while the government should strictly respect the due process and criminalize all forms of trafficking.

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<sup>85</sup> Federal SDGs Support Unit, Ministry of Planning, Development and Reforms. Sustainable Development Goals: Pakistan's Perspective – Data Reporting Gap; Draft report - for review. December 2017. Available at [https://www.pc.gov.pk/uploads/report/Data\\_Gap\\_Report\\_Report\\_Version\\_6.pdf](https://www.pc.gov.pk/uploads/report/Data_Gap_Report_Report_Version_6.pdf).

<sup>86</sup> *Beijing - 25 Years On: Pakistan Parallel Report*. October 2019. Available at <http://shirkatgah.org/shirkat/?p=14237> p. 4.



## 2.5 TIP and SOM: Violation of Human Rights

The terms “smuggling” and “trafficking” are often used interchangeably to refer to irregular, commercially-assisted border crossing involving human exploitation. According to International Council on Human Rights Policy:

*“In broad terms, irregular migrants are in a precarious situation. Having neither legal immigration status nor citizenship of the country in which they reside, they lack specific attachment to the state in which they reside and often remain below the radar of national law. This can mean in practice that the protections to which they are entitled under international law may lie dormant.”<sup>87</sup>*

Trafficking in persons is an extreme form of violence and goes against the principles of the *Universal Declaration of Human Rights (UDHR)*, specifically Article 4, which states that “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”.

In Pakistan, women and girls enjoy disparate rights depending on their religion and location, especially since 2010 after the 18<sup>th</sup> Amendment which devolved matters concerning women to the provinces. Especially there is a lack of harmonization in various women specific policies such as the minimum age of marriage for girls. The report poses questions such as: Why do gender equality/women’s empowerment policies not reference CEDAW or equality?<sup>88</sup> The report Human Rights Violations in Pakistan by Unrepresented Nations and Peoples Organization (UNPO) generated on the occasion of the 3rd Universal Periodic Review Of the Islamic Republic of Pakistan during the 28th Session, November 2017 says with reference to Equality and Non-Discrimination that “21% of Pakistani girls marry before they reach majority.<sup>89</sup> Notwithstanding the establishment of a National Commission on the Status of Women in 2012, support for the elimination of gender inequality remains low.”<sup>90</sup>

A shadow report of CSOs titled ‘*Discrimination Lingers On*’ on issues faced by minority women, 75<sup>th</sup> CEDAW Session, Pakistan Review, dated February 2020 also takes stock of the Article 6: Trafficking and Exploitation for Prostitution’ of the convention. With reference to the issue of ‘Trafficking and Exploitation for Prostitution’, the Concluding Observations - 4th Report

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<sup>87</sup> International Council on Human Rights Policy. *Irregular Migration, Migrant Smuggling and Human Rights: Towards Coherence*. International Council on Human Rights Policy, 2010.

<sup>88</sup> Unmet Promises, Alternative CEDAW Report 2020 on Pakistan’s Fifth Periodic Report. Alternative CSO Report, Submitted by Shirkat Gah – Women’s Resource Centre.

<sup>89</sup> HRW “World Report 2017: Events of 2016”, by HRC. p 472.

<sup>90</sup> Report Human Rights Violations in Pakistan by Unrepresented Nations and Peoples Organization (UNPO) generated on the occasion of the 3rd Universal Periodic Review of the Islamic Republic of Pakistan during the 28th Session, November 2017.

(CEDAW/C/PAK/CO/4)- of the Committee says “(Para 24) The Committee urges the State party:

- (a) To conduct research on the prevalence of internal and international trafficking, including its scope, extent, causes, consequences and purposes, as well as its potential link with bonded labor, domestic servitude and child marriage;
- (b) To develop and implement a national comprehensive plan on internal and international trafficking in persons based on the findings of the research, with a result-oriented approach, including specific indicators and targets, in line with the Convention;
- (c) To strengthen mechanisms for the investigation, prosecution and punishment of trafficking offenders and support services for victims;
- (d) To conduct nationwide awareness-raising campaigns.
- (e) To adopt measures for the rehabilitation and social integration of victims of forced prostitution”.<sup>91</sup>

According to UNODC, “like other countries of the region, Pakistan also faces significant challenges in the field of Transnational Organized Crimes (TOCs), requiring coordinated efforts by the national authorities in tandem with the international support, especially through capacity building.”<sup>92</sup> Among other factors, human trafficking and migrant smuggling are caused by absence of safe, affordable and legal avenues of movement for people across borders.

## **2.6 Mainstreaming Gender and Human Rights in TIP/SOM Agenda in Pakistan**

Given the response to international conventions, the new legislation and its gender focus, and ongoing efforts of the government of Pakistan, there is every reason to believe that Human Rights and Gender can be integrated into the TIP/SOM Agendas in Pakistan. However, despite these efforts, implementation is slow and beset with a lack of focus on gender. The solution is to work with law-enforcement agencies to cultivate a mindset change within the police and to improve their awareness and understanding of gender dimension in trafficking-related issues, since law-enforcement agencies generally accord low priority to gender.

The two laws, drafted by the Federal Investigation Agency (FIA) with the assistance of UNODC, are in-line with international standards and are based on United Nations model laws on TIP and SOM. These laws impose long imprisonment terms and substantial fines for traffickers, smugglers and their accomplices. One of the most important aspects of "The Prevention of Smuggling of Migrants Act, 2018" is the non-criminalization of smuggled migrants which

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<sup>91</sup> Page 16-17 Shadow Report of CSOs titled ‘*Discrimination Lingers On*’ on issues faced by minority women, 75<sup>th</sup> CEDAW Session, Pakistan Review, dated February 2020-<https://www.ecoi.net/en/document/2023260.html>.

<sup>92</sup> UNODC Pakistan Website-Accessed August 06, 2020-<https://www.unodc.org/pakistan/en/country-profile-pakistan.html>.

shows the commitment of the Government of Pakistan to ensure the protection of human rights of victims trapped by unscrupulous migrant smugglers.<sup>93</sup>

The case of the prosecution of the Chinese brides' issue is an example of how sometimes foreign policy, economic, or other concerns are placed above gender and human rights principles. While "the FIA arrested Chinese nationals and some locals, including Christian pastors and at least one Muslim cleric, Pakistan's Foreign Office cautioned the media against 'sensationalizing' matters. Subsequently, the women initially interviewed by the police refused to testify and shortly thereafter, the Chinese nationals were either acquitted or bailed out and allowed to leave the country. The FIA investigation was curtailed and news reports dried up. The report Unmet promises questions what measures has the government taken to address this issue and prevent any further abuse?"<sup>94</sup>

The government continued to implement its **2015-2020 National Strategic Framework** against trafficking in persons and migrant smuggling. The Federal Investigative Agency (FIA) is the government's lead reporting and coordinating entity on human trafficking. The agency focused on transnational offenses, while provincial police generally investigated internal human trafficking cases. FIA investigated human trafficking and migrant smuggling cases through its 24 anti-trafficking law enforcement joint task forces at the federal, provincial, and local levels. FIA had satellite offices at three embassies abroad.

A total of 348<sup>95</sup> cases have been registered under the new Laws i.e. PTPA (Prevention of Trafficking in Person Act 2018) & PSMA (Prevention of Smuggling of Migrants Act 2018). Punjab province, where over half of Pakistan's population resides, continued to disproportionately report nearly all anti trafficking law enforcement efforts, including 98 percent of convictions. The government did not take action against credible reports of official complicity in trafficking, and organizations reported official complicity and corruption led to several high-profile trafficking cases being dropped during the year. Observers alleged police accepted bribes to ignore prostitution crimes, some of which may have included sex trafficking. "The government continued to lack overall adequate resources for victim care, and only referred four percent of all victims identified to care".<sup>96</sup>

UNODC is helping the Pakistan's law enforcement agencies (LEAs) to prevent illicit trafficking, human trafficking, migrant smuggling, through the continued capacity building of the LEAs,

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<sup>93</sup>UNODC Website-Accessed September 04, 2020- <https://www.unodc.org/pakistan/en/trafficking-in-persons-and-smuggling-of-migrants-laws-2018.html>.

<sup>94</sup> Unmet Promises, Alternative CEDAW Report 2020 on Pakistan's Fifth Periodic Report Alternative CSO Report, Submitted by Shirkat Gah – Women's Resource Centre.

<sup>95</sup> FIA Website-Accessed August 06, 2020 - <http://www.fia.gov.pk/en/ahtc.php>.

<sup>96</sup> Trafficking in Persons Report 2020-<https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

inter-agency and cross-border cooperation. A significant component of the work comprises the capacity building of communities who are particularly vulnerable and could potentially fall victim to the transnational criminal syndicates in affected regions such as Khyber Pakhtunkhwa and Baluchistan. Continuous consultation with civil society in collaboration with government stakeholders has contributed to ensuring that the program activities are inclusive, involve the beneficiaries, and raise awareness amongst the general public regarding challenges related to illicit trafficking and the activities of TOC [Transnational Organized Crimes] networks.<sup>97</sup> UNODC Country Office Pakistan is currently implementing a national public awareness campaign against human trafficking and migrant smuggling in four districts of Punjab and Baluchistan. According to UNODC's research reports, most of the traffickers and victims belong to the four districts of Punjab; Sialkot, Mandi Bahuddin, Gujranwala and Gujrat and are trafficked/smuggled via Baluchistan to Iran and then to elsewhere. Therefore, the campaign is focused on the source and the transit to make the general population aware of the dangers associated with this crime. The campaign was developed in partnership with the FIA with a simple message in Urdu which translates as "Stand up against human trafficking and migrant smuggling; it is illegal, unethical, and un-Islamic".<sup>98</sup>

Victim assistance services were generally inadequate for women as compared to men. However, it is an imperative to build structures to rehabilitate female survivors of human trafficking. As of June 2019, there were government-run women's shelters in all 36 districts in Punjab, as well as a violence against women center in Multan. However, there were only five *darul-aman* in Sindh, five in KP, and only two in Balochistan.<sup>99</sup> "The government identified more victims in 2019 as compared to 2018 but decreased victim protection efforts and such efforts remained inadequate. Provincial police referred 799 trafficking victims, mostly women and children, to the government or NGOs for care, a significant decrease from 2,697 trafficking victims referred to care in the previous reporting period and still inadequate compared to the total number of 19,954 victims identified.<sup>100</sup> Moreover, some of the government shelters severely restricted women's movement and pressured them to return to their abusers, including traffickers. Some victims reported shelters subjected them to sex trafficking".<sup>101</sup>

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<sup>97</sup> UNODC Pakistan Website-Accessed August 06, 2020 - <https://www.unodc.org/pakistan/en/illicit-trafficking-and-border-management.html>.

<sup>98</sup> UNODC Pakistan Website-Accessed August 06, 2020-<https://www.unodc.org/pakistan/en/unodc-national-campaign-against-human-trafficking-and-migrant-smuggling.html>.

<sup>99</sup> *The State of Human Rights*, annual report 2019, by HRC, p.12.

<sup>100</sup> Trafficking in Persons Report 2020-<https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>101</sup> Trafficking in Persons Report 2020-<https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.



Child trafficking cases in which parents are, often, found complicit, were of particular concern, since authorities often returned potential child trafficking victims to their families immediately following identification without effective methods to ensure families would not subject their children to trafficking again.

The UN Committee on the Elimination of Discrimination against Women highlighted its concern regarding ‘reports indicating that children, in particular girls who are internally trafficked, are subject to bonded labor, domestic servitude and child marriages.’<sup>102</sup> The Committee also shared its concern “at the lack of statistical data and information about the extent of the exploitation of women and girls for the purposes of prostitution.”<sup>103</sup> Furthermore, the EU GSP Plus Evaluation Report stated: “Pakistan... needs to make further improvements as it is the largest GSP+ beneficiary, yet the lowest ranked of all the GSP+ beneficiaries.”<sup>104</sup> International human rights monitoring bodies have, therefore, repeatedly recommended actions to the state of Pakistan to close gender gaps and improve human rights situation.

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<sup>102</sup> CEDAW Concluding Observations 2013, p. 6.

<sup>103</sup> Ibid.

<sup>104</sup> GSP Mid Term Evaluation July 2018.

### 3. POLICY PROPOSALS

Based on an analysis, the following policy proposals for key institutions to ensure a gender-sensitive, human-rights based response to TIP and SOM in Pakistan.

#### 3.1 Gender-sensitive Legislation and Policy

Pakistan should accede to the United Nations ‘Protocol to Prevent, Suppress and Punish Trafficking in Persons’ as a priority. In addition, the country should also sign the *Protocols against Smuggling of Migrants by Land, Sea and Air, 2000*.

The process of the harmonization of the national legislation with international human rights and gender obligations must continue and be monitored and evaluated with regularity. There should also be an effort towards harmonization of the legislation and policies among the provinces after the 18<sup>th</sup> amendment.

It is also recommended that the 2018 PTPA should be amended to remove penalty provisions that allow fines in lieu of imprisonment for sex trafficking offenses. While the government of Pakistan has passed numerous laws and formulated policies to promote women’s rights, many lack enabling laws, regulations, rules of procedures or business to be effective. Therefore, it is in order to match the laws with corresponding rules of procedures or business. All public policies and legislation should be properly referenced against gender equality/women’s empowerment defined in the constitution of Pakistan, including Article 25, CEDAW, and other national and international instruments, conventions, and/or customary laws on gender.

#### 3.2 Implementation

Institutional responses must be enhanced to take affirmative action in favor of women. The development of the Pakistan’s national strategic framework and action plan scheduled for 2020/21 should ideally make a very strong reference to gender, human rights with effective plans for implementation on ground. Policy level engagement with the government and its relevant agencies needs to be initiated to influence and recommend mainstreaming gender in the strategic framework. The overarching goal of this evidence-based advocacy for mainstreaming gender must promote “safe, affordable, and legal avenues of movement for people across borders”<sup>105</sup> especially for the female.

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<sup>105</sup> UNODC Website <https://www.unodc.org/pakistan/en/country-profile-pakistan.html>.

Provinces other than Punjab including GB and AJK must catch up in terms of anti-trafficking law enforcement efforts, prosecutions and convictions. For this, the UNODC needs to engage civil society organizations and individual experts – especially women - to run provincial and national level advocacy campaigns to influence policy and legislations demanding gender-sensitive laws and policies to fight TIP and SOM. Lobbying and engagement with duty bearers with the help of experts and activists will help in paving ways for the said legislations and policy enactment.

Surprisingly, several government departments and ministries that are directly and indirectly relevant for the TIP and SOM, internally as well as externally, have not been playing their direct role in addressing TIP and SOM. There exists ample interest within the departments to become part of the coordinated and concerted effort to contribute in addressing the TIP and SOM issues. The government should bring together all relevant departments under the fold and define their roles and responsibilities. This will bring drastic improvement in the implementation and performance of government departments once their roles and responsibilities are clearly defined.

The government must show firm resolve by due actions against credible reports of official complicity in trafficking. In 2019 there were reports of official complicity and corruption which led to several high-profile trafficking cases being dropped during the year.

The FIA Anti Human Trafficking Unit-Anti Human Smuggling (AHS) Directorate works and maintains liaison with the Ministry of Interior (MOI), Ministry of Foreign Affairs (MOFA), national and international organizations. However, it should also engage with the Ministry of Human Rights and the Ministry responsible for women to ensure compliance with national international gender commitments.

The Provincial CEDAW Committees (PCC) must ensure effective implementation of CEDAW at the provincial level. The Inter Provincial Ministerial Group (IPMG) must facilitate the provinces to harmonize their gender equality policies and legislations. The Provincial CEDAW Committees (PCCs), IPMG, National and Provincial Treaty Implementation Cells (TICs), Provincial Women Development Departments and Provincial Women Commissions must work in concert to monitor the implementation of the Convention and in providing relevant data on measures adopted throughout Pakistan.

Training programs and capacity building of FIA field staff should be conducted to sensitize the human resource regarding gender. The Anti-Human Smugglers / Trafficking Circles (AHTC) for operations and Inter-Agency Task Force (IATF) established for the collection of intelligence and sharing of information, to control Human Trafficking/ Smuggling should be specifically sensitized to the different needs of women.

Officials, including provincial police, labor inspectors, and entities providing social services should be trained for victim identification and referral to rehabilitation services with specific reference to gender needs. Prosecutors and judges should also be sensitized with reference to gender. It is important to ensure that victims are not unduly or disproportionately punished.

A carefully planned Public Awareness program should be mounted on human rights and gender education, sensitization and awareness to address fundamental flaws in the society that promote harmful traditional practices in the society.

Human rights and gender-sensitive principles should be placed above foreign policy, economics, or other concerns. The case of the prosecution of the Chinese brides' issue is an example of how sometimes foreign policy, economics, or other concerns are placed above gender and human rights principles.

The FIA 24/7 Helplines (toll free phone-15, street address FIA, and FIA email) for reports, complaints and support should be made friendly for women. FIA should appoint more women operators who should be thoroughly trained to speak with the callers in a way that the callers feel safe and confident to share openly their problems. Safe spaces for voice, dialogue and action, and the provision of public services and benefits is a key step in empowering women and marginalized groups and individuals. Through such safe spaces, it is believed that forms and patterns of discrimination that hinder voices of the vulnerable will eventually evolve and make demands for protection of their rights.

The consultation and collaboration of the Government of Pakistan and civil society, including the beneficiaries, to jointly work in the areas of illicit trafficking & border management should be enhanced. It is expected to promote inclusive ownership and thereby lead to the sustainability of actions.

### **3.3 Protection**

The enactment of the Zainab Alert Response and Recovery Act 2020 and an amendment to the Child Employment Amendment Act 1991 are commendable in that both the measures will prevent the trafficking and smuggling of children, including girls. The amendment to the Child Employment Act 1991 criminalizes and prevents child domestic labor, the incidence of which can be gauged from the fact that there are 264,000 child domestic laborers in the country. However, the civil society laments that there is still a need to enhance the protection of women and minorities, especially the minority women through early enactment of laws e.g., Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill, Christian Marriage and Divorce Bill, 2019, ICT Domestic Violence (Prevention and Protection) Bill, 2019.

Moreover, it is also recommended that the provinces should adopt the Amended 1991 Child Employment Act through a simple provincial assembly resolution.

Given the lower level of victim services in 2019, as evidenced by only four percent of all victims identified being referred to care, it is recommended that referrals of trafficking victims, especially women, to services should be increased in addition to the availability and quality of services including legal assistance. It is an imperative to adopt measures for the rehabilitation and social integration of victims of trafficking, abusive marriages, and forced prostitution. The Women in Distress and Detention Fund, established under the Women in Distress and Detention Fund Act, 1996 (XV of 1996), should be properly operationalized and made effective.

It is worthy of note that Punjab is the only province which has a women's shelter in each of its 36 districts; Sindh has five women's shelters in its 29 districts and four centers that offered women in distress medical and legal aid and shelter for up to 72 hours; Khyber Pakhtunkhwa has six (06) shelters in its 26 districts and 10 welfare homes for exploited children; Baluchistan operated one women's shelter and one shelter for destitute male citizens among its 32 districts.

In addition, it has come to light that some of the government shelters pressured women to return to their abusers, including traffickers while some victims reported some shelters subjected them to sex trafficking. The government needs to look into this victim protection in due earnest.

Moreover, since it has been found that the lack of identity documents by women plays a key role in their exclusion, it is also important to promote and increase registration of women with NADRA.

Referral mechanisms should be established through public and private partnership to assist victims of trafficking—at district, provincial and national levels. Once they are linked to the government and private sector services, referrals mechanisms would effectively help assist the victims on timely bases. Government agencies, private sector and civil society organizations working in isolation can be brought together to synergize their efforts and help the victims of TIP and SOM. Moreover, it will also help in understanding how grave the phenomena of TIP and SOM are.

Restrictions on female migration should be done away with whereas female worker protections should be negotiated with the destination country governments. It is also important that the government provide opportunities to women for economic freedom and development through share in inheritance, employment, market or fair wages, services of child care, maternity leave and compensation, health safety and occupational hazard

measures etc. and prevention of sexual harassment in the workplace. The lack of economic freedom and development increases the vulnerability of the women and their propensity for taking risks that eventually places them in circumstances such as TIP/SOM or modern slavery through marriages and fake employment opportunities. Therefore, in addition to Goal 5, “Goal 8 Decent Work and Economic Growth” should also make reflect a strong reference to women during implementation.

### **3.4 Engage Women Leaders to Combat TIP and SOM**

Issues concerning women are now gaining public attention. This has opened up various avenues and opportunities for women to actively advocate and pursue policies concerning women. In Pakistan, gender experts, civil society activists, and government officials are not very actively taking part in the efforts combating TIP and SOM. Therefore, there is a need to identify and encourage women leaders from the government, judiciary, as well as civil society sector who can play instrumental role in preparing strategic opportunities to advocate for the fight against TIP and SOM. During the process of engagement, sensitization and capacity building initiatives will help develop knowledge and skills of the women leaders on tackling TIP and SOM. Female Police and judges have a direct role in dealing with the issue and therefore, their active engagement is vital for the effective implementation of laws and policies on TIP and SOM.

GLO.ACT has already launched the Women’s Network with its partner countries, targeting female officials and male champions of women’s rights working in policy making, the justice sector, law enforcement, civil society and other relevant local entities. GLO.ACT will be looking at strengthening the capacity, knowledge and resources available to the Network, including through mentorship and coaching.

### **3.5 Monitoring & Evaluation:**

Monitoring & Evaluation should be undertaken with a very clear view of the disparate needs and rights of women and girls depending on their context, religion and location etc. Gender-disaggregated indicators, targets and effective provision of important gendered data necessary for effective planning should be ensured. All key indicators on which reporting is required under the constitution of Pakistan, including Article 25, CEDAW, and other national and international instruments, conventions, and/or customary laws with reference to gender equality/women’s empowerment or Goal 5 should be clearly identified and defined. The baselines and targets on gender equality indicators should be clearly established and data on the indicators should be regularly collected and all gaps in gender specific data should be

addressed. It is an imperative to undertake meaningful monitoring of targets and indicators identified under 2018 National Sustainable Development Goals Framework to be achieved by 2030 against gender specific goals, especially Goal 5. This imperative is in sync with the aims of the Gender and Human Rights Tool of the GLO.ACT project which may serve an important resource for developing the baseline as planned.

It is also recommended to undertake a fresh gendered political economy to explore power imbalance in Pakistani society perpetuated through laws, administrative arrangements, economic structures, social and cultural norms. It should also examine the gender dimensions of formal and informal institutions promoting gender disparities in Pakistani society.