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FROM PROTOCOLS TO PRACTICE: THE INTERNATIONAL LEGAL RESPONSE TO HUMAN TRAFFICKING

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ABSTRACT

Human trafficking remains one of the most grievous human rights violations in the modern era, transcending borders and affecting millions worldwide. This paper undertakes a comprehensive analysis of the international legal framework established to combat human trafficking, tracing the evolution of global instruments and conventions that shape anti-trafficking responses today. Beginning with the 1904 International Agreement for the Suppression of the White Slave Traffic and culminating in the landmark 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), the study examines how the international community has progressively recognized trafficking as a serious transnational crime and human rights issue.

The paper evaluates the binding and non-binding instruments under the United Nations, the International Labour Organization, and regional frameworks such as those developed by the European Union and South Asian Association for Regional Cooperation. It explores the key components of these instruments, including prevention strategies, victim protection, and prosecution mechanisms. Additionally, the study critiques the gaps in enforcement, state compliance, and victim-centric approaches, arguing for a more integrated, human-rights-based strategy that includes accountability, cross-border cooperation, and socio-legal reform.

By comparing legal obligations and best practices, this paper highlights the need for harmonization between international and domestic laws and emphasizes the importance of political will and institutional coordination. The study concludes that while significant progress has been made, human trafficking persists due to structural vulnerabilities, weak implementation, and lack of survivor-centric policies.

Keywords- Human Trafficking, Palermo Protocol, International Law, Victim Protection, Transnational Crime, UN Conventions, Legal Framework, SAARC Convention, Law Enforcement Cooperation

I. INTRODUCTION

Human trafficking, often regarded as a modern form of slavery, has emerged as a pressing global issue intricately tied to the economic, social, and demographic dynamics of both source and destination countries. Rooted in deep-seated human rights violations, the problem is exacerbated by widespread poverty, illiteracy, limited access to education, and economic resources. Historically, trafficking was primarily associated with the sex trade, but

recent years have revealed its broader scope. Victims are now trafficked for purposes ranging from forced labor and domestic servitude to begging, coerced marriages, adoption, organ harvesting, and even participation in illegal sports.

The impact of globalization has significantly altered the landscape of human trafficking. As nations opened up their economies and integrated into the global system, new opportunities for exploitation emerged. These

developments have fueled international concern, prompting legislative and institutional responses. One such effort was the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime (2000). This protocol offers a broader and more inclusive definition of trafficking, recognizing not just sexual exploitation but also forms of forced labor and child trafficking for domestic or hazardous industrial work.

Women and children, especially those from disadvantaged or marginalized communities, remain the most vulnerable to trafficking. The complexity and scale of the issue demand a comprehensive, multi-agency approach that involves cooperation among countries of origin, transit, and destination. Without genuine international collaboration, efforts to combat human trafficking will fall short⁵¹².

India, like many other developing nations, has faced the scourge of human trafficking for generations. However, the problem has intensified in the wake of globalization and industrial expansion. While these processes have facilitated economic growth and international engagement, they have also created new vulnerabilities. The most disadvantaged segments of society particularly women and children have been disproportionately affected. Increased mobility and communication have enabled criminal networks to expand their operations, often across national borders.

Sex trafficking, colloquially known as the "flesh trade," is the most recognized form of trafficking in India and has received considerable attention from the country's legal system. Nevertheless, this is just one facet of a much larger problem. Human trafficking is a lucrative crime, rooted in organized criminal networks that exploit people for financial gain. These

networks operate covertly, making it one of the most underreported crimes globally.

The organized nature of trafficking makes it extremely difficult to dismantle. It is, in essence, a crime against humanity violating victims' dignity, rights, and freedom⁵¹³. Victims often find themselves caught in complex webs of coercion, abuse, and manipulation, with little chance of escape.

II. PUSH AND PULL FACTORS DRIVING TRAFFICKING

The dynamics behind trafficking are influenced by both "push" and "pull" factors. Push factors are conditions that force individuals to leave their home countries such as poverty, unemployment, conflict, and lack of opportunity. Pull factors, on the other hand, are the perceived benefits that draw individuals toward more developed nations. These include better job opportunities, improved living standards, political stability, and economic security.

Statistical data increasingly suggests that push factors play a more significant role in driving human trafficking than pull factors. The desperation to escape poor living conditions, combined with the lure of a better future, makes individuals easy targets for traffickers who deceive them with false promises.

India attempted to address the issue more aggressively through the Immoral Trafficking Prevention Act (ITPA) Amendment Bill of 2006, which aimed to criminalize the clients of trafficked victims. This was a shift in focus from punishing the victims to holding consumers accountable. Unfortunately, due to a lack of consensus among lawmakers and civil society, the bill failed to pass.

Human trafficking is not just a domestic issue, but a global crisis that thrives on inequality, lack of enforcement, and international indifference. While various protocols and laws have been created to address this crime, much more

⁵¹² Draft Asian Development Bank Report for Regional Technical Assistance for Combating Trafficking in Women and Children in South Asia, Country Report of India, March 2000, p.4.

⁵¹³ Jyoti Sanghera, Trafficking of Women and Children in South Asia: Taking Stock and Moving ahead, UNICEF and Save the Children Alliance, 7, (1999).

remains to be done. A holistic strategy involving education, stronger law enforcement, international cooperation, and socioeconomic reforms is essential to dismantle the systems that allow trafficking to persist. Both national governments and international bodies must work together to protect the most vulnerable and bring justice to those who exploit them.

III. REGIONAL TRENDS

A. Asia and the Pacific

Southeast Asia remains one of the most severely affected regions in terms of human trafficking, with around 225,000 victims reportedly trafficked each year, as per the U.S. Department of State. A key factor fueling this crisis is the booming sex tourism industry, especially in countries like Thailand, Cambodia, and the Philippines, which attract tourists, including pedophiles, from developed nations like Europe, North America, Japan, and Australia. Japan has become a major destination for trafficked Asian women, with approximately 150,000 non-Japanese women involved in the sex trade—half from the Philippines and 40% from Thailand.

Within the sex industry, there's a troubling racial hierarchy. Japanese and Western women working independently and earning well are at the top, while women from Southeast Asia and bonded white slaves from Eastern Europe are subjected to harsher conditions. Cross-border trafficking is rampant, particularly in the Mekong sub-region, covering parts of Thailand, Myanmar, Laos, Cambodia, Vietnam, and China's southern Yunnan province. For instance, Vietnamese women are sent to China and Cambodia, and women from Myanmar are trafficked into Thailand.

Various methods are employed in trafficking, including local influence, sales by family members, false job promises, debt bondage, kidnapping, forged documents, bribery, and various means of transportation such as buses, trains, and boats. Victims from countries like China, Myanmar, the Philippines, Cambodia,

and Vietnam are also trafficked to Western countries, the Middle East, and Australia.

In South Asia, approximately 150,000 individuals are trafficked yearly. India and Sri Lanka have become hotspots for sex tourism, while Nepal and Bangladesh serve primarily as source countries. Between 5,000 to 10,000 Nepalese girls are trafficked to India annually, and up to 200,000 Nepalese women are believed to be working in the Indian sex trade. Bangladesh also sees around 15,000 women and children trafficked each year, many of whom end up in Pakistan and the UAE.

India plays a triple role in this crisis—it acts as a source, a transit hub, and a destination for trafficking. Victims often come from neighboring countries such as Nepal, Bangladesh, Bhutan, and Pakistan. Meanwhile, Australia is known as a source country for sex tourists, with destinations including the Philippines, Thailand, and Sri Lanka⁵¹⁴. In response, Australia has begun revising its laws and increasing public awareness to reduce its involvement in trafficking⁵¹⁵.

B. Europe and the Middle East

With the collapse of the Soviet Union, Eastern Europe and former Soviet states have overtaken Asia as primary source regions for trafficking victims heading to Western Europe. Russia and Ukraine lead in terms of numbers, contributing significantly to the estimated 175,000 women trafficked annually. The region's economic instability post-1991 allowed organized crime groups from Russia, Albania, Estonia, and elsewhere to capitalize on trafficking for profit. Russian gangs have also extended their influence to prostitution rings in Israel and the United States⁵¹⁶.

Conflict zones like Bosnia and Kosovo further intensified trafficking, especially as traffickers preyed on displaced women. Albanian criminal

⁵¹⁴ Coalition Against Trafficking in Women – Asia Pacific, www.catw-ap.org (last visited on February 15, 2025)

⁵¹⁵ Maria Moscaritolo, “Australia takes aim at Asian sex slave trade”, Reuters, 26, (1998).

⁵¹⁶ Global Survival Network, *An Expose of the Trafficking Women for Prostitution from the Newly Independent States*, Washington, D.C., 1998, pp.5-10.

networks, for instance, smuggled thousands of Kosovo women to Italy for sexual exploitation. Most victims from Eastern Europe are sent to countries such as Germany, France, Switzerland, Italy, the Netherlands, Greece, and England. Others are trafficked to the Middle East (notably Israel and Saudi Arabia), the Far East (Japan and Thailand), and North America. Western Europe also receives victims from other continents, including Africa (Ghana, Nigeria, Morocco), Latin America (Brazil, Colombia, Dominican Republic), and Southeast Asia (Philippines and Thailand)⁵¹⁷.

In the Middle East, most trafficking victims are women and children brought in from Asia specifically from Bangladesh, Thailand, Indonesia, and the Philippines. These individuals are often forced into prostitution, domestic work, or exploited as child camel jockeys. Israel alone receives between several hundred and 2,000 women each year from former Soviet states through organized criminal networks⁵¹⁸.

C. Africa, Latin America, and North America

Africa sees approximately 50,000 trafficking victims annually, though data is limited. Major contributors include economic hardships, civil conflicts in countries like Sudan and Rwanda, and weak governance. Child labor trafficking is prevalent in countries like Togo, Benin, Somalia, and Nigeria. Victims are trafficked within Africa to nations like South Africa, Nigeria, and Ghana—and abroad, particularly to Europe and the Middle East.

In Latin America and the Caribbean, over 100,000 women and children are trafficked for sexual exploitation each year. The situation is dire for children, with the Organization of American States reporting over two million victims of child sex exploitation across the region. Popular destinations for sex tourism,

which exacerbate trafficking, include Brazil⁵¹⁹, the Dominican Republic, Mexico, and Costa Rica. Brazil faces one of the worst child prostitution crises globally. Around 50,000 Dominican women have reportedly been trafficked overseas, mainly to the U.S. and Europe. Many Latin American countries, especially Mexico and Central America, serve as transit zones for trafficking into North America⁵²⁰.

In the United States, between 45,000 and 50,000 women and children are trafficked annually, largely from Southeast Asia⁵²¹ and the former Soviet Union. Victims are typically forced into the sex industry or domestic servitude. Additionally, the U.S. and Canada are frequent destinations for trafficked children adopted illegally, with Mexico being the main source. American and European men are also significant contributors to global sex tourism, particularly in regions like South and Southeast Asia and Central America. Some travel agencies are known to facilitate organized sex tourism, promoting exploitation under the guise of leisure.

IV. INTERNATIONAL LEGAL INSTRUMENTS TO COMBAT TRAFFICKING

A number of international legal instruments and protocols have been developed over the years to address the global crisis of human trafficking, particularly involving women and children. Two major conventions in this area are the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, also known as the Palermo Protocol. This protocol, a supplement to the UN Convention against Transnational Organized Crime (2000), is

⁵¹⁷ Europe National Dates, Trafficking of Women to the European Union: Characteristics, Trends and Policy Issues, European Conference on Trafficking in Women, June, 1996, IOM, 7 May, 1996.

⁵¹⁸ Michael Specter, “Trafficker’s New Cargo: Naïve Slavic Women”, New York Times, 11 January, 1998.

⁵¹⁹ Social Security Network, “Brazil Spends \$1.7 Million Helping Child Prostitutes”, Reuters, 12 June 1998.

⁵²⁰ Testimony of Frank E. Loy, Under Secretary of State for Global Affairs, before the sub-committee on Near Eastern and South Asian Affairs, Senate Foreign Relation Committee, 22 February, 2000 in Francis T. Miko, Trafficking in Women and Children: The US and International Response, Congressional Research Service Report, The Library of Congress, May 2000.

⁵²¹ available at: www.catwinternational.org/fb/costarica.html (last visited on March 15, 2025)

considered the most comprehensive international effort to counter trafficking.

Under Article 5 of the Palermo Protocol, all forms of trafficking including attempts and participation in trafficking networks are criminalized. The protocol outlines specific protections for victims, including preventative measures, victim support, and cooperation between countries for safe repatriation. However, it lacks provisions for victim immunity from prosecution, which means trafficked individuals might still be punished for crimes they were forced into like prostitution or using fake documents. Moreover, although it suggests victim assistance, the measures are optional, often leading to inadequate protection and reintegration support for victims.

A. Historical International Legal Instruments

Efforts to combat trafficking date back to the early 20th century. Key treaties include:

- International Convention for the Suppression of the Traffic in Women and Children (1921, revised 1947): This treaty banned the enticement of women or girls for immoral acts abroad.
- Slavery Convention (1926)⁵²²: Encouraged the elimination of all forms of slavery and forced labour, defining slavery as control over a person for exploitative purposes.
- ILO Forced Labour Convention (1930): Called for the swift end of forced or compulsory labour in all forms⁵²³.
- Convention for the Suppression of the Traffic in Women of Full Age (1933): Required countries to take legal action against those engaged in the trafficking of adult women.
- Universal Declaration of Human Rights (1948): Prohibited slavery and the slave

trade under Article 4. It also emphasized freedom of movement (Article 13) and the right to nationality (Article 15)⁵²⁴.

- UN Convention for the Suppression of the Traffic in Persons and Exploitation of Prostitution (1949): A comprehensive agreement incorporating earlier treaties. It criminalized activities like brothel keeping and procuring people for prostitution regardless of their consent or age, and encouraged repatriation and rehabilitation. However, its scope was limited to prostitution.
 - ILO Abolition of Forced Labour Convention (1957)⁵²⁵: Obligated states to eliminate forced labour used for political, economic, disciplinary, or discriminatory purposes.
 - International Covenant on Civil and Political Rights (1966): Article 8 bans slavery and forced labour. Article 24 focuses on child rights.
 - International Covenant on Economic, Social and Cultural Rights (1966): Article 10 mandates states to protect children from exploitation and to set legal minimum ages for employment.
 - Minimum Age Convention (1973): Prohibited child labour, especially in dangerous occupations, and aimed to protect children's rights in the workforce.
- #### B. Modern Conventions Addressing Women and Children
- CEDAW (1979): Article 6 obligates countries to enact laws and measures to eliminate all forms of trafficking in women.
 - UN Convention Against Torture (1984): Prohibits returning individuals to countries where they may face torture and provides for victim compensation.

⁵²² Slavery Convention, 212 U.N.T.S. 17, entered into force Mar. 9, 1927, amended Convention entered into force Jul. 7, 1955.

⁵²³ ILO Convention No. 29 concerning forced or Compulsory Labour (1930) International Labour Conventions and Recommendations Vol. I, pp. 115-124, Article 2.

⁵²⁴ GA Res. 217 (III), GAOR, 3rd Sess, official Records, Part I, Resolutions, p.71.

⁵²⁵ Convention (No 105) concerning the Abolition of Forced Labour, adopted on Jun. 25, 1957 by the General Conference of the International Labour Organisation, entered into force Jan. 17, 1959.

- UN Trafficking Protocol (2000): This protocol offers a standardized definition of trafficking and calls for international cooperation in prevention, victim assistance, and legal action. It includes articles on privacy protection (Art. 6), safe repatriation (Art. 8), and stronger border control (Art. 11 & 12). However, it does not guarantee immunity to victims for crimes committed under coercion, nor does it focus adequately on post-return reintegration. Many victims face prolonged detention or lack of resources, discouraging them from testifying against traffickers.
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography⁵²⁶ (2002): Strengthens international protection standards for children against sexual exploitation.
- UN Convention on the Rights of the Child (1989)⁵²⁷: Adopted by more than 190 countries, this landmark agreement recognizes children as individuals entitled to their own set of rights and freedoms. It outlines four core principles: non-discrimination, the best interests of the child, right to life and development, and respect for children's views.

Key articles related to trafficking and exploitation include:

- Article 1: Defines a child as anyone under 18 years of age.
- Article 19: Calls on states to protect children from all forms of physical and emotional abuse.
- Articles 32, 34, and 36: Require protection against child labour, sexual exploitation, and all other forms of abuse or harmful treatment.

Additionally, the Convention stresses the protection of vulnerable groups such as immigrant and refugee children and mandates states to take steps to prevent trafficking, kidnapping, and smuggling of children.

V. INTERNATIONAL MECHANISMS AGAINST HUMAN TRAFFICKING

A. United Nations Efforts

The United Nations plays a vital role in tackling human trafficking, especially when it affects women and children. It offers guidance to national governments on legal reform and better law enforcement strategies. The UN also works to eliminate the root causes of trafficking, such as poverty and gender inequality, and supports the recovery and reintegration of victims. Various UN agencies are involved in collaborative efforts to improve data collection, understand global trafficking trends, and strengthen international cooperation.

- a) UNIFEM⁵²⁸, now merged into UN Women, focuses on empowering women and defending their rights. It supports innovative programs at both national and regional levels, with a strong emphasis on research and advocacy aimed at reducing the vulnerability of women and girls to trafficking.
- b) UNESCO promotes human rights through its global standards and conventions. It works alongside non-governmental organizations (NGOs) and regularly conducts research and conferences on trafficking and modern forms of slavery⁵²⁹.
- c) UNICEF sees child trafficking as a serious violation of human rights. It runs national and regional initiatives to prevent trafficking, often working in partnership with other UN agencies and NGOs. UNICEF is especially active in places like

⁵²⁶ Focal Point on Sexual Exploitation of Children, NGO Group for the Convention on the Rights of the Child, Issue No. 5, April 2000, pp 13-14.

⁵²⁷ Convention on the Rights of the Child, UN.DOC A/RES/44/25, entered into force Sep. 2, 1990.

⁵²⁸ available at: <http://www.unifem.undp.org> (last visited on February 09, 2025)

⁵²⁹ available at: <http://www.unesco.org> (last visited on April 01, 2025)

West Africa, collaborating with NGOs to protect children⁵³⁰.

- d) UNDP tackles trafficking through its work on gender issues and the HIV/AIDS epidemic. In regions like South and Southeast Asia, it promotes cross-border cooperation and implements projects aimed at reducing vulnerability through economic and social development. In Europe, trafficking is addressed as part of UNDP's⁵³¹ broader gender-focused initiatives.

The UN Commission on Human Rights, under the Office of the High Commissioner for Human Rights (OHCHR), has appointed Special Rapporteurs who report on different human rights concerns. Relevant to trafficking are rapporteurs focusing on violence against women, migrant rights, and child exploitation. A Special Rapporteur specifically on human trafficking has also been appointed to collect information, issue recommendations, and collaborate with other UN experts to ensure the rights of victims are protected.

Additionally, the Commission on Crime Prevention and Criminal Justice⁵³² has examined trafficking in relation to the abuse of migrants. In 1997, it played a key role in formulating a UN resolution that outlined international strategies for responding to violence against women, emphasizing fair legal treatment, victim support services, healthcare access, and justice system reforms.

B. Inter-Governmental Organizations

i. International Labour Organization (ILO) : The ILO considers trafficking to be a severe abuse of human rights, often tied to forced labour, child exploitation, and mistreatment of migrant workers. It urges international collaboration to combat trafficking and seeks to improve global labour conditions, especially for women and

disadvantaged communities. The ILO emphasizes that gender inequality is a major cause of trafficking and supports initiatives that ensure access to safe and decent work as a way to prevent exploitation.

The ILO's International Programme for the Elimination of Child Labour (IPEC) implements efforts in regions such as South Asia, Southeast Asia, Africa, and Latin America. These projects aim to protect children from trafficking and forced labour by improving law enforcement, expanding access to education, and building stronger social support systems.

ii. International Organization for Migration (IOM): The IOM handles trafficking as part of its broader work on irregular migration. Its activities include public education campaigns, research projects, and building the capacity of institutions to respond effectively to trafficking. The IOM also provides direct assistance to victims through its Global Assistance Program, which ensures safe return and offers reintegration support.

The IOM's approach focuses on:

- Prevention: Raising awareness and educating at-risk individuals about trafficking so they can make informed choices.
- Protection: Ensuring trafficked individuals are treated as victims, not criminals or undocumented migrants, and that they receive proper care and legal support⁵³³.

IOM strongly believes that preventing trafficking requires addressing root problems like poverty, limited economic opportunities, gender discrimination, and political instability.

C. Regional Response: SAARC Convention

The SAARC Convention on Preventing and Combating Trafficking in Women and Children draws heavily from earlier global treaties such as:

⁵³⁰ available at: <http://www.unicef.org> (last visited on February 05, 2025)

⁵³¹ Participating countries are Thailand, Vietnam, Myanmar, Cambodia, Laos and China (Yunnan Province).

⁵³² Resolution 52/86 on Crime Presentation and Criminal Justice Measures to Eliminate Violence against Women.

⁵³³ International Services for Human Rights, Women Rights in the UN, Geneva, 1995, p.35.

- The 1949 Convention on trafficking and exploitation,
- CEDAW (1979),
- The ICCPR (1966), and
- The Convention on the Rights of the Child (1989).

Within South Asia, India is both a country of transit and destination. There is also considerable internal trafficking and trafficking to the Gulf States and to Southeast Asia. As in the case of Nepal and Bangladesh, no reliable statistical data are available on the number of women and minors in the various red light areas of Indian cities, much less on the victims of trafficking. According to informal sources, it is estimated that cross-border trafficking represents about 10 per cent of the coerced migrants. It is generally estimated that 2.17 per cent are Bangladeshi and 2.6 per cent are from Nepal. Inter-State trafficking, therefore, could comprise as high as 89 per cent of trafficked victims⁵³⁴. Given this dimension, addressing internal as well as cross-border trafficking issues is essential to any strategic approach at the national level.

Estimates of the number of Nepalese girls and young women lured or abducted to India for sexual exploitation each year range from 5,000 to 10,000. The total number of Nepalese working as prostitutes in India range from 40,000 to 200,000. India also receives women and children from Bangladesh, Bhutan, Sri Lanka and Pakistan and sends them to Europe and Middle East. Therefore, trafficking has assumed a gigantic proportion in India and calls for a comprehensive and concerted effort on behalf of all the South Asian countries to counter the menace.

However, since the UN Trafficking Protocol (2000) was still under discussion during the creation of the SAARC Convention, the latter did not incorporate its more modern and victim-

friendly provisions. As a result, the SAARC Convention reflects outdated international standards that many now consider inadequate for addressing today's complex trafficking issues.

For trafficking to be effectively eliminated, it's essential to protect the human rights of the victims. Trafficking is both a cause and consequence of human rights violations. When governments fail to ensure women's social and economic rights, conditions become ripe for trafficking to flourish. In turn, women caught in trafficking suffer further abuses, such as:

- Denial of freedom and security,
- Debt bondage and forced labour,
- Physical and sexual violence,
- Inhuman and degrading treatment

Therefore, any meaningful anti-trafficking strategy must begin and end with protecting the rights and dignity of the victims. This means putting their needs and safety first, ensuring legal protection, and offering long-term support for rehabilitation and reintegration.

VI. ADDRESSING HUMAN TRAFFICKING THROUGH A HUMAN RIGHTS LENS

Human trafficking, especially involving women and children, is a form of modern slavery and a serious violation of human dignity and rights. Tackling this complex issue demands a comprehensive and collaborative approach, rooted in human rights. While laws and conventions are essential, legal responses alone are insufficient unless they are paired with efforts to address the root causes of trafficking such as poverty, gender inequality, unemployment, and lack of education.

One major challenge in combating trafficking is that most perpetrators are non-state actors, while international human rights law and anti-trafficking treaties often lack consistency, clarity, and effective enforcement mechanisms. For example, the 1949 Convention focused narrowly on prostitution, treating it as immoral, and failed to address trafficking for other forms

⁵³⁴ Asian Development Bank, Draft Report on India for Regional Technical Assistance for Combating Trafficking of Women and Children in South Asia, Manila, March 2002.

of exploitation. It also lacked provisions for monitoring compliance and ignored the broader rights of victims, resulting in limited global adoption.

In contrast, the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, marked progress by establishing a widely accepted definition of trafficking. However, its protective measures remain optional, and it does not provide clear guidelines for identifying victims. This ambiguity can lead to victims being misclassified under other frameworks, such as those for smuggling, which may deny them necessary protections.⁵³⁵

At the regional level, the SAARC Convention has attempted to address trafficking in South Asia, but its limited definition of trafficking focused solely on prostitution excludes other exploitative practices. It also fails to differentiate between adults and children or between consensual and forced movement, potentially restricting women's autonomy and rights⁵³⁶.

Despite these shortcomings, recent developments show a gradual shift toward a human rights-based approach. The international human rights community must take a leading role in ensuring that trafficking is not treated only as a crime or migration issue but recognized as a multidimensional human rights violation. This requires active engagement from governments, NGOs, civil society, international organizations, and survivors themselves.

Ultimately, the State bears the responsibility to uphold and protect the rights of its citizens. This includes:

- Preventing human rights abuses.
- Investigating violations.

⁵³⁵ Jyoti Sanghera, *Trafficking of Women and Children in South Asia: Taking Stock*, a project sponsored by UNICEF and Save the Children Alliance, Delhi, 1999, p7.

⁵³⁶ Position Paper on the Draft SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution submitted by the Special Rapporteur on Violence Against Women, Radhika Coomaraswamy.

- Prosecuting perpetrators.
- Providing justice and reparations to victims.

Human rights standards emphasize the following obligations of States towards trafficked persons:

- Non-Discrimination: Equal treatment in all legal and policy contexts.
- Safety and Protection: Safeguarding victims regardless of immigration status.
- Access to Justice: Ensuring victim protection during legal proceedings.
- Legal Remedies: Enabling victims to seek compensation and support in doing so.
- Resident Status: Granting temporary visas and considering asylum when needed.
- Healthcare and Social Services: Offering necessary support for recovery.
- Safe Return: Facilitating voluntary, safe repatriation and reintegration.
- Recovery Support: Providing medical, psychological, legal, and social aid.
- State Cooperation: Collaborating with other nations to uphold these standards.

VII. CONCLUSION & SUGGESTIONS

Human trafficking is a complex transnational crime and a grave violation of human rights that transcends borders and jurisdictions. The international legal framework, developed through numerous conventions, protocols, and treaties—such as the UN Trafficking Protocol (Palermo Protocol), CEDAW, and ILO Conventions—has played a crucial role in shaping global standards for prevention, protection, and prosecution. These instruments collectively emphasize the need for comprehensive legal, social, and institutional responses, grounded in victim-centric approaches and international cooperation.

Despite these advancements, implementation gaps, resource constraints, lack of victim identification mechanisms, and weak law enforcement continue to hinder progress. Addressing these challenges requires not only legal alignment with international norms but also strong political will, grassroots participation, and regional cooperation.

SUGGESTIONS AND RECOMMENDATIONS

1. Strengthen Domestic Legislation: Countries must harmonize their national laws with international obligations to ensure clarity in definitions, penal provisions, and victim rights. Comprehensive anti-trafficking legislation should be victim-centered and address all forms of trafficking.
2. Enhance International Cooperation: Cross-border collaboration in intelligence sharing, joint investigations, and extradition is essential. Bilateral and multilateral agreements should be actively implemented to dismantle transnational trafficking networks.
3. Focus on Victim Protection and Rehabilitation: Mechanisms for timely victim identification, legal aid, shelter, medical care, and rehabilitation must be institutionalized. Psychological support and social reintegration programs should be prioritized over criminalization or deportation.
4. Training and Capacity Building: Continuous training programs for law enforcement officers, prosecutors, and judiciary should be mandated to sensitize them about victim-friendly procedures and trafficking indicators.
5. Public Awareness and Community Engagement: Preventive strategies should include awareness campaigns targeting vulnerable communities. Civil society and NGOs must be empowered to assist in outreach, victim support, and policy advocacy.

6. Monitoring and Accountability: Establish national and regional monitoring bodies to oversee implementation of anti-trafficking laws. Regular reporting, audits, and data collection should be institutionalized to track trends and effectiveness.
7. Address Root Causes: Poverty, inequality, gender-based violence, lack of education, and migration vulnerabilities must be addressed through inclusive socio-economic development policies to prevent trafficking at its source.

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2. *The International and Comparative Law Quarterly*
3. *Criminology & Criminal Justice*

