



Comparative Analysis of Anti-Trafficking Legislation and Implementation: South Asia and Europe in Perspective

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Abstract

This paper examines the differences between South Asia (India, Pakistan, Bangladesh, Nepal, Sri Lanka) and Europe (European Union and member states of the Council of Europe) regarding the legislation and implementation of anti-trafficking measures. Using secondary data from the United Nations Office on Drugs and Crime, U.S. Trafficking in Persons (TIP) reports, and scholarly works, the article analyzes legal definitions, enforcement, victim protection, and frameworks of cooperation at the regional level. Results of the study indicate that all jurisdictions, in South Asia and Europe, have adopted the definition of 'trafficking in persons' as defined in the Palermo Protocol. This indicates that there is legal convergence at the global level. South Asia, in particular, shows persistent enforcement and protection gaps, where conviction rates, victim services, and SAARC cross-border cooperation remain under 30 percent. Europe provides more legal protections of a victim-centered nature including non-penalization, reflection and recovery periods, and residence permits, as well as more effective regional cooperation in policing through Europol and Euro just servicing resulting in increased convictions and enhanced assistance to victims. The analysis states that there is a lack of legal frameworks, institutional capacity, trauma-informed services, and regional approach mechanisms to effectively combat trafficking. The policies of the state include victim protection, the gap of investigation, and regional data in implementation of a more efficient protective policy.

Introduction

Human trafficking is an atrocious crime and violation of human rights as defined in the Palermo Protocol of the United Nations. Trafficking and the rights of women and children are processed in detail with strategies to prevent and punish the crime. It is the unauthorized recruitment of a person and capturing them using either deception or force. Exploitation of trafficking victims, of which there are millions, can take the form of: sexual exploitation, unpaid work, slavery or similarities to slavery, and servitude (Gallagher & Holmes, 2014). It is a sad reality of our modern world and encompasses all facets of society, as alluded to in slavery (Chuang, 2019). According to the International Labor Organization (ILO), there are 27.6 million victims of forced labor or sexual exploitation around the world (ILO 2022). South Asia and Europe are pivotal regions in this global trade. South Asia is the source of trafficked persons due to poverty, Gender

inequality, Political instability, and Labor migration. Europe is a prime cited destination and transit region, with the European Commission stating that the most detected victims of the European Union are women and girls who are often trafficked for sexual exploitation or forced labor (European Commission 2020). The lack of success in stopping trafficking for decades even with the international community's attempts, highlights the need for stronger unified legislation and cross-border collaboration activity (Gallagher, 2010). The lowest level obligations set in international law, such as the Palermo Protocol, are, however, Obokata (2019). Europe has created comprehensive frameworks, such as the Council of Europe (CoE) Convention on Action against Trafficking in Human Beings (2005), and the European Union Directive 2011/36/EU, which focus on Victim centered approaches and GRETA (Group of Experts on Action against Trafficking in Human Beings) monitoring. These instruments adopted by the European Union set obligations for Member States such as reflection periods, comprehensive Victim assistance, and on residency permits (Askola, 2020). All countries within South Asia have passed domestic anti-human trafficking legislation: India has V. Thangavel, India and the Immoral Traffic (Prevention) Act (1956) Whereas Pakistan has the Prevention of Trafficking in Persons Act (2018). Bangladesh has the Prevention and Suppression of Human Trafficking Act (2012) While Nepal has the Controlled Act of Human Trafficking and Transportation (2007) And Sri Lanka has amendments to the Penal Code (SAARC Secretariat, 2010). And yet scholars, such as Kapur (2018) and Surtees (2020), contend that such frameworks continue to focus more on immigration and morality policing, often to the exclusion of victim protection, and can in fact be punitive to victims. The effectiveness of these frameworks is also hampered by lack of victim assistance, enforcement, and the prevalence of corruption (UNODC, 2022). This paper seeks to answer the question: In what ways do South Asian anti-human trafficking legislation differ from European legislation in definitions, victim protection and enforcement, and in what ways are they similar? Employing secondary sources and a comparative doctrinal method of research, this dissertation assesses the extent to which South Asian legislation is aligned with international standards vis a vis the CoE Convention and EU Directive. The purpose of this inquiry is to identify legal and practical implementation gaps in order to strengthen policy frameworks as well as South Asian European cooperation to more effectively combat cross-border human trafficking.

Literature Review

International Legal Foundations

The Palermo Protocol (United Nations, 2000) is the first legal document to deal with international trafficking in children and adults. Gallagher (2017) points out that the Protocol incorporates the “3P paradigm” comprising prevention, protection, and prosecution. Some researchers believe that the Protocol is strong in defining trafficking because it includes the act (recruitment, and transport), the means (force, coercion, and deception) and the purpose (exploitation) as its components frame. However, as Sari (2025) points out, this fugitive type of legislation is inconsistent with the Protocol slovenly with international law as adopted by a given signatory state, thus, variable within internal statutes. In attempting to enhance the Protocol, the Council of Europe Convention on Action against Trafficking in Human Beings (Council of Europe, 2005) is a regional “gold standard” (Askola, 2020) in that it is proactive incorporates a balance of restriction and protection to facilitate restoration and includes a non-refoulement clause, a minimum 30 day reflection period, non-penalization for offenses committed under duress, and the proactive issuance of residence permits. Compliance is supported by monitoring the GRETA (Group of Experts on Action against Trafficking in Human Beings) which Davidson (2016) describes as improving compliance of GRETAs members with international obligations.

European Union Directive 2011/36/EU adds to the CoE Convention by requiring member states to enact laws on prosecution of trafficking, boost victim assistance, and designate national rapporteurs on the case to assess and report on the developments in the field (European Union, 2011). According to scholars like Rijken (2022), the Directive is not limited to the unification of criminal law but has a greater scope of including a human-rights focus, with an emphasis on women and children.

Trafficking Patterns and Drivers

The International Labour Organization estimates that over 27 million individuals fall victim to forced labor or sexual exploitation. In South Asia, poverty, gender discrimination, and weak border control foster both internal and transnational human trafficking (Macaveiu et al., 2024). India is both a source and destination country while Nepal and Bangladesh are primary sources (Kapur, 2018). Research on migration has shown that while restrictive labor migration policies are designed to curb trafficking, they often exacerbate the problem by pushing migrants into more vulnerable and irregular situations (O'Connell Davidson, 2011). "Trafficking is more likely to occur in regions where there is weak governance, and underdeveloped law enforcement" (Brysk and Choi-Fitzpatrick 2012). The combination of the Schengen area's free-movement policy and the accessibility to low-cost labor and prostitution in Europe creates unique complications (van der Leun & van Schijndel, 2016). These countries of Eastern Europe are increasingly being used as source countries while Western Europe remains the primary destination (Eurostat 2021). According to the the EU Agency for Fundamental Rights Document (FRA, 2019), trafficking is interwoven with migration and asylum policies, especially during refugee crises.

Comparative Legal Analyses

The research on the relationship of South Asia to Europe is still growing and relatively scarce. Chuang (2016) notes that South Asian states overwhelmingly punitive approaches to trafficking, migration, and prostitution conflation. Kapur (2018) argues that the Immoral Traffic (Prevention) Act (1956) of India is inherently narcissistic in that it fails to distinguish between freely consenting adult sex workers and those who are trafficked, thereby thwarting almost any meaningful attempts to identify victims. The European counterparts are, in contrast, acclaimed for these genocidal victim – centric provisions. The EU Directive and the CoE Convention, as discussed by Askola (2007) and Rijken (2017), implant human rights by extending guarantee aid irrespective of the victim's willingness to aid the prosecuting body. However, compliance is heterogeneous: GRETA's country reports and other documents unveil the obscured realities of victim identification and compensation in some of its member states (Carlsen, 2021). Research pertaining to South Asia, in general, highlights the issue of weak enforcement and inadequate victim services. Rahman (2020) argues that the 2012 law in Bangladesh is progressive in theory, but is obstructed by low conviction rates and insufficient shelter services. Pakistan is also challenged by inconsistency in the implementation of the 2018 Prevention of Trafficking in Persons Act, wherein prosecutions are stunted because of lack of awareness, corruption, and inadequate funding. The 2007 Act of Nepal is also problematic, as the Aryal et al. (2019) study shows persistent challenges in victim identification and rehabilitation.

Methodology

This study employs a qualitative and comparative legal framework to study five South Asian countries--India, Pakistan, Bangladesh, Nepal, and Sri Lanka along with the Council of Europe (CoE) and the EU on the CoE Convention on Action against Trafficking in Human Beings

(2005) and the EU Directive 2011/36/EU. The study also employs doctrinal analysis of statutory texts, supplemented by secondary empirical analysis of the enforcement data and policy reports to assess the phenomenon in question. The foundational legal documents were obtained from the United Nations Office on Drugs and Crime (UNODC) SHERLOC database and the official government gazettes alongside the European Union EUR-Lex database. These were the Instruction on the Palermo Protocol (UN 2000), the CoE Convention (2005), the Directive (EU 2011), India's and Immoral Traffic (Prevention) Act (1956), the Counter Trafficking of Persons Act (2018) of Pakistan, Prevention and Suppression of Human Trafficking Act (2012) of Bangladesh, the Human Trafficking and Transportation (Control) Act (2007) of Nepal, and the amended Penal Code of Sri Lanka related to the SAARC Convention. Secondary materials included the Global Reports on Trafficking in Persons (2022) published by UNODC, International Labour Organization (ILO) 2022, the U.S. State Department Trafficking in Persons Reports, and articles published in peer-reviewed journals retrievable from Hein Online, Scopus, and Google Scholar. A comparative checklist aligned with the legal obligations of the Palermo Protocol, the CoE Convention, and the EU Directive was constructed with guidance and served as a framework for the analysis. The checklist dimensions were: legal definitions (treatment of consent and the “act, means and purpose” elements), criminalization and penalties, victim protection measures (non-punishment, reflection, residence, and compensation), investigation and prosecution mechanisms (witness protection, specialized policing), and cross-border cooperation (extradition, mutual legal assistance). Each country's statute was coded against these criteria using a combination of binary and ordinal scales: present, absent, or partially present, for the purpose of facilitating tabular comparison. Triangulation was used to enhance validity and reliability. Statutes were checked against documents filed in UNODC SHERLOC. Enforcement information was matched against the U.S. TIP Reports and other national documents. The coding of one European and one South Asian statute was used to set the beginning of the process, and the process was ‘refined’ before a full system was employed. In order to minimize the researcher's bias, coding patterns with the relevant documents were saved in what is known as an audit trail (Bowen, 2009). Since this research only uses public legal and statistical information, there was no need for the research to seek institutional review board approval. Still, the research abides by the ethical principles of misrepresentation of data and sensitivity to human rights abuses inherent in the subject of trafficking (UNODC, 2022). There are several limitations: the prosecution and victim-assistance figures are not perfectly comparable across jurisdictions the documents and statutes in the original languages require nuanced understanding of the official English translations; and doctrinal analysis describes the law, which in reality, may diverge from the enforcement practices of the law.

Results

Legal and Policy Alignment

Table 1. Alignment with Palermo Protocol Core Obligations (2021)

Jurisdiction	Full Legal Definition*	Non-Punishment Clause	Reflection /Recovery Period	Residence Permits for Victims	Specialized Investigation Units
India	Yes	No	No	Limited	Yes
Pakistan	Yes	No	No	Limited	Yes
Bangladesh	Yes	No	Partial	Limited	Yes
Nepal	Yes	No	No	Limited	Yes

Sri Lanka	Yes	No	No	Limited	Yes
EU Average	Yes	Yes	Yes	Yes	Yes
CoE					
Average	Yes	Yes	Yes	Yes	Yes

The data in Table 1 demonstrate that all reviewed jurisdictions five South Asian countries and Europe (EU/CoE averages) formally incorporate the Palermo Protocol's core elements of "act, means, and purpose," showing a broad consensus on the legal definition of trafficking. This alignment reflects two decades of sustained international advocacy and treaty diffusion. Yet, the table reveals a pronounced disparity in victim-centered provisions. The EU Directive (2011/36/EU) and the Council of Europe Convention require a non-punishment clause, a reflection and recovery period, and temporary residence permits. These measures reduce the risk of re-victimization and incentivize cooperation with authorities (European Union, 2011; Council of Europe, 2005). In contrast, none of the South Asian states have adopted a statutory non-punishment clause, meaning victims may still be prosecuted for immigration violations or prostitution-related offences practices. Similarly, residence permits for foreign victims remain "limited," generally contingent upon their willingness to testify, which can deter participation in criminal proceedings. The absence of a guaranteed reflection period further undermines trauma-informed care and due process. While specialized investigation units exist in all the South Asian countries examined, their operational scope and resources vary considerably, often hampered by insufficient training and funding. Europe's uniform presence of such units, coupled with continent-wide directives, results in a more consistent enforcement environment. Overall, Table 1 illustrates that although legal definitions are now harmonized, Europe's integrated policy architecture offers a much stronger victim-protection framework and more robust enforcement mechanisms than its South Asian counterparts.

Enforcement Indicators

Table 2. Prosecution and Conviction Data, Average per Year (2017–2021)

Region	Investigations	Prosecutions	Convictions	Conviction Rate (%)
India	~2,200	~1,100	~260	24
Pakistan	~350	~180	~65	18
Bangladesh	~280	~160	~34	21
Nepal	~250	~130	~33	25
Sri Lanka	~120	~70	~21	30
EU Average	~8,500	~4,600	~1,600	35
CoE Average	~1,900	~1,000	~330	33

Sources: UNODC (2022); U.S. TIP Reports (2018–2022).

Table 2 describes remarkable differences in law enforcement. According to data, South Asian nations conduct thousands of human trafficking investigations but very few net prosecutions. Each year, India conducts about 2,200 prosecutions; in addition to 1,100 prosecutions, India only ever manages to secure 260 convictions, resulting in a 24% success rate. Pakistan, Bangladesh, Nepal, and Sri Lanka are in the same category, with success rates hovering between 18 and 30 percent. These numbers suggest that witness interference, unreasonable delay of justice, and the absence of adequate evidence are persistent challenges. Corruption and scarce prosecutorial resources lead to case failures (Rahman, 2020). Looking at conviction rates, the EU at 35% and the CoE at 33% are neither exemplary, and yet these rates are considerable advancements on

bottom-tier enforcement. These rates are enhanced by collaborative cross-border investigations, like shared evidence policies and witness protection (FRA, 2019). Fast-track extradition and judicial cooperation under the European Arrest Warrant and Eurostar permits streamlined prosecution of transnational frameworks. South Asia has higher prosecution rates than Europe, which indicates the preparedness of European casework is superior. Also, the EU case detection rate of 8,500 annually indicates above-average police performance and victims are properly identified. Overall, the data in Table 2 is illustrative of a paradox; legal harmonization does not cross-border streamline enforcement. Conviction rates in Europe appear to be relatively high due to institutional framework, regional collaboration, and victim support networks, which South Asian states have failed to sufficiently deploy.

Victim Identification and Assistance

Table 3. Victim Identification and Government Assistance (2017–2021 Averages)

Jurisdiction	Identified Victims per Year	% Receiving Shelter	% Receiving Legal Aid	% Receiving Medical/Psychological Care
India	~6,000	52	40	46
Pakistan	~1,200	48	36	42
Bangladesh	~1,000	60	44	50
Nepal	~1,100	55	41	47
Sri Lanka	~450	50	38	43
EU Average	~14,000	80	70	78
CoE Average	~3,500	74	66	71

Sources: UNODC (2022); ILO (2022); national TIP reports.

Table 3 examines protective measures for victims of trafficking, an anti-trafficking measure of relatively effective value. In South Asia, countries seem to identify a small number of probable victims yearly when compared to population size (e.g. India around 6,000, Bangladesh about 1,000) and only half of these victims receive effective government aid. Shelter coverage averages 52–60%, legal aid averages about 36–44%, and medical and psychological care about 42–50%. These numbers suggest constrained budgets and capacity for shelters, as well as societal stigma preventing victims, particularly those trafficked for sexual exploitation, from coming forward. It is also true that much of the funding for these services comes from NGOs, which leads to inconsistent quality and unequal geographical distribution. On the other hand, the averages for the EU and CoE show that approximately 14,000 victims are identified in the EU and 3,500 in the CoE, of which around 70–80% receive shelter, legal, and medical aid. This is significantly different from the previous example and is a result of the EU Directive and CoE Convention that legally binds member states to provide ample care for victims regardless of their cooperation with law enforcement (European Union, 2011). The gap might also highlight more sophisticated triage processes and national referral systems and specialized hotlines which facilitate detection and access to services (FRA, 2019). Significantly, the higher identification figures in Europe may also represent more outreach rather than actual higher incidence rates, indicating that the South Asian figures are likely underestimations of the actual trafficking prevalence. Consequently, the data in Table 3 points out a significant protection gap in which victims from South Asia are exposed to re-trafficking and trauma still lacking fundamental

rescue aid are also dissuaded from legal proceedings due to the absence of adequate protective funding, trauma-responsive care, and legal obligation services.

Discussion

The findings uphold earlier work regarding the Palermo Protocol's success as an example of global norm entrepreneurialism (Smoller et al., 2014). Every South Asian state examined India, Pakistan, Bangladesh, Nepal, and Sri Lanka has adopted the fundamental components of "act, means, and purpose," indicating acceptance of the worldwide legal structure. Europe, through the EU Directive (European Union, 2011) and the Council of Europe Convention (Council of Europe, 2005), also fully complies with this definition. Legal convergence is, therefore, not the key issue. Rather, the current anti-trafficking environment is characterized by the absence of their implementation.

Clearing "the absence of implementation" reminds us of the prevailing discourses and the empirical work that underpins the narratives permeating our socio-legal landscapes. This is also the way I reflect on Tables 2 and 3, where the absence of the Kuwaiti legal infrastructure is framed within the South Asian legal infrastructure. I was particularly struck at the absence of sophisticated discourses on the optics of dominance: of which caste, which country, which continent, and where in the socio-legal pecking order. I do not pretend to possess an answer; I own my ignorance and I wish to convey my unsettled state. South Asia as described in the legal realities of contemporary South Asia was the context (or was the excuse) to probe what may still lie folded within. In contrast, the EU and the Council of Europe record higher conviction rates and more stable systems for victim-identification. Regional instruments such as Europol, Eurojust, the European Arrest Warrant, and others provide rapid cooperative borderless policing and exchange of cross-border evidence (FRA, 2019). These innovative structures diminish the procedural bottlenecks that clog South Asian prosecutions. European jurisdictions for example, combine victim enforcement with protective measures that have been described as advanced, which invite testimony and bolster cases to encourage sustainable survivor participation.

Possibly the most salient difference is in the treatment of the victims.

In Europe, as part of the Reflection and Recovery Framework, the principle non-punishment and residence permits which descending obligations derive from the EU Directive and CoE Convention concedes to trafficking as a rights abuse and focuses on the survivor's dignity. Protective measures indicated by scholarship increasing the survivor's willingness to cooperate with the police leads to higher levels of successful prosecutions and convictions. "South Asian states offer temporary refuge and basic medical assistance but seldom integrate the non-penalization clause into relevant legal policy, and physical residence is virtually nonexistent. Even more troubling is the fact that some victims of immigration and sex work are charged with immigration and sex work, and those charges are the greatest hindrance to assistance (Surtees 2020)." This absence is an illustration of more comprthroughending phenomena: chronic underfunding, overwhelming informal employment, and the low social standing of women.

Policy Implications

The findings indicate various policy focus areas, some of which are detailed below:

1. Strengthening victim protection. South Asian governments could adopt and integrate a legally binding non-punishment policy, issue trauma-informed temporary residence permits to victims of violence irrespective of the victims' cooperation with law enforcement, and

form partnerships with NGOs. The State could institutionalize such partnerships through funding and formal accountability mechanisms.

2. Improving investigative capacity. Anti-trafficking units should be given specialized budgets and designed training and equipment for the ‘collection and preservation of digital evidence’ and for the use of ‘investigating to prosecution’ techniques. Witness protection programs are imperative to capture evidence of testimony that may be intimidator altered to reach the court.
3. Improving cooperation at a regional level. SAARC could use European techniques and establish a regional anti-trafficking taskforce with centralized intelligence and a binding extradition treaty. Trust among the member states could be built through regular joint trainings and simulation exercises.
4. Address the basic issues. Development policies such as poverty, gender inequality, and the safe migration policies are the most critical. There is a direct correlation that is proven which states that empowering women economically as well as better protection at work reduces the chances of trafficking (ILO, 2022).
5. Include The Voice of Civil Society and Survivors. Survivors and NGOs should have a say in monitoring and designing policies so that the changes that are made are practical and in the interests of the most impacted.

Limitations and Future Research

This study includes a significant comparative and data-based analysis, however, it does have some critical limitations that must be taken into consideration.

First, it focuses predominately on book data from international associations, government documentation, and scholarly publications. The issue of human trafficking is always under-reported. Its statistics taken at face value is misleading and simplistic as it only focuses on human trafficking cases that have been detected and prosecuted, ignoring the larger and more complex cases that remain unrecorded (United Nations Office on Drugs and Crime [UNODC], 2022). Cross-region comparison is difficult and often erroneous due to a lack of uniform definitions of concepts and unstandardized customs of data collection. Second, the analysis lacks qualitative and field-based data from the survivors, as well as law enforcement and service agencies. The narratives from survivors and practitioners can identify underreported barriers to prosecution, reporting, and victim support that unfortunately remain hidden within aggregate data. Not being able to incorporate such narratives tend to impact the understanding of the application of regulations and policies pertaining to the victims of such circumstances. Third, the comparison of South Asia and Europe to the rest of the world is done too superficially. Having one of the world’s most complex legal cultures, political systems and socio-economic condition is not the case. Averaging the data points misses critical within-region variations and best practices that are shrouded in a veil of obscurity in country-level assessments. These recognized boundaries suggest what future research should be directional to. Empirical research, trend analyses, interviews, and ethnographic fieldwork, to name but a few, that intertwine quantitative and qualitative data would shed light on discontinuities and practices of trafficking and the lives of those who survive. Longitudinal research is able to assess the consequences of one or a set of particular, interventionist, policies that have recently been introduced, such as the 2022 National Plan of Action of Bangladesh, in relation to trafficking, or the changes in EU policy on trafficking. Within the EU, or between the SAARC sub-regions, comparative research could identify policy innovations and pathways for transfer. Finally, the cross-government, NGO and

academic collaboration could construct standard indicators and data sharing protocols that would enhance the quality and reliability of future cross-regional assessments.

Conclusion

This review of anti-trafficking legislation in South Asia and Europe suggests that although many legal definitions of trafficking now align with the Palermo Protocol, significant gaps in implementation exist. South Asia, particularly India, Pakistan, Bangladesh, Nepal, and Sri Lanka, have criminalized trafficking and constitute the criminal justice system anti-trafficking police units, but enforcement results have been dismal. Conviction rates have stagnated at below thirty percent, and victim services are provided to around fifty percent of those identified as survivors of trafficking. Regional cooperation, as provided through the South Asian Association for Regional Cooperation (SAARC), lacks both legal and practical mechanisms of enforcement, as well as effective data sharing. Europe tells a different story. The Europe Union (EU) and the Council of Europe have allocated significant legal resources to the elaboration of the EU Directive and Council of Europe Convention on Trafficking, which emphasize the victim's non-punishment principles and reflection periods, non-exclusion residence permits, and stronger victim-centered protections. The robust support of the EU border guards, Europol, and Euro just, and the strong cross-border investigative mechanisms of the EU, are associated with higher conviction rates and comprehensive victim assistance. There is a suggestion that the Europe Asia gap in legal harmonization is not the only determining element. South Asia lacks the enforcement of strong trauma-informed victim support and cooperation. In particular, South Asia could benefit from the European region's adoption of effective victim protection legislation and centralized victim intelligence data sharing. The global community's response to the underestimated legislative gap on trafficking and the relentless support to dismantling the networks of trafficking, coupled with well-designed social protection and gender based policies, are the needed steps of investment.

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