

Kidnapping in The North West Frontier Province (NWFP)

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Abstract:

Kidnapping is a very serious, organised, non-compoundable and nonbailable crime. Kidnapping causes serious threat to the safety and dignity of a person and to the overall security environment in a society. In the year 2008 and 2009 kidnapping in the NWFP has escalated to an alarming extent. Kidnapping not only affects the local people, but also diplomats and foreigners are kidnapped/abducted. This article thoroughly studies the prevalence and trend of kidnapping in the NWFP. It also highlights the causes of kidnapping and abduction in the NWFP with support from statistical data.

Keywords:

Kidnapping, Abduction, Human Trafficking, Organised Crime, Police, Law Enforcement Agencies, Recovery, Investigation, Convicted, Terrorists, Militants, Taliban, Ransom, Motives.

Introduction

Kidnapping is not only an organised crime in our society but also an associated crime with other heinous crimes like terrorism, human trafficking and money laundering. The relation can not be fully explained with empirical studies as there is no authentic and exclusive research on the subject. However, an attempt is made in this essay to show the trends, magnitude and severity of kidnapping in the North-West Frontier Province (hereinafter NWFP). This paper also helps to identify that how the Police deal with this crime. Earlier than any further details it is pertinent to mention that there is no special force or unit to tackle this issue anywhere in the country. There is no special and separate data available in Police departments to provide us enough information about the actual problem. The data obtained from the Office of the Additional Inspector General Police, NWFP and provided by the National Police Bureau is being presented in this article.

Basically kidnapping seems to be a way of generating income for the kidnapers and gangs but it has now become a way of fulfilling the political goals and other vested interests. Our argument is justified in that on the one hand the kidnapers after making a successful attempt demands high amount of ransom and on the other hand they demand for the fulfilling of some other interests in exchange (Daily Mashriq: Sunday Magazine, 9 January, 2010) e.g; the demand for release of a particular criminal/militant such as in case of the kidnapping of the two Chinese engineers from district Dir. At times, the amount received by such means is further used to fuel the terrorist/criminal activities. This crime is thus perpetrated by the militants as a tool for increasing their bargaining power with the authorities.

Situation Analysis

The NWFP, the smallest in size of all the four provinces of Pakistan, is land of the Pukhtoon. It is bordered with Federally Administered Tribal Area (hereinafter FATA) which is a buffer zone between Afghanistan and Pakistan. The NWFP is a poor province with a population of 23.313 million and a literacy rate of 53% (Government of NWFP, 2008). Some reports show that per capita income in Pakistan is about 1000 US \$ while the government official figures show per capita income in the NWFP lesser than 30% from the rest of the country (World Bank, 2007). Assuming this per capita income as correct for the country, per capita income in the NWFP comes to be around 700 US\$ which means per day income is less than 2 US\$. Inflation is the worst in the frontier province and food items particularly wheat is sold for 100% higher price as compared to the province of Punjab (Sajid, 2008).

Further the province is war affected, although not officially declared. Frontier was also host to the millions of the Afghan refugees and now to the millions of the Internally Displaced Persons (IDPs) of the FATA and Swat. Bomb blasts, firings, and suicide attacks have become a routine event for the people here in the NWFP. Only in 2009, the registered cases of suicide terrorism were 45 (Government of NWFP, 2009). The present police strength in the NWFP is 53087 which makes a Police/Population ratio as 1:439 (Government of NWFP, 2009).

Kidnapping is on the increase in the NWFP. The media reports state that due to kidnapping in the NWFP, particularly Peshawar, 90% business activities have been affected. There has been 70% increase in kidnapping for ransom in the year 2009. This trend has greatly affected the business community (Daily Aaj, January 1st, 2010).

Significance of The Problem

The security situation in the post 9/11 scenario in the NWFP remains highly volatile, un-predictable and ultra sensitive (UNICEF, 2009). Kidnappers have become confident to the extent that they do not hesitate to kidnap even the diplomats, foreigners and other international figures. Terrorism in the area is one of the major factors which is fueling other serious and organised crimes also, like kidnapping and abduction in the NWFP. Kidnapping as a criminal act encourages the terrorist and militants to act with more pride and confidence. This situation causes people of the NWFP to live under the shadow of more terror, fear, and in a vicious circle of kidnapping, abduction and death as well.

The Law Enforcement Agencies (LEAs) are relatively unprepared, unequipped, and untrained to deal with the serious organized crime problem. Rahimullah Yousufzai pointed out that *the Pakistanis, both resourceful and*

un-resourceful (rich and poor) are being kidnapped in ever greater numbers for ransom and the government is helpless in preventing kidnappings or recovering the victims (Yousufzai, 2008). If this problem of kidnapping and abduction is not tackled immediately on emergency basis, it will spiral out of the control, and disrupt the entire social structure of the society. The disruption in the social structure of any society brings social change in the society i.e. the change in norms, values, attitudes and the entire culture. “*Social Change is the transformation of culture and social institutions* (Maciounis, 2008).” Although social change is an inevitable phenomenon but its direction can be diverted positively or negatively. The change through kidnapping will result in negative trends.

Kidnapping And Abduction: Definition And Difference

Under the Pakistani law kidnapping is of the following two kinds:

1. Kidnapping from Pakistan

Whoever conveys any person beyond the limits of Pakistan without the consent of that person, or of some person legally authorized to consent on behalf of that person is said to kidnap that person from Pakistan (Section 360 of Pakistan Penal Code (hereinafter PPC), 1860).

2. Kidnapping from Lawful Guardianship

Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without consent of such guardian, said to kidnap such minor or person from lawful guardianship (Section 362 of PPC, 1860).

Lawful guardian here includes any person lawfully entrusted with the care or custody of such minor or other person.

Abduction on the other hand is defined in the following words:

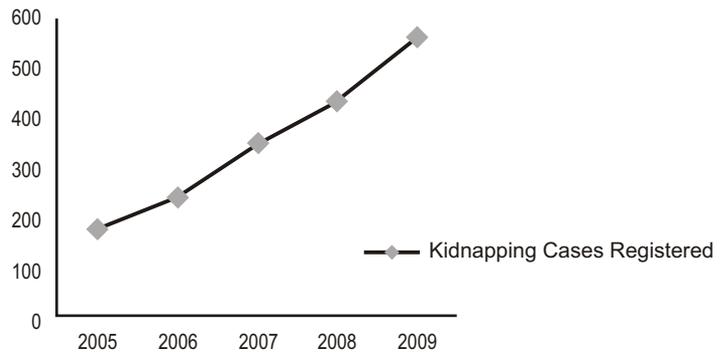
“whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person (Section 362 of PPC, 1860).” In kidnapping the minor is just taken away. Force need not be used. However, in case of abduction force, compulsion or deceitful means are used. Secondly, kidnapping is committed only in respect of a male under fourteen or female minor under sixteen years of age, whereas, as far as abduction is concerned, any person of any age can be abducted. But in general both the terms are used interchangeably. When used in this way kidnapping or abduction means “an offence involving taking and conveying away a person against his or her will, either by force, fraud, or intimidation (Kidnapping, 2009).”

The punishment for kidnapping or abduction in the law is imprisonment for a term of seven years, ten years, life time or sentence to death, subject to the conditions of kidnapping (Sections 363,364,365-A of PPC, 1860).

Methodology of the Study

The kidnapping statistics in the NWFP are not properly recorded and maintained. Being the Superintendent of Police (SP), one of the authors, Naushad Ali Khan, designed a format for recording of such crimes, and sent it to all the 23 police districts of the province. The format included the registered cases, persons charged and arrested, kidnapped and recovered, and the conviction if any. The data obtained through these measures has been presented and analysed in this article.

Figure-I: Trend in Kidnapping in the NWFP



Source: Office of the Additional Inspector General Police (Investigation), NWFP, Peshawar.

Data Analysis

Kidnapping in the NWFP is increasing since the last few years. It is clear from Table-I that the kidnapping has escalated during the period 2008-2009. In the year 2005 the number of cases registered were 173 while in 2009 the registered cases rose to 561. Figure-I, based on Table-I also shows this increasing trend in kidnapping cases in the NWFP. As stated above, the Daily Aaj reported on the 1st January, 2010 that there have been 70% increase in kidnapping cases in 2009.

In the context of the NWFP pin-pointing a one definite reason for kidnapping is next to impossible. There are numerous theses regarding the contemporary escalation of the kidnapping in the NWFP. A few of them are presented as follows:

1. The first thesis is that the Taliban/militants/terrorists were created and supported for some vested political interests. With the decline of state-sponsored terrorism, the militant elements were left unpatronised. To meet their financial requirements these militant or terrorist elements have started kidnapping the people-which by and large include financially strong and influential people. This is one thesis presented for the contemporary rise in the kidnapping cases in the NWFP.

Table 1: Details of Registered Kidnapping Cases in the NWFP for the Period 2005 - 2009

	Year	Kidnapping for Other Motives	%age	Kidnapping for Other Motives	%age	Total	%age
Cases registered	2005	141	81.50%	37	21.39%	178	100%
	2006	182	76.79%	61	25.74%	243	100%
	2007	257	74.28%	90	26.01%	347	100%
	2008	277	64.27%	154	35.73%	431	100%
	2009	401	71.48%	172	30.66%	573	100%
	Total	1258	70.99%	514	29.01%	1772	100%
Adult	2005	121	79.61%	31	20.39%	152	100%
	2006	152	74.51%	52	25.49%	204	100%
	2007	231	76.24%	72	23.76%	303	100%
	2008	240	63.83%	136	36.17%	376	100%
	2009	381	71.62%	151	28.38%	532	100%
	Total	1258	70.99%	514	29.01%	1772	100%
Children	2005	20	76.92%	6	23.08%	26	100%
	2006	30	76.92%	9	23.08%	39	100%
	2007	26	59.09%	18	40.91%	44	100%
	2008	37	67.27%	18	32.73%	55	100%
	2009	20	48.78%	21	51.22%	41	100%
	Total	1258	70.99%	514	29.01%	1772	100%

Source: Office of the Additional Inspector General Police (Investigation), NWFP, Peshawar.

This argument can not be rejected at all but the data given in Table-I does not support this stated point of view i.e. meeting the financial requirements. The share of registered kidnapping cases for ransom is only 28% during the period 2005-09 i.e. lower than the kidnapping for other motives, 71.8% (See Table. 1), provided the other motives are fully believed and verified.

The share of the other motives in kidnapping is more than two times than kidnapping for ransom. The other motives can be political and religious. Here our data is weak in the sense that it does not depict the holistic picture. It lacks to identify the other motives-such as murder, marriage, sexual abuse or exploitation, rape, personal enmity, religious enmity, financial settlement, property settlement, etc.

2. The performance and duty schedules of the police and other Law Enforcement Agencies (hereinafter LEAs) have been greatly affected by the war on terror (WOT). Our LEAs have been over-busy in the war on terror and consequently the routine policing has become the secondary job. This argument is supported by Table-II which shows that the arrest rate is only 33.3% of the total persons charged with kidnapping.

Table II: Details of Persons Charged / Arrested for Kidnapping / Abduction in the NWFP for the Period 2008 - 2009

Charged /Arrested	Years	For Other Motive	For Ransom	Total
Persons Charged	2008	750	646	1396
	2009	971	737	1708
Sub Total		1721	1383	3104 (66.9%)
Persons Arrested	2008	430	336	766
	2009	416	349	765
Sub Total		846	685	1531 (33.3%)
Grand Total		2567	2068	4635 (100%)

Source: Office of the Additional Inspector General Police (Investigation), NWFP, Peshawar

Another question which needs to be taken into consideration here is that despite the 100% increase in security check posts in the NWFP the kidnapping is escalating. Why is this case? This can be explained due to the factors like lack of equipments, lack of logistics, lack of intelligence and information, and lack of capacity of the personnel dealing with this organised crime. One has to agree that the security check posts are essential in prevention of crimes but the check posts without proper infrastructure is of lesser use. Our police are only sacrificing their Jawans (cops) on the check points with lesser concrete outcome.

3. The third thesis is that the war on terror itself has boosted the rate of abduction/kidnapping in the NWFP. The bearers of this view quote the examples of the kidnapping cases of Afghan/Iranian diplomats, Chinese engineers, and other foreigners. This is the most considerable view in the authors' opinion as 71% of the kidnapping cases registered show kidnapping for other motives (See Table-I). The *other motive* is a wide-range word with no definite limits, so it is difficult to determine the exact nature of the other motives. This includes the bargaining power of the militants and financing of terrorism.

Of particular concern are the recent kidnapping of the Iranian and Afghan diplomats and Chinese engineers. While the government and its scores of intelligence agencies and LEAs were still struggling to locate Afghanistan's ambassador-designate Abdul Khaliq Farahi, who was kidnapped from Hayatabad area in Peshawar, another kidnapping took place, and this time it was an Iranian diplomat. Heshmatollah Attarzadeh, commercial attaché at Iran's consulate in Peshawar was kidnapped from Hayatabad. His guards and drivers were shot dead by the kidnapers. Two other important Afghans were also kidnapped.

4. Yet another view is that the administrative machinery in FATA has almost vanished. Prior to the war on terror the Frontier Constabulary (hereinafter FC) was functional at the borders of the settled districts and FATA to fight against crimes. But for the last few years the role of FC in guarding the unfrequented routes at the administrative borders has become very weak, thus the criminal activities gone unabated. This observable fact has contributed to the escalation of kidnapping from the settled districts to the tribal areas.
5. The fifth thesis on the reasons for the increase in kidnapping deals with the conviction of the offenders. The process of justice is very slow in kidnapping cases. Table-III gives a picture of a slow court process. It is clear from the Table-III that the conviction rate is very low i.e only 3 persons were convicted in 2008 and non in 2009 and 405 cases are still under process (See Table-III., & Daily Aaj, 1st January, 2010). This low rate of conviction is a persuading factor for the kidnappers and abductors.

There can be various reasons for this low rate of conviction. First, the cases may not be properly investigated which offer a favour to the offender. Secondly, the courts are over burdened with the cases, as pointed out in the National Judicial Policy 2009.

Table III: Details of Cases Investigated & Convicted for Kidnapping / Abduction in the NWFP for the Period 2008 - 2009

	Year	For Other Motive	For Ransom	Total
Cases Registered	2008	277	154	431
	2009	401	172	573
Cases Investigated	2008	173	103	276
	2009	151	89	240
Challaned to Court	2008	213	120	333
	2009	159	92	251
Filed as Untraced	2008	36	21	57
	2009	59	14	73
Convicted	2008	1	2	3
	2009	0	0	0
Acquitted	2008	17	8	25
	2009	2	4	6
Subjudice	2008	149	77	226
	2009	1163	63	179

Source: Office of the Additional Inspector General Police (Investigation), NWFP, Peshawar

National Judicial Policy (NJP) 2009 states that “*the courts have continuously suffered on account of shortage of funds. The budgetary allocation to judiciary is negligible. Not even 1% of Federal/Provincial budget is allocated for the third pillar of the State. No wonder then, the judges are over-burdened.*” Along-with this an anti-kidnapping cell in the NWFP police is also non-operational at the present. Whatever the reason for this low conviction rate is, however, the fact remains that this is an encouraging phenomenon for the kidnapers as well for other criminals.

Why LEAs Failed to Prevent/Control Kidnapping?

There are 24 districts in the NWFP (all police district with the exception of one) and most of the districts are bordering with the tribal territories, both FATA and Frontier Regions. Normally, the fugitives are taking shelter in the tribal areas where they form gangs and commit kidnapping for ransom and other motives. The kidnappees are kept in the tribal areas. The police cannot take action in the tribal areas like making the arrest of the accused and recovery of the kidnappees. Table-IV and Table-V are of special interest for us. Table-IV shows that 1416 persons were kidnapped during 2008 and 2009 while the Table-V shows that 1100 of the kidnappees were recovered i.e. to say that the recovery rate is almost 78%-a positive sign. In spite of the high rate of recovery the LAEs has failed to prevent kidnappings/abduction from occurring and increasing. It is worth mentioning here that some critics don't take this recovery as a result of the police action due to the low rate of arrest as discussed earlier. They observe that the kidnappees are recovered through mediation, negotiation and payment through third parties, which is a common practice in the Pukhtoon society.

Table IV: Details of Persons Kidnapped / Abducted in the NWFP for the Period 2008 - 2009

Persons Kidnapped	Year	Other Motive	For Ransom	Total
Adult	2008	435	190	625
	2009	524	162	686
Children	2008	38	19	57
	2009	21	27	48
Total		1018	398	1416

Source: Office of the Additional Inspector General Police (Investigation, NWFP, Peshawar

Table V: Details of Persons Recovered from Kidnapping/Abduction in the NWFP for the Period 2008-b2009

Persons Recovered From Kidnapped	Year	For Other Motives	For Ransom	Total
Adult	2008	343	175	518
	2009	351	131	482
Children	2008	38	21	59
	2009	21	20	41
Total		753	347	1100

Source: Office of the Additional Inspector General Police (Investigation, NWFP, Peshawar)

The question of failed control, however, can more appropriately be answered by the LEAs themselves. For that reason authors conducted interviews with LEAs officials and investigation officers. Their responses to this question are summarized in the following categories.

1. **Lack of Intelligence & Information Sharing:** There is no proper data bank of kidnapping at the provincial level as well as at central level. Proper system of collection of intelligence also does not exist. There is also a lack of sharing of intelligence amongst the various LEAs.

We have to agree with this point. Intelligence plays a vital role in controlling kidnapping and in the arrest of the kidnappers. Although separate anti-kidnapping cell was created in the NWFP police but that is a defunct entity at the moment.

2. **Kidnappers are Patronised by the Influentials of the Area:** This is a very serious and common cause that the crime perpetrators are helped and backed up by the most renowned personalities of that area-often a local political figure. This notion is supported by comments of the Ex-Chief Capital Police Officer (CCPO) Peshawar Habib-Ur-Rehman who replied to the authors' question in the following words, "*the kidnappers are mixed up and patronised by the influential figures which is an encouraging factor for the criminals*" (Habib-ur-Rehman, personal communication, January 22, 2010).
3. **Non- Identification of Gangs:** Because there is no special police force to tackle this problem, that's why the gangs involved in committing this crime can not be identified or traced clearly. Even the Central Intelligence Agency (CIA) of a district police is currently non-operational which could be of help to the LEAs in this respect.

However, some may not agree to this point of view as some have already responded that kidnappers are patronised by influentials of the area i.e. the gangs are identified but the police or other law enforcement agencies are unable to arrest them. Mere identification is of no help unless proper care is initiated, investigation and evidence produced before a competent court of law.

4. **Low Rate of Conviction:** This is another major reason as identified in the above lines (See Table-III). This reflects the poor quality of investigation and prosecution coupled with other problems discussed above.

Discussion

We have presented five different points of analysis on the present increase in kidnapping cases. Neither of them alone can be taken as responsible for this escalation in 2008 and 2009. It can be inferred that the problem is a compound of all the above stated reasons. The tribal area is said to be the sanctuary for criminal elements. The militant and other such elements also reside there. The lack of surveillance equipments and effective policy for kidnapping control by the police and the low rate of conviction, all these factors together can be stated as contributing to this increase in kidnapping.

Issues Identified

This paper identified the following issues related to kidnapping:

1. Capacity of the police and other LEAs to tackle with the problem of kidnapping;
2. Crime-Terror Continuum, War on Terror and its implications for law-enforcement;
3. Non-functional anti-kidnapping cell;
4. Slow justice process and low rate of conviction; and
5. Lack of Proper record management including management of separate gender based record.

These are some of the issues which are either basic or contributing factors for the lack of control in prevention and investigation management of kidnapping cases.

Recommendations

On the basis of our findings in this paper we present the following recommendations.

First and foremost research is the key for the development of any policy or department. The research on kidnapping as an organised crime, its causes, implications and analysis is essentially needed not only in the NWFP but also the entire country.

Secondly, kidnapping/abduction and human trafficking are two distinct phenomena. Human trafficking in the Pakistani law is the kidnapping of any person from Pakistan or as per Human Trafficking Ordinance, 2002 "*Human Trafficking*" means obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding his implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such person's subsequent transportation out of or into Pakistan by any means whatsoever for any of the purposes (Section 2-h of The Prevention and Control of Human Trafficking Ordinance, 2002). Although kidnapping and abduction is dealt by the police under the PPC, 1860 but human trafficking is separately dealt by the Federal Investigation Agency (FIA). There is no link between kidnapping and human trafficking. Kidnapping leading to human trafficking is not clear. In the un-recovered or untraced cases of kidnapping, no one knows how many might be trafficked out of the country. The only competent authority to deal with human trafficking in the country is the Federal Investigation Agency (FIA). It is recommended that the Prevention and Control of Human Trafficking Ordinance should be extended to the police.

Throughout the country police deal with kidnapping for ransom and kidnapping for other motives. These other motives are not clear, unexplained, and un-interpreted. It is also not clear how police calculate other reasons. It needs to be explained clearly. In the authors' observation, the kidnapping for the settlement of financial disputes is very common but the police have no specific head in its record to clearly identify such cases. In this regard, the separate record of such cases should be maintained.

Kidnapping is a very serious organised crime but there is no separate police for dealing with organised crimes, especially kidnapping and drugs. There are special police units in the police departments of most of the developed and under developed countries. In the NWFP and other provinces, anti-car lifting cell, anti-kidnapping cell, and anti-drugs cells were created time and again but those were abortive, without resources, with no legal authority, and without institutionalization. Structural and functional changes are needed in the police department alongwith support from international institutions for the capacity building, provision of equipments, communication facilities, vehicles and surveillance. For this purpose a separate police unit, specialized and trained for dealing with organised crimes, should be established with tactical and strategic wings and with full legal support and coverage.

The police are facing difficulties in investigation of kidnapping cases. As the Frontier Province is surrounded by the tribal areas where police can not

conduct any operation. In most cases, the ultimate destination of the kidnappers is the tribal territory where police are helpless. In FATA only the federal agencies can take actions so there should be proper and legally binding coordination between the provincial police department and the federal agencies for the investigation of organised crimes and arrest of such groups.

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