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International Humanitarian Law on Human Trafficking, Authored By:  
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## **I. INTRODUCTION:**

Human trafficking is a huge violation of rights, as people are forced into illegal trade through pressure, coercion, or abuse by others who want to exploit them. Based on Article 3 of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, human trafficking refers to using force, fraud, or deception to recruit, transport, transfer, harbor, or receive people. Often, this kind of work leads to situations where people are forced to labor, are sexually abused, have their organs stolen, and slavery-type circumstances form. Since this crime is global and pleads heavily for human concern, it is an important issue in *International Humanitarian Law (IHL)*.<sup>1</sup> Human trafficking is a common and difficult issue in India. India is involved in trafficking, both by sending, transporting, and receiving people, with women, children, migrant workers, and members of marginalized communities being the most vulnerable. Even though Articles 23 and 24 of the constitution forbid human trafficking and forced labor, and there is legislation such as the Immoral Traffic (Prevention) Act, 1956, and sections in the Indian Penal Code, 1860, to help combat trafficking, enforcement issues, many legal flaws, and poor victim support keep the country from effectively dealing with human trafficking. In addition, much trafficking that takes place in areas facing armed conflict, people being forced to leave their homes, and humanitarian challenges goes unattended. Under such circumstances, traffickers use disorder, poverty, and disrupted social order to increase cases of children being recruited, sexual slavery, and bonded labor. Considering India's leadership, it becomes more urgent to make sure our laws match international humanitarian law. IHL regulates the behavior in fighting and provides essential protection for people not joining the conflict during and after fighting. The Geneva Conventions, the Rome Statute, and several UN Security Council Resolutions have pointed out that trafficking occurring in conflict areas can be a war crime and an obstacle to peace and

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<sup>1</sup> United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the United Nations Convention against Transnational Organized Crime, 2000.



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safety around the globe. The paper aims to analyze the shortcomings of India's existing anti-trafficking laws as they relate to international humanitarian law and suggest amendments that improve global compliance. The report starts by reviewing the legal and institutional aspects of human trafficking in India; reviews international standards and conventions; highlights gaps in India's framework; and finishes by suggesting policy solutions to help address the gaps and make the laws more humanitarian.

## **II. INTERNATIONAL HUMANITARIAN LAW AND HUMAN TRAFFICKING:**

*International Humanitarian Law (IHL)* is known as the law of armed conflict or the law of war and strives to govern how wars are fought and who is protected in them, especially civilians, doctors, and aid workers. IHL's main sources are the four ***Geneva Conventions of 1949***, and the two ***Additional Protocols added in 1977***. They create basic rules that state war should be distinct, proportionate, legally needed, and kind to both people and objects affected. Under the Geneva Conventions and Additional Protocols, such acts as torture, inhumane treatment, and slavery are forbidden, since they are common to human trafficking crimes. IHL does not mention the term "***human trafficking***," but it deals with actions that are part of or help with trafficking. To illustrate, Common Article 3 of the Geneva Conventions bans things such as harming individuals, unreasonable cruelty, and desecrating personal loyalty, all of which can be found in trafficking cases. Besides, ***Article 4(3)(d) of Additional Protocol II*** bans recruiting children under 15, a usual pattern in human trafficking during conflict situations. As defined by the ICC's Rome Statute, trafficking-like exploitation (including enslavement) is treated as a crime against humanity when carried out during armed conflict. Because states are weaker and non-state groups are involved, IHL's anti-trafficking rules are especially essential during crises, relocation within countries, refugee situations, and post-conflict periods. When things are disorganized and there is little supervision, these places can be dangerous for women

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and children. The United Nations Security Council has noticed these dangers and made *UNSC Resolution 2331 (2016)* to condemn human trafficking linked to conflict and call for actions by member countries to prevent and prosecute it.<sup>2</sup> We need to remember the differences between IHL, IHRL and ICL when studying this topic. In peaceful times, IHRL makes sure individuals' fundamental rights are safe from the state, while IHL only comes into play during armed conflict, also managing the conduct of battles. Unlike ICL, ICL focuses on criminally punishing people who commit crimes like genocide, war and political violence such as trafficking. Even though IHRL and ICL provide solutions for abuse beyond trafficking, IHL has a unique role in conflict, adding important protections that should always be integrated into each country's laws.

### **III. HUMAN TRAFFICKING IN INDIA: CURRENT LEGAL FRAMEWORK:**

India has needed to deal with human trafficking for a long time, as it takes the shape of bonded labor, commercial sexual exploitation, forced marriage, organ trading, and child trafficking. While some steps have been taken to handle this crime, a full and fair framework that serves victims' rights has not been developed. This primary legislation is the *Immoral Traffic (Prevention) Act (ITPA), 1956*, which deals with commercial sexual exploitation. Yet, the Act is often criticized because it treats victims harshly and fails to focus on other kinds of trafficking. Its main duty covers activities at brothels, and it does little to help survivors recover or find rehabilitation. Besides, the language and focus of the Act do not match international trends or contemporary views, which recognize many kinds of trafficking.<sup>3</sup> In 2013, Sections *370 and 370A in the IPC, 1860*, were modified to cover more cases of trafficking. The law covers three main activities in trafficking: recruitment, transport, harboring, and transfer or

<sup>2</sup> United Nations Security Council, Resolution 2331, U.N. Doc. S/RES/2331 (2016), adopted on 20 Dec. 2016

<sup>3</sup> Immoral Traffic (Prevention) Act, 1956, No. 104, Acts of Parliament, 1956 (India).

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receiving persons to use them for exploitation. Other crimes in this area are kidnapping (*under Sections 361–369*), slavery (*Section 374*), and forced labor (*under Section 374*). Both the *Juvenile Justice (Care and Protection of Children) Act, 2015*, and the *Bonded Labour System (Abolition) Act, 1976*, are designed to protect children and bonded laborers specifically. *The Trafficking in Persons (Prevention, Care, and Rehabilitation) Bill*, first begun in 2018 and changed several times, is meant to unify existing laws, create support structures for investigations and for victims, and criminalize the greater forms of trafficking. Human rights activists and legal experts have challenged the bill. Issues include too much power in officials, confusion about what trafficking means, weak attempts to help victims, and no legal way for victims to consent to prosecution. At present, the bill has not been formally passed, which has resulted in a major gap in legislative protection. India's Constitution also provides strong foundational protections. Article 23 makes trafficking in human beings and forcing someone to work illegal, and Article 24 stops children from working in dangerous jobs when they are younger than 14. Even though Directive Principles encourage the state to support the welfare of people, these can't be enforced by courts. Despite these legislative efforts, implementation and enforcement challenges persist. Difficulties encountered involve corruption, not properly training the police, not reporting all crimes, limited resources for shelters and rehabilitation, and poor ways that different agencies coordinate their operations. Since identifying and defending victims is rarely done well, many victims have to face the trauma again. Lacking a standard national law that agrees with international standards, especially when there is conflict and crisis, prevents India from dealing with human trafficking in its many forms effectively.<sup>4</sup>

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<sup>4</sup> Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 (India), available at: <https://prsindia.org/billtrack/the-trafficking-of-persons-prevention-protection-and-rehabilitation-bill-2018>



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#### **IV. INDIA'S INTERNATIONAL OBLIGATIONS AND GAPS IN COMPLIANCE:**

India has agreed to many major international laws and agreements that require it to tackle human trafficking and look after at-risk people. One of the main ones is the *United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol)*, which adds to the UN Convention against Transnational Organized Crime. Broader and more exacting measures against human trafficking are missing from India's legal system, even though it adopted the Convention in 2011. The country is included in the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* and the *Convention on the Rights of the Child (CRC)*, both of which require India to make legal, administrative, and social changes to fight trafficking and exploitation. The treaties require that laws and policies focus on addressing the unique problems of children and gender groups during migration, conflict, and displacement. Yet, there are only limited connections between India's laws and *International Humanitarian Law (IHL)* and other human rights laws. Although the *Indian Penal Code (Sections 370 and 370A)* makes trafficking and related acts criminal, it does not cover all types of trafficking, mainly those present in conflict zones, emergencies, and any type of disaster. IHL, for example, the Geneva Conventions and Additional Protocols, ensures that civilians cannot be forced to work and must not face slavery or be unnecessarily enlisted in fighting—still, Indian laws do not refer to these principles, nor do they count trafficking into forced labor as a violation of IHL. At present, there is a lack of legal and policy support for recognizing trafficking as a crisis-related or humanitarian issue in India. No law, for example, specifically forbids or prevents trafficking when society is in conflict, during disasters, or among internally displaced groups. Conflict in Jammu & Kashmir, parts of the Northeast, and areas dealing with left-wing extremism creates a high risk of human trafficking, too. Also, India's anti-trafficking efforts are mostly carried out reactively, with no early signs, local observation schemes, or

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arrangements for victims to get help when crises happen. The development of anti-trafficking laws in India depends greatly on what courts have interpreted regarding constitutional rights. The Supreme Court in *Vishal Jeet vs. Union of India (1990)* and *Bachpan Bachao Andolan vs. Union of India (2011)* emphasized that the state should help and restore trafficking victims. Yet, there is still a gap in the study of international law related to trafficking in conflict or humanitarian situations. The International Criminal Court and European Court of Human Rights, such as in the case of *Kunarac et al. (ICTY, 2001)*, have made clear that acts of sexual slavery and coerced labor in war can count as war crimes or crimes against humanity. Even though this view has been accepted abroad, India has yet to do the same.

## **V. HUMAN TRAFFICKING IN CONFLICT ZONES AND VULNERABLE REGIONS IN INDIA:**

Most human trafficking in India takes place in regions facing armed conflict, political difficulties, or social disturbances. As a result, the law is not always followed, few people oversee these crimes, and weak communities become more susceptible to trafficking. A combination of conflict, poverty, displacement, and marginalization usually leads to an increased risk of exploitation affecting women and children. Northeast India has been dealing with army-like groups, numerous ethnic uprisings, and constant human rights issues for years. Because of a lack of economic progress, tense security, and ethnic disagreements, human trafficking has increased in this region.<sup>5</sup> Some use promises of jobs or education to get young girls to travel to other nations, where they are sold for domestic work or sexual reasons. Cases have been known of children being forced into armed groups or women being sexually abused, going against what IHL calls war crimes, and rarely being charged as such in India. Central and Eastern India, including states such as Chhattisgarh, Jharkhand, Odisha, and West Bengal,

<sup>5</sup> International Committee of the Red Cross, *Guidelines on the Protection of the Civilian Population in Armed Conflict* (ICRC, Geneva, 2014)

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see a lot of problems due to left-wing extremism (Naxalism). Because of armed violence, poverty, and separation from their communities, these places are favorable for trafficking. Groups armed with weapons often make children join them in battle and use women for different purposes. The wars affect areas so much that even foreign traffickers can easily lure children and teenagers into labor and sexual exploitation, often lying about their destination and transporting them to crowded cities.<sup>6</sup> Many women, children, and those who are internally displaced experience the worst of human trafficking in such regions. Disasters caused by violence or by military actions can push families to live in unprotected settlements where they struggle to find work. Displaced children are more likely to experience abduction, forced labor, or exploitation in begging or homes. Women and adolescent girls have a higher risk of being trafficked, sold in brothels, and coerced into marriage. In instances of conflict, warring groups raise serious questions about trafficking. Groups operating outside the law, army units at a local level, and even fake vigilante organizations may take part in or help with trafficking for either gain or confidential goals. In some circumstances, the issue becomes worse because the state ignores or complicates things. It has been claimed that security forces sometimes fail to act against traffickers to support their other security or political goals. With little evidence being kept, few reports filed, and few rules in place, such violations are not challenged.

## **VI. COMPARATIVE ANALYSIS AND BEST PRACTICES:**

From a comparison of regulations across different countries, effective methods emerge for connecting national laws against human trafficking with international humanitarian principles and the best ways to deal with human trafficking in crisis or conflict situations. The Philippines, the UK, and South Africa have accomplished much in e-governance, setting useful examples

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<sup>6</sup> The Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2021 (India), <https://prsindia.org/billtrack/the-trafficking-in-persons-prevention-care-and-rehabilitation-bill-2021> (last accessed 25 May 2025).

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for India. Because of the Philippines' Comprehensive Anti-Trafficking in Persons Act of 2003, which was amended to protect victims and clarify what trafficking means, the country is now considered a regional leader in fighting this crime. Trafficking in people, regardless of whether it occurs in disaster or conflict situations, is criminalized. After the typhoon, the government and NGOs made sure to help keep displaced populations safe from being trafficked, illustrating that working together in a crisis is essential to prevent trafficking. IACAT takes the lead in guiding the activities of various groups working to combat human trafficking, something India could learn from. Another good law is the United Kingdom's Modern Slavery Act, 2015, which helps prevent modern slavery by making it a crime and requiring both public and private groups to take steps to identify and correct exploitation. It passed into law rules including Slavery and Trafficking Risk Orders and also created an Independent Anti-Slavery Commissioner. Also, the UK government cooperates with international organizations to find out where trafficking is a risk in war-torn and refugee environments, specifically for asylum seekers, child refugees, and victims of war crimes. Its strategy of working together for law enforcement, caring for victims, and ensuring business responsibility is fair and effective. In South Africa, both law enforcement and victim assistance are covered by the Prevention and Combating of Trafficking in Persons Act, 2013. The framework acknowledges that internally displaced people and those in emergencies may be extremely vulnerable. Efforts against human trafficking as a part of emergency planning go on together with measures to prevent disasters. The laws in these countries are designed to recognize exploitation related to trafficking taking place during armed conflict. Colombia, dealing with long-term internal wars, has announced laws and set rules finding both the use of forced recruitment and sexual slavery as illegal actions by IHL. The nation also has clear approaches for investigating these acts and support for any victims. The role of international monitoring bodies is also critical. ICRC staff spot and report cases of trafficking against the rules of International Humanitarian Law (IHL), mainly focusing on sexual violence and forced recruitment. Technical support to states on Palermo Protocol-



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consistent laws and worldwide trends in human trafficking is what the UNODC provides. Just like that, the UN Special Rapporteur and the Global Protection Cluster support the integration of anti-trafficking approaches into humanitarian actions.<sup>7</sup> They point out that to be successful, anti-trafficking work should rely on involvement from many areas, clear laws, and approaches suited to situations. India can use these suggestions to create a powerful legal system that respects its international responsibilities and deals effectively with problems in its own areas hit by conflicts and disasters.

## **VII. RECOMMENDATIONS FOR LEGISLATIVE AND POLICY**

### **REFORM:**

For efforts to counter human trafficking in India during times of war and humanitarian issues to work, serious changes in laws and policies are needed. Any progress in these areas should happen by considering human rights and international humanitarian law and by considering all aspects of prevention, protection, prosecuting offenders, and teamwork. Below are key recommendations:

### **VII.I COMPREHENSIVE ANTI-TRAFFICKING LEGISLATION**

#### **WITH IHL SENSITIVITY:**

India needs comprehensive anti-trafficking legislation urgently, as integrated, cohesive, and responsive to International Humanitarian Law. However, any such law must assert human trafficking as a distinct problem in law, requiring that it builds upon current legal instruments and expressly recognizes the unique nature of human trafficking in the context of armed conflict, natural disaster, and forced displacement. It should accept internationally recognized definitions of forced recruitment and of trafficking as enshrined in the Palermo Protocol and

<sup>7</sup> United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons 2022* (United Nations, New York, 2022)



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IHL frameworks and sexual slavery. This legislation must also criminalize human trafficking committed by armed groups and state actors, complicity, and hold accountable members of these groups during times of crisis.

## **VII.II ALIGNING INDIAN LAWS WITH IHL AND INTERNATIONAL STANDARDS:**

As India fulfills its global commitments, its domestic laws have to be brought in consonance with international conventions like the Geneva Conventions, the Palermo Protocol, the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC). This means rewriting provisions on trafficking in the business of war and humanitarian emergencies in key national statutes, including the Immoral Traffic (Prevention) Act, the Indian Penal Code (IPC) and the Juvenile Justice Act. Trafficking shall only be defined as a war crime or crime against humanity in national laws if reference is made to IHL. Moreover, victim protection should become part of a broader emergency response scheme which should be conflict sensitive.

## **VII.III ENHANCED PROTECTION, REHABILITATION, AND PROSECUTION MECHANISMS:**

More than anywhere else, victims in conflict or disaster zones need a trauma-informed approach to their support. At the national and regional levels, India should create specialized anti trafficking task forces with dedicated IHL training for high-risk operating groups. Expanded shelters, legal aid, comprehensive healthcare and long-term rehabilitation programs must be made accessible to victims. To quickly deal with trafficking cases and especially those related to organized criminal syndicates on a fast-track basis, fast-track courts should be instituted. These also must be paired with robust witness protection programs to prevent re-victimization and retaliation.

## **VII.IV STRENGTHENING INSTITUTIONAL COORDINATION**

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## **AND ACCOUNTABILITY:**

Effective anti-trafficking efforts require seamless institutional coordination. We must very seriously consider the possibility of establishing a National Agency Against Trafficking as a national entity with the power to coordinate with the armed forces, the disaster management and child protection departments. At the district level, particularly in conflict-prone or displacement-prone regions, the roles of the task forces should be clearly defined and emergency protocols should be drawn up. Institutional accountability is maintained through regular audits, measurable impact assessments and transparent public reporting evaluated against the effectiveness of the anti-trafficking strategy.

## **VII.V EMPOWERING CIVIL SOCIETY AND ENHANCING INTERNATIONAL COOPERATION:**

Identifying victims, spreading awareness and facilitating rehabilitation are all helped by civil society, especially survivor-led organizations. The government should actively support and finance such NGOs. India should also take international cooperation seriously and set up cross-border information sharing through neighboring countries to the *United Nations Office on Drugs and Crime (UNODC)* and the *International Committee of the Red Cross (ICRC)*. Indian armed forces can synergistically make a tremendous contribution to tackling trafficking by being part of joint training and operations along with regional partners like Nepal, Bangladesh and Myanmar, whose security challenges are at best similar and at worst contribute to the multiplication of the risk to trafficking.<sup>8</sup>

## **VIII. CONCLUSION:**

In conflict and humanitarian situations in India, human trafficking still receives little attention and is a major issue. This paper looks at where the Indian domestic law is deficient due to its

<sup>8</sup> Prevention and Combating of Trafficking in Persons Act, 2013 (South Africa), <https://www.justice.gov.za/legislation/acts/2013-007.pdf> (last accessed 25 May 2025).

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obligations under IHL and human rights law. Even though India has introduced many national laws and joined important worldwide treaties, its legal and policy actions often fail to consider the special difficulties faced by those forced from their homes and by vulnerable sections of society. Putting rights and humanitarian values first is necessary to keep women, children, and displaced people who are trafficked safe, empowered, and just. Employing IHL rules would help India realize that trafficking involves important human rights issues, not only criminal or other concerns. The urgency for legal reform is clear. It is important for India to pass a full anti-trafficking law that matches IHL, aids in preventing trafficking, supports victims, guarantees accountability, and encourages international cooperation. For India to both obey its international duties and protect its most oppressed citizens during tough times, there must be collective work by lawmakers, institutions, and civil groups.<sup>9</sup>

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