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Combating Transnational Crime: The Role of Learning and Norm Diffusion in the Current Rule of Law Wave

Paulette Lloyd, Beth Simmons, and Brandon Stewart

A 1. Introduction

One of the defining aspects of the end of the 20th century was the turn to market liberalization and political democracy as twin organizing principles for human societies in many parts of the world (Dobbin, Garrett, and Simmons 2008). Practically every region of the world has participated to some degree in these twin liberalizations, although there are still stark differences among countries in the extent and enthusiasm of their participation. Some of the primary explanations for the globalization of liberalization have been new and intensified forms of economic competition on the one hand, and the spread of normative commitments to human rights and democratic participatory forms of governance on the other. Spurred by the foreign policies of major powers, the programs of major financial institutions, and a proliferating set of civil society actors, the second half of the 20th century might aptly be termed “an era of liberalization.”

What, however, have these twin liberalizations meant for the broadening and deepening of the rule of law within and across countries? On the one hand, liberalization seems to assume the strengthening of domestic rule of law institutions, such as transparent decision making, independent judiciaries,

professionalized law enforcement, and competent regulatory bureaucracies.¹ On the other hand, abrupt marketization and economic liberalization have also created opportunities for the transnationalization of crime. As transaction costs have fallen, there are ever-greater opportunities for illicit traders to operate in an unrestricted fashion across borders. Transnational crime in turn creates growing challenges for national authorities at all levels, from foreign policy and security establishments, to law enforcement authorities, to border control officials, to local courts. In some ways, transnational crime has become a threat to “good governance” and even state sovereignty globally.

This chapter focuses on the global diffusion of norms and policies to address transnational crime, with a focus on human trafficking. Global anti-crime efforts are a transnational extension of efforts to establish the rule of law at the national level.² We argue that (1) countries that evidence a commitment to the rule of law domestically have led the international campaign and set the example for how to counter transnational human trafficking; (2) the wave of activity has been fuelled by largely nonmaterial pressure from powerful and highly committed states, especially the United States of America; and (3) countries that experience the negative externalities from trafficking are most likely to adopt legal measures to counter it. We will show that concern for the domestic rule of law, hegemonic pressures, and negative externalities all play a central role in the recent transnational rule of law wave against crime and human trafficking in particular.

The argument presented here may very well generalize to all kinds of transnational criminal activities, but our focus here is on human trafficking. This choice reflects a pragmatic way to limit the inquiry while concentrating on one of

the fastest growing transnational crime sectors. Trafficking in human beings has certainly become easier as transactions costs associated with travel, communication, and trade have fallen (Das and Ebbe 2008; Kapur and McHale 2005; Kara 2009; Kelly and Turner 2009; Maltzahn 2008; Von Struensee 2000). Human trafficking is also connected to other transnational crimes and crime networks involving narcotics, small arms, and other contraband (Thachuk 2007) and to many other related crimes, including identity fraud, threats, abuse, bribery, and money laundering (Curley and Wong 2008). By supplementing a largely qualitative, ethnographic literature, our focus on human trafficking will allow for reflection on how norms against the buying and selling of human services into nearly slave-like conditions diffuse internationally and are connected to global currents in the rule of law more generally.

[A] 2. Background: Transnational Crime in Context

One of the most difficult problems associated with studying transnational crime is that no one has a good handle on the dimensions or the geography of the problem worldwide. Hard data are notoriously difficult to come by because many of these crimes are not detected, reported, or prosecuted. Havocscope.com, an independent online database that aims to quantify black market activities, estimates world illicit trade to be almost \$730 billion per year, with counterfeiting and piracy to be between \$300 billion and \$1 trillion; the global drug trade about \$321 billion; trade in environmental goods, \$69 billion; human trafficking, \$44 billion; and illicit weapons trade, \$10 billion.³ It is easy, however, to document the waxing and waning of global *attention* to various transnational crime issues. Figure 12 illustrates the waves of attention, as measured by the number of United Nations

(UN) resolutions on transnational crime adopted each year over the course of the past several decades. Human trafficking was one of the earliest crime sectors to get any attention at the UN. Drug trafficking was the primary agenda item in the 1980s, whereas resolutions on terrorism received a big boost in the time period after 9/11. Resolutions addressing corruption, weapons smuggling, and transnationally organized crime in general round out the crime focus of the past two decades. Collectively, it is fair to say, there has been a significant upsurge in international interest in *transnational* rule of law problems worldwide.

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Human trafficking in particular has recently become much more prominent in the academic and popular press. [Figure 13](#) demonstrates that there has been a recent upsurge in studies of human trafficking, although the total numbers are small and appear to be in decline. [Figure 14](#) illustrates the number of hits per year for searches on “human trafficking” and “sex trafficking” with the use of the LexisNexis database of international English-language newspapers. At a minimum, we can assert with reasonable confidence that awareness of the problem associated with human trafficking has likely increased over the past decade.

The problem of *addressing* the transnational crime remains a serious one, however. For one thing, transnational crime statistics are largely guess-work when it comes to human trafficking. A recent report by the United States

Government Accountability Office (U.S. GAO) stresses the utter uncertainty about the scope of the problem worldwide, largely as a result of different ways of measuring and reporting the crime, the unavailability and incomparability of trafficking numbers across countries, and the huge gap between observed (or reported) cases and estimates.⁴ The difficulty of formulating a coherent policy response is compounded by hard-to-change structural and cultural conditions in which human trafficking has flourished. Economic desperation, demeaning cultural attitudes toward women (Cummings and Parrot 2008; Dewey 2008; William 2008), and diaspora networks have been cited as conditions facilitating human trafficking (Kelly and Turner 2009). Normative denunciation is not a given; some studies emphasize that various forms of bonded labor are in some societies widely accepted (Dewey 2008; William 2008). Corruption adds to the problem when local officials accept bribes to turn a blind eye (Abadeer 2008; Dewey 2008). Cooperation among nations and national law enforcement agencies is further complicated by different incompatible legal systems, inconsistent definitions of what constitutes a crime, and varying interests in and capacities to enforce whatever patchwork of law may exist in this area (Jonsson 2009; Maltzahn 2008; Ross 2004).

A 3. International Criminal Law Cooperation

The history of international efforts to address human trafficking spans more than a century (see Locher 2007). Nineteenth-century campaigns focused on what was generally referred to at the time as the “white slave trade,” by which was meant the international trade in women and girls, especially for prostitution. By 1902, 13 European countries had negotiated and ratified an International Agreement for the

Suppression of White Slave Trade.⁵ In 1921 the League of Nations sponsored a conference on trafficking, which led later that year to the 1921 Convention for the Suppression of the Traffic in Women and Children.⁶ World war brought these efforts to a standstill, and it was not until 1949 that the UN General Assembly (UNGA) passed a resolution that formed the basis of the 1950 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.⁷ This treaty was the first to call for the criminalization of the act of exploiting others for prostitution, but it did not extend to trafficking in human beings for other purposes. In a series of debates and resolutions over the course of the 1990s, the international community tried to address this shortcoming. This effort culminated in an international framework for law enforcement and judicial and technical cooperation embodied in the 2000 UN Convention against Transnational Organized Crime (UNTOC) and the Protocols on Trafficking in Persons and Smuggling of Migrants.⁸ Ratification of the UNTOC obligates states parties for the first time to criminalize a range of transnational activities, including participation in a transnational organized crime group (Article 5), money laundering (Article 6), and various forms of corruption (Article 8). The protocol addresses human trafficking specifically, defining it in Article 3a as relating to exploitation, and not limiting it to prostitution.⁹ The protocol also calls on state parties to criminalize trafficking in persons in Article 5.

This chapter asks, most broadly, *how was this possible?* How did the international community reach normative agreement on the criminalization of human trafficking? What explains states' willingness to become formal parties to these agreements, and (moreover) to change their own national penal codes to

conform to this now predominant international standard, which puts criminalization and international cooperation at the center of the effort? The answers to these questions are not at all obvious. Although human trafficking may seem to some to be an egregious evil, attitudes vary among and within states about how to respond. Leaders in countries that are primarily sources of trafficked persons may have concerns that leaders in destination countries want to control immigration generally. There may even be fiscal concerns relating to this issue. Governments such as Moldova's encourage migration to secure remittance-based tax revenues, whereas countries such as Indonesia and the Philippines have explicit policies of increasing human "exports" to support their balance of payments and inward remittance flows. Because it is difficult at times to distinguish voluntary smuggling from involuntary and exploitative trafficking (Zhang 2007), some developing countries worry that the effort to criminalize the latter reflects a broader motive to control migration more generally. Kara's research in South Asia, for example, revealed attitudes among the Nepalese that anti-trafficking awareness campaigns were "nothing more than anti-immigration propaganda" (Kara 2009).

How to handle human trafficking is not exclusively a North–South issue; it is potentially a divisive cultural and ideological issue as well. There are divides, on the one hand, between religiously conservative groups and nations who think that a ban on trafficking should focus on the sexual exploitation of women and children (the approach of the 1949 Treaty, subsequently discussed); and, on the other hand, between feminists who may either join with conservatives in viewing prostitution as inherently exploitative or embrace a more liberal approach that

views it as “sex work” (Scarpa 2008). The latter emphasize the exploitative nature of human trafficking for *all* kinds of labor and denounce the emphasis on female sexual exploitation as a patronizing limitation on women’s autonomy of movement and career choice (Doezema and Kempadoo 1998). Ostensibly liberal countries make different choices about prostitution: The Netherlands has legalized it whereas Sweden has criminalized it (Di Nicola 2009). Even if countries can agree that particular kinds of trafficking constitute egregious exploitation and should be criminalized, it is harder to get agreement on the boundaries of the exploitative activities in question.

Finally, there is the question as to whether criminalization is the right approach to human trafficking at all. Nongovernmental organizations (NGOs) and human rights activists hardly speak with a single voice on this question. On the one hand, some use the framework of cost–benefit analysis and argue that by raising the price of “doing business” the criminalization and enforcement of the law – with financial penalties sufficient to cut significantly into profits – is the best way to reduce the problem of human trafficking (Kara 2009). On the other hand, a plethora of analyses emphasize the structural nature of the trafficking problem and warn against too much emphasis on a law enforcement approach (Cameron and Newman 2008).

These points are important, because they highlight the range of disagreements among governments and NGOs who profess to oppose human trafficking. Nevertheless, most of the key international resolutions addressing human trafficking were passed not by transparent voting, but by “consensus.” If we look carefully, however, it is possible to understand the interests and actors

that were at the forefront of the most recent efforts to criminalize human trafficking, at least as these have played out in the UN.

[A] 4. The Globalization of Anti-Trafficking Rule of Law

[B] 4.1 Initiators: Norm Origination

In a deep sense, the roots of today's global anti-trafficking efforts were laid by Europeans. The first-ever international agreement in 1902 was among 13 European states, and the diplomats of Europe continued to dominate official discussion of the issue during the interwar years. However, geographical participation expanded considerably in the postwar UN. This is in part, of course, a natural reflection of the rise of newly independent states after decolonization, but it is also consistent with a concern that human trafficking posed a real problem to the sovereignty, security, and development objectives of nations of the global South.

The end of the Cold War presented a new opportunity to address human trafficking in the context of the UN. Meanwhile, the breakup of the Soviet Union and the new freedom to cross borders as well as the economic turmoil it unleashed made the problem of trafficking more urgent over more of the globe than ever before. In 1994, the UNGA approved the Naples Political Declaration and Global Action Plan Against Organized Transnational Crime, which had been introduced by a diverse coalition of countries including Costa Rica, the Dominican Republic, Guinea-Bissau, Myanmar, Panama, the Philippines, and the Russian Federation.¹⁰ Two years later, representatives from the Polish Government submitted the first draft of the UNCTOC to the General Assembly.

We want to stress that the mechanisms for shaping this resolution into a treaty were quite inclusive. The UNGA created an Ad Hoc Committee on the Elaboration of the Convention against Transnational Organized Crime, which was open to all countries, to develop a comprehensive convention against organized crime. This committee operated out of Vienna from the UN Office on Drugs and Crime.¹¹ Eleven sessions over a two-year period were dedicated to incorporating the international community in the effort to reach consensus on how to confront transnational crime. Representatives from a wide range of countries representing all regional groups, plus representatives from UN organizations, representatives of the Missions of Permanent Observers, IGOs, NGOs, and institutes of the UN Crime Prevention and Criminal Justice Program network participated in these sessions. The Ad Hoc Committee elected the Italian representative, who served in his personal expert capacity, as Chair.¹² The convention addressed a range of transnational crimes including corruption, organized crime, terrorism, and money laundering. Separate protocols were created to address trafficking in persons, smuggling of migrants, and weapons trafficking. It was clearly a significant effort to include a wide swath of the global community in the creation of policy solutions to address common problems.

As already noted, it was the United States, Italy, Austria, and to a certain extent Argentina who took the lead on efforts to create the Human Trafficking protocol to the UNCTOC. By the end of 1998, American officials had led the completion of a first draft of the protocol, and representatives of the major industrialized countries signed a resolution in Vienna in 1998 committing themselves to work collaboratively on the trafficking protocol. In March of 1999,

this proposal was introduced at one of the first sessions of the broadly inclusive Ad Hoc Committee, and it formed the basis for the proposal that would be introduced at the UN Third Committee in 2000. The draft protocol was proposed to the Third Committee by a coalition of states, including 22 from Western Europe, 7 from Eastern Europe and the Former Soviet Union, 11 from the Americas, 9 from Asia, 7 from Africa, and 1 from the Middle East. Reflecting their respective priorities, drafts left the Argentines' hands with references to women and children; American pens tended to broaden coverage to "persons." According to one account, "Because it combined the initial work of Argentina and the U.S., the proposal alternately defined victims as 'persons' or 'women and children'" (DeStefano 2007).

A series of controversies marked the early discussion of the protocol. One emerged between destination countries and those with significant amounts of legal outmigration. The latter were concerned largely about provisions that persons found to be trafficked would be returned to their country of origin. Sending countries such as Pakistan, China, and India did not want this to be part of the formal agreement. (These states as well as Japan, Egypt, Thailand, and Ukraine abstained from signing the protocol, very possibly over this issue.) Another controversy emerged among the destination countries at the forefront of the drafting process. Conservative constituencies influenced the United States to take a harder line against prostitution than did several other leading industrialized countries, which "raised the hackles of a number of western countries, including Canada and the Netherlands" (DeStefano 2007).

However, before concluding that a handful of wealthy industrialized countries were the sole supporters of resolutions and treaties to control human trafficking, we find it instructive to examine exactly what took place over the course of the past decade and a half at the UN. Human Trafficking resolutions were introduced, debated, and revised in the Third Committee (the Social, Humanitarian, and Cultural Committee). Between 1994 and 2008, at least ten resolutions were introduced relating to human trafficking (including the series of resolutions in 2000 referred to earlier that became the Human Trafficking Protocol). In this forum, developing countries took an especially active role, both as the initial sponsors of resolutions as well as the relatively small cluster of countries to subsequently join in sponsoring resolutions well before consensus was reached on its passage (as already mentioned, no formal votes were taken). Table 10 lists the most active participants on the record in the UN Third Committee, from 1995 onward with respect to the major human trafficking resolutions. This is hardly a list dominated by the wealthy first world. Costa Rica, Panama, and the Philippines initiated more resolutions on human trafficking than any other country in this forum. African nations played a clear supporting role as “joiners,” eventually sponsoring resolutions introduced by others. Seven out of 13 of the top joiners over the past decade and a half were from Africa.

Insert Table 10 about here

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What the most active participants have in common is not so much their developmental status or their culture but rather how they experience the externalities associated with human trafficking. By gathering data on whether a

country is a country of origin, a destination, a transit country, or one with a significant internal trafficking problem (these are not mutually exclusive categories; countries can be in more than one or even all four, as in the case of India), we find that destination countries (the second blue bar in [Figure 15](#)) introduced and joined significantly more anti-trafficking resolutions in the Third Committee than did countries that are not major trafficking destinations (the second red bar in [Figure 15](#)). On average, destination countries introduced or joined almost three resolutions between 1994 and 2008, whereas nondestination countries sponsored slightly over two. The difference in means is statistically different from zero at the 90 percent level. The same is true for countries with significant internal trafficking problems: They were far more active in advancing the anti-trafficking agenda than were countries that have no such problems. In contrast, the difference in anti-trafficking activity in the Third Committee did not differ much based on whether a country was a country of origin or a transit country.

Insert Table 11 about here

These patterns persist if we look at the evidence in a different way. [Table 11](#) looks at the factors that influence the likelihood that a country will initiate or join one of the major anti-trafficking resolutions in the UN Third Committee in any year in which one of those resolutions was introduced at all. (That is, we have eliminated the large numbers of years in which no resolutions were introduced for purposes of this analysis.) There is a strong and consistent correlation with having experienced the externalities associated with human trafficking and sponsoring leadership in the Third Committee. The most striking result is that countries that

have internal trafficking problems are among the most likely to introduce or join a major anti-trafficking resolution in this forum. This is true even when we control for the developmental or income level (which never seems to have a systematic impact on anti-trafficking norm development) and when we control for child labor (which probably does impact such activity, negatively). The results also suggest that countries reputed to have the strongest commitment to the rule of law domestically are leaders in developing anti-trafficking norms in the UN.

Moreover, the table suggests that normative convergence increases over time: The positive and highly significant coefficient on the year variable indicates that more and more countries chose to co-initiate and join these resolutions over time.

Overall, [Table 11](#) provides an interesting picture of who most actively supported anti-trafficking norm development: It appears to have been spearheaded by the countries most affected, and those with the strongest (reputed) commitment to furthering the rule of law.

B 4.2 Norm Diffusion

Although leadership in UN forums indicates a strong interest in a particular set of norms, it does not create legal obligations to implement or to adhere to them.

Indeed, norm development, though crucial, is only a first step in the globalization of the rule of law. We have discovered that governments of societies impacted by transnational crime were active in formulating anti-trafficking norms, but how do we explain the *diffusion of these norms in a legally binding form*? In this section we develop two possible mechanisms of normative diffusion: diffusion that results from experience with the externalities (and anticipated externalities)

associated with the cross-border movement of coerced human labor, and diffusion via hegemonic pressure.¹³

4.2.1 Negative Externalities

To appreciate the role that externalities potentially play in the global diffusion of law aimed to combat human trafficking, one must appreciate the potential threat posed by these practices to the health of societies in which trafficking flourishes, and to the authority of the state itself, especially to those states that have struggled to develop and maintain institutions of fair, transparent, and legitimate governance. The challenge to state authority starts at the national borders:

Trafficking potentially corrupts immigration and border control officials. Kara estimates that trafficking was so heavy and bribery so common at the border between Nepal and India that it drove the illicit price of entry to a mere 2–5 percent of the final price of the trafficked individual (Kara 2009). Trafficking not only corrupts officials of the state, it also means a loss of sovereign control over the territory of the state itself.

Governments also have to worry about the negative externalities associated with criminal economies of scale. Even if a government has no particular sympathy with modern-day slaves, traffickers are increasingly linked to broader criminal networks that operate by using similar transit routes and networks. Traffickers in human beings often use the same connections as do smugglers of weapons, drugs, and other contraband. There is also the potential for organized crime and terrorist organizations to join forces, a potential that is increasingly being realized in various parts of the world (Jonsson 2009). Evidence

suggests that terrorist organizations from the FARC guerrillas in Colombia to the Wa State army in Burma, and from the PKK in Turkey to the ETA in Spain, have used narcotics smuggling as a source of income (Cornell 2009); human trafficking, using the same channels, is potentially an additional income stream.

Finally, human trafficking can result in a whole range of consequences that could be socially or politically destabilizing. Among these are the spread of violence, communicable diseases, and severe psychological and physical damage to victims. Where human exports consist mainly of large numbers of young women, it can contribute to processes of demographic decline already underway, as in the case of Russia, Ukraine, and Moldova (Shelley 2009). Because trafficking numbers are unavailable, it is impossible to quantify these impacts with any precision. But the point is this: Human trafficking is a violent and socially corrosive activity, typically connected with broader networks and almost inevitably conducive to corruption of public officials. Although it may line the pockets of perpetrators and some officials, it is generally detrimental to public health, political stability, and the domestic rule of law in both sending and receiving countries (Jonsson 2009). For these reasons, “It would seem to be in the interest of most states to cooperate with other states in the fight against trafficking. The only exception would be if the state itself somehow makes a profit on the trafficking in persons directly or indirectly[,] which may very well be the case” (Österdahl 2009).

New information is often critical to the policy choices states make and, as we have illustrated in Figures 13 and 14, there has been a huge increase in information relating to the human trafficking problem over the past decade.¹⁴

Indeed, it is possible that policy makers are becoming more aware of trafficking and its consequences in their own jurisdictions than they were only a few years ago. As information increases about the range and nature of the problem, we might expect governments self-interestedly to embrace anti-trafficking norms. In addition, governments are increasingly likely to anticipate the consequences of policies designed to clamp down on human trafficking elsewhere. The flexible and ad hoc nature of trafficking networks means that criminalization and law enforcement decisions in Country A can block and rechannel criminal activities in ways that negatively impact nearby countries. Patrick Keenan (2006) gives the example of how the more vigorous prosecution of sex trafficking in the United States has likely led to an increase in sex tourism to other jurisdictions. Similarly, when the United States cracked down on Puerto Rico's participation in drug transit between South America and the United States, drug traffickers descended on Haiti (Gros 2003). Governments sensitive to negative externalities are likely to anticipate the consequences if other countries in their neighborhood criminalize human trafficking, and they do not. Anticipation of spillover effects could cause governments to update their expectations about the relative costs and benefits of criminalizing trafficking and enforcing the law within their own jurisdiction. The very fluidity of transnational crime provides strategic incentives to harmonize policies with neighbors to avoid becoming the weak link in the law enforcement chain.

If the current wave of transnational criminal law can be explained at least in part by a growing appreciation of the negative externalities associated with human trafficking, several patterns should be observable in state behavior. First,

we would expect states that experience the trafficking problem to be among the first to accept stronger anti-trafficking norms embodied in legally binding treaties and domestic criminal law reform. Countries of origin, those plagued by internal trafficking, and destination countries should all be far more eager to criminalize and commit to international agreements than their relatively unaffected counterparts. Second, the externality argument can be tested by looking at the response of so-called Country A to the policies of other countries within its region. Specifically, we expect that if nearby countries criminalize human trafficking, expectations of spillovers as criminal networks set up shop in lower risk jurisdictions will encourage others to criminalize as well. We use the density of criminalization events in the region as a reasonable proxy for updating information about negative externalities.

4.2.2 Hegemonic Pressure

Coercion is a mechanism that is central to much of the literature on policy diffusion (Dobbin et al. 2008), and it is a possibility in the areas of transnational crime and human trafficking as well. Unlike some normatively laden issue areas, such as (domestic) human rights practices, the nature of externalities provides strong motives for powerful actors to marshal resources to coerce others into their conceptions of appropriate transnational law enforcement. Because the cross-border consequences of transnational crime are potentially severe, powerful states (especially destination states) have motives to use whatever leverage they can marshal – including economic or even security pressures – to encourage others to criminalize unwanted activities and to enforce the law.

Theories of acculturation by means of various forms of social pressure, including hegemonic pressure, are also central to much of the literature on norm cascades and policy diffusion. Ryan Goodman and Derek Jinks (2004) define acculturation as the “general process by which actors adopt the beliefs and behavioural patterns of the surrounding culture.” It includes a number of microprocesses such as mimicry, status maximization, and identification. Acculturation is effective when groups generate varying degree of cognitive and social pressures, real or imagined, to conform. This is a process that borders on coercion, except that there need not be explicit material incentives to alter behavior or policies. The line between coercion and acculturation is not always a bright one, but both involve outside pressures as the primary mechanism of diffusion.

Just how might we expect powerful states to influence others to get serious about human trafficking? Material pressure can be exerted through the use of economic or security threats, as the Bush administration did, to try to force its views regarding the International Criminal Court on other countries (Kelley 2007). One measure of the potential for such pressures is the extent of trade dependence a country has on the United States or the European Union (or both). As the major destination countries, these two entities have both the motive and the means to use trade to influence the effort others make to suppress human trafficking. We think it is much more likely, however, that powerful states will attempt to pressure others to accept international anti-crime norms at minimal cost to themselves. One way to do this is through shaming. Fortunately, excellent evidence is available of hegemonic attempts to shame other countries regarding

their human trafficking efforts. Every year, the United States Department of State issues reports on human trafficking and literally rates countries on their efforts to control it. We have read all of those reports, and where a country rates as making “no effort,” or is on the “watch list” for making no effort, we have coded that as “U.S. pressure.”¹⁵ If the shaming tactic is effective, we expect a low rating by the United States Department of State to lead to a tougher policy stance on criminalization in the following year.

How plausible is this shaming mechanism, and how appropriate the measure? First, it is noteworthy that the U.S. GAO itself admits that the State Department ratings are not scientific and are used primarily to try to influence others’ policies.¹⁶ Thus we argue that although it would hardly be appropriate to use the U.S. tier ratings as objective measures of actual policies, they constitute reasonable evidence of efforts on the part of the United States to lean on other countries to tighten up their policies. Furthermore, the secondary literature sometimes makes explicit reference to U.S. Trafficking in Persons reports as being especially embarrassing and responsible for policy review in some countries (Fein [2007](#)). Research by DeStefano reveals how upset countries get when they are not happy with their rating, and how this displeasure sometimes translates into policy change. He notes that “A number of nations, including South Korea, Israel, and Saudi Arabia, complained publicly about their Tier 3 ranking [in 2001].” By 2002, South Korea “had moved to protect victims, created a task force, and coordinate more than 1000 prosecutions” (DeStefano [2007](#)). If this anecdote can be generalized, we should expect a low rating to correlate with policy improvements on average in the following year or years.

We examine two outcomes that reflect states' legal commitment to counter transnational crime. First, we model one important aspect of the emerging international consensus regarding human trafficking: that it should be criminalized in domestic law. In fact, criminalization is required by Article 5 of the Human Trafficking Protocol. Second, we model the factors that increase the likelihood of ratifying the Human Trafficking Protocol of 2000 itself. This protocol to the 2000 Transnational Organized Crime Convention constitutes the most explicit and legally binding commitment states can currently make to cooperate to counter international human trafficking. It is the source of international rule of law norms that define state obligations to one another internationally. Together, these two policy choices – ratification of international rules and adaptation of domestic law to their requirements – constitute important evidence of the “interface” between the rule of law at the domestic and international levels (Nollkaemper [2009](#)).

We use statistical methods that focus on the period of time until the events of interest occur (in this case, domestic criminalization of human trafficking and ratification of the protocol). Widely used in epidemiological studies that seek to understand factors that affect mortality rates, this technique can be used analogously to test for the conditions associated with a greater “risk” of these policy changes occurring (given that they have not yet occurred yet).¹⁷ We are interested in exploring whether systematic influences associated with domestic commitments to the rule of law, negative externalities, and hegemonic pressures influence the rate of ratification and criminalization. These influences should

show up in statistically significant *hazard ratios* that, if greater than 1, signify a positive influence and if smaller than 1 signify a negative influence.

B 4.3 Findings: Criminalization

Insert Table 12 about here

[Table 12](#) provides some preliminary evidence on these mechanisms. The dependent variable in this case is *criminalization of human trafficking in national law*. We have two definitions of criminalization, reflecting different levels of stringency. The strictest definition implies that the country has brought itself into compliance with international treaty standards, making trafficking of persons illegal and defining trafficking broadly. Definition 1 comprises those cases in which a country has enacted specific anti-trafficking legislation, with broad coverage admitting of no important exceptions. The second definition is more lax. It includes all cases under the first definition, but it also adds countries who have partially criminalized trafficking, or who have criminalized with some exceptions.¹⁸

First, it is fairly clear that countries with stronger reputations for adherence to the rule of law as measured in surveys by the World Bank are more likely to have criminalized human trafficking since 1990 than those that rate lower. A shift of 1 point (on a World Bank rule of law scale that ranges from -2.3 to 2) is associated with anywhere between a 47 and 67 percent increase in the probability of criminalizing trafficking in a given year, given that a country has not done so already. Moreover, the reputed strength of the rule of law in a country is apparently slightly stronger when we use the stricter definition of

criminalization. This suggests that the wave of attention given to transnational crime is related to the recent status of a country's rule of law generally.

Second, it appears that countries on average implement their commitments under the 2000 UNCTOC and its Human Trafficking Protocol. Ratification of one of these agreements increased the probability of subsequently criminalizing human trafficking by between 28 and 48 percent. (As we will see, it is more likely that ratification of one of these treaties increases the probability of criminalization, rather than the other way around.) Unsurprisingly, the treaty ratification effect may be slightly stronger when the weaker definition of criminalization is employed; more states are likely to make minimal rather than maximal changes to implement their treaty obligations.

There is some fairly consistent evidence of hegemonic pressures at work in explaining criminalization, at least of a shaming sort. Across each of these models, if the U.S. State Department has put the country in the "no effort" or "watch list" categories in its human trafficking reports, chances *just about double* that that country will criminalize human trafficking in the following year. This comports with what we have read in the secondary literature, which sometimes refers to the embarrassment of government officials in particular countries when the United States criticizes their efforts so publicly (Fein [2007](#)).

To further explore the possibility of pressures from the United States, we collected data on aid and trade dependence for each country. Because the U.S. Tier system was designed specifically to allow for the possibility of tying aid to improvements in human trafficking policies, we should expect that the higher the

dependence of a country on U.S. bilateral aid, the more likely that country would be to criminalize human trafficking. This in fact appears to be the case, especially for more stringent definitions of criminalization. For every 1 percentage point increase in the proportion of a country's aid as a share of its gross domestic product (GDP), there is an estimated sixfold increase in the probability that a country will adopt strict laws criminalizing human trafficking. The result for the more lax definition is not as clear, but it is also in the expected direction.

Trade with the United States or with Europe is not plausibly correlated with criminalization policies, however. We collected data on the share of each country's trade with the United States and with Europe as a share of its total trade, but this measure failed to explain criminalization. This finding is consistent with the literature that emphasizes the difficulties of using trade as a sanctioning weapon for human rights or other purposes. Nonetheless, it also supports the intended purpose of U.S. legislation: to pressure countries to criminalize and to use the threat of reducing or eliminating U.S. *aid* to do so.

There is also evidence consistent with the anticipation of negative externalities associated with criminalization in a neighboring jurisdiction. The growing density of criminalizations within a country's region is associated with strong pressures to change one's national criminal code in similar ways. One way in which the transnationalization of criminal law has taken place, apparently, is through the anticipation of the negative spillovers associated with being one of the few remaining jurisdictions in a region that does not take trafficking seriously. Such a stance is likely to make one's own jurisdiction even more attractive to transnational criminal elements.

One might object to our interpretation of the effect the density of criminalization in the region as a reaction to potential negative externalities. Arguably, a possible interpretation that is more common in sociology is some form of mimicry, based on a less rational explanation of state behavior. We think this interpretation is less plausible than an anticipated response to externalities. Note that the hazard ratio is one-third to one-half again as strong in the case of countries implementing the strictest definition of criminalization. These are precisely the cases in which strong enforcement could be expected to divert criminal activities to other jurisdictions. A strong response in kind under these conditions is likely to represent quite meaningful criminal legal reform. In contrast, the hazard ratios are convincing but smaller for the more lax definition of criminalization. Were nonrational mimetic processes at work, we might expect the strength of the hazard ratios to be reversed.

The likelihood of criminalizing human trafficking in domestic law also seems to increase with the exposure of trafficking issues in the international media. Model 4 shows that there is a strong positive relationship between stories in the global press (data are those plotted in [Figure 14](#)) and the probability of criminalization. With reasonable precision, the model suggests that every 1,000 stories to be found in LexisNexis is associated with a 20 percent increase in the likelihood that a country will criminalize, according to the stricter of the two definitions.¹⁹ This could support our claim about the importance of negative externalities: As information increases describing the extent and the nature of human trafficking, more countries may be likely to take the move to criminalize.

Surprisingly, however, we found no evidence that jurisdictions in which trafficking was a severe problem were more likely to criminalize, at least not with a rather strenuous set of control variables. Especially difficult to understand is that the only statistically significant result was in the unexpected direction: Destination countries were apparently *less likely* to criminalize human trafficking than were nondestination countries. One possibility is that the data we have are incapable of establishing the direction of causation. The categories do not vary over time; in fact, they are gleaned from fairly recent NGO assessments. It is possible that destination countries are in that category because they have refused – for whatever reason – to criminalize human trafficking. Because we cannot disentangle cause and effect with the categorical, unchanging data available to us at this point, we simply note that these results do not comport well with how we originally formulated our argument about negative externalities.

We included a few other controls that bear some discussion. We expected a country's developmental level to have some influence on criminalization and found that, indeed, the biggest shifts in this direction were to be found in the low- and low- to middle-income categories as defined by the World Bank. As a group, these countries were just about twice as likely to criminalize compared with the upper-middle and upper-income categories. It is interesting that some of the poorer countries have been most ready to criminalize human trafficking. Note that this is the case even when we control for U.S. pressure as already described. On the assumption that it is more difficult to alter practices if they are broadly sewn into the fabric of a culture and an economy, we further controlled for child labor, and as expected found that the greater the economic activity of 10- to 14-year-old

children in an economy, the less likely a country is to criminalize human trafficking. Child labor practices, although not themselves immutable to change (Simmons 2009), likely contribute to the social and political resistance that makes criminalization of human trafficking more difficult.

We checked for the robustness of these results by controlling for other conditions that for purposes of saving space are not reported in the tables. For example, we found no evidence for the proposition that ratification of human rights treaties – a proxy for the appeal of the human rights frame in addressing human trafficking – has anything to do with the national criminalization of human trafficking. Countries that ratify lots of human rights treaties are no more likely to criminalize human trafficking than those that tend to stand aloof from such obligations. (We will see this is clearly not the case for ratification of the protocol, as subsequently.) Nor is there any evidence that membership in regional, subregional, or cultural organizations contributes to an increased probability of criminalization, suggestive of the weakness or possible irrelevance of organizations such as the Council of Europe, the Association of Southeast Asian Nations, the Organization of American States, the African Union (AU), and the Organization of Islamic Conference in socializing states toward criminalization of human trafficking. (This is another contrast with our findings regarding protocol ratification.) In some specifications, we found membership in these organizations was associated with a very slight negative likelihood of criminalization, but these results were not very robust, and they do not change the findings discussed herein. We also found a decreased likelihood to criminalize human trafficking in countries that are predominantly Islamic (when we used the more lax definition of

criminalization), but we do not have a strong theoretical explanation for this finding, which in any case does not alter our main findings. Although we think it likely that culture matters in the formulation of criminal law provisions,²⁰ we cannot think of a coherent theoretical argument for the negative association between Islam and criminalization of human trafficking.

Overall, these results suggest that the most promising avenues for understanding the diffusion of criminalization lies in a combination of not-so-subtle social pressure by the United States, concerns about negative spillovers when others criminalize, growing information in the media about problems associated with human trafficking, and a desire to maintain the rule of law by combating activities that can lead to the corruption of public officials and denigrate human dignity.

B 4.4 Findings: Ratification of the 2000 Human Trafficking Protocol

Insert Table 13 about here

In the earlier section we tested for influences on the decision to change national laws. In this section we turn to the ratification of international law. What factors make it more or less likely that a country will ratify the Human Trafficking Protocol within the year, if it has not already done so? Our efforts to answer this question are displayed in [Table 13](#). The first point to make is that despite the fact that the protocol takes a prosecute-and-punish approach to human trafficking, very different explanations seem to apply to treaty behavior compared to national penal policies. Models 1a and 1b import most of the variables from the national criminalization models of Table 14, but find them wanting in the context of treaty

ratification. In particular, there is practically no relationship between a country's rule of law status and its propensity to ratify the Human Trafficking Protocol. Interestingly, whether or not a country has already criminalized human trafficking in national law also has no systematic bearing on the willingness to ratify these agreements. Moreover, the density of ratifications in the region in the previous period loses its explanatory power in a specification that takes membership in regional organizations and a country's broader patterns of treaty ratification into account (Model 4). Developmental indicators are no longer linearly related to the outcome of interest; it is not the lower-income but the middle-income countries that are more likely to be at the forefront of treaty ratification. Nor does the prevalence of child labor help to explain the willingness or reluctance to ratify. Pressure from the United States has no discernable effect on ratification. The weak results for U.S. pressure might also be due to the fact that – judging from its own record of multilateral treaty ratification – the United States puts more stock in changes in *national* laws than in *international* law.

There is some evidence that the nature of externalities influences states' ratification decision. The strong positive influence (with the exceptions of Model 4) associated with the density of regional ratification is again consistent with concern about spillover effects if other states decide to toughen their enforcement of anti-trafficking norms. Countries of origin are reluctant to ratify the Human Trafficking Protocol: They are almost 42 percent less likely to ratify than are countries that are not significant sources of trafficked persons. There is good evidence that transit countries and countries with internal trafficking problems are more likely to ratify the protocol. Countries with severe internal human

trafficking problems are estimated to be about 64 percent more likely to ratify than those without an internal trafficking problem, whereas transit countries are (somewhat less) likely to be about 34 percent more likely to ratify than are those for whom human trafficking transit is not an issue. We note, though, that this result is just slightly below well-accepted standards of statistical significance ($p = .119$). It is surprising that status as a destination country apparently does not influence ratification, however.

In sharp contrast to domestic legal changes, international legal commitments are much more influenced by regional associations and ratification patterns with respect to human rights agreements. Membership in regional associations had limited explanatory power with respect to domestic criminal law reform (possibly, as already mentioned, a negative association on criminalization), but a significant and positive influence on the ratification of the Human Trafficking Protocol. Membership in a regional, subregional, or cultural organization (Council of Europe, Association of Southeast Asian Nations, the African Union, Organization of American States, and the Organization of Islamic Conference) was associated with a 28 percent increase in the probability of ratifying the trafficking protocol. Certainly, it appears that the human rights frame has had some influence on the decision to ratify. The number of human rights treaties ratified by a country is a strong, positive predictor; indeed, it is one of the few reliable indicators associated with ratification of the human trafficking protocol. Each human rights treaty ratified is associated with about a 16 percent increase in ratifying the Human Trafficking Protocol. This means that once a state has ratified about eight human rights treaties, the likelihood of ratifying the

protocol has about doubled. We tentatively conclude that in addition to states' interests in avoiding the negative externalities associated with human trafficking, strong socialization forces may be at work when it comes to ratifying formal human trafficking agreements.

A 5. Conclusions

The rule of law has proved to be an attractive way to put many issues of good governance squarely on national and international agendas, from Afghanistan to Zimbabwe, from the World Bank to the United Nations. Globalization has raised the issue of the transnationalization of good governance, especially in the interstices of national legal systems. International institutions and major destination countries have worked hard to convince governments that trafficking in persons represents a threat not only to some abstract goal of “good governance” but also to economic development itself. The UN has further asserted that there is a link between addressing transnational crime, establishing the rule of law, and supporting economic development. Speaking before the UN Third Committee in 2008, just as they took up the problem of formulating a global action plan to implement the Human Trafficking Protocol, UN officials warned that governments who cannot enforce the law find their countries are “trapped in a malign spiral of underdevelopment leading to violence that feeds back into an even greater degree of poverty.”²¹ The European Union takes a similar position.²² It is quite natural, therefore, that national authorities have approached the problem of transnational crime as an extension of the project of good governance and the domestic rule of law. There is what one might term a “functional logic” that is touted to encourage the criminalization of human and

other forms of trafficking: The problem is illicit trade in persons; the solution is better and more universal law enforcement. At stake may very well be the ability of national authorities to maintain control over their jurisdiction and, it is often claimed, over the future trajectory of their development.

The effort to establish international understandings and cooperation to deal with the rise in transnational crime associated with globalization is a reflection of this development. If the last quarter of the 20th century can be characterized by a wave of interest in not only liberalization of markets and polities but also the “good governance” of these institutions, then the attention that transnational crime has received in national and international forums can be readily understood.

This chapter has advanced several arguments about the diffusion of transnational criminal law norms internationally. There is some evidence that ideas about what is a transnational crime and how to deal with it have diffused through subtle and not so subtle pressures by the United States, but there is also evidence that countries with a strong reputation for the rule of law domestically have seen value in developing global norms and criminalizing human trafficking, before it can have a corrupting influence that will be difficult to reverse. There is also some evidence that countries at risk for severe negative externalities from trafficking have been willing participants in the process, especially in fashioning resolutions in the UN and ratifying the resultant treaty. After all, transnational crime potentially threatens their own developmental plans, corrupts the local rule of law, and can interfere with other programmatic goals of the state. Future research should probe these processes further, and in particular assess the extent

to which the use of human rights frames may have added a strong normative component to the arguments in favor of criminalizing trafficking, despite any initial misgivings about a prosecutorial approach to these matters.

One of the most interesting findings is the evidence that states seem to anticipate the spillover effects of their neighbors' enforcement efforts: One of the strongest and most consistent predictors of the adoption of a criminal approach to human trafficking is the density of law enforcement policies in the region. Some may believe this reflects normative socialization, but we believe it is at least as likely to represent the problem of negative externalities associated with being the most lax jurisdiction in the neighborhood.

Surprisingly, the factors that are most strongly associated with treaty ratification do not directly predict criminalization of human trafficking. This is true despite the fact that ratifying the Human Trafficking Protocol obligates states parties to make such trafficking a crime in domestic law. When we compare the models closely, it appears that treaty ratification is most persuasively explained by participation in international agreements and organizations in general, such as ratification of human rights agreements and membership in various regional organizations. These factors do not, however, move a state to criminalize trafficking in persons in domestic law. A strong commitment to the rule of law, concerns about externalities when neighbors criminalize, as well as a strong dose of U.S. pressure seem the most likely explanations for actual changes in national law. Nonetheless, international law appears to play an important role in the acceptance of the law enforcement model to human trafficking. Although states were no more likely to ratify the Human Trafficking Protocol by virtue of having

already criminalized human trafficking in national law, we have found some suggestive evidence that ratification is associated with national criminalization at a later point in time. This may be evidence that ratification is in many cases followed by implementation rather than, as some assume, the ratification of agreements that merely reflect what states are doing anyway (Barsoom, Downs, and Rocke 1996).

Of course, we have not been able to show that implementation will lead to effectiveness on the ground, any more than domestic rule of law reformers have been able to demonstrate the effectiveness of reforms inspired by Western models and institutions (Krygier 2009; Taylor 2009). Such a project will inevitably be frustrated by a lack of reasonably good data on transnational crime in general and human trafficking in particular. However, if it is true that success is more likely to follow from an approach “that recognizes a greater role and responsibility for target countries and is more open-ended and tolerant of institutional innovations and differences in norms, practices and outcomes” (Peerenboom 2009), then *domestic* criminalization rather than *external* enforcement would seem a reasonable approach to take. Moreover, the latest wave of rule of law stresses partnership between states and private actors (Trubek 2009). The Human Trafficking Protocol reflects this trend, especially in its call for states to work toward the protection of trafficking victims, in cooperation with NGOs and other elements of civil society.²³

Speculation about effectiveness aside, this research suggests some clear drivers in the spread of anti-trafficking norms worldwide. As evidence gathers of the negative consequences of unchecked human trafficking – threats to law and

order, risks of corrupting government officials, and undermining public health, not to mention perverting the rights and well-being of the trafficked victim herself – states have come to see this issue as standing at a unique intersection of human rights and state sovereignty. With some pressure from powerful players such as the United States, and, we suspect, some skilful framing by human rights advocates, this has proven to be incentive enough for some states to alter their laws and ratify a major international agreement to cooperate in international efforts to define and control transnational crime.

TABLE 10. *Most active participants in sponsoring the major human trafficking resolutions in the UN Third Committee, 1995–2009*

Most active initiators	No.	Most active joiners	No.	Most active overall	No.
Costa Rica	8	Liberia	4	Costa Rica	9
Panama	8	Ethiopia	4	Philippines	9
Philippines	7	Tanzania	4	Panama	9
Bangladesh	5	Norway	4	Argentina	8
Dominican Republic	5	Paraguay	4	Dominican Republic	7
Ecuador	5	Indonesia	4	Ecuador	7
Argentina	4	Namibia	4	Belgium	7
Chile	4	Ghana	4	Bangladesh	6
France	4	Argentina	4	Paraguay	6
Germany	4	Azerbaijan	4	Thailand	6
Greece	4	Belgium	4	Liberia	6
Italy	4	Madagascar	4	Mongolia	6
Luxembourg	4	Malawi	4	Ukraine	6
Mongolia	4			Luxembourg	6
Nigeria	4			Cote d'Ivoire	6
South Africa	4			Austria	6
				Lithuania	6
				El Salvador	6
				Greece	6
				Indonesia	6

Note: The table shows the number of resolutions initiated or sponsored.

TABLE 11. *Influences on anti-trafficking activity in the UN Third Committee*

Explanatory variables	Model 1	Model 2	Model 3
Country of origin	.105* (p=.085)	.136** (p=.038)	.138** (p=.032)
Transit country	.001 (p=.977)	.002 (p=.962)	.0005 (p=.992)
Destination country	.102* (p=.052)	.035 (p=.521)	.102* (p=.069)
Internal trafficking	.125*** (p=.011)	.127** (p=.012)	.133*** (p=.008)
Rule of law	.093*** (p=.000)	.098*** (p=.001)	.061 (p=.104)
Year	.046*** (p=.000)	.048*** (p=.000)	.045*** (p=.000)
Child labor	–	-.003 (p=.107)	–
Low income			-.012 (p=.902)
Lower-middle income			.061 (p=.479)
Upper-middle income			.019 (p=.780)
High income			.145 (p=.101)
constant	-91.69*** (p=.000)	95.94*** (p=.000)	-90.28*** (p=.000)
No. of observations	1085	1008	1085

R^2	.128	.138	.131
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Note: Table includes years in which resolutions were introduced only. Results are of a logistic regression with robust standard errors, clustered by country. Dependent variable: initiation or joining of anti-trafficking resolutions.

*Significant at the .10 level; ** significant at the .05 level; *** significant at the .01 level.

TABLE 12. Criminalization of human trafficking in national law

	Model 1a	Model 1b	Model 2a	Model 2b	Model 3a	Model 3b	Model 4a
Rule of law	1.64*** (p=.005)	1.43*** (p=.005)	1.52** (p=.031)	1.48*** (p=.009)	1.67** (p=.024)	1.47** (p=.020)	1.76*** (p=.001)
Ratification of the 2000 agreement	1.37** (p=.028)	1.48*** (p=.001)	1.28 (p=.110)	1.41*** (p=.006)	1.33* (p=.089)	1.38*** (p=.008)	1.46*** (p=.008)
Density of criminalizations in region ($t - 1$)	6.98*** (p=.000)	4.04*** (p=.005)	9.77*** (p=.000)	4.65*** (p=.004)	4.23** (p=.035)	2.64 (p=.142)	9.17*** (p=.000)
U.S. pressure ($t - 1$)	2.20*** (p=.009)	1.80*** (p=.008)	2.38** (p=.016)	1.90*** (p=.009)	1.82* (p=.089)	1.79** (p=.024)	2.46*** (p=.003)
Prevalence of child labor	.978** (p=.047)	.976*** (p=.013)	.983 (p=.222)	.976 (p=.035)	.967*** (p=.010)	.974** (p=.021)	—
Low- and middle-income category	2.50*** (p=.024)	1.89** (p=.038)	1.95 (p=.150)	2.05* (p=.054)	3.02** (p=.016)	1.99** (p=.050)	2.18** (p=.031)
Country of origin			.531 (p=.160)	1.28 (p=.498)			—
Transit country			.974 (p=.922)	1.04 (p=.873)			—
Destination country			.534 (p=.056)	1.41 (p=.171)			—
Internal trafficking			1.36 (p=.311)	.830 (p=.375)			—
U.S. Aid/GDP	—	—	—	—	608.02** (p=.011)	81.73 (p=.189)	—

U.S. trade/ total trade	–	–	–	–	.487 (p=.521)	1.02 (p=.879)	–
EU trade/ total trade	–	–	–	–	1.39 (p=.618)	1.15 (p=.779)	–
No. of news stories	–	–	–	–	–	–	1.0002** (p=.040)
No. of countries	134	132	116	114	121	120	138
No. of criminalizations	76	107	63	90	63	90	78
No. of obs.	2126	1918	1882	1692	1715	1586	2137
Prob. > χ^2	0.000	0.000	0.000	0.0001	0.000	0.000	0.000

Note: Results are of a Cox proportional hazard model with robust standard errors, clustered by country. Hazard ratios and probability values are shown. The “a” models have a strict definition; the “b” models have a lax one.

*Significant at the .10 level; ** significant at the .05 level; *** significant at the .01 level.

TABLE 13. *Ratification of the Human Trafficking Protocol, 2000*

	Model 1 (Protocol)	Model 2 (Protocol)	Model 3 (Protocol)	Model 4 (Protocol)
Rule of law	1.12 (p=.335)	1.09 (p=.413)	1.08 (p=.434)	.053 (p=.636)
National criminalization	1.01 (p=.971)	–	–	–
Density of ratifications in region ($t - 1$)	4.64*** (p=.005)	2.85** (p=.035)	4.99** (p=.016)	1.83 (p=.250)
Ratification of 1949 Treaty	1.31 (p=.140)	1.36* (p=.3087)	1.26 (p=.205)	1.07 (p=.688)
Prevalence of child labor	.994 (p=.579)	–	–	–
Middle-income categories	1.56** (p=.046)	1.68*** (p=.003)	1.39* (p=.081)	1.60*** (p=.007)
Country of origin	–	.577*** (p=.006)	–	–
Destination country	–	.977 (p=.912)	–	–
Transit country	–	1.34 (p=.119)	–	–
Internal trafficking	–	1.64** (p=.011)	–	–
U.S. pressure ($t - 1$)	–	–	1.19 (p=.541)	–
U.S. aid/GDP	–	–	15.35 (p=.310)	–

U.S. trade share	–	–	.776 (p=.612)	–
EU trade share	–	–	2.04 (p=.115)	–
No. of human rights treaties ratified	–	–	–	1.16*** (p=.000)
Membership in regional organization	–	–	–	1.28* (p=.098)
No. of countries	137	155	160	184
No. of ratifications	104	112	103	129
No. of observations	1031	1202	1114	1454
Prob. > χ^2	0.024	0.000	0.0038	0.000

Note: Results are of a Cox proportional hazard model with robust standard errors, clustered by country. Hazard ratios and probability values are shown.

*Significant at the .10 level; **significant at the .05 level; ***significant at .the 01 level.

A Figure Captions

Figure 12. Adopted UN resolutions by transnational crime.

Figure 13. The increase in academic interest in human trafficking. (Source: Farquet, Romaine, Heikki Matilla, and Frank Laczko, “Human Trafficking: Bibliography by Region.” *Data and Research on Human Trafficking: A Global Survey*, 2005.)

Figure 14. The increase in public awareness of human trafficking. (Source: LexisNexis, current as of December 2009.)

Figure 15. Resolutions on human trafficking. (Note: The asterisk signifies a rejection of the hypothesis that the average number of resolutions introduced by the countries in that category was the same as the number introduced by countries not in that category; $p < .10$.)

Countries can be in more than one category. Number of origin countries = 110; nonorigin countries = 45; destination countries = 104; nondestination countries=51; transit countries = 89; nontransit countries = 66; internal trafficking countries = 59; noninternal trafficking countries = 96.)

Footnotes

¹ See the various essays in *The Hague Journal of the Rule of Law* 1, 2009:

Peerenboom (2009); Nollkaemper (2009); and Trubek (2009).

² Rule of law countries are more resistant to, and less tolerant of, the organization and activities of criminal organizations within their jurisdictions in the first place. See, e.g., Shelley (1999).

³ The Millennium Project, “Global Challenges Facing Humanity,” available at http://www.millennium-project.org/millennium/Global_Challenges/chall-12.html.

⁴ The GAO terms the U.S. government’s own estimate of some 600,000 to 800,000 persons trafficked annually across borders as “questionable.” See U.S. GAO, “Human Trafficking: Better Data, Strategy, and Reporting Needed to

Enhance U.S. Antitrafficking Efforts Abroad” in Report to the Chairman, Committee on the Judiciary and the Chairman, Committee on International Relations, House of Representatives, Washington, DC: 2.

- ⁵ International Agreement for the Suppression of White Slave Traffic, 18 May 1904, 35 Stat. 426, 1 LNTS 83.
- ⁶ Convention for the Suppression of the Traffic in Women and Children, signed in Geneva on 30 September 1921, entered into force on 15 June 1922.
- ⁷ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, approved by UNGA Resolution 317 (IV) of 2 December 1949, entered into force on 25 July 1951.
- ⁸ Convention against Transnational Organized Crime (UNCTOC) and the Protocols on Trafficking in Persons and Smuggling of Migrants, by UNGA Resolution 55/25 of 15 November 2000.
- ⁹ The protocol states the following: “‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs...”.

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- ¹⁰ Naples Political Declaration and Global Action Plan Against Organized Transnational Crime, UNGA Resolution 49/159 of 23 December 1994, UN Doc. A/RES/49/1590.
- ¹¹ We thank Delphine Schantz, UN Office on Drugs and Crime, for her insights on the development of the UNCTOC.
- ¹² See UNGA Resolution 55/383 of 2 November 2000, UN Doc. A/55/383 for a summary report on each session and key statements by state leaders.
- ¹³ No doubt other factors are at work, such as the use of powerful frames that define human trafficking as a human rights issue, making it harder to oppose criminalization and punishment, but we reserve analysis of that and cognate processes to another paper.
- ¹⁴ We are unable to formally test this proposition in the models that follow, because the distribution of the data does not permit the calculation of hazard ratios in plausible specifications.
- ¹⁵ The United States Department of State, “Trafficking in Persons Report” (2009): 51, says the following: “Tier 2 Watch List: (2WL): Countries whose governments do not fully comply with the TVPA’s minimum standards but are making significant efforts to bring themselves into compliance with those standards AND: (a) The absolute number of victims of severe forms of trafficking in very significant or is significantly increasing; or (b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or (c) The determination that a country is making significant efforts to bring themselves into compliance with

minimum standards was based on commitments by the county to take additional future steps over the next year. Tier 3: Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.” Tier 2WL and Tier 3 are combined to form our indicator of “U.S. pressure.”

¹⁶ U.S. GAO, “Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad,” in Report to the Chairman, Committee on the Judiciary and the Chairman, Committee on International Relations, House of Representatives, Washington DC.

¹⁷ Specifically we employ a Cox proportional hazard model to examine the effects of a number of continuous and categorical predictors, and because some of these vary over time, the tests presented here use time-varying covariates. The Cox model estimates a “hazard rate,” which is defined as follows:

$$h(t) = \frac{\text{probability of ratification between times } t \text{ and } t \pm 1}{(t + 1) (\text{probability of ratification after time } t)}.$$

The hazard rate is then modeled as a function of the baseline hazard (h_0) at time t – which is simply the hazard for an observation with all explanatory variables set to zero – as well as a number of explanatory variables, the estimates of which indicate proportional changes relative to this baseline hazard. The null hypothesis is that the proportionate hazard rate for any given explanatory variable of interest is 1 (it has no effect on the baseline hazard rate).

¹⁸ Countries that are included in Definition 3 that are NOT included in the most stringent definition include Bangladesh, Benin, Bulgaria, Burkina Faso,

Cambodia, Chile, Costa Rica, Ecuador, Egypt, Eritrea, Gabon, Guatemala, Iraq, Israel, Mali, Mauritius, Mexico, Morocco, Nepal, Pakistan, Panama, Serbia, Singapore, South Africa, Togo, Turkmenistan, Turkey, the United Kingdom, Venezuela, and Zambia. Coding is based on descriptions available in the UN's *Global Report on Trafficking in Persons*. See United Nations Office on Drugs and Crime, *Global Report on Trafficking of Persons*, February 2009.

¹⁹ We could not estimate a confidence interval by using the lax definition.

Moreover, it was only possible to calculate confidence intervals at all when we increased observations by removing the child labor variable.

²⁰ Culture may influence governance more broadly; for example, it may influence attitudes toward and tolerance of the rule of law, corruption, and accountability. See, e.g., Goldschmidt, Licht, and Schwartz (2002).

²¹ See “Strengthening Rule of Law ‘Key’ to Unlocking Millennium Development Goals, Head of United Nations Office on Drugs and Crime Tells Third Committee,” *States News Service*, October 9, 2008.

²² Ibid.

²³ See Section II, Article 6, paragraph 3 and subclauses of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime (UNCTOC).