

Hauser Globalization Colloquium Fall 2010

Professors Ryan Goodman & Robert Keohane

Furman Hall 900, Pollack Colloquium Room
Wednesdays 2:00 pm-3:50pm
(unless otherwise noted)

Schedule of Sessions (subject to modification)

- September 15 **Professor Eric Posner**
Human Rights, the Laws of War, and Reciprocity
- September 22 **Professor Michael Doyle**
A Global Constitution? The Struggle over the UN Charter
- October 6 **Professor Mary Dudziak**
Law, War, and the History of Time
- October 13 **Professor Tim Buthe**
Standards for global markets: domestic and international institutions for setting international product standards
- October 20 **Professor Kal Raustiala**
Information and International Agreements
Background Readings:
Police Patrols and Fire Alarms in the NAAEC
The Rational Design of International Institutions
- October 22 **Professor Peter Katzenstein**
(Friday) *The Transnational Spread of American Law: Legalization as Soft Power*
- November 10 **Professors Oona Hathaway & Scott Shapiro**
Outcasting: Enforcement in Domestic and International Law
- November 17 **Professors Ann Marie Clark & Kathryn Sikkink**
"Information Effects and Human Rights Data: Is the Good News about Increased Human Rights Information Bad News for Human Rights Measures?"
Background Reading: Emilie M. Hafner-Burton, & James Ron, Seeing Double: Human Rights Impact Through Qualitative and Quantitative Eyes, World Politics, 2009.
- December 1 **Professors Kevin Davis & Benedict Kingsbury**
Obligation Overload: Adjusting the Obligations of Fragile or Failed States
- December 3 **Professor Beth Simmons**
(Friday) *Inter-subjective Frames and Rational Choice: Transnational Crime and the Case of Human Trafficking*

Inter-subjective Frames and Rational Choice: Transnational Crime and the Case of Human Trafficking

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ABSTRACT:

This article theorizes that subjective frames are crucial in shaping how and where the globalization of law takes place. We argue that human trafficking has been cast as a serious transnational crime issue, and that this frame has accounted for the relatively swift diffusion of policies of criminalization around the world. The transnational crime frame has encouraged states to focus on the negative externalities associated with human trafficking. Once accepted, this frame encourages states rationally to imitate the policies of states to whose policies they are especially sensitive. We test this conditional rationality argument using GPS data on road connectivity and find that policies of neighbors weighted by the density of transborder roads clearly and consistently predicts the diffusion of both criminalization of human trafficking in national law and the ratification of the Human Trafficking Protocol. We also support our argument with evidence that countries are surprisingly sensitive to information about these externalities as well as pressure from powerful states. We interpret these results as affirming the importance of frames in international political and sociological processes, but believe they are in tension with widely accepted theories of sociological institutionalism to the extent that the latter emphasizes the quasi-rational character of certain manifestations of institutional isomorphism. We suggest that the notion of *conditional rationality* – with its emphasis on the framing of the issue – better captures how policies diffuse internationally.

Subjective Frames and Rational Choice: Transnational Crime and the Case of Human Trafficking

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Subjective Frames and Rational Choice: Transnational Crime and the Case of Human Trafficking

One of the defining aspects of the end of the twentieth century was the turn to market liberalization and political democracy as twin organizing principles for human societies in many parts of the world (Simmons et al. 2008). These processes present an opportunity to better understand global norm formation and policy diffusion as actors grapple with the new circumstances of transnational openness. One of the central aspects of responding to the dilemmas of globalization is how actors come to understand the nature of the phenomena they confront. Our theory posits that rational policy choices are conditioned on the prior and socially defined processes of issue framing. Once a dominant frame is broadly accepted, states adopt policies that are appropriate to their situation as interpreted through the selected frame.

We illustrate and test this approach by examining a dark side of globalization: the growth of transnational crime. As transaction costs have fallen, there are ever greater opportunities for illicit traders to operate in an unrestricted fashion across borders (Berdal and Serrano 2002). It is hard to document the exact dimensions and patterns of these opportunistic transactions, and nowhere is this more true than in the coercive or deceitful movement of human beings across borders for purposes of exploiting them economically. Despite the uncertainty, there has been a rapid and widespread adoption of domestic and international laws that criminalize trafficking in human beings. Frames that tap into anxieties about the negative consequences of transnational crime have been especially effective in encouraging international consensus on the need to criminalize human trafficking. But in contrast to quasi-rational adoption of scripts posited by world polity and related theories, we argue that actual policy implementation is contingent, calculated, and quite responsive to material costs and benefits. Using a unique dataset on

pathways for criminal externalities, we can demonstrate, in contrast to the expectations of world polity theory, that governments innovate rationally, given their acceptance of the way the issue was framed in the first place. We refer to this as a conditionally rational choice, highly constrained by the primordial question of what frame is used to define the problem.

We test our approach by examining the criminalization of transnational human trafficking in national law and treaty ratification that obligates states parties to criminalize trafficking. The first section describes our two-step theory of framing and contingent but rational policy diffusion. It is a theory that rests on a combination of social framing, peer pressure and calculated strategic behavior. This section also provides some background to the issue of human trafficking and explains how it was framed by broader transnational crime debates in the 1990s, and elucidates the importance of negative externalities associated with the transnational crime frame for human trafficking. The second section describes our empirical approach, based on event history analyses and an original dataset reflecting the potential for negative externalities and social and material pressure from the dominant states in the system. The third section describes our findings. We find evidence that states respond to anticipated externalities of criminalization policies in neighboring jurisdictions as well as hegemonic pressures to clamp down on traffickers, and to the criminal networks frames advanced by the media. Our theory and findings point to the importance of understanding the social framing of issues, as well as the rational bases for what may appear to be emulative policy diffusion.

THEORY: SOCIAL FRAMES AND RATIONAL CHOICE

FRAMING IN INTERNATIONAL AFFAIRS

A growing literature addresses the role that issue framing plays in social and political processes, at all levels of human interaction. Political psychologists have long recognized that individuals' attitudes are quite susceptible to the framing of issues (Tversky and Kahneman 1981). Framing experiments demonstrate that the "lens" through which a respondent is led to view a question torques his or her attitudes in response to a broad range of questions (Chong and Druckman 2007). Framing effects are said to occur when "[in] describing an issue or event, a speaker's emphasis on a subset of potentially relevant considerations causes individuals to focus on these considerations when constructing their opinions" (Druckman 2001). Frames have the potential to change the way individuals deliberate and what they believe to be important (Nelson and Oxley 1999). Frames are especially influential when they are promulgated by sources the individual views as especially credible (Druckman 2001) and when they are taken up by the modern media (Iyengar and Kinder 1987). Overall, the political- and social-psychological literature fairly conclusively supports the idea that individuals' attitudes and possibly even their political and social behavior, is influenced by the nature of the frame used to view a phenomenon.

Frames and framing have become a classic concept in sociological processes as well. Social movement theorists frequently draw on David Snow's definition of framing as "the conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action" (McAdam et al. 1996). The social movements literature of the past few decades has been largely premised on the idea that "meaning is prefatory to action" (Benford 1997). A rich research stream has developed to show how, why and with what success leaders of social movements have carefully framed issues to

motivate potential members, to overcome collective action problems, and to attract movement support.

The international relations literature has also employed the use of framing to understand interactions (largely) between states. On the one hand, the concept of framing has been used in international relations to understand risk taking related to conflict behavior (Boettcher 2004). The security and foreign policy research is rife with studies of the ways in which adversaries are framed and the extent to which these frames rouse domestic audiences to support aggressive policy positions (Mintz and Redd 2003). At a deeper level, constructivist theorists understand international relations as influenced by social facts – which depend on collective understandings and discourse. They stress that interpretation is an essential aspect of the construction of reality, and as such focus much of their analytic attention on how this reality is socially constructed (Adler 2002).

The social construction of meaning through framing is especially important during periods of normative change or structural flux. Under changing conditions, actors struggle to come to terms with how the world “works,” the nature of the constraints and opportunities they face, and even relationships of cause and effect. Under these conditions they are especially likely to draw on framing devices that suggest *how to think about* the issue and on reasoning devices that justify *what should be done* about it (Gamson and Modigliani 1989). This process opens up new opportunities for various actors to form new coalitions and alliances, and to create “global frames” that unite them and further their purposes (Tarrow 2005; Fiss and Hirsch 2005).

Despite openings for new actors, states have a significant comparative advantage (though hardly a monopoly) in advancing frames and in encouraging other states to view the world through their preferred lens. In international forums, states control and channel the participation

of non-state actors. Powerful states bring a broad range of resources to the table and often enjoy informational advantages in discussions. As a result they largely control the agenda in the formative stages of issue framing. Their preferred frames become broadly influential because of the wide range of material, informational and status resources the major state powers can bring to bear to convince others to view a problem from their favored perspective.

Our theory of frames complements various hypotheses that can be found in the literature. First, we anticipate that states will be most influenced by the frames that legitimize their power and integrity, and that prescribe a legitimate way to reassert that authority. In part, this can often mean reversion to “traditional” norms of state sovereignty. Second, frames will be persuasive to the extent that they are promulgated by a credible actor. In the literature on individual framing effects, “credibility” is usually thought to have two aspects: first, the framer must be thought by his or her target audience to have information that is relevant to the understanding of the issue under consideration; and second, the framer is “trusted” – at least to the extent that he or she is thought to be willing to reveal accurately what s/he knows about the issue (Lupia 2000). Credibility is a crucial aspect of social communication, especially under conditions of high uncertainty. Where actors compete to influence the way(s) in which social risks will be assessed, credibility of the communicator can be decisive (Renn and Levine 1991).

In short our theory of framing points to its importance, especially under conditions of uncertainty, and suggests that despite a wide variety of available frames, the most persuasive for states will be those that can appeal to their traditional interests and which are promulgated by a respected interlocutor. We argue that once human trafficking is viewed as a threat to state sovereignty and governance (rather than primarily a human rights issue, for example) it is a small step for most governments to embrace a regime based on criminalization, prosecution, and law

enforcement. Once actors can agree on the nature of the problem they face, the frame serves as “common knowledge” for focusing the expectations of players in coordination games in rationalist accounts (Colman 1997). Frames are the social constructs within which actors rationally calculate their interests. As we argue below, states are quite capable of responding to frames in a highly individuated way, depending on the frames, information and incentives to which they are exposed.

THE NAME OF THE FRAME: HUMAN TRAFFICKING AS A TRANSNATIONAL CRIME

The generation of alternatives is what Herbert Simon referred to as “an integral component of any veridical account of human decision making” (Simon 1985). Several frames are possible contenders for interpreting the problem of human trafficking, and a range of frames have gained some degree of salience historically (see Locher 2007). One of the earliest frames to surface was the highly gendered *victim protection* frame. Advanced by some religious groups, some women’s advocacy groups, and some states, this frame sees human trafficking as a matter of protecting vulnerable individuals from various kinds of exploitation, typically sexual exploitation. This frame was the dominant frame until about the mid-1990s. It motivated nineteenth century campaigns focused on what was generally referred to at the time as the “white slave trade,” code language for the international trade in women and girls, especially for prostitution.

A series of early international agreements have been based on this frame. By 1902, 13 European countries had negotiated and ratified an International Agreement for the Suppression of White Slave Trade.¹ In 1921 the League of Nations sponsored a conference, which led later

¹ 18 May 1904, 35 Stat. 426, 1 LNTS 83.

that year to the 1921 Convention for the Suppression of the Traffic in Women and Children.² World war brought these efforts to a standstill, but soon afterward the victim protection frame re-emerged, and in 1949 the United Nations 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.³ This treaty was the first to call for the criminalization of the act of exploiting others for *prostitution*, but did not extend to trafficking in human beings for other purposes. In short, it did not place human trafficking in the context of transnational crime generally. According to this frame, the prostitution of innocent women and children is the central problem. Transnational trafficking – moving persons via criminal networks from one place to another – is secondary. The power of this frame weakened and the consensus behind this approach crumbled when divisions erupted over the acceptability of “sex work,” reflected in divisions between conservative and more liberal NGOs (Scarpa 2008; Kempadoo and Doezema 1998) and even among liberal states such as Netherlands where prostitution is legal and Sweden where it has been criminalized (Di Nicola 2009).

A second frame that has gained salience in the past two decades is *the human rights frame*. Somewhat broader than a focus on vulnerable women and children, this frame draws attention to the range of human rights violations that human trafficking typically involves, from violations of freedom of movement to inhumane treatment to (in the extreme) the right to life itself. This frame emphasizes the coercive aspects of human trafficking and even the slave-like conditions in which a good many trafficked individuals are held. In common with the victim protection frame, the focus is on the plight of the individual. And in common with that frame,

² Geneva, 30 September 1921), Entry into force, 15 June 1922. Text at http://www.paclii.org/pits/en/treaty_database/1921/2.html

³ Approved by General Assembly *resolution 317(IV)* of 2 December 1949 entry into force 25 July 1951; text at <http://www.un-documents.net/cstpepo.htm>.

there are some tensions between those who view engaging in prostitution as a right versus those that view it as a rights abuse. This frame empowers individuals and obligates states. Not only does it suggest that state officials have an obligation to prevent coercive bondage, in so doing they have an affirmative obligation fully to respect the rights of individuals as well.

The human rights frame has been an important part of the discourse surrounding human trafficking in the past two decades, but by no means was it the dominant frame. It has been proffered primarily by non-state actors, including Amnesty International,⁴ the Office of the High Commissioner for Human Rights, and international agencies including UNICEF and the International Organization for Migration (IOM) (Gallagher 2001). These groups have urged states to see the problem of trafficking from a rights perspective, calling on them for example (with limited success) to assure the protection of the rights of trafficked persons to remain in the destination country rather than forcibly returning them to their country of origin (Gallagher 2001).

A third frame for human trafficking is the *transnational organized crime* frame. This frame situates human trafficking firmly within the broader problem of criminal networks that transcend national borders. In contrast to the two frames above, this frame strongly implies international cooperation, since it explicitly focuses on a phenomenon which, by definition crosses state boundaries. This frame also links trafficking with networks that engage in activities that have already been designated as criminal. Finally, this frame views trafficking as corrosive of state authority, and even sees it as a potential national security threat.

The human trafficking debate in the 1990s was firmly linked to the major countries' concern with transnational crime. This concern was heightened by the consequences of the

⁴ See Amnesty International's webpage on trafficking at <http://www.amnestyusa.org/violence-against-women/end-human-trafficking/page.do?id=1108428>. Accessed 15 June 2010.

break-up of the former Soviet Union and the liberalization of Eastern Europe (Salt 2000; Hughes 2000). According to a report by the Congressional Research Service, “The former Soviet Union and Eastern Europe are believed to be the largest new source of trafficking for prostitution and the sex industry in Europe and North America” (Miko 2003). Practical experience in transnational anti-crime cooperation had also accumulated by the 1990s. By mid-decade, there were at least a dozen major multilateral agreements already in place relating to various aspects of transnational crime, with explicit provisions for prosecutorial cooperation.⁵ In late 1990, the UNGA adopted Model Treaties on Extradition⁶ and Mutual Assistance in Criminal Matters.⁷ By 1994, 644 extradition treaties were in place among states – an indicator of the experience and perhaps even the learning that had already taken place with respect to cooperation against transnational criminal activity.⁸ Recent experience provided models of how transnational cooperation regarding crime might be achieved, rendering the lens even more persuasive because of its familiarity.

The impetus for the transnational crime frame came from Western European countries on the front lines of the new post-Cold War immigration pressures. Italian officials initiated and hosted the World Ministerial Conference on Organized Transnational Crime, held in Naples in November 1994, and attended by delegates from 142 states. 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

⁵ The list is published in Appendix A, located on the authors’ website at [...].

⁶ Model Treaty on Extradition. A/RES/45/116, 68th plenary meeting, 14 December 1990. Text at <http://www.un.org/documents/ga/res/45/a45r116.htm> (Accessed 12 May 2010)

⁷ Model Treaty on Mutual Assistance in Criminal Matters, A/RES/45/117, 68th plenary meeting, 14 December 1990. Text at <http://www.un.org/documents/ga/res/45/a45r117.htm> (Accessed 12 May 2010).

⁸ Authors’ database. Some 255 extradition treaties were also negotiated from 1994 to the present (approximately 2008).

Federation.⁹ In 1996, representatives from the Polish Government submitted the first draft of the UN Convention against Transnational Organized Crime (CTOC) to the General Assembly.

In 1998, the UNGA created an Ad Hoc Committee (open to all countries) on the Elaboration of the Convention against Transnational Organized Crime (Vlassis 2002). Operating out of Vienna from the UN Office on Drugs and Crime (UNODC), the committee held eleven sessions over a two year period. Countries representing all regional groups participated, 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.¹⁰ 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. That such a broad range of states could agree on such an array of issues, including for the first time the criminalization of human trafficking, in under two years was quite remarkable (Chuang 2005-2006).

We argue swift consensus was possible because of the focus on transnational crime, rather than on victims or human rights. Figure 1 demonstrates that human trafficking in the 1990s was temporally linked in UN debates with the issue of transnational crime. This figure also shows that human trafficking received early but only occasional attention until the burst of attention to transnational crime in the 1990s.

[FIGURE 1 ABOUT HERE]

Moreover, we can literally witness the move away from the “rights frame” and the embrace of the “transnational crime frame” over the course of the 1990s by examining the language used in the successive resolutions that evolved into the binding human trafficking

⁹ A/RES/49/159, 1994; Third Committee Draft: A/C.3/49/L.71, 1994.

¹⁰ See UNGA resolution 55/383 for a summary report on each session and key statements by state leaders.

protocol of 2000. In 1994, the UNGA had passed a resolution on Traffic in Women and Girls,¹¹ which focused on a specific aspect of the broader criminal trafficking problem – that related to sexual exploitation.¹² This early resolution clearly framed human trafficking as a human rights issue. The brief three page resolution uses the phrase “human rights” nine times. Variations on the word “sex” appear 4 times, and “prostitution” appears twice. Variations on the word stem “crim-” appear only five times. Comparing this initial resolution with the final text of the 2000 Human Trafficking Protocol, references to “human rights” are slashed to a mere four, sex and prostitution are each mentioned only once, and variations on the word stem “crim-” soar to eleven. What initially was introduced as part of the UN’s traditional postwar concern with human rights became part of the post-Cold War international anti-transnational crime effort of the late 1990s. The transformation was apparently largely accomplished through the drafting work of the United States, Italy, and Austria throughout 1998 and 1999 (Vlassis 2002; Chuang 2005-2006; DeStefano 2007) but the draft protocol was sponsored by a broad coalition of states that included 22 countries 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. It was accepted with only minor revisions by apparently unanimous consensus (no recorded vote) by the UNGA.

¹¹ Resolution Adopted by the General Assembly (A/RES/49/166, 1994). This resolution was part of a series of resolutions addressing the Advancement of Women (see the report of the Third Committee, A/49/607, for related measures); text at <http://www.un.org/documents> (Accessed May 5, 2010). These issues were alternately framed as issues to Advance Women or as Criminal Justice issues, depending on what was being emphasized. For the list of resolutions for both the CTOC and the Trafficking Protocol, see Appendix B, located on the authors’ website at [...].

¹² The delegate from the Philippines assumed the primary leadership in introducing resolutions on trafficking. The Philippines co-sponsored this resolution with delegates from Costa Rica, the Dominican Republic, Guinea-Bissau, Myanmar, Panama, the Philippines the Russian Federation, Pakistan. The revised resolution added cosponsorship by Belgium, Cape Verde, Colombia, Ecuador, Nigeria, and Portugal. For a complete list of UN resolutions relating to human trafficking over the course of the 1990s, and who introduced or co-sponsored them, see Appendix C, located on the authors’ website at [...].

There was nothing inevitable about the broad acceptance of the criminalization approach to human trafficking. The transnational crime frame was useful precisely because there were a number of controversies that unless subordinated to a highly convincing frame could clearly have delayed consensus. One source of tension was the concern that efforts to stop trafficking were disguised protectionist measures against migration in general. Some governments such as Moldova's encourage migration to secure remittance-based tax revenues, while countries such as Indonesia and the Philippines have explicit policies of increasing human “exports” to support their balance of payments and inward remittance flows. Since it is difficult at times to distinguish voluntary smuggling from involuntary and exploitative trafficking (Zhang 2007), some developing countries were worried 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). A second source of tension is cultural: reducing trafficking is a much lower priority in countries where cultural attitudes toward women and children and workers rights in general are a lower priority, and where various forms of bonded labor are widely accepted (William 2008; Dewey 2008; Parrot and Cummings 2008).

Despite a series of controversies that marked the early discussion of the protocol, *consensus was achieved because powerful countries largely kept the focus on crime, and parried aside attempts to force the protocol to address other sensitive issues in any meaningful way.*¹³ Consensus was possible because it was relatively narrowly focused on activities that challenged the authority and interests of states – despite the efforts of international organizations and non-

¹³ For a critique of the (lack of) human rights or victims protection provisions in the Protocol, see Gallagher (2009) and Hathaway (2008).

governmental actors. The transnational crime frame appears to have supported the “fragile consensus” (Chuang 2005-2006) that formed to criminalize human trafficking in the late 1990s.

TRANSNATIONAL CRIME, STATE INTERESTS, AND NEGATIVE EXTERNALITIES

What does the primacy of the transnational crime frame mean for the diffusion of human trafficking law? In this section we describe the implications of the transnational crime frame for state behavior with respect to policy innovation. We argue that the framing of an issue has strong implications for how actors both reason and behave. Transnational crime is characterized by a logic of consequent externalities which we argue has a significant impact on legal diffusion of criminalization norms.

DIRECT EXTERNALITIES. When viewed as a transnational crime, human trafficking involves a number of negative externalities that most governments strongly wish to avoid. Human trafficking has deleterious effects on the health of societies in which trafficking flourishes, and to the authority of the state itself. 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% 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 worry about the negative externalities associated with criminal economies of scale. Traffickers in human beings often use the same criminal networks as do smugglers of weapons, drugs and other contraband. There is also the potential for organized crime and terrorist organizations to join forces (Jonsson 2009). Evidence suggests that terrorist

organizations from the FARC guerillas 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). Using the same channels, human trafficking, is potentially an additional income stream for such organizations.

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 (Shelly 2009). Because trafficking numbers are unavailable, it is impossible to quantify these impacts with any precision. But the point is this: the transnational crime frame posits human trafficking as a violent and socially corrosive activity, typically connected with broader networks and almost inevitably conducive to corruption of public officials. While it may line the pockets of some corrupt officials, it is generally viewed as 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).

POLICY EXTERNALITIES. A second kind of externality associated with the transnational crime frame derives from the policy choices of other states. The flexible and ad hoc nature of trafficking networks means that law enforcement efforts in Country A can re-channel criminal activities in ways that negatively impact nearby countries. Patrick Keenan 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 (Keenan 2006). 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). Anticipation of such 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 fluidity of transnational crime provides strategic incentives to harmonize policies with neighbors in order to avoid becoming the weak link in the law enforcement chain and a magnet for transnational criminal activity.

Beginning in the 1990s, states have become more exposed to information about the negative externalities associated with human trafficking. There is little doubt that these consequences figured highly in the multilateral discussions precedent to the CTOC and its protocols. Press reports contributed to the attention to these issues. Figure 2 illustrates the number of hits per year for searches on "human trafficking" and "sex trafficking" using the Lexis-Nexis 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.¹⁴ As policy-makers influenced by the transnational crime frame become more aware of the consequences of human trafficking, we should expect governments self-interestedly to embrace anti-trafficking norms.

EMPIRICAL IMPLICATIONS. The theory above implies that instrumental reasoning has dominated the diffusion of the criminalization norms relating to human trafficking. We hypothesize that governments have adopted criminalization policies primarily because *the*

¹⁴ We are unable formally to test this proposition in the models below, because the distribution of the data does not permit the calculation of hazard ratios in plausible specifications.

dominant frame has persuaded them that the consequences of non-adoption are dire, or at least inimical to their interests. Similarly, the negative externalities associated with trafficking encourage the dominant power(s) to use political as well as economic pressures to encourage hesitant states to conform.¹⁵ The following section details how we test these propositions.

THE DIFFUSION OF CRIMINALIZATION: DATA AND METHODS

DEPENDENT VARIABLES: DOMESTIC CRIMINALIZATION AND PROTOCOL RATIFICATION

We want to demonstrate that frames have a strong influence on the diffusion of policies worldwide. We examine two outcomes that reflect states' legal commitment to counter transnational crime. First, we model the criminalization of human trafficking in domestic law. (Criminalization is required by Article 5 of the human trafficking protocol, which is discussed below.) We define "criminalization" rather strictly for the tests reported below: our definition implies that the country has brought itself into compliance with international treaty standards. Each country is scored as having criminalized if they have made trafficking of persons illegal and define trafficking broadly. To qualify, a country must have enacted specific anti-trafficking legislation, with broad coverage admitting of no important exceptions. (We check for robustness by using a looser definition, as discussed below.) The source for this information was *The UN*

¹⁵ 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.

Global Report on Trafficking in Persons, which is the most authoritative global compendium of information on the status of states' criminalization reforms available.¹⁶

Second, we model the factors that increase the likelihood of ratifying the Human Trafficking Protocol of 2000. This protocol constitutes the most explicit and legally binding international commitment states can currently make to cooperate to counter transnational human trafficking. The Protocol defines human trafficking broadly, concentrating on its character as coercive and exploitative, and emphasizes that the latter includes but is not limited to sexual exploitation.¹⁷ We use ratification (to include accession) with or without reservations¹⁸ because it signals a higher level of legal obligation to the contents of the treaty than does signature alone.¹⁹ Figure 3 shows that by 2000 – the year the TOC and protocols were open for signature – about 10 percent of countries already had fairly strong laws against human trafficking in the domestic penal codes. It also shows that over time the slope for the ratification curves is generally steeper than for domestic criminalization. About 70 per cent of all states had ratified the Human Trafficking Protocol by 2009,²⁰ while just under 60% had criminalized human trafficking in domestic law. Figure 4 demonstrates significant variance by region, Eastern Europe displaying the highest ratification rates and central and south Asia clearly lagging behind. Together, these

¹⁶ The report can be found at: <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>. (Accessed August 2009).

¹⁷ According to Article 3(a): "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..." Text at: <http://www2.ohchr.org/english/law/protocoltraffic.htm>. (Accessed 25 June 2010.)

¹⁸ We have collected data on reservations, but have not found those patterns to be closely correlated with criminalization or other phenomena of interest, so we simply use "ratification" as the threshold commitment.

¹⁹ Ratification dates are collected by the United Nations and can be found at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en.

²⁰ The TOC has higher ratification rates than its protocols because states may not ratify the latter until they have ratified the former. See Article 37(2) of the Convention on Transnational Crime. Text at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>. (Accessed 17 May 2010).

two policy choices – ratification of international rules and adaptation of domestic law to their requirements – constitute important evidence of a government’s willingness to implement an anti-crime approach to human trafficking.

[FIGURES 3 AND 4 ABOUT HERE]

EXPLANATORY VARIABLES

Our argument about *direct externalities* suggests that countries from which persons are trafficked (countries of origin), countries through which members of criminal networks pass on their way to a final or semi-final sale (transit countries), and countries where trafficked persons are ultimately held against their will (destination countries) should all be far more eager to criminalize transnational human trafficking and to commit to international agreements than their relatively unaffected counterparts. Based on information provided in recent qualitative reports by a non-governmental organization devoted to human trafficking issues, “Protection Project,” we have been able to categorize countries according to whether they are significant countries of origin, destination countries, transit countries, or countries that primarily have an internal trafficking problem.²¹ Countries may be in more than one category, and unfortunately several important countries, such as India and Turkey, are missing from our data, but this is the best information currently available.

Second, the power of the transnational crime frame can be tested by looking at responses to anticipated *policy externalities*, as evidenced by countries’ responses to one another. To the extent that governments have accepted the criminal networks frame, they are likely to emulate the policies of neighboring countries that might deflect criminal networks to their own

²¹ The Protection Project is a research institute based at The Johns Hopkins University School of Advanced International Studies (SAIS) in Washington, D.C.” One of its projects is to prepare country reports on human trafficking (see <http://www.protectionproject.org/?q=content/country-reports>). For details on their methodology, see Appendix D, located on the authors’ website at [...].

jurisdiction. Governments are more likely to criminalize if they believe that there is some real risk that tough criminalization by other countries will impact them negatively – unless they follow suit.

We test a specific version of this argument that distinguishes the rational anticipation of policy externalities from general arguments about “western scripts” as determinants of institutional isomorphism. We have collected data on the very conduits through which we expect externalities to flow – roads connecting one country to another. In contrast to other forms of transnational crime such as money laundering or even trafficking in high value, light-weight drugs, human trafficking generally takes place through networks of surface transportation.²² We measure externalities by creating a variable which captures the number of border crossings to countries who have criminalized human trafficking.²³ We used satellite images available in the USGS Global GIS database to create a worldwide dataset of major highways connecting each pair of contiguous countries.²⁴ We then created a count of the number of roads which crossed each border between two countries to create a contiguity matrix. For each country, we summed the number of borders to each country which had criminalized human trafficking by the previous year. We sum the borders to weight more heavily neighboring countries that have denser, more developed roads connecting neighbors’ territory with their own.²⁵ For example, because of the density of roads in the region, Russia's borders with Eastern Europe are given more weight than

²² Some human traffickers also use airborne transportation, but security is tighter and transportation costs higher, raising the risks and cutting into expected profits.

²³ We have tested our arguments using three thresholds for domestic criminalization, as well as for ratification of the human trafficking protocol itself. We report the results for adoption of policies that meet the most stringent definition of the criminalization of human trafficking. The results reported in the following section are robust to the definition of domestic criminalization chosen (results are available from authors upon request).

²⁴ The data are based on aerial photography and geological surveys taken in January of 1997 by the United States National Imagery and Mapping Agency. Documentation and definitions can be found at http://www.agiweb.org/pubs/globalgis/metadata_qr/roads_qk_ref.html.

²⁵ Major roads are built to accommodate increased traffic suggesting both that borders with many crossings have a high travel demands and most likely connect large cities (potential markets for trafficked labor) on either side.

its border with Mongolia in predicting the diffusion of criminalization. This measure also provides an easy interpretation to the coefficients: for example, a 1.10 coefficient corresponds to a 10% increase for each border crossing connecting a country to a neighbor who has criminalized human trafficking or ratified the human trafficking protocol, as specified in the tests that follow.

HEGEMONIC PRESSURE. One fairly sure sign that an issue area is characterized by high negative externalities is the observed willingness of a major power or powers to expend effort to pressure others to adopt policies it prefers. In contrast to most domestic human rights practices (Simmons 2009), the transnational crime frame suggests that powerful actors (especially powerful destination states) have incentives to marshal resources to coerce others into their conceptions of appropriate transnational law enforcement. The transnational crime frame, which implies the transmission of negative externalities, is therefore much more likely to elicit credible coercion than is a victim protection or human rights frame, except perhaps in the most horrendous cases of abuse. Coercion is a mechanism that is central to much of the literature on policy diffusion (Simmons et al. 2008), and it is especially plausible given the salience of the transnational crime frame.

We hypothesize that major powers are likely to exert social and even material pressure to get other states to address the human trafficking problem. 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 and/or the European Union. We think it is much more likely, however, that powerful states will attempt to shame, especially if shame can potentially be backed up by reductions in material aid. Fortunately, excellent evidence is available on hegemonic attempts to shame other countries

regarding their human trafficking efforts. Every year, the U. S. Department of State issues reports on human trafficking and 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 subject to “US pressure.”²⁶ 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 General Accountability Office of the United States itself admits that the State Department ratings are not scientific, and are used primarily to try to influence others’ policies (United States 2006). While it would hardly be appropriate to use the U.S. tier ratings as objective measures of actual policies, they do 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 the tiers ratings in US Trafficking in Persons (TIPs) 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 coordinated more than 1000 prosecutions”

²⁶ 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.” Source: US DOS: TIPR, June 2009, p. 51. Tier 2WL and Tier 3 are combined to form our indicator of “US pressure.” It is important to note that this is an effort to enforce US standards as reflected in the TVPA, and *not* the Human Trafficking Protocol explicitly.

(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.

INFORMATION EXPOSURE. The ability to respond to externalities depends on having information available to assess the risk of exposure. Governments form their ideas about the kinds of risks human trafficking represents for them through a number of channels, but one of the most informative is likely to be national and international media. The media have been important in putting human trafficking in the context of its negative externalities. A small random sample of news items from around the world (drawn from the Nexis-Lexis database) reveals that press reports were reasonably likely to put human trafficking in its organized crime context. For example, in 1999 *The Sowetan* (Johannesburg) connected human trafficking with transnational crime when they wrote: “Evidence exists of the involvement of foreigners in mineral, vehicle, drug, counterfeit goods and human trafficking; financial and telecommunications fraud; and the theft and fabrication of government documents and stamps in order to legalise the illegal presence of some [immigrants] in South Africa.”²⁷ In 2004, the President of the Republic of Korea linked human trafficking to a host of regional security issues: “...active cooperation should be pursued in political security. We must address the issue of universal spread of crime such as terrorism, narcotics, piracy and human trafficking.”²⁸ The European Commission praised Turkey in 2008 for “actively contributing to security of EU citizens” among other things by “contributing to EU's fight against terrorism, drug[s] and human trafficking.”²⁹

²⁷ “South Africa; Immigration dilemma,” *The Sowetan* (Johannesburg), November 16, 1999.

²⁸ Kim Dae-Jung, quoted in Azhar Sukri, “Malasia/East Asia” *Voice of America News*, December 6, 2004.

²⁹ “EU commissioner says outcome of EU talks depends on Turkey,” *BBC Worldwide Monitoring*, October 4, 2008 Saturday

Since media reports were often transmitters of the transnational crime frame for understanding human trafficking, they serve as the database for our indicator for information regarding externalities. We collected a complete set of articles from the Lexis-Nexis international news sources database for every year between 1994 and 2008 that contained both a specific country's name and the phrase "human trafficking" within 150 words of that country name. Articles listing multiple countries that fit this criterion are counted multiple times. Our measure of information is the total number of such articles for each country, each year, which yields an indicator of exposure to information about externalities that varies over time and space. We lag this indicator two years so as not to conflate news about policy change with the information that might have led to that change.

CONTROL VARIABLES. We control for a broad range of alternative explanations that might explain criminalization and treaty ratification.³⁰ We control for a country's reputation for adherence to the rule of law as measured by the World Bank rule of law scale. When modeling criminalization in the national code we control for ratification of the Human Trafficking Protocol, since it requires states parties to criminalize the practice. Developmental level, pervasiveness of child labor, and remittances as a proportion of GDP are used to control for the economic or cultural interests a society might have in sending a segment of its population to other countries to work. We also collected a series of alternative indicators of dependence on the United States and Europe (aid and trade dependence; use of credits from the International Monetary Fund) to test for the mechanisms of potential coercive influence on policies. We also control for domestic factors that might be associated with criminalization, including the proportion of women represented in the lower house of national legislatures and the dominant

³⁰ Exact definitions and sources for all explanatory variables can be found in Appendix D, located on the authors' website at [...].

religion practiced in the society. We control as well for those countries who have taken the most active role in introducing trafficking related resolutions in the United Nations, membership in the Council of Europe, as well as other regional organizations, since one plausible hypothesis is that these organizations are sites for socialization and persuasion about the appropriateness of outlawing human trafficking. Finally we control for the propensity to ratify human rights treaties, as a proxy for the weight a given country might give the human rights frame over the organized crime frame.

METHOD OF ANALYSIS: EVENT HISTORY MODEL

We use a statistical method that focuses on the spell of time until the events of interest occur (in this case, domestic criminalization of human trafficking and ratification of the Human Trafficking 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).³¹ The unit of analysis is a country-year. For criminalization, the analysis begins in 1991 (before that date, data are not widely available) and for the Protocol it begins in 2000 – the date this instrument was open for signature and ratification. In both cases tests end between 2006 and 2008, depending on the availability of data on the explanatory variables. We are interested in

³¹ Specifically we employ a Cox proportional hazard model (a kind of survival 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:

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

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 model is semi-parametric, in that it makes no assumptions about the underlying shape of the baseline hazard rate. (We make no assumption about whether the rates of criminalization or of ratification inherently accelerate or decelerate with time, for example.) 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).

exploring whether systematic influences associated with negative externalities, hegemonic pressures and information availability influence the underlying rate of ratification and criminalization. These influences should show up in statistically significant hazard ratios which, if greater than one signify a positive influence and if less than one signify a negative influence.

FINDINGS

CRIMINALIZATION

Table 1 provides some preliminary evidence on these mechanisms. The dependent variable in this case is *criminalization of human trafficking in national law*. The most interesting finding for our purposes is the strong and quite robust results for indicators that provide evidence of policy diffusion as transmitted through the mechanism of anticipated externalities. Using a variety of measures of the importance of physical exposure to countries that tighten their criminalization policies, there is clear and consistent evidence that human trafficking in national law is strongly correlated with adoption of the same policy in a neighboring country in the previous period. All models test for the influence of criminalization weighted by the *total sum* of roads connecting countries, which we argue measures physical exposure to the trafficking networks of a neighbor. This measure is highly correlated with adoption of a similar policy with respect to human trafficking in the following year.³² This suggests that governments are influenced to criminalize human trafficking when the countries with which they are most intensively connected by road have done so. This specific pattern is consistent with policy innovation influenced by the

³² For robustness, we tested for various measures of sensitivity to a neighbor's policies, including: density of criminalization in the region, the sum of contiguous neighbors' criminalizations, percent of contiguous neighbors' criminalizations, policy of neighbors with at least one cross-border road, criminalization weighted by per cent of neighbors with at least one cross-border road, and neighbor criminalizations weighted by density of cross-border roads. All of these measures are strongly correlated with criminalization of human trafficking in the following period. For details on these measures, see Appendix E, located on the authors' website at [...].

anticipation that trafficking networks will divert their activity – literally, move people by highway – away from jurisdictions with tougher enforcement standards. In short, it is consistent with concerns about policy externalities arising from criminalization in jurisdictions from which it is easiest to divert the activities of criminal trafficking networks.

We also find strong evidence of hegemonic pressure emanating, it appears, from the United States. Across each of these models, if the U.S. State Department had 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 the secondary literature, which sometimes refers to the embarrassment of government officials in particular countries when the U.S. criticizes their efforts so publicly (Fein 2007). This finding suggests that countries are sensitive to the shaming such a rating implies, and are willing to alter their policies by criminalizing trafficking in response.

As states and societies are exposed to media information relating to human trafficking, and reinforcing the transnational crime frame, the likelihood of criminalizing the practice also increases. The log of the number of media reports that closely connect human trafficking with a particular country has a strong positive effect on the probability of criminalization two periods hence. As information becomes more available, governments are much more likely to criminalize human trafficking in their jurisdictions.

Of course, other factors contribute to the probability that governments will criminalize human trafficking, and we control for these in the tests reflected in Table 1 as well. 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 one point (on a scale that ranges from -2.3 to 2) is associated with anywhere

between a 36 (Model 3) to 52 per cent (Model 2) increase, respectively, in the probability of criminalizing trafficking in a given year. It also appears that countries on average implement their commitments under the 2000 Human Trafficking Protocol. Ratification increased the probability of subsequently criminalizing human trafficking by between 43 and 66 percent (Models 6 and 4 respectively), as required by Article V of the Protocol.

The results for exposure to potential externalities and to US pressure are quite robust, controlling for a broad range of alternative measures and explanations. Model 2 tests for the robustness of the coercion argument. It includes other measures of potential leverage that might be used to coerce states to take an aggressive stand on human trafficking. Since the U.S. Tier system was designed specifically to allow for the possibility of tying aid to improvements in human trafficking policies, we collected data on U.S. aid dependence. For every one percentage point increase in the proportion of a country's aid from the U.S. as a share of its GDP, there is an estimated 17-fold increase in the probability that a country will adopt strict laws criminalizing human trafficking. The use of credits from the International Monetary Fund – where the United States is authorized by the TVPA to use its influence to block loans if countries make extremely weak efforts to control human trafficking – is also associated with an enhanced probability of criminalization, although the probability does not quite reach standard levels of statistical significance ($p=.08$).

Trade with the United States or with Europe is not plausibly correlated with criminalization policies, however. Each country's trade with the United States and with Europe as a share of its total trade 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. 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.

We expected a country's developmental level to have some influence on criminalization (Model 3), but found that there was no statistically significant difference between the low and low-middle income categories as defined by the World Bank and higher income groups. On the assumption that developing countries dependent on child labor might resist the criminalization of trafficking, we further controlled for the economic activity of 10-14 year old children in an economy. Widespread child labor practices likely do contribute to the social and political resistance that make criminalization of human trafficking more difficult. Contrary to our initial expectations, however, dependence on foreign remittances apparently has nothing to do with criminalization. There is practically no relationship between remittances as a proportion of GDP and the likelihood that a government outlaws human trafficking.

Models 4 and 5 control for important domestic political and cultural factors, but no clear trends emerge. Accounting for the major religion practiced in each country adds nothing to our understanding of criminalization. There may be a weak relationship between the representation of women in a country's parliament (proportion of seats occupied by women in the lower chamber of the legislature) and the propensity to criminalize human trafficking, which supports expectations that the representation of women's interests in policy making institutions might positively impact legislation in what is often thought to be a highly gendered issue area.

In Model 6 we entertain the possibility that various forms of leadership and participation in the norm-formation process at the United Nations has contributed to a propensity to criminalize human trafficking. We have summed both the number of resolutions each country (co)introduced relating to human trafficking, and those each eventually "(co)endorsed" (joined in

co-sponsoring in a later draft). We do find that having been an active participant in the resolution-making process at the United Nations correlates with criminalization: each resolution endorsed raises the probability of criminalizing human trafficking by about 31 per cent. But the inclusion of these variables has minimal to no impact on the evidence for the importance of externalities, hegemonic pressures and information.

We further probe the plausibility of the externalities argument by testing for the conditions under which we would expect their effects to be most acute. The *externalities* associated with human trafficking are likely to be most significant, it is plausible to assume, in countries through which traffickers are most likely to pass (transit countries) and countries in which trafficked individuals enter and ultimately are exploited. Transit and destination countries should be most sensitive to the policies adopted by their neighbors: when neighbors make serious efforts to criminalize, criminal organizations will find new territory through which to transport victims, and new markets in which to exploit them. Countries with serious internal trafficking problems may have motives to crack down on transnational criminal networks involved in trafficking, but their policies should not necessarily be sensitive to their neighbors.

Table 2 tests for the importance of externalities using nuanced subcategories of countries, grouped by their experience(s) with human trafficking. The results fit a theory of the importance of externalities. Despite the fact that the categories are noisy, it is clear that destination countries and transit countries are much more strongly and consistently influenced by the policies of their neighbors – *weighted by the density of connecting roads* – than are countries that are not important destinations or transit routes. Every connecting road increases the probability of adopting a neighbor’s policy by 30 to 58 per cent for destination and transit countries, respectively, compared to countries without these kinds of exposure to trafficking.

Origin countries also show a response to well-connected neighbors' policies, although the association is weaker. However, we simply do not see these kinds of effects in countries with internal trafficking problems. Finally we compared the strength of effects of road connections on mimicking neighbors' policies for European countries compared to the rest of the world. The response to neighbors' policies weighted by road density is strongest in Europe. Unsurprisingly, US pressure is strongest outside of Europe, where the threat of withdrawing developmental aid has some bite. Media information has its strongest effects outside of Europe, but also in destination and origin countries.

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 some evidence for the proposition that ratification of human rights treaties – a proxy for the appeal of the human rights frame in addressing human trafficking – is positively correlated with the national criminalization of human trafficking ($p=.08$). Membership in regional, sub-regional, or cultural organizations does not contribute to an increased probability of criminalization, although there is some evidence that certain regional groupings such as the Council of Europe (COE) has a strong positive influence on criminalization and interferes with the sensitivity to road crossings as a policy diffusion mechanism (road crossings are no longer statistically significant when a variable for membership in the COE is included; the correlation between these two variables is about 0.25).

As a final robustness check, we ran tests using slightly different definitions of “criminalization.” It is possible for countries to “partially criminalize” human trafficking, by attaching conditions and permitting exceptions to the general prohibition. Using a more lax

definition that credits countries for partial criminalization,³³ we re-ran most of the tests above and found substantially the same results. In particular, the findings about neighbors' policies and US pressure were consistently confirmed.³⁴

Overall, these results suggest that criminalization follows from a combination of not-so-subtle social pressure by the United States, concerns about negative spillovers when others criminalize, as well as growing information in the media about problems associated with human trafficking. Undeniably, there are domestic characteristics associated with the decision to criminalize trafficking as well, such as the general strength of the rule of law in a country. But the evidence is fairly strong that trafficking externalities and external pressures are among the most important mechanisms of policy diffusion in this area.

RATIFICATION OF THE 2000 HUMAN TRAFFICKING PROTOCOL

The 2000 Human Trafficking Protocol requires states parties to criminalize trafficking in human beings,³⁵ and we saw in Figure 3 that ratification and criminalization have moved roughly together over time. Moreover, the results in Tables 1 indicate that ratification of the protocol increases the likelihood that states will in fact criminalize.

It is surprising, therefore, that few of the variables that explain criminalization have much purchase on the decision to ratify the Human Trafficking Protocol. Initial tests show that

³³ 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, UK, Venezuela, and Zambia. Coding is based on descriptions available in *The UN Global Report on Trafficking in Persons*.

³⁴ There was one exception: using the most lax definition, sensitivity to border crossings was only marginally significant in the cultural and women's models, and not significant ($p=.20$) in the developmental model. US pressure and media information were as strong or stronger using the lax definition.

³⁵ Article 5(1) provides, "Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally." See text at http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf (accessed 18 May 2010).

the rule of law and even whether or not a country has already criminalized trafficking are not correlated with the ratification of this protocol. Nor does US pressure as measured by the State Department's tiers ratings have any relationship with the decision to ratify (as we show below). Policies of neighboring countries scaled by the number of road crossings do have an impact, but as we will see, the estimated effects are much smaller than in the case of criminalization.

Our efforts to model ratification are displayed in Table 3. Once again there is consistent and robust evidence that the policies taken by neighbors connected by a dense network of roads is very likely to lead to the ratification of the trafficking convention. The estimate here is smaller than in the case of domestic criminalization. Each cross-border road increases the probability that a country will ratify contingent on the policy of its neighbor by between 1.4 and 2.8 per cent, depending on the controls included in the model. It makes sense that this estimate is smaller; signing a treaty that requires criminalization is a weaker policy than criminalization itself. But the tendency to be influenced by the policies of well connected neighbors is analogous.

Model 2 considers the experience of the country with trafficking. Countries of origin are apparently reluctant to ratify the human trafficking protocol: they are about 38% less likely to ratify than are countries that are not significant sources of trafficked persons. Transit countries on the other hand are about 51 per cent more likely to ratify, as are countries – surprisingly – with severe internal trafficking problems. It is also surprising that a country's status as a destination apparently does not influence protocol ratification.

While US pressure does not appear to be correlated with protocol ratification, we checked for potential vulnerabilities to pressure in Model 3. In contrast to criminalization, US aid is not correlated with ratification. This time, trade dependence on the EU is a more likely source of pressure to ratify. Every point increase in share of trade with the EU raises the

probability, according to these estimates of ratifying the protocol by between 2 to 3.2 per cent. In order to discern whether this EU trade effect should be interpreted as pressure or as a correlate of road density, we divided the sample into COE members and non-members. The EU trade effect is more positive and stronger *outside* of the COE than it is within it, which is consistent with a real (or perceived) trade vulnerability for countries that trade with Europe rather than a consequence of general “connectedness” to or within that region.

The domestic cultural/political/developmental variables add little to what we have already discussed. Women in parliament are correlated weakly with protocol ratification. Catholic countries are much more likely to ratify than countries that are not predominantly non-Catholic, although there is no clear reason why this is so. In contrast to criminalization, a reputation for the rule of law makes no difference to the decision to ratify the protocol. But there is some evidence consistent with findings elsewhere (Simmons 2009) that countries with a common law tradition are much less likely to ratify – 43 per cent less likely according to Model 6. Developmental variables are also weak in this case. Middle income countries are probably between 37 and 48 per cent more likely to ratify, but neither child labor nor remittances appear to influence the decision.

Ratification of the protocol appears to be much more systematically influenced by traditional sociological processes of membership, and rituals of belonging and participation than does domestic criminalization. The results for UN activity were similar to those for criminalization but the results for regional membership are stronger and more positive. With the exception of ASEAN membership, membership in all regional organizations tested were positive and the results were statistically significant for membership in the COE, OAS, and AU. We can be fairly certain that membership in these organizations is associated with approximately a

doubling of the likelihood of ratifying the protocol. This is not a general “regional effect;” Model 10 shows that density of regional ratifications renders all these memberships insignificant, but is not itself a significant explanation for ratification. What is clear is that states that ratify human rights treaties are also very likely to ratify the human trafficking protocol ($p=.000$). Each human rights treaty ratified is associated with about a 15% increase in ratifying the human trafficking protocol (Model 10). This means that once a state has ratified about 8 human rights treaties, the likelihood of ratifying the protocol has about doubled. It is tempting to conclude that the human rights “frame” has caused the protocol to garner support from states that place a high value on human rights. However, before jumping to that conclusion, it is important to note that a model nearly identical to Model 1 with the dependent variable as the CTOC itself returns the same significance for human rights treaties, despite the fact that the CTOC is in no sense a human rights treaty. It is possible that this variable simply reflects a readiness to participate in international treaties generally, but it is difficult to draw a firm conclusion without further research.

Overall, protocol ratification is far more subject to external socialization influences, such as membership in regional organizations, participation in UN resolution-making, and ratification of treaties generally. Nonetheless, there is still consistent evidence of (somewhat weaker) effect of concern for externalities in the decision to ratify the 2000 protocol. Governments tend to ratify when their near-neighbors do, weighted by the density of the physical infrastructure that makes human trafficking economical: transborder road crossings. This constitutes provocative evidence that the anticipation of policy externalities associated with transnational crime has a significant impact on ratification.

CONCLUSIONS

This article has argued that norms and policies diffuse according to mechanisms that are highly sensitive to how they are framed. The salience of particular frames has consequences for how actors order their values, understand cause and effect and consequently how they understand their interests. Frames are debated in a strategic context, with actors advancing arguments that further their interests as they currently understand them. But they also have the power to alter understandings and to scramble priorities in new ways. Finally, frames set the stage for the next round of contextually rational decision-making.

We view the debate itself over frames as a strategic struggle to view the world or at least the issue at hand in a particular way rather than in some other. Actors want to advance frames they think will both further their interests as well as those that they think will increase the chances that their favored policy will be accepted. Pressure and persuasion is an explicit part of this process. There is every reason to expect material and peer pressure to be brought to bear to convince skeptical states to accept the frame and to adopt the dominant powers' interpretation of the rational policy response.

This theory of framing contrasts with other understandings that have broad acceptance in sociology and international relations. In contrast to theories of sociological institutionalism, we highlight the *controversy* over both framing and eventual policy choice, and we stress the *conditionally rational* reasons for policy diffusion once a particular frame has come to dominate a specific issue area. We argue that much “institutional isomorphism” is hardly a result of uncritical adoption of western scripts or obsequious adoption of inappropriate models, and prefer to view it as a rational response to policy dilemmas, *given how an issue has been framed*.

We do wish to underscore our agreement with much of the dominant literature that stresses the social construction of what constitutes a “problem.” Much of international politics follows from the *social* process of becoming persuaded to view a phenomenon in a particular way. We fully accept this conventional view. Our contribution to theory, however, is to stress that subjectively selected frames are demonstrably powerful prisms for rational action. Just as states rationally compete for capital by liberalizing capital controls when they accept the “Washington consensus” (Simmons and Elkins 2004), we argue here that they rationally anticipate externalities when they look at human trafficking through a transnational crime rather than a human rights lens.

We have used these insights to explore the emergence of norms and the diffusion of policy in the area of human trafficking – an issue that is without doubt susceptible to interpretation through multiple frames. We have stressed three of these frames here: a victim protection frame, a human rights frame, and a transnational crime perspective. Empirically, we observe struggles in international forums that reflect the critical issues of how human trafficking should be understood and tackled. The major western powers were animated primarily by the transnational crime frame (despite the fact that most are also strongly committed to human rights generally). Non-governmental actors worked hard to offer an alternative that would emphasize the rights of victims. We have documented the consequences of this clash of ideational commitments: the earlier resolutions muted their human rights language over time, discussions became lodged in Vienna (headquarters of the UN Office on Drugs and Crime) rather than exclusively in New York (and the UNGA) and ratification of the eventual protocol was made conditional on prior or simultaneous ratification of the Transnational Crime Convention itself. This occurred because several major powers thought this frame favored their own interests in

countering transnational crime and illicit migration. For the most part, state actors were relatively easy to convince: after all, transnational crime potentially threatens state actors' developmental plans, corrupts the local rule of law, and can interfere with other programmatic goals of the state. For this reason, the transnational crime frame was far more attractive to a greater number of states than the victim protection or human rights frames would have been. It bolstered rather than challenged traditional concepts of sovereignty, and legitimated states' quests to protect their borders. The text of the adopted protocol clearly reflects this calculation. So does the extremely rapid pace at which it was negotiated.

The empirical bulk of the paper finds significant support for mechanisms of policy diffusion that follow, *given the adoption of the transnational crime frame*. In contrast to most human rights issues, transnational crime involves serious externalities of at least two kinds: *direct externalities* from the criminal activities themselves (violence, weapons and drug trafficking, money laundering, public health threats, documentation fraud and border violations) as well as *policy externalities* (the anticipation that if a nearby state raises the costs associated with using its territory to commit these exploitative crimes, criminal networks will have incentives to move their operations elsewhere). We have proposed and tested very precise ways to measure and test this argument. Human beings are most often trafficked using surface transportation, and the lowest cost option in most cases is to move them along roadways. Using satellite imaging, we have found road connections to be strongly positively correlated with adoption of a neighbor's policies, both the criminalization and ratification. We argue this reflects vulnerability to policy externalities which can divert criminal networks from a high enforcement jurisdiction to one with lax enforcement. This is not especially consistent with theories of institutional isomorphism, which emphasize the relatively uncritical acceptance of

Western scripts as models of appropriate state form and practice. The frame is largely western, but the precise mechanism of policy diffusion we document is very local – right where the rubber hits the road. And while it is possible to debate the appropriateness of the frame, it is hard to deny that given the transnational crime frame, efforts to guard against potential externalities of policy diversion are conditionally rational, especially for transit and destination countries, for which the strength of this relationship was found to be greatest.

The western countries and particular the United States reinforced the transnational crime frame with explicit forms of material and social pressure. The passage of the TVPA in the United States, with its emphasis on rating countries' efforts to stop human trafficking, and threatening explicitly to sanction with the withdrawal of aid both reflects and reinforces the transnational crime frame. The evidence suggests that the reputational and material consequences of U.S. tiers rankings were taken seriously; these were strongly and consistently correlated with the propensity for a country to criminalize human trafficking (thought not to ratify the protocol) following a poor rating. US bilateral aid is also consistently positively related to criminalization, suggestive of the implicit potential to manipulate incentives to accept and comply with the dominant criminalization frame. The evidence is fairly strong that on average countries responded rationally to these forms of material and social coercion by complying with U.S. policy preferences.

The purpose of this article has been to advance a theoretical approach that marries subjective social processes of framing with rational processes of decision making, conditional on acceptance of the dominant frame. We do not of course propose a monocausal argument, and readily acknowledge that other factors contribute to human trafficking policies. States committed to the rule of law have more readily criminalized. International legal commitment

also appears to play an important role in the acceptance of the law enforcement model to human trafficking.

There is also the suggestion of an intriguing link between media attention to the trafficking issue and the willingness of countries to criminalize. The crudeness of our measure does not at this point permit us to do much more than to suggest a plausible link, but it could be that attention in the media to trafficking problems reinforces the dominant transnational crime frame, potentially accounting for diffusion through learning processes as well. Emphatically, we have *not* been able to show that criminalization and treaty ratification will lead to effective law enforcement on the ground. Such a project will inevitably be frustrated by a lack of reasonably good data on transnational crime in general and human trafficking in particular. Speculation about effectiveness aside, this research suggests some clear drivers in the spread of anti-trafficking norms world-wide.

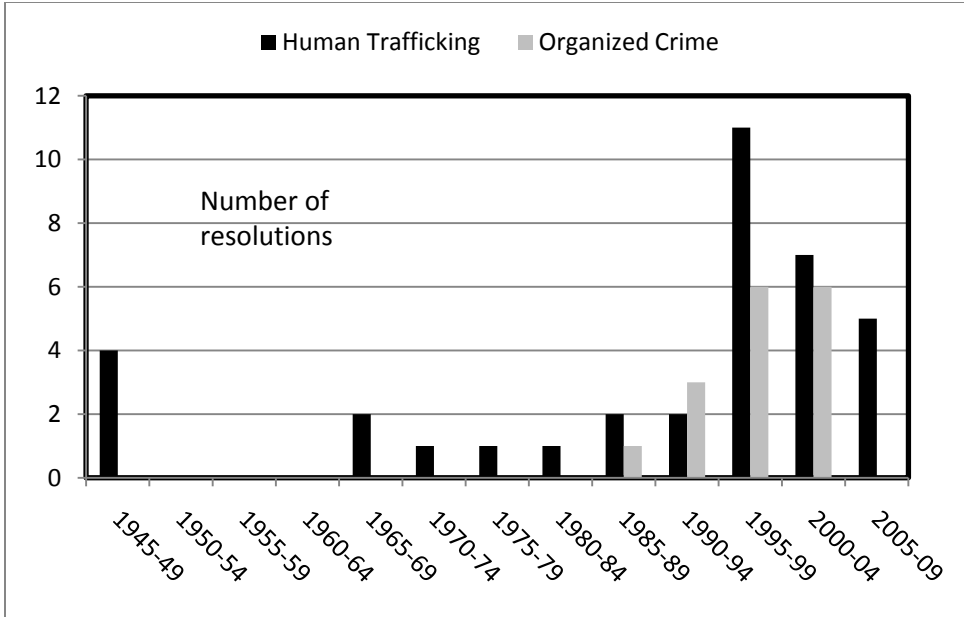


Figure 1. Adopted UN Resolutions by Transnational Crime, 1947-2008

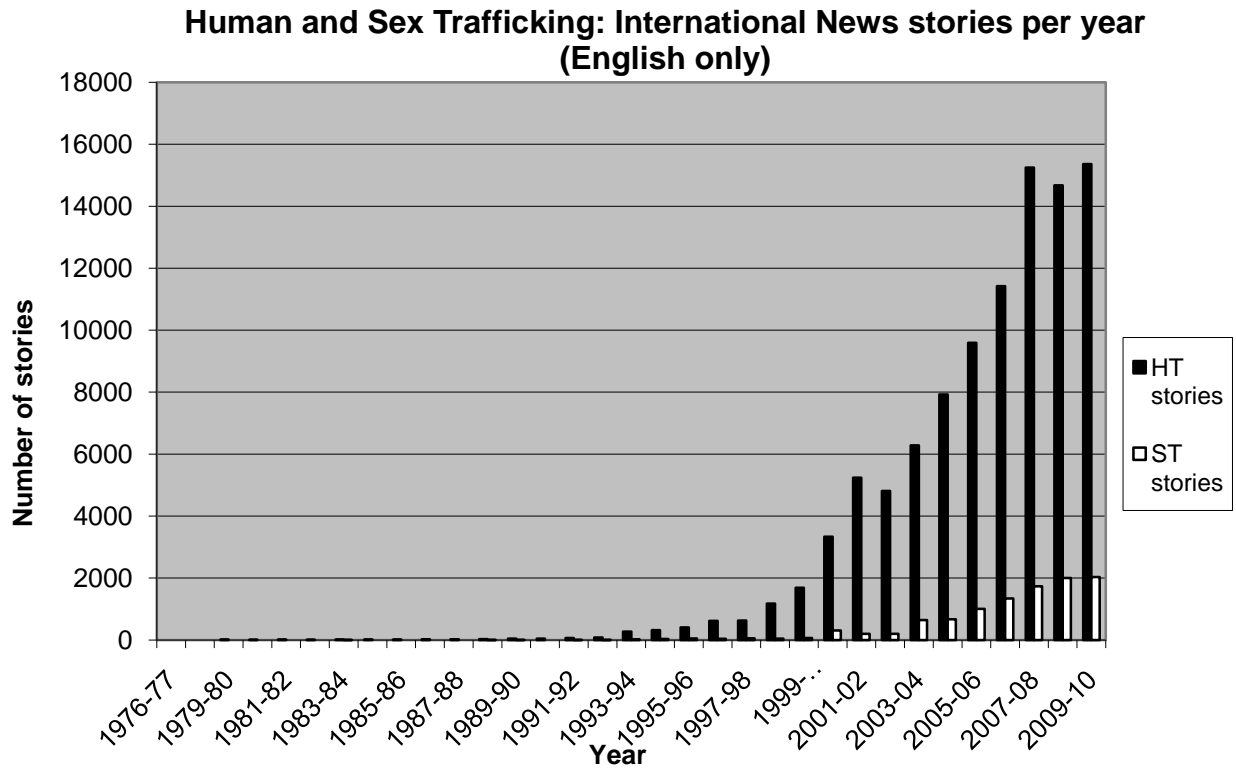


Figure 2. The Increase in Public Awareness of Human Trafficking

Source: Lexis Nexis, current as of December 2009.

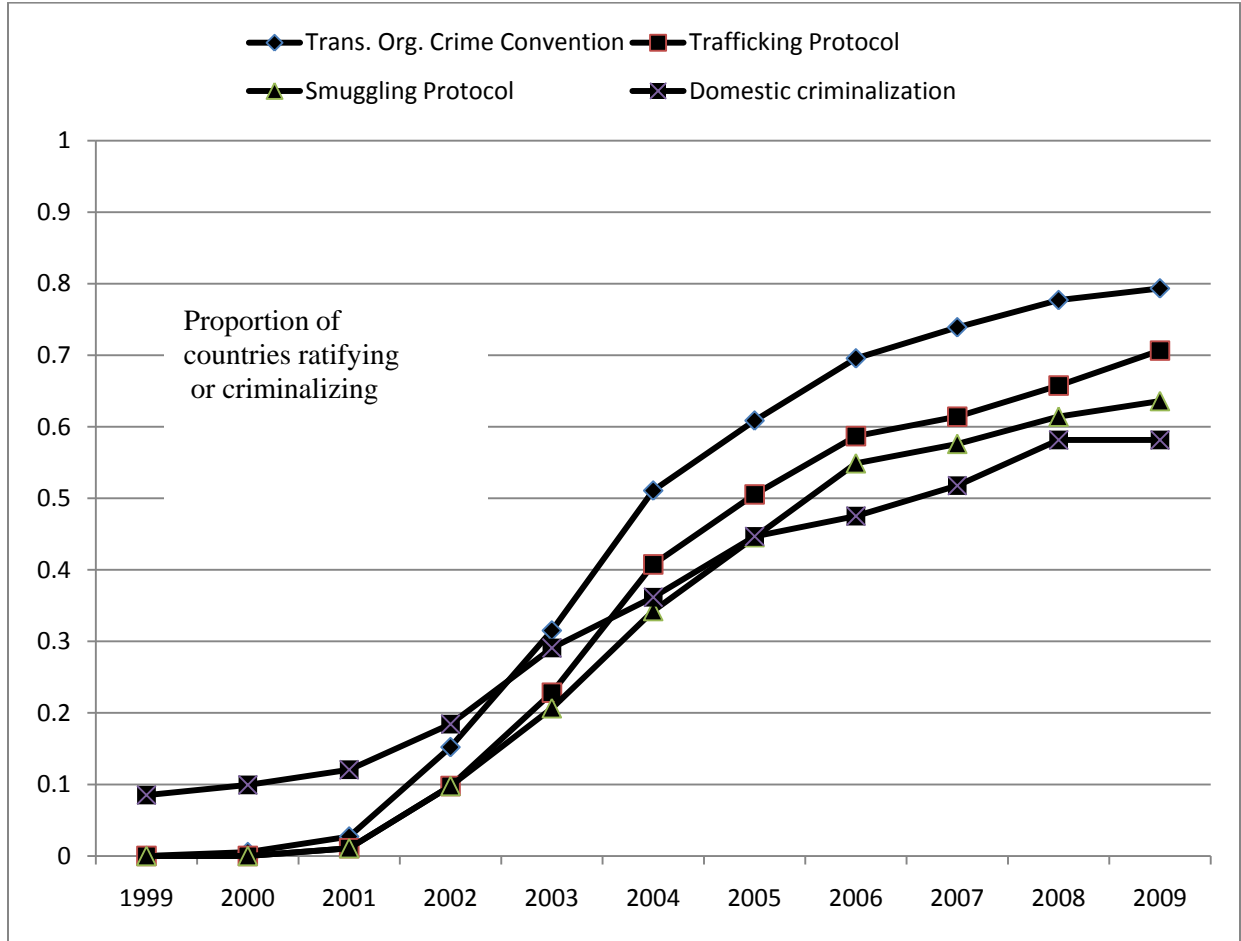


Figure 3. Proportion of states worldwide ratifying the Transnational Organized Crime Convention, the Human Trafficking Protocol, and the Smuggling Protocol, compared to domestic rates of human trafficking criminalization.

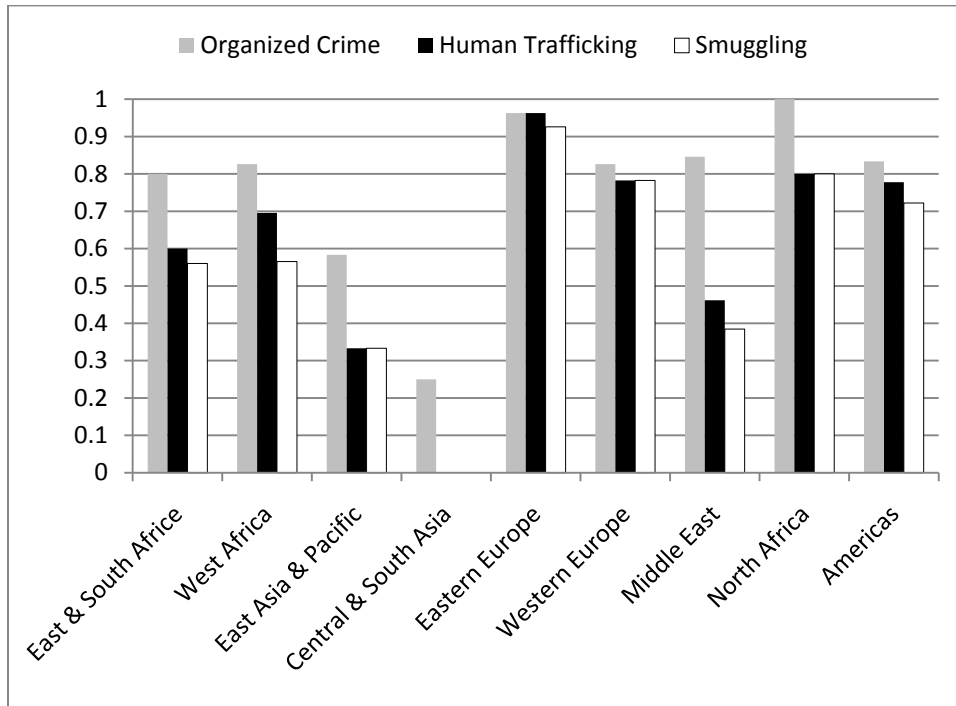


Figure 4. Percentage of states that have ratified the Transnational Organized Crime Convention, the Protocol on Human Trafficking, and the Protocol on Smuggling, as of 2008.

**Table 1. Influences on the rate of Criminalization in National Law
Hazard ratios; probabilities**

	Model 1 Basic extern- alities	Model 2 Coercion	Model 3 Develop- mental controls	Model 4 Cultural controls	Model 5 Women's influence	Model 6 UN activity
Neighbor criminalization weighted by sum of border Xings (t-1)	1.24*** (p=.005)	1.25** (p=.011)	1.20** (p=.032)	1.24*** (p=.010)	1.19** (p=.025)	1.23*** (p=.005)
US pressure (t-1)	1.83** (p=.027)	1.97** (p=.036)	1.69 (p=.123)	1.82** (p=.027)	1.97** (p=.021)	2.06*** (p=.008)
Information (log of media reports; t-2)	1.13*** (p=.003)	1.15*** (p=.004)	1.09* (p=.066)	1.13*** (p=.003)	1.14*** (p=.004)	1.12*** (p=.008)
Rule of Law	1.41*** (p=.0001)	1.52*** (p=.003)	1.48* (p=.066)	1.43*** (p=.001)	1.36*** (p=.005)	1.39*** (p=.002)
Ratification of 2000 agreement	1.61*** (p=.001)	1.46** (p=.036)	1.45** (p=.021)	1.66*** (p=.001)	1.52*** (p=.004)	1.43** (p=.016)
US Aid/GDP	--	17.28*** (p=.002)	--	--	--	--
Use of IMF credits	--	6.27* (p=.080)	--	--	--	--
US trade/ total trade	--	.263 (p=.226)	--	--	--	--
EU trade/ total trade	--	1.24 (p=.746)	--	--	--	--
Prevalence of child labor	--	--	.975* (p=.051)	--	--	--
Low & middle income category	--	--	1.72 (p=.208)	--	--	--
Remittances/GDP	--	--	.989 (p=.641)	--	--	--
Islam	--	--	--	.793 (p=.435)	--	--
Protestant	--	--	--	.871 (p=.708)	--	--
Catholic	--	--	--	.713 (p=.239)	--	--
% women in parliament	--	--	--	--	1.018 (p=.125)	--
Resolution initiators	--	--	--	--	--	1.10 (p=.132)
Resolution endorsers	--	--	--	--	--	1.31*** (p=.001)
# of countries	181	158	157	181	178	181
# of crim'tions	78	64	68	78	74	78

# of obs.	3013	2315	1942	3013	2097	3013
Prob>chi2	0.000	0.000	0.000	0.000	0.000	0.000

***=significant, .01 level **= significant .05 level *significant, .10 level

Note: Results of a Cox proportional hazard model with robust standard errors, clustered by country.

**Table 2. Effects of Externalities on Probability of Domestic criminalization of Human Trafficking, by Exposure Category and by Region
Hazard Ratios; probabilities**

	Model 1 Destination countries	Model 2 Origin countries	Model 3 Transit countries	Model 4 Internal Trafficking countries	Model 5 Europe (East and West)	Model 6 Rest of the World
Neighbor criminalization weighted by sum of road crossings (t-1)	1.30*** (p=.004)	1.26* (p=.051)	1.58*** (p=.000)	1.26 (p=.30)	1.20** (p=.038)	.877 (p=.434)
US pressure (t-1)	1.11 (p=.744)	1.62 (p=.176)	.944 (p=.877)	1.84 (p=.197)	1.28 (p=.540)	1.89* (p=.061)
Information (log of media reports; t-2)	1.13** (p=.032)	1.11* (p=.062)	1.06 (p=.225)	1.04 (p=.635)	1.02 (p=.730)	1.32*** (p=.001)
# of countries	101	108	87	59	48	133
# of crim'tions	45	41	42	26	40	38
# of obs.	1675	1742	1419	993	656	2357
Prob>chi2	0.000	0.073	0.000	0.025	.149	.000

***=significant, .01 level **= significant .05 level *significant, .10 level

Note: Results of a Cox proportional hazard model with robust standard errors, clustered by country.

**Table 3. Ratification of the 2000 Protocol on Human Trafficking
Hazard ratios; probabilities**

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10
Neighbor ratification weighted by sum of road crossings (t-1)	1.016*** (p=.000)	1.028*** (p=.000)	1.014** (p=.048)	1.013*** (p=.000)	1.015*** (p=.000)	1.015*** (p=.000)	1.013*** (p=.004)	1.015*** (p=.001)	1.015*** (p=.000)	1.013*** (p=.000)
US pressure (t-1)	1.14 (p=.540)	--	1.18 (p=.549)	--	--	--	--	--	--	--
Information (log of media reports; t-2)	1.18 (p=.421)	--	--	--	--	--	--	--	--	--
Country of origin	--	.618** (p=.013)	--	--	--	--	--	--	--	--
Destination country	--	.949 (p=.784)	--	--	--	--	--	--	--	--
Transit country	--	1.51** (p=.016)	--	--	--	--	--	--	--	--
Country with significant internal trafficking	--	1.51** (p=.022)	--	--	--	--	--	--	--	--
US aid/gdp	--	--	6.58 (p=.428)	--	--	--	--	--	--	--
US trade share	--	--	.999 (p=.983)	--	--	--	--	--	--	--
EU trade share	--	--	3.22*** (p=.070)	2.49** (p=.019)	2.22** (p=.028)	1.86 (p=.109)	2.17* (p=.053)	2.076** (p=.046)	1.16 (p=.796)	--
% of women in Parliament(t-1)	--	--	--	1.014 (p=.102)	1.015 (p=.113)	--	--	--	--	--
Islam	--	--	--	--	1.089	--	--	--	--	49

					(p=.728)					
Protestant	--	--	--	--	.838 (p=.564)	--	--	--	--	--
Catholic	--	--	--	--	1.62** (p=.031)	--	1.45** (p=.027)	1.56** (=.017)	1.29 (p=.241)	1.56**
Rule of Law	--	--	--	--	--	1.01 (p=.911)	--	--	--	--
Common Law	--	--	--	--	--	.577** (p=.021)	.675 (p=.145)	.684 (p=.121)	.730 (p=.223)	
Remittances/ GDP	--	--	--	--	--	--	1.005 (p=.734)	--	--	--
Middle Income	--	--	--	--	--	--	1.48* (p=.058)	1.40* (p=.068)	1.37 (p=.118)	
Prevalence of Child Labor	--	--	--	--	--	--	.999 (p=.996)	--	--	--
UN resolution initiator	--	--	--	--	--	--	--	1.082 (p=.115)	1.11** (p=.031)	1.03 (p=.556)
UN resolution endorser	--	--	--	--	--	--	--	1.163** (p=.033)		
COE	--	--	--	--	--	--	--	--	2.20** (p=.030)	1.021 (p=.947)
ASEAN	--	--	--	--	--	--	--	--	.532 (p=.453)	--
OAS	--	--	--	--	--	--	--	--	2.03** (p=.013)	1.41 (p=.180)
AU	--	--	--	--	--	--	--	--	1.98** (p=.025)	1.36 (p=.249)
OIC	--	--	--	--	--	--	--	--	1.16 (p=.579)	--
Density of ratifications in region (t-1)	--	--	--	--	--	--	--	--		1.65 (p=.417)
Ratification of	--	--	--	--	--	--	--	--	--	1.145***

human rights treaties										(p=.000)
# of countries	184	155	160	165	165	165	134	165	165	184
# of ratifications	129	112	103	112	112	112	97	112	112	129
# of obs.	1454	1202	1114	1177	1177	1231	935	1231	1231	1454
Prob>chi2	0.000	0.000	0.0025	0.000	0.000	0.000	0.0003	0.000	0.000	0.000

***=significant, .01 level **= significant .05 level *significant, .10 level

Note: Results of a Cox proportional hazard model with robust standard errors, clustered by country.

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