**The Power of Social Pressure:**

**US Efforts to Criminalize Human Trafficking World Wide**

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Prepared for the Workshop on “Tools of International Pressure,” Yale University, June 1-2, 2012.

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1. **Introduction**

Coercion is pervasive in international politics. From military invasion to the subtle raising of a diplomatic eyebrow, from occupation to conditional aid, international relations is all about how states attempt to influence one another’s policies in ways they believe will contribute to their security and welfare. As nations have become increasingly interdependent, the range of issues on which they have attempted to exert influence has expanded. Historically, international relations were focused primarily on state security through the use of military force. The integration of markets and the interconnectedness of societies on many new dimensions have created new reasons for states to try to influence the conditions in and policies of their neighbors.

We examine these important issues in the context of transnational crime. Economic liberalization has increased the possibilities for agents to prosper from transnational activities that run counter to those banned in other jurisdictions. Lower transaction costs have fostered trade and immigration the world over, but these conditions have also fueled black markets for narcotics, weapons, and even for human beings.

The United States has played the key role in defining, coordinating and strengthening criminal law world-wide. We have seen this leadership in a number of areas, most spectacularly in the “war on drugs” prosecuted internationally over the course of the last three decades. More recently, the United States has taken a hard line that human trafficking should be criminalized in both domestic and international law, and has devoted significant resources to encouraging other countries to do the same. No other country has more assiduously tried to document and publicize countries’ policy efforts than has the United States. This paper asks: How and to what extent have US efforts to shape other countries’ human trafficking been effective?

The US policy on human trafficking is particularly interesting because it is aimed at countries worldwide and it mixes different diplomatic strategies such as sanction threats and shaming, while yet others face no US pressure whatsoever. Thus, the different treatment and the variation in responses provide an opportunity to examine questions of relative efficacy of various strategies to pressure governments to adopt reform. This can inform both theoretical and practical debates about the extent to which governments respond more to concrete changes in their incentive structure or to changes in their reputation brought about by official shaming, in this case by the US government.

1. **Nature of the human trafficking problem and US policies**

Human trafficking is the trade in human beings or organs for any purpose, but generally for labor or sexual exploitation. The issue has gained increasing attention since the nineties and it has grown to become an industry of over $31 billion annually ([Besler 2005](#_ENREF_2)). Nevertheless, few people are prosecuted, and even fewer convicted. Estimates from 2006 are that for every 800 persons trafficked, only one is convicted ([U.S. Department of State 2007](#_ENREF_28)). The creation in 2000 of the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was a testament to the growing international concern about human trafficking. This increase in attention has been accompanied by an increase in domestic anti-trafficking efforts. Common policy responses involve amending or creating domestic legislation to criminalize trafficking, developing and implementing national action plans to identify and protect victims, arrest traffickers, create transborder cooperation and so on. Cho et al. have created an index of performance across the three commonly identified policy areas of protection, prosecution and prevention. As evidenced by figure 1 below, this index shows improvement over time. It is important to note, however, that the number of countries in the data also increase over time.

Figure 1: Index of human trafficking policy over time

*Source: Anti-trafficking policy index,* [*http://www.uni-goettingen.de/en/204458.html*](http://www.uni-goettingen.de/en/204458.html)

Although the UN and a number of regional organizations—the European Union (EU) and the Council of Europe in particular—have taken leadership roles in the effort to combat human trafficking, the US has played a unique and forceful role. Both former Presidents George W. Bush and Bill Clinton, contributed to efforts to create Victims of Trafficking and Violence Protection Act (TVPA) of 2000. The TVPA enabled the US Congress to create the Office to Monitor and Combat Trafficking in Persons (TIP) (located within the Department of State (DOS)). In cooperation with embassies and other actors around the world, the office monitors and rates other countries’ performance, which is then tied to access to US foreign aid.

Core to this program is the annual TIP report, which assesses governments’ efforts on the 3-pronged human trafficking policy (of both the US and the UN)--prevention, protection, and prosecution. The report also recommends policy actions that governments should take to address trafficking problems, and rates countries on a Tier system. This system has three “Tiers,” with Tier 1 being the best and 3 the worst. In 2003, which was the first year the sanctions regime started, the DOS added a ‘watch-list’ rating, often considered a Tier 2.5. Since the report’s inception, DOS has issued 1,345 ratings. The catchall category has been “2,” which has been given 50 percent of the time. Few countries are in the clear: only 18 percent of all rankings since the beginning of the report have been Tier 1. The report has placed countries on the watch-list 21 percent of the time, but only 11 percent of the time has the report actually placed a country in the lowest category (Tier 3) that potentially makes it subject to sanctions. Also, a few countries are included in the report but not rated because of special circumstances.[[1]](#footnote-1)

Sanctioning for Tier 3 rankings began in 2003 and only targets non-humanitarian, non-trade-related assistance and funding for educational and cultural exchange programs. This ranking can also subject countries to US opposition to assistance to them by international financial institutions. About 90 days after the annual rankings are announced in the report, the US President issues a determination as to the action to be taken towards each Tier 3-country. The options are to let the country off for good behavior if a country has shown significant improvements (27 instances), to waive sanctions fully (36 instances) or partially (34 instances), or to allow the sanctions to proceed (25 instances – most of them Cuba, North Korea, Burma and Iran-- all of which are repeat offenders).

Opinions about this process vary widely; even US officials have criticized the rankings as inconsistent and superficial ([United States Government Accountability Office 2006 i, 33](#_ENREF_29)). But the policy also has supporters, who have argued that the policy has produced concrete policy changes around the world ([Lagon 2010 5](#_ENREF_20)).

1. **Theories of policy influence: social shaming, management and material sanctions**

Considerable scholarship has focused on the ability of external actors to promote external reforms of varying types including on issues of democracy, human rights, and other political reforms. Scholars have questioned whether states respond better to incentives in the form of punishments or rewards, whether state elites are susceptible to socialization or habituation into a set of norms, or how much state willingness to behave in a certain way is a function of capacity and management issues. Our key hypothesis is that the criminalization of human trafficking in domestic law has resulted at least in large part from the application of pressure, in particular by the United States, since the passage of the Trafficking Victims Protection Act (TVPA) in 2000. Theoretically, this pressure could exert itself through a number of different mechanisms.

One of the strategies of the US TIP policy is to name and shame. The reports serve a monitoring function and expose problem behaviors. The ratings explicitly label countries as falling below social norms. Such social scrutiny of various kinds may lead states to change their behavior. Psychological research has long since pointed to the fact that subjects respond merely to the fact that they are being included in experiments and thus “observed”. Similar to this so-called Hawthorne effect, when countries realize the US state department is paying attention, they may display a “scrutiny effect” and improve their behavior simply because they know they are being monitored. In this case, of course, improvements might well be driven by fear of exposure of behavior that falls short of international standards. The US TIP policy adheres closely, though not fully, to the 2000 TIP protocol, which has formed the normative foundation for a set of anti-trafficking policies expected of states that wish to demonstrate that they are doing all they can to address human trafficking. Thus, if the US exposes weaknesses and gaps in the anti-trafficking policies and behaviors of states, then these states are likely to be broadly viewed as falling below international standards.

This fear of exposure is clearly linked to the broader notion of shaming. Johnston ([2001](#_ENREF_13)) has argued that governments do respond to shaming, that is, the public criticism of their behavior. Because a state’s elites may be averse to public criticism ([Keck and Sikkink 1998 16](#_ENREF_14); [Risse, Ropp et al. 1999 13](#_ENREF_24)), the potential embarrassment and loss of legitimacy in international society can induce better government behavior. Hafner-Burton and Tsutsui ([2005](#_ENREF_8)) have found that the publicity created by NGOs and domestic actors about human rights violations improves human rights. Scholars argue that states care about their international reputation because it facilitates their ability to cooperate with other states ([Schelling 1997](#_ENREF_25) ; [Simmons 2000](#_ENREF_27) ; [Guzman 2002](#_ENREF_6) ; [Kelley 2007](#_ENREF_17)), or because government elites seek social acceptance among the world of state leaders (Johnston 2001, 500). This shaming effect may be particularly strong when states are viewed as crossing a “bright line” of socially acceptable behavior. Especially for countries that have been managing to maintain a reputable standing, a new demotion in their reputation may be particularly embarrassing and galvanize them to act to correct their reputational standing. This leads us to posit several hypotheses.

Getting rated by the US at all subjects states to scrutiny, increasing the social pressure on them to criminalize according to US standards in the following period. Thus:

**Scrutiny Hypothesis**: *Countries not included in the US reporting system will be less likely to criminalize than countries included in the reporting system*.

There is a major distinction between being on the watch list and not being on the watch list. This is due to being listed (which is embarrassing), and not due to any significant differences between countries or the risk of actual sanction (which only occurs to countries rated 3.) The effect of being on the watch list is precisely to draw negative attention to the country. The most relevant comparison for this hypothesis is to compare those ranked 2 and 2.5. Thus:

**Bright line hypothesis**: *Countries on the Tier 2 watch list will be more likely to criminalize than those ranked Tier 2.*

There is a distinct shaming associated with falling below socially acceptable international norms and standards. The embarrassment is greatest the first time this happens to a country. The country is therefore more likely to react to remedy this shaming in the immediate time following the demotion. Thus:

**Demotion hypotheses**: *countries that have been recently demoted to the Tier 2 watch list will be more likely to criminalize than other countries.*

A subtler strategy of the US TIP policy is to issue waivers or let countries off for good behavior. As discussed above, the congressional act permits the president to forego the sanctions either by issuing a waiver or by acknowledging a country for a show of good will. This approach gives countries encouragement or a sympathetic break. It is thus a much more cooperative approach than the implementation of punitive sanctions. This strategy is more aligned with the managerial school of thought that states want to follow international law most of the time ([Henkin 1968](#_ENREF_9)). Chayes and Chayes ([1995](#_ENREF_3)) argue that failure to do so primarily results because countries lack the capacity and knowhow. Thus states are likely to respond to gentle prodding like encouragement or more nuanced forms of interaction in the spirit of developing a capacity to respond to human trafficking. The sanctioning system does not work as well as a nuanced system of encouragement, including waivers and encouragement of steps toward “good behavior.” Thus:

**Management Hypotheses**: *During the years when the sanctions regime was in effect, compared to Tier 3 countries that were simply sanctioned, Tier 3 countries that received a waiver or were rewarded for their good behavior were more likely to criminalize.*

Finally, countries might respond to US policy recommendations because of economic pressure. A study by Cho et al. ([2011](#_ENREF_4)), which created an index of anti-trafficking policies, found no significant effect of US aid on trafficking policies. However, this study did not directly test the efficacy of sanctions, but only the effect of aid receipt in general. Traditional rationalist theories argue that countries are driven by incentives such as aid, and if it is threatened, they should work harder to avoid losing it. Several scholars have found that ‘coercive’ forms of influence, such as linking political reforms to membership in international organizations like the European Union have been effective ([Schimmelfennig, Engert et al. 2003](#_ENREF_26) ; [Jacoby 2004](#_ENREF_12) ; [Kelley 2004b](#_ENREF_16) ; [Vachudova 2005](#_ENREF_30)). A recent study suggests that conditionality in preferential trade agreements has promoted human rights and democracy ([Hafner-Burton 2005](#_ENREF_7)). Some scholars also point to effective use of sanctions in cases such as South Africa ([Klotz 1995](#_ENREF_19)). Similarly, Marinov has found that economic pressure destabilizes the leaders ([Marinov 2005](#_ENREF_21)). However, there are also reasons to expect that states will not respond favorably to economic pressure. Scholars of economic conditionality are divided about whether it can achieve economic policy changes ([Collier 1997](#_ENREF_5) ; [Killick 1997](#_ENREF_18)). They point to numerous weaknesses in how the international financial institutions have implemented conditionality ([Hermes and Lensink 2001](#_ENREF_10)). Direct sanctions have also long been criticized not only as impracticable and even harmful, but also as mostly unable to induce change ([Hufbauer, Schott et al. 1990](#_ENREF_11) ; [Pape 1997](#_ENREF_23)).

In the case of the US TIP policy, some countries are indeed formally sanctioned. However, that does not always mean that they actually lose overall aid. Indeed, less than half of the countries officially put on the sanction list experience an aid drop. However, that does not mean that the sanctions threat is not working. Rather, countries may be responding to a potential aid cut. As Drezner (2003) has argued, scholars have underestimated the effects of sanctions by looking only at cases where they were implemented, and not at cases where the mere threats to use sanctions changed government behavior. Following Drezner’s “hidden hand of sanctions,” a threat of sanctions is as powerful as actual sanctions.

These theories of economic leverage suggest that the bright line effect may not simply be due to increased embarrassment, but to significant differences between the perceived risk of actual sanctions. When countries are on the watch list or rated 3, they know there is a threat of sanctions. Thus:

**Threat Hypothesis**: *Aid recipient countries on the Tier 2 watch list or Tier 3 will be more likely to criminalize than non-aid recipient countries on these lists.*

Finally, theories of leverage point to the credibility of threats and promises as a vital mediating factor in their effectiveness. This has been noted in the case of sanctions ([Martin 1993](#_ENREF_22) ; [Amuzegar 1997](#_ENREF_1)) as well as political conditionality ([Kelley 2004a](#_ENREF_15)). Thus, one possibility is that no one really believes the US will use sanctions to coerce countries to hew to its policies and criminalize human trafficking. If so, we would expect that:

**Credible Sanctions Hypothesis**: *Active punishment of other countries by the US for not conforming to its anti-trafficking policies contributes to* *a higher likelihood of criminalization in any given country.*

1. **Empirical approach**

Our data focuses on all countries for which data is available between 2000 and 2011. In our models, this turns out to range from 137-147 countries. We use year 2000 as a start year, as it is just one year before the start of the US TIP reporting system.

This research focuses on modes of influence in the area of human trafficking policy. The US TIP policy promotes a wide range of policies, but many of them are difficult to assess systematically across countries. Therefore we have chosen as objective a measure of policy change as possible, namely whether countries criminalize human trafficking in their domestic legislation. This is not only one of the main tenets of the US protocol, but it is also one of the foremost goals of the US policy and one to which it has been very committed. Thus we ask whether and to what extent the most powerful and, in this issue area, one of the most committed countries in the world to the criminalization of trafficking can influence other countries to follow suit. Our dependent variable in this case is the complete criminalization of human trafficking in domestic law. A country is classified as having fully criminalized when it prohibits all forms of human trafficking, including sex and labor trafficking of both men and women, children and adults, and when the domestic laws proscribe significant penalties for these crimes, which usually means minimum sentences of 3-5 years.

To examine our hypotheses we generate a range of explanatory variables to capture the US policy choice towards a country. The first variable is a set of indicators to denote whether a country is included in the report at all, and whether it is rated as a Tier 1, 2, or 3 country or placed on the watch list. Related to the Tier rating system, we also generate a variable called “demotion” that is coded 1 in a year that a country is placed either on the watch list, or rated a Tier 3 (without first having been on the watch list) for the first time.

Our second set of variables focuses on several policy choices the US can make with regard to countries rated Tier 3. As noted above, about 90 days after the annual rankings are announced, the president issues a determination as to the action to be taken towards each Tier 3-country. The options are to let the country off for good behavior, to waive sanctions fully or partially, or to allow the sanctions to proceed. We deal with each of these options as separate variables. We create an indicator for whether a country was let off for good behavior and another indicator for whether a country received a full waiver. To capture the sanctions policy, we generate a variable that captures which types of sanctions the US imposes. As the appendix describes more extensively, under section 110(d) of the TVPA, there are three different types of sanctions targeted towards non-humanitarian, nontrade-related foreign assistance, participation by officials or employees of such governments in educational and cultural exchange programs, and US support for assistance from multilateral development bank and the International Monetary Fund. Each of these can be implemented fully, partially or not at all. Our sanctions variable combines the levels for each type of sanctions. Thus countries with no sanctions are coded as 0, and countries with sanctions are coded as 1, 2 or 3 depending on the combination of sanctions received. We also generate a variable for system-wide sanctions. This variable is the square root of the total number of sanctions system-wide in the previous year.

We also include a number of control variables. Since human trafficking has a strong gendered element – many of the early UN resolutions addressing the problem related specifically to women and girls – it is possible that systems that give women a stronger voice in governance are more likely to criminalize. We control for this possibility by including a measure of the *share of* *women in parliament*. In addition we include the Freedom House civil liberties measure, which ranges from a best of 1 to a worst of 7. We also control for the regional density of criminalization. Finally, we include three measures of the intensity of the trafficking incidence in a country. These capture the extent to which a country is an origin, destination or transit country, based on UN assessments. A list of all variables and sources can be found in the appendix.

Because we are interested in criminalization, which is a unidirectional event that occurs only once, we use a cox proportional hazards model to analyze the probability that a country will criminalize given that it has not already done so. We use lags of all the explanatory and control variables to help address reverse causality. Aside from the lags and controls, we do not attempt to address possible selection issues more rigorously statistically because this introduces new assumptions about the model that are unlikely to be met. We also lack a credible instrument for US policy choices.

This raises some issues for the interpretation of the analysis, which are important to keep in mind. The biggest concern about selection issues is that we end up attributing causality to certain US policies when in reality the US simply chose to apply those strategies when it in any case expected a country to criminalize. We don’t think there is any merit to this argument when it comes to the shaming strategies. For the shaming strategy to look effective merely due to such strategic behavior, the US would need to predict which countries would be more likely to criminalize and then based on that, choose to assign a ranking of Tier 2 watch list or Tier 3 to those countries, while assigning a higher Tier 1 or 2 to the “laggards” it thought less likely to criminalize. This seems implausible, as it would quickly undermine the whole enterprise when it became apparent that countries would essentially get downgraded for being on the right path. It is more plausible that the US use of sanctions is strategic. That is, it may well be that we end up finding that the actual implementation of sanctions is effective because in reality the US only applies sanctions to “lost causes,” e.g., countries it expects will not criminalize, or are much less likely to do so. At this point, we simply keep this possibility in mind and discuss it when interpreting the findings.

1. **Findings**

Our first three hypotheses, shown in Table 1, find considerable support. The analysis strongly supports the Scrutiny Hypothesis. Compared to countries in the report, those not included in the reporting system are significantly less likely to criminalize trafficking. The effect is considerable. Countries excluded from scrutiny are less likely to criminalize.

Note that the scrutiny effect is not simply because the US selects countries into the report based on whether they belong to other international institutions that pressure them to criminalize. We investigated the potential influence of two international institutions. First, we expected the UN to have an influence as the 2000 UN protocol obliges countries to criminalize trafficking. Second, we expected the European Union (EU) to influence member-states, particularly after 2002 when it passed a directive instructing all member-states to criminalized human trafficking.[[2]](#footnote-2) Interestingly, we found that the *Scrutiny hypothesis* model is robust to inclusion of the ratification of the 2000 Human Trafficking Protocol, which has a positive and significant effect on ratification (although the significance of women in parliament is somewhat reduced). It is also robust to the inclusion of an EU indicator variable (which was insignificant).

The scrutiny effect is also not simply because in the first years of the analysis most countries were excluded from the report and at that time few had had the time to criminalize trafficking even if they intended to do so in the wake of the growing focus the UN protocol had brought. However, the scrutiny model does not depend on action in the early years only. Indeed, the model is robust to the exclusion of the early years (2001 and 2002). Similarly, it is not the case that the US simply selected countries with greater bureaucratic capacity. The model is robust to the inclusion of a control of bureaucratic quality (from the International Country Risk Guide[[3]](#footnote-3)). However, this is not significant and also introduces additional missing data. It is also robust to the inclusion of a measure of bureaucratic quality, although this is not itself significant. Note too that the scrutiny effect is not merely due to the omission of mini-states from the reporting system, since the inclusion of the bureaucratic quality variable drops most of these from the model yet the effect remains. In summary, there is strong support for the scrutiny effect.

We also find support for the bright line hypotheses. The bright line is between Tier 2, which is the omitted category, and the Watch List. Notably, there is no statistically significant difference between being on the watch list and being rated Tier 3 (p=.44)--the worst rating and the only one subject to economic sanctioning. Both countries on the watch list and Tier 3 countries are much more likely to criminalize than countries ranked as Tier 2.

The demotion hypothesis also finds strong support. The model includes three different lags for when a country first drops to the watch list. The model shows that a drop galvanizes action and that this continues for up to three years.

The results of our second set of hypotheses are in Table 2 and find mixed support. The threat of sanctions model combines the watch list and Tier 3 indicators into one variable for US pressure. The model shows that US pressure has the same effect on criminalization whether a country receives aid or not (there is no statistical difference between the hazard ratios (1.77=1.8). But note also that countries that receive aid *may* be more likely to criminalize if they are pressured than if they are not (p=.10). The basic result holds when controlling for Tier 1 status and thus simply making the comparison category the Tier 2 countries. Furthermore, noting that the sanction system itself did not enter into force until 2003, we also restricted the model to 2003-2011, but this did not change the results.

The management hypothesis also finds support. This model compares different types of treatment for Tier 3 countries to all other countries in the report. Those receiving full waivers are more likely to criminalize, as are those let off for good behavior. Those sanctioned are not more likely to criminalize. However, the support in this model is subject to several possible explanations, one clearly being that the choice of strategy towards Tier 3 countries is unlikely to be random. Indeed, it is likely that the US chooses to sanction countries that it considers lost causes anyway: pariah states, and those with whom the US has poor relations. Furthermore, when the model is restricted to only the worst country of origin traffickers (only 30 countries, 21 of which criminalize between 1999 and 2011) full waiver and consideration for good behavior are strongly positive, and sanctions are actually strongly negative. It is also worth noting that the strong effect of good behavior is not simply because the US observes countries that have criminalized in the 90 day window and then rewards them *ex post*. Most of the time the countries have shown concrete steps towards improving, but only a few countries had actually already criminalized by that 90 day determination.[[4]](#footnote-4)

Finally, the sanctions credibility hypothesis is not supported. There does not appear to be a relationship between the intensity of sanctions the previous year and the likelihood that a country criminalizes trafficking. However, as with the management model results basically hold when we restrict to the 30 worst countries of origin (see Management Hypothesis note above).

1. **Conclusions and Recommendations**

This research has focused primarily on the criminalization of human trafficking in domestic law; as such we have not directly addressed the question of whether coercion can coax serious efforts in the area of law enforcement, much less in the fair and efficient administration of justice or the proper treatment of the victims of human trafficking. What we have done is examine the effectiveness of various US strategies in encouraging other countries to criminalize.

Overall, we find the US TIP policy to be an effective tool. Indeed, it appears that having a monitoring system like this has value in and of itself. Merely being included in the report motivates countries to criminalize human trafficking. Furthermore, when examining the different strategies towards countries in the report, we find strong support for the effectiveness of the social pressure. It appears that countries react strongly to social shaming, that they react in particular to falling below a certain socially acceptable threshold, and that they are most likely to criminalize when they first experience a drop below this threshold. Thus, placing a country on the watch list for the first time can be a powerful tool.

We find less support for material sanctions as an effective tool. Indeed, countries receiving more encouraging treatment such as being praised for good behavior or getting issued waivers, are more likely to criminalize, but there is no such statistically significant effect for those outright sanctioned. Furthermore, this lack of a strong response to sanctions does not seem to depend on credibility. Even if the US imposes more sanctions system-wide, this does not seem to lead countries to criminalize trafficking more. Finally, given past findings that the threat of sanctions should be effective even if not implemented, we would expected to have seen a greater relationship between a country’s receipt of aid and whether it cared about being on the watch list. However, countries whose aid is threatened do not seem to work harder than countries without aid under threat. Thus a country on the watch list does not appear to be more likely to criminalize if it also receives foreign aid.

However, the analysis of material leverage has some weaknesses. First, the choice of implementing sanctions is more likely to be strategic. Indeed, as it turns out, few countries experience real sanctions as a consequence of the TIP policy. Most of these countries are already in disfavor with the US, so in reality they are not losing much aid if any (only about half of sanctioned countries actually lose some aid the following year). Thus we are not truly able to test the effect of the US actually cutting considerable aid to a country over which it has credible leverage. This may also be why the threat of sanctions is not as effective.

These findings thus present more support for social pressure than material pressure. This seems to run counter to the perception of policy makers who continue to stress punitive measures. Furthermore, the findings add some nuance to theories of shaming. The unique rating feature of the TIP policy, something that has never been done before, allows us to show that there may be threshold and demotion effects of shaming. They also suggest that even the monitoring system itself may matter, as countries omitted from the reporting system clearly lag behind those included.

**Data Appendix**

**Dependent Variable:**

*Full Criminalization:* the complete prohibition of all forms of human trafficking, including sex and labor trafficking for men and women, children and adults. Penalties must be significant, usually meaning minimum sentences of 3-5 years. Source: UN global report on trafficking, 2009. US TIP reports, domestic legislation from the International Organization of Migration (IOM) database and other sources. Note that, because the US trafficking report comes out annually in June, to avoid sequencing errors in our inference, a country is coded as having fully criminalized in a given year only if it had done so prior to the issuance of the report in June. Dates usually refer to the actual enactment of the legislation, but in cases where that information is not available, the month of passage of the legislation is used. If no date could be established, the country was coded as having fully criminalized that year (equivalent to an assumption that it criminalized before the report came out, thus biasing any systematic error against a finding of an effect of the report on criminalization).

**Primary explanatory variables:**

*Unrated*: Dichotomous variable indicating whether a country is excluded from the report.

*Tier 1*: Dichotomous variable (0/1) indicating whether the US has rated a country as Tier 1, which means that the US has assessed it to fully comply with the Trafficking Victims Protection Act’s (TVPA) minimum standards.

*Tier 2*: Dichotomous variable (0/1) indicating whether the US has rated a country as Tier 2, which means that the US has assessed that it does not fully comply with the Trafficking Victims Protection Act’s (TVPA) minimum standards, but is making efforts to do so.

*Tier 2 watch list*: Dichotomous variable (0/1) indicating whether the US has placed a country on the Tier 2 watchlist, which means that it may drop to Tier 3 the following year.

*Tier 3*: Dichotomous variable (0/1) indicating whether the US has rated a country as Tier 3, which means the US has assessed that it does not fully comply with the minimum standards and is not making significant efforts to do so.

*Sanctions*: Section 110 (d) of the United States Victims of Trafficking and Violence Protection Act of 2000[[5]](#footnote-5) provides for sanctions against countries that do not meet the minimum requirements and are not making efforts to do so. These sanctions include:

110(d) (1) (A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year

110(d) (1) (A) (ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal

110(d) (1) (B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year

However, however, the president can waive each of these provisions partially or fully. The subset of sanctions variables is constructed as follows:

d1ai = 2 if a country is fully sanctioned under section d1ai, 1 for partial, 0 for none.

d1aii =2 if a country is fully sanctioned under section d1aii, 1 for partial, 0 for none.

d1b is 2 if a country is fully sanctioned under section d1b, 1 for partial, 0 for none.

The sanction variable is the sum of the above variables. Sanction= d1ai + d1aii + d1b.

Note that because no countries received all types of aid, no country has a sanctions score greater than 3.

*Full waiver*: Dichotomous variable (0/1) indicating whether the US has issued a waiver for all three types of possible sanctions. The president has the ability under Section 110(c) to determine that for reasons for national interest or existing hardships within a country, not to implement the sanctions. Thus, the full waiver variable is an indicator that equals 1 if the country is a Tier 3, but receives a full waiver under all of the above applicable provisions of the act for any of these reasons.

*Consideration for good behavior*: An indicator of whether the US president determines that the country can be treated essentially as not being a Tier 3 country because it has shown good will or progress since the report was issued. Under section 110(d)(3) of the TVPA, the president can determine that a Tier 3 country “has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.” In such a case, the sanctions will not be implemented. The variable for good behavior is an indicator (0/1) for whether a country falls under this provision.

*System-wide sanctions*: The square root of the total number of sanctions system wide in the previous year

*Demotion*: An indicator coded 1 in a year that a country is placed either on the watch list or rated a Tier 3 (without first having been on the watch list) for the first time.

**Control variables:**

*Share of women in parliament:* Share of voting seats in the lower house of national parliaments held by women (% of total seats), as of the last day of the listed year. Source: Women in National Parliaments, statistical archive. <http://www.ipu.org/wmn-e/classif-arc.htm> accessed February 2012.

*Civil Liberties***:** Freedom House Civil Liberties; 1 to 7 scale, with 1 representing the best civil liberties and 7 the worst. We extended the 2010 data to 2011. Source: Freedom House, <http://www.freedomhouse.org/reports>, accessed February 2012.

*HT incidence origin:* Incidence of reporting of trafficking persons in countries of origin. 1=very low; 2=low; 3=medium; 4=high; 5=very high. Source: 2006 UNODC TIP report, Appendix 3-Incidence of reporting of origin countries. The incidence from the 2006 report is extended to all years in the analysis.

*HT incidence transit:* Incidence of reporting of trafficking persons in transit countries. 1=very low; 2=low; 3=medium; 4=high; 5=very high. Source: 2006 UNODC TIP report, Appendix 4-Incidence of reporting of transit countries. The incidence from the 2006 report is extended to all years in the analysis.

*HT incidence destination:* Incidence of reporting of trafficking persons in destination countries. 1=very low; 2=low; 3=medium; 4=high; 5=very high. Source: 2006 UNODC TIP report, Appendix 5-Incidence of reporting of destination countries. The incidence from the 2006 report is extended to all years in the analysis.

*Regional density of criminalization:* A measure capturing the percent of countries in a region that have criminalized trafficking

Table 1: Models of US Social Pressure on Criminalization of Human Trafficking

|  |  |  |  |
| --- | --- | --- | --- |
|  | Scrutiny Hypothesis | Bright Line  Hypothesis | First Demotion Hypothesis |
| Unrated (t-1) | .249\*\*  (p=.016) | .394  (p=.123) | .256\*\*  (p=.021) |
| Tier 1 rating (t-1) | -- | 1.89\*  (p=.063) | -- |
| Watch List (t-1) | -- | 3.15\*\*\*  (p=.000) | -- |
| Tier 3 rating (t-1) | -- | 4.15\*\*\*  (p=.000) | -- |
| First demotion to Watch list  (t-1) | -- | -- | 1.59\*  (p=.092) |
| First demotion to Watch list  (t-2) | -- | -- | 2.27\*\*\*  (p=.005) |
| First demotion to Watch list  (t-3) | -- | -- | 2.47\*\*\*  (p=.009) |
| Share of women in parliament (t-1) | 1.02\*  (p=.054) | 1.02\*  (p=.073) | 1.02\*\*\*  (p=.006) |
| Freedom House Civil Liberties (t-1) | .809\*\*\*  (p=.003) | .731\*\*\*  (p=.000) | .785\*\*\*  (p=.001) |
| Regional density of criminalization (t-1) | [some large positive effect] | [some large positive effect] | -- |
| Trafficking intensity in countries of origin | .965  (p=.649) | 1.02  (p=.771) | .992  (p=.919) |
| Trafficking intensity in transit countries | 1.15  (p=.179) | 1.13  (p=.222) | 1.16  (p=.159) |
| Trafficking intensity in destination countries | .946  (p=.559) | .895  (p=.239) | .973  (p=.778) |
| Number of countries | 142 | 142 | 147 |
| Number of criminalizations | 93 | 93 | 94 |
| Number of observations | 1218 | 1218 | 1303 |

Notes: \*=p<.10, \*\*=p<.05, \*\*\*=p=.01.

Table 2: Models of US Material Pressure on Criminalization of Human Trafficking

|  |  |  |  |
| --- | --- | --- | --- |
|  | Threat of Sanctions | Management | Credible Sanctions |
| Unrated (t-1) | .267\*\*  (p=.021) | .088\*\*\*  (p=.016) | .075\*\*\*  (p=.010) |
| Watch List OR Tier 3 (t-1)  (US aid=0) | 1.77  (p=.488) | -- | -- |
| US Aid recipient (t-1)  (Watch List OR Tier 3=0) | .375\*\*\*  (p=.007) | -- | -- |
| Watch OR Tier 3 rating \*US Aid recipient (t-1) | 1.81  (p=.480) | -- | -- |
| Full waiver (t-1) | -- | 2.70\*\*\*  (p=.000) | -- |
| Sanction (t-1) | -- | 1.35  (p=.432) | -- |
| Consideration for good behavior (t-1) | -- | 4.20\*\*  (p=.012) | -- |
| System-wide sanctions  (sqrt, t-1) | -- | -- | 3.13  (p=.808) |
| Share of women in parliament (t-1) | 1.02\*\*  (p=.048) | 1.02\*\*  (p=.017) | 1.02\*\*  (p=.045) |
| Freedom House Civil Liberties (t-1) | .764\*\*\*  (p=.001) | .800\*\*\*  (p=.007) | .856\*\*  (p=.043) |
| Regional density of criminalization (t-1) | -- | -- | -- |
| Trafficking intensity in countries of origin | 1.12  (p=.232) | 1.02  (p=.811) | .968  (p=.691) |
| Trafficking intensity in transit countries | 1.15  (p=.181) | 1.14  (p=.216) | 1.13  (p=.239) |
| Trafficking intensity in destination countries | .928  (p=.440) | .934  (p=.479) | .958  (p=.648) |
| Number of countries | 147 | 137 | 137 |
| Number of criminalizations | 93 | 84 | 84 |
| Number of observations | 1274 | 883 | 883 |

Notes:

*Management Hypothesis:* Note years are restricted to 2003-2011, when US law regarding sanctions was in force. Note also that the three management tools – sanctions, waivers, and consideration for good behavior-- are only applicable to Tier 3 countries. The model controls for but does not report Tier 1 and Tier 2 status.

Credible Sanctions Hypothesis: Controls for Tier1 and Tier 2 status. We cannot estimate with an interaction term by Tier, due to collinearity.

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1. In response to the tendency of the US TIP office to allow countries to linger on the watch list for several years, in 2008, P.L. 110-457 added a new requirement that Tier 2 watch list countries must be dropped to the Tier 3 category after two consecutive years on the Tier 2 watch list, unless the President issues a waiver. The first year in which this new requirement went into effect was the 2009 TIP report, which means that it was not until 2011 that the new policy was borne out so that watch list countries had to be dropped to Tier 3 if they had been on the watch list since 2009. However, it does not affect our analysis, because in our data, the last year that we study the effect of the ratings is 2010. [↑](#footnote-ref-1)
2. 2002/629/JHA: Council Framework Decision of 19 July 2002 on combating trafficking in human beings.See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0629:EN:NOT>. Last accessed May 18, 2012. [↑](#footnote-ref-2)
3. For information on this measure, see www.prsgroup.com [↑](#footnote-ref-3)
4. The Dominican Republic and Georgia both passed anti-trafficking legislation in September the year they were ranked Tier 3, which was in 2003. Other countries that made changes clearly did so only after the presidential determination came out: Oman, Guyana, Swaziland and Bolivia. [↑](#footnote-ref-4)
5. http://www.state.gov/j/tip/laws/61124.htm [↑](#footnote-ref-5)