

PASSED ON:- 15-05-2018
[AS PASSED BY THE SENATE]

A

BILL

to prevent and combat trafficking in persons especially women and children

Whereas it is necessary to provide for effective measures to prevent and combat the trafficking in persons especially women and children; to promote and facilitate national and international co-operation in this regard; to protect the trafficking victims; and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be called the Prevention of Trafficking in Persons Act, 2018.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “child” means a person under eighteen years of age;

(b) “Code” means the Code of Criminal Procedure, 1898 (V of 1898);

(c) “Federal Government” means the Government of Pakistan;

(d) “Penal Code” means the Pakistan Penal Code, 1860 (XLV of 1860);

(e) “prescribed” means prescribed by the rules made under this Act;

(f) “Provincial Government” means the Government of a Province;
and

(g) “victim” means a person against whom an offence under this Act is committed regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.

3. Trafficking in persons.— (1) Any person who recruits, harbours, transports, provides or obtains another person, or attempts to do so, for compelled labour or commercial sex acts through the use of force, fraud or coercion, commits an offence of trafficking in persons and shall be punished with imprisonment which may extend to seven years or with fine which may extend to one million rupees or with both.

(2) If the offence of trafficking in persons under sub-section (1) is committed against a child or a woman, the person who commits the offence shall be punished with imprisonment which may extend to ten years and which shall not be less than two years or with fine which may extend to one million rupees or with both.

(3) In this section:

(a) "coercion" means use or threat of use of force, or other forms of non-violent use of force including –

(i) threat of harm to or physical restraint of any person;

(ii) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint of any person;

(iii) threat due to the vulnerable position of a person; or

(iv) psychological pressure; and

(b) "compelled labour" includes involuntary servitude, slavery or practices similar to slavery, or debt bondage and forced labour.

4. Aggravating circumstances.– Where an offence under section 3 involves:

(a) serious injury, life-threatening illness or death of the victim or another person;

(b) activity of an organized criminal group;

(c) confiscation or destruction of any travel document of the victim; or

(d) repetition of the offence by the same offender;

the offender shall be punished with imprisonment which may extend to fourteen years and which shall not be less than three years and fine which may extend to two million rupees.

Explanation.– In this section, 'organized criminal group' means a structured group of two or more persons, existing for a period of time and acting in concert with the aim of committing any offence under this Act, in order to obtain, directly or indirectly, any financial or other material benefit.

5. Abetment and criminal conspiracy.– (1) Any person who participates as an accomplice, aids, or abets an offence under section 3 or section 4, shall be punished in accordance with Chapter V of the Penal Code.

(2) Any person who is a party to a criminal conspiracy to commit an offence under section 3 or section 4, shall be punished in accordance with Chapter V-A of the Penal Code.

6. Victims of trafficking in persons.– A victim shall not be criminally liable for an offence under this Act but may become witness in the case.

7. Presumption in case of child victim.– Where the victim is a child, the prosecution may not prove actual use of force, fraud or coercion and the Court may not consider the consent of the victim, his parent or guardian as a defence.

8. Investigating agency.– (1) Subject to sub-section (2), the police shall investigate an offence under this Act.

(2) If the offence involves transportation of the victim into or out of Pakistan and it constitutes part of the transaction constituting the offence, the Federal Investigation Agency shall investigate the offence.

9. Cognizance.– An offence under this Act shall be cognizable and non-bailable under the Code.

10. Cognizance of offences.– Notwithstanding anything contained in the Code, a Magistrate of the First Class shall try an offence punishable under this Act and may impose any punishment provided under the Act.

11. Safety of victims and witnesses of offences.– (1) The Federal Government or a Provincial Government may, in the prescribed manner, take appropriate measures to ensure that a victim, witness of an offence under this Act or any other related person is provided adequate protection if safety of the victim, witness or the person is at risk.

(2) When it is necessary to safeguard the physical safety of a victim or witness of an offence under this Act, the Federal Government or a Provincial Government may, in the prescribed manner, take necessary measures to relocate victim or witness or to limit the disclosure of name of the victim or witness, address and other identifying personal information or both.

12. Protection of victims and witnesses by the Court.– (1) The rules made under this Act may specify circumstances in which the Court may –

- (a) conduct the Court proceedings in camera, away from the presence of media and public;
- (b) seal or restrict access to record of the Court proceedings;
- (c) permit evidence of a victim or a witness behind a screen or similar adequate means out of view of the accused, or through a video link or the use of other communications technology; or
- (d) use a pseudonym of a victim or a witness.

13. Compensation to victims.– Where an offender is convicted of an offence under this Act, the Court may direct payment of compensation to the victim under section 545 of the Code.

14. Awareness raising and prevention.– The Federal Government may–

- (a) develop and disseminate information programmes to increase public awareness regarding offences of trafficking in persons and dangers to victims;
- (b) promote and strengthen development programmes and national and international cooperation in order to address the root-causes of trafficking in persons, and the special vulnerabilities of women and children;
- (c) establish procedures to collect data and to promote research in relation to trafficking in persons, the factors that cause trafficking in persons, and on the best practices to prevent trafficking in persons, prosecution of offenders, and protection of victims.

15. Power to make rules.– (1) The Federal Government or a Provincial Government may, by a notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) If the rules made by a Provincial Government are inconsistent with the rules, at any time, made by the Federal Government, the rules of the Federal Government shall prevail over the rules of the Provincial Government.

16. Repeal.– (1) The Prevention and Control of Human Trafficking Ordinance, 2002 (LIX of 2002) is hereby repealed.

(2) Notwithstanding repeal of the Prevention and Control of Human Trafficking Ordinance, 2002 (LIX of 2002), any act done, prosecution or proceedings undertaken or the rule made under the repealed Ordinance shall deemed to have been done, undertaken or made under this Act.

(3) In the Penal Code, section 369-A shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The object of this Act is to target the criminals who exploit desperate people and to protect and assist victims of trafficking, many of whom endure unimaginable hardships in their bid for a better life. In pursuance of this aim, the Act addresses three specific areas: (a) the prevention and combatting of trafficking in persons in Pakistan; (b) the protection and assistance of victims of such trafficking; and (c) the promotion and facilitation of national and international cooperation in this respect. 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.

2. The Bill seeks to achieve the aforesaid object.

MINISTER-IN-CHARGE