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## Human Trafficking: A Comparative Analysis amongst the Legislations of Pakistan, China and Russia in Relation to International Law

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### Abstract

*The topic under discussion is significant in nature as now a days human trafficking is very common due to various reasons. The researcher during study and research has determined that unemployment and unawareness are the main reasons for human trafficking. Further, it has been noted that the legislation is in existence but its proper implementation is weak in the said countries which is another cause for illegal human trafficking practices, if the implementation of laws be ensured and implemented strictly then human trafficking can be reduced up to some extent. Next is that awareness campaign can be useful for reduction of these activities people will be more conscious for taking decision before leaving their countries and step into another country. This paper focuses on minimizing the chances of human trafficking in Pakistan, Russia and China through proper legislation and its implementation.*

**Keywords:** Human trafficking, Russia, China, ILO, UDHR

### Introduction

The fundamental principle on which many human rights conventions, declarations and treaties are formed is that everyone is entitled to basic human rights just by the virtue of being human. However, at times the most basic human rights are snatched from people when they become victim of human trafficking and thousands of lives are destroyed as a result of it. Human trafficking which also goes by the names of trafficking in person or modern-day slavery is

defined by United Nations as “The engagement, transportation or transfer of different people by use of force, threat or other means of coercion e.g., abduction, fraud, deception for the purpose to exploit such persons, commercial sex or other kinds of labor” (United Nations, 2000) There is not a single form of human trafficking rather it generally covers smuggling of human beings in black markets of the world for sex, forced labor, debt bondage. It is a heinous crime and when we look at a case study, we investigate three of its elements i.e., the act, the means and the purpose. Every human being has the right to live a free and happy life without being detained, transported or forced to work without their consent and it is the duty of the government to make sure that their citizen’s right to life and privacy is not infringed by any way. Moreover, there is a wrong perception that the subject of human trafficking is only women but there is no one profile for the victims of human trafficking and it may include persons from any race, color, national origin, religion, age, gender or social status. With no specification as to the victim there is also no parameters to who are the most vulnerable to human trafficking but in most cases people who are poor, have suffered a lot in life, are living in bad conditions, looking for a better life opportunity end up in situation like this but yet these parameters are not defined by any authority. Like the victims of human trafficking vary so does the perpetrators, they can be nationals, international persons, family members, acquaintances etc. and they are not always male, but females can be perpetrators as well. Human trafficking is not a new concept rather its origin can be traced back to 1400 BC.

The concept of slavery or human trafficking has been in this world from decades and there is not an exact starting date to it but it is said that the earliest records of human trafficking can be found in 1400s when the Europeans started slave trading in Africa with the Portuguese transporting people from Africa to Portugal and using them as slaves. Britain joined the slaved trade in Africa in 1502. During the 1600s, other countries became more involved in the European slave trade. These included Spain, North America, Holland, France, Sweden, and Denmark. After the abolishment of African slave trading, white slavery came into picture which generally meant “trading of white girls and women for the purpose of sex, forced labor, organ trafficking etc.” As at that time there were no organizations or legislations regarding human trafficking therefore it was legal in many countries until 1820 when United States banned slavery. Many countries started passing laws in relation to human trafficking but at the same time, there was no international body that could make such decisions binding on many nations at once. It was in 1904 when the first international agreement was signed known as “International agreement for the suppression of white slave traffic.” With World War I coming to an end and the formation of League of Nations, in 1921 almost 33 countries signed the “International convention for the suppression of traffic in women and children.” During that time human trafficking was only associated with sex trafficking and only women and children were considered as its object. It was not until 2000 that other forms of human trafficking grew in scope and it was recognized that men are also victims of human trafficking. With the establishment of United Nations multiple conventions were signed and human trafficking was criminalized with the view of controlling it. Human trafficking in today’s world is a prevalent issue and there has been a rise in human trafficking rings across the world with very low conviction rate of traffickers. (Grant Oster, 2018) Many countries have seen increase in human trafficking rate over the years especially in Russia, China and Pakistan.

Russia is one of the countries with an alarming rate of human trafficking. Every year thousands of people are smuggled to Russia from North Korea, Bangladesh, Nepal, India etc., and here they

are subjected to forced labor, organ trafficking, debt bondage etc. Russian government has worked hard to control the rising percentage of human trafficking in the country and they have passed several laws in order to criminalize trafficking in person which has resulted in significant progress over the last decade. (Anastasia Dovgaia, 2017) Apart from Russia being the central hub for human trafficking, China has also reported to be one of the countries with high percentage of trafficking in persons. As a country which is popular for its disregards towards human rights, China in its latest UN report regarding human trafficking was listed in the third tier which is the lowest because it has failed to overcome the problem of human trafficking in the country as there is no effective implementation of law and no sense of accountability. (humantraffickingsearch.org, 2014) Like many countries human trafficking in Pakistan is also an important issue that needs to be dealt with. There has been a rise in the cases in Pakistan especially sex trafficking victims, force laborers and debt bondage victims. Although the penal code of Pakistan strictly prohibits human trafficking, yet many cases go unreported. To cope up with the situation of human trafficking, the government over time have passed laws like “prevention of human trafficking ordinance, 2000” and “trafficking in persons and smuggling of migrants’ act, 2018” but these legislations still haven’t succeeded to bring the issue at hand under control.

### **Significance of the Study**

Human trafficking is one of the largest crimes in the world with over millions of victims that lose the meaning of their lives falling prey to this heinous crime. For years the world has tried defeating this evil yet there are many countries that still can’t do the bare minimum to control the human trafficking rates in their respective country. The main objective of this research is to analyze the legal systems of Pakistan, Russia and China along with international instruments in regard to human trafficking and highlight the lacunas in the system that becomes a hurdle in curb the increasing cases of human trafficking

### **Aims and Objectives**

The main objectives of this research are to analyze the situation of human trafficking in Pakistan, Russia and China through examination and study of the legislation adopted in Pakistan, Russia and China. The research will also determine the pros and cons of such legislation and their effect in prevention of human trafficking in Pakistan, Russia and China.

## **The Conditions of Human Trafficking and Laws Regarding it in Pakistan, Russia and China and the International Law**

### **Human trafficking Conditions and Legislation in Pakistan**

Human trafficking is one of the biggest evils that exists in our world today. Slavery was banned in the world decades ago yet today we see that every country faces the problem of human trafficking or modern-day slavery at some rate. The traffickers have divided countries into three types which is that they use some countries as sources i.e., they recruit victims from such countries, they use some countries as transit and some countries as destination. Human trafficking industry is one of the fastest growing industries in the world and it seems like they have contacts with some of the famous politicians and business tycoons who provide them the

legal shield, and this is the reason why countries face tremendous difficulties in curbing this issue. Pakistan is an under-developed country with a number of crimes that it is struggling to fight. E.g., rape, honor killing, terrorism etc. human trafficking is also one of the crimes that has increased in Pakistan in past years with children, women and men being kidnapped and smuggled to different parts of the world. Pakistan acts as a source, transit and a destination country for the victims of human trafficking. According to the reports of FIA, Punjab and Balochistan are the hotspots of human trafficking in Pakistan and the types of human trafficking common in Pakistan are sex trafficking and bonded labor. Punjab and Sindh are very popular for the practices of bonded labor. Over one million people become victim of bonded labor in Pakistan every year. Pakistan has tried for years to fight the problem of bonded labor in which regard they have drafted a number of legislations. In 1992, the parliament passed the bonded labor abolition act which declared the bonded labor in Pakistan illegal and the act laid down the rules that will govern the bonded labor practices ban in Pakistan. It imposed serious punishments on people who will force anyone to indulge into the practices of bonded labor. Although the act is a very impressive piece of writings and do cover all the legal aspects, yet we haven't seen much of a change in the situation of bonded labor in Pakistan as the implementation is nil. Similarly, the parliament has also passed legislation for human trafficking in Pakistan in general. Prevention and controlling of human trafficking ordinance passed in 2002 deals with the issue of human trafficking and child labor. It lays down the grounds that constitute the crime of human trafficking and put forwards punishment for person or group of persons involved in the said crime. In addition to this it also provides protection to the victim in case he is a foreigner which he/she can seek under this act. In 2018, an extension of the ordinance was passed which covered the harm caused to the victims of human trafficking in addition to the punishment that will result if any person or a criminalized group will be found guilty of committing the crime of human trafficking or compelling labor. One of the recent acts to be passed by the parliament is the Zainab Alert Response and Recovery Act, 2020 which was drafted as the result of public backlash that the government received after the incident of abduction and rape of an 8-year-old girl, Zainab Amin Ansari by an acquaintance who then killed innocent Zainab and threw her body in garbage in 2018. This incident sent the entire nation into shock and the public went ballistic for justice for Zainab. This was not the first time that a child was abducted, and research showed that it had become a common practice that children of age 5-10 were abducted, abused, trafficked or killed by the criminals in Pakistan. The act was passed as an attempt to curb this problem as it lays down a procedure through which the problem of missing children can be solved. It established ZAARA, an agency where missing children can be reported, and the agency will be responsible to not only find the child but also make sure that the criminal gets the due punishment. The government of Pakistan is trying hard with every passing day to make sure that the laws are implemented and that the problem of human trafficking is controlled but in Pakistan is ranked at tier 2 of the US report and has been given warning to take preventive measures otherwise in the coming years it might get a tier 3 ranking which is the lowest.

### **Human Trafficking Conditions and Legislation in Russia**

One of the hotspots of human trafficking in the world is Russia as well which received a tier 3 rating in the US report. After the fall of Soviet Union, the rate of human trafficking in Russia increased drastically and today Russia is ranked amongst the countries with highest rate of human trafficking in the world. Most of the victims brought to Russia are used for sex trafficking and labor and are placed in populated cities like Moscow and St. Petersburg as the cities can

mask victims and there are many factories and companies where they can be placed for forced labor. The legislation of Russia in regards of human trafficking is not quite extensive like Pakistan. Article 127 of the Russian criminal code makes trafficking for sex and forced labor as illegal and sets out a punishment up to 5 years which may be extended to 15 years in aggravated circumstances. Similarly, article 152 declares the selling and purchasing of minor illegal with punishment up to 5 years. The assets law allows the court to forfeit the assets of the person or group of persons found guilty of human trafficking in Russia. Surprisingly enough the people found guilty in Russia are rarely charged under the above-mentioned article. The conviction rate is very low and if a person is found guilty, he is charged under article 240 and 241. It seems like the government of Russia is least interested in curbing the issue of human trafficking as they have done little to nothing to tackle the problem. The country lacks a proper legislation and a proper enforcement system due to which the rate of human trafficking is just going up with no hope that it will be controlled in near future.

### **Human Trafficking Conditions and Legislations in China**

Just like Russia, China is also considered as a country with alarming rate of human trafficking. The country acts as a main source of human trafficking in women in the world and also acts as a transit and destination country. In the recent years, China has seen a drastic increase in the rate of human trafficking and in 2014 it was downgraded from tier 2 to tier 3 by the US state report as the country failed to meet the minimum requirements to tackle the issue of human trafficking. Most of the cases of human trafficking reported in China involves people who willingly migrate to China in the deception of better life opportunities or women who are tricked into fake marriage and are brought to China for the purpose of commercial sex and business of surrogacy. Forced labor is also one of the common forms of human trafficking in China, most of the migrants who are deceived into job opportunities are forced to work in brick kilns, factories etc., upon coming to China illegally. The legislation in regard to human trafficking in China is almost same as Russia, there are no extensive acts or anything to deal with the problem. Article 240 of the criminal code states that the abduction and sale of women in China is illegal and lays down a punishment up to 10 years for anyone found guilty under the article. Article 241 states that purchasing any abducted women or children can result into punishment up to 3 years. Article 358 declares forced prostitution illegal and prescribes a punishment of 5-10 years and if the victim is a child under age 14 then the punishment will be 10 years. Article 359 makes harboring prostitution or luring someone into this occupation as illegal with punishment up to 10 years. The conditions of human trafficking in China and the legislation in this regard do not complement each other and this can be one of the main reasons why the country is failing to suppress the problem of human trafficking.

### **International law on Human Trafficking**

International law regarding human trafficking is very extensive which deals with different types of human trafficking and provides a detailed procedure as to reporting the cases of human trafficking and bringing the accused to the courts of law. UDHR banned slavery and inhumane treatment with any person. CEDAW makes it compulsory for the states parties to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. Similarly, the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (2000) is intended to achieve the purposes of certain

articles in the Convention on the Rights of the Child, where the rights are defined with the provision that parties should take "appropriate measures" to protect them. Article 1 of the protocol requires parties to protect the rights and interests of child victims of trafficking, child prostitution and child pornography, child labor and especially the worst forms of child labor. The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) states that human trafficking is not only the violation of right of life but also freedom of liberty and privacy. It aims to punish any person found guilty of the said crime, work for the welfare of the victims and promote the eradication of human trafficking from the world. The ILO Forced Labor Convention (Convention No. 29 of 1930) and its newly adopted Protocol, sets down the basic rules to be followed by the state parties in the fight against forced labor. The convention makes it compulsory for the state parties to ensure that no kind of forced labor is operative in their respective countries and puts forward a mechanism through which the state parties can bring cases of organizations, people or businesses involved in forced labor. There are many other conventions and treaties as well which addresses the problem of human trafficking in the state parties to such convention and treaties. The purpose of these treaties is to tackle with the problem of human trafficking in the world and prevent the increasing rate in different part of the world. Convention on the Elimination of All Forms of Discrimination against Women 1979 makes it a responsibility of all state parties to ensure that preventive measures are taken to suppress all forms of traffic and exploitation of prostitution in women and make legislation in regards of the same.

### **Prevention and Controlling of Human Trafficking Ordinance, 2002**

The law sets out the elements of human trafficking and child labor in the first part of the ordinance, states that human trafficking and child labor is a cognizable, non-bailable and non-compoundable offence. The second part, it specifies the punishment for any person involved in trafficking persons or forcing them into labor. The ordinance declares that any person or criminalized groups involved in human trafficking and child labor shall be punished under this law even if the person involved are the parents of the victim. Moreover, the ordinance provide compensation to the victim and under certain circumstances allow the victim to stay in Pakistan if he/she is a foreign national.

### **Prevention of trafficking in Person's Act, 2018**

It is an extension of the 2002 ordinance, and it specifies as to the elements that constitute human trafficking. The act not only deals with abduction, illegal transportation of human beings and compelling labor but also deals with any harm caused to the victims and that harm will include physical, mental and emotional harm as well. The act also lays down the punishment for the person or organized criminal groups found liable for trafficking in persons along with any individual that is found to be an accomplice in the said crime.

### **Prevention of Smuggling of Migrant's Act, 2018**

This Act has been drafted in order to deal with the issue of smuggling of migrants from one country to another. The type of human trafficking were traffickers benefit from the desperate people of different countries by tricking them into better life and smuggling them into foreign countries. The act declares punishment for people who are involved in smuggling and their

accomplices. Moreover, it allows the federal investigating agency to cooperate with other international agencies in order to take preventive measures in the fight against smuggling of migrant.

### **Zainab Alert Response and Recovery Act, 20220**

Pakistan formulated Zainab Alert Response and Recovery Act, 20220 which deals with the cases of children who are abducted by force, exploited and taken benefit of by their abductors in Pakistan. The act establishes the Zainab alert, response and recovery agency (ZARRA) to make it feasible for people to report missing children and the agency is supposed to work closely with PTA, PEMRA, local police and other investigating agencies in order to find the children. Moreover, under the Zainab alert act, the culprits are to be brought into the court of law and ZARRA will be responsible to make sure that justice is served.

### **Bonded labor System Abolition Act, 1992**

This Act declares bonded labor in the entire Pakistan illegal and make it compulsory for the creditors to return any property of the labors that were taken by force. The law with its commencement claimed that it freed labors from any debt and they are discharged from all obligations in the same regard. The act also authorized officers in every district to keep check in their respective districts that the practice of bonded labor is abolished and that after the debt is extinguished no creditor takes the debt or force them into labor.

### **Conclusion**

If we compare the conditions of human trafficking in Pakistan, China and Russia, it is obvious that Pakistan stands at a better position in regards of both, the statistics of human trafficking and the legislation in this regard. The main problem that Pakistan faces is of the implementation of laws and the accountability. It is undeniable that Pakistan has very strong laws in regard to human trafficking, but the issue is with the effectiveness of these laws because they are not enforced properly. The poor implementation has resulted into increase in human trafficking in Pakistan especially in bonded labor. If Pakistan wants to limit the rate of human trafficking, it must work on the implementation of the laws which already exist and with that we as a country will be able to prevent the rise in human trafficking in near future. On the other hand, Russia's situation is quite controversial as the country has shown a very rigid stance in regard to the issue. The country in 2003 signed the Palermo protocol which required the signing parties to draft strict laws to control human trafficking but in 2020 the new constitution of Russia was passed according to which the constitution was granted primacy over all international agreements and as a result revoked any commitment made on international level. As the legal system does not protect the victims, they are left with NGOs but the laws in Russia regarding NGOs is quite strict because any non-profitable organization accepting foreign funds will have to register itself as a foreign agent which restricts the operation of these NGOs leaving the victims of human trafficking helpless. Similarly, China although is trying hard to tackle with the issue of human trafficking in the country and they have signed multiple UN conventions still neither do they have strong legislation, nor they do have proper enforcement of the laws. China has not been very keen into drafting a proper mechanism through which they can tackle the issue of human trafficking in their country. Both China and Russia need to have a strict legislation in regards to

human trafficking and should put forward a proper mechanism through which traffickers can be brought to the court of law and punished for ruining so many lives whereas Pakistan is in need of implementation of the laws that it has already drafted to make them effective.

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