

This capstone thesis is well written, nicely structured, and offers an interesting historical and normative argument. It is responsive to prior comments and discussions and is built on a strong foundation of research. The thesis makes a robust case for the inextricable links between the contemporary trafficking in human beings (THB) regime and the colonial era regime on white slavery and identifies important implications that arise from that observation. From the observation and identification of those links emerges an important argument for regime reform.

Overall, this is a very good piece of work and deserves a top grade. The two main areas in which the argument could have been strengthened are as follows:

First, more could have been done to articulate the implications of the changing role of race in the THB regime as it exists today. The changes do not necessarily undermine the thesis, but they do require further discussion.

BEYOND “CRIMINAL” TRAFFIC
CHARTING A PATH TOWARDS A RECKONING IN THE
INTERNATIONAL HUMAN TRAFFICKING REGIME

In particular, the shift in focus from a regime premised on the need to protect / rescue white women to a regime that identifies women of color as the primary victims warrants more attention and elaboration. There are obvious commonalities across these premises (with respect to gender, victimhood, the underlying assumptions about sex work, etc), but the shifting role of race is notable and worthy of analysis. This is addressed briefly on p.54, where it is noted in response that both regimes are premised primarily on a threat from men of color. That is clearly an important commonality. The story of the regime’s racial underpinnings

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with respect to its protective focus is, however, more complex. One way of fleshing it out would have been to link it to the white savior industrial complex noted on p.72. Whatever the details, the paper could have gone deeper on this.

Second, more could have been said on precisely what constraints the regime’s specific colonial-era origins place on the utility of internal modifications to the regime today and why. To put it in abstract terms, it would be useful to think through the question of how the historical underpinnings of law today affect the capacity of that law to realize objectives that contradict those of its own historical underpinnings. Relatedly, when making claims such as “none of this would have been possible without the tone set by the earlier colonial-era conventions and negotiations,” it would be useful to identify with some precisions the causal mechanisms at play and to consider the degree to which the relevant factors are genuinely determinative.

Overall, an excellent piece of work. Well done!

Grade: A

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Finally, my husband, Adam Olgin. This is for the village we will make together. I have written whole poems about you so let's not belabor the point. Suffice it to say that you're always right. Now it's on paper. Happy?

Abstract

The neat transition of the colonial-era “white slave traffic” regime into the trafficking in human beings (THB) regime has gone under-interrogated in international law scholarship. In seeking to correct for that gap, this paper makes three overarching arguments. First, multi-lateral instruments countering THB emerged out of colonial-era gender- and race-relations. Second, ambiguity was designed into the regime such that it entrenched systemic and epistemic violence towards sex trafficking “victims,” sex workers, and migrants. Third, a more nuanced approach to countering THB is needed in order to decolonize the “white slavery”/THB regime. This paper analyzes the genealogy of the “white slavery”/THB regime to conclude that for the regime to be effective while centering human dignity, 1) a radical reimagining of international law is required that identifies when the *absence* of law is most useful; 2) in the interim, a harm-reductionist, sex worker-led THB framework must be championed on the international stage; and, 3) international law must actively dismantle the imperial and colonial roots of many of its regimes in order to truly foment progressive global governance.

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List of Abbreviations

CATW	Coalition Against Trafficking in Women
CDA	Contagious Diseases Act in England and Wales
CTW	Advisory Committee on Traffic in Women and Children (League of Nations)
GAATW	Global Alliance Against Traffic in Women
IAF	International Abolitionist Federation
IWO	International Women's Organization
LoN	League of Nations
NGO	Non-Governmental Organization
NVA	National Vigilance Association
THB	Trafficking in human beings
TIP	United States State Department Trafficking in Persons Report
UN	United Nations
UNTOC	United Nations Convention against Transnational Organized Crime
US	United States
VCLT	Vienna Convention on the Law of Treaties

“[The States represented] ... being desirous of securing to women of full age who have suffered abuse or compulsion, as also to women and girls under age, effective protection against the criminal traffic known as the "White Slave Traffic", have decided to conclude an Agreement with a view to concerting measures calculated to attain this object...”

-Preamble of the International Agreement for the Suppression of the White Slave Traffic (1904)¹

“Despite its poor implementation, seventeen years after its adoption, the Trafficking Protocol leaves behind a trail of collateral damage. It has continued to have negative effects on sex workers, migrants, migrant brides and sexual minorities in countries as diverse as Romania, Bulgaria, Mexico, Sweden, Brazil, Singapore and Myanmar.”

-Prabha Kotiswaran (writing in 2017)²

1. Introduction

The international regime governing human trafficking (also known as trafficking in human beings, or THB) is currently characterized by the “3 Ps” approach: prevention, protection, and prosecution.³ Codified in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol)⁴ to the United Nations Convention against Transnational Organized Crime (UNTOC), this three-pronged approach places the contemporary international THB regime squarely in the realm of a criminal justice that prioritizes the incarceration of perpetrators at the expense of both restituting victims and

¹ “International Agreement for the Suppression of the White Slave Traffic (1904),” 1 LNTS p. 83 (1904). In the authentic French: «[Les Etats représentés] ... désireux d’assurer aux femmes majeures, abusées ou contraintes, commex aux femmes et filles mineures une protection efficace contre le trafic criminel connu sous le nom de “Traite des Blanches”, ont résolu de conclure un Arrangement à l’effet de concerter des mesures propres à atteindre ce but...»

² Prabha Kotiswaran, “From Sex Panic to Extreme Exploitation: Revisiting the Law and Governance of Human Trafficking,” in *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, ed. Prabha Kotiswaran (Cambridge: Cambridge University Press, 2017), 36, <https://doi.org/10.1017/9781316675809.001>.

³ United Nations Office on Drugs and Crime, “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (2000),” 2237 UNTS p. 319 (2000), <https://www.ohchr.org/Documents/ProfessionalInterest/ProtocolonTrafficking.pdf>.

⁴ Though there are three Palermo Protocols that supplement the Convention against Transnational Organized crime, this paper is only concerned with the human trafficking protocol, which will be referred to as the Palermo Protocol.

addressing the structural issues that make THB possible.⁵ That the Palermo Protocol was negotiated under the auspices of the United Nations Office on Drugs and Crime – which is committed to “[making] the world safer from drugs, organized crime, corruption and terrorism” – only reinforces this point.⁶

But the “3 Ps” approach did not emerge in a vacuum. The history of the international THB regime is a long one. Originating in the late 19th century, the regime and its priorities are the product of colonial-era dynamics between peoples of disparate nations and cultures, and the anxieties that emerged therefrom. In other words, the anti-THB project was incubated in a world where imperial ambitions manifested oppressive policies governing colonial “possessions” and the colonized peoples within them. It is no accident, in such a world, that the concept of “trafficking in human beings” first emerged as an international concern under the term “white slave traffic.”⁷

“White slave traffic” was defined in the first two conventions on the topic as, respectively, the “*procuring* of women or girls for immoral purposes abroad”⁸ and the *engagement* of women or girls of either major or minor age in “immoral purposes.”⁹ While this

⁵ Janie Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law,” *The American Journal of International Law* 108, no. 4 (October 2014): 609–49, <https://doi.org/10.5305/amerjintlaw.108.4.0609>; James Hathaway, “The Human Rights Quagmire of Human Trafficking,” *Virginia Journal of International Law* 49, no. 1 (2008): 1–59.

⁶ “About UNODC,” United Nations Office on Drugs and Crime, accessed July 2, 2020, <http://www.unodc.org/unodc/en/about-unodc/index.html>. Although its work is undergirded by the UN Agenda for Sustainable Development, which promotes “rule of law and fair, effective and humane justice systems, as well as health-oriented responses to drug use,” the UNODC acts as a facilitative and support body to “transnational approaches to action;” essentially shoring up the criminal justice systems of individual states.

⁷ “International Agreement for the Suppression of the White Slave Traffic (1904),” 1 LNTS p. 83 (1904).

⁸ “International Agreement for the Suppression of the White Slave Traffic (1904),” 1 LNTS p. 83 (1904), art. 1.

⁹ Emphasis added. The final protocol to the 1910 convention additionally notes that states are at their discretion to criminalize the engagement of a woman of full age for immoral purposes even with her consent. “International Convention for the Suppression of the White Slave Traffic (1910),” 1 LNTS (1910), https://treaties.un.org/doc/Treaties/1951/08/19510814%2010-35%20PM/Ch_VII_9p.pdf, art. 1-2. That the term “immoral purposes” is left vague except for being taken in light of the “suppression of the white slave traffic” is underscored by the use of the equally vague French word *debaucher* (the French version being the authentic text of the convention).

vagueness was purposeful and would go on to characterize the regime as a whole, contextualizing these innuendos in imperialism and colonialism affords us a more honest understanding of the carceral, biopolitical¹⁰ motivations underlying the *en vogue* nature of the trafficking¹¹ (for sexual exploitation, in particular) cause – then and now.¹² As it is, the statistics driving the THB discourse are so inflated and tenuous in the science underlying them as to be unhelpful;¹³ the lack of universal definitions further render statistics unworkable, at least in terms of creating policy.¹⁴ None of this has made the THB cause any less emotionally-charged.

¹⁰ In a sense, I touch on the use of the THB regime as a manifestation of state experiments with “biopower:” “an explosion of numerous and diverse techniques for achieving the subjugations of bodies and the control of populations.” This is not a new argument: Legg makes this connection as well. However, where Legg argues that the League of Nations helped “deracialize” the issue of human trafficking by extricating from it the rhetoric of white slave traffic, I argue that this was never actually accomplished and that - rather than rendering the topic race-neutral, or color-blind - trafficking has become instrumentalized to create a biopolitics differentiated by race; simultaneously securitizing the “trafficked” body while emphasizing its vulnerabilities, particularly by national origin. As such the League of Nation’s early work on white slavery/THB sanctioned biopolitics as a domain of international law. Michel Foucault, *The Will to Knowledge*, trans. Robert Hurley, Amended reprint, *The History of Sexuality*, v. 1 (London: Penguin Books, 1998), 140. Cited in Stephen Legg, “‘The Life of Individuals as Well as of Nations’: International Law and the League of Nations’ Anti-Trafficking Governmentalities,” *Leiden Journal of International Law* 25, no. 3 (September 2012): 647–64, <https://doi.org/10.1017/S0922156512000325>.

¹¹ An August 2020 article took aim at some of the disproportionate concerns around human trafficking, and how “[rather] than speculating about the rise of trafficking in general, we might need to be more specific about the vulnerabilities experienced by various groups of people and try to find concrete solutions.” Bandana Pattanaik, “Will Human Trafficking Increase during and after COVID-19?,” *The Global Alliance Against Traffic in Women*, August 6, 2020, <https://gaatw.org/blog/1059-will-human-trafficking-increase-during-and-after-covid-19>.

¹² Elizabeth Bernstein, *Brokered Subjects: Sex, Trafficking, and the Politics of Freedom* (Chicago ; London: The University of Chicago Press, 2018); Jo Doezema, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (London; New York: Zed Books; Palgrave Macmillan, 2010). The term “sex trafficking” is itself contentious – while there will be a broader discussion of this term later, it is important to note for now that sex trafficking is used as shorthand throughout this paper in reference to the traffic of exploited sexual labor, not to the traffic of sexual labor.

¹³ As Kotiswaran notes, estimates range “wildly” between 700,000 (per the UN Population Fund) to 45.8 million (per the Walk Free Foundation), depending on what counts as trafficking. Kotiswaran, “From Sex Panic to Extreme Exploitation,” 3; n. 1.

¹⁴ Jo Doezema, *Sex Slaves and Discourse Masters*; Bernstein, *Brokered Subjects*; Ronald Weitzer, “New Directions in Research on Human Trafficking,” ed. Ronald Weitzer and Sheldon X. Zhang, *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (May 2014): 6–24, <https://doi.org/10.1177/0002716214521562>; Jan J.M. van Dijk et al., “A Multiple Systems Estimation of the Numbers of Presumed Human Trafficking Victims in the Netherlands” (United Nations Office on Drugs and Crime, National Rapporteur on Trafficking in Human Beings and Sexual Violence Against Children, n.d.), https://www.dutchrapporteur.nl/binaries/An%20estimation%20of%20the%20numbers%20of%20presumed%20human%20trafficking%20victims%20in%20the%20Netherlands_tcm24-282339.pdf; Kotiswaran, “From Sex Panic to Extreme Exploitation.”

Although it wasn't until nearly two decades after the first anti-traffic convention was negotiated that there was any deviation from the rhetoric of white slave traffic,¹⁵ the motivations underlying the use of that term did not disappear.¹⁶ Instead, I argue, these priorities became a stalwart *feature* of the entire white slavery/THB regime, such that these regimes should be considered one and the same. An unfortunate side effect of considering white slavery and THB as two separate regimes (aside from a largely surface-level recognition of the THB regime's "origins") is that the international THB regime has no incentive to reckon with its past, even though 19th and early 20th century colonialism and contemporary neocolonialism (i.e., neoliberalism¹⁷) continue to shape the rhetoric around and response to human trafficking – especially sex trafficking – to this day. This seeming unwillingness to recognize the enduring legacy of white slavery precludes accountability on the part of states, absolving them of responsibility regarding their problematic THB policies, given the urgent, moral imperative of combating THB. This means that the outcomes of decisions made at the turn of the 20th century to, first, address social anxieties around the interaction of (white) colonial powers – especially their white, *female* citizens – and (primarily Black and brown) colonies; and, second, serve imperial and colonial ambitions, have been allowed to germinate unchecked into the 21st

¹⁵ The League of Nations did, however, replace the term "white slave traffic" with "traffic in women and children" in its 1921 International Convention for the Suppression of the Traffic in Women and Children.

¹⁶ Nor did the move away from "white slave traffic" rhetoric mean a complete break from the use of the term itself, as shown later.

¹⁷ Bernstein notes that neoliberalism means many things in different modes of analysis. For neo-Marxists, it is an economic endeavor that seeks to enrich the highest classes of society; for Foucauldians, it is a "cultural project, premised on marketized governmentalities that produce self-regulating good subjects." This paper does not discriminate against any understanding of neoliberalism, and certainly, neoliberalism as it pertains to human trafficking lends credence to all these modes of analyses: economic, cultural, gendered, political, etc. For more, see Bernstein, *Brokered Subjects*, chap. 1, Apple Books.

century.¹⁸ Given that irresponsible anti-trafficking policy is, at best, useless¹⁹ and, at worst, dangerous for the most vulnerable in society (sex workers, for example, many disproportionately Black and brown²⁰), the THB regime *must* confront its own past in order to dismantle it.

1.1 Arguments and contributions

Bearing in mind the background provided above, this paper makes three overarching arguments:

First, that **multi-lateral instruments countering THB emerged out of colonial-era gender- and race-relations;**

Second, that **this normative, value-laden framework created a regime that, even today, lends itself through its ambiguity to the control of and systemic violence towards sex**

¹⁸ Doezeema, *Sex Slaves and Discourse Masters*; Liat Kozma, *Global Women, Colonial Ports: Prostitution in the Interwar Middle East* (Albany: SUNY Press (State University of New York Press), 2017); Laura Lammasniemi, “Anti-White Slavery Legislation and Its Legacies in England,” *Anti-Trafficking Review*, no. 9 (September 21, 2017), <https://doi.org/10.14197/atr.20121795>; David Glover, *Literature, Immigration, and Diaspora in Fin-de-Siècle England: A Cultural History of the 1905 Aliens Act* (Cambridge: Cambridge University Press, 2012), <https://doi.org/10.1017/CBO9781139137102>.

¹⁹ The irony is that despite all the donor money, resources, and energy that have gone into “combating” THB, actual perpetrators remain under-prosecuted, especially “relative to the agreed size of the problem” – mythical or otherwise. Anne Gallagher, *The International Law of Human Trafficking* (New York: Cambridge University Press, 2010), 489. Much of this is, once again, due to definitional problems - but also disagreements regarding which offenses count as severe enough to warrant prosecution as traffic. In the United States, for example, “there is some indication that only trafficking cases presenting evidence of overt force are being pursued to prosecution by the US Department of Justice.” Anne T. Gallagher, “The International Legal Definition of ‘Trafficking in Persons’: Scope and Application,” in *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, ed. Prabha Kotiswaran (Cambridge: Cambridge University Press, 2017), 105, <https://doi.org/10.1017/9781316675809.003>. My past research on whether there is a link between the quality of sex trafficking prosecutions and restitutions and the status of sex work in four European Union states showed that victims of human trafficking in Germany are similarly only compensated for damages if they can demonstrate shows of force – given the nature of sexual exploitation (often rape, sexual assault, grooming, manipulation, etc) having victims prove *physical* violence is a disturbing demonstration of insensitivity.

²⁰ Ben Chapman-Schmidt, “‘Sex Trafficking’ as Epistemic Violence,” *Anti-Trafficking Review*, no. 12 (April 2019): 172–84; Kate Mogulescu and Leigh Goodmark, “Surveillance and Entanglement: How Mandatory Sex Offender Registration Impacts Criminalised Survivors of Human Trafficking,” *Anti-Trafficking Review*, no. 14 (April 27, 2020): 125–30, <https://doi.org/10.14197/atr.2012201410>; Aziza Ahmed, “Pandemic Politics: Race, Sex, and the Supreme Court,” *Just Security*, July 17, 2020, <https://www.justsecurity.org/71464/pandemic-politics-race-sex-and-the-supreme-court/>. This is without considering gendered and sexual cleavages: transgender, non-binary and sexual minorities are also deeply marginalized by irresponsible anti-trafficking policy.

trafficking “victims” (including sex workers caught in the fray) and migrants, *by design*,
and,

Third, that – as such – **a more nuanced approach to countering trafficking in human beings is needed** in order to (in turn) decolonize the white slavery/THB regime from its gendered, racist past; allow victims of THB to feel a sense of true justice for their experience of victimhood such that sex workers are protected from overreach; and interrogate the *structural* violence that perpetuates the traffic in human beings.

To make the aforementioned arguments, I will analyze the origins and evolution of the white slavery/THB regime to demonstrate that the white slavery regime and the THB regime are two ends of one continuous thread, rather than separate regimes, and in doing so provide evidence for the first two of the three arguments above. This paper will then describe the implications of allowing a regime that has not accounted for its past to flourish, and based on such analysis, offer a way forward (to the extent that such a way forward is possible) for the white slavery/THB regime.

As part of this latter discussion, I will engage with and contribute to broader discussions in THB literature and policy regarding definitional problems and the role of the state in perpetuating problematic THB policies and outcomes. I also aim to clarify first, how the THB regime – both in its current manifestation and in its original form as white slave traffic – has been shaped by the retributive, carceral state; and, second, how the friction between the various legal and moral approaches to sex work has shaped and *been* shaped by social anxieties and state ambitions alike (today and at the turn of the 20th century) *to the detriment of sex workers*.

The stakes of THB discourse are high: anti-trafficking policy has consequences for other realms such as public health (especially HIV/AIDS prevention and management), migration

policy, socio-political cleavages, corporate-social responsibility (or lack thereof), internet regulation, law enforcement, and broader decolonial²¹ missions (among many others). This paper, by espousing a legal and normative approach to THB that centers sex workers (historically marginalized, despite being on the frontlines of anti-trafficking and related realms) and their experiences, hopes to chart a path that can undo the present damage of the white slavery/THB regime.

1.2 Structure

Section 2 clarifies the definitions and operationalization of concepts used in the writing and research of this paper. Section 3 proceeds to an analysis of multilateral and international treaties on white slavery and THB (beginning in the 20th century), using the Vienna Convention on the Law of Treaties' (VCLT) interpretation methodology; contextualized in and elucidated through the relevant literature. Section 4 will then begin a discussion of the legal and normative implications of this body of legislation as set against themes and discourses described above. Section 5 concludes the paper by revisiting the contribution made by this research, noting challenges for future research and policymaking in this topic, and a legal and normative prescription for the THB regime going forward.

2. Definitions and Operationalization

²¹ Here, decoloniality denotes the mission of dismantling oppressive structures believed to be the result of colonization. Relatedly, Katrin Roots, in a review of Julie Kaye's 2017 book *Responding to Human Trafficking: Dispossession, Colonial Violence, and Resistance among Indigenous and Racialized Women*, writes that the human trafficking discourse as coopted by states – especially through reifying the arbitrary distinction between international and domestic trafficking – “[conceals] the reproduction of the settler colonial state through modes of inclusion and exclusion” such as through the securitization of migration, sex work, public health, etc. – while assuming the mantle of a progressive, human rights supporting state. This is done through the criminalization of “non-citizens and other marginalized” individuals. Katrin Roots, “Anti-Trafficking Efforts and Colonial Violence in Canada,” *Anti-Trafficking Review*, no. 12 (April 2019): 201–4, <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/387/331>.

Much like other definitions negotiated at a multi-lateral – let alone international – level, the definition of THB is contentious precisely because of the compromises made to avoid contention in the first place. While the definition(s) of THB will be analyzed and problematized later on in this paper, the baseline definition used (without endorsement) is the one set out in the Palermo Protocol:

[...] 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 ...²²

Given the breadth of activities that fall under the umbrella of THB, this paper will concern itself mostly with trafficking in human beings for the purpose of sexual exploitation (or sex trafficking), and labor trafficking only for comparative purposes. It will also limit its scope to trafficking in individuals of full age and will not address the traffic of children except in a historical context where relevant.

Some caveats regarding the terminology used in this paper. It should be noted that sex trafficking is itself a contentious term, as its ambiguity has been used to criminalize consensual sex work and marginalize the voices of sex workers, who are already forced to the fringes of many societies. In such jurisdictions, “sex trafficking” is made to refer to “the trafficking of sex.”²³ The very rhetoric of sex trafficking forces sex workers to speak in the binaries imposed

²² United Nations Office on Drugs and Crime, “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (2000),” 2237 UNTS p. 319 (2000), art. 3.

²³ Ben Chapman-Schmidt, “‘Sex Trafficking’ as Epistemic Violence”: 185. The United States and Brazil are among the states that take this approach to sex work.

on them – that is, either as victims (thus deserving of pity and rescue) or whores (thus deserving of disgust at best, and criminal legal sanction at worst). The erasure of “sex work” in favor of “sex traffic” in many jurisdictions strips sex workers of their ability to speak and think for themselves. “Sex work” itself is a term coined from “inside the house;”²⁴ by contrast, the lexicon of trafficking in human beings was created, developed, and changed overtime – as I argue throughout this paper – by cultural and political hegemons. Ultimately, the discourse around sex trafficking is used to justify raising sex workers to the same level of culpability – if not more – than their clients or “traffickers.” The implications of this are manifold; and potentially (and actually) lethal.²⁵

Additionally, such epistemic violence against sex workers stymies research (as states will withhold funding from research deemed to promote prostitution); impedes sex workers from congregating and organizing for themselves (further erasing sex worker voices); and disallows them from accessing services necessary for their survival.²⁶ As such, the use of the term “sex trafficking” in this paper should not be seen as an endorsement of the term, or of the epistemic and real violence faced by sex workers because of the sex trafficking discourse.

This research revolves largely around analysis of multi-lateral treaty instruments, which is governed by the Vienna Convention on the Law of Treaties (VCLT) and requires the consideration of *travaux préparatoires* where the object and purpose of a treaty do not alone provide clarity. For this research to be effective, understanding the context within which these treaties were negotiated is necessary before a judgment can be made on whether the origins of

²⁴ The term “sex work” was coined by a Western sex worker named Carol Leigh and has been adopted by sex workers around the world as an identity to rally and organize around. Much sex worker advocacy comes from the Third World (and has for a long time). Doezema, *Sex Slaves and Discourse Masters*, 136.

²⁵ For more on this, see Chapman-Schmidt, “‘Sex Trafficking’ as Epistemic Violence.”

²⁶ Doezema, *Sex Slaves and Discourse Masters*; Aziza Ahmed, “Pandemic Politics”; Ben Chapman-Schmidt, “‘Sex Trafficking’ as Epistemic Violence.”

the white slavery/THB regime contributed to a purposefully ambiguous conceptualization thereof to the detriment of effective policy. *Travaux préparatoires*, in addition to reflecting the political priorities of negotiating states, also reflect disparate (or common) norms and values where they exist and/or shape debate.

This paper will make frequent reference to “abolitionists” and “abolitionism,” which, in the context of white slavery/THB, is distinct from other uses of the term. For the purposes of this paper, abolitionism refers to the campaign to abolish sex work and the sex industry. The use of this term in the context of anti-trafficking is not a coincidence, given that abolitionism is most readily associated with the movement for the abolition of slavery in the context of the United States (US) and other countries that benefited from the exploited labor of enslaved persons. The emotions and morals stirred up by the term are leveraged – mindfully – by abolitionists.²⁷ Additionally, “abolitionism” may also bring to mind the movement for prison and/or police abolition. While this paper does make reference to the carceral state (described below), of which the prison and police system are an integral part, it does not make explicit reference to prison abolitionism.

To understand the stakes of this research, it is useful to contrast traditional state powers with the more ephemeral concept of the “carceral state.” While ill-defined, the carceral state is characterized by those “complex, dispersed, but coherent,” panoptic²⁸ mechanisms that extend *beyond* the state’s monopoly on the use of force in insidious ways. Where a standing military and law enforcement may be expected as part of this monopoly, the state’s expansion of surveillance

²⁷ Lyndsey P. Beutin, “Black Suffering for/from Anti-Trafficking Advocacy,” *Anti-Trafficking Review*, no. 9 (September 2017), antitraffickingreview.org.

²⁸ Foucault describes the panopticon as “at once surveillance and observation, security and knowledge, individualization and totalization, isolation and transparency.” While it was created as a form of prison architecture, the panopticon has become “extremely widespread, at least in [its] less concentrated forms...” Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd Vintage Books ed (New York: Vintage Books, 1995), 249.

and control in circumstances *beyond* that which is obvious is what constitutes the carceral state. It is in response to the inherent “diffuseness” of the carceral state that such a broad conception thereof is necessary in order to see its insidious nature. The carceral state links the benign – perhaps even socially good – with the punitive.²⁹ It punishes no longer just “the offense, the attack on the common interest” but also any “departure from the norm, the anomaly [...] the social enemy” rather than the traditional threat to sovereignty.³⁰ These mechanisms originated by filling colonial powers’ need for oversight and control both in their overseas possessions and domestically and included social service institutions, moral improvement associations (of which rehabilitation homes for “former” sex workers and THB victims were and are an example), and humanitarian/charitable organizations that closely surveil their beneficiaries. Continued systemic racism against Black people in the United States is no longer filtered through chattel slavery, but through the neutering of civil rights: excessive surveillance leading to mass incarceration leading to systemic voter suppression, poverty, health disparities, etc. The upside to this? The assuaging of social (and deeply racist) anxiety: “criminals” are taken off the “streets;” unsafe neighborhoods are corrected for. Internationally, this looks like the securitization of immigration.

Where sex workers are concerned, the carceral state is able to cloak its actions by “protecting” women and children from sex trafficking, including by funding only that research which supports its conceptualization of “victims” and “perpetrators” – and by extension, behavior. If the collateral for such safeguarding includes deviant, “anomalous” behavior, that is a worthy, even good, sacrifice. It is precisely this broad construction of the carceral state that

²⁹ Foucault notes some of these linkages between institutions: “...public assistance with the orphanage, the reformatory, the penitentiary, the disciplinary battalion, the prison; the school with the charitable society, the workshop, the almshouse, the penitentiary convent; the worker’s estate with the hospital and the prison...” Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd Vintage Books ed (New York: Vintage Books, 1995), 299.

³⁰ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd Vintage Books ed (New York: Vintage Books, 1995), 299.

allows us to identify the common element here: criminal justice and, in particular, *retributive* justice. This construction reveals the ways in which rights-based, liberal movements have couched themselves within the carceral state. “Carceral feminism,” for example, was coined by Elizabeth Bernstein “to designate a cultural and political formation in which previous generations’ struggles for gender justice and sexual liberation are recast in terms of criminal justice.”³¹ In other words, carceral feminism refers to those feminists who ally themselves with law enforcement and the carceral state as arbitrators and enforcers of women’s rights – as part of a broader neoliberalization of rights-based movements. They thus lend moral legitimacy to the carceral state: a window into the state’s benevolence. This theme will become apparent throughout the genealogy of the white slavery/THB regime presented below.

A final note: the extensive references made in this paper to the white slavery regime (with or without quotation marks) are in no way an endorsement of the deeply racist, sexist assumptions underlying the regime. The removal of quotation marks is an acknowledgement of the fact of white slavery as a *regime*, even if white slavery *the phenomenon* itself was not reflective of reality. The white slavery myth – deeply embedded as it was – outlived the official use of the term, living on in the THB regime. As such, when discussing the regime as a whole (that is, from the 1904 Convention to the 2000 Palermo Protocol), this paper will refer to the “white slavery/THB regime” in order to reflect the truth of the regime (in contrast to the idea that the white slavery era’s influence on contemporary THB policy is either limited or irrelevant). Where I am referring to the literature, I will use either white slavery or THB or both as necessary to reflect either the author’s intentions or my own reading of their work. Where I specifically

³¹ Bernstein, *Brokered Subjects*, chap.1, Apple Books.

distinguish between the various eras in the white slavery/THB regime, I will use “multi-lateral,” “League of Nations” or “United Nations” as demarcations.

3. International instruments

I argue that from its inception as white slave traffic at the turn of the 19th century, the crime of human trafficking as we know it today grew out of a racialized (racist), gendered (sexist) framework. An international regime that hopes to respond effectively to contemporary challenges cannot help but be hindered if it relies on anachronistic assumptions. This is in addition to the flagrant racism and sexism that continues to live on through the white slavery/THB regime. Moreover, the nature of international law means that domestic perspectives on human trafficking (priorities, perceptions, etc) can supersede multilaterally agreed-upon approaches to prevention, prosecution and protection in many jurisdictions.³² While this is not *inherently* harmful, these differentiated biases, perceptions and misperceptions may crystallize regressive anti-trafficking norms domestically, *and* internationally – when the moral hegemon applies force (through sanctions or the withholding of aid) to its mission.

This analysis will proceed by surveying the white slavery/THB instruments that emerged after 1904, and contextualizing each instrument using relevant scholarship on THB, slavery abolition, the carceral state, sex work, and international law generally. The ambition of this approach is to analyze the progressive development of the international law on human trafficking and chart the shifting moralities and priorities of this regime. This approach will demonstrate, additionally, that instead of being two separate but related regimes, the THB regime is a *continuation* of the white slavery regime and should be treated as such.

³² Professor Janie Chuang notes that persistent United States lobbying has shepherded the issue of labor trafficking in particular into criminal justice; the convergence of NGO actors behind this aggressive approach has further normalized it. Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law.”

For clarity, this analysis will not include international and multi-lateral legislation against slavery specifically.³³ This is because, using Anne Gallagher’s language, “...the raft of international agreements on slavery [...] did not purport and were never considered to cover the practices that are now associated with trafficking, including sexual exploitation, forced labor, debt bondage, and child labor.”³⁴ Moreover, consideration of the international anti-slavery regime would only muddy the analysis of the international THB regime. As such, only instruments dealing directly with the white slavery/THB regime will be analyzed.

3.1 Methodology: Vienna Convention on the Law of Treaties

Where applicable, this paper will have recourse to articles 31 and 32 of the VCLT in order to interpret the international instruments that follow. In general, treaties should be interpreted in light of the “ordinary meaning” of their terms; where this is not appropriate, or satisfactory, articles 31 and 32 lay out the following methodology:

Article 31 [...]

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - (a) Any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;
 - (b) Any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
 - (a) Any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
 - (b) Any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;

³³ This decision was made despite the insistence of many practitioners and scholars that THB is a form of “modern day slavery.” This issue will be discussed in Section 4. Lyndsey P. Beutin, “Black Suffering for/from Anti-Trafficking Advocacy”; Mary G. Leary, “‘Modern Day Slavery’ - Implications of a Label,” *St. Louis University Law Journal* 60 (2016), <http://ssrn.com/abstract=2705550>; Gallagher, “The International Legal Definition of ‘Trafficking in Persons’”; Hathaway, “The Human Rights Quagmire of Human Trafficking.”

³⁴ Gallagher, *The International Law of Human Trafficking*, 55.

(c) Any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32 [...]

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty [*travaux préparatoires*] and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) Leaves the meaning ambiguous or obscure; or
- (b) Leads to a result which is manifestly absurd or unreasonable.³⁵

Of course, it isn't strictly necessary to use the above treaty interpretation legal methodology for a *scholarly* analysis of international legal instruments. But, by keeping to this methodology as closely as possible, I analyze these international treaty instruments using the language and framework of international law – that is, I am situating my analysis in the same realm as the content being analyzed. That being said, given that this argument is also a normative critique of the system that has perpetuated what I argue is institutionalized injustice, I will occasionally step out of the established framework and analyze these instruments from “outside the house.”

Moreover, according to the VCLT, the “authentic language” of a given treaty is also important to weigh when analyzing treaty instruments. The earlier multi-lateral THB instruments were originally negotiated in French before being translated to English. Therefore, where French is the authentic language, the French and English versions of the relevant instruments will be compared and considered as an extension of intent and values. For example, although THB was first conceived of as « *traite des blanches* » in the authentic French in 1904 - literally “trafficking of whites” – its English translation rendered the crime as “white *slave* traffic.” This is a curious

³⁵ United Nations, “Vienna Convention on the Law of Treaties (1969),” 1155 UNTS p. 331 (1969), art. 31-32.

distinction as the French term for the offense does not refer literally to slavery. However, understanding the translation better gives us some insight into what the term *traite des blanches*/white slave traffic were supposed to communicate. The French « *traite des blanches* » was chosen to imply a direct connection with the « *traite des noirs* » (literally “trafficking of blacks”) – which is how the Transatlantic slave trade was referred to in French. The thought-process is clear: « *traite* » here was *meant* to remind the audience of slavery. So, in translating the concept to English, the allusion to the transatlantic slave trade needed to be maintained, hence the more on-the-nose “white slave traffic.” In other words, translating the French “traffic in whites” to the English “white slave traffic” was not a quirk of translation; it was a concerted effort to ensure that regardless of the language, the metaphor – with all the emotional baggage it carries – remained clear.

3.2 International Conventions

International conventions governing white slavery/THB are disproportionately a product of the early 20th century. This is readily apparent given the fact that of the six conventions agreed to, *five* were drafted between 1904 and 1949. It wasn’t until the year 2000 that another convention explicitly governing THB was completed. What accounts for this half-century gap? Perhaps this was because the Convention on the Elimination of All Forms of Discrimination Against Women was adopted in 1979, which contained a provision against “trafficking in women and exploitation of prostitution of women.”³⁶ Having been deemed enough, it may be that the issue of trafficking in women was not urgent enough until the context of organized crime arose in the 1990s (as addressed later). While beyond the purview of this paper, it is still a gap

³⁶ United Nations, “Convention on the Elimination of All Forms of Discrimination against Women (1979),” 1249 UNTS p. 1 (1979), art. 6.

worth exploring in future research and may shed light on the contexts in which spates of similar conventions are agreed upon over a given period of time.³⁷

3.2.1 Early Multi-Lateral Treaties

The question of white slave traffic emerged out of concerns with the spread of venereal disease and "... a Victorian paternalism of the late nineteenth century which sought to control women in the face of communicable diseases which were playing havoc on troops destined to engage in Europe's colonial project."³⁸ This understanding of the white slave traffic issue situates it in the governance of sex work as well as public health; and the ready equation of the two issues – mired in the context of British colonial, military ambitions – led to a policy response that was as racialized as it was gendered. This approach was referred to as "moral" or "social" hygiene and gained purchase particularly in Victorian/colonial sensibilities and anxieties.³⁹

The Contagious Diseases Act in England and Wales (CDA) was instituted in 1864 in an attempt to regulate unchecked (but necessary) interactions between British troops and sex workers both domestically and abroad in the colonies.⁴⁰ Rather than monitoring the conduct of the armed forces, the CDA allowed police to detain prostitutes in order to subject them to internal medical examinations. If found to have a venereal disease, "[prostitutes] were interned in so-called 'lock hospitals': 'pseudo-medical prisons for whores.'"⁴¹ As Kozma describes, anxieties around military encounters with sex workers were especially potent in the colonies as

³⁷ Other human rights treaties make reference to trafficking in persons (including children), but none focused so heavily or solely on traffic as did the early white slavery/THB treaties until the Palermo Protocol.

³⁸ Jean Allain, "White Slave Traffic in International Law," *Journal of Trafficking and Human Exploitation* 1, no. 1 (February 14, 2017): 2, <https://doi.org/10.7590/24522775111>.

³⁹ Lammasniemi, "Anti-White Slavery Legislation and Its Legacies in England." Certainly, there were also class issues at play, particularly in the domestic arenas of states such as the United Kingdom, but given the scope of this paper, we will primarily focus on the gendered and racist aspects of trafficking policy.

⁴⁰ Walkowitz notes that it was the "loss of man-hours and the mounting statistics on venereal disease among the troops that finally spurred legislation on the subject [of prostitution]." Judith R. Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State*, 1st ed. (Cambridge University Press, 1980), 72.

⁴¹ Jo Doezema, *Sex Slaves and Discourse Masters*, 58.

well, where “[lower]-class European men and women ... often did not fit into the racial hierarchies structuring colonial rule and had to be reformed or civilized to restore the semblance of white supremacy.”⁴² At the same time, prostitution was seen as a necessary evil for the morale of soldiers abroad, and thus had to be regulated; not least in order to “monitor interracial encounters.”⁴³ This regulation brought prostitutes in contact with doctors, police officers, and wardens, among other agents of the carceral state.

At home in England the forced internal examinations of sex workers provoked outrage; not only did the CDA legalize and regulate sex work, it upheld women as singularly responsible for propagating “immoral” conduct. The successful movement to repeal the CDA, driven by feminist and suffragist Josephine Butler, worked alongside the movement to fight against regulated prostitution as a whole. This culminated in the establishment of the International Abolitionist Federation (IAF) in 1875. This abolitionist movement held that women could not truly consent to prostitution as it was inherently violent towards them. Moreover, they argued that regulation put vulnerable women at the mercy of policemen, who often did not have their best interests at heart, and, instead, harmed them. In this sense, the IAF was an early example of anti-carceral feminism and advocacy. The IAF instead espoused the decriminalization of non-marital sex and called for men and women to be held to the same moral standards.

Just as the IAF was founded in the aftermath of the moral panic around the CDA, and lasted far past its repeal in 1869, the National Vigilance Association (or NVA - to some extent, a foil to the IAF) was founded in response to the moral panic around white slavery: that is, the movement of women and girls across borders for the purposes of prostitution. The white slave traffic discourse emerged from two scandals: first, over the alleged prostitution of white English

⁴² Kozma, *Global Women, Colonial Ports*, 20.

⁴³ Kozma, 21.

girls in brothels across Europe in 1881, which is what first caught the attention of the public; and the other over an exposé on child prostitution in London in 1885, that resulted in a rally calling for the outlawing of white slavery.⁴⁴ (This second issue in particular attracted the attention of the IAF and enabled it to pivot towards anti-white slavery advocacy through its abolitionist platform.)

Although Scotland Yard and other law enforcement officials found only isolated instances of white slavery at the time,⁴⁵ the issue nonetheless exploded in the public imagination. Alfred Dyer, who aired the account of white slavery in the first place, referred to it as “‘more cruel and revolting than negro servitude’ as it was directed at women.”⁴⁶ Moreover, that the victims of this traffic were white women and girls was key: as Lammasniemi notes, “Whiteness was rooted beyond race—in class, nationality, and perceived purity. Prostitution was viewed by many vigilance campaigners as demeaning and de-whitening.”⁴⁷ The prostitution of young girls, then – the future of whiteness – was especially galling, both socially and as a detriment to the colonial mission and its “civilizing” principles.⁴⁸

⁴⁴ The scandal “turned on the revelation that girls under the age of twenty-one from the United Kingdom had procured false documents which had been accepted by the Brussels’ police” – and were allowed to be prostitutes under the “French” or “regulationist” model of prostitution. Judith R. Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State*, 3. The rally, meanwhile, was in response to sensational accounts of child prostitution in the *Pall Mall Gazette* by one W T Stead. This rally culminated in the passing of the Criminal Law Amendment Act in 1885, which entrenched the victim/whore dichotomy when it came to prostitution in the United Kingdom – as well as the extent to which foreign men represented a threat to white, English girls. For more on this see Lammasniemi, “Anti-White Slavery Legislation and Its Legacies in England.”

⁴⁵ Lammasniemi, “Anti-White Slavery Legislation and Its Legacies in England.”

⁴⁶ Lammasniemi: 67. This despite the fact that women were among those Africans enslaved by the Western world. Note, as well, the use of the word “servitude” instead of “slavery.”

⁴⁷ Lammasniemi: 67.

⁴⁸ Importantly, it wasn’t just mobile sex workers who stirred up anxieties. The idea of women – working class women, in particular – migrating “from the country to the city, from colonial powers to colonized countries, and from southern Europe and Asia to the US,” in addition to urbanization and working class-consciousness, all created the stuff of “crisis” in the West. Doezema, *Sex Slaves and Discourse Masters*, 54.

Civil society organized itself rapidly around this scandal, and the NVA was founded in 1885.⁴⁹ Where the IAF was explicitly abolitionist, albeit sympathetic (and admittedly patronizing) towards sex workers and poor women, the NVA called for the *moral* reform of sex workers (both domestically and abroad), and focused on the criminalization of cross-border traffic – even while endorsing the regulation of prostitution. Where the IAF was created to protect sex workers from the carceral state (that is, from “lock-houses” and police surveillance), the NVA had a more “repressive moral agenda” which encouraged the use of reformation and rehabilitation homes overseen by wardens, and the ultimate placing of sex workers in more respectable occupations such as servants.⁵⁰ (This approach mirrors the market-based solutions to THB pushed today by many nongovernmental organizations (NGOs).)⁵¹

Despite their differences, these organizations led the charge for the creation of a regime governing traffic – and/or, perhaps more honestly, prostitution – through their lobbying, activism, and propaganda.⁵² Their reach was international and boasts a long legacy. Their lobbying influenced many aspects of the modern international human rights regime (including the Universal Declaration of Human Rights) and charted a path for many similar activist groups and NGOs. Their lobbying also resulted in the creation of “camps” within white slavery/THB instrument negotiations. Abolitionist states found common cause with the IAF; and many (though not all) regulationist states found common cause with the NVA.

⁴⁹ Allain, “White Slave Traffic in International Law.”

⁵⁰ Doezema, *Sex Slaves and Discourse Masters*, 60.

⁵¹ Bernstein makes this direct connection, writing that attempts to rehabilitate THB victims by teaching them to “bake muffins for Starbucks” are “... a global-capitalist refashioning of the nineteenth-century evangelical practice of rescuing women from prostitution by bringing them into domestic labor or teaching them to sew.” Bernstein, *Brokered Subjects*, chap. 3, Apple Books.

⁵² See Doezema’s account of both WT Stead and Josephine Butler’s “melodramatics”, and their role in spreading the moral panic around white slavery in women and children. It goes without saying that a societal obsession with virginity – lost/stolen – drove much of this fear. Doezema, *Sex Slaves and Discourse Masters*.

That states were so open to these lobbying efforts contributed to the longevity of the white slavery/THB regime. The expansionist project of European states required a belief in the superiority of the white race, a superiority that could be used to civilize the rest of the world.⁵³ If the value of whiteness – especially the value of white womanhood – were to fall, it could jeopardize empire.⁵⁴ Thus, galvanizing public opinion around white slave traffic and responding accordingly was a strategic move on the part of states, as it allowed them to uphold the morality of empire, while justifying their control of femme and/or colored bodies.

White slave traffic, in practice, really was about prostitution. In the era before the League of Nations' establishment (LoN), domestic legislature governing white slavery regulated the movement and conduct of particular groups of people – sex workers, lower-class men and women, “foreigners,” Jews, and colonized peoples, who were seen as key players in the perpetration of white slavery. The threat posed by so many individuals required a concerted and coordinated international response. Both the IAF and NVA were able to capitalize on the internationality of their reach – in Europe, and in the colonies. These lobbying efforts materialized at the *fin de siècle*.

The NVA's international wing, the International Bureau for the Suppression of the White Slave Trade (International Bureau), organized the International Congress for the Suppression of the White Slave Trade, held in London in 1899. The purpose of the congress was to consolidate international efforts to hinder traffic “and in order that simultaneous researches might be carried

⁵³ Allain, “White Slave Traffic in International Law”; Kozma, *Global Women, Colonial Ports*; Doezema, *Sex Slaves and Discourse Masters*; Lammasniemi, “Anti-White Slavery Legislation and Its Legacies in England.”

⁵⁴ This fear was very clearly articulated by French abolitionists who argued that regulated brothels in the colonies “undermine the very foundation of French prestige in the colonies and prepare a moral revolt against French domination.” The fear of interracial sexual relations was a grave concern: “How would the black, the yellow and the brown respect honest women, when they can, for 5 francs or less, approach a woman the same color as the wife of their doctor, officer, general or governor?” Emile Pouresy, “Les BMCs,” *L'Abolitionniste* 10 (March 1936), 3. Cited in Kozma, *Global Women, Colonial Ports*, 160.

out by concerted agreement in every country when the circumstances characterising the offence occur in different countries.”⁵⁵

The outcome of the International Congress was the below proposal, ideally to be included in a multi-lateral agreement combatting the “white slave trade:”⁵⁶

1. To punish, and as far as possible by penalties of equal degree, the procuring of women and girls by violence, fraud, abuse of authority, or any other method of constraint, to give themselves to debauchery, or to continue in it; and in cases were [sic] persons are accused of this crime: –
2. To undertake simultaneous investigations into the crime when the facts which constitute it occur in different countries.
3. To prevent any conflict of jurisdiction by determining the proper place of trial.
4. To provide by International Treaties for the extradition of the accused.⁵⁷

This unofficial congress spurred France into convening the actual International Conference on the White Slave Traffic in 1902.⁵⁸ The negotiations that took place at the 1902 Conference – which featured persistent lobbying by the International Bureau and the IAF – would go on to be codified into the 1904 and 1910 conventions.⁵⁹

The following subsections explore the contents of the treaties from this first, multi-lateral generation of white slavery/THB treaties. To reiterate, the motivation for negotiating white slave traffic treaties was ostensibly to protect “young and innocent white women [from] being coerced into prostitution in foreign lands;” and that regulated prostitution at this time was associated with patrons from “disfavored racial minorities.”⁶⁰ This was as true within Europe, *between* colonial

⁵⁵ Traffic in Women and Children Committee, “Central Authorities” (Geneva: League of Nations, June 1, 1932), https://biblio-archiv.unog.ch/Dateien/CouncilMSD/C-504-M-245-1932-IV_EN.pdf.

⁵⁶ Incidentally, despite the fact that the 1904 and 1910 conventions used the rhetoric of a “white slave traffic,” the 1899 Congress referenced the “white slave *trade*” – a more obvious allusion to the transatlantic slave trade. Whether the departure from “trade” to “traffic” was a conscious decision is unclear.

⁵⁷ National Vigilance Association, Transactions of the International Congress on the White Slave Trade, held in London on 21-23 of June, 1899 (London: National Vigilance Association, 1899), 17. Cited in Allain, “White Slave Traffic in International Law”: 4.

⁵⁸ The French were, incidentally, against abolitionist approaches to combatting THB.

⁵⁹ This lobbying would become a feature of every subsequent international treaty on white slavery/THB.

⁶⁰ Gallagher, *The International Law of Human Trafficking*, 55-56.

states as it was without Europe, in relation to Black and brown colonial vassals. Thus, prostitutes – as an extension of empire – had to be governed in some manner that fit within the framework of individual state colonial ambition.

3.2.1.1 The 1904 International Agreement for the Suppression of the White Slave Traffic

The 1904 White Slave Traffic Convention⁶¹ was essentially drafted to tide the negotiating parties over until a second, toothier convention could be negotiated. Though it does not necessarily define the constitutive elements of trafficking in human beings, the preamble of the 1904 Convention clarifies that its intention is to protect women “who have suffered abuse or compulsion” or underaged girls from “the criminal traffic known as the ‘White Slave Traffic.’” By not specifically defining white slave traffic, it appears that the Convention relied on a social understanding of white slave traffic, or at least deferred to individual states’ understanding thereof. This is not unreasonable: the myth of white slave traffic was so widespread and deeply entrenched in social anxiety that even without explicitly defining the offense in question, states could be assured that the message received was the message intended (while allowing states to maintain their own model of sex work governance).⁶²

The preventive function of the 1904 Convention was limited. The preamble taken with the articles of the Convention seem to imply that the traffic was not to be stopped at the root. Rather, it set out guidelines for the *rescue* of women and girls after the initial movement element of the offense had transpired. That is, the women to be rescued had *already* “suffered abuse or compulsion” (based on the grammar); and the language of repatriation (“send back,” “eventual repatriation”) coupled with purported intervention upon the arrival of victims to ports of

⁶¹ International Agreement for the Suppression of the White Slave Traffic (1904).

⁶² Of course, this did not mean that across countries the message intended was necessarily the same. Each state – and its citizenry – had its own approach to and understanding of sex work; and as a consequence, white slave traffic.

embarkment indicates that the transportation element of the crime was either underway or completed. In other words, by today's standards, the 1904 Convention was concerned with *protection* rather than prevention or prosecution.

The 1904 Convention also prioritized the acquisition of information “relative to the procuring of women or girls for immoral purposes abroad.”⁶³ Per the Drafting Committee of the International Congress for the Suppression of the White Slave Traffic, the 1904 Convention stresses “the obligation [of states] to institute or name a central authority to co-ordinate all information on procuring for abroad,” as well as the “[reportage] to one another, through the responsible central service, any person suspected or convicted of being engaged in the white slave traffic ; to supply the necessary particulars for recognising such persons and to keep one another informed of their movements, so as to permit of constant supervision over their [the perpetrators'] acts.”⁶⁴

Article 2 of the convention establishes the centrality of transportation hubs (“railway stations, ports of embarkment, and *en route*”) as sites of traffic; however, there is no compulsion on the part of states to arrest traffickers, as far as the language of the convention suggests. There was an understanding among states that such details were to be covered by a future convention on the topic.⁶⁵ The 1904 Convention makes only vague allusions to the nature of the crime, that is, the “procuring of women or girls for immoral purposes abroad,”⁶⁶ relying on innuendo to fill in the gaps. Only once – in both the English translation and the authentic French – does the

⁶³ Stephen Legg, “‘The Life of Individuals as Well as of Nations’: International Law and the League of Nations’ Anti-Trafficking Governmentalities,” *Leiden Journal of International Law* 25, no. 3 (September 2012): 655, <https://doi.org/10.1017/S0922156512000325>. See also, Traffic in Women and Children Committee, “Central Authorities.”

⁶⁴ Traffic in Women and Children Committee, “Central Authorities.”

⁶⁵ Allain, “White Slave Traffic in International Law.”

⁶⁶ In French, “*l’embauchage des femmes et filles en vue de la débauche à l’étranger.*” International Agreement for the Suppression of the White Slave Traffic (1904).

convention actually reference prostitutes, in the context of taking declarations from “women or girls of foreign nationality who are prostitutes, in order to establish their identity and civil status, and to discover who has caused them to leave their country.”⁶⁷

By taking declarations from prostitutes (thus indicating some degree of volition in their work and, likely, transport), while at the same time centering women and girls “procured” into sex work, I argue that states-parties consciously framed sex workers of the time as both victims and perpetrators (that is, forcing sex workers into a victim/whore dichotomy) depending on the degree of their perceived vulnerability. Thus, the 1904 Convention elevated the state to the role of savior: both of society, which needed to be protected from procurers and prostitutes alike (lest they become white slaves), and of sex workers, who had to be saved from themselves (as whores or perpetrator-prostitutes) in addition to their “slavers.”

Certainly, there were some provisions for the welfare (or protection) of “victims” but these largely appeared to be informed by International Bureau values of morally reforming or rehabilitating former prostitutes.⁶⁸ For instance, under article 3, prostitutes found abroad were to be repatriated to “public or private charitable institutes, or to private individuals offering the necessary charity.” Given that similar attempts to rehabilitate sex workers were carceral in nature – such as the very lock-houses the IAF organized against⁶⁹ – such “welfare” attempts should be taken with a grain of salt.

The same article introduces another contradiction. Although women and girls were able to ask to be repatriated to their country of origin (“...to send back to their country of origin those

⁶⁷ International Agreement for the Suppression of the White Slave Traffic (1904).

⁶⁸ I push back, here, against Gallagher’s assertion that the scope of the 1904 Agreement was related to the “welfare of victims” (and, seemingly, only secondarily related to the centralization of information). Gallagher, *The International Law of Human Trafficking*.

⁶⁹ Doezema, *Sex Slaves and Discourse Masters*.

women and girls who desire it...”), the preceding paragraphs imply that this “choice” is only surface-level (“...with a view to their eventual repatriation”). Given that this contradiction exists, to what extent were (potential or actual) sex workers actually able to assert their choice in the matter? Under what conditions were sex workers’ choices respected? When were they discarded in favor of what the state or oversight committees perceived as best for them?

Certainly, it seems like sex workers’ choices were often made *for* them based on the extent of their perceived moral depravity; they did not even have much of a say in where they were rescued *to*. Many years later, at the 1921 International Conference on Traffic in Women and Children, the representative of the International Bureau, reflecting on the work done since the 1904 Convention, remarked that

... with regard to repatriation, the International Bureau felt strongly that ... *if [victims’] moral and social reformation was to be secured, they must be accompanied to their destination by an experienced and sympathetic worker, and placed in the care either of their own families or that of the National Committee of their country of origin [...]* We had the satisfaction of knowing that several of those women availed themselves of the help thus afforded and re-entered the ranks of *respectable citizens*. Quite apart from the material good thus effected, the *moral influence* of such action was incalculable.⁷⁰

Given the outsized influence, then, of the International Bureau on multi-lateral and League of Nations era trafficking conventions, we are left to conclude that the welfare of victims was pursued from the perspective of social and moral hygiene (and the state control of bodies that follows from such ends) – not welfare as imagined by the alleged victims themselves.

Moreover, although the 1904 Convention itself did not stipulate criminal sanctions for alleged white slavers, it is clear from the 1899 Congress proposition that future multi-lateral agreements would explicitly mandate the punishment of individuals responsible for the

⁷⁰ “Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921)” (Geneva: League of Nations, 1921), 14. This was initially as a means of protecting “victims” from police officers but is simply a manifestation of the carceral state through the empowering of non-state actors into a surveillance/control role.

prostitution of women.⁷¹ The inclusion of the phrase “To punish, and as far as possible by penalties of equal degree...” indicates that the 1899 Congress-goers saw no difference in the form of coercion or persuasion used to compel women into sex work. That is, violent coercion was seen as being on equal footing with “any other method of constraint” – thus implying that the means used to initiate the traffic were only ancillary to the fact that the offense occurred at all. This trend – of painting sex workers as victims of traffic regardless of their autonomy, or otherwise as perpetrators in their own literal demoralization as suited the state and NGOs – continues today.

3.2.1.2 International Convention For The Suppression of the White Slave Traffic (1910)

The 1910 Convention⁷² saw the realization of the 1899 and 1902 congresses’ ambitions.⁷³

Crucially for our purposes, the 1910 Convention established the definition of white slave traffic

⁷¹ Allain, “White Slave Traffic in International Law.”

⁷² “International Convention for the Suppression of the White Slave Traffic (1910),” 1 LNTS (1910), https://treaties.un.org/doc/Treaties/1951/08/19510814%2010-35%20PM/Ch_VII_9p.pdf.

⁷³ The 1902 Congress’ own ambitions – reproduced below – were based on the 1899 Congress, further signaling the synchronicity between (or at least leveraging of the latter by the former) the potential state-parties to a white slave traffic convention and anti-trafficking NGOs.

“I. – Penal Measures.

To include in the penal legislation of countries, whose laws contain insufficient provision for dealing with them, the following offences:–

A. – Girls under Age.

1. Procuring or kidnapping of girls with a view to prostitution: admission to, or detention in, houses or places of ill-fame. Penalties to be fixed.
2. The increase of penalties if the offence is accompanied by violence, threats, fraud, abuse of authority, or any other means of compulsion.

B. – Women.

Procuring or kidnapping with a view to prostitution, admission or detention in houses of ill-fame or brothels, when the proceedings are accompanied by violence, threats, fraud, abuse of authority, or any other means of compulsion.

Penalties to be fixed.

II. – The Conclusion of an International Convention dealing with the following points:

1. Competency as regards prosecutions;
2. The extradition of offenders and their accomplices;
3. The execution with the least possible delay of warrants of arrest and letters of request;
4. The supervision of the departure and arrival of persons suspected of the

– one that would go on to shape, albeit with some differences, every subsequent definition of THB. It also introduced, for the first time, two distinct offences that could both be characterized as THB. Article 1 and 2 read (respectively) as follows:

Whoever, in order to gratify the passions of another person, has procured, enticed or led away, *even with her consent*, a woman or girl under age, for immoral purposes, shall be punished, notwithstanding that the various acts constituting the offence may be committed in different countries.

Whoever, in order to gratify the passions of another person, has, *by fraud, or by means of violence, threats, abuse of authority, or any other method of compulsion*, procured, enticed, or led away a woman or girl over age, for immoral purposes, shall *also* be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.⁷⁴

Together, the two articles criminalized the prostitution of women under the age of majority, as well as the *coerced* prostitution of women above the age of majority. Despite the controversy around the age of majority which would animate discussions even in the LoN, the spirit of these two articles found purchase in the Palermo Protocol's understanding of which acts to criminalize.⁷⁵ Much like the 1904 Convention, "immoral purposes" were left undefined; relying again on innuendo that – presumably – laypeople and legislators alike would understand in more or less the same manner.⁷⁶

denounced practices, and of their victims; the transmission of information to the Governments concerned respecting the domicile of the latter, and their repatriation;

5. The instructions to be given to the Diplomatic or Consular Agents of the various foreign Governments."

"Questions Submitted to the Consideration of the Conference," Correspondence respecting the International Conference on the 'White Slave Traffic', held in Paris, July 1902, House of Commons Parliamentary Papers (United Kingdom), Miscellaneous No. 3 (1905), Cd. 2667, 6. Cited in Allain, "White Slave Traffic in International Law": 5.

⁷⁴ "International Convention for the Suppression of the White Slave Traffic (1910)," 1 LNTS (1910), art. 1-2.

⁷⁵ Gallagher, *The International Law of Human Trafficking*, 57.

⁷⁶ Interestingly, "immoral purposes" could have potentially lent itself to obscene publications – the Second International Conference for the Suppression of the White Slave Traffic occurred concurrently with the International Conference on the Suppression of Obscene Publications, with representatives common to both conferences. Allain, "White Slave Traffic in International Law."

As envisioned by the 1902 Congress' Legislative Commission, procurement meant “[inviting] or [leading] the woman or girl to become a prostitute” (an act that could be done even with the consent of the sex worker, in theory); to entice meant to “take [the woman or girl] away with [the perpetrator] or persuade her to follow” (which appears to fall somewhere between total volition and coercion); and to lead astray was to “remove [the woman or girl] illegally from her surroundings.”⁷⁷ As the debate on the extent to which prostitution should be abolished was not within the purview of the 1902 Congress, it appears as though the rationale for introducing this distinction was to clarify which acts *should* be criminalized regardless of domestic policy (i.e., prostitution of minors and the coerced procurement of adult women), and what acts *could* be criminalized at state discretion (i.e., the voluntary prostitution of adult women).⁷⁸ This would not be the last time the age of consent would become an important issue in trafficking debates.

Compared to the 1904 Convention – which focused on “protection” – the 1910 Convention was almost entirely driven by prosecution of traffickers/slavers. Article 3 encouraged states to criminalize white slave traffic in their domestic legislatures; article 4 encouraged states to communicate with one another as to the status of these legislative changes; and article 5 established the offenses described in articles 1 and 2 as being eligible for extradition

⁷⁷ Commission Législative, Rapport présenté par Mr. Ferdinand-Dreyfus, Annexe au Procès- Verbal de la Quatrième Séance, 122. Cited in Allain, “White Slave Traffic in International Law”: 9. It is not immediately clear whether “leading astray” includes the use of illegal methods – that is, coercive means already criminalized - to transport the prostitute, or whether the removal itself is illegal.

⁷⁸ Despite not being within the purview of the Congress, the debate over abolition versus regulation did, in fact, rear its head, nearly derailing the entire effort. As a compromise – to the extent that gentle manipulation can constitute compromise – the first article was construed such that its interpretation turned on the word “or” as either an “alternation or continuation.” This wording allowed abolitionist states to leave feeling as though they had won, though in reality, within the context of the larger debates, it is clear that the article was meant to refer to “woman or girl under age,” (that is, only meant to apply to a girl who had not reached the age of majority, regardless of whether or not the minor was referred to as a woman or a girl) rather than applying to both “a woman” (above the age or majority) or “girl under age.” For more on this grammatical finagling, and its reappearance in the reopened negotiations around the 1910 Convention, see Allain.

(or, alternatively, called for states to amend existing legislature such that extradition could be granted). Article 11, importantly, allowed states to make declarations stating that both the 1904 and 1910 Conventions would apply to one or more of their colonies, and to share the extent to which colonial laws have been amended in order to bring the overseas territory in conformity with the regime thus far.⁷⁹

In order to aid in the interpretation of the 1910 Convention, a Final Protocol was signed which offered clarity on articles 1-3. The Protocol clarified four points. First, it clarified that articles 1 and 2 established the *least* that a state was expected to do in order to be in compliance with the regime. It also afforded leeway to abolitionist states, “seeing that it is self-evident that the Contracting Governments remain entirely free to punish other analogous offenses” such as procuring women for sex work even *with* their consent. Second, it held that the minimum age of majority for a woman was “fully understood” to be twenty years of age; and that while states were free to have a higher age of majority, the age set should not vary based on nationality.⁸⁰ Third, the Final Protocol specified that the punishment for offences set out in articles 1 and 2 should at the very least include loss of liberty for both “principle or accessory” perpetrators; and that the severity of the offence (“various aggravating circumstances [i.e., coercion] ... or the fact that the victim has been in effect delivered over to an immoral life”) should be considered when sentencing the perpetrator. Finally, the Protocol clarified that domestic traffic was not under the purview of the regime.

⁷⁹ “International Convention for the Suppression of the White Slave Traffic (1910),” 1 LNTS (1910), art. 3, 4, 5, 11.

⁸⁰ This is an interesting stipulation, considering that the science of the time lent much credence to climate-based biological difference, particularly when it came to young girls’ experience with puberty and menstruation (thus, ability to engage in sexual activities), and that states were requested to declare the extent to which their colonies would be governed by white slavery legislation. In fact, much would be made of this issue in the 1921 conference on trafficking (discussed later). Ashwini Tambe, “Climate, Race Science and the Age of Consent in the League of Nations,” *Theory, Culture & Society* 28, no. 2 (March 2011): 109–30, <https://doi.org/10.1177/0263276410380942>.

This section identified some aspects of the governance of white slave traffic that have been retained in the present THB regime. I argued that for the purposes of analyzing, implementing, and improving trafficking governance, it is necessary to treat this multi-lateral era of white slavery governance not as a separate regime from THB, but as an unsavory origin story that is nonetheless essential to confront. The next section demonstrates how despite the LoN's efforts to move away from the deeply racial white slavery rhetoric towards a more racially-inclusive definition, the white slavery legacy was only entrenched into "trafficking in human beings;" further proving that this next era is only a continuation of the white slavery/multi-lateral era, and *not* the beginning of a separate regime.

3.2.2 *League of Nations Era*

The LoN played an important role in the progressive development of THB norms even though it has become somewhat of a clichéd topic in the history of global governance. Much is made of its failures as a diplomatic and peacemaking institution, and just as much of its eventual repurposing into the United Nations. But its failures aside, arguably the LoN's most enduring legacy lay in its institutionalization and proliferation of technical expertise, particularly in the realms of development, international standardization, labor, and global public health.

After World War I, the US tried to mediate its European allies away from their more blatant pursuits of colonialism and imperialism in the name of Christian internationalism. This "missionary zeal," exemplified by Woodrow Wilson, was tempered by his own flagrant eugenicist, white supremacist beliefs as well his allies' proclivities and ambitions – all of which were reflected in the science (and policy) of the day.⁸¹ In response to Wilson's rhetoric of "a

⁸¹ Mazower describes the LoN as "a bridge between the world of nineteenth-century empire and the twentieth-century rise of the nation-state." Mark Mazower, *Governing the World: The History of an Idea* (New York: The Penguin Press, 2012), 119.

general association of nations” that would champion self-determination and territorial integrity, then British prime minister Lloyd George (filtering global governance ambitions through “British imperial calculations”) claimed that “The British empire is a league of nations.”⁸²

Such was the mentality of the states that sought to govern the world. With the US’ isolationist turn, this attitude was able to continue unfoiled (at least outwardly) by any major player on the global stage.⁸³ Certainly, several of the LoN’s architects believed strongly in the superiority of the colonial model of global governance; many of those same individuals, as well as others with similar, if not worse, beliefs would go on to staff the very bodies that proved the enduring value of the LoN: its “international bureaucracy, [and] the internationalism of technical, intellectual, and scientific specialism...”⁸⁴ Sex work, traffic, and immigration – all inter-related – were part of this technical, specialist work.

Article 23(c) of the LoN’s Covenant (1920) charged it “with the general supervision over the execution of agreements with regard to the traffic in women and children...”⁸⁵ According to the preamble of the article, this mandate extended to the execution of both “international conventions existing or hereafter to be agreed upon” – bringing the 1904 and 1910 conventions under the LoN’s supervision. According to Stephen Legg, this assumed responsibility along with the social scientific research championed by the LoN “brought [it] into contact with a nefariously imagined world of pimps, *madames*, *souteneurs*, and traffickers, who gravitated around brothels.

⁸² James Brown Scott, *Official Statements of War Aims and Peace Proposals: December 1916 to November 1918* (Washington, D.C.: Carnegie Endowment for International Peace, 1921). Cited in Mazower, 128.

⁸³ Though certainly, as Kozma notes, the colonies wrote back against much of the narrative foisted upon and against them. Kozma, *Global Women, Colonial Ports*.

⁸⁴ Mazower, 143.

⁸⁵ In the authentic French, this reads as, « *chargent la Société du contrôle général des accords relatifs à la traite des femmes et des enfants, du trafic de l’opium et autres drogues nuisibles.* » Notably, the convention established the race-neutral veneer of subsequent conventions on the topic (i.e., « *la traite des femmes et des enfants* » rather than « *la traite des blanches* »). League of Nations, “Covenant of the League of Nations” (1920), art. 23.

These brothels were, in turn, presumed to create both the supply of, and the demand for, prostitutes.”⁸⁶

Just one year after the Covenant was established, the League had convened an International Conference on Traffic in Women and Children (June 30th to July 5th, 1921), established a highly influential Advisory Committee on Traffic in Women and Children (CTW), and closed on the 1921 International Convention for the Suppression of the Traffic in Women and Children. Using its authority as the “umbrella organization and promoter of many of the international associations that had been formed before the First World War...”⁸⁷ including the IAF and International Bureau (still active all around the world), the LoN was able to begin gathering and consolidating information on white slave traffic from states in furtherance of the trafficking regime.

The president of the 1921 International Conference identified the following as the vice to be combatted by the states present:

...an organisation, which covered, one might say, the whole of Europe, had taken the place of isolated procuring, which up to then alone had been dealt with by repressive laws; women, for the most part under age, were engaged for lucrative posts, and then, always in complete ignorance of the abominable lot which awaited them, transported to foreign countries and finally flung penniless into houses of debauchery. And all that escaped punishment !⁸⁸

This is not far from the imagery we expect to see today; and it is that imagery which galvanized the LoN’s re-energized attempts to update and make more comprehensive the two

⁸⁶ Stephen Legg, “‘The Life of Individuals as Well as of Nations’: International Law and the League of Nations’ Anti-Trafficking Governmentalities,” *Leiden Journal of International Law* 25, no. 3 (September 2012): 648, <https://doi.org/10.1017/S0922156512000325>.

⁸⁷ League of Nations, Covenant of the League of Nations, art. 24.

⁸⁸ He also identified the reconfigured title of the endeavor: “The Conference is now styled ‘International Conference on Traffic in Women and Children.’ The word ‘Women,’ which is more exact and more adequate, has replaced the words ‘White Slaves.’ It is, of course, only a change of form. There are certain things which go without saying, but which are better to be said.” “Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921)” (Geneva: League of Nations, 1921), 11.

conventions that preceded it. This same imagery was appealed to by then-UN Secretary General Kofi Annan at the 2000 signing ceremony for UNTOC and its protocols:

Arrayed against these constructive forces [of civilization], however, in ever greater numbers and with ever stronger weapons, are the forces of what I call “uncivil society.” They are terrorists, criminals, drug dealers, traffickers in people, and others who undo the good works of civil society. They take advantage of the open borders, free markets and technological advances that bring so many benefits to the world’s people. They thrive in countries with weak laws and institutions. And they show no scruple about resorting to intimidation or violence. Their ruthlessness is the very antithesis of all we regard as civil. They are powerful, representing entrenched interests and the clout of a global enterprise worth billions of dollars. But they are not invincible.⁸⁹

Moreover, despite the official removal of the term “white slave traffic” from the conference proceedings and subsequent efforts, the work of the CTW, the IAF, and the International Bureau (which continued to exercise influence over the subsequent conventions; in fact, the president of the International Bureau followed the conference president in addressing the delegations present) was tinged with racism. CTW researchers “...showed little interest in non-white women or their traffic” even when their work took them to the Middle East and North Africa.⁹⁰ Whiteness was construed through the lens of Christendom, resulting in the elevation of the Christian plight over that of non-Christians. For example, much was made of the “enslavement” of (white, Christian) Armenian women and children by (brown, “Mohamedan”)

⁸⁹ Much of the speech focuses on the particular heinousness of human trafficking. “Yet the right to live in dignity, free from fear and want ... is denied ... to the woman who is condemned to a life of forced prostitution [...] I believe the trafficking of persons, particularly women and children, for forced and exploitative labor, including for sexual exploitation, is one of the most egregious violations of human rights which the United Nations now confronts.” “Address by the Secretary-General, Mr. Kofi Annan, at the Opening Of The Signing Conference For The United Nations Convention Against Transnational Organized Crime,” *United Nations Office on Drugs and Crime*, December 12, 2000, //www.unodc.org/unodc/en/about-unodc/speeches/speech_2000-12-12_1.html.

⁹⁰ Kozma, *Global Women, Colonial Ports*, 22.

Turks.⁹¹ It is in this context that LoN-era trafficking conventions (and the superficial “departure” from the white slave traffic rhetoric) must be considered.

3.2.2.1 International Convention for the Suppression of the Traffic in Women and Children (1921)

The records of the International Conference on Traffic in Women and Children indicate a push and pull among states as to the exact purview of a potential international convention under the auspices of the LoN. Much of the push and pull was precisely over the gendered and racial aspects of the trafficking policy such as the extent to which women in “tropical” locations such as India attained womanhood early, and what that meant for trafficking policy in British India; to what extent the civilized world was responsible for culturally-learned moral defects in the colonies; what to do with (white) women travelling overseas alone, and what male companions were deemed suitable; and what places of employment should be subject to scrutiny as potential or actual sites of traffic.⁹²

The records of the conference also reflected how, despite the official move away from the term “white slave traffic,” the imagery of white, female bodies bought and sold still lingered first and foremost in the minds of representatives.⁹³ Certainly, the use of the term “ivory merchants”

⁹¹ “Slaves Saved from Moslem Slavery,” *The Slave Market News*, December 1924, https://libraryresources.unog.ch/ld.php?content_id=31670106. This is not to make light of the Armenian plight; Turks undeniably inflicted horrible atrocities against Armenians that amounted to genocide. It is just to illustrate the racial, religious lens used to filter this news.

⁹² “Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921).”

⁹³ The change in name from “white slave traffic” to “traffic in women and children” was only for formal purposes; in the original minutes of the international conference, reference was made to white slave traffic more often than not. However, the Dutch delegation did specifically note the necessity of expanding the idea of the “white slave traffic” to more readily encompass “traffic in coloured women;” this was a consideration made given the reality of overseas territories. In fact, the Dutch delegate himself went on to say that while colonial possessions and colonial powers often have differing ideas of morality - and that this is often good - “There are, however, certain ideas and certain moral standards that the colonising countries should introduce and spread in their colonies if they desire to raise the native population to the level of civilisation that they themselves have reached” and that “Once we admit

in reference to traffickers makes it clear that the imagined victims were primarily white- (or ivory-) skinned women and girls, not yellow-, brown-, or Black-skinned women and girls.⁹⁴ Slips of the tongue were testament to this, with delegates speaking of « *traite des blanches* » instead of « *traite des femmes et les enfants*. »⁹⁵

Nevertheless, there were two central outcomes of the conference: the recommendation to create the aforementioned CTW, and a series of recommendations to be taken into consideration when drafting the next convention against traffic in women and children.

The CTW's ultimate composition consisted of nine member states, and five NGOs. The NGOs included three religious organizations, reflecting "the three religions" – the Jewish Association for the Protection of Girls, the International Catholic Association for the Protection of Girls, and the Federation of National Unions for the Protection of Girls (a Protestant organization).⁹⁶ The other two organizations were the International Bureau and the International Women's Organization (IWO – affiliated with the IAF).⁹⁷ Altogether, these NGOs personified not only moral entrepreneurship – deemed desirable and perhaps even valuable by states – but

that no woman should be handed over to prostitution, we must take this moral truth as a basis when we have undertaken the task of developing the latent germs of civilisation in other peoples [...] whatever be the attitude adopted with regard to the problem of prostitution in general, and to prostitution in the colonies in particular."

That is, the desire to expand the concept of the white slave traffic into traffic in women more broadly was driven by a paternalism not unlike that which is described by Bernstein in her ethnographic study of modern trafficking campaigns in the Global South. Ultimately, by the admission of the British representative of the Indian Dominion to the conference, it was "Foreign European prostitution, with which this International Conference [was] concerned." So the question of colonies was left for later. "Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921)," 55-59.

⁹⁴ If there was any purported traffic in Black women, it was not spoken of – in fact, the closest such reference was to say that the traffic in women for prostitution "makes women worse than slaves." "Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921)," 72.

⁹⁵ "Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921)."

⁹⁶ "Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921)," 84.

⁹⁷ Kozma, *Global Women, Colonial Ports*.

utilized in their advocacy what Garcia terms a “moral recruitment of women.”⁹⁸ The mission of this moral recruitment was to “rescue females from ‘social evils connected with prostitution’” by offering them “good employment,” and to leverage law enforcement to stymie and prosecute “intermediaries of prostitution” (i.e., *souteneurs*, *madames*, other prostitutes, etc).⁹⁹

The focus, therefore, was on the *rehabilitation* of women already presumed to be of a fallen nature, such that the only valid improvement in their condition was for them to receive “good employment.” (In addition, of course, to the prosecution of their perpetrators.) This market-based solution to the problem of “traffic” (or, more realistically, sex work) was not new; it was foundational for the NVA, and only further legitimized with the inclusion of its international wing into the CTW. This propensity existed despite the three distinct camps within the CTW (a carry-over from the 1921 Conference): “limited traffic but maintaining regulation [the International Bureau and allies, such as France], suppression of all forms of prostitution by containing the mobility of women [Holland, for instance], and abolition of regulation and all discriminatory laws targeting women [the IWO and allies such as Uruguay].”¹⁰⁰

The 1921 Convention¹⁰¹, on the other hand, codified many of the recommendations made at the conference earlier that year. While urging states to accede to and implement the 1904 and 1910 treaties, the Convention expanded the criminalization of traffic to encompass prostitution in

⁹⁸ Moral entrepreneurs are individuals who “...‘operate with an absolute ethic’ in seeking to create new rules to do away with a perceived great evil.” Moral entrepreneurship is a central organizing feature of anti-trafficking activism. Howard Becker, *Outsiders: Studies in the Sociology of Deviance* (New York, 1963), 148; Ethan A. Nadelmann, “Global Prohibition Regimes: The Evolution of Norms in International Society,” *International Organization*, 44 (1990): 481-482, n. 4. Cited in Magaly Rodríguez García, “The League of Nations and the Moral Recruitment of Women,” *International Review of Social History* 57, no. S20 (December 2012): 97–128, <https://doi.org/10.1017/S0020859012000442>.

⁹⁹ Magaly Rodríguez García, “The League of Nations and the Moral Recruitment of Women,” *International Review of Social History* 57, no. S20 (December 2012):100.

¹⁰⁰ Kozma, *Global Women, Colonial Ports*, 36.

¹⁰¹ League of Nations, “International Convention for the Suppression of the Traffic in Women and Children (1921),” 9 LNTS p. 415 (1921).

children of “both sexes” rather than just in girls. The convention also, importantly, criminalized trafficking attempts and “acts preparatory to the commission of the offenses” described under articles 1 and 2 of the 1910 Convention (to the extent allowed in a given state-party’s domestic criminal legal system). Finally, the convention raised the minimum age of majority for women in the Final Protocol to the 1910 Convention from twenty to twenty-one years of age.

This last move was done in order “...to prosecute as many traffickers as possible” as “raising the age of consent allowed [anti-traffickers] to bring forward a larger number of cases.”¹⁰² It was also in spite of concerns over culturally relative views on age standards. Much was made of the difference between the West and their “tropical colonies,” such as India, given the “established physical facts, it being well known that the climatic conditions of India result in maturity being reached at an earlier age than in Europe...”¹⁰³ and “customs [...] which date back to immemorial antiquity” that apparently centered prostitution as a form of religious dedication. Still, this attempt at applying the rule of colonial difference (even though the rule was otherwise rather liberally and purposefully applied elsewhere in trafficking policy) failed.¹⁰⁴

¹⁰² Ashwini Tambe, “Climate, Race Science and the Age of Consent in the League of Nations,” *Theory, Culture & Society* 28, no. 2 (March 2011): 112.

¹⁰³ “Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921),” 60. I argue that this conversation about “maturity” was racially charged in itself. The science of the time held that the menarcheal age of girls depended on the climate; while this is not accurate, it revealed much about Euro-American beliefs regarding the simultaneous superiority and fragility of white maidenhood that despite the menarcheal ages of British and Indian girls being roughly the same at the time, white “girlhood” was regarded as so precious that twenty- (and later, twenty-one) year-old women were being treated as children, unable to consent to sex work, make decisions regarding their own employment, or even travel alone. Simultaneously, colonized girls were expected to have developed enough to make such decisions to the extent that their “early maturity” was touted as a reason for absolving the colonies being governed by an established age of majority. This attempt failed; but it is an indication of how the science of the day was used to shore up the white supremacist myth. Kankana De, “Comparison of Menarcheal Status of Adolescent Girls,” *Journal of Pregnancy and Child Health* 04, no. 01 (2017), <https://doi.org/10.4172/2376-127X.1000299>; Danielle H. Morris et al., “Secular Trends in Age at Menarche in Women in the UK Born 1908-93: Results from the Breakthrough Generations Study: Secular Trends in Age at Menarche,” *Paediatric and Perinatal Epidemiology* 25, no. 4 (July 2011): 394–400, <https://doi.org/10.1111/j.1365-3016.2011.01202.x>

¹⁰⁴ The rule of colonial difference, first coined by Partha Chatterjee, is described by Tambe as “the presentation of colonies as exceptions to liberal political universals.” Such a rule essentializes entire cultures (and even religions), and magnifies differences such that it becomes inconceivable that colonized peoples accept certain universal norms. Tambe, “Climate, Race Science and the Age of Consent in the League of Nations”: 113.

While the 1921 Convention only augmented the previous two, the CTW's own influence on and reflection of the dynamics within the white slavery/THB regime cannot be understated. The CTW marked the first time NGOs were involved in earnest in global governance (not simply in lobbying), and institutionalized this practice particularly in the anti-trafficking arena.¹⁰⁵ In fact, the meetings and minutes of the CTW were used to publicize each constituent NGO's funding problems, and "the hope that public opinion in all countries may realise that these associations are doing work of great social importance, which cannot be done effectively by Governments and that a more liberal response from private subscriptions may be forthcoming."¹⁰⁶

The American hand was strong in anti-traffic work, despite not being party to the LoN. Philanthropists such as JD Rockefeller¹⁰⁷, for example, influenced the CTW's work¹⁰⁸ to such an extent that the TWC's work "would have been radically undermined" had the Rockefeller Foundation not played such a large role in the TWC and the League as a whole.¹⁰⁹ Incidentally, the initial Rockefeller investigation into white slave traffic in the United States did not turn up any organized traffic; rather, "traffic" was "... 'carried out by individuals acting for their individual benefit,' individuals often known to each other or 'more or less informally

¹⁰⁵ Kozma, *Global Women, Colonial Ports*.

¹⁰⁶ Advisory Committee on Traffic in Women and Children, "Report on the Work of the Committee During Its Second Session" (Geneva: League of Nations, March 31, 1923), 50, [https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-226-\(1\)-M-166-1923-IV_EN.pdf](https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-226-(1)-M-166-1923-IV_EN.pdf).

¹⁰⁷ For more on JD Rockefeller's motivation and methods, see Paul Knepper, "The Investigation into the Traffic in Women by the League of Nations: Sociological Jurisprudence as an International Social Project," *Law and History Review* 34, no. 1 (February 2016).

¹⁰⁸ The US had its own domestic policy regarding trafficking – one with overtly racist consequences.

¹⁰⁹ For example, the Rockefeller Foundation funded Abraham Flexner's study *Prostitution in Europe*, which "thoroughly condemned tolerated brothels as justifying and stimulating trafficking." Legg, "'The Life of Individuals as Well as of Nations': 648; Advisory Committee on Traffic in Women and Children, "Report on the Work of the Committee During Its Second Session" (Geneva: League of Nations, March 31, 1923), 2, [https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-226-\(1\)-M-166-1923-IV_EN.pdf](https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-226-(1)-M-166-1923-IV_EN.pdf). It is also useful to note that the CTW did have a delegate from the United States, who was the first to suggest "an investigation should be made into the traffic in women and children."

associated.”¹¹⁰ (The US “White Slave Traffic Act” or Mann Act of 1910 also influenced the anti-trafficking work of the LoN, and retains notoriety to this day for its disproportionate impact on Black men and interracial relationships.)¹¹¹

The CTW, as part of the LoN’s broader push towards specialization, aimed to underpin its work with rigorous social science. In its earlier years, however, it “built from a foundation of its binary belief in weak and passive victims (or deviants in a few cases) on the one hand, and brutal and immoral perpetrators on the other,” pushing a vision of offenders who were “Other” in some capacity – Muslim,¹¹² Jewish,¹¹³ uncivilized, alien – and thus warranting additional control and surveillance.¹¹⁴ The CTW also attempted to usher in more directly carceral approaches to anti-trafficking, for example promoting the recruitment of female police officers,¹¹⁵ the expulsion of foreign prostitutes,¹¹⁶ and the supervision of female and underage emigrants alike,¹¹⁷ despite protests from abolitionist members of the body.

¹¹⁰ "Presentment in the matter of the Investigation as to the Alleged Existence in the County of New York of an Organized Traffic in Women for Immoral Purposes," January 1910, 3. Rockefeller Archives (RG 2, Series 0, Box 8, Folder 56). Cited in Paul Knepper, "The Investigation into the Traffic in Women by the League of Nations: Sociological Jurisprudence as an International Social Project": 50.

¹¹¹ Lammasniemi, "Anti-White Slavery Legislation and Its Legacies in England": 71; Legg, "The Life of Individuals as Well as of Nations": 656. For more on the Mann Act, see Eric Weiner, "The Long, Colorful History of the Mann Act," *NPR*, March 11, 2008, <https://www.npr.org/templates/story/story.php?storyId=88104308>.

¹¹² For an illustrative example of the religiously-steeped, orientalist understanding of traffic during this time, see "Slaves Saved from Moslem Slavery." It is worth noting the frequent allusion to whiteness and white slavery, indicating the hold such rhetoric retained on activists even after an official eschewal of the term.

¹¹³ Rodríguez García, "The League of Nations and the Moral Recruitment of Women."

¹¹⁴ Rodríguez García, "The League of Nations and the Moral Recruitment of Women": 109.

¹¹⁵ Policewomen were seen as necessary both for carrying out the more sensitive duties associated with traffic in women and children, as well as for encouraging a wider public reform away from what was perceived to be the debauchery of the time. Rodríguez García; Traffic in Women and Children Committee, "The Employment of Women in the Police" (Geneva: League of Nations, August 1, 1927), https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-374-M-144-1927-IV_EN.pdf.

¹¹⁶ Granted, there was some fervent pushback against this from the representative of the women’s international organization; though that did not stop the issue from reappearing in later meetings. Jessica R. Pliley, "Claims to Protection: The Rise and Fall of Feminist Abolitionism in the League of Nations’ Committee on the Traffic in Women and Children, 1919–1936," *Journal of Women’s History* 22, no. 4 (Winter 2010): 90–113.

¹¹⁷ Advisory Committee on Traffic in Women and Children, "Report on the Work of the Committee During Its Second Session"; Traffic in Women and Children Committee, "The Employment of Women in the Police" (Geneva: League of Nations, August 1, 1927), https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-374-M-144-1927-IV_EN.pdf.

One of the more unfortunate themes of and trends started by CTW activity was the muddying of what *counts* as trafficking. A report by the Special Body of Experts – constituted after a proposal for an investigation into traffic internationally by the American delegate to the CTW¹¹⁸ – on trafficking in women and children conflated traffic with illegal migration, smuggling, fraudulent marriage, “sexual excess” and “perversion,” as well as any abuse in the sex trade (that is, “exploitative working conditions” rather than exploitative and abusive sexual practices).¹¹⁹ The shock value of the report, constituted as it was by so much “immorality,” was commensurately high,¹²⁰ and allowed the CTW to turn its attention to perpetrators – *souteneurs* (essentially, pimps) – who needed to be “identified and prosecuted.”¹²¹ This was despite the relatively symbiotic relationship, in actuality, between sex workers and *souteneurs*.¹²² But it was more useful, narratively, to chalk warm or professional relationships up to class-loyalty or other loyalty borne of abuse, and so testimonies contrary to the narrative desired by the Expert Body and CTW were discarded or manipulated as necessary. The Report also indicted certain occupations as being more dangerous for women, a stereotype that rapidly proliferated in the colonies as well and affected women’s employment in music halls, theatres, cabarets, and public

¹¹⁸ The investigation was helpfully funded by the Rockefeller Foundation’s Bureau of Social Hygiene. Pliley, “Claims to Protection: The Rise and Fall of Feminist Abolitionism in the League of Nations’ Committee on the Traffic in Women and Children, 1919–1936.” The American delegate was invited given the United States’ interest “in the question of the traffic in women and children and of emigration.” Advisory Committee on Traffic in Women and Children, “Report to the Council on the Work of the Committee at Its First Session” (Geneva: League of Nations, July 4, 1922), 2, https://biblio-archiv.unog.ch/Dateien/CouncilDocs/C-438-1922-IV_BI.pdf.

¹¹⁹ Rodríguez García, “The League of Nations and the Moral Recruitment of Women”: 108.

¹²⁰ Despite the CTW’s avowed desire to separate their work from previous, sensational reports. Rodríguez García.

¹²¹ Rodríguez García: 109.

¹²² Rodríguez García: 110. Quite often, it was sex workers who sought out procurers, and relationships there between could be rather emotionally charged.

houses.¹²³ Suffice it to say, as well, that the report made liberal use of the terms “white slaves” and “white slave traffic”¹²⁴ – again, despite the LoN’s official disavowal of racial terminology.

As a site of the friction between abolitionist and regulationist approaches to traffic, the CTW was lively. The report and the response thereto galvanized the CTW, states, and anti-trafficking activists *against* the International Bureau brand of carceral, morally-driven regulation, and towards abolition in earnest of the variety espoused by the IWO/IAF. Despite the abolitionists’ more problematic leanings (such as the wholesale identification of sex work as inherently violent and their minimization of the role agency played in the decisions of prostitutes)¹²⁵, their emphasis on women’s liberty allowed them to temper – or at least stall – some of the reactionary and carceral ideals of delegates and NGO members alike. And, despite the differences between the International Bureau and the IAF, there was a degree of congeniality between the members and leaders of the two organizations that enabled productivity.

Both the abolitionist bent and the congeniality of the CTW ended for two reasons. First, the chairwoman of the CTW – an abolitionist feminist – found her tenure discontinued (likely for sexist reasons). Second, upon the death of the erstwhile head of the International Bureau who had served on the CTW, a former policeman in the British Raj was appointed as the Bureau’s representative.¹²⁶ The inherent tension between abolitionists and the carceral symbols they distrusted (foremost, law enforcement and police officers, whom they believed exploited sex

¹²³ Knepper, “The Investigation into the Traffic in Women by the League of Nations: Sociological Jurisprudence as an International Social Project”; Kozma, *Global Women, Colonial Ports*.

¹²⁴ Knepper, “The Investigation into the Traffic in Women by the League of Nations: Sociological Jurisprudence as an International Social Project.”

¹²⁵ A useful modern comparison here is Davidson’s description of the ways in which the agency of “forced” migrants is discarded when understanding the causes underlying their movement. Julia O’Connell Davidson, “Troubling Freedom: Migration, Debt, and Modern Slavery,” *Migration Studies* 1, no. 2 (July 1, 2013): 176–95, <https://doi.org/10.1093/migration/mns002>.

¹²⁶ Pliley, “Claims to Protection: The Rise and Fall of Feminist Abolitionism in the League of Nations’ Committee on the Traffic in Women and Children, 1919–1936.”

workers) led to a breakdown both in the abolitionists' prestige as well as the efficacy of the Committee as a whole. The Committee's Great Depression-era brutal restructuring into the broad "Social Questions Committee" in 1936 further degraded anti-trafficking work.¹²⁷

The CTW is a necessary part of the history of the white slavery/THB regime both because it reflected much of the tension still extant in anti-trafficking circles, and because it institutionalized and professionalized many of the racist, sexist assumptions that drove the white slave traffic era forward and that continue to color anti-trafficking today.

3.2.2.3 International Convention for the Suppression of the Traffic in Women of Full Age (1933)

The most direct impact of the CTW can be felt on the 1933 Convention¹²⁸, the very name of which alludes to one of the major normative shifts since 1921. The 1933 Convention was the result of a series of compromises between abolitionists and regulationists, and actually addressed some issues that had previously been left for states to decide themselves. This more brazen approach was likely spurred by the response to the Expert Body report.

The very first article criminalizes any cross-border movement of adult women for "immoral purposes;" that is, it expands the definition of trafficking to include transportation for the purposes of *any* sexual acts or "immoral purposes", not just prostitution per se.¹²⁹ As an important clarification, this did not criminalize *domestic* sex work – that was still subject to state discretion – but in theory, left no bandwidth or protections for women looking to engage in sex work overseas, "even with her consent." The same article criminalized "Attempted offenses, and, within the legal limits, acts preparatory" to the cross-border transportation of adult (consenting)

¹²⁷ Kozma, *Global Women, Colonial Ports*. For a summary of this twilight era for the CTW, see Jessica R. Pliley, "Claims to Protection: The Rise and Fall of Feminist Abolitionism in the League of Nations' Committee on the Traffic in Women and Children, 1919–1936."

¹²⁸ League of Nations, "International Convention for the Suppression of the Traffic in Women of Full Age (1933)," 150 LNTS 431 (1933).

¹²⁹ Gallagher, *The International Law of Human Trafficking*, 58.

women for immoral purposes.¹³⁰ This would hold true even if the movement was from a colonial state to any of its overseas colonies, protectorates, and mandatory territories – the inclusion of which, without the prior stipulation of requiring declarations to that end, reflected a more urgent fear regarding miscegenation.¹³¹ In fact, women’s organizations had actively lobbied the LoN a few years earlier, urging member-states to ensure that the regime in its entirety would apply to mandate territories. The organizations were alarmed at the state of the colonies, arguing that contrary to the common refrain by colonial states regarding the rarity of traffic in the colonies, “the moral condition of the people [in mandate territories] is so bad that actual traffic is superfluous.”¹³²

Crucially, by removing consent and the stipulation of an age of majority, the 1933 Convention endorsed restricting the mobility of women as a means of fighting traffic. This despite the aforementioned heated debates between members of the CTW, many of whom did not believe the threat of traffic justified affording women fewer liberties than men. Ultimately, in this arena, abolitionist feminists lost to the camp that favored regulation at the expense of women’s liberty.

From the standpoint of criminal law, this removed the *means* element from the crime of trafficking; it would be nearly 70 years until this element was reinserted into the international

¹³⁰ League of Nations, “International Convention for the Suppression of the Traffic in Women of Full Age (1933),” 150 LNTS 431 (1933), art. 1.

¹³¹ In fact, feminists had long been concerned about the risks of their countrywomen falling prey to Black, brown, or yellow men. Much of the IAF and International Bureau’s work in the colonies was predicated on this exact fear. Sensational accounts of young, white European girls being preyed on by brown (Muslim) men and subsequently living a life full of oppression or simply being discarded back into the streets contributed to this panic. Kozma, *Global Women, Colonial Ports*.

¹³² Such a claim was, however, rather incredible given that a lack of language proficiency, understanding of local cultural attitudes, and distrust by the populace in colonies overseas contributed to the collection of limited, flawed data that would never have been able to reflect actual reality (let alone the existence of traffic) on the ground. In other words, there was no way to know to what extent white slavery occurred in the colonies such that a panic over the “moral condition” of colonized peoples was warranted. Kozma, 38, 42-45.

white slavery/THB regime.¹³³ The law enforcement justification for the removal of the means element was to sidestep the fraudulent emigration of would-be sex workers/trafficking victims (that is, misrepresenting the age or marital status of a woman in her papers). Removing the age of majority would allow any movement in women to be subject to suspicion – a huge blow to abolitionists and other feminists, and a tool in the belt of states hoping to control and tailor migration. Finally, continuing the criminal justice, punitive theme of the Convention, article 3 set out more specific guidelines as to the communication between member-states about traffickers and their criminal activities.

As a final note on this era of the anti-trafficking regime, it is worth mentioning that the Expert Body report (and subsequent activism) was being used to inform *another* convention under the LoN. The draft Convention for Suppressing the Exploitation of the Prostitution of Others (1937) was meant to use the momentum of the Expert Body report to double down on the role of *souteneurs* in trafficking. This was despite the lack of clarity – even from the legal subcommittee of the CTW – around the definition of the term. Ultimately, the definition used implicated all individuals who even slightly benefited from prostitution, meaning “not only the prostitute’s partner but also her maid, parents, children, doctor, or landlord who were living with her, or who received financial gain as a result of her activities could be punished on the basis of this definition.”¹³⁴ This focus on *souteneurs* stemmed from anti-trafficking experts’ belief that *souteneurs* would “sooner or later would become traffickers,” precisely because of their adversity to good employment¹³⁵ and thus required preemptive action. The draft Convention

¹³³ Gallagher, “The International Legal Definition of ‘Trafficking in Persons.’”

¹³⁴ Rodríguez García, “The League of Nations and the Moral Recruitment of Women”: 114. An emphasis on the social science of fallen individuals in society meant an interest in the conditions out of which *souteneurs* allegedly evolved; this had been true for prostitutes as well, many of whom were characterized as being the by-products of broken homes.

¹³⁵ Rodríguez García: 42.

would also extend to potential trafficking in “victims” of both sexes. Still, despite being interrupted by World War II, these ideas would be reprised in the United Nations era beginning with the 1949 Convention.¹³⁶

3.2.3 *United Nations Codification*

As the UN came to assume the functions and bureaucracy of the LoN, the question of consolidating all previous conventions governing the traffic in women and girls came up. But the ascension of a new and improved global governance¹³⁷ did not change the assumptions upon which the white slavery/THB regime rested. Perceptions of immoral conduct and the causes and regulation thereof remained the same on the other side of World War II.¹³⁸

Although half a century would pass between the two UN THB conventions, state priorities regarding the illicit movement of people and their illicit actions would not. This subsection, then, continues the argument that has been building since our discussion of multilateral treaties, and shows how – despite being much more rights-oriented than its predecessors – the Palermo Protocol remains tethered to many of the earliest, most dangerous assumptions animating the THB mythos. It also concludes the argument that the THB regime and the white slavery regime remain one and the same, and that the combined white slavery/THB regime is built on the back of a racist, sexist framework steeped in imperial ambitions and

¹³⁶ Rodríguez García.

¹³⁷ The technical expertise and specialization that the UN inherited from the LoN had not been magically cleansed of its biases and imperialist leanings. Both before and after World War II, a “Malthusian nightmare in which the civilized West was swamped by people with black and brown skins” animated policymaking; decolonization only added to this anxiety. But more outward manifestations of this anxiety were no longer attractive, given the recent mobilization of the world against Nazi Germany and the atrocities thereof. Mark Mazower, *Governing the World: The History of an Idea* (New York: The Penguin Press, 2012), 285.

¹³⁸ For example, the UN Economic and Social Council considered the International Agreement of 4 May 1910 for the Suppression of Obscene Publications to be cut from the same cloth as the conventions governing the traffic in women and children. United Nations Economic and Social Council, “Unification of the International Agreements and Conventions for the Suppression of the Traffic in Women and Children,” E/RES/83(V) (1947), <https://digitallibrary.un.org/record/195858?ln=en>. This helped crystallized a developing norm against pornography, certainly – but also theatres, pubs, music halls, etc., as sites of white slave traffic.

analogous social anxieties around a rapidly changing world, shifting social mores, and the movement of peoples.

3.2.3.1 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)

Two things immediately stand out about the 1949 Convention¹³⁹, based simply on the title of the convention. To start, the Convention was the first to not make explicit reference to women in its title (beginning the *official*, albeit qualified, gender-neutral turn in the white slavery/THB regime); second, it explicitly signaled the move to criminalize the “exploitation of the prostitution of others.” While this is a step away from the criminalization of immoral acts writ large, as was the case with the 1933 Convention, it indicated the international community’s overwhelming concern with sexual exploitation and sex work generally (as opposed to labor exploitation, at that point championed by the International Labor Organization).

The 1949 Convention consolidated all prior conventions under the ambit of the United Nations, while adopting much of the language of those same conventions. However, the language used to criminalize traffic does not make reference to cross-border movement, thus seeming to indict domestic prostitution “even with the consent of that person.” In fact, the distinction made in article 1 between “[procuring, enticing or leading away], for purposes of prostitution, another person, even with the consent of that person” and the “[exploitation of] the prostitution of another person, even with the consent of that person,” only serves the purpose of

¹³⁹ United Nations, “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949),” 96 UNTS p. 271 (1949), <https://www.ohchr.org/Documents/ProfessionalInterest/trafficpersons.pdf>.

explicating the extent to which sex work, regardless of exploitation or consent, deserved condemnation.¹⁴⁰

This explicit indictment of prostitution was underscored by the rights-based language used in the preamble of the 1949 Convention (used for the first time in the THB regime): “prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community... .” The Convention also picks up the tack suggested by the Report of the Expert Body, imploring states to punish individuals who keep, manage, knowingly finance (in whole or part) brothels, or who “knowingly [let] or [rent] a building or other place or any part thereof for the purpose of the prostitution of others.”¹⁴¹ It maintains the need to punish preparatory acts, as introduced in the 1933 Convention; but also introduces the first attempt to seemingly criminalize the demand side of sex work in article 4:

To the extent permitted by domestic law, intentional participation in the acts referred to in articles 1 and 2 above shall also be punishable.

To the extent permitted by domestic law, acts of participation shall be treated as separate offences whenever this is necessary to prevent impunity.¹⁴²

If we take “acts of participation” to include retaining the services of a sex worker (consensually or otherwise), then we can see that the article introduces or perhaps even codifies a norm supporting the criminalization of potential clients of prostitutes. That said, the wording “to the extent permitted by domestic law” retains leeway for regulationist state parties to avoid taking this more excessive measure.

¹⁴⁰ United Nations, “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949),” 96 UNTS p. 271 (1949), art. 1.

¹⁴¹ United Nations, “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949),” 96 UNTS p. 271 (1949), art. 2.

¹⁴² United Nations, “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949),” 96 UNTS p. 271 (1949), art. 4.

Article 6, rather suddenly reflecting abolitionist ends, appears to target the regulation of prostitution wholesale, calling for an end to “any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.”¹⁴³

The rest of the Convention goes into more detail regarding the issue of claiming jurisdiction, and the prosecution of offenders more broadly (although article 12 acknowledges that states party to the convention are able to define, prosecute and punish the offences described in the convention in conformity with their own domestic law).

While the 1949 Convention remained the premier anti-trafficking convention for the rest of the century, it was criticized over time from many different angles, especially for its dismissal of women’s agency, its inability to distinguish between exploitative sex work and non-exploitative sex work, and for focusing solely on prostitution. Perhaps most egregiously, however, under the guise of the welfare of “victims,” article 16 directs states to orient resources towards “measures for the prevention of prostitution and for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in the present Convention.”¹⁴⁴ It appears from this language that the primary concern of the Convention is prostitution (and its “evils”) as a whole, and only by extension traffic for the purpose of sexual exploitation; in fact, the preamble seems to support this reading, given the phrasing “... prostitution *and the accompanying evil* of the traffic in persons for the purpose of prostitution...” (emphasis added).

¹⁴³ United Nations, “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949),” 96 UNTS p. 271 (1949), art. 6.

¹⁴⁴ United Nations, “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949),” 96 UNTS p. 271 (1949), art. 16.

Much of the rest of the Convention retreads old ground, such as considering the “eventual repatriation” of foreign prostitutes, and protecting and supervising “in particular, women and children” during their transit overseas. This last point, however, introduces another staple into the white slavery/THB regime: the notion of special vulnerability. Given the 1949 Convention’s departure from focusing solely on women and children, the emphasis on the migration thereof reflects the priorities of state-parties and concerned NGOs. As the post-World War II era ushered in waves of decolonization, resulting both in mass migration of peoples of all races (either to colonial states, to newly independent states, or simply to greener pastures), and the ability of formerly subjugated polities to govern themselves, it is likely that the anxiety generated thereafter posed a threat to many state-parties’ conception of womanhood (bearing in mind the previously mentioned inextricable link between empire and state-sanctioned gender roles).¹⁴⁵ All this in addition, of course, to the prevailing belief in women and children’s relative weakness and inability to protect, or make decisions for, themselves.

Ultimately, the early – and rapid – adoption of the bulk of conventions making up the white slavery/THB regime meant that the most recent and prevailing treaty governing anti-trafficking – the 2000 Palermo Protocol – had much to address, unpack, and hopefully dismantle in terms of colonial- and imperial-era racism and sexism. The interim progress in critical theory, civil rights, feminism, sociology, human rights, and the ability of the Third World and formerly colonized people to finally speak for themselves *should* have heralded a markedly different treaty than the one we currently contend with. Unfortunately, this was not the case; and the Palermo Protocol only reified the assumptions that have made the anti-trafficking movement a

¹⁴⁵ This is admittedly an assumption; travaux préparatoires for the 1949 Convention were not readily available at the time of this writing but given the body of knowledge surrounding state motivations for pursuing anti-trafficking legislation, this is not a far-fetched assumption.

genuine industry, with stamps of approval from NGOs, religious groups, corporations, and states alike.

3.2.3.2 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)

The world in 2000 had become much smaller than in 1949. Dozens of states came into existence, most wresting freedom and independence from imperial European states, or otherwise after the dissolution of the Soviet Union and Yugoslavia. Now governing themselves, Black, brown, and yellow bodies traversed the world; feminism and gender equality empowered women to make decisions regarding their own movement (and, certainly, their own labor); and migration changed the demographics of many erstwhile homogenous states. Global governance deepened and became more sophisticated. Technology allowed for rapid dissemination of ideas and communication. It was difficult to avoid friction, however; post-imperial states, now expected to respect the sovereign equality of their former vassals, were able to influence global politics in more insidious (even if well-intentioned) ways. Development aid became one such avenue, allowing states to champion certain causes and monetarily support organizations that were most closely aligned with their foreign policy objectives. Some groups of people, made anxious, uneasy, and perhaps even outraged by the changing world, threw their own lots in with causes, and began to cultivate their own advocacy domestically and internationally.¹⁴⁶ Sensationalism, always a useful tool to propel niche causes into the public domain, became even easier with the ready dissemination of images, interviews, metaphors, news stories, art, etc. Racism, sexism, and

¹⁴⁶ This anxiety mirrors that of the late 19th, early 20th century, as described in an earlier footnote on the origins of the white slavery discourse. Doezeema, *Sex Slaves and Discourse Masters*, 54.

even colonialism, I argue along with many others, never went away; it simply rebranded itself as neoliberalism, and became the palatable, and even laudable, right hand of neoimperialism.

This paper has previously alluded to the strength of liberal rhetoric in colonial-era anti-trafficking activism, and the use of the free market to support early feminism and carceral techniques as a means of rehabilitating “fallen” women (into finding “respectable” employment) and prosecuting “fallen” men (who were deemed lost causes precisely because of their adversity towards “respectable” employment¹⁴⁷). Individuals who were unwelcome or unwilling to be a part of the state-sanctioned market were forced underground – and even forced out of there and into the very margins of society. Certainly, even the very impetus behind and methodology of colonialism (seeking commodities, creating markets and corporations that would turn into parastate authorities, and then ultimately come into governance of the colony) grew out of liberal, enlightenment values. Policies – social, economic, political – were filtered through empire, itself filtered through markets.¹⁴⁸

Over the course of the 20th century, liberalism evolved into neoliberalism; and, I argue, colonialism evolved into neocolonialism. Just as white slave traffic became a compelling cause around which to rally the liberal state (even with its disparate camps, i.e., abolitionist or regulationist), so has neoliberalism invested in the human trafficking cause – and sex trafficking in particular. The connection between neoliberalism and the wide popularity of the anti-trafficking cause is not a new one. Elizabeth Bernstein, in her crucial work *Brokered Subjects: sex, trafficking, and the politics of freedom* argues that the disproportionate attention paid to sex trafficking (at the expense of sex workers) by carceral feminists and abolitionists is due to a

¹⁴⁷ Rodríguez García, “The League of Nations and the Moral Recruitment of Women.”

¹⁴⁸ See, broadly, chapter one of Mark Mazower, *Governing the World: The History of an Idea* (New York: The Penguin Press, 2012).

“shared commitment to neoliberal economic and cultural agendas [where] ... [the] pursuit of ‘women’s human rights’ ... is imagined in terms of women’s (legitimate) reinsertion into market economies and their protection by state apparatuses of criminal justice.”¹⁴⁹ Thus, in a complete pivot from their origins, modern abolitionists and their politically diverse allies characterize sex trafficking (or sex work, generally) as a humanitarian crisis, one “that the criminal justice system and global capitalists, working in tandem, can help combat.”¹⁵⁰

As is hopefully evident, the arguments in by this paper largely support the above; however, Bernstein also characterizes the present discourse around sex trafficking as the result of “cultural and political formations that are not only entrenched and self-replicating, but also quite new.”¹⁵¹ This is presented in contrast to the prevailing theory in THB scholarship that the discourse around sex trafficking today mirrors the moral and sex panics that characterized the white slavery scare of yesteryear.¹⁵²

Certainly, the white slavery/THB regime is not solely the result of moral and sex panics; states moved the regime forward by responding to and – crucially – *instrumentalizing* social anxieties for their own political ends and ambitions.¹⁵³ However, it is Bernstein’s assertion of the purported novelty of the sex trafficking discourse that I take issue with. Instead, I argue that by virtue of neoliberalism being a neocolonial endeavor in practice, the disproportionate attention

¹⁴⁹ Bernstein, chap. 1, Apple Books.

¹⁵⁰ Bernstein, chap. 1, Apple Books.

¹⁵¹ Bernstein, chap. 1, Apple Books.

¹⁵² Championed by, for example, Ronald Weitzer, “Human Trafficking and Contemporary Slavery,” *Annual Review of Sociology* 41, no. 1 (August 14, 2015): 223–42, <https://doi.org/10.1146/annurev-soc-073014-112506>.

¹⁵³ Notably, states used the white slave traffic/THB momentum to push more benign (and even laudable) foreign policy and humanitarian ends. For example, at the 1921 International Conference, the Greek delegate brought up the issue of the “deportation of women and children” (ethnic cleansing, essentially) in conflict in regard to the removal of Albanian and Greek women from the then-Ottoman Empire. The link made between this serious humanitarian issue and traffic was that such a situation might put women and children in a vulnerable situation, risking their trafficking. “Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921),” 100

paid to sex trafficking is, in fact, the continuation of a political, legal, and social trajectory that was born with the original white slave traffic discourse. Moreover, the role of *race* in particular as an animating feature of sex trafficking discourse has – much like the white slavery rhetoric – not disappeared but simply shifted; where Black, indigenous, and women of color were virtually nonexistent in the discourse, they are now front and center. But this, too, is not benign; the colored femme is now cast as a victim of the original trafficking perpetrator: the Other man, colored as he has always been. It is Other young girls and women, isolated from society, unable to enter the market, veiled and mutilated, who are the subject of concern. This concern propels anti-trafficking, certainly, but also development aid and foreign policy.¹⁵⁴

Neoliberalism is a variation on economic liberalism (itself a model that centers individual- or household-level decision making) which favors free-market capitalism, minimal state intervention on economic policy, and a general emphasis on the private over the public.¹⁵⁵ The Washington Consensus, which reflects the priorities of neoliberals, prescribes “the avoidance of large fiscal deficits; curtailment of government subsidies; liberalization of trade and investment regimes; privation of nationalized forms; and deregulation.”¹⁵⁶ Neoliberalism has been accused of perpetuating deep inequity and inequality between and within classes, as well as between and within states. The World Bank and the International Monetary Fund are two institutions credited (not necessarily positively) with the primacy of the neoliberal models; the

¹⁵⁴ Lila Abu-Lughod is critical reading on this topic. Lila Abu-Lughod, “Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others,” *American Anthropologist* 104, no. 3 (September 2002): 783–90, <https://doi.org/10.1525/aa.2002.104.3.783>. Eastern European women, too, just recently freed from communism struggle with old world machismo, became a locus of concern for anti-trafficking advocates and foreign policy wonks alike.

¹⁵⁵ There are several definitions of neoliberalism that vary slightly based on the lens applied (i.e., economic, social, political, etc). The definition I have used is a largely economic, institutional one.

¹⁵⁶ Mazower, *Governing the World*, 354.

administrations of Margaret Thatcher and Ronald Reagan came to be seen as symbols of neoliberal policy.

Neoliberalism is a neocolonial venture in that it strips state governments of their autonomy in much the way colonialism stripped individual peoples of their autonomy. Ironically, external financial institutions intervene to keep state governments from intervening in their own domestic economies. At the same time, these financial institutions impose financial liberalization policies that “[create] a propensity to financial crisis, both external and internal.”¹⁵⁷ To then survive this financial crisis, states must appeal to the same international institutions that levied conditions ripening such crises in the first place, perpetuating the very cycle of abuse that entrenches neoliberalism and creates dependence - as was the case with imperial powers and their colonial vassals.¹⁵⁸

The web of complex interdependence created by the constellation of Bretton Woods institutions, development organizations, and even the “voluntourism” industry (masterfully described and summarized by Bernstein) results in an easy obscuring of the ways in which “[without] the more obvious political control evident under colonialism, neoliberalism has enabled the flourishing of colonial-style economic relations between countries.”¹⁵⁹ So, the rising tide of neoliberal internationalist markets has not lifted all boats. Sovereign equality under the neoliberal order did not resolve the issue of medical (neo)colonialism, which seemingly suspends

¹⁵⁷ Jayati Ghosh, “Neoliberalism as Neocolonialism,” *Dollars & Sense*, June 2020, <http://www.dollarsandsense.org/archives/2020/0520ghosh.html>.

¹⁵⁸ Ayesha Jalal and Sugata Bose’s account of how the British East India Company’s commercial ambitions turned quickly imperial rings true for neoliberal models of foreign intervention today. “There was no real contradiction between the ideology of free trade, as propounded by the critics of the [British East India] company’s monopoly of trade with Asia from the turn of the nineteenth century, and the ideology of nationalistic imperialism, since it was the deployment of state power that could open up vast colonial markets.” Sugata Bose and Ayesha Jalal, *Modern South Asia: History, Culture, Political Economy*, 4th ed. (Oxon; New York: Routledge, 2011), 50.

¹⁵⁹ Ghosh, “Neoliberalism as Neocolonialism.”

medical ethics for Black and brown bodies (itself a manifestation of the carceral);¹⁶⁰ nor did it allow for immediate equality between the races *within* former colonial states.¹⁶¹ Colonialism has simply rebranded itself, rather successfully; and where there is an Other (as there always must be with coloniality), the specter of trafficking can be invoked.

Thus, as I have argued throughout this past section, if we accept that:

- a) the neoliberal project exists as a successor to the original colonial, imperialist project of the late 19th/early 20th century – i.e., that neoliberalism is neocolonial;
- b) the extant, neoliberal discourse around and approach to sex trafficking has commodified the agency of sex workers and cast them as victims whose rehabilitation depends on their re-entry into the free market; and,
- c) the international THB regime has been built upon the foundations of multilateral and domestic anti-white slavery instruments, as evidenced by the very history of the international THB regime and the general consensus of scholars;

we arrive very close to the argument that the current discourse around and approach to sex trafficking is the result of the *historical* discourse around and approach to the white slavery scare – and, therefore, that the ambiguity of the system that allows for carcerality (both in terms of “rehabilitation” of victims and retribution for perpetrators) to be central to THB policy is a feature of, not a bug in, the system.

¹⁶⁰ Karsten Noko, “Medical Colonialism in Africa Is Not New,” *Al Jazeera*, April 8, 2020, sec. Opinion, <https://www.aljazeera.com/indepth/opinion/medical-colonialism-africa-200406103819617.html>.

¹⁶¹ The ongoing struggle for Black liberation in the United States is a testament to this fact, more than half a century after civil rights revolts. Apartheid in South Africa was painfully recent. In Europe, racial ghettos are still a reality; and the recent influx of migrants from the Middle East and North Africa have been subject to horrific negligence and racism. Racial anxieties have given rise to (or rather, exposed extant) fascist sentiments, resulting in horrific right-wing terrorism. There are several more examples; suffice it to say, the issue of racism is not only alive and well, but a successful tool for political organization.

The Palermo Protocol¹⁶², then, by being 1) the most recent manifestation of international will around the issue of trafficking in human beings; and, 2) *not* actively reckoning with and dismantling the regime's unsavory past, is simply another tool in the hands of states that have had a long-running, vested interest in controlling Black, indigenous and colored bodies, femme bodies, and the markets that these bodies often stand in resistance against.

Contextualizing the Palermo Protocol necessitates looking at its role within UNTOC. Transnational organized crime fell onto the agenda of the United Nations in the 1970s, when white collar crime and corruption were recognized to have social and economic consequences “much greater than the consequences of traditional forms of interpersonal violence and crime against property ...”¹⁶³ Organized crime was characterized by “ruthless disregard for any law,” thus necessitating a correspondingly law enforcement-heavy response.¹⁶⁴ The threat of transnational organized crime, in particular, to the sovereignty and national economies of states (especially developing economies, according to the *travaux preparatoires* of UNTOC) propelled topics such as corruption and smuggling to special consideration. The proliferation in the number of independent states in the 1990s apparently reinvigorated moves to modernize aspects of international law enforcement, such as extradition and information sharing. The adoption and sanctioning of a deepened carceral state for the purposes of defending vulnerable countries against organized crime was balanced by repeated commitments to “internationally recognized human rights and fundamental freedoms, in particular the right to privacy,” even while

¹⁶² United Nations Office on Drugs and Crime, “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (2000),” 2237 UNTS p. 319 (2000), <https://www.ohchr.org/Documents/ProfessionalInterest/ProtocolonTrafficking.pdf>.

¹⁶³ United Nations Office on Drugs and Crime, “Travaux Preparatoires of the Negotiations for the Elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto” (New York: United Nations, 2006), https://www.unodc.org/documents/treaties/UNTOC/Publications/Travaux%20Preparatoire/04-60074_ebook-e.pdf, ix.

¹⁶⁴ United Nations Office on Drugs and Crime, x.

contemplating the use of electronic surveillance and undercover operations to target criminal activity.¹⁶⁵

The first mention (at least in the *travaux préparatoires*) of bringing THB under the ambit of a potential transnational organized crime convention was during the sixth session of the Commission on Crime Prevention and Criminal Justice, in 1997 – just two years before UNTOC negotiations began in earnest. “Trafficking in children” and “trafficking in illegal migrants” were two of the many additional topics to be included, alongside terrorism, trafficking in nuclear material, and arms trafficking. Trafficking explicitly for the purposes of sexual exploitation had not, at that point, been included. It wasn’t until the seventh session of the aforementioned Commission (in 1998 – *one year before UNTOC negotiations began*) that Argentina “proposed the drafting of a new convention against trafficking in minors, citing the growing evidence of its becoming an activity in which organized criminal groups were engaged” – which was later, at the same session, expanded to include both women and children.¹⁶⁶ Italy and Austria drafted a protocol against the smuggling of illegal migrations, and “combating the trafficking and transport of migrants by sea.”¹⁶⁷ Here, we can make three important observations: first, the concept of trafficking for exploitative ends had not yet been expanded to encompass adult men; second, that smuggling and trafficking were being frequently used in the same context, that is, any transportation of migrants that would be deemed illegal by the destination state (and perhaps origin or transit state); and third, that the state most interested in combating smuggling (or “trafficking in migrants”) – Italy – happened to be one of the states most affected by the

¹⁶⁵ United Nations Office on Drugs and Crime, xv.

¹⁶⁶ United Nations Office on Drugs and Crime, xxiv.

¹⁶⁷ United Nations Office on Drugs and Crime, xxiv.

migration of individuals across the Mediterranean sea.¹⁶⁸ The latter two themes (i.e., conflation of concepts and instrumentalization of causes to serve state interests) should be familiar from our previous genealogy of the THB regime.

Another notable phenomenon, interestingly, was that trafficking in *migrants* was deemed as being different from *trafficking in women and children*, disconnecting women from broader migration issues. “Trafficking in migrants” appeared to be code for “illegal migration” where “trafficking in women” was code for “prostitution,” primarily.¹⁶⁹ Moreover, one form of traffic was more sympathetic than the other, even though both manifestations of traffic were theoretically in response to the same or similar structural barriers.¹⁷⁰ That is, *not only* were women seen as being particularly vulnerable to trafficking for the ends of sexual exploitation, but what would eventually become the Protocol against the Smuggling of Migrants by Land, Sea

¹⁶⁸ In the year 2000, Italy received “272,000 legal admissions, led by immigrants from Albania, Morocco, Romania, China, and the Philippines,” while “the majority of undocumented immigrants (primarily from Morocco, Albania, Tunisia, Romania, Poland, and Brazil) [entered] Italy via its exposed shores.” Maia Jachimowicz and Kimberly Hamilton, “Italy’s Southern Exposure,” *Migration Policy*, May 1, 2002, <https://www.migrationpolicy.org/article/italys-southern-exposure>.

¹⁶⁹ It is worth noting that as envisioned by Argentina, trafficking in children was for any purpose; whereas trafficking in women appeared to more closely focus on “certain types of illicit acts” – calling to mind the “immoral purposes” of old. United Nations Office on Drugs and Crime, 320.

¹⁷⁰ This differential perception is also supported by the travaux préparatoires’ introduction, which describes the informal preparatory meeting as follows:

“The informal preparatory meeting also discussed the additional international legal instruments or protocols whose preparation the Ad Hoc Committee had been asked to consider. In that connection, the Governments of Austria and Italy submitted a working paper containing elements for an international legal instrument against illegal trafficking and transport of migrants. In relation to the proposed international legal instrument on the trafficking of women and children, the Chairman of the meeting called on interested delegations to submit a draft text in time for consideration by the Ad Hoc Committee at its first session. In addition, the Government of Canada presented a working paper containing elements for discussion in the preparation of the proposed international legal instrument against illicit manufacturing of and trafficking in firearms, their components and ammunition.”

The third meeting was similarly described as follows:

“The draft texts of the legal instrument against illegal trafficking in and transporting of migrants and the legal instrument against the illicit manufacturing of and trafficking in firearms, ammunition and other related materials had already been submitted. The Governments of Argentina and the United States had announced their intention to submit to the Secretariat by the end of November 1998 elements for a draft international legal instrument against trafficking in women and children.”

United Nations Office on Drugs and Crime, xxiv.

and Air was first conceived of as a convention against illegal traffic in migrants. This muddying of terms at the very highest levels of international law-making shows a lack of clarity on the issue of trafficking – underlaid, based on the states most interested in such an instrument, by more cynical policy motivations.

Still, even though the first draft trafficking protocol did explicitly focus on “International Trafficking in Women and Children,” by the second negotiation session, the potential replacement of “women and children” with “persons” appeared viable. The then-Special Rapporteur on violence against women advocated for recognition that women were not affected by the same vulnerabilities as children in the preamble; however, this was not adopted in the final version of the preamble.

At this point, rather than reinventing the wheel by engaging in an extensive summary of the Palermo Protocol negotiations, it would be more useful to pivot to the role of NGOs in helping further define and elaborate trafficking.¹⁷¹ Despite the fact that the term “sex trafficking” was only coined in the 1980s, and that the contemporary discourse around sex trafficking didn’t take off in earnest until the late 1980s/early 1990s, the issue was considered widespread enough to warrant active and rapid mobilization by broad coalitions of NGOs and advocacy groups. Where the original camps vying for control of the trafficking discourse were abolitionist feminists and regulationists, Palermo-era negotiations were a tug of war between the (familiar) abolitionist camp, and the “human rights”¹⁷² camp (comprised of sex workers and allies seeking

¹⁷¹ For more on the general negotiations around the Palermo Protocol, see Gallagher, *The International Law of Human Trafficking*; United Nations Office on Drugs and Crime, “Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto.”

¹⁷² There are many critiques of rights-based approaches to international law and social issues; many of them contend with the liberal, market-based motivations behind many human rights movements, which render human dignity akin to property, thus reifying the latter as human achievement par excellence. While this paper sympathizes with such critiques, many sex worker advocates nonetheless continue fighting against their repression within the very human

decriminalization of the sex industry¹⁷³ and feminists who sought the legitimacy of sex work as labor). The former was led by the Coalition Against Trafficking in Women (CATW – also referred to as the International Human Rights Network), and the latter by the Human Rights Caucus (led, in particular, by the Global Alliance Against Traffic in Women or GAATW). Both camps claimed feminist goals. Where CATW (like the original abolitionists) accused the global sex industry of “[violating] the human rights of all women and children whose bodies are reduced to sexual commodities in this brutal and dehumanizing marketplace” such that consent in such a system is inherently impossible, GAATW, “inspired by the global sex worker rights movement [... saw] prostitution as labor,” and thus believed that trafficking was characterized “by the use of force during the migration process and/or the consequent labour or services.”¹⁷⁴ In this sense, it was construed of as akin to labor exploitation and/or abuse than sexual violence, though certainly the latter could be part of the former abuse.¹⁷⁵

Suffice it to say that the negotiations for the Protocol (particularly the definition of “trafficking in persons”) were fraught with controversies around the extent to which “sexual exploitation” needed to be tied to coercion or consent; whether the word “coercion” itself was euphemistic; whether slavery ought to be included in forms of exploitation; and what kinds of

rights framework that has been instrumentalized against them. It is also outside the scope of this paper to deal with critiques of rights-based approaches beyond what has been said; thus, for a more comprehensive critique – some of which contends directly with human rights and the anti-trafficking industry – see BS Chimni, “Third World Approaches to International Law: A Manifesto,” *International Community Law Review* 8, no. 1 (2006): 3–27, <https://doi.org/10.1163/187197306779173220>; Bernstein, *Brokered Subjects*; Doezema, *Sex Slaves and Discourse Masters*.

¹⁷³ Decriminalization in this context refers to the demand that “all aspects of the sex industry be taken out of the criminal code – including not only laws supposedly designed to protect sex workers by criminalizing ‘pimps and procurers’ but also those intended to control prostitutes, such as mandatory health checks.” In many senses, the decriminalization movement of today is similar to, though not at all the same as, the original abolitionist feminist movement. Doezema, *Sex Slaves and Discourse Masters*, 21.

¹⁷⁴ Doezema, 27-28.

¹⁷⁵ A similar split exists in the scholarship, which will be discussed later. These feminist camps mirror a similar conversation taking place about migration writ large – that is, the extent to which agency plays a role in the decisions of migrants all across the voluntary/forced spectrum

exploitation ought to be covered by the Protocol. These various controversies required the use of interpretive notes, which – among other caveats – made clear that the definition of trafficking was not to supersede state authority on the treatment of sex work.¹⁷⁶

Ultimately the object and purpose of the Palermo Protocol, as defined in article 2, is as follows:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.¹⁷⁷

It will be recalled that the definition of trafficking per the Palermo Protocol reintroduced the means element, which had been removed in earlier conventions. Finally, the 3 Ps approach is introduced in the first preambulatory clause of the Protocol, centering the need to “prevent [trafficking in persons], punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights.”

It is clear that the Palermo Protocol is, first and foremost, a criminal justice document. However, it does contain some important protections for victims of human trafficking. And despite the Palermo Protocol’s applicability to all forms of trafficking for the purpose of exploitation, states have largely considered “sexual exploitation ... to be the most prevalent form of trafficking-related exploitation – or at least it is the most commonly investigated and prosecuted form.”¹⁷⁸ This is compared to trafficking for the purposes of labor exploitation, which

¹⁷⁶ For more on the role played by GAATW and CATW in the Palermo Protocol negotiations see Doezema, *Sex Slaves and Discourse Masters*.

¹⁷⁷ United Nations Office on Drugs and Crime, “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (2000),” 2237 UNTS p. 319 (2000), art. 2.

¹⁷⁸ Gallagher, “The International Legal Definition of ‘Trafficking in Persons’”: 101.

provokes “particular sensitivities in some States ... including a reluctance to admit the existence of a problem” such that they report “considerable difficulties in identifying and prosecuting forced labor.”¹⁷⁹

Part II of the Palermo Protocol describes protections offered to victims of trafficking, including the “affirmative obligation” of states to help repatriate and receive victims of human trafficking¹⁸⁰; making sure the victim is abreast with criminal proceedings around their case (along with participation, if desired “in appropriate cases”); providing resources for the “physical, psychological and social recovery of victims”; and providing for the physical safety of victims. All the aforementioned protections are to be administered with an eye to the “age, gender and special needs of victims” (this allusion to differential vulnerability harkens back to earlier conventions). Unfortunately, three things stand out in Part II.

First, there is little to keep the state from utilizing article 6(3), which calls for the “physical, psychological and social recovery of victims.” This can be used by states and NGOs to justify “rehabilitating” consensual sex workers as victims of traffic, subjecting them to the carceral state. At an even more basic level, the language used is hortatory in nature – “shall consider implementing” compared to “shall ensure” in the previous article.

Second, despite the assurances that are meant to be offered victims, according to Gallagher, states retain the right to “link the provision of such assistance to victims’ willingness to cooperate with criminal justice agencies.”¹⁸¹ This has dangerous implications, given the dichotomy of the “good” victim (who cooperates, as she should) versus the “bad” whore (who

¹⁷⁹ Gallagher: 101.

¹⁸⁰ Cherif M. Bassiouni et al., “Addressing International Human Trafficking in Women and Children for Commercial Sexual Exploitation in the 21st Century,” *International Review of Penal Law* 81 (2010): 454.

¹⁸¹ Gallagher, *The International Law of Human Trafficking*.

distrusts and thus remains outside the grip of the carceral state). It also positions the state even more firmly as a self-interested entity that rightfully incurs the distrust of marginalized people.

Third, while article 6(6) *does* make reference to compensation¹⁸² for victims, and “requires States Parties to ensure that their domestic legal systems contain measures that offer victims of trafficking the possibility of obtaining compensation for damage suffered,” so long as the *possibility* of obtaining compensation exists, states are not in violation of their duties under the Palermo Protocol. This means that lack of access to compensation mechanisms does not preclude a state from compliance, so long as those mechanisms exist in some way, shape, or form, further sidelining victim compensation compared to perpetrator prosecution. Moreover, the protections offered to witnesses in human trafficking prosecutions are scant especially compared to UNTOC, Palermo Protocol’s parent instrument “which [requires] States Parties to provide witnesses (including those who are victims) with protection from potential retaliation or intimidation.”¹⁸³ That a “pure” criminal justice instrument offers more of a safety net to victims than an instrument *purportedly* at the intersection of human rights and criminal justice does not inspire confidence in the Palermo Protocol’s intentions.

Within Part III of the Palermo Protocol (on prevention, cooperation, and other measures), article 9 focuses on the prevention of trafficking. It emphasizes the creation of programming and policies aimed at combatting trafficking and preventing revictimization, the creation of

¹⁸² Compensation, as a remedy for internationally wrongful acts under international law in particular, is financial in nature and is owed to “Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes,” or their family and dependents where applicable. It can also include the payment of wages where previously withheld. Restitution more generally refers to the “material, judicial, or other measures aimed at restoring the situation that existed prior to the violation, as far as this is possible.” The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power makes it clear that where restitution by the offender is not possible, states are responsible for stepping in, even where state responsibility is not incurred. Gallagher, *The International Law of Human Trafficking*, 365-366; United Nations General Assembly, “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,” Resolution 40/34 (1985), <https://www.ohchr.org/Documents/ProfessionalInterest/victims.pdf>.

¹⁸³ Gallagher, *The International Law of Human Trafficking*, 301.

programming, policies and laws to curb “the demand that fosters all forms of exploitation of persons ... that leads to trafficking,” and – notably – requires states to “strengthen measures ... to alleviate” structural factors that contribute to the perpetuation of trafficking “such as poverty, underdevelopment and lack of equal opportunity.”

Although the demand element of this formula may be used to crack down on industries that are not explicitly under the mandate of the Palermo Protocol (such as the pornography industry and sex work industry more broadly – a worrying prospect for exploitation creep as described later), it is notable that the Protocol *requires* states to address structural factors. Unfortunately, as will be explored later, states rarely live up to this requirement such that *genuinely structural* factors are addressed (such as less brutal immigration policies); rather, their reliance on development aid as a foreign policy tool precludes any meaningful structural change.

This section of the Protocol also discusses information sharing and law enforcement training – and, importantly for our purposes, reinforces the importance of stringent immigration controls including “[strengthening] ... such border controls as may be necessary to prevent and detect trafficking in persons,” cracking down on fraudulent documentation, and criminalizing said fraud. In reality, such stipulations can be used to control “illegal” migration and undocumented migrants; the guise of protecting victims of trafficking is similarly used to usher in restrictive and punishing refugee and asylum policies.¹⁸⁴

¹⁸⁴ For example, the United States has justified its repressive southern border policy and restrictive asylum/refugee policy using the perceived threat of trafficking (and/or smuggling). “The Border, Trafficking, and Risks to Unaccompanied Children - Understanding the Impact of U.S. Policy on Children’s Safety” (Kids in Need of Defense, November 14, 2019), https://supportkind.org/wp-content/uploads/2019/11/KIND_Child-trafficking-at-border-paper-11-14-19-FINAL2.pdf; “DHS and DOJ Issue Third-Country Asylum Rule,” *Department of Homeland Security*, July 15, 2019, <https://www.dhs.gov/news/2019/07/15/dhs-and-doj-issue-third-country-asylum-rule>. Note that the DHS press release is filed under the tag “human trafficking,” despite referencing smuggling in the actual release.

Clearly, the Palermo Protocol is denser and contains more meat than its predecessor instruments. More states took part in the negotiation of this convention than in any of the prior conventions in the white slavery/THB regime. However, most things remained the same. The two broad coalitions of NGOs were given a major voice in the proceedings – their expertise and familiarity with human trafficking made up for the lack thereof among state delegates, and swayed many delegations – but the interests of sex workers (most affected by sex trafficking policy) were largely ignored or compromised in favor of the criminal justice leanings of negotiating states.¹⁸⁵ This same criminal justice bent informed the relative lack of *concrete* protections for victims or prevention of the crime in the form of addressing structural causes of THB. And, unfortunately, the lacunae left in the Palermo Protocol were filled by the US, which had adopted a strong abolitionist approach to sex work domestically *and* worldwide, in addition to being the poster child for the Foucauldian carceral state.¹⁸⁶ None of this would have been possible without the tone set by the earlier colonial-era conventions and negotiations; and at the risk of inflating a counterfactual, the combination of not recognizing this problematic past in addition to couching THB primarily in the language of criminal justice likely ensured that the Palermo Protocol was doomed to anachronism.

This next section will take the themes and implications brought up throughout this section and position them in dialogue with the scholarship and practice of THB. In doing so, it will identify some of the main areas of the white slavery/THB regime that need improving, augmenting, or otherwise dismantling. This will help take us to our conclusion and illustrate the need for the prescriptions and way forward offered there.

¹⁸⁵ Gallagher, *The International Law of Human Trafficking*, 72.

¹⁸⁶ Bernstein largely ascribes this shift to the expanded presence of the US evangelical lobby both domestically (during the Clinton and George W. Bush administrations) and internationally at the United Nations. Bernstein, *Brokered Subjects*.

4. Discussion

Perhaps the most pressing issue with the white slavery/THB regime is how much of it has always been left to interpretation. Definitional and conceptual issues and discrepancies have massive policy implications, both in terms of foreign and domestic policy. These issues help obfuscate the constitutive elements of trafficking both as a phenomenon and a crime; meaning that a researcher or policymaker's working definition of trafficking can produce vastly different results, and affect polities in vastly different ways. State interest in guiding THB policy – used to monitor borders and bodies alike – may force researchers to focus their interest where the money is (or, perhaps more appropriately, focus their interest away from where the money is *not*). In the US in particular, the power of the Trafficking in Persons (TIP) report compels researchers and states alike into promoting and incorporating THB policies that hurt sex workers in the name of preventing sex trafficking.¹⁸⁷

By appealing to law enforcement and the carceral state to abolish what they call “modern day slavery,” abolitionist feminists tacitly approve of instruments like the TIP Report. As one of the many heads of the US foreign policy hydra, the TIP Report categorizes countries based on their response to THB *by US standards*, which valorize punishment and prosecution, sustaining the structures that sustain traffic (and oppression more broadly) – many of which are “often the product of the neoliberal development agenda so favored by the U.S. government.”¹⁸⁸

The TIP Report, by incentivizing states to crack down harder on human trafficking (particularly sex trafficking) often facilitates the marginalization of and violence towards sex workers, who – rather than being seen as partners in the fight against trafficking – are cast as

¹⁸⁷ Ahmed, “Pandemic Politics”; Chapman-Schmidt, “‘Sex Trafficking’ as Epistemic Violence.”

¹⁸⁸ Aziza Ahmed, “‘Exploitation Creep’ and Development: A Response to Janie Chuang,” *AJIL Unbound* 108 (2015): 270. See also Bernstein, *Brokered Subjects*; Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law.”

victims at best, and perpetrators at worst. They are subjected to assault (often sexual), homelessness, detention, and are sometimes even disappeared; forcing sex workers further underground and away from protections that could safeguard their lives *and* livelihoods.¹⁸⁹ This has massive public health repercussions for HIV/AIDS (for example) – let alone human rights and basic dignity.¹⁹⁰

Domestically, the American carceral state penalizes sex workers and trafficking victims sometimes simply for being. Because sex trafficking (that is, trafficking in sex rather than trafficking for sexual exploitation) is considered a sex crime in the US, victims of trafficking (or just regular sex workers) are prosecuted as perpetrators either because they were forced to/chose to recruit other victims/sex workers. Once arrested, they may end up on sex offender registries, which further marginalize victims and sex workers alike, and signal what kind of sexual behavior is deemed “undesirable or deviant.”¹⁹¹ (Recall, here, Foucault: sex worker as “departure from the norm, the anomaly ...”)¹⁹²

Being on the sex offender registry brings sex workers and victims under lifelong scrutiny, precluding them from the opportunity to (re)build their lives – blocking them from the very market abolitionists believe will be their redemption. Very often, the US’ “zealous prosecution of human trafficking” results in victims and sex workers pleading guilty to charges of sex

¹⁸⁹ Aziza Ahmed and Meena Seshu, “‘We Have the Right Not to Be “Rescued”...’: When Anti-Trafficking Programmes Undermine the Health and Well-Being of Sex Workers,” *Anti-Trafficking Review*, no. 1 (June 2012): 149-168; Bernstein, *Brokered Subjects*.

¹⁹⁰ Aziza Ahmed, “‘Exploitation Creep’ and Development: A Response to Janie Chuang”. For more on HIV/AIDS and the role played by sex workers and in the fight there against, see Aziza Ahmed, “Addressing HIV/AIDS at the Intersection of Anti-Trafficking and Health Law and Policy,” in *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, ed. Prabha Kotiswaran (Cambridge: Cambridge University Press, 2017), 305–28, <https://doi.org/10.1017/9781316675809.011>.

¹⁹¹ Kate Mogulescu and Leigh Goodmark, “Surveillance and Entanglement: How Mandatory Sex Offender Registration Impacts Criminalised Survivors of Human Trafficking,” *Anti-Trafficking Review*, no. 14 (April 27, 2020): 127.

¹⁹² Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd Vintage Books ed (New York: Vintage Books, 1995), 299.

trafficking, “rather than [defending] against the charges in order to avoid draconian sentences.”¹⁹³ Such policies foment deep mistrust between the state, law enforcement, and sex workers and victims alike – making the prospect of a fair, just, and victim-centric THB policy deeply unlikely.

Given the consequences of an ill-defined concept in both human rights and criminal justice, the importance of semantics and rhetoric cannot be overstated. “Language and labels convey meaning, value, societal importance, and perspective.”¹⁹⁴ In human rights, labels serve an important function, as they are used to situate an issue-area in the consciousness of policymakers and laypeople alike. Labelling is used to craft imagery that will appeal to the better angels of our collective nature, and create associations that spur action and, where needed, outrage. This becomes pivotal in ensuring that the human rights campaign in question is not just a blip on people’s radar, but becomes a sustainable movement that can engage states, activists and, in particular, donors. The white slavery campaign (and its immortalization through subsequent THB conventions) owes its success to such masterful wielding of imagery and association by the IAF, International Bureau, and other writers and advocates.

Labelling is arguably even more central to criminal justice. In the Anglo-American criminal legal tradition, the concept of fair labelling is utilized to communicate, for instance, the nature and extent of criminal offenses as well as the underlying norms and values signaled by the criminalization of that offense. For example, fair labelling communicates the difference between the offenses of “domestic abuse” and the more general “assault.” The distinction between the crimes turns on the *nature* of the more specific offense – that is, violence between domestic

¹⁹³ Mogulescu and Goodmark: 127.

¹⁹⁴ Mary G. Leary, “‘Modern Day Slavery’ - Implications of a Label,” *St. Louis University Law Journal* 60 (2016): 6, <http://ssrn.com/abstract=2705550>.

partners – which indicates a level of deviant behavior worthy of being considered its own offense.¹⁹⁵

In theory, the fair labelling of criminal conduct has many uses: specificity (in that there is a specific conduct for which the offender is being charged); proportionality (in that the expected sentence discharged onto the offender is proportional to the gravity of the offense); the declaratory function (in that the public understands the symbolic value of criminalizing a conduct in question); fairness to the offender or future offenders (in that they are aware of the criminality of the extant or potential conduct); deterrence to potential offenders (the criminality of the conduct is taken seriously such that, theoretically, threat of punishment preempts future commission of the offense); among others.¹⁹⁶

It is within this context that the generality and non-specificity of the Palermo Protocol definition of THB fails both victims and perpetrators of traffic. Again, however, this failure is a feature, not a bug. “White slavery” was itself a vague concept, despite being portrayed as urgent and heinous. It could mean anything to anyone, so long as sex and whiteness were involved. This lack of “fair” labelling lent the offense to being applied widely and *politically* – the use of the Mann Act in the United States, for instance, to prosecute Black men in consensual relationships with white women in the pursuit of combatting white slavery is an example of “unfair” labelling.¹⁹⁷ The deeply value-laden nature of the white slavery/THB offense has been a constant throughout the late 19th, 20th, and now 21st century. Its recent reconstitution in some jurisdictions

¹⁹⁵ James Chalmers and Fiona Leverick, “Fair Labelling in Criminal Law,” *Modern Law Review* 71, no. 2 (March 2008): 217–46, <https://doi.org/10.1111/j.1468-2230.2008.00689.x>.

¹⁹⁶ For a deeper analysis and interrogation of the utility of these functions, see Chalmers and Leverick, “Fair labelling in Criminal Law.”

¹⁹⁷ Weiner, “The Long, Colorful History of the Mann Act.”

and by some advocacy organizations as “modern day slavery” is purposefully evocative in exactly the same way that “white slave traffic” had been.

Scholars and practitioners have noted the effect that the rhetoric and imagery associated with slavery (and the transatlantic slave trade in particular) can have on attracting and holding the attention of the public, therefore elevating it to a prime concern – particularly as slavery, freedom from which is a *jus cogens* or non-derogable right in international law, tends to occupy an especially painful and often guilty place in our collective conscious. This is a problematic strategy for many reasons (not least because it “is very much in line with state projects and neoliberal logic” the latter of which seeks to commodify all movements and moments).¹⁹⁸

First, the use of highly specific, evocative imagery drawn from atrocities committed (and, in several cases, state-sanctioned) in history inherently involves the appropriation of a given group’s lived or ancestral or inherited experiences, narratives, and ongoing struggles for justice and equity – or even peace and reconciliation. References to the Holocaust trigger deep emotions among Ashkenazi Jewish populations, many of whom can readily point to missing links within their own family trees; the Partition of the Indian subcontinent remains politically and psychologically salient more than 70 years after the fact, and the memory of forced and violent movement mars South Asian politics and polities today; the label of Apartheid, while accepted as part and parcel of South African history, elicits passionate, emotional responses from Israeli Jews when applied to Israel’s treatment of Palestinians *by* Palestinians and others. In a world where words contain entire histories, the equation of human trafficking with “modern day slavery” (despite clarity in the regime regarding slavery as a potential *outcome* of trafficking rather than *analogous* to trafficking) cynically utilizes the unique trauma and experiences of the

¹⁹⁸ Lyndsey P. Beutin, “Black Suffering for/from Anti-Trafficking Advocacy”: 18.

descendants of African peoples enslaved by a long list of countries in the West and beyond. “Such appropriations of black suffering,” while an effective public-relations strategy, muddy our understanding of “the ways in which [slavery] continues to structure contemporary culture through its legacies of anti-black racism and oppression, as well as for how we understand what causes trafficking, and thus, what would be effective approaches to ending it.”¹⁹⁹

Second, this rhetoric peddles the false belief that there is some clearly delineated difference between “old” slavery and “modern” slavery. This manipulation of time gives the impression that we exist eons away from the transatlantic slave trade. This simply is not true: modernity and the transatlantic slave trade went hand in hand, and economic liberalism grew from the labor of enslaved peoples. In fact, the “Atlantic World slavery *was* modern slavery;”²⁰⁰ and the abolition of slavery in the 19th century (not quite as long ago as many people may want it to be) was a recalcitrant and resentful affair on the parts of modern liberal states.²⁰¹ The stories we are told of abolitionism today are couched in “white saviorism” and the white savior industrial complex; this is true for stories of anti-trafficking today as well.²⁰²

Third, the equation of THB with “modern day slavery” contradicts the white slavery/THB regime itself, wherein “slavery is held to be only one of several possible outcomes of trafficking.”²⁰³ This willful blurring of international law undermines the ability to adequately prosecute the conduct that ostensibly constitutes “modern day slavery.” This is especially

¹⁹⁹ Lyndsey P. Beutin: 15. The Vatican, by way of example, has long championed the cause of ending modern day slavery and THB; see, for example, this article wherein a direct allusion is made between the Atlantic slave trade and victims of trafficking, arguably to the detriment of the former’s gravity. “With Pope’s Blessing, Activists Press Fight against Human Trafficking,” *Crux* (blog), September 8, 2016, <https://cruxnow.com/global-church/2016/09/popes-blessing-activists-press-fight-human-trafficking/>.

²⁰⁰ Emphasis added.

²⁰¹ Julia O’Connell Davidson, “Editorial: The Presence of the Past: Lessons of History for Anti-Trafficking Work,” *Anti-Trafficking Review*, no. 9 (September 2017), antitraffickingreview.org.

²⁰² Lyndsey P. Beutin, “Black Suffering for/from Anti-Trafficking Advocacy.”

²⁰³ Davidson, “Editorial: The Presence of the Past: Lessons of History for Anti-Trafficking Work.”

egregious given that THB perpetrators are, in practice, difficult to identify and therefore not very often prosecuted.²⁰⁴ The very status accorded to the abolition of slavery under international law makes it a difficult offense to prove (if, theoretically, the offense is punished under the ambit of international criminal law, which is itself unlikely); often, then, recourse is had to “lesser” charges that undermine the very point that organizations and advocates pushing THB as slavery are trying to make.²⁰⁵ This creates a hierarchy of atrocity between “slavery” and “trafficking,” counterintuitively cheapening the horror of the latter in a relationship similar to that of “genocide” and “ethnic cleansing.” Moreover, the *jus cogens* status of slavery in international law creates an obligation *erga omnes* among states to intervene where slavery exists; bringing this same “legal pressure to bear” to a concept that is ill-conceived at best, and oppressive at worst, brings up difficult conversations about the consequences of such obligations.²⁰⁶

Fourth, as Julia O’Connell Davidson points out, the phenomenon of THB is highly complex; instances of trafficking along dichotomous victim/perpetrator lines are rare.²⁰⁷ More often, “victims” of trafficking have a sophisticated understanding of the nature of their own traffic and movement, along with the risks they are assuming. In fact, many “victims” of trafficking are willing sex workers who see their occupation as a mundane one, and resent the labels assigned to them.²⁰⁸ Even people *coerced* into trafficking are not usually subject to the kind of violence to which enslaved peoples are inherently exposed. As Davidson notes, “...if the term ‘human trafficking’ was applied only to such cases [i.e., violent coercion or kidnapping], it would be a numerically small phenomenon, far removed from the estimates of hundreds of

²⁰⁴ Gallagher, “The International Legal Definition of ‘Trafficking in Persons.’”

²⁰⁵ Gallagher, *The International Law of Human Trafficking*.

²⁰⁶ Gallagher, 178.

²⁰⁷ Julia O’Connell Davidson, “Troubling Freedom: Migration, Debt, and Modern Slavery,” *Migration Studies* 1, no. 2 (July 1, 2013): 176–95, <https://doi.org/10.1093/migration/mns002>.

²⁰⁸ Bernstein, *Brokered Subjects*.

thousands or even millions that are routinely touted by state and non-state actors involved in anti-trafficking work.”²⁰⁹

Fifth, from a normative standpoint, this comparison is disingenuous; given the state-sanctioned nature of the transatlantic slave trade, it should follow that the conception of trafficking as purported by these groups should be one that interrogates the role of state policy in perpetuating THB. However, beyond vague allusions to the horrific conditions in which these “modern slaves” exist, there is little attempt to interrogate the structural conditions (neoliberalism and racial capitalism)²¹⁰ that make THB possible, and the role that states play in this. If anything, and as noted by Bernstein, the onus is often placed on corporations to analyze their supply chains and isolate instances of “slavery” or traffic, who pay lip service to corporate-social responsibility and corporate global citizenship but ultimately exercise little influence to make structural change.²¹¹ The (free) market is framed as emancipatory; and, as such, structural violence (then and now) is reduced to interpersonal violence (then and now).²¹² Failing this attempt to hold states responsible for border control and migration policies that force recourse to THB, we are left with the conclusion that the instrumentalization of the “slave/master” rhetoric is simply that: rhetoric.²¹³

So while some scholars and contemporary abolitionists contend that the gravity of human trafficking can only be understood by using modern-day slavery, which is more inclusive of the ways in which people can be exploited,²¹⁴ this attempt at inclusivity undermines the true

²⁰⁹ Davidson, “Editorial: The Presence of the Past: Lessons of History for Anti-Trafficking Work”: 2.

²¹⁰ Lyndsey P. Beutin, “Black Suffering for/from Anti-Trafficking Advocacy”; Bernstein, *Brokered Subjects*.

²¹¹ Bernstein, *Brokered Subjects*.

²¹² Bernstein; Lyndsey P. Beutin, “Black Suffering for/from Anti-Trafficking Advocacy.”

²¹³ The following excellent works shed more light on the sensational use of “slavery” discourse in THB advocacy. Doezeema, *Sex Slaves and Discourse Masters*; Lyndsey P. Beutin, “Black Suffering for/from Anti-Trafficking Advocacy”; Bernstein, *Brokered Subjects*.

²¹⁴ Stephanie Hepburn and Rita J. Simon, *Human Trafficking around the World: Hidden in Plain Sight* (New York: Columbia University Press, 2013).

complexity of human trafficking and falls back on a storied attempt to appeal to morality, which is fleeting and no substitute for strong, specific policy. States – especially the US – and advocacy groups alike have actively perpetuated and leaned into this lacuna. In lieu of an international institution filling this lacuna, the “misalignment and competition between related [transnational legal orders] relating to sex work, forced labor and slavery ... replayed at the domestic and local levels in various national contexts along with diagnostic struggles, ideological and institutional contradictions and mismatch between actors” continues, unimpeded.²¹⁵

The broad discretion such a vague definition offers to policymakers with goals of controlling bodies and behaviors – with an eye to the market – has resulted in “exploitation creep:” the expansion, over time, of the forms of exploitation that have come under the umbrella of trafficking in human beings, largely off the backs of “the definitional muddle” and “indiscriminate conflation of legal concepts” not yet relieved by international legislation.²¹⁶ In fact, this exploitation creep has been leveraged by states and NGOs alike, hoping to catapult their causes into the primetime of humanity’s collective consciousness.²¹⁷ Again, *this is not new*; while exploitation creep has been linked to the post-Palermo Protocol era in the white slavery/THB regime, we have seen examples of exploitation creep throughout the genealogy described earlier. This broad discretion has always been the point, and has enabled the state to address “social and structural concerns” – particularly violence against women, migration, and

²¹⁵ Prabha Kotiswaran, “From Sex Panic to Extreme Exploitation: Revisiting the Law and Governance of Human Trafficking,” 19.

²¹⁶ Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law”: 610.

²¹⁷ Ahmed draws a link between the zenith of exploitation creep – the concept of “modern day slavery” – and the cooption of criminal justice by many feminists. By being able to champion the abolition of modern day slavery (a concept that seems, of course, to be beyond reproach to the layperson), abolitionist feminists ally themselves with unlikely bedfellows, including the Christian religious right and the very law enforcement structures that original abolitionist feminists disdained and distrusted. Aziza Ahmed, “‘Exploitation Creep’ and Development: A Response to Janie Chuang”; Bernstein, *Brokered Subjects*; Doezema, *Sex Slaves and Discourse Masters*.

related issues – within the paradigms of imperialism and (neo)liberalism, which, by the end of the 20th century, “[recast] the human experience in an endless series of market exchanges.”²¹⁸

Human trafficking will not be “fixed” by market-based solutions to human trafficking. Certainly, sex workers will not be protected by market-based solutions to human trafficking. What, then, is the way forward, if there is a way forward? The next section will conclude this paper by offering some suggestions, with the ultimate goal of radically reimagining the THB regime and perhaps even international law.

5. Conclusion

This paper has argued that the contemporary human trafficking regime *is* the white slavery regime. It is thus a regime built on the assumption of white supremacy, the protection of white womanhood (often at the expense of white women), the deviancy of the Other man, and the nonexistence of the Other woman. The “success” of this regime, insofar as the longevity of this regime is a reflection of its success, is due to its molding in the hands of colonial powers to serve imperial ambitions. The regime is also built on assumptions that have very little basis in fact. But “[the] ironic power of the myth of trafficking,” Doezema writes, “is that in attempting to lift the mask through exposure of the ‘facts’, it only settles firmer.”²¹⁹ The myth of white slavery lives on through the human trafficking regime; so potent and intergenerationally entrenched that it has become a reality *regardless of* reality; urgent both despite and because of the statistical anomalies and half-truths rife in human trafficking discourse. So, in the face of myths so real, policy must and does follow. Hand in hand with the hard work of slowly chipping

²¹⁸ Aziza Ahmed, “‘Exploitation Creep’ and Development: A Response to Janie Chuang”: 270; Russell Rickford, “Toppling Statues as a Decolonial Ethic,” *Africa is a Country*, July 28, 2020, <https://africasacountry.com/2020/07/toppling-statues-as-a-decolonial-ethic>.

²¹⁹ Doezema, *Sex Slaves and Discourse Masters*, 45.

away at the mythology in favor of facts (or, at least, in favor of the real victims of such myth), we must center a rigorous, decolonial, and sensitive policy, clear in its priorities.

And, perhaps, the policy should be an absence thereof.

Responding to a lacuna with a deeper lacuna might not seem intuitive, but it may have to be the ultimate goal of truly progressive, truly feminist anti-trafficking activists. An entire body of (racist, sexist) knowledge has been created in response to a “crime” that may well have been imagined, or at least exaggerated, and then artificially augmented by the very policies seeking to combat this crime. That is, by deepening the structural conditions that drive migration, and then criminalizing specific forms of migratory labor, states may well have perpetuated a traffic that was initially inconsequential. Certainly, it is unlikely that we will fully know the truth of it: but why, then, do we allow policy to be built on such deeply problematic, flawed, and incomplete assumptions?

The combination of carceral feminism, market-based approaches to ending “modern day slavery,” and security-based responses to THB offers states more ammunition to impose restrictive border control policy. Ultimately, the modern state – by being able to formulate its own understanding of human trafficking, combined with its legal approach to sex work and migration – has an ally in the white slavery/THB regime, couching the control of (often – *still* - Black and brown bodies) in justice, equality, and human rights.

Perhaps, then, a law-based solution to human trafficking for sexual exploitation is the same as a normative solution. Perhaps the solution is to recognize when, in fact, the law does not get to have a say; that perhaps the law should be focused on the public health principle of harm reduction and aftercare rather than on the phenomenon itself.²²⁰ The harm reduction approach

²²⁰ Ahmed, “Addressing HIV/AIDS at the Intersection of Anti-Trafficking and Health Law and Policy.”

believes that passing a value judgment on any given activity or phenomenon is not helpful, nor is criminalizing the activity in question, as the activity will continue regardless of legality and perhaps even do more harm in its criminalized state. Therefore, it is better to minimize the harm that can be done by the activity.²²¹

Applied to anti-trafficking, by neither criminalizing nor regulating sex work – *decriminalizing* sex work – we correct for the damage that is otherwise done to sex workers who engage in “criminalized” conduct, or who are forced to come into contact with the carceral state. We mindfully carve out a lacuna; one that may be filled in time, but perhaps, *this* time, by the right people, those most likely to be affected by the extant system: the sex workers themselves, allowed to organize without fear of at least state-sanctioned, tolerated violence. Here, there is a role for the radical reimagination of the white slavery/THB regime, a role for genuine decolonization that dismantles and abolishes rather than recasts and reforms. Such an exercise can be turned towards other international law regimes, so many of which are also steeped in the colonial and imperial, favoring the market as emancipator rather than incarcerator.

Until such radical reimagination can truly occur, understanding that there *is* an international regime against THB that is unlikely to go away anytime soon and may see an update within the next few decades (if the history of THB legislation is any indication), then human rights-based advocacy groups such as GAATW and sex worker coalitions should lobby *against* compromises that result in vague, dangerous definitions of THB and sex trafficking in

²²¹ According to Harm Reduction International, “Harm reduction refers to policies, programmes and practices that aim to minimise negative health, social and legal impacts associated with drug use, drug policies and drug laws. Harm reduction is grounded in justice and human rights - it focuses on positive change and on working with people without judgement, coercion, discrimination, or requiring that they stop using drugs as a precondition of support.” “What Is Harm Reduction?,” *Harm Reduction International*, accessed August 9, 2020, <https://www.hri.global/what-is-harm-reduction>. A recent and salient example of this is the decision by many states to deem liquor stores “essential” during the management of COVID-19. This decision was made bearing in mind the limited ability of individuals addicted to alcohol to access rehabilitative services and, rather than suffering the potentially lethal effects of withdrawal, access to liquor would offset the relative harm caused by lack of access to health care.

particular. While this may seem like anathema to proponents of international legislation that is as agreeable to as many states as possible, who see reservations to human rights treaties as a failing, this may be a worthy use of resources. A recent study has shown that treaty ratifications with reservations *can* deepen commitments to human rights principles. Domestic constituencies, in response to the formal commitments envisioned in the original treaty, can mobilize – pushing the state to take on more commitments than it initially agreed to.²²² Given the place white slavery/THB has occupied in public sympathy for over a century, states would likely be under pressure to eventually accede to – if not immediately ratify – *any* THB instrument. In theory, then, by pushing states to negotiate more fiercely in favor of progressive sex workers’ rights, even conservative states entering ratifications may be held to deeper commitments by domestic groups.

The white slavery/THB regime has contributed to great harm – epistemic, physical, psychological – in its long history. It is past time that we subject this regime to a critical examination, holding to progressive ideals that center the safety and dignity of human beings and marginalized peoples. The white slavery/THB regime is due for a deep, difficult reckoning; one that will reopen many wounds and force states and advocates alike into uncomfortable confrontations, perhaps even with their own selves. But on the other side of this reckoning is a genuine opportunity for transformative justice *within* the regime itself. Ultimately, for the global governance project to succeed – in a manner that truly honors and reflects the best of humanity – international law must look inward and backward; only then will it be able to look, bravely and earnestly, forward.

²²² Jessica Edry, “Shallow Commitments May Bite Deep: Domestic Politics and Flexibility in International Cooperation,” *International Interactions* (July 15, 2020) 1–27, <https://doi.org/10.1080/03050629.2020.1788550>.

Works Cited

- United Nations Office on Drugs and Crime. "About UNODC." Accessed July 2, 2020. [//www.unodc.org/unodc/en/about-unodc/index.html](http://www.unodc.org/unodc/en/about-unodc/index.html).
- Abu-Lughod, Lila. "Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others." *American Anthropologist* 104, no. 3 (September 2002): 783–90. <https://doi.org/10.1525/aa.2002.104.3.783>.
- United Nations Office on Drugs and Crime. "Address by the Secretary-General, Mr. Kofi Annan, at the Opening Of The Signing Conference For The United Nations Convention Against Transnational Organized Crime," December 12, 2000. [//www.unodc.org/unodc/en/about-unodc/speeches/speech_2000-12-12_1.html](http://www.unodc.org/unodc/en/about-unodc/speeches/speech_2000-12-12_1.html).
- Advisory Committee on Traffic in Women and Children. "Report on the Work of the Committee During Its Second Session." Geneva: League of Nations, March 31, 1923. [https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-226-\(1\)-M-166-1923-IV_EN.pdf](https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-226-(1)-M-166-1923-IV_EN.pdf).
- . "Report to the Council on the Work of the Committee at Its First Session." Geneva: League of Nations, July 4, 1922. https://biblio-archive.unog.ch/Dateien/CouncilDocs/C-438-1922-IV_BI.pdf.
- Ahmed, Aziza. "Addressing HIV/AIDS at the Intersection of Anti-Trafficking and Health Law and Policy." In *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, edited by Prabha Kotiswaran, 305–28. Cambridge: Cambridge University Press, 2017. <https://doi.org/10.1017/9781316675809.011>.
- . "'Exploitation Creep' and Development: A Response to Janie Chuang." *AJIL Unbound* 108 (2015): 268–71.
- . "Pandemic Politics: Race, Sex, and the Supreme Court." Just Security, July 17, 2020. <https://www.justsecurity.org/71464/pandemic-politics-race-sex-and-the-supreme-court/>.
- Ahmed, Aziza, and Meena Seshu. "'We Have the Right Not to Be 'Rescued'...': When Anti-Trafficking Programmes Undermine the Health and Well-Being of Sex Workers." *Anti-Trafficking Review*, no. 1 (n.d.): June 2012.
- Allain, Jean. "White Slave Traffic in International Law." *Journal of Trafficking and Human Exploitation* 1, no. 1 (February 14, 2017): 1–40. <https://doi.org/10.7590/24522775111>.
- Bassiouni, Cherif M., Daniel Rothenberg, Ethel Higonnet, Cynthia Farenga, and Augustus Sol Invictus. "Addressing International Human Trafficking in Women and Children for Commercial Sexual Exploitation in the 21st Century." *International Review of Penal Law* 81 (2010): 417–91.
- Bernstein, Elizabeth. *Brokered Subjects: Sex, Trafficking, and the Politics of Freedom*. Chicago ; London: The University of Chicago Press, 2018.
- Bose, Sugata, and Ayesha Jalal. *Modern South Asia: History, Culture, Political Economy*. Fourth edition. Oxon; New York: Routledge, 2011.
- Chalmers, James, and Fiona Leverick. "Fair Labelling in Criminal Law." *Modern Law Review* 71, no. 2 (March 2008): 217–46. <https://doi.org/10.1111/j.1468-2230.2008.00689.x>.
- Chapman-Schmidt, Ben. "'Sex Trafficking' as Epistemic Violence." *Anti-Trafficking Review*, no. 12 (April 2019): 172–84.
- Chimni. "Third World Approaches to International Law: A Manifesto." *International Community Law Review* 8, no. 1 (2006): 3–27. <https://doi.org/10.1163/187197306779173220>.

- Chuang, Janie. "Exploitation Creep and the Unmaking of Human Trafficking Law." *The American Journal of International Law* 108, no. 4 (October 2014): 609–49. <https://doi.org/10.5305/amerjintelaw.108.4.0609>.
- Davidson, Julia O'Connell. "Editorial: The Presence of the Past: Lessons of History for Anti-Trafficking Work." *Anti-Trafficking Review*, no. 9 (September 2017). antitraffickingreview.org.
- . "Troubling Freedom: Migration, Debt, and Modern Slavery." *Migration Studies* 1, no. 2 (July 1, 2013): 176–95. <https://doi.org/10.1093/migration/mns002>.
- De, Kankana. "Comparison of Menarcheal Status of Adolescent Girls." *Journal of Pregnancy and Child Health* 04, no. 01 (2017). <https://doi.org/10.4172/2376-127X.1000299>.
- Department of Homeland Security. "DHS and DOJ Issue Third-Country Asylum Rule," July 15, 2019. <https://www.dhs.gov/news/2019/07/15/dhs-and-doj-issue-third-country-asylum-rule>.
- Dijk, Jan J.M. van, Maarten Cruyff, Peter G. M. van der Heijden, and Suzanne L. J. Kragten-Heerdink. "A Multiple Systems Estimation of the Numbers of Presumed Human Trafficking Victims in the Netherlands." United Nations Office on Drugs and Crime, National Rapporteur on Trafficking in Human Beings and Sexual Violence Against Children, n.d. https://www.dutchrapporteur.nl/binaries/An%20estimation%20of%20the%20numbers%20of%20presumed%20human%20trafficking%20victims%20in%20the%20Netherlands_tm24-282339.pdf.
- Doezema, Jo. *Sex Slaves and Discourse Masters: The Construction of Trafficking*. London; New York: Zed Books; Palgrave Macmillan, 2010.
- Edry, Jessica. "Shallow Commitments May Bite Deep: Domestic Politics and Flexibility in International Cooperation." *International Interactions*, July 15, 2020, 1–27. <https://doi.org/10.1080/03050629.2020.1788550>.
- Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. 2nd Vintage Books ed. New York: Vintage Books, 1995.
- . *The Will to Knowledge*. Translated by Robert Hurley. Amended reprint. The History of Sexuality, v. 1. London: Penguin Books, 1998.
- Gallagher, Anne. *The International Law of Human Trafficking*. New York: Cambridge University Press, 2010.
- Gallagher, Anne T. "The International Legal Definition of 'Trafficking in Persons': Scope and Application." In *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, edited by Prabha Kotiswaran, 83–111. Cambridge: Cambridge University Press, 2017. <https://doi.org/10.1017/9781316675809.003>.
- Ghosh, Jayati. "Neoliberalism as Neocolonialism." *Dollars & Sense*, June 2020. <http://www.dollarsandsense.org/archives/2020/0520ghosh.html>.
- Glover, David. *Literature, Immigration, and Diaspora in Fin-de-Siècle England: A Cultural History of the 1905 Aliens Act*. Cambridge: Cambridge University Press, 2012. <https://doi.org/10.1017/CBO9781139137102>.
- Hathaway, James. "The Human Rights Quagmire of Human Trafficking." *Virginia Journal of International Law* 49, no. 1 (2008): 1–59.
- Hepburn, Stephanie, and Rita J. Simon. *Human Trafficking around the World: Hidden in Plain Sight*. New York: Columbia University Press, 2013.

- International Agreement for the Suppression of the White Slave Traffic (1904), 1 LNTS p. 83 § (1904).
- International Convention for the Suppression of the White Slave Traffic (1910), 1 LNTS § (1910). https://treaties.un.org/doc/Treaties/1951/08/19510814%2010-35%20PM/Ch_VII_9p.pdf.
- Knepper, Paul. “The Investigation into the Traffic in Women by the League of Nations: Sociological Jurisprudence as an International Social Project.” *Law and History Review* 34, no. 1 (February 2016).
- Kotiswaran, Prabha. “From Sex Panic to Extreme Exploitation: Revisiting the Law and Governance of Human Trafficking.” In *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, edited by Prabha Kotiswaran, 1–56. Cambridge: Cambridge University Press, 2017. <https://doi.org/10.1017/9781316675809.001>.
- Kozma, Liat. *Global Women, Colonial Ports: Prostitution in the Interwar Middle East*. Albany: SUNY Press (State University of New York Press), 2017.
- Lammasniemi, Laura. “Anti-White Slavery Legislation and Its Legacies in England.” *Anti-Trafficking Review*, no. 9 (September 21, 2017). <https://doi.org/10.14197/atr.20121795>.
- League of Nations. Covenant of the League of Nations (1920). https://libraryresources.unog.ch/ld.php?content_id=32971179.
- . International Convention for the Suppression of the Traffic in Women and Children (1921), 9 LNTS p. 415 § (1921).
- . International Convention for the Suppression of the Traffic in Women of Full Age (1933), 150 LNTS 431 § (1933).
- Legg, Stephen. “‘The Life of Individuals as Well as of Nations’: International Law and the League of Nations’ Anti-Trafficking Governmentalities.” *Leiden Journal of International Law* 25, no. 3 (September 2012): 647–64. <https://doi.org/10.1017/S0922156512000325>.
- Lyndsey P. Beutin. “Black Suffering for/from Anti-Trafficking Advocacy.” *Anti-Trafficking Review*, no. 9 (September 2017). antitraffickingreview.org.
- Maia Jachimowicz, and Kimberly Hamilton. “Italy’s Southern Exposure.” *Migration Policy*, May 1, 2002. <https://www.migrationpolicy.org/article/italys-southern-exposure>.
- Mary G. Leary. “‘Modern Day Slavery’ - Implications of a Label.” *St. Louis University Law Journal* 60 (2016). <http://ssrn.com/abstract=2705550>.
- Mazower, Mark. *Governing the World: The History of an Idea*. New York: The Penguin Press, 2012.
- Mogulescu, Kate, and Leigh Goodmark. “Surveillance and Entanglement: How Mandatory Sex Offender Registration Impacts Criminalised Survivors of Human Trafficking.” *Anti-Trafficking Review*, no. 14 (April 27, 2020): 125–30. <https://doi.org/10.14197/atr.2012201410>.
- Morris, Danielle H., Michael E. Jones, Minouk J. Schoemaker, Alan Ashworth, and Anthony J. Swerdlow. “Secular Trends in Age at Menarche in Women in the UK Born 1908-93: Results from the Breakthrough Generations Study: Secular Trends in Age at Menarche.” *Paediatric and Perinatal Epidemiology* 25, no. 4 (July 2011): 394–400. <https://doi.org/10.1111/j.1365-3016.2011.01202.x>.
- Noko, Karsten. “Medical Colonialism in Africa Is Not New.” *Al Jazeera*, April 8, 2020, sec. Opinion. <https://www.aljazeera.com/indepth/opinion/medical-colonialism-africa-200406103819617.html>.

- Pattanaik, Bandana. "Will Human Trafficking Increase during and after COVID-19?" The Global Alliance Against Traffic in Women, August 6, 2020. <https://gaatw.org/blog/1059-will-human-trafficking-increase-during-and-after-covid-19>.
- Pliley, Jessica R. "Claims to Protection: The Rise and Fall of Feminist Abolitionism in the League of Nations' Committee on the Traffic in Women and Children, 1919–1936." *Journal of Women's History* 22, no. 4 (Winter 2010): 90–113.
- "Records of the International Conference on Traffic in Women and Children (Meetings Held from June 30th to July 5th, 1921)." Geneva: League of Nations, 1921.
- Rodríguez García, Magaly. "The League of Nations and the Moral Recruitment of Women." *International Review of Social History* 57, no. S20 (December 2012): 97–128. <https://doi.org/10.1017/S0020859012000442>.
- Roots, Katrin. "Anti-Trafficking Efforts and Colonial Violence in Canada." *Anti-Trafficking Review*, no. 12 (April 2019): 201–4.
- "Slaves Saved from Moslem Slavery." *The Slave Market News*, December 1924. https://libraryresources.unog.ch/ld.php?content_id=31670106.
- Tambe, Ashwini. "Climate, Race Science and the Age of Consent in the League of Nations." *Theory, Culture & Society* 28, no. 2 (March 2011): 109–30. <https://doi.org/10.1177/0263276410380942>.
- "The Border, Trafficking, and Risks to Unaccompanied Children - Understanding the Impact of U.S. Policy on Children's Safety." Kids in Need of Defense, November 14, 2019. https://supportkind.org/wp-content/uploads/2019/11/KIND_Child-trafficking-at-border-paper-11-14-19-FINAL2.pdf.
- Traffic in Women and Children Committee. "Central Authorities." Geneva: League of Nations, June 1, 1932. https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-504-M-245-1932-IV_EN.pdf.
- . "The Employment of Women in the Police." Geneva: League of Nations, August 1, 1927. https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-374-M-144-1927-IV_EN.pdf.
- United Nations. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), 96 UNTS p. 271 (1949). <https://www.ohchr.org/Documents/ProfessionalInterest/trafficpersons.pdf>.
- . Convention on the Elimination of All Forms of Discrimination against Women (1979), 1249 UNTS p. 1 (1979). <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>.
- . Vienna Convention on the law of treaties (1969), 1155 UNTS p. 331. § (1969). <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>.
- United Nations Economic and Social Council. Unification of the International Agreements and Conventions for the suppression of the traffic in women and children, E/RES/83(V) (1947). <https://digitallibrary.un.org/record/195858?ln=en>.
- United Nations General Assembly. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Resolution 40/34 (1985). <https://www.ohchr.org/Documents/ProfessionalInterest/victims.pdf>.
- United Nations Office on Drugs and Crime. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), 2237 UNTS p. 319

- (2000).
<https://www.ohchr.org/Documents/ProfessionalInterest/ProtocolonTrafficking.pdf>.
- . “Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto.” New York: United Nations, 2006.
https://www.unodc.org/documents/treaties/UNTOC/Publications/Travaux%20Preparatoire/04-60074_ebook-e.pdf.
- Walkowitz, Judith R. *Prostitution and Victorian Society: Women, Class, and the State*. 1st ed. Cambridge University Press, 1980. <https://doi.org/10.1017/CBO9780511583605>.
- Weiner, Eric. “The Long, Colorful History of the Mann Act.” NPR, March 11, 2008.
<https://www.npr.org/templates/story/story.php?storyId=88104308>.
- Weitzer, Ronald. “Human Trafficking and Contemporary Slavery.” *Annual Review of Sociology* 41, no. 1 (August 14, 2015): 223–42. <https://doi.org/10.1146/annurev-soc-073014-112506>.
- . “New Directions in Research on Human Trafficking.” Edited by Ronald Weitzer and Sheldon X. Zhang. *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (May 2014): 6–24. <https://doi.org/10.1177/0002716214521562>.
- Harm Reduction International. “What Is Harm Reduction?” Accessed August 9, 2020.
<https://www.hri.global/what-is-harm-reduction>.
- Crux. “With Pope’s Blessing, Activists Press Fight against Human Trafficking,” September 8, 2016. <https://cruxnow.com/global-church/2016/09/popes-blessing-activists-press-fight-human-trafficking/>.