The Global Diffusion of Law: Transnational Crime and the Case of Human Trafficking

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ABSTRACT:

This article theorizes and analyzes the diffusion of criminal law globally. The past few decades have seen the proliferation of new laws criminalizing certain transnational practices, from money laundering to corruption; from insider trading to trafficking in weapons and drugs. Human trafficking is one example. How do we understand the fairly rapid move in the past two decades for many countries to criminalize the exploitative transshipment of people across borders. We argue that (1) issue framing is crucial; (2) once human trafficking is framed as linked to transnational crime, governments are more likely to adopt a prosecutorial approach to address it; and (3) the transnational crime frame explains the diffusion pattern of criminal statutes internationally. We test our argument by documenting the effect of issue framing and physical vulnerability on the diffusion of criminal law in this area. These results suggest the importance of combining both ideational and material factors to understand the spread of criminal law world-wide.

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Why does policy diffuse internationally? Two grand narratives are typically deployed to explain policy diffusion. One emphasizes the material incentives – such as economic competition or coercion – governments face to coordinate their policies with other countries. The other major narrative is advanced by more sociological traditions, and emphasizes the role of emulation, socialization and world culture. We reject the idea that these explanations are mutually exclusive. Instead we illustrate how ideas shape the meaning actors assign to material facts, and how perceptions of material vulnerability and interdependence shape policy choices that encourage their diffusion patterns internationally.

Policy diffusion is sensitive to the way actors understand the issue(s) they face. These perceptions flow from exposure to the variety, intensity and attractiveness of the frames presented by official and unofficial actors. These frames may be discussed in international forums, publicized in the media, and/or touted by organized interest or advocacy groups. They shape how potential policy adopters understand the opportunities and vulnerabilities presented by material facts. We argue that diffusion theory can benefit from an ideational explanation as to why it is that a policy adopter may think his or her polity is sensitive to the policies implemented elsewhere in the first place.

The notion that ideas shape meaning and hence appropriate policy is hardly a startling theoretical innovation in the social sciences. Our contribution, however, is to bring this insight to bear on the phenomenon of policy diffusion. Specifically we show that policy diffusion is largely driven by two things: exposure to the idea of potential externalities resulting from policy

choices of other countries, and the existence of material conduits that are likely to make a polity more vulnerable to those externalities.

Our central diffusion concept is that of *policy externality*. It is a simple concept with profound implications. We argue that criminalization policies tend to diffuse when potential adopters are exposed to frames that emphasize the negative externalities associated with those activities. Policies taken in one country can come to be understood as having negative impacts elsewhere and the result of specific issue frames. Policy adoptions and aggregate diffusion patterns reflect the salience of specific material facts, made sensible through issue framing. We illustrate this argument with the case of criminalization of human trafficking.[1] The more policymakers are exposed to the idea that human trafficking is connected with transnational criminal networks (which themselves generate negative externalities in the form of violence, fraud, illegal immigration, drug and weapons smuggling and money laundering, to name a few) the more likely they are to criminalize human trafficking domestically. The more physically vulnerable they are to the diversion of these networks when a neighbor criminalizes, the more likely they are to adopt the policies of their criminalizing neighbors.

The paper is organized as follows. The first section describes the spread of global prohibition regimes and discusses the policy diffusion literature. This literature emphasizes theories of coercion, competition, learning and emulation, but tends to make strong assumptions about one cluster while theorizing the effects of others, *ceteris paribus*. The second section

[1] In international law, human trafficking is defined as recruiting and transporting people deceptively or coercively for purposes of exploiting them. According to the Human Trafficking Protocol (2000), Article 3(a): "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs..." Text at: *http://www2.ohchr.org/english/law/protocoltraffic.htm* . (Accessed 25 June 2010.)

develops a diffusion mechanism that weds issue framing (ideational influences) with perceived vulnerabilities of physical interdependence (material influences) to predict global patterns of criminalization of human trafficking. The third section describes the data and model we will use to show that a particular policy innovation – criminalization – has diffused as a result of exposure both to a specific discourse linking trafficking in human beings with transnational crime, as well as to the risk of importing negative externalities diverted from criminalizing neighbors. The fourth section presents our findings: that criminalization is much more likely when policymakers are exposed to information linking human trafficking to transnational crime (*discourse* about its negative externalities), and that criminalization diffuses most strongly among neighbors that are connected by dense transborder highways (*vulnerability* to externalities). The latter, we argue, are the dominant physical conduits through which criminal networks ship human beings across borders. We test for the robustness of these findings with a battery of controls that proxy for alternative measures of proximity (geographic, cultural and associational) often used in the diffusion literature. Furthermore, we offer evidence that the specific material conduit tested here is plausible because of what it *does not* explain. Transborder highways do explain policies involving the prosecution of human traffickers, but *not* policies associated with protecting the trafficked victims (a policy involving no externalities). Transborder highways do *not* explain criminalization in the area of money laundering (which is largely electronic, and does not make use of the physical conduits we test here). Transborder highways account for policy diffusion much more convincingly in countries that NGOs characterize as "transit" countries, but they have relatively little effect in countries primarily characterized as having significant internal trafficking. In short, we offer one of the few instances in the literature in which "placebo tests" are offered as a way to bolster the plausibility of the

basic finding that material vulnerability is important when significant negative policy externalities are thought to be involved.

The final section concludes. In particular it points to the general lessons to draw from this research. The key insight is that it is important to situate material vulnerability in the context of prevailing ideas, and where possible, document the prevalence of these ideas in the first place.

I. Policy Diffusion and the Globalization of Criminal Law

The development and global spread of criminalization regimes

The past two decades have been a period of dramatic expansion of criminalization around the globe, from the elaboration of war crimes and crimes against humanity to a broad array of commercial transgressions, such as drugs and small arms trafficking. The trend is reflected in the growth of what Ethan Nadelman refers to as global prohibition regimes: "a particular category of norms…which prohibit, both in international law and in the domestic criminal laws of states, the involvement of state and non-state actors in particular activities."[2] Despite clear trends toward political and market liberalization, more transnational activities have been criminalized in international law in the last three decades than ever in the past.[3] The General Assembly has passed wave after swelling wave of resolutions establishing norms to ban, prohibit and criminalize corruption, terrorism, and trafficking in drugs, weapons and human beings. A growing number of treaties – from the Convention Against Torture[4] to Trade Related Intellectual

[2] Nadelman 1999
[3] Efrat 2010
[4] UN Convention Against Torture, Part I, Art. 4(1). Text at *http://www.hrweb.org/legal/cat.html*.

Property Rights[5] to the Convention Against Corruption[6] – aim to control or eliminate certain activities by defining and enforcing them as crimes.

Why the move internationally to criminalize? One possible answer is that people have come to realize that some activities are "bad" and criminalization is the obvious response. But such a response is insufficient. Some of the activities that have been criminalized are rather more *malem in prohibitum* than *malem in se*. Just as the prohibition against the transnational shipment of particular drugs was being debated, developed and strengthened at the United Nations, a number of serious voices argued that criminalization was a bad idea, and in fact made a host of social problems worse.[7] The West's crusade to criminalize corruption has at times appeared puzzling from other cultural perspectives. Even human trafficking – opposed by many on moral grounds – is not obviously best approached through a regime of relentless criminalization and enforcement; indeed, a significant segment of the international community has urged a more rights- or victim-oriented approach.[8] The best way to address such trafficking is in fact hotly contested. And yet a growing number of states world-wide have recently adopted the criminalization approach in their domestic penal codes, as Figure 1 graphically demonstrates.

[FIGURE 1 ABOUT HERE]

We do not aspire in this article to contribute to policy debates about the wisdom of these various enforcement regimes. Rather, our goal is to understand how and why the norms debated at the international level have actually been adopted in domestic criminal law. To do so, we

[5] TRIPS, Part III, Section 5, Art. 61. Text at *http://www.wto.org/english/docs_e/legal_e/27-trips_05_e.htm#5*.
[6] UN Convention Against Corruption, Chapter 3, Arts 15-20. Text at *http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf*.
[7] Nadelmann 1993
[8] Dottridge 2007

argue it is critical to understand both how the issue of human trafficking is framed, and how policymakers interpret their constraints and vulnerabilities in light of this framing. This insistence on the integration of the ideational and the material is rarely found in theories of policy diffusion, which tend to present these approaches as competitors rather than complements.

Theories of Policy Diffusion

The literature on policy diffusion provides a useful starting point for understanding the globalization of criminal law. That literature posits *interdependent* policymaking (rather than a response to a common stimulus or shock), and advances specific mechanisms to account for the spread of policies around the world.[9] There are two main ways of thinking about policy diffusion. One emphasizes material structures and effects; the other emphasizes less tangible social structures that channel peer effects, the availability of models, and social tendencies to emulate admired exemplars.[10] Mechanisms that stress material forms of coercion and economic competition exemplify the former; mechanisms that stress social emulation the latter. One important branch of diffusion research focuses on learning, and it tends to span these two clusters, as we discuss below.

Competitive pressure is one of the most pervasive explanations, especially for economic policy diffusion. The logic is presented as straight forward: governments reduce tariffs, liberalize capital markets, adapt the regulatory structures and design their tax and spending profiles with an eye to attracting international capital and business. Most researchers *assume* that governments want to attract business to their jurisdiction. A finding that various policies attractive to globally mobile firms or factors in one jurisdiction is correlated with adoption of

[9] For a review see Simmons, Dobbin and Garrett 2006

[10] David Marsh et al. note that the quantitative policy diffusion literature tends to privilege material and social structures, while the case-based policy transfer literature emphasizes agency. See Marsh and Sharman 2009

that policy among competitors or networks of competitors constitutes evidence consistent with this mechanism.[11]

The competition mechanism has an appealing intuitive logic, but few governments question its core assumption about government goals. Competition models do not easily accommodate the interesting asymmetries in policy adoption uncovered by Chang Kil Lee and David Strang in their analysis of the diffusion of government downsizing. They conclude that strong ideational commitments to neoclassical economics intervene to explain the tendency to compete with the downscaling of the public sector, but not its expansion.[12] Nor does competition theory explain why regulatory races to the bottom are actually quite rare.[13] Greenhill, Mosley and Prakash inject ethical considerations into their account of the diffusion of labor standards what otherwise might have been a competitive international scramble to reduce wages and permit deteriorating working conditions.[14] Investment and trade networks are not only conduits for economic competition but potentially structures to be leveraged to protect human rights or clean air in these cases.

The competition dynamic does not directly explain the spread of prohibition regimes, but it does contain an important insight: policies implemented elsewhere can be expected potentially to divert business from one jurisdiction to another. A similar dynamic is at work in reverse in many prohibition regimes: when a particular activity is criminalized in one regime, (unwanted) "business" will be diverted to a nearby jurisdiction where the transaction costs are lower. *Not* to criminalize a particular kind of economic transaction when other countries do renders the

[11] Cao 2010 ; Elkins, Guzman and Simmons 2006 ; Simmons and Elkins 2004 ; Swank 2006
[12] Lee and Strang ibid.
[13] Basinger and Hallerberg 2004 ; Greenhill, Mosley and Prakash 2009 ibid.; Plümper, Troeger and Winner 2009 ; Prakash and Potoski 2006
[14] Greenhill, Mosley and Prakash 2009

unregulated market more "business friendly." In both competition and criminalization cases, diversion and policy externalities are key explanations for policy diffusion.

Coercion is a second mechanism that often accounts for policy diffusion (although there is some disagreement over whether pressure from powerful actors ought to be considered a "diffusion" mechanism at all).[15] This mechanism requires that some powerful actor has both the motive and the means to exert pressure on policymakers around the world to adopt a favored policy, law or institutional form. Active coercion implies efforts are made by such an actor or actors to change policies elsewhere. Passive coercion may nonetheless be the result when a powerful actor creates such a strong focal point or is able unilaterally to change the policy context to such a degree that others have strong incentives to follow. Explicit or implicit conditionality is an example of the former. A number of studies have found evidence that aid or trade conditionality by the European Union and the International Monetary Fund is an especially relevant explanation for policy adoption.[16] Lloyd Gruber's notion of "go it alone power" may constitute an example of the latter.[17] Simply by affecting other states' payoffs associated with different policies, powerful countries can passively, yet massively, influence their choices.

The diffusion literature recognizes that coercion need not be exclusively material. Forms of social pressure can be strong enough to be considered coercive as well. States, international organization, and even non-governmental organizations are recognized as active sources of social pressure when they publicize and shame state actors for policies that do not conform to what they tout as social norms. This is a form of social pressure that has been recognized to be important in issue areas ranging from money laundering[18] to human rights.[19] A much more

[15] See Gilardi forthcoming
[16] Bechtel and Tosun 2009 ; Mukherjee and Singer 2010 ; Schimmelfennig and Wagner 2004
[17] Gruber 2000
[18] Sharman 2008

passive form of social coercion is explored in the literature on sociological institutionalism, which we discuss below.

Both material and non-material coercion are possible diffusion mechanisms for the spread of prohibition regimes in general and human trafficking criminalization specifically. Two major powers – the United States and the European Union – have taken strong positions against human trafficking. In the United States, the Trafficking Victims Protection Act (TVPA) requires the State Department to collect information on the anti-human trafficking efforts of other countries and to both withdraw U.S. aid and to oppose aid from multilateral financial institutions if countries are not making any effort to control it.[20] Even though the United States rarely implements aid sanctions, the country ratings publicized in the State Department's annual Trafficking in Persons reports constitutes a potential tool of social pressure used to embarrass the non-cooperative jurisdiction.

Learning is a third mechanism of policy diffusion. Government officials may actively seek out foreign information about how policies work, and use this information rationally to assess the likely consequences of domestic adoption. To distinguish this approach from other forms of social influence (discussed below), it is useful to show that state actors have access to information that a particular policy has been "successful" on some dimension.[21] But few studies are explicit about what constitutes "success" in the eyes of policy adopters. In the area of economic policy, growth often serves as a good proxy for policy success.[22] Fabrizio Gilardi notes that politicians are also interested in "political success," and has shown that they also tend

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[19] Joachim, Reinalda and Verbeek 2008 ; Lebovic and Voeten 2009
[20] See the description of the TVPA on the Department of State Website at *http://www.state.gov/g/tip/laws/*.
[21] Simmons, Dobbin and Garrett 2006
[22] Meseguer 2009

to adopt policies that have been politically successful elsewhere.[23] Many researchers have found that learning from foreign examples is not always starkly rational, but rather limited by "cognitive- psychological" factors. In the case of pension reform, for example, Kurt Weyland argues that policymakers engage in a boundedly rational search for policies that work.[24] Rational learning is so bounded in some cases – by limited resources, by excessive informational channeling, by convenient cognitive short-cuts – that some researchers conclude much international learning is in fact dysfunctional.[25] Indeed, much of what passes for "boundedly rational learning" shades into what we might call "soft coercion" in the form of especially compelling models of modernity that emanate from models of governance prevalent in advanced industrialized countries. Researchers are also finding some evidence that the demonstrated ability to learn varies by regime type.[26]

Learning is a potential mechanism for the diffusion of policies when "success" is clearly defined and easy to determine. Unfortunately, this is not the case in many prohibition regimes. The size of the black markets created by these regimes is notoriously difficult to estimate. Reliable data on the number of trafficked persons is very hard to come by, not least because victims are reluctant to report their plight and the deceptive and coercive elements of the activity are often hard to prove. Moreover, there is no consensus on how to judge "success." In the case of human trafficking, punishing traffickers is thought of by many people as less important than protecting victims. This is a case, then, in which genuine learning models are likely to be only weakly operative.

[23] Gilardi 2010
[24] Weyland 2005
[25] Sharman 2010
[26] Meseguer and EscribÀ-Folch 2011

It is nearly impossible to draw a bright line between consequentialist theories of diffusion and those that rely on less tangible forms of social influences. The traditional division between social influence (socialization) and social pressure (coercion) has been drawn where actors are no longer concerned with consequences and instead are motivated by what they come to believe is appropriate.[27] Scholars of international affairs do not have particularly sharp methodological tools for making the distinction between such motivations, which are easier to parse in theory than in practice. How, for instance, can one distinguish empirically between persuasion (communication that changes one's mind or values) and acculturation (the "general process by which actors adopt the beliefs and behavioral patterns of the surrounding culture")?[28] These are certainly analytically but not necessarily observationally distinct.

Despite these difficulties, there is a good deal of evidence that states emulate one another's policies for reasons that are not easy to attribute to material consequences alone. The famous "s-curve" of cumulative policy adoptions associated with diffusion processes is entirely consistent with Martha Finnemore and Kathryn Sikkink's theory of norm life cycles.[29] Many studies have found that the likelihood of adoption of a particular policy increases with the density of such adoptions world- or region-wide,[30] although such correlations are consistent with the spread of norms, learning from better information,[31] and even competition.[32]

In many cases, states seem to adopt the policies, laws and institutional forms of states they respect, or that are in their social and organizational networks, suggesting a process of socialization rather than sheer economic competition, as Rawi Abdelal's account of capital

[27] Checkel 2005 ; March and Olsen 1998 ibid.
[28] Goodman and Jinks 2004 p. 626.
[29] Finnemore and Sikkink 1998
[30] Sometimes these effects are referred to rather generically as "err effects." See Bernauer, Kalbhenn, Koubi and Spilker 2010
[31] Brooks 2005
[32] Basinger and Hallerberg 2004

account liberalization suggests.[33] The world polity tradition in sociology has long pointed to "embeddedness" (empirically, shared international organizational memberships) as influential in diffusing norms among states, from notions of participatory democracy[34] to human rights[35] to mass public education.[36] To the extent that states are embedded in the structures of international society, they are said to not only absorb the norms, but also to learn from the experiences of others.[37]

There is little doubt that social norms have been highly salient to the way policymakers and publics think about human trafficking. Human trafficking has been recognized as a violation of a whole series of human rights – from freedom of movement to the right to be paid for work to the right to life itself – in the United Nations, the media, and national policy discussions. The normative framing of this issue has helped significantly to put it very high on the international agenda. Whether or not criminalization can be explained by exposure to this frame will be tested empirically below.

II. Theory: Framing, Externalities and Policy Diffusion

How issues are framed have a stark influence on policy diffusion. Just as neoliberal economic ideas have fueled competitive economic policy liberalization, we argue that ideas about negative externalities have fueled the spread of prohibition regimes. We first discuss the importance of issue framing. We then theorize the diffusion mechanism behind the global spread of the criminalization of human trafficking in domestic law.

[33] Abdelal 2006
[34] Ramirez, Soysal and Shanahan 1997
[35] Wotipka and Ramirez 2008
[36] Meyer, Boli, Thomas and Ramirez 1997
[37] Bernauer, Kalbhenn, Koubi and Spilker 2010 ; Rodine-Hardy 2012

Framing policy options

Issue framing plays an important role in social and political processes, at all levels of human interaction. Political psychologists have long recognized that individuals' attitudes are quite susceptible to the framing of issues.[38] Framing experiments demonstrate that the "lens" through which a respondent is led to view a question torques his or her attitudes in response to a broad range of questions.[39] Framing effects are said to occur when "[in] describing an issue or event, a speaker's emphasis on a subset of potentially relevant considerations causes individuals to focus on these considerations when constructing their opinions."[40] They have the potential to change the way individuals deliberate and what they believe to be important.[41] Frames are especially influential when they are promulgated by sources the individual views as especially credible[42] and when they are taken up by the modern media.[43] Overall, the political- and social-psychological literature fairly conclusively supports the idea that individuals' attitudes and possibly even their political and social behavior, is influenced by the nature of the frame used to view a phenomenon.

Frames and framing have become a classic concept in sociological processes as well. Social movement theorists frequently draw on David Snow's definition of framing as "the conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action."[44] The social movements literature of the past few decades has been largely premised on the idea that "meaning is prefatory to

[38] Tversky and Kahneman 1981
[39] Chong and Druckman 2007
[40] Druckman 2001
[41] Nelson and Oxley 1999 ibid.
[42] Druckman 2001 ibid.
[43] Iyengar and Kinder 1987
[44] McAdam, McCarthy and Zald 1996

action."[45] A rich research stream has developed to show how, why and with what success leaders of social movements have carefully framed issues to motivate potential members, to overcome collective action problems, and to attract movement support.

The international relations literature has also employed the use of framing to understand interactions (largely) between states. For example, the concept of framing has been used in international relations to explain risk taking related to conflict behavior.[46] The security and foreign policy research is rife with studies of the ways in which adversaries are framed and the extent to which these frames rouse domestic audiences to support aggressive policy positions.[47] At a deeper level, constructivist theorists understand international relations as influenced by social facts – which depend on collective understandings and discourse. They stress that interpretation is an essential aspect of the construction of reality, and as such focus much of their analytic attention on how this reality is socially constructed.[48]

The social construction of meaning through framing is especially important during periods of normative change or structural flux. Under changing conditions, actors struggle to come to terms with how the world "works," the nature of the constraints and opportunities they face, and even relationships of cause and effect. Under these conditions they are especially likely to draw on framing devices that suggest *how to think about* the issue and on reasoning devices that justify *what should be done* about it.[49] This process opens up new opportunities for various actors to form new coalitions and alliances, and to create "global frames" that unite them and further their purposes.[50]

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[45] Benford 1997
[46] Boettcher 2004
[47] Mintz and Redd 2003
[48] Adler 2002
[49] Gamson and Modigliani 1989 .
[50] Fiss and Hirsch 2005 ; Tarrow 2005 .

Framing and Human Trafficking

As natural as it may seem to some readers, there is nothing inevitable about the globalization of criminalization of human trafficking. Its extent, nature and solution have all been contested.[51] Trafficking in persons for material gain is simultaneously a human rights issue, a gender issue,[52] an immigration issue[53] and a development issue. In international forums, discussions of human trafficking have been wedged chronologically between the drug criminalization debates of the 1970s and 1980s, and post-9/11 discussions of terrorism. Its salience corresponds to the breakup of the former Soviet Union and the liberalization of regimes in Eastern Europe, which opened up a shady new "labor market" to service the sex industry in Western Europe.[54] These surrounding trends have helped to frame human trafficking in terms of criminal activity, with significant consequences for diffusion of the prosecutorial approach worldwide.

Why is the transnational crime frame so attractive to states? First and foremost, by linking human trafficking to broader transnational crime networks, it "securitizes" the issue, which raises its salience and urgency.[55] Security interests include a capacity to arrest and deflect unwanted persons and activities, by maintaining control over who may legitimately enter and operate within a state's jurisdiction. Developing the capacity to do this effectively empowers the state, sometimes with material aid from the international community. By contrast, laws designed primarily to protect human rights or victims create state obligations vis-à-vis individuals. For all

[51] See Locher 2007
[52] Dewey 2008 ; Parrot and Cummings 2008 ; William 2008
[53] Kara 2009 67; Zhang 2007
[54] Hughes 2000 ; Miko 2003 ; Salt 2000
[55] See for example Buzan, Wæver and Wilde 1998

these reasons, criminalization is a much more attractive frame to states than were the most discussed alternatives – protecting human rights and assisting victims.

Externalities and Policy Diffusion

Framing human trafficking as linked to transnational crime has had a tremendous influence on where and why national criminalization spread in the 1990s and 2000s. When viewed as a transnational crime, human trafficking involves a number of *direct negative externalities* that most governments strongly wish to avoid. First and foremost, it is a challenge to the authority of the state itself. It involves the unauthorized entry of individuals into the jurisdiction of a state. Moreover, trafficking has tremendous potential to corrupt immigration and border control officials. Kara estimates that trafficking was so heavy and bribery so common at the border between Nepal and India that it drove the illicit price of entry to a mere 2-5% of the final price of the trafficked individual.[56] The corrosion of border authority implies a loss of sovereign control over the territory of the state itself.

Secondly, trafficking raises the potential for criminal economies of scale. Traffickers in human beings often use the same criminal networks as do smugglers of weapons, drugs and other contraband. Using the same channels, human trafficking is potentially an additional income stream for terrorist organizations. Evidence suggests that terrorist organizations from the FARC guerillas in Colombia to the Wa State army in Burma, and from the PKK in Turkey to the ETA in Spain have used narcotics smuggling as a source of income.[57]

Finally, human trafficking can result in a whole range of consequences that could be seen as socially or politically destabilizing: the spread of violence, communicable diseases, and severe

[56] Kara 2009 14
[57] Cornell 2009 60

psychological and physical damage to victims. Because trafficking numbers are unavailable, it is impossible to quantify these impacts with any precision. But the point is this: the transnational crime frame posits human trafficking as a violent and socially corrosive activity, typically connected with broader networks and almost inevitably conducive to corruption of public officials. The transnational crime frame cues people to view human trafficking as detrimental to public health, political stability, and the domestic rule of law in both sending and receiving countries.[58]

Given the range of negative externalities associated with human trafficking, governments may have good reasons to implement mechanisms to prevent or to deter the activity in the first place. The idea behind criminalization, prosecution and punishment is to raise the ex post cost associated with a particular behavior so as to deter it ex ante. Approaches that prioritize the protection of human rights and the decent treatment and rehabilitation of victims do not have this quality. Of course, not all crime can be deterred at a reasonable cost,[59] but empirical studies do suggest that some (possibly substantial portion) of criminal activity can be deterred by raising the likelihood of some kind of sanction.[60] Criminalization of human trafficking is thought to raise transaction costs high enough to deter calculating criminal networks from transporting humans into or through a state's territorial jurisdiction in the first place.

One problem with an enforcement regime, however, it that while it raises the costs associated with the deceitful transportation of human beings to the criminalizing jurisdiction, it may well result in the *diversion* of criminal activity, rather than its aggregate *reduction*. Negative policy externalities arise when law enforcement efforts in Country A can re-channel criminal activities in ways that negatively impact nearby countries. Vigorous prosecution of sex

[58] Jonsson 2009 7
[59] Becker 1968
[60] Matsueda, Kreager and Huizinga 2006

trafficking in the United States, for example, has likely led to an increase in sex tourism to other jurisdictions.[61] When the United States cracked down in Puerto Rico, drug traffickers descended on Haiti.[62] The fluidity of transnational crime networks provides strategic incentives for states to harmonize policies with neighbors in order to avoid becoming the weak link in the law enforcement chain and thereby become a magnet for transnational criminal activity. In order to avoid criminal activity diverted from a neighbor, a state would have to increase the risks commensurately. Global discourse that emphasizes the transnational crime frame increases perceived sensitivity of states to the enforcement regimes of their neighbors.

Viewed in this way, criminalization dynamics are analogous to competition dynamics discussed in the diffusion literature, except that it is designed to repel "business" rather than to attract it. In the case of criminalization, the more vulnerable a country perceives itself to be to the diversion effects of the enforcement regime of others, the stronger its incentive will be to criminalize in its own jurisdiction. Empirically, we expect criminalization not only to be positively correlated with a discourse that privileges the transnational law frame. We also expect such a discourse to heighten sensitivity to criminalization by neighboring countries, depending on physical plausibility of such vulnerability. It is possible that discourse can encourage officials to interpret their material world in a new way. We provide some evidence for these claims in the following section.

III. Testing: Data[63] and Methods

[61] Keenan 2006
[62] Gros 2003
[63] Exact definitions and sources for all variables can be found in theMethodological Appendix, located on the authors' website at […]. The appendix also contains discussions of the individual methods, diagnostic tests and visualizations of all results.

Dependent Variable: Criminalization in National Law

The dependent variable in this study is the criminalization of human trafficking in domestic law. We define "criminalization" rather strictly for the tests reported below: our definition implies that a particular country's laws comport with international treaty standards. Countries are coded as having criminalized if they have enacted specific anti-trafficking legislation, with broad coverage admitting of no important exceptions.[64] By 2000, about 10% of countries already had fairly strong laws against human trafficking in their domestic penal codes. By 2009, we were able to document that just under 60% had criminalized human trafficking in domestic law.

Major Explanatory Variables

Framing Effects: Global Discourse. Beginning in the 1990s, there is good evidence that what we refer to as the "global discourse" on human trafficking has intensified. Discussions, debates, reports and policy papers have proliferated at the domestic, regional and international levels. Our hypothesis is that as policy-makers become more aware of human trafficking, we should expect governments to embrace anti-trafficking norms.

To reflect the changing global discourse, we collected a complete set of articles from the Lexis-Nexis international news sources database for every year between 1994 and 2008 that contained both a specific country's name and the phrase "human trafficking" within 150 words of that country name. Articles listing multiple countries that fit this criterion are counted multiple times, once for each country. In the tests below we further distinguish articles that meet the above criteria and also mention criminalization (search term was for stem "crim-") versus

[64] Source: *The UN Global Report on Trafficking in Persons*, available at http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html. (Accessed August 2009).

those that mention "victim/s" or "human right/s."[65] Our measure of *global discourse* is the total number of such articles for each country, each year, which yields an indicator that varies over time and space, lagged two years so as not to conflate news about a policy change with change itself.

It is important to be clear about what this indicator captures. The underlying concept of interest is the socially generated rhetorical and informational environment that has characterized the discussion of human trafficking in the years leading to criminalization. Media reports are just a convenient indicator for the most visible representation of how and how much major actors talk about human trafficking. Moreover, for once, the bias of Lexis-Nexis is actually useful: global discourse is in fact heavily influenced by the views and communicative capacities of "core" western states, western NGOs, and the multilateral organizations they populate. The modern media is where "scripts of modernity" are often articulated. If states are concerned first and foremost about externalities, we would expect media stories that feature transnational crime angles to have much more influence on states' anti-trafficking laws than those that emphasize human rights.

Vulnerability to Policy Externalities: the Diversion of Criminal Networks. In order to test our argument that the diffusion of law is associated with perceived vulnerability, we have collected data on the very conduits through which we expect externalities to flow in the case of human trafficking – roads connecting one country to another. In contrast to other forms of transnational crime such as money laundering or even trafficking in high value, light-weight drugs, human trafficking generally takes place through networks of surface transportation.[66] We

[65] Hand coding of a random sample of several hundred articles showed that mention of keywords correlates highly at the aggregate level with more nuanced definitions of frames.

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

used satellite images available in the USGS Global GIS database to create a worldwide dataset of major highways connecting each pair of contiguous countries.[67] We then created a count of the number of roads which crossed each border between two countries to create a contiguity matrix. Recognizing that persons are trafficked by sea as well, countries which are connected by a passage over water of less than 150 miles are credited with an extra "road."[68] For each country, we weighted neighboring countries' policies by the number of roads connecting neighbors' territory with their own. Major roads are built to accommodate increased traffic suggesting both that borders with many crossings have a high travel demands and most likely connect large cities (potential markets for trafficked labor) on either side. For example, because of the number of roads in the region, Russia's borders with Eastern Europe are given more weight than its border with Mongolia in predicting the diffusion of criminalization. If criminalization by neighbors *weighted by the road network* is positively correlated with criminalization in a given country, this suggests a diffusion mechanism aimed at avoiding policy externalities and a very *concrete* explanation for the diffusion of criminal law globally.[69]

Control variables:

Country level characteristics. The diffusion literature as well as the secondary literature on human trafficking suggests a series of plausible factors that could also have a significant influence on a country's decision to criminalize human trafficking. Since criminalization is a

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

[68] We use the Correlates of War contiguity dataset to add the water information Stinnett, Tir, Schafer, Diehl and Gochman 2002

[69] Specifically we weight by the sum of roads, choosing not to row-standardized (which would produce a percentage of roads leading to neighbors who have criminalized). This allows a country to have greater capacity for exposure to externalities than other countries. Plumper and Neumayer (2010) provide an excellent defense of the non-standardized spatial lag.

legal outcome, the general preference and capacity for a country to implement legal innovations could be a contributing factor. We control for a country's reputation for adherence to the *rule of law* as measured by the World Bank's rule of law scale, as well as for *ratification* of the 2000 Human Trafficking Protocol (HTP), since it requires states parties to criminalize the practice. Since human trafficking is a (coerced and deceptive) form of immigration, we anticipate that countries' immigration preferences might color their attitude toward criminalization of the former. It is therefore appropriate to include indicators expected to have a bearing on immigration policies, such as *income category* (World Bank) and dependence on foreign *remittances as a proportion of GDP*. We control for developmental level and perhaps cultural attitudes toward labor with an indicator for the pervasiveness of *child labor*. 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*.

Alternative diffusion mechanisms. As the literature reviewed above suggests, coercion is a mechanism that is central to much of the literature on policy diffusion.[70] It is especially plausible in issue areas characterized by negative transnational externalities, as is the case in human trafficking, where the policies of countries of origin affect destination countries (often major powers). One measure of the potential for such pressures is the extent of trade dependence a country has on the United States and/or the European Union. We therefore control for *US trade share* and *EU trade share*. We also collected data on *U.S. aid dependence* and *use of IMF credits*, since the more a country depends on these forms of aid, the more vulnerable it may be to material coercion. We think it is much more likely, however, that powerful states will use

[70] Simmons, Dobbin and Garrett 2008

various forms of social embarrassment, especially if shame can potentially be backed up by reductions in material aid. Fortunately, excellent evidence is available on hegemonic attempts to shame other countries regarding their human trafficking efforts. Every year, the U.S. Department of State issues reports on human trafficking and rates countries on their efforts to control it. Where a country rates as making "no effort," or is on the "watch list" for making no effort, we have coded that as subject to *U.S. pressure*. Interestingly, while other bureaus of the U.S. Government do not consider these reports to be very scientific[71] several secondary sources document the extent to which low ratings do evoke embarrassment and sometimes policy change in the targeted country.[72] If the shaming tactic is effective, we expect a low rating by the U.S. Department of State (which we code as the presence of pressure) to lead to a tougher policy stance on criminalization in the following year.

Criminalization of human trafficking may of course be a quite voluntary choice based on new information gleaned from foreign criminalizations or even from less rational forms of social emulation. Learning models are appropriate when there is good data by which to gauge outcomes, but good data do not generally exist on the effect of criminalization on trafficking in persons. Nonetheless, states do share concerns, policy models and theories about what might work, so we control for some of the channels through which we might expect information on these to flow. One possibility is that states gather information most intensively from other states with which they trade.[73] This can be the result of contact at the official or the private level. We therefore control for the policies of other countries weighted by their share in the total trade of a given country. Models and information may also be carried in the regional press. Using the

[71] United States 2006
[72] DeStefano 2007 121; Fein 2007
[73] Beck, Gleditsch and Beardsley 2006 suggest weighted trade measures as a "political economy" notion of distance.

database described above on press coverage, we extract only those reports in the regional press to see if they influenced the probability of criminalization – or wash out the effects of the physical environment connected with vulnerability to crime diversion. Another possibility is that states are looking well beyond their region to the set of countries that represent their developmental level for appropriate responses to human trafficking.[74] We use the World Bank income categories, and code for the proportion of countries criminalizing within a given country's developmental level. A country's civilizational cohort might constitute an alternative peer group, since it may be that the values and purposes that guide attitudes toward criminalization of human trafficking are culturally shared. We therefore control for the proportion of countries that have criminalized within one's civilizational grouping as well. Since we are examining the diffusion of law, it may be that policymakers are looking to countries that share their legal heritage for models. Finally, we control for the density of criminalization among a country's legal family as well. All of these effects are lagged one period. Many of these "peer effect" measures are highly correlated, so in the tests that follow we will examine them one by one against our theory of negative policy externalities.[75]

Method of Analysis: Event History Models

We use a statistical method that focuses on the spell of time until the events of interest occur (in this case, domestic criminalization of human trafficking). Widely used in

[74] Lenschow, Liefferink and Veenman 2005 argue that "countries that are culturally, institutionally or economically close may be expected to adopt similar ideas…" in the area of environmental policy. The controls in this paragraph are tested for analogous effects on human trafficking criminalization.

[75] The methodological appendix also includes a series of tests against over a dozen other geographic and non-geographic measures. In some cases, we did not have sufficient data to precisely estimate the effects due to externalities over roads compared to other geographic networks. We have provided these results in the appendix for interested parties. We find the roads the most theoretical compelling specification and so we continue with them throughout the paper. That said, our argument about externalities remains applicable if the reader to chooses to believe that the diffusion is attributable to some other geographic network specification.

epidemiological studies that seek to understand factors that affect mortality rates, this technique can be used analogously to test for the conditions associated with a greater "risk" of these policy changes occurring (given that they have not yet occurred).[76] Due to the potentially complex functional forms of the relationships, we fit the model using semi-parametric splines.[77] We use interval-censoring to allow for time varying covariates; consequently, the unit of analysis is the country-year. The analysis begins in 1991 (before that date, data are not widely available) and ends in 2009.[78]

One of the more innovative aspects of this research is the use of "placebo tests" to increase confidence in our findings. Our placebo tests are designed to see whether the criminalization of human trafficking actually diffuses along surface transportation routes, or whether we are just picking up a common example of homophily.[79] We test for the effect of roads as conduits on different dependent variables that do *not* involve externalities (victim protection), do *not* involve externalities via roads (money laundering), or do *not* involve transnational externalities (internal trafficking), and expect a null result. Where the dependent

[76] Specifically we employ a Cox proportional hazard model (a kind of survival model) to examine the effects of a number of continuous and categorical predictors, and because some of these vary over time, the tests presented here use time varying covariates. The Cox model estimates a "hazard rate" which is defined as:

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

The hazard rate is then modeled as a function of the baseline hazard (ho) at time t – which is simply the hazard for an observation with all explanatory variables set to zero - as well as a number of explanatory variables, the estimates of which indicate proportional changes relative to this baseline hazard. The model is semi-parametric, in that it makes no assumptions about the underlying shape of the baseline hazard rate. (We make no assumption about whether the rates of criminalization inherently accelerate or decelerate with time, for example.) The null hypothesis is that the proportionate hazard rate for any given explanatory variable of interest is 1 (it has no effect on the baseline hazard rate). For diffusion literature that uses event history methods see for example Elkins, Guzman and Simmons 2006 . Citations to the extensive methodological literature on event history models both within international relations and the broader statistical literature are available in the appendix. Box-Steffensmeier and Jones 2004 provide an accessible introduction.

[77] Keele 2008

[78] The appendix provides details on our custom multiple imputation procedure for dealing with missing data, estimation using splines, diagnostic tests for non-proportional hazards and visualization of all results.

[79] Shalizi and Thomas 2011 note that these are usually very difficult to distinguish statistically, but our placebo tests are helpful in this regard.

variable is ordinal rather than dichotomous (as is the case for the data on victim protection policies) we turn to ordinal probit methods.

IV. Findings: the Globalization of Criminalization of Human Trafficking

Framing and Criminalization[80]

Our first step is to explore the relationship between global discourse and domestic criminalization. Table 1 shows that the intensity of global discourse has a strong positive effect on the probability of national criminalization two periods later. The effect is fairly linear across the first 100 news reports with each additional report being associated with an 1% increase in the probability of criminalization. After that, the effect flattens out, such that after 200 news reports in a year, we would expect the rate of criminalization be roughly 3 times as high as for a country with no reports.

The framing argument is clearly supported by a closer look at language. We parsed the news stories by coverage (whether they contain the words "crime/s", "victim/s" or "human rights"). These are not mutually exclusive sets. Model 2 shows that the number of stories that mention human trafficking within 150 words of a country's name and also contains the words "crime/s" or "victim/s" is strongly predictive of criminalization for the named country two years later (Model 2). The crime trend is nearly linear in log-space; a move between 0 and 100 stories mentioning crime, increases the probability of criminalization seven-fold. The victim effect is

[80] The non-linearity captured by the splines complicates the usual presentation of hazard ratios. Specifically, the marginal effect on the hazard ratio is dependent on the magnitude of the independent variable, suggesting that it cannot be reported as one number. Therneau and Grambsch 2000 show that we can derive a hazard ratio that indicates the best linear approximation to the functional form, a hypothesis test for the linear element and a second hypothesis test for the non-linear element. We report these in the tables below, however we caution readers that these do not always do justice to the fitted form. We present visualizations of all non-linear functions in the online appendix.

the same as the crime effect over the same 0 to 100 range, although it is less precisely estimated. However, if the article includes the words "human rights" it is strongly and *negatively* correlated with criminalization by the mentioned country two years later. Moving from 0 to 10 stories mentioning human rights decreases the probability of criminalization by 40%. By the time you reach 100 stories, the country is 150 times less likely to criminalize than is the case without any news reports. This evidence suggests that when global discourse relates human trafficking to transnational crime and/or victims, human trafficking is far more likely to be criminalized than when it is associated with human rights.

Model 3 details the effects of news source on criminalization. International stories have a clear effect over the range of 0 reports to 6 reports (6 being the 3rd quartile), yielding an approximately 170% increase in the probability of criminalization, after which the hazard ratio is flat. Regional coverage seems to initially decrease the probability of criminalization and then increases it after about 20 stories. However, the confidence intervals on regional coverage make it difficult to precisely identify the effect.

Overall, Table 1 suggests that when global discourse connects human trafficking with criminal activity, it has an important positive influence on states' decisions to criminalize human trafficking two years later. The crime frame is strongly correlated with the diffusion of a prosecutorial approach to the problem. If anything, the human rights frame seems to work in the opposite direction.

Criminalization, Diffusion and Externalities

States primed to think about human trafficking as an offshoot of the larger problem of transnational crime are likely to assess their vulnerabilities in very distinctive ways. Modern

transportation networks that previously have been viewed as harbingers of regional integration, globalization or modernization are also interpretable as conduits for transnational networks of human traffickers. In particular, they potentially make a country more vulnerable to crime diversion from neighbors who themselves decide to crack down on human trafficking.

Table 2 suggests concerns about diversion are likely a major driver of the diffusion of the prosecutorial approach to human trafficking. Criminalization in neighboring countries weighted by the *total sum* of roads[81] connecting them to "ego" has a profound effect in ego. On average, each additional road connecting two jurisdictions raises the probability that a country will criminalize human trafficking in response to their neighbor's policy by between 1 and 4%. This specific pattern supports a theory of law diffusion related to the anticipated externalities arising from criminalization in jurisdictions from which it is easiest to divert the activities of criminal trafficking networks, e.g., those connected by roads.

[FIGURE 2 ABOUT HERE]

Figure 2, derived from Table 2 Model 1,[82] illustrates the relationship between criminalization and road connectivity using 95% confidence intervals. Initially the marginal effect of each road with a neighbor who has criminalized human trafficking is very close to linear, increasing the probability of criminalization by approximately 65% when moving from 0 to 10 roads. After about 20 roads, the marginal effect of each additional road appears to decline.

[81] Including, as we mentioned above, an additional road for countries accessible by water within 150 miles.

[82] The shape and magnitude of the effect is extremely consistent across all the models. A similar shape is also observed when estimating using a log-functional form or an inverse hyperbolic sine transformation. See Appendix.

This is consistent with anticipated externalities, which are likely to demonstrate similarly decreasing marginal effects after a given threshold.

Control variables:

We find strong evidence for the influence of several control variables as well. There appears to be some evidence of hegemonic pressure: when the U.S. State Department puts a country in the "no effort" or "watch list" categories in its human trafficking reports, the chances that country will criminalize human trafficking in the following year approximately doubles, on average, which comports well with the secondary literature.[83] The use of credits from the International Monetary Fund – where the U.S. is authorized by the TVPA to use its influence to block loans if countries make extremely weak efforts to control human trafficking – may also be associated with an enhanced probability of criminalization (at 9.45 the estimated hazard ratio is quite large, but the lower bound of the 95% confidence interval is just over 1.1). However trade with the United States is negatively correlated with criminalization policy, with the range from 0 to 40% being particularly negative. Trade share with Europe is basically flat, although also slightly negative along that range. This finding is consistent with the literature that emphasizes the difficulties of using trade as a sanctioning weapon for human rights or other purposes. It also supports the intended purpose of U.S. legislation: to pressure countries to criminalize and to use the threat of reducing or eliminating U.S. *aid* (but not trade) to do so.

It also appears that countries on average implement their commitments under the 2000 Human Trafficking Protocol. Ratification increased the probability of subsequently criminalizing human trafficking by about 80%, as required by Article V of the Protocol. A country's reputation for the rule of law (measured on a scale from -2 to 2) has a consistently non-

[83] Fein 2007 54

linear shape, e.g., it is linear and positively correlated with criminalization at the extremes of the data and flat across the middle. A move from -2 to -1, or 1 to 2, is associated with a hazard ratio of approximately 2.7 (a 170% increase in the probability of criminalization), while moves over the range -1 to 1 have essentially no effect on the likelihood of criminalization.

We expected a country's developmental level to have some influence on criminalization (Model 3), but found that these effects are not linear. Middle income countries are about 53% less likely to criminalize human trafficking than are low income and high income countries. This could reflect the tendency for wealthy countries to be trafficking destinations, and therefore more vulnerable to externalities, while the poorer countries may be offered some technical assistance for cooperative policies. We found that both child labor and remittances have generally negative effects, with the largest effects being at extremely high levels of the variable. For example, at the highest levels of child labor, a country is around 20 times less likely to criminalize than a country with no child labor.

Model 4 controls for an important domestic political factor, controlling for some income effects. Percentage of women in politics seems to have had a strong (and non-linear) effect on criminalization. A country with no women in parliament is about 10 times less likely to criminalize than the median country (which has about 10% women in parliament), while a country nearing 50% of women in parliament is around 7 times more likely to criminalize than the median. This finding supports expectations that the representation of women's interests in policy-making institutions might positively impact legislation in what is often thought to be a highly gendered issue area.

The inclusion of these control variables has minimal to no impact on the evidence for the importance of externalities; indeed the effect of interdependence as measures by transnational road connections is remarkably stable across every model in Table 2.

Robustness: Really the Roads?

Our argument about the importance of externalities in explaining the globalization of law in the case of human trafficking rests heavily on the finding that policy diffuses along road connections among states. Scholars in other theoretical traditions have used various measures of "proximity" to explain policy diffusion by mechanisms that are distinct from – and even contrary to – the externality argument developed here. Many alternative diffusion stories also depend on co-location in space. Are any as or more plausible than our account of the influence of criminal framing?

Table 3 shows that, more likely than not, connectivity by roads accounts for this special responsiveness to the policies of near neighbors. Model 1 shows that the roads are not just picking up trading relationships that could be expected to transmit ideas from one national market to another. The results show that the roads indicator is independently significant while diffusion via trade connections is essentially not present. Similarly, Model 2 suggests that the roads indicator is likely not capturing the general flow of ideas from nearby countries: the number of regional news articles on human trafficking would be a natural conduit for such ideas, and when they are controlled for, regional media itself is not significant, but road density remains strongly so. The next three models test alternative diffusion mechanisms that imply emulation – the idea that countries copy the policies of those countries they respect or to whom they consider themselves similar. We can see that the density of criminalization among various

"reference groups" probably does help to explain the spread of human trafficking criminalization: the higher the proportion of countries within a country's "civilizational grouping" and the higher the proportion of country's from the same "legal family" that have criminalized, the more likely a given country is to do so. Civilizational emulation has the stronger of the two results. For each criminalization, a civilizational group contributes an increased probability of approximately 50% across the first five countries, after which it flattens off. Somewhat surprisingly, however, there is no evidence of emulation of the policies of countries from within one's own income level. If anything, the inverse might be the case. In all of these cases, however, the density of roads contributes more strongly and *independently*[84] to the likelihood of criminalization. [85]

Placebo tests: what transportation connectivity does and does not explain

Rather than pile highly correlated explanatory variables upon one another, we can gain greater leverage on the plausibility of our externalities argument by thinking about the conditions under which we would expect it to hold. That we can best do by looking at the effect of road density on different *dependent* variables. Recall that there are two crucial parts to our argument: first, that human trafficking is thought to be linked to *externalities* in the form of linkages to transnational crime networks, and that criminalization disrupts this link by making it more expensive to penetrate a country's market; second, these externalities travel largely along *roads*. If our model explains policies where there are no externalities, or it explains policies that address

[84] In the case of civilizational emulation, the first few civilizational neighbors has a stronger effect than road neighbors, but when normalized by the expected number of roads per neighbor, the externality effect is strongest.
[85] The appendix presents a series of additional tests for alternate geographic and non-geographic networks. Also see FN76 for more information.

negative externalities that do not make use of roads, there is a risk we have a measure that explains "everything," and therefore nothing.

[TABLE 4 ABOUT HERE]

Table 4 shows what roads do and do not explain. Model 1 compares the same battery of explanatory variables with two subsets of human trafficking policies: prosecution of alleged traffickers and victim protection.[86] The former can be expected to disrupt transnational networks and potentially to reduce externalities. The latter concentrates on treating the victims of trafficking properly; that is, by providing them medical care, helping them retrieve proper documentation, and returning and reintegrating them into their home society. These may be good and humane policies, but they *do not disrupt trafficking networks* and hence do not address the perceived problems of the diversion of crime along transnational roadways. We would *not* expect the density of transnational roads to explain the diffusion of victim *protection* policies from one jurisdiction to another. As it turns out, there is a positive correlation between roads and both prosecution and protection programs. But if we compare the coefficient on protection with the coefficient on prosecution, we can see that it is about two-thirds the size, suggesting that roads are likely much more important for the diffusion of prosecution policies than they are for victim protection policies. We visualize this finding in Figure 3 by considering the Risk Ratios associated with a move from 0 to 5 neighbors who have criminalized. Clearly, for prosecution, the probability of being in the weaker categories is much lower, and the probability of being in the stronger categories is much higher than is the case for protection policies.

[86] Because prosecution and protection are coded as ordinal variables on a scale of 1 to 5, we use an ordered probit here.

[FIGURE 3 ABOUT HERE]

Model 2 presents evidence across issue areas. Here we compare policies to address negative externalities associated with roads with negative externalities that are not road-dependent: the criminalization of money laundering. As we have argued in the case of human trafficking, criminalization and enforcement of tough money laundering laws disrupts (to some extent) transnational networks laden with such externalities, but money laundering tends to be electronic; *it does not depend on physical roads connecting jurisdictions*. A comparison of the hazard ratios under Model 2 shows that a road has absolutely no effect on the probability of emulating a neighbor's policies criminalizing money laundering, while a road raises the likelihood of emulating criminalization of human trafficking by about 3% on average. Figure 4, visualizes the hazard ratios between these two comparable models on the same scale. The effect is powerful when you realize it is holding constant all of the other emulation or ideational effects that we commonly see in the sociological literature on policy diffusion.

[FIGURE 4 ABOUT HERE]

Finally, we probe the plausibility of the externalities argument by testing for the conditions under which we would expect the effects to be most acute. The *externalities* associated with human trafficking are likely to be most significant, it is plausible to assume, in countries through which traffickers are most likely to pass (transit countries) and countries in which trafficked individuals enter and ultimately are exploited (destination countries). Transit and destination countries should be most sensitive to the policies adopted by their neighbors:

when neighbors make serious efforts to criminalize, criminal organizations will find new territory through which to transport victims, and new markets in which to exploit them. Countries with serious *internal* trafficking problems may have motives to crack down on transnational criminal networks involved in trafficking, but if we are correct about the importance of externalities their policies should not necessarily be sensitive to their neighbors'.

Table 5 tests for the importance of externalities using nuanced subcategories of countries, grouped by their experience(s) with human trafficking. The results fit a theory of the importance of policy externalities in explaining the willingness to criminalize human trafficking. Despite the fact that the categories are noisy, it is clear that transit countries are much more strongly and consistently influenced by the policies of their neighbors than are countries that are not important transit routes. While the linear hazard ratios are the same in each sub-category, the initial effects are much stronger in origin and transit countries (as seen in Figure 5 visualized on the same scale). Note particularly, the steep line between 0 and 10 road connections with neighbors who have criminalized human trafficking for transit countries. That road connections as a conduit for policy diffusion have their strongest effects in transit countries (and their weakest effects in countries with internal trafficking problems) once again supports our interpretation that negative externalities is an important driver of criminalization of human trafficking.

[FIGURE 5 ABOUT HERE]

V. Conclusion

The globalization of law has been spurred forward by the incentives governments face to criminalize certain activities and transactions. This research firmly supports the idea that

governments respond "rationally" to particular "problem structures;" they try to understand the nature of the issues they face and to design policies to address these problems. They do not appear automatically to download and apply global scripts, or even policies of most peer groups. Rather they seem to respond to frames they find appealing as a way to strengthen and legitimate the state itself, while adopting policies of neighbors when physical connectedness suggests they may otherwise be vulnerable. These choices are heavily influenced by the way issues are framed in the first place.

Global discourse – as reflected in the global media – provides interesting clues about how issues are framed. Perhaps unsurprisingly, we found strong evidence that the more media attention given to the problem of human trafficking, the more likely governments associated with trafficking news were to criminalize it. When we dug deep, we found that governments were not likely to be responding to concerns about victims' human rights; rather, they seemed especially sensitive to the notion that human trafficking is linked with other criminal activity. We found that when human trafficking stories mentioned "crime," countries were likely to criminalize two years later. The opposite was true for stories mentioning "human rights".

Once we understand the power and the pervasiveness of the transnational crime frame in global discourse it becomes clearer why certain states have adopted the prosecutorial approach to human trafficking: they come to see themselves in varying degrees as vulnerable to the policy choices of their neighbors. Improving on general findings about "regional" or "proximity" effects, we have uncovered criminalization patterns that reflect concerns about policy externalities. Primed by the transnational crime frame, governments anticipate that neighborly enforcement will divert some human trafficking business to and through their own jurisdiction. Whether or not trafficking actually does increase the risks of transnational drug and weapons

trafficking, money laundering, violence, illegal migration and document forgery cannot be proved definitively with the available data; no one can currently document a clear global relationship. But when human trafficking is framed as linked to a wide range of transnational crimes, governments are much more likely to take a prosecutorial approach to the deceitful movement of human beings across their borders than when it is not.

Our key finding is that governments emulate their neighbors' criminal statutes on human trafficking, conditional on the number of direct road crossings that connect them. Roads represent the most economical way to move human contraband from one jurisdiction to another; given the transnational crime frame, roads are viewed as a *vulnerability* to transnational human traffickers. They are the natural conduit for the criminal activities about which many governments are so concerned. This finding was robust to inclusion of a broad range of other diffusion variables, and even to the inclusion of catch-all "regional effects." Moreover, it is crucial to note that roads plausibly explain the diffusion of law enforcement policies, *but they do not explain everything.* Externalities explain efforts to *prosecute* human traffickers, but they do not explain as well policies to *protect* and reintegrate victims into their home societies. Externalities along roads explain the criminalization of human trafficking but *not crimes that occur electronically*, such as money laundering. And of course externalities explain the policies of transit countries, but less clearly the policies of those countries characterized by internal trafficking. This combination of tests should raise confidence that policy externalities and sensitivities are at play for very concrete reasons, and not only as the result of the general transmission of models and ideas.

These findings should challenge researchers to go beyond very general tests of policy emulation that assume it is structured by strong forces of world culture alone. "World culture" is

not unified; it often offers up multiple narratives for contextualizing a certain issue. Non-governmental organizations, certain UN agencies and some states have pushed for a human rights approach to human trafficking, linking it with other evils, like slavery and the exploitation of women and children. Interestingly, however, the criminal law approach has tended to prevail. States have honored the desire of those who wish to recognize *existing* human rights, but have also been careful not to accept any *new* international human rights obligations in addressing human trafficking.[87] Much work remains to be done to document the genesis of various images of the human trafficking problem, and how and to what extent norms have converged to view it as a problem that demands global attention in the first place. But the evidence suggests that normative convergence in this area was facilitated by broad acceptance that criminalization is an appropriate response.

While world culture has a lot to say about how a problem is defined and framed, we are not convinced that policy diffusion can best be explained by the uncritical adoption of dominant western scripts. There are good reasons to understand these processes as rational responses to a problem structure, *once a dominant narrative of the problem has been accepted.* That is, contingent on the acceptance of the dominant view of human trafficking – its framing as linked to transnational criminal activities of various kinds – governments calculate how exposed and sensitive they are to the problem, so defined. Far from being amazed at inappropriate isomorphism, we are to some extent surprised that governments seem to behave as though policies (and policy externalities) might really matter.

[87] Article 14(1) of the Human Trafficking Protocol says explicitly: "Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law…" Text at: *http://www.osce.org/odihr/19223* (accessed 24 January 2012). As of January 2012, 147 states had ratified or acceded to this convention. See *http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html* (Accessed 24 January 2012).

The next step forward is to understand the processes that encourage governments to view certain activities as "criminal". The generation of alternative frames is what Herbert Simon referred to as "an integral component of any veridical account of human decision making."[88] The matter of how issues come to be framed in certain ways is a crucial precondition to the diffusion dynamics we document in this article. How and why does human trafficking become defined as both a human rights travesty and a transnational threat? Whose interests are served by framing the issue in terms of one or some other way? What kinds of power resources reinforce the broad based acceptance of a particular way to understand a problem? Intersubjective ideational theories and rational problem solving are both necessary and interlocking pieces of a theory of human action. These explanations must be combined to arrive at a better understanding of why laws, policies and institutional forms gain wide global adherence.

[88] Simon 1985

Figure 1: Map describing the spread of criminalization of human trafficking.

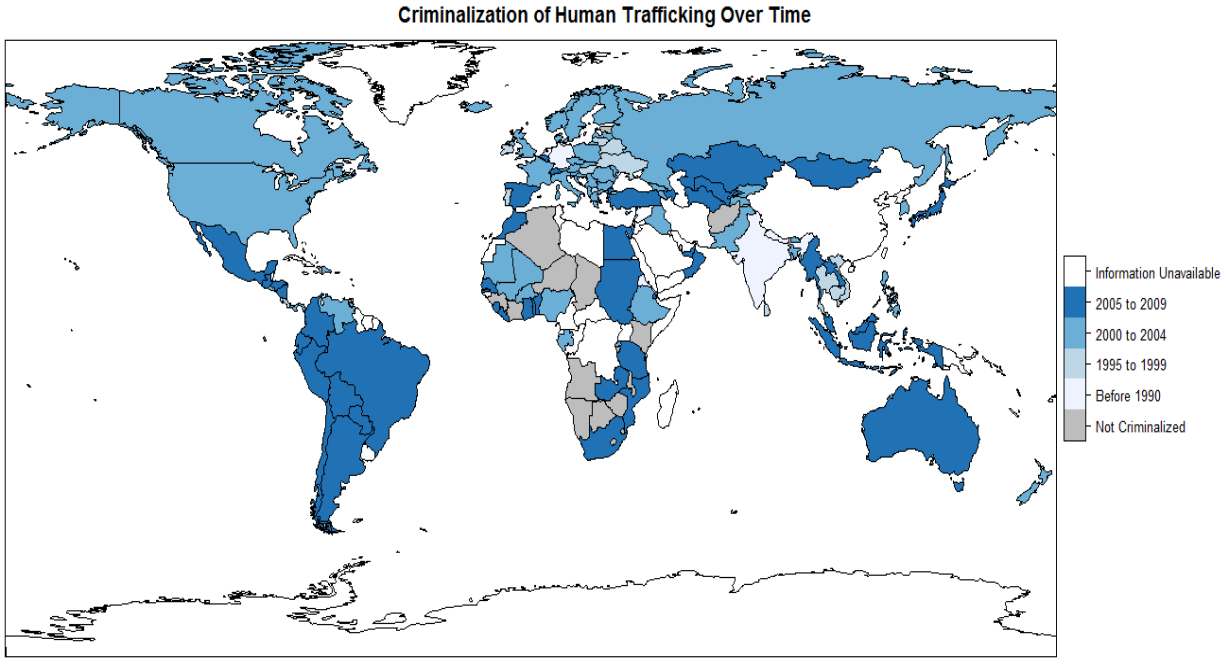

Figure 2: The Hazard Ratio associated with the number of roads to neighbors who have criminalized. The y-axis shows the hazard ratio. Units are of the hazard ratio but they are plotted on the log-scale. Shaded area represents the 95% confidence interval.

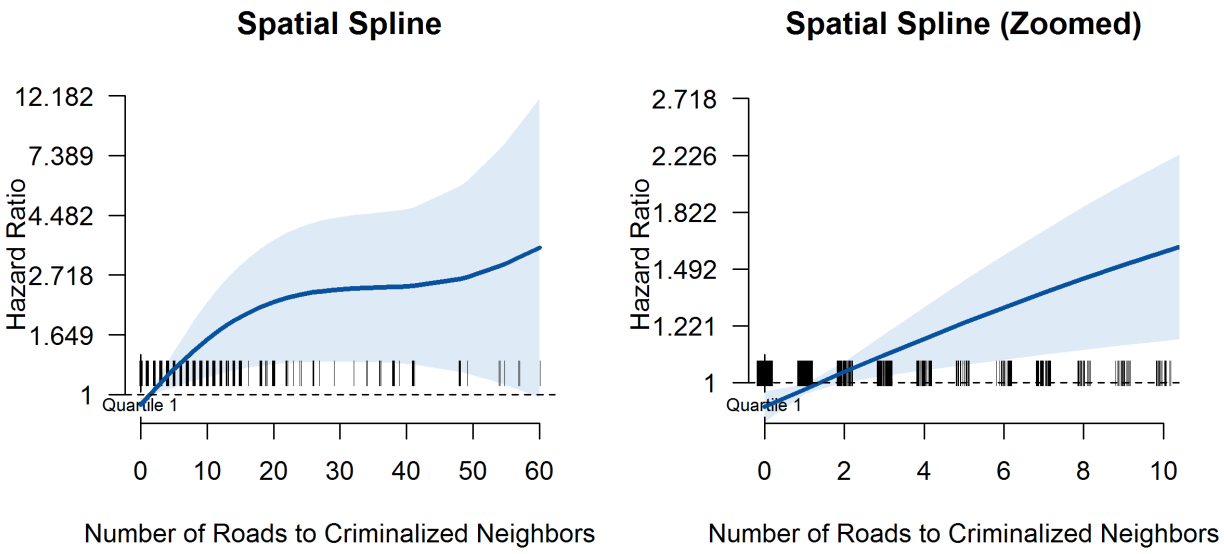

Figure 3: Risk Ratios associated with a change from 0 to 5 roads to neighbors who have criminalized (note that the y-axis is plotted on the log scale). Each additional road has a much stronger effect on prosecution than protection as evidence by the much lower probability of being in the lower categories and the much higher probability of being in the highest category.

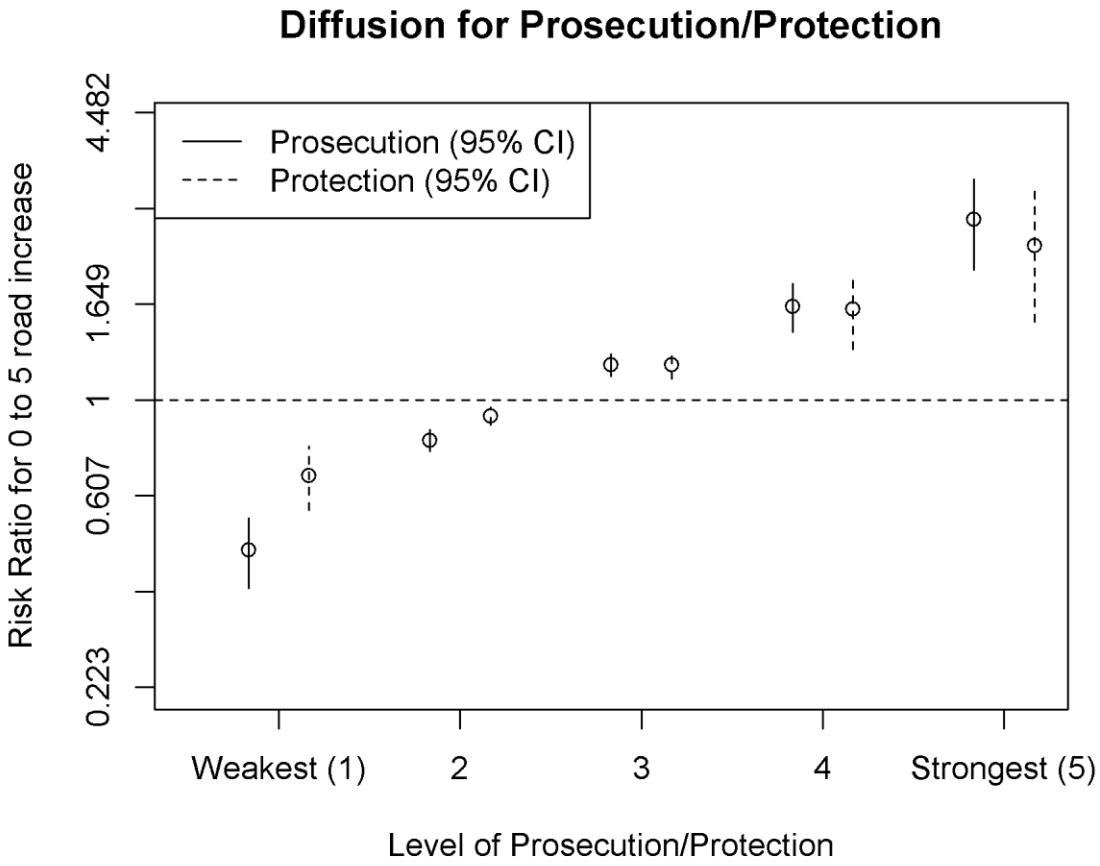

Figure 4: Roads to neighbors who have criminalized have a much stronger influence on human trafficking than money laundering in comparable models. The figure depicts hazard ratios with 95% confidence regions.

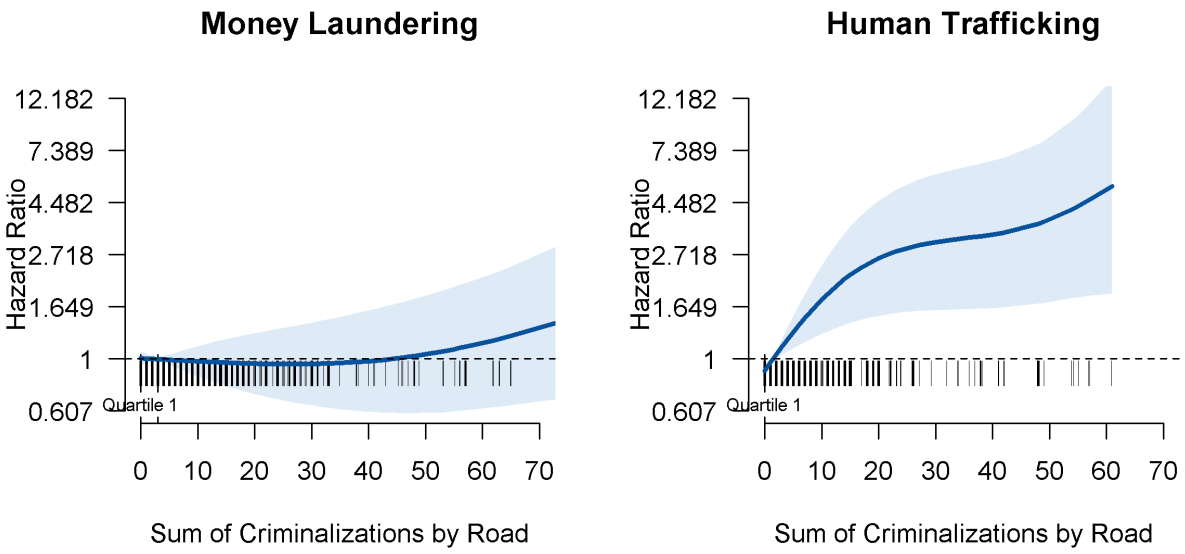

Figure 5: Hazard ratios visualized on the same scale across the four sub-group types of countries. The impact is much stronger for origin, transit and destination countries than for internal trafficking where the positive change is only statistically significant at extremely high numbers of roads to neighbors who have criminalized.

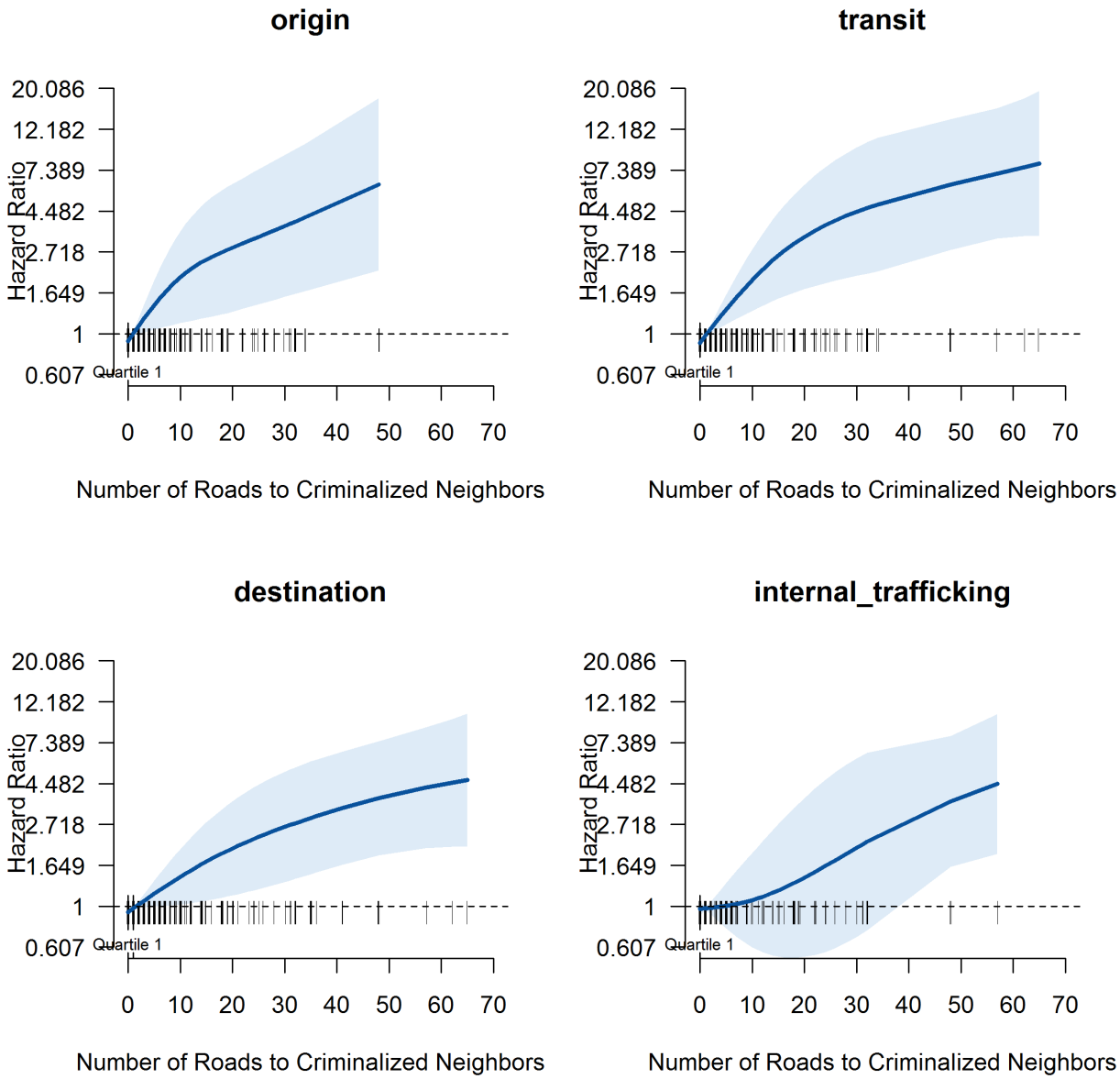

Table 1. Global Discourse and National Criminalization: The Importance of Framing on Human Trafficking Policy (Hazard ratios)

	Model 1 Global Discourse	Model 2 By words	Model 3 By source
US pressure	1.98*	2.57*	2.12*
Global discourse (s)	1.01*#	--	--
Rule of Law (s)	1.57*#	1.54*#	1.45*#
Ratification of 2000 agreement	1.75*	--	1.64*
All stories mentioning crime (s)	--	1.02*#	--
All stories mentioning Human rights (s)	--	0.95*#	--
All stories mentioning Victims (s)	--	1.02*#	--
Stories from internat'l sources (s)	--	--	1.37*#
Stories from regional sources (s)	--	--	.91#

Notes: Results are from a Cox-Proportional Hazards Model. Variable names followed by (s) are fit using smoothing splines. The reported values are either the hazard ratios, or the best linear approximation to the hazard ratios. See Appendix for more details and a more detailed presentation of results. There are approximately 1800 observations in each model (and around 74 events), exact numbers vary by imputation. Note that ratification is removed from Model 2 due to problems with maximization of the partial likelihood, see appendix for more details.
* indicates the linear effect is significant at the .05 level.
# indicates the non-linear effect is significant at the .05 level.

Table 2. Externalities and other Influences on the Rate of Criminalization in National Law (Hazard ratios)

	Model 1 Base	*Model 2 Coercion*	*Model 3 Develop. controls*	*Model 4 Women's influence*
Vulnerability to the diversion of externalities (Neighbor's policy weighted by Sum of Roads) (s)	1.02*#	1.02*#	1.02*#	1.02*#
US pressure	2.18*	2.34*	1.87*	2.01*
Rule of Law (s)	1.51*#	1.86*#	0.98#	.97#
Ratification of 2000 agreement	1.72*	1.80*	1.80*	1.72*
US Aid/GDP (s)	--	1.08*#	--	--
Use of IMF credits	--	9.45*	--	--
US trade/ total trade (s)	--	0.08*#	--	--
EU trade/ total trade (s)	--	0.88#	--	--
Prevalence of child labor (s)	--	--	0.97*	0.97*
Middle income categories	--	--	0.46*	0.42*
Remittances/GDP (s)	--	--	0.99#	--
% women in parliament (s)	--	--	--	1.02#

Notes: Results are from a Cox-Proportional Hazards Model. Variable names followed by (s) are fit using smoothing splines. The reported values are either the hazard ratios, or the best linear approximation to the hazard ratios. There are approximately 3000 observations in each model (and around 78 events), exact numbers vary by imputation. See Appendix for more details and a more detailed presentation of results.
* = linear effect significant at the .05 level.
# = non-linear effect significant at the .05 level.

Table 3. Robustness of Diffusion via Roads: Other "Proximity" Measures (Hazard ratios)

	Model 1 Trade diffusion	Model 2 Regional news coverage	Model 3 Develop-mental emulation	Model 4 Civiliza-tional emulation	Model 5 Emulation among legal families
Vulnerability to the diversion of externalities (Neighbor's policy weighted by Sum of Roads) (s)	1.02*#	1.03*#	1.03*#	1.02*#	1.03*#
US pressure	1.33	2.38*	2.27*	2.29*	2.25*
Rule of Law (s)	1.74*#	1.44*#	1.50*#	1.22#	1.48*#
Policy weighted by trade partners (s)	1.34#	--	--	--	--
Regional stories on human trafficking (s)	--	0.96#	--	--	--
Criminalization among developmental level (s)	--	--	0.98#	--	--
Criminalization among civilizational group (s)	--	--	--	1.04*#	--
Criminalization among same legal family (s)	--	--	--	--	1.01#

Notes: Results are from a Cox-Proportional Hazards Model. Variable names followed by (s) are fit using smoothing splines. The reported values are either the hazard ratios, or the best linear approximation to the hazard ratios.
* = linear effect significant at the .05 level.
# = non-linear effect significant at the .05 level.

Table 4. Robustness of Diffusion via Roads: Other Outcomes

	Model 1: Ordinal Probit: Comparing policies *within* human trafficking issue area[89]		Model 2: Hazard Model Comparing criminalization policies *across* crime sectors	
	DV: prosecution	DV: victim protection	DV: Criminalization of human trafficking	DV: Criminalization of money laundering
Vulnerability to the diversion of externalities (Neighbor's policy weighted by Sum of Roads) (s)	0.24*	0.15*	1.03*#	1.00#
Rule of Law (s)	0.29*	0.16*	1.55*#	.95#
Ratification of human rights treaties	0.06*	0.08*	--	--
Share of women in Parliament	0.01*	0.01*	--	--
HT Media stories mentioning crime	-0.06	-.08	--	--
HT Media stories mentioning victims	0.19*	.15*	--	--
Developmental Level (s)	--	--	0.91	1.11

Notes: Model 1 is estimated using an ordinal probit and coefficients are reported with hypothesis test at the .05 level. The spatial variable is fit as the inverse hyperbolic sine function of roads in this model. In Model 2, the spatial variable is fit using the cox-proportional hazards model again and all variables have smoothing splines. There are approximately 1500 observations in each model; exact numbers vary by imputation.

[89] Data distinguishing victim protection policies from prosecution policies were generously supplied by Cho, Dreher and Neumayer 2011 .

Table 5. Effects of Externalities on Probability of Domestic Criminalization of Human Trafficking, by Exposure Category (Hazard Ratios)

	Model 1 Destination countries	Model 2 Origin countries	Model 3 Transit countries	Model 4 Internal Trafficking countries
Vulnerability to the diversion of externalities (Neighbor's policy weighted by Sum of Roads) (s)	1.02*#	1.03#	1.03*#	1.01#
US pressure	1.83	2.32*	1.49	2.51*
Rule of law (s)	1.67*#	1.21#	1.31#	1.50#
Ratification of 2000 protocol	1.54*	1.46	1.58*	1.36

Notes: Results are from a Cox-Proportional Hazards Model. Variable names followed by (s) are fit using smoothing splines. The reported values are either the hazard ratios, or the best linear approximation to the hazard ratios.
* = linear effect significant at the .05 level.
# = non-linear effect significant at the .05 level.

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