



Human Rights  
Commission  
of Pakistan

FAKRUDDIN G. EBRAHIM FELLOWSHIP

# Perilous Passage

Human Smuggling in Pakistan

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AZWAR SHAKEEL



Fakhruddin G. Ebrahim Fellowship

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Human Rights Commission of Pakistan

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# Introduction

A BBC Urdu film about irregular migrants from Pakistan recounts the story of a man whose father died while being transported from his village to the city for medical treatment due to delays created by poor infrastructure and transportation.<sup>1</sup> Having lost his father, the man vowed he would never succumb to a similar fate should he fall sick in his old age. He decided to migrate to secure a better future for himself. But doing so legally was financially impossible.<sup>2</sup> Desperate to leave, he approached a smuggler.

There are countless such stories of hopelessness. The decision to cross a border illegally is almost always a last resort for those wanting to improve the lives of their families yet finding no opportunity to do so in Pakistan.

## ***Human smuggling: A question of choice?***

The Human Rights Commission of Pakistan (HRCP) notes that human smuggling has never garnered the same attention from a human rights standpoint as other exploitative practices such as human trafficking. Indeed, even at official levels, attitudes towards this practice are either those of ignorance or indifference. These stem from the belief that migrants *choose* to cross borders illegally and therefore consent to the dangers of the journey and the exploitation that comes with it—a notion that takes away from any sympathy that migrants might otherwise receive. By comparison, human trafficking, which can be in the form of bonded labour or sexual exploitation, is universally recognized as a grave human rights violation.

Bifurcating trafficking and smuggling between coerced and consensual acts do not help in understanding the realities that face people desperate to improve their lives. As Bhabha (2005) observes, 'Whereas people who are trafficked are assumed not to have given their consent and are considered to be "victims" or "survivors",

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<sup>1</sup> <https://www.youtube.com/watch?v=EHh9F0hpCJk>

<sup>2</sup> Interview with investigative filmmaker Syed M. Hassan Zaidi.

people who are smuggled are considered to have willingly engaged in a criminal enterprise.<sup>3</sup> However, as this essay argues, acts borne out of such desperation are barely consensual. If asked, migrants will say they were left with no choice but to migrate. Even if the act is deemed consensual, are violations of human rights and the right to dignity justified?

Unfortunately, the only time the issue of rights violations in human smuggling attracts media attention is when a tragedy takes place, such as the fishing boat that capsized 80 km off the southern coast of Greece in June 2023.<sup>4</sup> The boat was carrying prospective migrants, including women and children—reportedly victims of human trafficking but also human smuggling. At least 200 Pakistanis on board lost their lives. The then chief justice of Pakistan called it a 'human rights issue'<sup>5</sup> and Prime Minister Shehbaz Sharif ordered a nationwide crackdown against human smugglers.<sup>6</sup> However, national attention waned as quickly as it rose. Meanwhile, thousands continue to make their journeys from Pakistan every year in search of better lives. They suffer torture, extortion, abuse, blackmail, imprisonment, and death. Yet stories of their suffering go unnoticed.

### ***Scope and methodology***

This essay, which was written as part of the Fakhruddin G. Ebrahim Fellowship administered by HRCP, aims to reframe the narrative of human smuggling from a transnational crime to a crisis of human rights violations. Accordingly, phrases such as 'illegal migrants', 'aliens' and 'illegal migration' have been replaced by 'migrants', 'irregular migrants', 'victims' and 'irregular migration'. Indeed, our perception of a group is deeply affected by the way in which we address that group.

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<sup>3</sup> <http://www.migrationinformation.org/Feature/display.cfm?ID=294>

<sup>4</sup> <https://apnews.com/article/greece-italy-libya-migration-368f1bfd9bb7c0ad977774bda9c77195>

<sup>5</sup> <https://www.dawn.com/news/1763114>

<sup>6</sup> <https://www.aljazeera.com/news/2023/6/18/pakistan-arrests-suspected-traffickers-after-refugee-boat-tragedy>

The essay begins by charting the journey of Mahmood, a victim of human smuggling, based on interviews by the author. Using his story as a backdrop, the essay examines the legal regime governing human smuggling globally and locally as well as the prevalence of human smuggling in Pakistan, including key points of origin and popular routes. It then looks at factors contributing to increased smuggling, the operation and business of smuggling networks, the role of law enforcement agencies (LEAs) and identification of rights violations. Finally, it presents a series of policy recommendations devised through the stories of irregular migrants themselves.

The facts presented in this essay have been corroborated with field and academic research as well as with evidence from interviews conducted with investigative journalists who have extensive experience of reporting on human smuggling. Broadly, the study looks at stories of migrants from Punjab, which accounts for a significant proportion of irregular migrants and victims of human smuggling.

The names and identities of all victims have been changed for their safety and privacy. All images have been used with the owner's permission.



# 'Dunki': The perilous journey of an irregular migrant

The word *dunki*, often used in reference to human smuggling, is derived from a Punjabi idiom that means to go someplace illegally by jumping or leaping like a donkey. Literally taken, the term means 'donkey flight'.

This section recounts the story of a migrant interviewed by the author, whose journey is an indicative representation of most migrants from Pakistan. Mahmood entered Turkey using the land-based route through Balochistan and Iran. The investigation carried out for this essay revealed this route to be by far the most popular option for irregular migrants from Pakistan because it is one of the cheapest routes.

## ***From Central Punjab to Iran***

In 2018, Mahmood was an 18-year-old based in Hafizabad. Although he struggled in school, he was good at sports. Due to family pressure, he did not have the option of making a career out of it. Mahmood began to feel hopeless. His heart was no longer in his daily activities. One day, a group of friends floated the idea of migrating to escape his family and life in Pakistan. One of them said he knew a local agent who could help.

The agent told Mahmood and his friends that the journey from Hafizabad to Turkey would cost a total of PKR 120,000. Mahmood did not have that kind of money and had to sell some valuables and save up to collect the rest. His friends did the same. They called the agent, confirming their intent to migrate.

The agent told them to make their way to Lahore. There, they were told to look for a particular agent at a particular bus stop. The agent met them there and took them to a rest house where they spent the night. In the morning, they were transported to Multan and then Quetta, along with other migrants undertaking the same journey.

Mahmood did not have the entire PKR 120,000 on him. The agent had said to carry some cash on them for the journey. The final payment would be made if and when they crossed the border from Iran into Turkey. To make this final payment, Mahmood handed over the money to a trusted individual to be transferred to the agent on being notified by Mahmood to do so.

On reaching Quetta, Mahmood was kept in makeshift lodging. As the migrants moved out of Punjab and further along in the journey, he said, their treatment by their handlers became progressively worse. From this, one can deduce that the smugglers treated their victims well at the start of the journey to secure business. Further along, when migrants' option to abort their mission dwindled, ensuring their dignity and wellbeing was no longer a concern for the smugglers.

While waiting at the lodging, another agent came to Mahmood and his friends and demanded money. The friends protested but the agent threatened to abandon them if the money was not paid. Recognizing that they were now completely dependent on the smugglers, Mahmood and his friends made the required payment.

They were told to wait. Eventually, in the middle of night, a beat-up pickup truck came to collect them—Iranian vehicles known as *zambad*, manufactured by Zamyad Co.<sup>7</sup> Here, different 'classes' of travel came into play for the first time. The migrants were told to pay a premium to sit in the front of the vehicle, while the rest travelled in the uncovered cargo bed at the back. Mahmood was able to pay and occupied the backseat of the vehicle. But so had many others. The smugglers crammed in more than 20 migrants in the front, one on top of the other, even filling up spaces on the floor of the vehicle.

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<sup>7</sup> <https://www.dawn.com/news/1626494>



*The condition of a zambad transporting migrants from Quetta to Mashkel (courtesy: Akbar Notezai, Dawn, <https://www.dawn.com/news/1626494>)*

From here, a highly dangerous journey started that took them across Balochistan, from Quetta through Duk, further through Siahpat and onwards to Mashkel. The entire stretch of land was as barren as it was dark.

The driver of the *zambad* sped across rough terrain at over 120 km per hour with more than 30 people on board. These areas are also known for kidnappings as migrants carrying cash are easy targets for looters. To evade robbers, and particularly any law enforcement officials patrolling the area, the lights of the *zambad* were switched off, despite the pitch-black surroundings. Mahmood feared for his life. Those crammed in the back were pummelled by cold sand-filled winds. They would plead with the driver to allow them to travel up in front, but he would allow this only if they were willing to pay for the privilege.



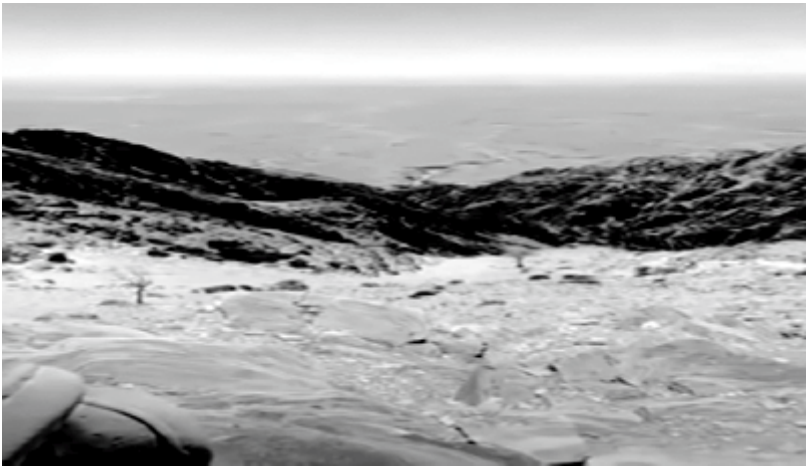
*A large group of migrants packed into a single vehicle  
(courtesy: Akbar Notezai, Dawn, <https://www.dawn.com/news/1626494>)*

Mahmood and the rest of his cohort reached Mashkel where they purchased water and food at exorbitant prices. From Mashkel, the migrants were to cross the mountains bordering Pakistan and Iran on foot. The group, which according to Mahmood comprised mostly men in their early twenties, started the long walk.



*A group of migrants lining up to purchase water during their journey  
(courtesy: Akbar Notezai, Dawn, <https://www.dawn.com/news/1626494>)*

Their handler claimed that the walk was only two hours long. In fact, the group walked for close to 48 hours with barely any food, water or rest. They survived on the few supplies they had brought from home—dates and bread. Not all the members of his group were as physically fit as Mahmood. Eventually, out of sheer exhaustion brought on by lack of rest, food and water, some members of the group began to fall behind, including Mahmood's friend. Mahmood too fell behind to support him as he struggled to keep up.



*Photo taken by a migrant crossing the Mashkel mountains on the Pakistan-Iran border (courtesy: Aqib Asrar)*

The distance between the main group and Mahmood and his friend began to increase. The Mashkel mountains are vast uninhabited terrain. Getting lost here was akin to a death sentence. Mahmood begged his friend to speed up lest they be left behind, but the latter had almost given up. Eventually, they lost sight of the main group but kept walking in the direction of its last-known location. Luckily, the main group had stopped up ahead, allowing them to catch up. At this stage, the group had begun to berate the handler for misleading them about the duration of the journey. Irrate, the handler stormed off, leaving them on their own.

They had no idea what to do or where to go. They had run out of food and water and were exhausted. The group started arguing and blaming each other for causing the handler to leave. After about an hour, however, the handler returned, his camel-skin bag filled with water. He told them that he had come back 'this time', but if they created a fuss again, he would leave them to their own devices.

The group resumed their journey. It was soon evident that the Iranian border was nowhere close and the group would have to continue walking for another few hours. They were out of water. They begged the handler to give them some water; he took payment in return for small sips. Finally, after several more hours, they hit a road. A container arrived, into which they were tightly packed and taken to a secluded house. They were now inside Iran.

Quite often, migrants entering Iran are captured at the border and deported to Pakistan. There, they face additional abuse by the Pakistani LEAs. But this risk is factored in at the start. There are provisions in the booking for multiple attempts to cross the border in case one or more of them are unsuccessful.

### ***From Iran to the Turkish border***

At their lodging in Iran, the group had the opportunity to wash up and change if they had spare clothes. The garden in the house had fruit trees, which the migrants plucked and ate. After their long and gruelling journey, this seemed like an enormous luxury. Unbeknownst to them, the real test of their resolve was yet to come.

One by one, sedans rolled up and took the migrants away. There was one car for 20 migrants. About five or six of them were crammed into the trunk of the car while the others were packed into the front and back seats. According to other reports, migrants at this stage are packed into the luggage compartment of buses, but Mahmood said that his group was transported towards the Turkish border differently.

Mahmood was one of the migrants crammed into the trunk. It was hot and suffocating. He would struggle to breathe but if they made any

noise, the driver would stop the car and threaten to abandon them. The prospect of being left behind now was more serious than before because they were in a foreign country.

There were multiple check-posts along the way, but just as in Pakistan, the Iranian agents had an arrangement with the local LEAs that gave them safe passage on payment of kickbacks (an observation corroborated by other interviews conducted for this study). However, if the LEAs were not feeling merciful or there was an official crackdown in place, one of two things would happen. Either the driver would find a way around the check-post or park the car on the side of the road and order the migrants to run.

Somehow, Mahmood's driver was able to make his way through all the check-posts and after several hours, he and his group neared the Turkish border. Once again, they were kept in a lodging where Mahmood saw some migrants being physically beaten. The migrants were now required to make their final payment before the agents facilitated them into Turkey. Those who were able to pay were assigned to a handler who helped them cross the Turkish border through the Zagros range. Those who were unable to pay were imprisoned, abused and beaten until the required money was transferred into the smuggler's account. According to reports, those who were still unable to pay were either abandoned or left to the mercy of local gangs who would extort them for ransom.

After having made his final payment, Mahmood left with his group for the Turkish border. He found the journey through the Zagros mountains considerably harder than through Mashkel. It was bitterly cold and rainy. The group had no cover and their clothes were soaked through. The rocky hills were slippery, and some members of the group slipped and injured themselves. This combination of factors was so challenging that those, like Mahmood, who had not given up hope before, were doing so now. Eventually, they reached a barbed-wire fence separating Iran and Turkey. The migrants leapt over but unaware of the fall at the other end, they landed in a ditch, one on top of the other.

They helped each other out of the ditch and started walking towards a main road. They were told to wait at a stop for a bus that would take them to Istanbul. Mahmood and his friends had only booked the journey into Turkey and not Europe. Therefore, they were not transferred to any onward agent.



*Photo taken by a migrant depicting severe weather conditions in the Zagros mountains on the Iran-Turkey border (courtesy: Aqib Asrar)*

### ***Inside Turkey and onwards to Europe***

The bus taking them to Turkey was stopped at a checkpoint. Turkish law enforcement officials realized that the vehicle was filled with irregular migrants. They were taken into custody and moved to a camp. Mahmood was given some paperwork to fill out and then allowed to leave. Although he could not identify the paperwork specifically, it is likely that he was asked to register as a refugee.

Turkey is signatory to the Convention Relating to the Status of Refugees 1951 (the Refugee Convention).<sup>8</sup> It has also passed the Law on Foreigners and International Protection, which establishes the scope and mechanism by which protection is given to asylum seekers.<sup>9</sup> Under this legal regime, migrants can file for asylum

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<sup>8</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>

<sup>9</sup> <https://refugeesolidaritynetwork.org/about-refugees-in-turkey/>



protection and, depending on the circumstances, be given either temporary protection or simply a humanitarian residence permit. Most likely, Mahmood was given the latter, given his status as an irregular migrant and not someone fleeing persecution or fear of persecution. While many seek asylum, not everyone is able to get it. Numerous migrants are sent back to Iran, where they are mistreated and deported to Pakistan. Mahmood was one of the lucky ones. Additionally, anecdotal evidence suggests that Turkey is relatively lenient towards irregular migrants because it relies on them as a source of cheap labour.

An irregular migrant lives life on the very edge in foreign lands. Unlike Mahmood, some of his friends did not have asylum protection. However, since they were not taken into custody like Mahmood, they made their way into Turkey and were compelled to survive without any documentation. This meant that any situation that required documentation could lead to deportation—even falling sick or getting injured and having to go to the hospital.



*Screengrab of a video shot by a migrant of a camp where they were moved after their boat was seized in the Mediterranean (courtesy: Aqib Asrar)*

One of Mahmood's friends was stabbed on the streets of Istanbul, for example. His friends did not call an ambulance for fear of alerting the authorities and risking deportation. They placed the injured friend on the pavement, moved away and waited for an onlooker to notice the bleeding man and call an ambulance. A passerby called an ambulance and Mahmood's friend was transferred to a hospital. While the friend was undergoing treatment, the hospital realized he was undocumented and alerted the authorities. On being discharged, the police were waiting for him. He was asked to go home and gather his belongings.

But the friend did not want to be deported back to a country he had struggled to escape. He contacted an agent and left for Italy overnight through the Mediterranean Sea. His boat was seized twice and returned to Turkish shores. His third attempt was successful; he was fortunate that the boat did not capsize.

Others before and after him have not been so lucky.

# Prevalence of human smuggling

## *Undercounted numbers*

Human smuggling remains very poorly documented. Statistics have not kept up with the rapid rate at which the issue is growing. According to some estimates, between 600,000 and 800,000 irregular migrants cross international borders annually. However, researchers consider this a gross underestimate; the actual figures are projected to be in the millions.

There are no reliable global statistics on the number of migrants smuggled on a yearly basis because of the clandestine nature of operations. Figures are usually based on those migrants that are caught crossing a border illegally. Those migrants that make it across remain largely undocumented. Further yet, irregular migration will continue to rise due to global unrest, porous and unmanageable borders, and the evolution of technology and transportation.<sup>10</sup>

On a domestic level, the figures are even more uncertain, with no credible data available. According to investigative filmmaker Syed M. Hassan Zaidi, who has produced a BBC documentary on the issue of human smuggling from Pakistan, sources on the number of annual irregular migrants are not authentic, and the Federal Investigation Agency (FIA)'s data is particularly questionable. Independent estimates suggest that about 35,000 irregular migrants arrive monthly in Duk, Balochistan, alone for onward migration to Iran, Turkey and Europe.<sup>11</sup> Closures on the Afghanistan-Iran border mean that those Afghans who wish to migrate illegally into Iran do so through Balochistan.

Due to the variables and complexities involved, an accurate figure cannot be provided, but it is fair to make a calculated estimate of between 80,000 and 100,000 annual irregular migrants from Pakistan.

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<sup>10</sup> <https://publications.iom.int/books/pursuit-southern-dream-victims-necessity>

<sup>11</sup> <https://www.dawn.com/news/1626494>

### **Major catchment areas**

Most 'agents' who form part of human smuggling rings are based in rural 'catchment' areas.<sup>12</sup> Such areas offer a steady stream of clientele with less law enforcement oversight. Popular catchment cities in Punjab are Gujrat, Gujranwala, Phalia, Mandi Bahauddin, Kharian, Jhelum, Mirpur, and Sialkot.

In an interview with the author, filmmaker Syed M. Hassan Zaidi revealed that Gujrat and its suburbs are one of the most popular hunting grounds for smugglers. Akbar Notezai, an investigative reporter for *Dawn* who has written extensively on the topic, also believes that Punjab produces the highest number of irregular migrants compared to any other region in Pakistan.

### **Popular routes**

Most irregular migration from Pakistan takes place through Balochistan, due to its vast open spaces and relatively porous borders with Iran and Afghanistan. Most migrants hope to reach Europe. The interviews carried out for this essay indicate that the Naukundi route is the most popular option. This originates in central Punjab and goes through Multan, Quetta, Dalbandin, and then eventually into Iran through the Taftan border. Alternative popular crossing points into Iran are in Jodar, Rajay and Mashkel (Balochistan). The map shown below shows some of the popular routes and crossing points for irregular migration from Pakistan.

The routes described above are all land-based. Sea-based irregular migration also remains a popular option. For this, irregular migrants first make their way to Gwadar via the coastal highway from Karachi. From there, they are loaded onto boats for onward travel into Iran, Turkey and Europe. Irregular migration through this route bypasses the insurgency-hit areas of Makran in Balochistan.<sup>13</sup>

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<sup>12</sup> <https://www.dawn.com/news/1403202>

<sup>13</sup> <https://www.dawn.com/news/1403202>



According to investigative filmmaker Syed M. Hassan Zaidi, air-based routes are also an option although they are more expensive. The first leg of the journey is a legal flight from Karachi to Dubai, followed by irregular migration through the Mediterranean Sea to Turkey or Libya, and onwards into Italy or Greece. Migrants also reach Europe by entering Armenia from Iran and onwards to Azerbaijan, Georgia, Russia, Ukraine, and eventually Italy, France or Greece. This route circumvents the dangerous journey to Europe through the Mediterranean Sea.

# What drives irregular migrants towards smuggling networks?

Any national discussion on this theme cannot afford to ignore the international context. The reasons that migrants opt for irregular and dangerous channels remain the same universally, although such reasons are more pronounced in politically and economically volatile countries such as Pakistan. Naim (2005) describes the global phenomenon of irregular migration in the following way:

The pressure to migrate is more intense and its effects more geographically widespread than even before. Better information about opportunities elsewhere and cheaper, more frequent communication with friends and relatives abroad open many eyes and spur the motivation to try one's luck somewhere else. Cheaper communications and travel also make migration much less absolute and final, lowering the psychological barrier to departure.<sup>15</sup>

## ***Push factors***

Unemployment, lack of opportunity, poverty, insecurity and conflict are the primary drivers of irregular migration out of Pakistan. For young men between the ages of 18 and 25, masculinity also emerged as a prominent 'push' factor. Many of the young men interviewed for this essay spoke about the societal pressures to earn more to secure better marriages, the need to support their families and the need to secure a higher social standing. Lack of education, healthcare and social safety nets as well as uneven development are other push factors. Indeed, according to filmmaker Syed M. Hassan Zaidi, so long as the distribution of resources in Pakistan remains uneven, people will continue to leave.

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<sup>15</sup> M. Naim. (2005). *Illicit: How smugglers, traffickers and copycats are hijacking the global economy*. Arrow Books.

Khalid's story is a case in point, albeit one that ended in tragedy.<sup>16</sup> He and his family lived in a small house in Kharian, Punjab. Over time, he saw his father's landholding reduce from 3 acres to 1 acre, shared by him and his three brothers. Finding his economic prospects in Pakistan bleak, Khalid chose to migrate. Fourteen years ago, he entered Libya via Dubai on a legal visa by selling his acre of land to pay for the journey. About eight years ago, he managed to move his family to Libya on legal visas as well. Short on resources and anxious about the documentation requirements for legal travel to Europe, Khalid chose to approach a smuggler to arrange illegal entry into Europe through the Mediterranean Sea. However, the trip from Libya to Italy met with tragedy,<sup>17</sup> as have so many others since. The family was killed when the boat carrying them capsized.

Youthful excitement also emerged as a relatively minor push factor. Young people, most often men, succumb to groupthink when one member of their group wants to migrate and convinces others to do so as well. They are unaware of the dangers of the journey and consider irregular migration an exciting and financially rewarding activity. Finally, faith-based violence is another push factor, such as that suffered by the Shia Hazara community in Balochistan, who leave to escape discrimination and persecution.

### ***Pull factors***

Economists and sociologists have concluded that what drives migration is not absolute deprivation, or poverty, but relative deprivation—the sense that one would be better off in some other place.<sup>18</sup>

The field research carried out for this essay revealed that migrants firmly believed their lives elsewhere would be significantly better. According to Mahmood, the young man whose journey was narrated earlier, 'agents' or smugglers invariably show prospective migrants

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<sup>16</sup> Interview with journalist Akbar Notezai.

<sup>17</sup> <https://www.dawn.com/news/1403309>

<sup>18</sup> <https://publications.iom.int/books/pursuit-southern-dream-victims-necessity>



greener pastures. Agents are highly skilled at identifying easy marks and 'selling' the journey to young, vulnerable individuals. Their social media accounts even resemble those of bona fide travel agencies, with images of happy, successful migrants settled overseas. Tall tales told by those who have already made their journey through a particular agent are circulated through social media. All this put together makes such journeys seem like an attractive option.

The belief that the destination country—Turkey, Dubai, Libya or others—is a step towards admittance into Europe remains a very prominent pull factor. The chance to earn and remit money back home is another factor.

## The business of human smuggling

The human smuggling business in Pakistan has its roots in legal migration facilitated by the UK in the 1950s. In exchange for the displacement of people caused by the construction of Mangla Dam and recognizing its need for industrial labour, the UK granted work visa to residents of Mirpur in Azad Jammu and Kashmir. In the 1970s, residents of Jhelum, Kharian and other neighbouring districts in Punjab also began applying for work visas to move to European countries.<sup>19</sup>

By the 1990s, however, Europe was no longer in need of additional labour, and with anti-immigrant sentiment picking up, fewer and fewer work visas were being issued to Pakistani citizens. This is when individuals began resorting to human smuggling networks to reach Europe through irregular channels.<sup>20</sup> The sections below describe the mechanisms by which smugglers conduct their operations.

### **Network model**

Human smuggling networks are a vast and complex web. Worldwide, it is estimated that 80 percent of all migrants who reach Europe through the Mediterranean Sea enlist the services of a human smuggler at some point.<sup>21</sup>

A given smuggling network will comprise agents across the entire route. For example, in Pakistan, for the land-based route through Balochistan, agents will be based in Gujranwala, Multan, Quetta, Mashkel, Iran, Turkey, and Greece. As migrants move along the route, they are transferred from one agent to another. The unique characteristics of the network depend on the mutually dependent relationship between agents, which allows operations to be carried out seamlessly.

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<sup>19</sup> <https://www.dawn.com/news/1403309>

<sup>20</sup> <https://www.dawn.com/news/1403309>

<sup>21</sup> L. Adal et al. (2014). *Smuggled futures: The dangerous path of the migrant from Africa to Europe*. Global Initiative against Transnational Organized Crime.

The names of migrants are shared via WhatsApp from one agent of the network to another. The migrants are told to look for a particular agent on reaching their next stop. The agents all operate under false names. The movement of migrants along the routes are facilitated by sub-agents who also play a role in recruiting new migrants for a cut of the profit.<sup>22</sup>

The highly organized and structured operations of human smuggling networks rival those of criminal enterprises or mafias. As an indication of their gang-like behaviour, investigators looking into the issue of human smuggling have even received threats, warning them to cease their investigation, according to filmmaker Syed M. Hassan Zaidi.

The human smuggling network is a self-perpetuating cycle where many former migrants become smugglers. This is for two reasons. First, the element of trust and solidarity is key in such operations. Smugglers are more likely to be trusted by those they have handled in the past and who understand smuggling operations. Second, migrants are lured into the network by the promise of quick cash and the prospect of moving their own families out of Pakistan, just as they themselves did in the past. In this manner, migrants reaching Turkey or Europe make short videos reviewing their smuggling experience as positive. Agents back in Pakistan then use those video clips to attract more victims.

At an international level, the network model of human smuggling is well documented. The social organization of human smuggling is dependent on remuneration and profit and is organized as a business.<sup>23</sup> Their services include 'transportation, temporary accommodation, providing forged identity documents, bribing border officials, together with several other auxiliary activities depending on specific local and temporal circumstances.'<sup>24</sup>

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<sup>22</sup> <https://www.dawn.com/news/1403309>

<sup>23</sup> J. Salt & J. Stein. (1997). Migration as a business: The case of trafficking. *International Migration*, 35(4), 467-494.

<sup>24</sup> N. Abdel Aziz et al. (2015). *The changing dynamics of cross-border migrant smuggling and trafficking in the Mediterranean*. New-Med Research Network.

The main difference between the operations of smuggling networks and criminal gangs is that while the latter requires a central command structure to issue commands and enforce the rules in a social hierarchy, the former focuses on local control by small-scale networks that operate within their regions and are tied to each other.<sup>25</sup> There is no top agent; instead, there are sub-networks of agents within a larger smuggling network operating on a transnational level. The only hierarchical control is observed at the local level, between agents and their sub-agents.<sup>26</sup>

### ***Exchange of money***

Opportunities to migrate legally are severely limited, while demand from those willing to leave the country is high. Where there is demand, there is supply. Migrants are left with no choice but to resort to the services of human smugglers. As a result, the smuggling business is highly lucrative, and smugglers enjoy exorbitant profits. Often, smugglers are not just moving people, but also drugs and money along the same route. Money laundering and drug trafficking allow them to multiply their profit margins.

Globally, human smuggling as a business could be worth as much as USD 10 billion or more per year.<sup>27</sup> However, precisely estimating global revenues generated by human smuggling is problematic due to the complexity of operations, including distances, routes and modes of travel, as mentioned earlier.

Smugglers may charge anywhere between PKR 100,000 to 1,500,000<sup>28</sup> per migrant, depending on the terms of the deal. Specifications determining payment include mode of travel, comfort of travel (front seat or trunk of the car, below or above deck on

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<sup>25</sup> P. Mallia. (2010). *Migrant smuggling by sea: Combating a current threat to maritime security through the creation of a cooperative framework*. Martinus Nijhoff Publishers.

<sup>26</sup> [https://www.files.ethz.ch/isn/170120/WP2013-10\\_ted%20baird\\_human%20smuggling\\_web.pdf](https://www.files.ethz.ch/isn/170120/WP2013-10_ted%20baird_human%20smuggling_web.pdf)

<sup>27</sup> <https://www.migrationdataportal.org/themes/smuggling-migrants>

<sup>28</sup> <https://www.dawn.com/news/1403309> and the author's interviews.

a ship, etc.), the number of attempts, and documentation required. According to filmmaker Syed M. Hassan Zaidi, migrants can choose different classes—Class A, B or C—for travel, depending on the payment they are willing and able to make. This is similar to the concept of first, business or economy class travel.

Each agent along the network retains a cut before transporting the migrants to the next agent for onward travel. According to some reports, a lump-sum is taken from the migrants upfront.<sup>29</sup> However, the research carried out for this study indicates that periodic payments are the preferred payment mechanism for human smugglers in Pakistan. For example, Mahmood, the young migrant interviewed for this study, said he was asked to pay at every stage of his journey. Smugglers even keep a cut of the sales made by the small pop-up shops that migrants encounter en route. According to Mahmood, markups on a small bottle of water were as high as 300 percent above the market rate. Migrants struggling with thirst and exhaustion are left with no choice but to purchase these products at high prices.

The discussion above reflects that human smuggling operates as a business. It is composed of illegitimate market players who pursue profit and commercial gain. The services industry in which they operate is composed of incomplete and imperfect information—an imbalance that smugglers exploit at the expense of their victims by overcharging and under-serving.<sup>30</sup> When referring to the smuggling industry as a 'business', however, one must also be mindful not to normalize the actions of smugglers who violate the rights of their victims.

### ***Role of the FIA***

Section 11 of the Prevention of Smuggling of Migrants Act 2018 authorizes the FIA to investigate and crack down on human smuggling. A detailed list of obligations of the FIA is provided in the

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<sup>29</sup> <https://www.dawn.com/news/1403309>

<sup>30</sup> J. Salt & J. Stein. (1997). Migration as a business: The case of trafficking. *International Migration*, 35(4), 467-494.

accompanying Rules. According to Rule 9, the FIA is responsible for conducting timely and independent investigations, ensuring the immediate safety and security of migrants, safeguarding the rights of migrants, identifying organized networks, and detecting illicit financial flows of money. In practice, however, the FIA is often complicit in the entire process.

According to investigative reporter Akbar Notezai, considering the variables and actors involved and the complexity of the process, a transnational operation of this magnitude would not be possible without the knowledge of the FIA. Officials look the other way in exchange for a share of the profit. This explains why smugglers are arrested in large numbers only after a nationwide crackdown is announced,<sup>31</sup> such as that after the June 2023 fishing boat disaster in the Mediterranean Sea.<sup>32</sup> At other times, it continues to operate with impunity.

This observation was corroborated by interviews conducted for this study. One migrant explained that an underhanded arrangement between smugglers and law enforcement personnel facilitating the operation of smuggling networks was observable. Notezai has observed separately that the issue is not just of complicity but also capacity. The FIA does not have the personnel or technical expertise to monitor human smuggling networks and enforce laws. According to some reports, there is only one check-post for every 300 km along the Pakistan-Iran border.

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<sup>31</sup> <https://www.nation.com.pk/20-Jun-2023/fia-makes-arrests-in-crackdown-on-human-smugglers>

<sup>32</sup> <https://apnews.com/article/greece-italy-libya-migration-368f1bfdfbb7c0ad977774bda9c77195>

# International and domestic legislation governing human smuggling

## *International legal framework*

### *United Nations Convention Against Transnational Organized Crime*

The United Nations Convention against Transnational Organized Crime (UNTOC)<sup>33</sup> and its supplementary Protocol against the Smuggling of Migrants by Land, Sea and Air (the Smuggling Protocol)<sup>34</sup> are the flagship documents that address human smuggling at the international level. UNTOC and the Smuggling Protocol were adopted by United Nations Resolution A/RES/55/25 of 15 November 2000 at the fifty-fifth session of the United Nations General Assembly. Pakistan signed UNTOC on 14 December 2000 and ratified this into law on 13 January 2010.<sup>35</sup>

'Transnational organized crime' is an umbrella term used to describe a variety of activities that are carried out for profit by organized criminal groups which, in addition to human suffering and exploitation, create economic and environmental losses. UNTOC has the intended effect of committing state parties to creating specific domestic criminal offences, supporting extradition, mutual legal assistance, law enforcement cooperation, providing technical assistance and training for national authorities. The United Nations Office on Drugs and Crime (UNODC) regulates UNTOC and assists state parties in implementing the measures provided for.

In 2018, state parties adopted a mechanism for review of UNTOC's implementation. The review process is based on country reviews, where each state fills out a self-assessment questionnaire comprising

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<sup>33</sup> [https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-11%20AM/Ch\\_XVIII\\_12p.pdf](https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-11%20AM/Ch_XVIII_12p.pdf)

<sup>34</sup> [https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-21%20AM/Ch\\_XVIII\\_12\\_bp.pdf](https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-21%20AM/Ch_XVIII_12_bp.pdf)

<sup>35</sup> [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12&chapter=18&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en)

four clusters: criminalization and jurisdiction; prevention, technical assistance, protection measures, and other measures; law enforcement and the judicial system; and international cooperation, mutual legal assistance, and confiscation. The feedback on the questionnaire is used to create a list of observations and summary which serves as an aid to the Conference of Parties, the main implementation body of UNCTOC. The review process encourages the participation of the civil society, the private sector and the academic community in both documentation and implementation efforts.

Pakistan was selected in the first group of countries to be reviewed under the categories of criminalization and jurisdiction. Accordingly, in March 2023, Pakistan's Centre for Governance Research along with the National Initiative Against Organized Crime released a report on the implementation review of UNCTOC,<sup>36</sup> with the support of the Global Initiative Against Transnational Organized Crime and UNODC. The report included the input of civil society actors and organizations, and highlighted Pakistan's key achievements regarding the review process. Pakistan was peer-reviewed by Tonga and Djibouti. There are a series of planned constructive dialogues among relevant stakeholders and civil society organizations, moving forward. But so far it has had limited (if any) effect on policy in the country mostly due to poor dissemination of the results and suggested reforms.

### *Protocol against the Smuggling of Migrants by Land, Sea and Air*

Human smuggling is one form of transnational organized crime. According to Section 3(a) of the Smuggling Protocol, human smuggling means 'the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.'

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<sup>36</sup> <https://globalinitiative.net/wp-content/uploads/2023/04/Pakistan-UNTOC-Review-2022.pdf>



Pakistan has yet to ratify the Smuggling Protocol even though intent to do so has been given during talks with the United Nations.<sup>37</sup> Human smuggling is a transnational activity as irregular migration violates the borders of not one, but multiple countries in the course of human smuggling. Article 10 of the Smuggling Protocol binds state parties to exchange information with respect to embarkation and destination points, identities and methods of organization of smugglers, and means and methods of concealment and transportation of irregular migrants. Non-ratification means that Pakistan is not bound to cooperate on a regional level.

The Smuggling Protocol criminalizes the acts of smugglers and aims to protect irregular migrants. Article 5 of the protocol decriminalizes irregular migrants for the conduct of smugglers set forth in Article 6. Articles 5 and 6(1) are reproduced below for reference:

**Article 5**

**Criminal liability of migrants**

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

**Article 6**

**Criminalization**

1. Each State Party shall adopt such legislative and other measures as may be necessary *to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:*

(a) *The smuggling of migrants;*

(b) *When committed for the purpose of enabling the smuggling of migrants:*

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<sup>37</sup> <https://www.unodc.org/unodc/en/ngos/the-first-ever-pilot-initiative-on-untoc-review-process-in-asia-launched-in-pakistan.html>

- (i) *Producing a fraudulent travel or identity document;*
- (ii) *Procuring, providing or possessing such a document;*
- (c) *Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means [emphasis added].*

The Smuggling Protocol also mandates both increased public awareness of the prevalence of human smuggling (Article 15) and the need to assist and protect the rights of victims (Article 16). However, Article 16 of the Smuggling Protocol is not comprehensive and fails to cover multiple scenarios that may occur in the course of irregular migration, including the rights violations faced by victims during their journey, exploitation in the form of mis/dis-information, and the prospect of being stuck in legal limbo in a foreign country. Overall, the Smuggling Protocol is migrant-friendly but falls far short of being a human rights-centric document.

Gallagher (2002) observes that the Smuggling Protocol was developed not as a human rights tool, but in response to growing calls from countries to curb human smuggling. There was 'growing intolerance of all forms of irregular migration' which makes it hard to give priority to the stories of victims and their rights. Gallagher writes that the failure of the Smuggling Protocol to 'include mandatory protections provides a strong indication that, for many governments, trafficking and smuggling are issues of crime and border control, not human rights. In countries of destination, people trying to move across their borders illegally are widely considered to be lawbreakers, undeserving of compassion or support.'<sup>38</sup>

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<sup>38</sup> <https://www.fmreview.org/development-induced-displacement/gallagher>

## **Domestic legislation**

In the absence of the ratification of the Smuggling Protocol, the only domestic law dealing specifically with the issue of human smuggling in Pakistan is the Prevention of Smuggling of Migrants Act 2018 (the Act)<sup>39</sup> and its associated rules, the Prevention of Smuggling of Migrants Rules 2020 (the Rules)<sup>40</sup>

Section 8 of the Act decriminalizes irregular migrants, similar to Article 5 of the Smuggling Protocol. Section 8 is reproduced below for reference:

### **8. Non-criminalization of smuggled migrants. –**

Without prejudice to the applicability of other laws establishing criminal offences, *smuggled migrants shall not become liable to criminal prosecution under this Act* for the fact of having been the object of conduct set forth in section 3, 4, 5, 6 or 7 and may be a witness in the case [emphasis added].

The Act criminalizes the act of smuggling migrants through Section 3 (Punishment of smuggling of migrants), Section 4 (Offences in relation to documents), Section 5 (Offence of harbouring illegal residents for benefit), Section 6 (Aggravated offences), and Section 7 (Offence of abetment and criminal conspiracy).

However, apart from Section 8 of the Act, which is a progressive provision, the law is not human rights-centric and needs to be significantly amended or overhauled to overcome its inherent deficiencies. Specific provisions are required to address the abuses faced by victims, mis/dis-information before and during their journey and the need for international cooperation. Such provisions should be both retributive and rehabilitative. Without such changes, the Act will continue to fail the purpose for which it is in force.

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<sup>39</sup> [https://senate.gov.pk/uploads/documents/1523870320\\_378.pdf](https://senate.gov.pk/uploads/documents/1523870320_378.pdf)

<sup>40</sup> <https://fia.gov.pk/files/rules/370301991.pdf>

# Rights violations in the case of victims of human smuggling

There is a fundamental tension between a destination state's right to deny irregular entry and the victim's right to seek asylum under international refugee law. Despite Article 5 of the Smuggling Protocol stipulating otherwise, destination states, particularly in Europe, continue to criminalize smuggling and use this as a pretext to strengthen borders and deny entry. While a discussion on the rights violations of migrants should address mistreatment by smugglers, the lack of protection offered by states must also be the subject of discussion. Essentially, how can states balance the need for strong borders with human rights?

Regardless of the citizenship or migration status of victims, migrants are entitled to certain inalienable rights enshrined in international humanitarian and refugee laws. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) preserves every person's right to life. A 'right-to-life' provision is also present in Article 16(1) of the Smuggling Protocol. Article 7 of the ICCPR protects every person's right not to be subjected to torture or inhumane treatment.

Further, Article 33(1) of the Refugee Convention outlines the principle of 'refoulement', disallowing states from expelling migrants back to a country where they might face persecution on account of race, religion, nationality, membership of a particular social group or political opinion. While every migrant might not qualify for refugee status under the Refugee Convention, as that requires the establishment of persecution or the fear of persecution, temporary residence permits on humanitarian grounds must be an option subject to conditions. If those conditions are not fulfilled and the migrant must be returned to their home state, the return must be conducted in an orderly manner and with due regard for their safety and dignity, as outlined in Article 18(5) of the Smuggling Protocol.

While Mahmood, the human smuggling victim interviewed for this essay, was able to obtain a humanitarian residence permit and remain

in Turkey, countless others are denied and deported back to the country they came from. This is not done in an orderly and dignified manner. Rather, according to reports, those reaching Turkey are pushed back into Iran, where they face abuse by Iranian law enforcement agencies, who then push them back into Pakistan through the same dangerous routes that they used to migrate.

States are also required to, without delay, provide detained foreign nationals the right to confer, communicate and seek representation from their consulate throughout their period of detention, as stipulated in the Vienna Convention on Consular Relations 1963.

In light of the above laws and protection of rights, detailed below are the series of human rights violations that take place during irregular migration:

**Exploitation of migrants' desperation.** The human smuggling business is fuelled by vulnerability and hopelessness. Without a steady stream of disconsolate individuals desperate to escape in search of a better life, networks would not make money. As mentioned earlier, human smugglers are experts in identifying easy marks. The agents controlling a particular territory are usually locals who know the people and their lifestyles and can present their services in a targeted manner. There is also a power imbalance between smugglers and their victims who, out of sheer desperation, will agree to the smuggler's terms.

**Deception and misinformation.** Misinformation and deception are standard practices deployed by smugglers to recruit more and more migrants. The journey they are promised and the journey that transpires are drastically different. Mahmood's story and his arduous journey across Balochistan and Iran is a case in point.

**Harsh journey.** Migrants are transported through dangerous routes where food and shelter are unavailable. Smugglers prioritize getting migrants from one point to the next with no regard for safety, sustenance or rest. The lodgings in which migrants are temporarily kept along the route are overcrowded and unhygienic. They are crammed into containers and cars for transport, with the ever-present risk of being abandoned by their agent, as Mahmood's story shows.

**Extortion and theft.** Migrants pay exorbitant rates for water and food en route. They also have to make arbitrary payments at every step along the way, pushing up the cost of their journey. There is also the fear of local gangs of thieves who find easy targets in vulnerable migrants carrying cash. Internationally, there are reports of robbers being in cahoots with LEAs. The migrants are first stripped of their cash, following which the robbers hand the migrants over to the LEAs. The LEAs record smuggling arrests in their record and keep a cut of the loot. For them, it is a win-win situation.

**Threats, abuse and torture.** Migrants are intimidated and, if necessary, beaten by their agents to keep them in check. If the money is not paid when asked, migrants are imprisoned and tortured until the required money is transferred.

**Lack of protection offered by home and foreign states.** Victims remain at the mercy of the smugglers. LEAs are often in cahoots with the latter and do not fulfil their statutory obligation to provide victims with help and protection. The smugglers invariably prioritize business over the safety and security of migrants. Further, states do not offer the required protection. Access to asylum is constrained because states continue to criminalize smuggling. Countries that are part of the same smuggling network do not coordinate with each other and quite often, capture migrants and deport them through the same dangerous routes they used without regard for their dignity or safety.

## Recommendations

Human smuggling continues to be viewed widely as a crime and border control issue—not as a human rights problem. As a result, the rights violations to which victims of human smuggling are subjected—from violations of their right to liberty, dignity and freedom of movement to the ever-present risk of bodily harm and inhumane treatment—are rarely debated, much less addressed even where legislation to prevent human smuggling exists. Accordingly, this study makes the following recommendations.

### ***Reframing the narrative***

Irregular migration has become a populist slogan in recent times, with politicians often blaming irregular migrants for the ills of society. News programs show videos of migrants crossing borders during segments on the breakdown of law and order. Such narratives only serve to criminalize a group that already operates in a human rights vacuum and has limited state protections available to them. Additionally, victims are afraid to exercise the limited legal recourse available to them for fear of incriminating themselves. Societal portrayals of migrants, and particularly misuse of the issue for political ends, have a direct bearing on such defensive attitudes. To mitigate the prevalent indifference to rights violations suffered by victims of human smuggling, it is critical to avoid describing migrants in a manner that implies criminality and illegality.

### ***Equivalence of human smuggling and trafficking***

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol) is a supplementary protocol to the UNCTOC, similar to the Smuggling Protocol. Unfortunately, the Smuggling Protocol has remained largely unenforced in letter and spirit, while states have taken measures to curb human trafficking and its victims under the Trafficking Protocol. This disparity stems from states' inability to perceive smuggling as a humanitarian issue. This must change. Moving forward, human

smuggling must be treated with the same level of sympathy and sensitivity as human trafficking.

### ***Enacting human rights-centric laws at domestic and international levels***

International and domestic anti-human smuggling laws must be overhauled and redrafted to align them with the lived experiences of migrants. Pakistan's domestic act, the Prevention of Smuggling of Migrants Act 2018, is deficient on many fronts, none more so than its lack of inclusivity in protecting all victims. Pre-enactment research and post-enactment enforcement are important pillars of any law. To draft a new anti-human smuggling law, legislators must engage with civil society actors, researchers, academics, and most importantly, victims.

On an international level, countries, including Pakistan, that have not ratified the Smuggling Protocol should do so. The Smuggling Protocol itself needs to be updated to reflect the needs of migrants and changing trends in international smuggling operations. The grant of residence permits on humanitarian grounds to those migrants who might not otherwise qualify for refugee status must be adopted as a global practise, and particularly in countries that are popular destination spots for migrants.

### ***Reforms to functioning of FIA***

An overhaul of the legal regime is essential. As an immediate measure, however, preventative mechanisms provided under the existing legal regime must be exercised fully. For this, the FIA needs to be reformed at the institutional level to ensure that it meets its responsibilities under Section 11 of the Prevention of Smuggling of Migrants Act 2018 and Rule 9 of the accompanying Rules. Additionally, there must be added scrutiny of FIA officials and of the organization as a whole to curb the prevalent practise of corruption, which allows human smuggling networks to operate unencumbered and with impunity.



### ***Protection of rights under ICCPR and Refugee Convention***

Parties that have signed and ratified the ICCPR and the Refugee Convention are required to protect the interests of migrants and provide them with a human rights cover. Unfortunately, the attitude of states towards irregular migration, particularly in the past decade or so, has rendered international humanitarian laws ineffective. The provisions of these laws, as briefly described above, should be properly enforced. Countries should keep each other accountable in doing so.

For this, transnational commissions need to be formed under the UNCTOC, with each commission comprising countries that are part of the same human smuggling network. The mandate of such commissions should be strictly limited to addressing the issue of human smuggling in a rights-centric manner. This includes devising recommendations for home states to reduce migration from the start, providing support and assistance to victims, standard operating procedures for law enforcement agencies, retribution for smugglers that operates as a deterrent, and criteria for qualification for temporary protection or residence permits on humanitarian grounds.

### ***Improve domestic economic and political conditions***

The recommendations discussed above are all essential in protecting the human rights of victims in or after the course of their migration journeys. However, it is also critical to address the root causes of irregular migration, as discussed in detail earlier, and to curb the problem before it starts. The state must understand the political, economic and social push factors compelling people to leave, and address them through specific and targeted policies. Equitable development, social welfare, health, education, employment opportunities, protection against faith-based violence and political protection, are constitutionally mandated obligations that Pakistan holds towards its citizens and must protect, promote and fulfil.