

Trafficking in Children for use as Camel Jockeys and Engaging in Hazardous Employment.

Report 41

Trafficking in Children for use as Camel Jockeys and Engaging in Hazardous Employment.

Introduction

Article 11 of the Constitution of Islamic Republic of Pakistan prohibits all forms of forced labour and traffic in human beings, besides, no child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

There is tendency that many children are engaged in work in Pakistan, which by its nature or the circumstances in which it is carried out is likely to harm their health, safety or morality. Section 3 of the Employment of Children Act 1938 (Repealed) prohibited the employment of a child below the age of fifteen years to work in any occupation-

- (a) connected with the transport of passengers, goods or mails by railways, or
- (b) involving the handling of goods within the limits of any port.

This Act was replaced by the Employment of the Children Act 1991 (V of 1991) which provides under Section 3 that no child shall be employed or permitted to work in any of the occupations connected with –

- (1) transport of passengers, goods or mails by railway;
- (2) cinder picking, cleaning of an ash pit or building operation in the railway premises;

- (3) work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;
- (4) work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
- (5) a port authority within the limits of any port; and
- (6) work relating to selling of crackers and fireworks in shops with temporary licenses. or in any workshop where any of the following processes is carried on –
 - (1) Bidi-making.
 - (2) Carpet-weaving.
 - (3) Cement manufacture, including bagging of cement.
 - (4) Cloth printing, dyeing and weaving.
 - (5) Manufacture of matches, explosives and fireworks.
 - (6) Mica-cutting and splitting.
 - (7) Shellas manufacture.
 - (8) Soap manufacture.
 - (9) Tanning.
 - (10) Wool-cleaning.
 - (11) Building and construction industry.
 - (12) Manufacture of slate pencils (including packing).
 - (13) Manufacture of products from agate.
 - (14) Manufacturing process using toxic metals and substance such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos.

but an establishment is excluded where in the above processes are being carried on by the occupier with the help of his family or to any school established, assisted or recognized by the Government. Section 14 of the Act provides that whoever employs any child or permits any child to work in contravention of the provisions of Section 3 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both.

Section 32 of the Factories Act 1934 provides that no woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work. Section 50 of the Act also prohibits the employment of a child who has not completed his fourteen years of age to work in any factory. Similarly under Section 26 of the Mines Act 1923, no child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground. However, these provisions do not cover all sorts of hazardous occupations and the children exported to be engaged as camel jockey in the Middle East which has become a serious problem in Pakistan. The Trafficking of children is made in almost every country in the world and it flows from less

developed countries to industrialized nations or towards neighboring countries with marginally higher standards of living.

The reasons for the increase in trafficking of child are many. Generally, the criminal business feeds on poverty, despair, war, crisis, and ignorance. The globalization of the world economy has increased the movement of people across the borders, legally and illegally, especially from poorer to wealthier countries. Internationally organized crime mafia has taken advantage of this flow of people as well as money, goods and services to extend its own international reach.” In this connection the U.S. Administration Report on human trafficking states as follows: i

“The trafficking of people for prostitution, forced labour and other illegal purposes is one of the fastest growing areas of international criminal activity and one that is of increasing concern to the international community. The overwhelming majority of those trafficked are women and children. An estimated 1 to 2 million people are trafficked each year worldwide; 50,000 to the United States. Trafficking is now considered the third largest source of profit for those engaged in the organized crimes, behind only drugs and guns, generating billions of dollars annually. Trafficking affects virtually every, country in the world. The largest number of victims comes from Asia, with over 225,000 victims each year from South-East Asia and over 150,000 from South Asia. The former Soviet Union is now believed to be the largest new source of trafficking for prostitution and the sex industry, with over 100,000 trafficked each year from that region. An additional 75,000 or more are trafficked from Eastern Europe. Over 100,000 come from Latin America and the Caribbean, and over 50,000 victims are from Africa. Most of the victims are sent to Asia, the Middle East, Western Europe and North America.”

Situation Analysis in Pakistan

A large number of children are seen in the streets of big cities of Pakistan who are either begging or selling petty items such as flowers, toys, newspapers, or cleaning or washing cars. These street children are the outcome of poverty in the society. They are either orphans or poor or neglected children.

In some classes of the society, it is believed that children guarantee the future subsistence of their parents. Thus many families have a large number of children, which they cannot raise, educate or look after. Such children indeed serve as nursery for child trafficking for illegal/immoral purposes. Due to rampant poverty, Pakistan is a fertile ground for buying children who are being used inter-alia as camel jockeys in the Gulf States or engaged in hazardous occupations.

The last few years have seen an enormous increase in trafficking of children from Pakistan. There are reports of children of tender age being exported to Gulf States for camel riding with or without the permission of their parents. Many of the children and parents had been deceived about the

nature of work and destination. Organized groups and other unscrupulous persons for the sake of earning money are indulging in such nefarious activities.

Child trafficking from Pakistan for camel jockeying, continues unabated. As reported in the press, [ii] children cross borders along with an elder to participate in the blood sport that kills almost 50 per cent of all young camel jockeys and permanently disables another 25 per cent. Thousands of young children from Pakistan, Bangladesh and Sri Lanka are victims of cross-border trafficking to the Gulf States for being employed as camel jockeys. 162 cases of child abduction were reported in national as well as regional newspapers all over Pakistan in last six months i.e. first half of 2001. According to some investigations, many children die before the race is over either from fear or due to being incessantly tossed by the animal or being dragged to death after getting partially untied from the rope binding them to the animal. It has also been revealed that they suffer from severe bleeding owing to constant pressure on their backs and smashing of their genitals, both complaints being very common. Most of the young jockeys become impotent because of the friction and intense pressure on their sexual organs and the absence of a timely professional medical assistance.

These are hard facts, but the offence of trafficking of children is not provided in the Pakistan Penal Code 1860. Certain provisions exist in the Pakistan Penal Code which penalise kidnapping and abduction of a person etc. but these provisions are grossly inadequate to check child trafficking for employment as camel jockeys. Due to the existing lacunae in law, the traffickers are jailed not for smuggling children but for forging passports and violation of immigration rules, national identity cards requirements and false documentation under the Pakistan Penal Code, the Emigration Ordinance 1979 and the Passport Act 1974.

The Pakistan Law Commission in its report No.28 on "Elimination of Child Labour" has recommended that as the convention on the Rights of Child, ILO conventions and the Constitution of Pakistan prohibit the employment of children in hazardous/harmful occupations, the Government may, therefore, devise effective steps with a view to prohibit the employment of children in professions/occupations regarded unsafe for or injurious to health or harmful to the physical/mental/social/spiritual development of children and for this purpose appropriate enforcement/monitoring mechanism should be created/strengthened, authorities/officials designated and procedure devised for entertaining complaints. The Government took certain steps in this regard but in the absence of an appropriate penal provision in law such step failed to bring the desired results.

In order to curb the ever increasing tendency of the crime of child trafficking and using them in hazardous occupations, there is a persistent demand from the public reported in the national press to provide a penal provision in the criminal law of the country encompassing all the acts

relating to transportation, selling or buying of children across international borders by fraudulent means, deception, coercion, abuse of authority to send them abroad for engaging as camel jockeys, particularly in Gulf States and engaging in hazardous occupations within or outside country to curb the evil. There is thus felt a need to add a new Section in the Pakistan Penal Code providing punishment by making for such trafficking of children an offence.

Commission's deliberation

The Pakistan Law Commission in its meetings held on 30 March 2002 and 18 May 2002 considered the matter and approved that a new Section 373-A reading as follows may be added in the Pakistan Penal Code and consequential amendment in this regard may be made in the Code of Criminal Procedure.

“373-A Trafficking in children for employment in dangerous, hazardous occupations.- Whoever sells, buys, permits or causes to sell or buy, removes, exports, traffics in or otherwise disposes of any person under the age of fourteen years, with intent that such person shall at any stage be employed, or used as camel jockey or for the purpose which is injurious or hazardous to life shall be punished with imprisonment for a term which may extend to seven years or with fine or with both. Provided that in case of conviction for the offence of camel jockey, such punishment for imprisonment shall not be less than four years.

The recommendation of the Commission along with draft Amendment Ordinance at Appendix -I has been forwarded to the Government for giving it legislative effect.

ⁱ U. S. Administration report on internet- <http://usinfo.state.gov/topical/global/traffic/crs0510.htm>.
ⁱⁱ The News dated 5th August 2001 and the Nawa-e-Waqt dated the 12 June 2001.

Appendix-I

AN

ORDINANCE

further to amend the Pakistan Penal Code 1860 and the Code of Criminal Procedure 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code 1860 (Act XLV of 1860) and the Code of Criminal Procedure 1898 (Act V of 1898) for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to

take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the Fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance: -

1. Short title and commencement. --(1) This Ordinance may be called the Criminal Law (A Ordinance 2002.

(2) It shall come into force at once.

2. Insertion of Section 373-A.- In the Pakistan Penal Code (XLV of 1860), after Section 373, t new Section shall be inserted, namely;-

3. “373-A Trafficking in children for employment in dangerous, hazardous occupations.- sells, buys, permits or causes to sell or buy, removes, exports, traffics in, or otherwise dispose person under the age of fourteen years, with intent that such person shall at any stage be emp used as camel jockey or for the purpose which is injurious or hazardous to life shall be punis imprisonment of either description for a term which may extend to seven years or with fine or with b Where in a case of conviction for the offence of camel jockey, the punishment for imprisonment sha less than four years”.

4. Amendment of Schedule II, Act V of 1898.- In the Code of Criminal Procedure 1898, in Scl after the entries relating to Section 354-A, the following new entries shall be inserted, namely:-

1.	2.	3.	4.	5.	6.	7.	8.
“373-A	Trafficking in Children for employment in dangerous hazardous occupations.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years or with fine or both.	Ditto

President of Pakistan