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Comparing Domestic Human Trafficking Policy of States Party to the Palermo Protocol

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COMPARING DOMESTIC HUMAN TRAFFICKING POLICY OF STATES
PARTY TO THE PALERMO PROTOCOL

by

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ABSTRACT

Human Trafficking involves the various forms of coercion and force against millions of individuals all over the world into situations of unpaid labor, sexual exploitation, and organ sales. Attention to the phenomenon is relatively new and there is complexity both in how to address it and study it. When looking at human trafficking, issues of development, poverty, immigration, gender, international cooperation, social stigma, among others, are considered.

The purpose of this research paper is to compare and analyze local law interpretations of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, or just "the Palermo Protocol", in a sample of countries who have ratified the international agreement. The countries selected for analysis vary from each other in how they stand as dominant "origins" or "destinations" of human trafficking and how well they do in eradicating the problem as categorized by the United States Trafficking in Persons Report (US TIP Reports) "Tier" statuses. Through asking a set of questions of each law, trends are revealed. The study found that local law documents used many elements from the Palermo Protocol to frame their documents; there were fewer differences than expected. The major differences were in how laws were integrated into the existing legal framework or if a comprehensive separate act was defined. Implications and the role of morality politics and nongovernmental organizations (NGOs) are theorized.

Many studies in this field are laden with ever changing statistics, very specific case studies, or material that speaks to how the situation is stigmatized. All contribute to deeper understanding, but by objectively looking at how the major international mechanism works at a local level we may inch towards learning more about how the issue continues to pervade globally.

ACKNOWLEDGEMENTS

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I. WHAT IS HUMAN TRAFFICKING

Human trafficking, also referred to as a form of modern slavery, is an umbrella term for sex, labor and organ trafficking. Sex trafficking is the most detected form of human trafficking. Victims are forced into sexual exploitation by another private party through fear, violence, debt, manipulation, or other forms of coercion. The exploitation can come in the form of forced marriage, prostitution, participation for pornography, recruitment, dancing and other forms of commercial sex. Victims can range all ages and genders while predominantly women and children have been recorded as victims.

Scope of Trafficking

The International Labour Organization (ILO) reported in 2016 that there were 4.8 million victims of forced sexual exploitation (Global Estimates of Modern Slavery, 2017). The UN has emphasized in the most recent Global Report on the Trafficking of Persons (GloTIP 2018) that while numbers of reported victims have increased, it is not well known if it is a matter of increased reporting or increased occurrence. So, while the number 4.8 million is reported there are likely far more victims. The scale of victimization is debated.

In order to better understand the magnitude of trafficking and hidden figures, the UN has made efforts to support countries in Multiple Systems Estimation (MSE). MSE is a statistical technique based in biology to estimate the size of a population by capturing a species at one time

and tagging them to then later recapture another set and see the overlap of those already tagged. From there an estimation can be made of the population as a whole. The logic can work for hidden human populations as well by comparing 3 separate lists of persons from different points in time. These lists of individuals can come from law enforcement or different NGOs and social assistance programs (Heijden 2018). There are different requirements for the data such as size and year; there is potential for false positives and negatives based on the type of lists. Only Ireland, Serbia and Romania have undergone the study since its initiation in 2016.

Where does Trafficking occur?

Trafficking can happen domestically or transnationally, where most (an estimated 58%) reported cases have been domestic or between close regions (GloTIP 2018). In regards to transnational trafficking, countries may predominantly be destinations or origins for victims. More wealthy countries have higher numbers of transnational victims with North America and Western Europe recording the biggest diversity of citizenship of reported victims (GloTIP 2018). The phenomenon occurs everywhere and there is increasing disagreement over who the predominant perpetrators are, who the victims are and what exactly constitutes sex trafficking. Sex trafficking involves issues of immigration, poverty and criminalization of sex work. There are multiple actors, locations and cultures to consider in any one case. Because "counting" victims requires investigation and resources, not every state has equal opportunity to report numbers with the same accuracy as others.

Anti-Trafficking Efforts

Currently, the most widely accepted international anti trafficking legislation is the Palermo Protocol. The protocol defines trafficking as:

> 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. (2000)

States that ratify will establish their own laws to fulfil the requirements of the protocol. The UN also releases their Global Report on Trafficking in Persons (GloTIP) every two years which discusses trends and new research and reports flows and other data by region.

Another source of authority for addressing sex trafficking is the US TIP Reports that administer tier rankings given to each country yearly. There is some concern over the politicized nature of the rankings by the United States but the report itself is comprehensive in documenting what efforts each country is making.

NGOs also are responsible for a great amount of work in prevention and rehabilitation post victimization as well. There are global NGOs as well as local that service victims and assist personnel involved (Corbett & Moxley 2018; Jensen 2018). And perhaps most importantly, law

enforcement in each state are a major force. Trafficking cases may come forward first as an illegal immigrant issue, a charge for illegal sex work or may be part of a raid response to a complaint (Broad 2015).

Paper Outline

This paper aims to contribute to the study of human trafficking by comparing state level law documents dedicated to the eradication of human trafficking. First, a brief literature review will discuss issues of definition and data, the debate over the role of prostitution, and review a sample of case studies to get a feel for how complex the phenomenon is in "real life". Next, the method to determine trends in policy is discussed and where those policies were found. Findings are then presented as similarities and differences between the policy documents. Following is a section on implications and theory that explore the role of morality politics in potentially explaining the nature of human trafficking documents and the role of NGOs. The report closes with weaknesses and areas of future research.

II. LITERATURE REVIEW

Introduction

While the study of sex trafficking is not new, it has not reached a point of consensus with established theories. Academic material on sex trafficking is greatly affected by differing opinions over definition and there are deep divides over the role of agency, prostitution, and its criminalization. These debates are compounded by a lack of data to back theory development. Academic material on trafficking also is dominated by case studies. There are interviews of those who have been trafficked, those who traffick, and those in law enforcement. They expose a reality that does not match the more simplistic narratives that the TIP Reports, UN reports, police responses, or general outlook offer. This literature review explores these issues further.

Issues of Data

There is a lack of concrete data to back theory about sex trafficking. The large scale statistics offered by large international organizations may be off due to changes in how victims are defined and then reported. And, it is difficult to pinpoint changes at large when criteria are still being developed. Not all countries are included and many organizations reference each others' numbers. Also, where there are fundamental differences in definition and ability to identify victims, one state may consider a person a victim while another does not (Weitzer 2012). Even for the purpose of this study, using GloTIP Regional Reports there were few comparable

numbers due to years recorded and break down of information (trafficking at large versus labor trafficking or organ trafficking).

May-Len Skilbrei and Marianne Tveit highlighted another issue of definition; by separating smuggling from trafficking in policy many scenarios in real life are missed. They analyzed the lived-in situations of women trying to migrate to Norway from Nigeria. Many of the women had to pay large debts to smugglers. The debt was often paid off with the profits of prostitution because it was the most lucrative option for the women in a new town. Many of the women also did not think of themselves as victims, even though in many aspects their case could be considered sexual exploitation (2008). Data are also hard to acquire because many victims of transnational sex trafficking fear prosecution of prostitution or being deported, and there is even less data on those who perpetuate and benefit from trafficking. The phenomenon is clandestine and because attention to it is rather new, there is no baseline yet to compare over a long stretch of time (Weitzer, 2012).

Sex Work Debate

One of the debates within research on sex trafficking is the role of prostitution or sex work. This debate is important to explore because sex work suffers from its own issues of enforcement and role within in society. The idea that sex work is inherently linked to trafficking has implications for how our laws should look.

There are essentially two outlooks for how sex trafficking should even be framed, the abolitionist approach and the sex work approach. Those of the abolitionist approach argue that sex work and trafficking are inseparable and that sex work is something done unto women and cannot be free from exploitation. They take on that it is inherently a product of limited agency and prostitution is the driver of trafficking; therefore stopping prostitution would also stop trafficking. (Wijkman & Kleemans, 2019; Weitzer 2012). Abolitionists also argue that personal agency is blurred because the predominant reason women go into sex work is financial hardship and consent is questionable because of their relatively vulnerable position (Elrod 2015). Commercial sex settings are also often sex trafficking settings. For those who are the consumers their reasoning to buy sex exists regardless.

The sex work approach however sees selling sex as a legitimate way of earning a living that is not always forced. Their "solution" calls for better working conditions and protection (Breuil et al. 2011). The sex work approach also argues that "trafficking in women" is an incorrect description and believes a more accurate version would just be "labor exploitation" (Outshoorn, 2018). There are also arguments that legalizing sex work would help to mitigate sex trafficking. A sex worker union in West Bengal, the Durbar Mahila Samanwaya Committee, has actually had great success with self-regulating to determine who in their local industry was being trafficked and offered them resources and aid (Jensen 2018).

Narratives & Case Studies

When researching databases for information on human trafficking much of the academic material available is based on smaller scale case studies and interviews. The knowledge gained from a case study in one country (or even one city) is of course useful but the analyses made are not being applied outside the scope of that study. It could be misleading to draw too many conclusions about human trafficking at large based off smaller case studies. However, these case studies are invaluable because ultimately they express the complicated reality that we are writing policies for. The different factors and ways in which a person is trafficked should be top of mind when looking at laws. There are instead narratives about trafficking that dominate the public mind. The section below discusses these narratives as according to other scholars and goes on to summarize a few trafficking case studies.

Narratives

The dominant human trafficking narrative is built on the story of an innocent woman or child that has been trapped by an evil man and taken to another country to be a sex slave. Many scholars in the field have lamented on this issue and how it can have real impact on how human trafficking is handled (Wijkman & Kleemans 2019, Broad 2019, Breuil et al. 2011, Pijl et al 2011, Baird 2019) . Michael Wilson and O'Brien (2016) did an analysis of the US TIP Reports from 2001 to 2012 to see the degree with which the reports conceptualized the 'ideal victim'. They found that victims were depicted as weak and blameless. The reports disproportionately

highlighted stories of naive young women and children that succumb to abuse with very few

stories of resistance. They also found that there were few representations of migrants that are

seeking sex work but are exploited regardless of their initial consent to sex work. Most victims

portrayed in the US TIP reports had no idea that their future would involve commercialized sex

work. They argue that the ideal victim conceptualization has led to a social problem being

handled as a criminal problem. Victims that fit the concept of "ideal victim" are 'saved' and

those that do not fit may be missed, deported, or charged with illegal prostitution. They also

emphasize the importance of TIP reports as a path maker in international efforts to handle sex

trafficking.

The false narrative of sex trafficking also has implications for law enforcement as seen in

the UK and Netherlands. Wijkman & Kleemans found in the Netherlands, as based on police

reports and reports from women charged, that female offenders of sex trafficking were not

uncommon. Many of them occupied similar roles to men and worked beyond recruitment as

some other reports have found. The study also found that 7.5% of the women charged were

victims of sexual exploitation prior and half of them had worked in sex work (2019). Another

very similar study looked at convictions and interviews with police in the UK. This study found

that there were many women convicted for facilitating trafficking as well and found that police

reaction to female traffickers involved more commentary on moral judgement than male

traffickers. The reports also showed that 74% of the sample of women convicted had been co-

offending with an intimate partner. The police interpreted the relationship as an explanatory

factor for women's involvement and that they likely would not be an offender if it were not for

the relationship (Broad 2015). Another study highlighted the police perception that Dutch sex trafficking was tied to organized crime and how that perception inhibited police action because they did not feel confident that they could prove a case. One officer was quoted saying:

> They know very well when we have an activity [police operation], and they
>
> will sacrifice one of their girls, and move the others quickly to another place.
>
> (...) They are better informed than we are. They are well organized and if they
>
> see us controlling one window in the red light district, they immediately make
>
> a phone call to inform the criminal group (Breuil et al. 2011, p. 38)

Law enforcement may be particularly sensitive to narratives about sex trafficking as they are responsible for much of the legwork to stop it.

Other Case Studies

A study of sex work and trafficking in Tijuana found that most sex work and pimping were seen as legitimate means of earning money and that pimps often did not have to search for women to work with them. Sex work is legal in Tijuana and many women willingly started jobs in the industry themselves. However, when there was a shortage of women willing to do sex work, "women pullers" would bring reluctant women. The pimps interviewed expressed that they were not always sure where women were coming from, one stated:

> Some of these girls are brought here because they want to go to the United
>
> States and end up staying here. Some girls are lied to. Other girls come with the

Intention to work as prostitutes and these are the best ones because I don't run

into problems with them." (Zhang 2011 p. 522)

The study concluded that for many pimps the decision was an independent and economic one. There were not large criminal organizations that interviewed pimps were working with, at least none they had admitted to. This is contrary to the picture local governments' paint. The researchers found that there were more individual cases of debt bondage and emotional manipulation within the commercial sex industry of Tijuana. (Zhang 2011)

The previously mentioned case study of Nigerian women in Norway found that many of the women did not see themselves as trafficked but merely owing large sums of money to smugglers. This study in particular was looking at how smuggling and trafficking are classified as separate phenomena but in fact can have great overlap. Some women pursued smugglers while others were forced by their families. The women described that as they tried to pay off the fees for smuggling the only work they could do that paid nearly enough was prostitution. There was fear that if they could not pay, the smugglers would be after them or their family at home. So while their decision to do sex work specifically was voluntary - their position of being is debt is the context for pursuing it (Skilbrei & Tveit 2008).

A last case study highlights the grey area of agency in some trafficking situations. Russian women trafficked in Turkey reported that they came to Turkey for voluntary prostitution but had gotten caught in debt to those who assisted their travel. Some were made to work under conditions they did not expect. Similarly, others paid "travel agencies" to assist with getting

settled in other types of work such as dancing or being a nanny but then they were put into sex work. Then again of course, there were women that reported sex work as voluntary and experienced working conditions that were satisfactory. (Seigel & Yesilgoz 2003)

These case studies among others exhibit realities that are far more complex than the narrative dichotomy of victim and offender. With this, the field should look closer at the issue from the perspective that both perpetrators and victims can be economical and rational and be sensitive to how the issue is postured and moralized. With increasing information, it is clear that there are gray areas in the overlaps of sex work, agency, victimization and the prevailing factor of migration. But because one of the major reactions to the issue has been criminalization these gray areas may get ignored; criminalization as an approach inherently focuses on the perpetrator and arrests.

III. METHODS

Through content analysis of governmental policy, this study determined what similarities and differences there are in domestic laws of countries that have ratified the Palermo Protocol. By asking a set of questions about each law document from a series of countries, trends between individual states Palermo Protocol were examined. This method was employed to check how varied approaches were in implementation of the Palermo Protocol and what ratifying looks like from the legal perspective.

Using a program for content analysis was considered but ultimately not used. The presence of a set of words may not do well in identifying broader trends, particularly because the documents have been translated. Also, because each country ratified the Palermo Protocol their content is similar and words alone may not pick up on structural differences or unique sections. So, 6 countries were selected to compare and their documents were read in entirety and analyzed manually.

The questions asked were developed after reading through the each of the policies; it was important to see what areas were worth comparing and where major differences were. Through a first read it was clear that many policies mirrored the Palermo Protocol and that questions on just the content would not mean much. Like, "what kinds of services for victims are there?", "What types of trafficking are criminalized?", and "What sort of penalties are there?" all yielded the same answers. So, broader questions were asked, like "How many documents are there?", "which federal bodies are discussed if any?", "How many explicit definitions are there?" - not all

questions make it into the report but their purpose was to help clarify what larger themes there were. Themes are highlighted in Findings. The rest of this section clarifies regions as context for country selection, and where policy documents were retrieved.

Regional Trends

Based on the 2018 GloTIP, it appears that wealth is a large factor in what makes a country a destination. But, of course it is unknown if increases in reporting are due to development or if there is in fact more occurrences of sex trafficking in these areas. Further, no state is entirely a "destination" or "origin" but reporting and convictions show some typical trends. Based on available data, Western Europe, North America and Central America appear to be top destinations for sex trafficking. Victims come from both the same region or transnationally. Sub-Saharan Africa and Eastern Asia are listed as predominant origins for trafficking victims in general but types of exploitation are not broken down. It also must be mentioned that the majority of victims come from the same region or the same state and transnational victimization is more rare.

First, countries that have ratified the Palermo Protocol were those to be considered. The Palermo Protocol is part of a larger UN convention on transnational crime. It was adopted in September of 2000 and entered into force in 2003. It is the first legally binding document against trafficking with an agreed upon definition. The UN wanted to assure more interstate collaboration on the investigation and prosecution of cases and to assure protection for victims. It still stands as the leading international instrument against human trafficking. Most states have signed on to the protocol so selection from those who have not signed would not be expressive of the majority of players. (UNODC n.d.)

Second, United States TIP reports "Tiers" helped categorize states. The United States defines 3 "Tiers" based on the extent of a government's effort in stopping human trafficking. The Trafficking Victims Protection Act of 2000 (TVPA) is the United States anti trafficking policy for the implementation of Palermo Protocol. This document is used to define "minimum efforts" that are used to judge Tier. Both Palermo and TVPA use the "3 P's"; the call to protect victims, prosecute traffickers, and prevent trafficking as well as the call for cooperation with other states in completing those goals. Tier does not denote how many victims there are and is more focused on response. Tier 1 is compliant with minimum efforts. Tier 2 denotes a state is making efforts but does not meet the minimum, Tier 2 Watch List (WL) denotes that effort is made but many requirements are not in place and Tier 3 denotes a state is making no efforts against human trafficking. States were selected from Tier 1, Tier 2 and Tier 2 WL. Tier 3 countries were

omitted due to their lack of governmental efforts that would leave little to examine. (TIP Report 2018; Dept. of State, 2018)

Third, using UN data on sex trafficking flows and assumptions of being an "origin" or "destination" from GloTIP 2018, states were further categorized. Countries were selected from both "origins" and "destinations" in case there were differences in how Palermo was expressed in each of their laws.

Narrowing countries down by type of exploitation was considered, but inconsistency in data made the distinction weak. The most commonly detected exploitation overall is sexual, but for individual states data are broken down differently so comparing states is not reliable. For example in the 2019 GRTP, some country profiles list trafficking in general while other separate the data by type; years are also not comparable with some being annual while others lumped years together. Country selection was not defined by type of trafficking.

With that being said, countries for this study were selected and categorized based on the ratification of the Palermo Protocol, tier status, and designation of Origin/Destination given the best available data. To narrow down to 6 countries, selections were made on the basis of diversity and what was readily available with English translations. As you can see from the table on the following page, selections are diverse in population size, economic development and region. Assuming that by having diversity in those aspects, the law too may be diverse and if there would be a relationship between the law and those aspects it would be clearer.

Table 1

Countries Selected for Comparison

Country	Germany	Canada	Ireland	Cambodia	Nigeria	Philippines
Origin / Destination	Destination	Destination	Destination	Origin	Origin	Origin
Tier Status	Tier 2	Tier 1	Tier 2	Tier 2 WL	Tier 2	Tier 1
GDP	4.16 Tn	1.83 Tn	405.19 Bn	29.31 Bn	496.12 Bn	389.05 Bn
GDP per capita	$49,617	$48,553	$82,058	$1,753	$2,407	$3,550
Population	83,783,942	37,742,154	4,937,786	16,718,965	206,139,589	109,581,078
Region	W Europe	N. America	NW Europe	SE Asia	W. Africa	SE Asia

Data retrieved from GloTIP 2018, US TIP Report 2019, World Economic Outlook database April 2019

Data

Law documents were obtained largely from the UNODC SHERLOC (Sharing Electronic Resources and Laws on Crime) Database. The database is an online legal library with the state documents of those who are party to the United Nations Convention against Transnational Organized Crime (UNTOC). The database is regularly updated and includes provisions that are enacted specifically to counter crimes prohibited by UNTOC as well as general provisions that can be used to prosecute those crimes. There are additional databases for case law, strategies, and a directory for national authorities. This project used the Database of Legislation which was filtered by crime type human trafficking. The documents are strictly laws and codes and do not include other documents. Documents were available for each state selected.

The Open Development Initiative also has available policy documents from South East Asia and was utilized as a supplement to check for other documents from Cambodia. Open Development began in 2011 for the purpose of making social and economic development data freely available. Currently, the Open Development Initiative has data on Mekong, Cambodia, Laos, Myanmar, Thailand and Vietnam. For the purpose of this study it was used as a back check to SHERLOC for Cambodia's documents. SHERLOC had all relevant documents.

Further, the LAWPHiL Project was used to check for other documents from the Philippines. LAWPHiL is a project of the Arellano Law Foundation that aims to digitize and make available all Philippine laws, statutes, decrees, orders and other legal materials. Again, SHERLOC had all the same documents.

Direct government websites were used to check for any other German, Irish, and Canadian laws. For each, there did not appear to be any materials that SHERLOC did not already have. For Nigeria, SHERLOC was the sole source of law. The table below list the documents analyzed per country selected.

Table 2

Human Trafficking Policies Analyzed per Country

Germany	Canada	Ireland	Cambodia	Nigeria	Philippines
Criminal Procedure Code Sections: 158, 406e, 406g, 58a, 68, 68b Code of Criminal Procedure Sections: 247a, 255a, 268 Criminal Code Sections: 28-29, 49, 30-31, 232-233a, 236 Crime Victims Compensation Act	Statues of Canada 2012: Chapter 15 An Act to Amend the Criminal Code Criminal Code Articles: 279.01, 279.011, 279.02, 279.04 Immigration and Refugee Protection Act	Criminal Law (Human Trafficking) Act 2008	Law on the Suppression of the Kidnapping, Trafficking and Exploitation of Human Persons Law on Suppression of Human Trafficking and Sexual Exploitation 2008	The Trafficking in Persons (Prohibition), Enforcement and Administration Act Act to Repeal the Trafficking in Persons (Prohibition)	Republic Act no. 9208 (Anti-Trafficking in Persons Act) Republic Act no. 10364 (Expanded Anti-Trafficking Act of 2012)

IV. FINDINGS

Overall, the differences in laws were not as great as anticipated. There was more difference in depth of specifics and format than differences in the major parts and goals of the policies. This section presents some of the questions asked in a table and then goes in further detail in a similarities and differences section.

Table 3

Law Comparison by Country

	Germany	Canada	Ireland	Cambodia	Nigeria	Philippines
There is a Committee or other body defined in the legal codes.					X	X
Dedicated Act for TIP.			X	X	X	X
Year of most recent document / amendment?	2016	2012	2013	2008	2015	2012
Governmental bodies are discussed.					X	X
Nongovernmental bodies discussed?					X	X
Year of Ratification of the Palermo Protocol?	2006	2002	2010	2007	2001	2002
Longer sentencing when committed by a group.	X			X		X
Longer sentencing when victim is a child.	X	X		X	X	X

Similarities

As each state is a signatory to the Palermo Protocol it is unsurprising that there are similarities in the local laws adopted. It is still worth noting however as an example of norm building. The process beginning at the international level and gaining acceptance at the domestic level and what that looks like is still a major development. Despite the hopes there are for international "laws" and ways of enforcement, there is the thought that multilateral treaties still have no teeth. The Palermo Protocol is legally binding but it is still up to states on how to interpret the expectations into their own sovereign systems.

With that said domestic definitions of trafficking stuck closely to Palermo's definition and therefore were similar to one another. The definition in Palermo can be broken up into 4 parts; the action of trafficking (recruitment, transportation, transfer, harbouring or receipt of persons), the means (threat or use of force, coercion, abduction, fraud, deception, abuse of power), the types of exploitation (sexual, organ, labour) and the irrelevance of a claim for victim's consent. In one order or another Nigeria, the Philippines, Canada, Cambodia and Ireland covered the 4 basic elements of the definition. The only exception is that Germany did not include any information of the irrelevance of victims consent.

In the same vein, there is a general focus on sex trafficking and labor trafficking in each code with just mention of organ trafficking without many details. Labor trafficking is paired with descriptions like "slavery like conditions" and servitude. Sex trafficking has more establishment

in codes in general because it is associated with other laws on sex crimes, prostitution and assault so descriptions overlap. Ireland and Germany use reference to preexisting codes on sex crimes and exploitations. Cambodia, Nigeria and the Philippines define pornography, prostitution and sexual exploitation laws within the trafficking documents.

Another point of consistency is the increased consequence for the trafficking of a child. Palermo defines child as anyone under the age of 18 and states if a child suffers the exploitation, even without the means defined (threat or use of force, coercion, abduction, fraud, deception, abuse of power) it shall be considered trafficking. Longer sentencing when the victim is a child is not required by the Palermo Protocol but it is clearly present in all the states used in this study except for Ireland. Ireland has sentencing to be "life or lesser" for all charges of direct trafficking, however child is defined so perhaps it is taken into account for sentencing. In Germany, for a child victim the sentencing is 1 to 10 years as opposed to 6 months to 10 years for an adult victim. In Canada, for a child victim it is 6 years to life as opposed to 5 years to life. In Cambodia, when the victim is a child it is 15-20 years as opposed to 7-10 years. In Nigeria, it is not less than 7 years as opposed to 2 years. And lastly, in the Philippines it is life imprisonment as opposed to 20 years.

Nigeria, the Philippines and Cambodia each have sections on monetary restitution to victims. Gains from victim labor or other valuables related may be taken from the trafficker and contributed to the victim directly or to an established Trust Fund as the Philippines and Nigeria

have established. Cambodia states that victims may have preference over the property obtained from the aggressor.

Another potential trend is the heightened sentencing for trafficking when there is evidence that it has been committed in part by a group. Cambodia, Germany, and the Philippines all have sections in their laws that make this distinction. Canada makes note of the distinction of a group but does not specify whether the sentencing is greater. The Philippines defines a group as 3 or more individuals working together, and the other states are less specific and use descriptions like "organized crime group", "on a commercial basis", "as a member of a gang" or a "syndicate". For Cambodia, Germany and the Philippines the sentencing for a group is the same differences in sentencing as when the victim is a child (1-10 years, 15-20 years, life imprisonment, respectively).

A last idea needs deeper research to confirm due to language limitations, but could be another trend. It appears that the Palermo Protocol is in fact the first sign of laws against trafficking as it were or activities like it. This fact on a larger scale prompted the protocol but it is interesting that so many states signed to eradicate a defined phenomenon that had such little precedence in their own legal systems. There were laws around prostitution and slavery but the purposes were to protect domestically.

Differences

The starkest differences in the official policies were of format. There were a few ways trafficking was incorporated. In Canada and Germany a section was added into the larger criminal code that defined trafficking in a similar way to the Palermo Protocol and referred to other sections on kidnapping, sexual exploitation, pornography, child abuse, immigration, privacy laws, and jurisdiction. Essentially, aspects relevant to trafficking were "buried" in other preexisting codes. Another way, as seen in Cambodia and Ireland is that a separate "Act" was established that encompassed all aspects of criminalization of trafficking, and also both referred to other preexisting codes. Nigeria and the Philippines had separate Acts like Cambodia and Ireland but established action plans as well as criminalization. Government Committees are established as well as their purposes. Government bodies responsible for said goals are also documented. This is not to say that action plans are absent from Germany, Canada, Ireland, and Cambodia; they just are not established within the legal codes as they are in Nigeria and the Philippines.

The study is too small to make too much meaning of this difference, but most codes did not specify who could file a complaint except for the Philippines. The Philippines noted that, "Any person who has personal knowledge of the commission of any offense under this Act, the trafficked person, the parents, spouse, siblings, children or legal guardian may file a complaint for trafficking" (Republic Act No. 9208, 2003). Also, Cambodia states that only a legal guardian may file a complaint when the victim is a minor. These specifications or lack thereof could have implications for why cases do and do not get reported.

There were also differences in how many explicit definitions there were. The table below

shows the total number of definitions per country. This is the combined total if there were

multiple documents. The range is great considering that trafficking overlaps with multiple

phenomenon. Canada and Germany's lower numbers may be related to the fact that their laws

are fit within entire criminal codes where words like labor exploitation, sexual exploitation or

force may be defined in another area.

Table 4

Frequency of Definitions Per Country

Germany	Canada	Ireland	Cambodia	Nigeria	Philippines
5	3	18	9	14	11

While it is difficult to describe quantitatively or succinctly without just listing entire sections,

there were differences in general level of detail and unique specifications. For example, "Pimps"

are defined in Cambodia and outlawed as such, surrogacy has been added and there are multiple

distinctions for minors under and over 15. Nigeria has longer sentencing for victims that have

been drugged by the aggressor and defines it a crime to withhold travel documents. The

Philippines, for the limited reach of this study had multiple unique provisions. There is verbiage

on the irrelevance of past sexual behavior as evidence, "child" can be an individual over the age

of 18 but is unable to care for themselves, criminalizing mail order brides as part of trafficking,

sex tourism, prescriptive period and an entire section related to adoption laws. Canada and

Germany's codes did not stray far from the Palermo Protocol's minimum requirements and there were no unique definitions or specifications related to trafficking.

V. IMPLICATIONS & THEORY

The states examined have mimicked the language of the Palermo Protocol and introduced the minimum legal measures leaving many similarities in their laws. Differences were more nuanced and related to specific sentencing and the level of detail the law documents went into. This could mean that differences in the trafficking situations of each state and ability to manage trafficking may not be due to the legislation in place, but be more from the enforcement of said legislation. The lack of specificity in these documents exacerbates the role of enforcement and judgement as well. With sentencing like Ireland's "life or lesser" there is great power for those who handle the case and room for subjectivity.

Lack of detail in some policy was not obvious until it was compared to a state like the Philippines or Nigeria that acknowledges so many nuances (wider definitions of child, sentencing differences for a drugged victim, description of mail order brides, etc.). Why did some states not go beyond the already somewhat open language of the Palermo Protocol? This study theorizes that the moral nature of the issue plays a role.

Morality Politics

Morality politics has a debated definition but in general it entails the policy areas where contestation is concerned with moral values and principles as opposed to economic interests (Mooney & Schuldt, 2008). Scholars theorize that such policies have certain characteristics and are treated a particular way. Most studies appear to be on domestic level policies for abortions,

pornography, sex work, capital punishment, gambling, marriage, etc. Human trafficking policy does not seem to be included in most of these studies; Laura Dean's 2014 study on human trafficking policy in the Post-Soviet Union was the only one found using keywords in multiple databases.

Hendrik Wagenaar and Sietske Altink (2012) in a study focused on prostitution used 6 statements to describe morality policy:

1. Morality Policy is ruled by ideology.
2. Morality Policy is lay policy.
3. Morality Policy is emotionally charged.
4. Morality Policy is resistant to facts.
5. Morality Policy has a certain impatience with policy implementation.
6. Morality Policies are vulnerable to abrupt and drastic change.

A deeper analysis of how human trafficking policy fits with these statements is out of the scope of this paper but a few observations show how these characteristics could explain some of the findings of this study.

As previously discussed, many scholars find that human trafficking is often stereotypically portrayed as a problem to vulnerable women and children, that victims have little agency, that their dignity is at stake, and that sex work is inseparable from the problem. This is evidence that as a policy area human trafficking is emotionally charged. Particularly the close

relationship, one side of the debate or the other, with sex work means policy reactions may be rooted in ideology.

Further, the issues with data are due to inherent difficulty in obtaining statistics. But, the fact that many studies reference numbers from larger NGOs that in turn reference each other and use measurements that are hard to compare, highlight issues with obtaining "facts".

4 of the 6 States did not go far in catered definitions or needs in their laws. It is not that Palermo Protocol is written comprehensively enough to serve as law; it more seems states are unsure or reluctant of how to go beyond or that they do not feel the need to reiterate actions against the law in the context of trafficking. This idea combined with the fact that the signature to Palermo instigated human trafficking policy in the first place, could be evidence that the policy is "lay policy" and that this area of law is subject to abrupt change and implementation.

It is unlikely that any state would disagree with the outlawing of trafficking in persons, so it is not surprising how many states have become party to the Palermo Protocol. The Palermo Protocol being the first and major international instrument to address human trafficking set the framework and if at a domestic level the issue is perceived like other morality policies there may be hesitation to question already existing authority on it or make major changes.

Role of NGOs

When legislation is not in the form of a specific comprehensive act, there may be many documents that spell out the efforts against human trafficking. It is not clear which body is responsible for what and what precisely can be expected. Of documents analyzed, the Philippines reserve part of their trust fund to NGOs and in Nigeria it is emphasized to utilize NGOs for training. Neither had specified which NGOs would be responsible. The other state documents did not include NGOs in law. This certainly does not mean they are not extremely present in the effort. Any search for trafficking victim services online shows the prevalence of multiple NGOs. Some NGOs may be more oriented to one special interest or another. An NGO may be more likely to have safe houses available to women and children victims but few available for victimized men and have reluctance to host a coed space. Or, there may be religious needs that are neglected or may make service more exclusive. NGOs may be far more able to help and reach victims and so their role should be officialized and checked. An NGO that does the job the government signs up for should have the same accountability to the people as the government would in that role.

VI. WEAKNESSES & FUTURE RESEARCH

As with any study at this point on human trafficking, measurement of the phenomenon is a major issue. While the majority of the study was focused on the legal frameworks used to address human trafficking, country selection was based on numerically centered judgements. Country selection in hopes for having both "origin" and "destination" states based on UN reports is also potentially flawed.

Another area of weakness comes from the scope of the study. A better picture would come from an analysis of more states. To do this, more resources would need to be allocated to translation and document collection. By being limited to what could be found online (and in English) the picture is understandably limited. Larger scale could speak more on whether most countries create a comprehensive act or add elements to preexisting law and what that may mean. And, at large it would be important to know whether laws are minimalistic and subjective to judicial interpretation.

The study could also be improved by taking a different approach and diving deeper into each state's law structure as a whole and having specialized local input. A better understanding of how law functions within its own system might lead to different analysis or areas to focus on. Perhaps all the laws in a state are vague and not just those that are related to trafficking.

This small study begs for more research. Given the Palermo Protocol has 190 states that are party and 147 signatories, the definitions and framing are major driving forces in how individual states address the issue. Are the policies employed based on the Palermo Protocol a

limitation to the scope of how we can solve the issue or do they allow gray areas? Are there other treaties that prompted somewhat novel laws?

There is also a need for research on traffickers themselves. In many ways an economic need is treated as moral issue. Should prior victimization matter in charges for trafficking? What is common among those who traffick? Are there fundamental differences between traffickers of different regions?

Another area, that was briefly discussed, that needs research is the role NGOs play. Are there victims that have limited services because of the available NGOs and how they operate? How do NGOs maintain accountability? At a larger scale what is the relationship governments have with NGOs that serve trafficking victims. How pervasive are trafficking stereotypes in the action plans of NGOs? Are there overlaps between NGOs for immigration, trafficking, poverty; how categorical are they in their approaches to those in need?

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