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What Is Hidden Within International Anti-Human Trafficking Laws?

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COLLEGE OF INTERNATIONAL STUDIES

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Abstract

Human trafficking is gaining global attention as an international problem. Despite the rising concern over human trafficking, there is little analysis as to where the term came from and how original human trafficking laws came to be. I use a historical analysis inspired by Foucault's concepts of power and genealogy to trace anti-human trafficking norms. While human trafficking is often described as modern-day slavery, I find that it neither modern nor similar to slavery. Anti-human trafficking norms were created at the same time of slavery norms. Anti-human trafficking laws were first meant to protect white European women which is still reflected in the current 2000s Protocol. Colonial influences on anti-human trafficking laws create a necropolitical space where people of certain race, class, nationality, and gender are excluded from the law. Human trafficking is two terms, whereby the definition of trafficked is highly debated whereby the definition of human is ignored.

Chapter One: Introduction

In the last few decades, activism in the United States and Europe has grown to increase awareness about human trafficking worldwide. These activists influenced lawmakers and policies to create laws criminalizing human trafficking. Policies first introduced in the United States and Europe, particularly the United Kingdom, were then interjected into international discourse. These policies were signed into international law by 117 countries (UN, United Nations, UN Treaties, Treaties, 2018). The issue of human trafficking has been acknowledged globally in an international legal setting. While many international actors, such as activists and government officials, may believe that anti-human trafficking laws are effective to combat human trafficking, there are consequences and overlooked assumptions that may reduce the effectiveness of the laws.

Laws are thought to be agreed upon rules of society that bind people whereby breaking those rules implies consequences. Rules and laws, however objective they appear, are social constructs (Koskenniemi, 2012). There is analysis about unjust laws existing in many countries, such as segregation in the United States and Apartheid laws in South Africa. In these cases, laws were not objective rules, rather they were constructed as tools of governmental discrimination based on beliefs and attitudes. Laws also have a specific history and culture behind their creation that is often taken for granted. The concept of written legal law that is used in the United Nations is historically and culturally based in European culture and continued in United States culture in modern times (Koskenniemi, 2012). Thus, laws created by the United Nations continue European social construction, which is reflected in anti-human trafficking laws.

It is only recently that laws pertaining to human trafficking have been examined in historical scrutiny. These examinations focus on perceptions of victims within the laws (Todres,

2009, Lammasniemi, 2017). There is also more recent analysis of legal framework that established human trafficking laws (Horzum, 2017). I hope to add to this growing literature with analysis focused more on international incorporation of anti-human trafficking laws.

The purpose of this thesis is to examine the creation of international anti-human trafficking laws. Chapter one is the literature review and methodology of this paper. The literature focuses on the key concepts of norms, power, hegemony, biopower, sovereignty and "bare life". Michel Foucault's notions of power and Antonio Gramsci's concept of hegemony explain how anti-human trafficking laws are created in Europe and the United States and disseminated internationally. The methodology is a historical analysis inspired by genealogy. Genealogy is the methodology where the history of how anti-human trafficking laws is examined for cultural assumptions that impact how they are implemented.

Chapter two examines the norms employed and maintained to create anti-human trafficking laws. The United Nations definition of human trafficking is three pronged: the act, the means, and the purpose. The act refers to what is done to traffic the persons, such as recruitment, transportation, transfer, harboring or receipt of persons. Means refers to how the act is done such as threats or use of force, coercion, deception, fraud, abduction, abuse of power or vulnerability, and/or payments to a person controlling the trafficked person. Lastly, the definition of human trafficking refers to the purpose or why it was done. The purpose of human trafficking revolves around exploitation, which includes prostitution, sexual exploitation, forced labor, slavery or slavery like practices, and the removal of organs (UN General Assembly, 2000). However, this definition is rooted in historical conceptions of race, class, gender, and nationality (see Table 1).

There is a myth that human trafficking is modern day slavery. However, my thesis uncovers that human trafficking is formed at the same time as the Transatlantic slave trade and is

created as a legal framework outside slavery. Therefore, I want to assert that the human trafficking narratives should be differentiated from slavery narratives. The narratives surrounding human trafficking start based on prostitution in the 1880s. Over the course of a hundred years, the basic principles the established anti-human trafficking norms have remained the same. Anti-slavery has been included only after the slave-trade was officially ended. Thus, the international power dynamics that establish white, European (and United States) women and girls as needing protection remains intact.

Chapter three analyzes biopower in relation to how international law is included in countries domestic laws. When international laws are agreed upon it is expected of countries to design or redesign domestic laws. Countries that do not adhere to international law are shamed and/or politically punished for lack of cooperation. Thailand's experience with international human trafficking laws is the case study for this chapter. Thailand had the first anti-human trafficking Non-Governmental Organizations (NGOs) with 1980 NGO models being the basis for global NGOs, and INGOs regarding human trafficking. Furthermore, Thailand's experience through colonization and after, suggests that Thailand is more susceptible to human trafficking ventures and, yet, is not taken fully into consideration under the international law. The purpose of this chapter is to explore how international law created through a power dynamic is integrated into local laws. It is also going to explore representation of human trafficking victim countries and perpetrator countries and the impacts of that representation.

Chapter four is an analysis of biopower but in terms of the victims and survivors of human trafficking and their relationships to the international and domestic laws. Victims are those who died while being trafficked and survivors are those who lived and escaped or were rescued from trafficking. There is a third area of those who are still in human trafficking

circumstances and are neither victim nor survivor. The reason for this distinction is that human trafficking laws create an ideal form of trafficking and an ideal form of human trafficking victim due to the language and activism surrounding these laws. This fulfills the script that was anticipated by Foucault since power dictates who is deemed trafficable and who is deemed untouchable, which is codified into international law. Human trafficking is not necessarily the problem, but who can be trafficked, and traffickers are the concerns. Due to the lack of flexibility in anti-human trafficking laws or to political categories (human trafficking v. human smuggling) there are circumstances where people experience human trafficking but go unrecognized. For example, Cyntoia Brown, a United States citizen who, despite being a human trafficking survivor, was treated as a criminal due to her race and class.

Chapter five is the conclusion where I recommend that human trafficking is a form of necropolitics. Necropolitics is when the states have the right to kill. Despite anti-human trafficking laws being made on an international level, state participation is demanded. Anti-human trafficking laws are made internationally where some states use their norms and power to influence other states. These laws are an extension of imperialism and colonialism. Thus, anti-human trafficking laws are a necropolitical stance used to further the power of European and United States cultural knowledge into other countries to the detriment of human trafficking victims. Policing and criminalizing human trafficking are primarily a European and United States desire. Survivors are defined by strict rules and those who might be survivors may be called criminals themselves due to definitional differences between trafficking and smuggling. However, anyone involved in human trafficking is a victim of the system regardless of how they got there.

Literature Review

Michel Foucault defines genealogy as a particular investigation into those elements which "we tend to feel [are] without history" (pg. 139). While the purpose of genealogy is not to create linear path, this thesis goes over a loose timeline for the benefit of analysis rather than an aspect of methodology. Foucault's concept of genealogy is used to understand the creation and maintenance of anti-human trafficking laws and sentiments internationally.

Genealogy looks at norms and power relationships to trace the creation and maintenance of international anti-human trafficking laws. The purpose of norms is to "channel and regularize behavior; they often limit the range of choice and constrain actions" (Finnemore & Sikkink, 1998, pg. 894). Finnemore and Sikkink define norms as "a standard of appropriate behavior for actors with a given identity" (1998, pg. 891). The international system has various actors that participate in the creation of norms and rules. States and government institutions are the first set of actors that contribute to the international system. Each state has its own identity and set of interests that it wants to prioritize as important to the international system. Then there are international organizations, such as the United Nations and Non-Governmental Organizations, and other institutions that play a part in global politics. These various actors function together and interact in accordance to norms already set. Actors are also responsible for introducing new or contradictory norms into the international and domestic system. According to Sandholtz "Actors are not only programmed by rules and norms, but they reproduce and change by their practice the normative structures by which they are able to act, share meanings, communicate intentions, criticize claims, and justify choices" (2008, pg. 102). These behaviors create a coherent reaction to human trafficking internationally but are created in separate states first.

There is a three-stage process to establish international legal norms, starting with norm emergence, then norm acceptance or norm cascade, and finally, norm internalization (Finnemore

& Sikkink, 1998, pg. 894). Norm emergence happens domestically and, as the norm gets accepted in the domestic sphere, it is transported into the international sphere. Norm acceptance relies on a norm cascade where multiple actors accept the norm and pressure other actors to abide by that norm. The end of the norm life cycle is when a norm becomes internalized (Finnemore and Sikkink, 1998, pg. 894-897). Sandholtz agrees that norms are important in the international system, however, the life cycle of a norm is more complicated than Finnemore and Sikkink state. According to Sandholtz, norm internalization is rare in the international community because norms compete with each other. Many norms remain in a state of dispute due to incompleteness or internal contradictions (Sandholtz, 2008, pg. 105). Norms, of any nature, do not exist in a vacuum, rather they are created against and alongside other norms, such as the competing norms of human trafficking versus human smuggling (Finnemore & Sikkink, 1998, pg. 897). There is also a dependence on actors to follow the norms that are created. While deviance from norms from a few actors does not mean the norms stop existing, a large number of deviances from the norms does contribute to the weakening of the norm (Panke & Petersohn, 2012, pg. 722). Once a norm is weakened, it is either changed so that actors in the international system will comply or it will disappear. The 2000s protocol added gender neutral terms in compliance with new activism over human trafficking.

Norm emergence and acceptance relies on speech acts. Actors have to persuade each other why certain norms should exist or be upheld (Kerbs, 2007, pg. 45). There are additional members of the international system than the actors, there is also audiences whom the actors play to (Kerbs, 2007 pg. 45). Arguing and bargaining is a normative process in and of itself, yet it also acts as a way to engage in norm production or reduction with different actors debating the validity of norms existence or want to-be existence in the system (Muller, 2004, pg. 412). States

are upheld to normative standards to determine the validity of actions. If a state deviates from an international norm, then they are likely to justify why the deviation was valid (Sandholtz, 2008, pg. 102). When a state feels the need to justify actions, that means that the norm holds some credibility in the international community. Kerbs furthers the importance of speech acts with norms continuation and production into the international system with the acts of rhetorical coercion. Persuasion is a rare occurrence when it comes to debate, rather than actors trying to get their opponents to agree with them, they are acting toward the audience with the intention of forcing their opponent into a rhetorical corner (Kerbs, 2007, pg. 36). Winning is not agreeing, it is defeating.

The emergence and continuation of norms relies on the power of actors. State power is influential on creating and maintaining norms in the international system. Finnemore and Sikkink mention that critical states are responsible for norm cascades that turn norms into an internalized part of the international system (1998, pg. 901). Yet, powerful states are not only responsible for encouraging norms but also work to weaken norms. Sandholtz also mentions that "the more powerful the actor is the more it will be able to transgress rules without suffering adverse consequences, but violation does not change the norm" (2008, pg. 108). However, if a large number of powerful states ignore norms than that norm is weakened and may disappear (Panke & Petersohn, 2012, pg. 722). For example, powerful States like the United States support sex tourism in Thailand often violating anti-human trafficking laws that were established due to those very States. Norms are productions and consequences of power, not only of states but of institutions and organizations in the international system. Powerful actors may have more opportunities to introduce new norms and weaken older norms. For the creation and maintenance of norms, the powerful actors may change depending on the norm in question during norm

emergence, however, norm internalization shifts power to other actors who have the ability to deviate from the norm without much consequence.

One of the most important aspects of norm creation and least talked about subject in International Studies is power. Barnett and Duvall discuss how power is used in the international system. There are four main types of power that overlap: compulsory, institutional, structural, and productive. Compulsory power, the type of power most studied, is where one actor directly controls another through material (monetary) and nonmaterial (shame) means (Barnett & Duvall, 2005, pg. 43). Such as states pressuring countries to put international anti-human trafficking into their domestic laws. An important component of compulsory power is that it can be used unconsciously. Then there is institutional power where institutions are created to control actors (Barnett & Duvall, 2005, pg. 43). Border control and police task forces created to survey instances of human trafficking. Structural power is defined as social identities given to actors that create power dynamics (Barnett & Duvall, 2005, pg. 43,52). Anti-human trafficking activists, officers, and survivors are social identities that encompass power dynamics of anti-human trafficking. Productive power is exercised through systems of "meaning and significance" (Barnett & Duvall, 2005, pg. 43-55). The information put out by NGO's about who a survivor of human trafficking is and the United Nations defining and regulating anti-human trafficking information is an example. These powers are not separate but are exercised conjointly. These represent the systems of "power over" (where one actor exercises power over another) and "power to" (where actors can use power socially together) (Barnett & Duvall, 2005, pg. 44). Barnett and Duvall allude that power dynamics are often felt more by those at the bottom of the hierarchy (2005, pg. 50). Together, power and norms are used to benefit some actors over others.

Research on anti-human trafficking efforts and theories related to power and cultural norms are often discussed by constructivist theorists within the field of international studies. Constructivism is an epistemology-based theorizing developed by Alexander Wendt. The main maxim of constructivist theorists is that the world is socially constructed. Social construction means that people ascribe meaning to objects, including actors, and act with those objects based on those meanings (Hurd, 2009). While constructivists theorists have done great work, there is limited discussions on power. Usually when the concept of power is discussed there is a focus on how it works more than what it does.

Due to this, I am drawing on Foucault's concept of power. Foucault is largely considered a postmodernist. Postmodern theorists are suspicious of the concept of reason and base their research on how power shapes political and economic ideologies. Therefore, the postmodern approach show how power is utilized in social construction. Power is more than just physical domination; it is more invisible and invasive. Power shapes how knowledge and truth are told. There is a narrative surrounding anti-human trafficking legislation that is formed due to power dynamics. Foucault's notion of power goes beyond types of power used and instead focuses on how power is de-individualized. According to Foucault, power is everywhere and exists beyond individuals and institutions (Foucault, 1998, pg. 63). In *Discipline and Punishment*, power is utilized to create a disciplined society, where members of the society feel that they are watched and thus are more likely to act in accordance to norms (2012). Power is a regime of "truth" that operates outside of structures and agency. Often times, Foucault uses power alongside knowledge because power is constructed and continued through its production and acceptance in forms of knowledge (Foucault, in Rabinow 1991). Power is not inherently negative rather it can be productive and a necessary part of society (Gaventa, 2003, pg.2): however, it does create and

maintain systems that oppress people. Antonio Gramsci pushes Foucault's notions of power further in his concept of hegemony.

While power for Foucault is not coercion, Gramsci perceives power that controls populations as coercion (1971). Hegemony is when a population consents to a direction of social life and social structure. In this instance, consent is used in terms of participation, not necessarily approval. Power does not have to be force and it does not have to be seen. By recognizing Foucault's concept of power in *Discipline and Punish*, power is a tool used to shape accepted and unaccepted behaviors. Added with the concept of hegemony, power does not have to be overt, rather it is invasive and becomes invisible over time. Since anti-human trafficking protocols have been created and maintained since the colonization period and through Western institutions such as the League of Nations and United Nations, there needs to be an analysis as to whether anti-human trafficking legislation internationally is recognized as a universal problem across states and cultures, or if it is more of a tool of power that shapes behavior following the lead of some states over others.

Production of power and maintenance has moved into the control of states (Massad, 2001, pg. 2-5). States monitor and control the inside and outside of those borders. Weber discusses states as having the legitimate use of force (Weber, 2015). Foucault acknowledges that states have more power through biopolitics and biopower. Biopolitics is where states are responsible for creating truth systems through education, media, and knowledge, which define the State and biopower is the enforcement of those ideas. In *History of Sexuality*, Foucault discusses how heterosexuality is a taken-for-granted norm in societies, which is utilized by the state to control populations (1990). The census and concept of the ideal family are examples of biopolitics where the state dictates how people reproduce. (Lemke, 2001). By creating

population counts, states are given access into the reproductive areas of people's lives. The State only recognizes heterosexual couples as the states future and inserts itself into the reproductive health of the population.

Giorgio Agamben mends Foucault's concept of biopower by introducing the notion of sovereignty where a life is included in politics through exclusion becoming a "bare life" (Genel, 2006). "Bare life" is a concept built from Foucault's conceptions of power and Carl Schmitt's conception of sovereignty. Foucault defines sovereign power as right over life and death, and modern power as "fostering life or disallowing it" (Agamben, 1995, pg. 143). Biopower, in Foucault's terms, is the phase after sovereign power. Agamben disagrees with Foucault's idea that biopower exists after sovereign power, but rather that sovereign power and biopower are interrelated (Agamben, 1995, pg. 6-7). The interrelated aspect of biopower and sovereignty are addressed by Schmitt's ideas of the sovereign state having the right to establish the exception to the laws. The sovereign, according to Schmitt, decides when a situation is normal or exception. Since laws can only apply to the normal, the sovereign decides when the laws do not apply. For example, during the Holocaust, the government of Germany protected German citizens except for those who had Jewish or Roma identity. Walter Benjamin expresses that a state of emergency is the rule and is needed for a state of exception to be used, where the law is suspended yet still enforced. Agamben argues that in contemporary politics, the sovereigns' suspension of the law is rule which he defines as abandonment. The law is in force but does not have meaning (Agamben, 1995, pg. 115). This is exemplified in "bare life".

The concept of "bare life" is derived from the distinction between natural life and a particular form of life. Natural life is left to be decided on by households while a particular form of life is decided in politics. While, natural life is excluded, it is implicated by politics. To

Agamben, natural life is politicalized through abandonment or unconditional power of death exercised by the sovereign. “Bare life” is neither natural life nor a particular form of life represented in politics. Rather it is a “life exposed to death” (Agamben, 1995, pg. 88). It is forced to act by the law of the sovereign while being unprotected or unrecognized by the laws. Slavery in the United States would be an example of “bare life” where slaves were subjected to laws but were excluded from legal protections.

Achille Mbembe continue this discussion through the creation of necropolitics. Mbembe builds on Foucault’s concepts of power to develop his theory of necropolitics. Unlike Foucault, Mbembe is a postcolonial scholar. Postmodern scholars focus on issues of power in an abstract way while postcolonial scholars work on applying theories to understand and change power dynamics in practice. Necropolitics is how contemporary forms of subjugation of life are impacted by the sovereign power of death. Death can mean literal death but is more expansive to include exposure to death, and social and civil death. The result of necropolitics is people’s deaths due to sovereign power and/or people literally alive but politically dead, otherwise known as the walking dead. This further alters biopower from a state’s power over life to a state’s power over death. Necropolitics has two main forms: state of exception and state of siege (Mbembe, 2003, pg. 16). The State of exception is detailed by Agamben’s notions of abandonment. State of exception is where a defined group of people are considered outside and within the system at the same time. Mbmebe uses the concept of slaves, where slaves were treated as tools for production within laws and institutions. Then there is the state of siege is where entire populations are the target of the sovereign and is an aspect of military institution. “It allows a modality of killing that does not distinguish between the external and the internal enemy” (Mbmebe, 2003, pg. 30). The

state of siege is where populations are controlled to the point of "bare life" or as Mbembe puts it the "living dead".

When looking at examples of human trafficking, populations that are defined as the living dead can be traced back to colonialism, specifically the colonization of Africa and Asia. European sovereignty and governance were created and maintained through the use of colonial domination (Morton, 2008, pg. 184). Law was used a colonial tool and maintained its symbolic and institutional power to the present (Massad, 2001). Law is the nexus of power types because it is the agreed upon rules of construction of societies. Race and gender are then defined and redefined by colonial powers. Foucault states, "Racism first develops with colonization, or in other words, with colonizing genocide" (Cisney and Morar, 2015, pg. 257). Race and gender are thus dictated and controlled by the state whereby the politics of life and death are intertwined. International power between states is tied to colonial practices. Politics of life and death are established internationally in the United Nations.

The United Nations is an organization with members of various states. While the purpose of the United Nations is to create peace and cross-cultural communication to prevent World Wars, it is also an international institution fashioned from western thought to govern global politics. There are six main branches of the United Nations, General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat. International law is negotiated and established primarily in the General Assembly (International Law and Justice, 2019). International law is when different states agree on laws that should transcend boundaries, however, power still impacts how laws on the international scale are created. Anti-human trafficking laws are not immune from problems implicated in creation and execution of international law. Anti-human trafficking laws where

created by European countries and the United States within the United Nations. Before international law on human trafficking was created, Thailand had active organizations helping survivors of human trafficking. Since international law focuses more on law enforcement and criminalization of human trafficking, Thailand is in a position where it has to focus more on United Nations law than its own domestic efforts.

Human rights in international law have been critiqued for continuing United States and European Imperialism into other states such as India, African, and Middle Eastern countries (Otto, 1998). Countries who ratify human rights laws are pressured into creating domestic versions of the law into their own states and those that refuse to sign human rights laws are chastised by the international community (Sarkin, 2018). Countries that critique human right laws believe that it contradicts the United Nations protection of sovereignty (Hafner-Burton, E. M., Mansfield, E. D., & Pevehouse, J. C, 2015, pg. 5-16).

Methodology

The methodology of this work is a historical analysis inspired by the concept of Genealogy. Genealogy was first used by Nietzsche to understand where the concept of morality came from and the method was further used by Foucault. In Foucault's work, *Discipline and Punishment*, genealogy is used as opposed to archaeology for understanding where ideas come from and how these ideas become normative (2012). Genealogy is looking at the "history of the present" (Garland, 2014, pg.367, 372-374). The question focused on in genealogy is how have we gotten to our current situation? The question of this work is, how does the international formulation of anti-human trafficking laws internationally impact states domestic power, and those in human trafficking situation rights?

In order to trace the genealogy of international human trafficking laws, I will look at the historical progression of anti-human trafficking laws in the international system and historical overview of activism that formed the modern anti-human trafficking law: the “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime”, and analyze the language and discourse used in the protocol to understand the concepts and ideas used to address the issue of human trafficking globally.

Chapter Two: Beginning of Anti-Human Trafficking Sentiments

For decades there has been enormous attention surrounding anti-human trafficking legislation internationally. "The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" is the most recent form of international anti-human trafficking legislation. The Protocol has become universally accepted as how to deal with human trafficking. It is not the first protocol of its kind and has become a taken-for-granted norm on an international scale.

The international laws around anti-human trafficking are older than initially stated by activists and political organizations. Anti-human trafficking norms start in the 1800s and are cocreated alongside international pro-slavery laws. Foucault's concept of power is prevalent in this case sense, human trafficking is currently considered a continuation of the Transatlantic Slave Trade. This lack of historical understanding that human trafficking is an inherently different legal framework from slavery is a sign of power.

Foucault's concept of power in relation to genealogy is an in-depth review of historical events, as well as philosophical ideas that shape how an idea is created and maintained. Human trafficking is shaped by the philosophical ideas of freedom and slavery and is situated in history of philosophies of colonialism. These philosophies were consciously or unconsciously used in the creation of anti-human trafficking laws internationally. Power to create truth about human trafficking started with Europeans, specifically, those that colonized Africa and Asia. The fact that human trafficking was created as separate from slavery is a sign that those European powers remain in control of the story and truth of human trafficking.

The First section of this chapter discusses the beginning of anti-human trafficking laws internationally, starting in the 1800s. This section incorporated Enlightenment views on freedom

and how those views were incorporated into law. The second section is an analysis of the history of anti-human trafficking laws in the international system up until the 2000s protocol. The third section is modern changes in philosophy of freedom that impacted the recreation of anti-human trafficking laws internationally. There is in-depth analysis of *United Nations Convention against Transnational Organized* including both the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children" and the "Protocol against the Smuggling of Migrants by Land, Sea and Air".

Section One

Enlightenment, Freedom and the Working Class: Philosophical Components of Human Trafficking 1800s.

Today, people use the phrase human trafficking and the word slavery interchangeable. In fact, human trafficking is often described as modern-day slavery. However, anti-human trafficking sentiments existed before slavery was abolished and international law against human trafficking was created during colonialism in the 1880s (Hughes, 2013). Enlightenment philosophies impact how activists addressed law makers and how anti-human trafficking sentiments were perceived. Freedom is a fundamental aspect of the Enlightenment era which is drawn on to discuss slavery and human trafficking from then into modern times.

Enlightenment is where the notion of liberty was crystallized and believed to be a natural human right whereby science and reason is responsible for human progression. The social contract was one of the inventions of the Enlightenment era. The social contract is where modern day concepts of freedom and slavery come from. Liberal thinkers, or those who prescribe to Enlightenment philosophies, believe in a firm line between freedom and slavery. Freedom granted by the social contract is believed to be how liberal democracies participate in economic

and political arrangements whereby slavery is thought of as a past pre-capitalism arrangement (Davidson, 2010, pg. 245-246). The binary is established between freedom and slavery. However, theoretical binaries do not represent reality.

During the Enlightenment era, slavery and indentured servitude were still in practice and legally recognized. Freedom for individuals was made more complicated by the use of contracts between employers and employees, since a signed contract created master/slave relationship. If employees decided they no longer wished to work for their employer, they could be imprisoned, and employers had rights to force (such as floggings) over their employees (Steinfeld 1991, pg. 4). These legal restrictions existed in both English and United States colony laws. Indentured servitude was viewed as an "illegitimate restriction on individual freedom" in the early 1900s (Steinfeld 1991). The Masters and Servants Act, established in England and Canada, made it so that factory and agricultural workers who were absent or deserted would be punished by imprisonment. This Act was not abolished until 1875 in England and 1877 in Canada, however, it was still used in colonies until the twentieth century (Craven and Hay 1994: 88). "Indeed, the employment contracts imposed on supposedly 'free' workers in the colonies were often but 'a fig leaf concealing actual slavery', or 'enslavement … masked by a legal transaction: the agreement between the slave owner, designated in the contract as the hirer, and the slave, designated in the contract as the seller of labour" (Davidson, 2019, pg. 247; Nzula et al. 1979: 82; see also Cohen 2006). "Free" workers were pressured into signing contracts that subjected them to forced labor or imprisonment and/or physical abuse. Slavery was also enforced during the Enlightenment era where the hierarchy of races was used to justify labor exploitation and abuse of African and Asian people. Science was used to falsely describe people or color as fundamentally different from Europeans and therefore less human thereby justifying slavery.

England had twenty-eight statutes that address vagrancy from 1700 to 1824. Vagrants could be imprisoned and punished with hard labor or forced to serve in the navy during war time. The laws were meant to address the "ebb and flow" of seasonal or surplus workers (Rogers 1994: 106-107). Vagrancy laws were also used in colonies, especially after the end of official slavery to keep labors "dependent on plantation owners" (Cohen, 1987, pg. 8). Prostitutes freedom of movement was also restricted in England and colonies. Those believed to be prostitutes were subjected to be placed in reform institutions. They were closely monitored and experienced labor exploitation as well (Bartley 2000). While the Enlightenment movement is credited for the conceptual notion of freedom, freedom is still subjected to restrictions, especially for the working classes.

Anti-human trafficking treaties can be traced back to the 1880s, when laws started to somewhat reflect Enlightenment thoughts on freedom in colonial cores such as England. Indentured servitude laws were falling out of favor; however, colonialism and slavery was still justifiable. The 1880s, when anti-human trafficking treaties began was also the time of New Imperialism era of colonialism. This is characterized by expansion of Europe, United States, and Japan; States' focused on building their empires and were concerned about conquering Africa and Asia from 1870 to 1914. This conquest was desired due to rivalries between those considered to be great powers, economic desire for more resources, and "civilizing' doctrine (Louis, 2006, pg. 910). This is the time period where major world powers came together to attempt peaceful cooperation.

Start of Anti-Human Trafficking Sentiments Internationally – White Slave Trade.

Today, people use the phrase human trafficking and the word slavery interchangeable. In fact, human trafficking is often described as modern-day slavery. However, anti-human

trafficking sentiments existed before slavery was abolished and international law against human trafficking was created during colonialism in the 1880s (Hughes, 2013). Enlightenment philosophies impact how activists addressed law makers and how anti-human trafficking sentiments were perceived. Freedom is a fundamental aspect of the Enlightenment era which is drawn on to discuss slavery and human trafficking from then into modern times.

Enlightenment is where the notion of liberty was crystallized and believed to be a natural human right whereby science and reason is responsible for human progression. The social contract was one of the inventions of the Enlightenment era. The social contract is where modern day concepts of freedom and slavery come from. Liberal thinkers, or those who prescribe to Enlightenment philosophies, believe in a firm line between freedom and slavery. Freedom granted by the social contract is believed to be how liberal democracies participate in economic and political arrangements whereby slavery is thought of as a past pre-capitalism arrangement (Davidson, 2010, pg. 245-246). The binary is established between freedom and slavery. However, theoretical binaries do not represent reality.

During the Enlightenment era, slavery and indentured servitude were still in practice and legally recognized. Freedom for individuals was made more complicated by the use of contracts between employers and employees, since a signed contract created master/slave relationship. If employees decided they no longer wished to work for their employer, they could be imprisoned, and employers had rights to force (such as floggings) over their employees (Steinfeld 1991, pg. 4). These legal restrictions existed in both English and United States colony laws. Indentured servitude was viewed as an “illegitimate restriction on individual freedom” in the early 1900s (Steinfeld 1991). The Masters and Servants Act, established in England and Canada, made it so that factory and agricultural workers who were absent or deserted would be punished by

imprisonment. This Act was not abolished until 1875 in England and 1877 in Canada, however, it was still used in colonies until the twentieth century (Craven and Hay 1994: 88). "Indeed, the employment contracts imposed on supposedly 'free' workers in the colonies were often but 'a fig leaf concealing actual slavery', or 'enslavement … masked by a legal transaction: the agreement between the slave owner, designated in the contract as the hirer, and the slave, designated in the contract as the seller of labour" (Davidson, 2019, pg. 247; Nzula et al. 1979: 82; see also Cohen 2006). "Free" workers were pressured into signing contracts that subjected them to forced labor or imprisonment and/or physical abuse. Slavery was also enforced during the Enlightenment era where the hierarchy of races was used to justify labor exploitation and abuse of African and Asian people. Science was used to falsely describe people or color as fundamentally different from Europeans and therefore less human thereby justifying slavery.

England had twenty-eight statutes that address vagrancy from 1700 to 1824. Vagrants could be imprisoned and punished with hard labor or forced to serve in the navy during war time. The laws were meant to address the "ebb and flow" of seasonal or surplus workers (Rogers 1994: 106-107). Vagrancy laws were also used in colonies, especially after the end of official slavery to keep labors "dependent on plantation owners" (Cohen, 1987, pg. 8). Prostitutes freedom of movement was also restricted in England and colonies. Those believed to be prostitutes were subjected to be placed in reform institutions. They were closely monitored and experienced labor exploitation as well (Bartley 2000). While the Enlightenment movement is credited for the conceptual notion of freedom, freedom is still subjected to restrictions, especially for the working classes.

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New Imperialism is established after the American Revolution and the end of the Spanish Empire in Latin America. There were tensions among great powers, as the Franco-Prussian war caused territorial changes and the breakdown of the Concerto of Europe established in the Congress of Vienna. Furthermore, Britain became the main industrial state. To rectify the imbalances of power, the great powers had a conference in Berlin in 1884-1885 (Katzenellenbogen, 1996, pg. 21-34). The purpose of the Berlin Conference was to create international recognition of territorial claims of Africa. Fifteen nations were represented but France, Germany, Great Britain and Portugal were the main beneficiaries (Louis, 2007). There were no representatives from Africa at the conference. Africa was divided into fifty different colonies and who was to control each colony, without consideration of cultural or linguistic differences already established. To gain public acceptance, there was a push to end slavery in African and Islamic states (not the European slave trade) (Craven, 2015, pg. 31-59). This conference started the scramble for Africa. While New Imperialism was underway and Colonial powers were establishing colonies in Africa, anti-human trafficking laws started to be established.

Section Two

Activism and Laws from 1889 to 1956 – Against White Slavery.

Some of the first treaties pertaining to anti-human trafficking started in 1885 with England and Wales (Lammasniemi, 2017). Anti-human trafficking activism is thought to start with Josephine Butler in 1828 with the first agenda to end England's Contagious Diseases Act (CDA) (Hughs, 2013). The CDA required prostitutes to register and be regularly examined for sexually transmitted diseases. Women were often held against their will until they were deemed "clean". Those that agreed with Butler and wanted to end the CDA also considered themselves abolitionists. Butler and her supporters started the International Abolitionist Federation (IAF) in 1875 and deemed women and girls being moved to brothels in other countries as a form of slavery (Hughes, 2013). The focus of the group was on English women and girls, and expanded to other European women and girls, which is where the term the "white slave trade" comes from. In 1883, the CDA was repealed which is considered the first victory of the IAF (Hughes, 2013).

White Slavery is a term first brought about in 1881in the a special Select Committee of the House of Lords created to focus on the Law Relating to Protection of Young Girls in relation to trafficking (Lammasniemi, 2017). The Committee was founded after Alfred Dyer wrote about the trafficking of English girls in other European countries. However, Dyer's work received international attention and is considered a scandal as the work *European Slave Trade in English Girls* detailed girls from the United Kingdom obtaining false identifications and going to Belgium where they were exploited in brothels. People refuted Dyer's work saying the women traveled and worked in brothel's willingly and Scotland Yard stated that it did not see a pattern of trafficking (Lammasniemi, 2017). However, the work alongside the activism sparked the need for international attention to the issues of trafficking.

The Dyer's scandal is an important aspect of international human trafficking laws and is often left out of the literature. Belgium experienced major international attention and upheaval due to the scandal. At the time, many European countries prescribed to the notion that prostitution is a necessary evil, that should be controlled by the state for public health and safety reasons. Belgium used the "French system" that was spread throughout Europe during the Napoleonic Wars where prostitutes were required to register with the Municipal police (Chaumont, 2011). The police were granted the right to imprison prostitutes without judicial overview. Regulation of prostitution in Brussels was hyper vigilant, and internationally studied with the purpose of recreating the regulations in other cities around the globe which is best exemplified by Buenos Aires (Chaumont, 2011). However, in the 1850s legal brothels started to decline while illegal prostitution started to rise. The trend continued into the 1870s.

The National Vigilance Association (NVA) was an anti-trafficking group which was evangelical and found moral purity of the utmost importance. They campaigned at a rally in Hyde Park in London for the 1885 Criminal Law Amendment Act (CLAA) and shaped the term of white slavery (Lammasniemi, 2017). White-ness is not only based on race, it is also based on class, nationality, religion, and notions of purity. The NVA believed prostitution was de-whitening and stated, "cheapening of white womanhood is one of the worst features of White Slave Traffic" (Lammasniemi, 2017). Cheapening of white womanhood extended to the cheapening of the British Empire. Since the creation of CLAA was during the New Imperialism, I argue, that the importance of moral purity is a product of the colonial mentality, where the colonized had to be taught to be civilized. Prostitution is considered immoral and something the uncivilized do which is in direct opposition to how certain Britain's viewed themselves.

A proposal in 1877 by Lenaers, police commissioner of Brussels changed unofficial rules of brothels. Underage women were allowed to be prostituted but had to work on the streets, which is where the illegal prostitution was happening. Lenaers suggested that the police ignore underage girls working in brothels so that brothels could compete with illegal prostitutes. However, the underage girls could not be virgins (Chaumont, 2011). Women from other countries that entered Belgium to work in Brothels could show certifications. Since England and Wales had no prostitution certification, they could not be proven to be non-virgins. Trials began in 1877, in Belgium showing stories of British women lured to Belgium for job opportunities, only to be forced into the brothel system (Chaumont, 2011). During the trials, fifteen or so brothel keepers were sentenced to incitement of minors to immoral behavior, the police commissioner was dismissed, and the mayor was forced to resign. The League of Nations cites this scandal as the first fight to end trafficking (Chaumont, 2011). Belgium response was the beginning of perceptions on how to handle the issue of trafficking. The scandal sparked the need for international treaties to address trafficking in 1899.

The International Congress on the White Slave Trade in 1899 happened in London hosted by the NVA, as a direct response to the Dyer Scandal. The purpose of the Congress was for governments that were interested to:

1. To punish, and as far as possible by penalties of equal degree, the procuring of women and girls by violence, fraud, abuse of authority, or any other method of constraint, to give themselves to debauchery, or to continue in it; and in cases were persons are accused of this crime:
2. To undertake simultaneous investigations into the crime when the facts which constitute it occur in different countries.

3. To prevent any conflict of jurisdiction by determining the proper place of trial.
4. To provide by International Treaties for the extradition of the accused (National Vigilance Association, 1899)

These provisions were established due to the lack of domestic and international laws pertaining to trafficking. The Congress also established that a government could take over leading the conferences on the issue and to oversee execution of the provisions. France was thus asked to be the diplomatic government in charge of anti-trafficking and convened the *International Conference on the White Slave Traffic in 1902* (Allian, 2017, pg. 4).

The International Conference on the White Slave Traffic of 1902 was primarily attended by Europeans, with Brazil as an exception. During the drafting, there was concern by members over the term of "white" where several members thought it should be excluded. However, it remained in the title and preamble because "it indicates the traffic which is to be suppressed in a manner which everyone will understand, and because it would be difficult to find an alternative" as stated by the French Jurist Renault (Allain, 2017, pg.8). Wording the White Slave Trade was explicit in defining who was being protected consciously by the drafters, by specifying European women. It was further stated that trafficking flow was from the North to the South (Allain, 2017, pg. 8).

The provisions of the Conference were established, first the criminalization of traffickers where "Severely punished will be any person who, to satisfy the passions of another, shall have procured, enticed or led astray, even with her consent, an underage girl, with immoral intent" and second "Equally will be punished any person who by violence, threats, abuse of authority, compulsion or fraud will have procured, enticed, or led astray a woman or a girl over age, with immoral intent" (Allain, 2017, pg. 10). These provisions came from domestic laws already

established in some states regarding prostitution and debauchery of minors (Allain, 2017, pg. 11). There were delegates that wanted to discuss the end of prostitution, however, that question was purposefully avoided.

The 1902 Conference ended with a Final Protocol meant to be the guidelines for how states should enact the agreements at the Conference. The Final Protocol was not binding and again the issue of age was addressed. Since, the first article discusses women or girls under the age of consent and the second article address women over age of consent, many states were on disagreement whether that distinction should be made (Allain, 2017, pg. 14-15). The 1902 Conference did not come to agreement on a specific age. Thus, it was encouraged for individual states to create domestic legislation that it felt best upheld the convention even if it was stricter than the conference detailed (Allain 2017, pg. 16). Another issue faced at the conference was how to punish traffickers. Traffickers could not be punished internationally without being punished domestically first. A distinction was made between internal and external trafficking which carries on into today. External trafficking cannot be punished if internal trafficking is allowed, therefore both require domestic legislation in states (Allain, 2017, pg. 17). The Conference aimed at defining an international crime. The Russian delegate Mr. Malewsky-Maléwitch brought the issue that the proposal intervened in the domain of domestic legislation. Renault agreed which ended the discussion of how to handle women or girls held in brothels against their will (Allain, 2017, pg. 17). The Final Protocol was written vaguely purposefully so that states sovereignty was respected. The proposal was then tabled for eight years.

The *1904 International Agreement for the Suppression of the White Slave Traffic* was signed by 26 states. It was noted in the 1904 Agreement is the that there are two aspects of the 1902 Conference which are binding proposals (aspects of the protocol states had to abide by) as

objective legislative measure and administrative measures; and non-binding proposals (optional aspects of the protocol) issues that are resolved domestically rather than internationally (Allain, 2017, pg.19). Proposals at the end of the 1902 agreement spoke to administrative tasks such as:

4. The supervision of the departure and arrival of persons suspected of the denounced practices, and of their victims; the transmission of information to the Governments concerned respecting the domicile of the latter, and their repatriation;
5. The instructions to be given to the Diplomatic or Consular Agents of the various foreign Governments (Allain, 2017, pg. 19)

The Report of the Administrative Convention put their suggestions in form of resolutions rather than legal action. These resolutions focused on monitoring borders for signs of white slave traffic by individual states and communication required if white slave traffic was found. In 1904, these resolutions were converted into a Draft Agreement between states. Each state was required to establish an authority on information of white slave traffic specifically in regard to "the procuring of women or girls for immoral purposes abroad" (Allain, 2017, pg. 20). As well as, to monitor behaviors listed in the Resolution, to interrogate foreign prostitutes, to assist in sending victims and foreign prostitutes back to their country of origin, and to supervise employment of women and girls abroad (Allain, 2017, pg. 20). The 1904 Convention ratified the 1902 resolutions in practical international law whereby states redesigned or created legislation to create the administrative bodies necessary to monitor and return victims of the white slave traffic.

The United States passed White-Slave Traffic Act or The Man Act, in 1910. The Mann Act made transportation of "any women or girls for the purpose of prostitution or debauchery, or for any other immoral purpose" across interstates or national borders a felony. The vague

language of The Mann Act, particularly with the word immoral, ended up with consensual sexual relationships between adults to be criminalized ("Mann Act", 2003). The Mann Act was created out of social concern for white slave traffic, where the white slave narrative was being passed around in pamphlets and books. These narratives focused on white girls being victimized by secret and powerful foreigners (Bell, 1910). This activism influenced United States participation in the 1910 convention.

The *1910 International Convention for the Suppression of the White Slave Traffic* was signed by 41 states and was enforced in 1920. Initially, the 1910 Convention was called by the German Ambassador. Since there was to be a convention over obscene publications in 1910, the German Imperial Government wanted to reopen conversations over the White Slave Trade because it felt that the 1902 convention established means to address vices (Allain, 2017, pg. 23). The French Ambassador agreed to reopen discussions on the 1902 Convention only for reservations from states, not to rewrite the Convention (Allain, 2017, pg. 23). A majority of countries having reservations over treaties at the time meant that the treaties were not upheld. Thus the 1902 and 1904 conventions were not established international law since many states had reservations about the integration of international agreements into their domestic laws. The only way the convention could continue in international law was if the states all reconvened and talked through the reservations (Allain, 2017. Pg. 24).

There were two issues brought up in the 1910 convention; the first was procedural cooperation between states over criminal matters. The second issue was age of victims. Procedural problems were addressed by incorporating the different countries already established communication lines as all valid, such as Letter of Requests to communication from judge to judge (Allain, 2017, pg. 24). Age of victim remained a difficult topic. Language differences

caused issues in how the convention was translated, creating different meanings to different countries. Hungarian delegate requested to have Articles 1 and 2 reopened for discussion, however, since the delegates waited for the convention, there was not enough notice to the other states. Instead, a sub-committee was created to readdress the issues of minor and majority age. The age issue was resolved by creating a minimum age at twenty, where states could adjust the age of protection higher but not lower and the age had to apply to all nationalities (Allain, 2017, pg. 25-27). The countries that initially ratified the treaty were European. The non-European states that ratified the treaties either acceded to the treaties or were colonies forced to adhere to the international agreements (UN, United Nations, UN Treaties, Treaties: International Convention for the Suppression of the White Slave Traffic, 1910). European countries (with the exception of the Balkans), United States, and Russia were the primary protected countries. The definitions and comprises made in 1904 and 1910 treaties can be found in the 2000s protocols despite the early treaties were superseded by the 1950 convention when the League of Nations took over international law.

The 2000s protocol often gets cited as the first protocol defining trafficking, however, the 2000s protocol took the definition established in 1902. *The International Conference on the White Slave Traffic of 1902* defined white slave traffic as "…committed by any person who, to satisfy the passions of another, has procured, enticed, or led astray a woman or girl, with immoral intent." Further, "'to "procure"' is to invite or lead the woman or girl to become a prostitute; to '"entice"' is to take her away with or persuade her to follow; to '"lead astray"' is to remove her illegally from her surroundings" (Allain, 2017, pg. 9). The Conference differentiated between women and girls whereby "the crime exists even with consent; as for a woman, the crime exists only where violence or threats have been visited upon her, or where she has been

deceived". Minors are viewed as needing to be protected by the state even from themselves (Allain, 2017, pg. 9).

Anti-Human Trafficking and the League of Nations.

The League of Nations formed in 1920 after the end of World War I to establish peace. During the Paris Peace Conference there was unanimous agreement to create the League of Nations established in the Treaty of Versailles. This is one of the first instances of where the idea of collective security became practical in the international setting. The United States President Woodrow Wilson proposed the idea of the League of Nations at the Peace Conference. At the time of the League of Nations, the United States established itself as a world power. President Wilson listed 14 points to be heeded by the League of Nations. Nine of the fourteen points alluded to end of colonization. Since colonization was still prevalent at the time, the power dynamics remand uneven between European powers and colonial territories. Yet, colonies remained in the control of great powers rather than being granted independence.

The League of Nations were given mandated territories. The League of Nations mandate was the legal instrument whereby control of one country was given to another ("Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276, 1971.) The Mandate system was based on the idea that old colonial territories should have their own sovereignty but were not capable of adapt to current international affairs, therefore they were given as mandates to more powerful countries to help them adjust to their new situation. Essentially this transferred colonial territories from those in the Axis powers (Germany and the Ottoman Empire) to those in the Allied powers (The Covenant of the League of Nations, 1998). Essentially, the League of Nations

reformed colonialism where colonies were watched by international organization rather than one state.

The League of Nations took control of anti-human trafficking norms in 1921, creating the *International Convention for the Suppression of the Traffic in Women and Children*. The League of Nations took the term “white” out of the title to be more inclusive of race and ethnicity. The change of the name also marked the transformation of trafficking from a domestic issue to an international one. This is a multilateral treaty that addressed human trafficking and is considered one of the successes of the League of Nations (Kershaw, 2015, pg.249). Anti-human trafficking legislation in the League of Nations came from women’s rights groups that lobbied for representation in the international organizations. Women’s Union for the League of Nations was recognized by the League of Nations in the 1920s. Unlike other organizations of the League of Nations, the Women’s Union believed peace would be brought about through legislation and lobbied for anti-trafficking and women rights legislation in the League of Nations (Doucet, 2015). The *International Convention for the Suppression of the Traffic of Women and Children* reiterated many of the 1910’s ideals such as Article 6: "The High Contracting Parties agree, in case they have not already taken licensing and supervision of employment agencies and offices, to prescribe such regulations as are required to ensure the protection of women and children seeking employment in another country." However, the 1921 convention expanded the government’s monitoring of women’s movement and employment. Article 7 of the convention states that governments should "undertake in connection with immigration and emigration adopt such administrative and legislative measures as are required to check the traffic in women and children. In particular, they undertake to make such regulations as are required for the protection of women and children travelling on emigrant ships, not only at the points of departure and

arrival, but also during the journey and to arrange for the exhibition, in railway stations and imports of notices warning women and children of the traffic and indicating the places where they can obtain accommodation and assistance." Where women and children are monitored their entire journey of travel rather than at ports and borders.

In response to the continual issue of age and lack of protection for adult women and men in the 1921 Convention, in 1933 the League of Nations added, the *International Convention for the Suppression of the Traffic in Women of Full Age (*Berkovitch, 1999, pg. 75). Essentially, these conventions officially recognized human trafficking as an international problem and created an Advisory Board where information could collect on member nations. The board was made up of nine states, and primarily focused on the United States and Europe. Non-governmental organizations and member states had their own offices to track and collect information about human trafficking in their domestic space (Berkovitch, 1999, pg. 76). While the Advisory Boards was made of government delegates and five non-government assessors, the Board also used lawyers and criminal experts, labor legislation experts and psychiatrists. Non-government assessors did not have voting rights, but they were able to sponsor resolutions, reforms, debates and add to the agenda. The task of the Advisory Board was to ": compilation of information on traffic; supervision of the efforts made by the signatories to conform to the international agreements on traffic; control of the situation with regard to the signatures of the 1921 Convention; and the monitoring of agencies engaged in finding employment for women abroad" (Garcia, 2012, pg. 104). The committee was divided on issues such as legal prostitution.

In 1929, there was recognition that the Advisory Board needed to expand into Asia and the Middle East, but action was not fully taken (Berkovitch, 1999, pg. 77). There were reservations about colonies, protectorate and mandated territories having to adhere to the

convention by Australia, the British Empire, Japan, Spain, and New Zealand. Additionally, India, Japan and Thailand were considered with the first age limit of under 21 for those that are trafficked.

The NVA, one of the main organizations that was responsible for the 1899 Convention which eventually led to the 1910 Convention in anti-human trafficking reformed into International Bureau for the Suppression of Trafficking in Women and Children (IBSTWC) in 1921 (Gorman, 2007, pg.12). This group was considered a domestic pressure group that continued to Lobby the League of Nations for signatories on the 1921 convention. Results of the groups lobbying is 1927 report that tracked traffickers and prostitutes creating a detailed account of the human trafficking trade. After War World II the group became an international NGO. Human trafficking then became a humanitarian issue as there was "the emergence of internationalism as a foreign policy ideal, and the increased attention paid by British imperialists to humanitarianism" (Gorman, 2007, pg.12). Association for Moral and Social Hygiene (AMSH) and the IBSTWC worked together to create social relief campaigns and partnered with foreigner organizations to combat human trafficking (Gorman, 2007). International Activists remained integral to anti-human trafficking legislation. When the League of Nations disbanded in 1946, the United Nations took over the anti-human trafficking Protocols.

The United Nations and Anti-Human Trafficking: Before 2000s Protocol.

After World War II the Empire could no longer support and control their colonies, the majority of colonies started to gain independence and become their own states.

The United Nations was formed in 1942 during World War II to fight against the Axis powers. In 1945, the United Nations was established as the international peace organization

going from 26 members to 50 members. In 1947, the United Nations took over the international concern of human trafficking. The United Nations made amendments to the 1921 convention that was ratified by 46 countries. In 1949, *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* revised the 1910 treaties and superseded the 1947 protocol (Convention for the Suppression of the Traffic in Persons, 2012). Ninety-Five countries ratified this treaty. This treaty was different from the ones before in three ways. First, it recognized prostitutes as victims of their buyers. Secondly it is both race and gender neutral. Thirdly, human trafficking was not restricted to international borders (Convention for the Suppression of the Traffic in Persons, 2012). There were reservations to this protocol because disputes over human trafficking would be referred to the International Justice Court, and legal prostitution, which is permitted in Greece, Turkey, Germany, and the Netherlands, among others, is unrecognized in the protocol (Bantekas, 2003, pg. 6). Despite language that was more inclusive of who was protected, the limited scope of the protocol continued to cater more towards England's and United States' attitudes against prostitution.

The first Anti-human trafficking law addressed by the United Nations is the *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery* in 1956. The preamble of the 1956 convention starts with the sentence "Considering that freedom is the birthright of every human being" revitalizing the enlightenment concept of freedom to their approach to slavery. The Convention recognizes the end of the official slave trade in 1926 ("Supplementary Convention on the Abolition of Slavery.", 2019). The first article addresses the abolishment of institutions and practices similar to slavery. This includes debt bondage defined as " the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a

debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined" ("Supplementary Convention on the Abolition of Slavery.", 2019). Serfdom is another slave-like institution to be abolished, where serfdom is defined as "the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status" ("Supplementary Convention on the Abolition of Slavery.", 2019). Practices where a woman is given to someone as a form of payment or inheritance or a child is used as payment or form of labor.

Article two establishes that States are set minimum ages for marriages to encourage consent by both parties. Article three addresses the slave trade, it is first established that transporting slaves from one country to another is not acceptable. Second, that States will prevent and punish their own from engaging in transporting slaves and will monitor their ports and airports for signs of slave traffic. Third, States will communicate and share information about signs of slave trade ("Supplementary Convention on the Abolition of Slavery.", 2019). Article four states that any person taking refuge from slavery on state parties' vessels is considered free. The fifth Article criminalizes the branding of persons to indicate their status as slave. Article six criminalizes those that engage in economic benefit from slaves ("Supplementary Convention on the Abolition of Slavery.", 2019).

Article seven defines slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, and "slave" means a person in such condition or status" and adds definitions to the Convention of 1926 of "a person of servile status" which is defined as "means a person in the condition or status resulting from any of the

institutions or practices mentioned in article 1" of the Convention ("Supplementary Convention on the Abolition of Slavery.", 2019). The article also defines the slave trade which "includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a person acquired with a view to being sold or exchanged; and, in general, every act of trade or transport in slaves by whatever means of conveyance" "Supplementary Convention on the Abolition of Slavery.", 2019).

Article eight establishes the communication between states. Article nine states that no reservations are to be made to the convention. Therefore, any State with any issues with any part of the convention is silenced. Article ten establishes that any dispute over the article which can not be resolved between states is referred to the International Court of Justice by one party. This is a reservation for many states in several other Conventions. Article eleven is specifications of ratification. Article twelve requires the ratification of the Convention in colonies, non-self-governing trusts, and non-metropolitan territories ("Supplementary Convention on the Abolition of Slavery.", 2019). Article thirteen through fourteen specifies the time length of the convention and ratification, and article fifteen states "Chinese, English, French, Russian and Spanish texts are equally authentic" ("Supplementary Convention on the Abolition of Slavery.", 2019).

The United Nations also formed the International Labour Organization (ILO) to promote social justice in 1998. Four of the eight fundamental principles of the ILO are concerning forced labour; *The Forced Labour Convention of 1930, Abolition of Forced Labour of 1957, Minimum Age Convention of 1973, and Worst Forms of Child Labour Convention of 1999*. The *Forced Labour Convention* defines forced labour as ""all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself

voluntarily", however, military service and punishment of criminals is excluded ("C029 - Forced Labour Convention, 1930 (No. 29), article two and eleven, 2019). "Adult able-bodied men" are also excluded from the convention. The government of Thailand was the only country to vote against the convention and the United States has yet to ratify the convention (Nebehay, 2014). Ultimately, the Convention started steps to prevent forced labour and punish those that use forced labour.

The Abolition of Forced Labour of 1957 modifies The Forced Labour Convention of 1930 where certain forms of forced labour is cancelled. States are not to use force labour:

> (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
>
> (b) as a method of mobilising and using labour for purposes of economic development;
>
> (c) as a means of labour discipline;
>
> (d) as a punishment for having participated in strikes;
>
> (e) as a means of racial, social, national or religious discrimination (C105 - Abolition of Forced Labour Convention, 1957 (No. 105), 2019).

This Convention set up a task force called the Special Action Programme to Combat Forced Labour. Malaysia and Singapore ratified the convention but have since denounced it (C105 - Abolition of Forced Labour Convention, 1957 (No. 105), 2019).

The Minimum Age Convention of 1973 establishes the minimum age for people to work in countries to be fourteen or fifteen. Persons of the ages of thirteen to fifteen are allowed to

work as long as the labour is not harmful to either health or schoolwork. Eighteen is the minimum age where persons can work "is likely to jeopardise the health, safety or morals of young persons" ("C138 Minimum Age Convention, 1973."). In the *Worst Forms of Child Labour Convention of 1999*, a child is considered under the age of eighteen ("C182 - Worst Forms of Child Labour Convention, 1999", art. 2). The worst forms of child labour encompasses slavery or slave-like practices, prostitution, used for illicit drugs and "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children" ("C182 - Worst Forms of Child Labour Convention, 1999", art. 3). These Conventions set up preliminary guidelines for the 2000s protocol.

In 2000, the United Nations created another anti-human trafficking protocol within the *United Nations Convention against Transnational Organized Crime* there is the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children." Gender is again used to describe the victim of human trafficking. This protocol has 189 signatories, more than any other anti-human trafficking protocol before (UN, 2017). While this protocol has received more attention and has been largely recognized, the question remains on whether or not power is exercised through the implementation of the protocol.

Section Three

Neoliberalism and Freedom: Philosophical Components of Human Trafficking 2000s.

The 2000s Protocol is an expansion and combination of the older Convention pertaining to human trafficking. While there are differences such as the exclusion of the word white and inclusive of anti-forced labour Conventions, the basic premise of the anti-human trafficking laws is the same, just broadened. Despite broadening definitions, the fact that the older versions of the

anti-human trafficking laws exist within the 2000s protocol means that the cultural assumptions and intentions went undiscussed and are maintained. It is important to note two aspect of the 2000s Protocol, first is that, unlike previous human trafficking protocols is a supplement to the *United Nations Convention against Transnational Organized Crime*. The second aspect, human smuggling is introduced alongside human trafficking. The creation of this protocol was influenced by Neoliberalism and Neo-abolitionist activists. Abolitionists is the term used for the activists to establish racial equality in the United States constitution. Neo-abolitionist is used to refer to modern activists upholding racial equality and constitutional rights. The concept of freedom is defined through the socio-economic process of Neoliberalism. Thus, the actors in the United States that pressured representatives to create/modify/accept anti-human trafficking legislation are those that are connected to Neoliberal concepts and ideals particularly of freedom.

Activists of the anti-human trafficking discourse are referred to as Neo-abolitionists. The members of the Neo-abolitionist movement are feminists, conservatives, and Evangelical Christians. The feminists in the movement blur the lines between consent and coercion in prostitution since prostitution is a patriarchal system that degrades women. The Evangelical Christians believe prostitution is against moral codes and that women should be in the home and not the marketplace. Conservatives would like to maintain that men dominate the marketplace and the symbolic notion of domestic space (Chuang, 2010, pg. 1665-1666). This group also makes the connection between human trafficking and the transatlantic slave trade. They also refer back to the early 20th century where legal prostitution in Europe and the United States began to be referred to as the white slave trade leading to the illegality of prostitution. White slavery began to become synonymous with prostitution (Chuang, 2010, pg. 1666-1667). This group defined prostitution as slavery in order to create laws criminalizing prostitution, which

have been encoded internationally. Anti-human trafficking laws were created out of prostitution reform movements (Chuang, 2010, pg. 1677). This coalition may have different agendas but, have been influential in the creation of human trafficking norms and laws. Whether or not someone is considered trafficked depends on organizations define exploitation.

Exploitation is divided into acceptable versus unacceptable. The victims of exploitation must fit a clear definition and experience horrible trauma before they are deemed worthy of sympathy (Davidson, 2010, pg. 252). This creates a clear binary of lack of choice and freedom that everyday citizens are free to choose their work. Yet, like all binaries, there is more in-between than slave and free. There is a growing literature on unfree labor in the US and abroad. Whereby the notion of choice and freedom is more nuanced than we are all led to believe (Davidson, 2010). These definitions are rooted deeply in the neoliberalist policies that are championed by the United States and used across the globe

Neoliberalism is a concept that creates a self-image, one that is complex. Max Weber describes the neoliberal self as follows:

> The concept of the ideal type can direct judgement in matters of imputation; it is not a 'hypothesis' but seeks to guide the formation of hypotheses. It is not a representation of the real, but seeks to provide representation with unambiguous means of expression... It is formed by a one-sided accentuation of one or several perspectives, and through the synthesis of a variety of diffuse, discrete, individual phenomena, present sometimes more, sometimes less, sometimes not at all; subsumed by such one-sided, emphatic viewpoints so that they form a uniform construction in thought. In its conceptual purity this construction can never be found in reality, it is a utopia. Historical research has

> the task of determining in each individual case how close to, or far from, reality such an ideal type is... If employed with care, this concept has specific uses in research and exposition. (Weber in Whimster, 2004: 387-388)

The self-image created by neoliberalism is more of an artificial device meant to teach a population how to act. Liberal ideology posited the self out of bourgeois personal freedom through individualism. Neoliberals redefine the concept of the individual. Rather than being about personal freedom, it is about a "compulsory individualism" (Mcguigan, 2014, pg. 233). Individuals make choices about the direction of their life and are responsible for those choices (or non-choices) regardless of guidance. One can feel free to make a choice yet suffer unforeseen consequences or fail due to the competitive nature of the neoliberal market (Mcguigan, 2014 pg. 232-232). A person will never live up to neoliberal standards, so neoliberalism is expressed as a specific brand of cool-capitalism that values risk takers, primarily the youth, in venture of entrepreneurship and business.

Capitalism is an economic structure that evolves over time. Part of the evolution of capitalism is that it is prone to crisis, with every crisis a new form of capitalism or theology for capitalism has to be developed to continue the system (Polanyi 1944; Davis 2002; Chang 2008; Amsden 2007; Roubini and Mihm 2010). Neoliberalism is an economic and social policy that is currently being used in the US and elsewhere to protect and perpetuate capitalism on a global scale. Neoliberalism is different from liberal or laissez-faire capitalism which is referenced in policies and books (Harvey, 2005). Furthermore, neoliberalism has its own myths on how the capitalist system is created and maintained.

The term neoliberalism and what is means is difficult to pin down because it is an ever-changing idea. Philip Mirowski has studied neoliberalism and has created thirteen

commandments of what creates neoliberal system (pg. 50). Here is the main theme: Neoliberalism is having redefined labor under a capitalistic system whereby labor is devalued. Further, neoliberalism insists on criminalization and state intervention and often ties itself to a religious doctrine, primarily Christianity, to enact a moral code of behavior that is desired from a good society. Neoliberals also emphasize the importance of global organizations, such as the United Nations. A key indicator that neoliberalism played a role in forming anti-human trafficking legislation is the focus on criminalization in the 2000s treaties.

Neoliberalism is evident in every space of an individual's lives. While present in economic and feminist discourse, neoliberalism is also present in discourse on human trafficking. An important aspect of neoliberalism is freedom despite its lack of definition. Rather than define freedom on its own, freedom is defined as what it is not. In other words, freedom is constructed as the opposite of slavery (Davidson, 2010, pg. 246). In modern day, slavery is understood in the context of human trafficking discourse. Human trafficking discourse defines a specific narrative that creates an image of modern-day slavery primarily in the sex industry creating an image of human trafficking as a sex trafficked victim while also ignoring other forms of human trafficking in the labor industry (Davidson, 2010, pg. 257). Neoliberalism does not have an appreciation for human labor or human capital (Mirowski, 2014, pg. 59). While the United Nations definition of human trafficking is the one that is widely used and understood today, the League of Nations definition also has valuable insight into how human trafficking is viewed. This definition states slavery is "the status or conditions of a person over whom any or all of the powers attaching to the right of ownership are exercised". As Davidson points out, this definition of slavery sounds similar to everyday social interactions (pg. 246). A husband is thought to have power over his wife and family, and employer has power over their employees.

The United Nations attempted to clarify the distinction in their definition to focus on: the act, the means, and the purpose. The act refers to what is done to traffic the persons, such as recruitment, transportation, transfer, harboring or receipt of persons. Means refers to how the act is done such as threats or use of force, coercion, deception, fraud, abduction, abuse of power or vulnerability, and/or payments to a person controlling the trafficked person. Lastly, the definition of human trafficking refers to the purpose or why it was done. The purpose of human trafficking revolves around exploitation, which includes prostitution, sexual exploitation, forced labor, slavery or slavery like practices, and the removal of organs (UN General Assembly, 2000). This viewpoint of human trafficking focuses more on the movement of people rather than on the conditions in which people live that could be deemed slave-like. Furthermore, smuggling is considered separate from human trafficking whereby those smuggled across borders of their own "will" are not considered trafficked despite economic or political circumstances that led them to that direction.

Sex trafficking gets the majority of attention from policy makers and activists (Srikantiah, 2007, pg. 741 & Davidson, 2010, pg. 252). The treatment of sex trafficking as separate from other forms of trafficking and its prominence in discussions is observed to be due to its use to serve a conservative moral agenda that regulates prostitution, gender and sexuality, as well as used to restrict borders and immigration laws (Davidson, 2010, pg. 244; Augustin, 2007; Chapkis, 2005; Doezema, 1999; Kapur, 2005; Kempadoo and Doezema 1998; Weitzer 2007). Not only is human trafficking separated into two factions, one is used to encourage another. Focusing on sex trafficking issues to tighten immigration control puts new immigrants in a vulnerable position in their new society, paperwork or not. Thus, they can be taken advantage of in easier ways. Those who are desperate to flee their country for another are more

likely to get trapped in the human trafficking cycle. The victim of human trafficking is concocted to be someone that was sex trafficked.

Due to the narrow understanding of human trafficking victims as being in the sex industry, other forms of trafficking or slavery are largely ignored or endorsed. Labor, for neoliberals, is devalued human skill sets, investments, and relationships. Under neoliberalism, coercion does not exist (Mirowski, 2014, pg. 60-61). Part of the definition of human trafficking is people being coerced into services. The narrow understanding of human trafficking and the victims are important to neoliberals, otherwise there would be an admittance of coercion in the market system. This causes difficulty for activists and scholars to define and describe human trafficking and to create policies to alleviate human trafficking from the system. It also creates a blurred line between freedom and slavery.

Steinfeld notes that in discussing wage labor or slavery in a modern context, a "compelled party is offered a choice between disagreeable alternatives and chooses the lesser evil" (2001, pg. 14). An example is when someone is offered the choice between dangerous work or starvation. Thus, it is difficult to distinguish if the person was coerced into performing dangerous work or choosing the lesser evil (Davidson, 2010, pg. 246). Labor trafficking becomes blurred with waged labor practices creating a jumbled understanding of human trafficking but also clarifying functions of neoliberalism. Appropriate versus inappropriate exploitation becomes the fundamental debate of human trafficking, migration, smuggling and wage labor (Davidson, 2010, pg. 245). Freedom and exploitation are political judgements created through neoliberal policies. By devaluing human capitol, neoliberal policies have created a problem in which wage labor is indistinguishable from slavery, whereby only scrambled definitions create a shaky line

between human trafficking and everyday labor practices. This is represented in the human smuggling protocol introduced alongside human trafficking.

The Convention Against Transnational Organized Crime.

Both the human trafficking and human smuggling laws exist inside the *United Nations Convention against Transnational Organized Crime*. The issue of transnational organized crime became prevalent in the late 1990s and early 2000s with conjunction to the rise of terrorism. Article one is to promote cooperation to prevent and fight against transnational organized crime. Article two is definitions whereby Organized criminal groups is defined as "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit" (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). A serious crime is when liberty can be taken away for a minimum of four years, Structured group, property, proceeds of crime, freezing or seizure, confiscation, predicate offense, controlled delivery and reginal economic integration organization are also defined. Article three defines the scope of the convention to offenses listed and the definition of serious crime as well as defining the nature of offenses that make them transnational (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). If a serious crime is committed in more than one state, if it is planned in one state but committed in another state, committed in one state by a criminal group with activities in other states, and if it is committed in one state but impacts another state.

Article four protects sovereignty with non-intervention in domestic affairs and prohibiting a state from taking action where another state has jurisdiction (UN, United Nations,

UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). Article five is the criminalization of participation in organized criminal group where states are to make legislation on international criminal activity, whereby it will be criminal for someone to agree to commit a serious crime for material gain, and/or someone who takes an active part in a criminal organization or knows they are contributing to criminal activity (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). States are to inform the Secretary-General of domestic laws on transnational organized crime already established.

Article six is about the laundering of proceeds of crime, where states shall create legislation to criminalize, the transference of property to conceal that it was a product of crime, and the concealment of property to hide that it was obtained through crime. Article seven is measures to combat money laundering (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). States are to have regulatory and supervisory committees for banks and non-bank financial institutions, authorities on local and international levels meant to combat money laundering are to be to aide each other, and states are to monitor cash across their borders.

Article eight is criminalization of corruption whereby states will create legislation when certain attributes to corruption are committed internationally. Someone offering directly or indirectly an advantage to an official so that the official does not do their duties (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). An official asking for or taking advantages from someone were they refrain from performing their duties. A civil servant or foreign official shall be established in states to oversee international corruption. Public official is defined by domestic legislations.

Article nine is measure against corruption. States is urged to prevent, detect, and punish corruption in their domestic legal system (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). Those assigned to monitor corruption are to be given appropriate means to their job, such as independence from the public officials so there is no influence on the monitors actions.

Article ten is the liability of legal persons. States are to create legal liability for their recognized citizens that participate in organized crime (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). Liable citizens are to be held accountable for their involvement in organized crime at their state's discretion. Article elven is on the prosecution, adjudication, and sanctions. Prosecution, Adjudication, and sanctions of persons that committed serious crimes are at the discretion of domestic laws, however, the convention is to be used as a tool to add in the creation or reformation of laws or judgements (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational
Organized Crime, 2017).

Article twelve is confiscation and seizure. In domestic laws, states are to establish the ability to confiscate proceeds or crimes and/or property used to for the crime. States shall identify, trace, freeze or seize items necessary to confiscate (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). If proceeds of crime have been exchanged for property, that property can be confiscated. Income that is from proceeds of crime can be confiscated. Banks, financial and commercial institutions are to keep records that can be seized (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). Article thirteen is the international

cooperation of confiscation. A member state can request confiscation of proceeds of crime or property to another member state by submitting a request to the direct or authority or court (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). When filed the state requested is to trace and seize the proceeds of crime or property.

Article fourteen is the disposal of confiscated proceeds or crime or property. A State that confiscates proceeds of crime from a its own citizen in its own border disposes of proceeds of crime or property based on their domestic laws (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). If confiscation is by one state to another, then the state that requested confiscation gets priority if allowed by each state's domestic laws. Article fifteen is about jurisdiction. A state has jurisdiction in their borders and on a vessel where the state's flag or an aircraft registered to the state (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). If the offence is committed against the state's national or the offense is committed by the state national or stateless person that resides in their territory.

Article sixteen is extraction which happens when a person who committed a serious crime as part of organized criminal group is operating outside their national state whereby punishment of serious crime is punishable by both states, a state can request the extradition of its citizen operating in a different state (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). Article seventeen is the transfer of sentenced persons (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017).

Article eighteen is mutual legal assistance. Assistance includes in areas of taking evidence or statements, servicing of judicial documents, searching, seizing or freezing assets, examining objects and sites, providing information, evidentiary items and expert evaluations, providing certified copies or originals of reports, identifying and tracing proceeds of crime, facilitating persons from a request state, and any assistance not oppositional to established domestic law. States cannot deny mutual assistance based on bank secrecy (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). Mutual assistance can be denied if dual criminality is not found. If a person is servicing a sentence in one state, but also identified as punishable in a separate state, they can be moved if the person consents and both states agree to the moving of the person. When a person is transferred the state that is holding the person is responsible for keeping them in custody. The person cannot be extradited back to the original state they were serving a sentence in (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). Sentences served in on state is recognized as time done in transferred state. Mutual legal assistance can be refused if, the request is not made in conformity to the convention, a request is detrimental to sovereignty, safety, or public order of a state, if crimes in one state is not punishable crime in the other, and if it would undermine a state's legal system (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017).

Article nineteen through twenty-four are about criminal proceedings. Article nineteen is joint investigation. Article twenty is special investigative techniques, where electronic modes of investigation and surveillance in undercover activity is acceptable (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017).

Article twenty-one is transfer of criminal proceedings. Article twenty-two establishes criminal records. Article twenty-three is criminalization of obstruction of justice where false testimony is given due to threats or bribes or interferes with public officials shall be criminalized. Article twenty-four is protection of witnesses. Physical protection is given by the State and a person's testimony is given in safe environment (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). This article can apply to victims.

Article twenty-five is protection of victims, where victims are protected and compensated. Article twenty-six is on measures to enhance cooperation with law enforcement authorities. Article twenty-seven is law enforcement cooperation. Collection, exchange and analysis of information on the nature of organized crime is covered in article twenty-eight. Training and technical assistance is covered in article twenty-nine (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). The thirteenth article covers other measures: implementation of the Convention through economic development and technical assistance (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). These articles are about setting up channels of communication and collecting shared data.

Article thirty-one is prevention. The goal of prevention is that proceeds of crime is not useable in lawful markets. Prevention is the connection of law enforcement/prosecutors, with private entities, promotion of standards particularly lawyers, notaries, tax consultants and accountants, prevention of misuse of public documents like passports by commercial industries. Persons convicted of crimes stated in the convention can be reintegrated into society (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational

Organized Crime, 2017). Articles thirty-two to forty-one focuses on the establishment of communication channels, implementation, settling disputes, ratification, etc. (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017). The Convention Against Transnational Organized Crime has three protocols attached, the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations", "Protocol against the Smuggling of Migrants by Land, Sea and Air" and "Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their parts and Components and Ammunition" (UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime, 2017).

The Protocol to Prevent, Suppress and Punish the Trafficking in Persons.

"The Protocol to Prevent, Suppress and Punish the Trafficking in Persons" is the newest addition to international anti-human trafficking definition. There are two important differences between the 2000s protocol compared to the earlier anti-human trafficking laws. The first is that the 2000s protocol exists inside of United Nations Conventions against Transnational Organized Crime which is established in Article one, rather than as its own convention. Second, the second and third articles have a definition of human trafficking. The Fourth Article states the scope of application to prevent, investigate and prosecute offenses (United Nations, 2017).

The fifth article is like the 1910 convention, focusing on criminalization of human trafficking. Article six adds more protections to victims of human trafficking compared to the 1904 Convention. Legal proceedings are made confidential and the identity of the victim is kept private. States are required to inform victims of court and administrative proceedings and their

participation in court hearings (United Nations, 2017). The State where the victim lives is expected to connect the victim with non-governmental organizations, housing, counseling on legal procedures in a language the victim can understand, medical assistance, employment and educational training, with consideration to age, gender, and special needs of victims, especially children. States are also expected to establish physical safety for the victim and offer compensation for the damage done onto them. Article Seven encourages states to give permits to trafficking victims. Article Eight establishes that a victim is permanently reside either in the country they were trafficked to or the country they are being repatriated to. (United Nations, 2017).

Article Nine focuses on prevention, where States are to work with non-governmental organizations, other states, and their own legislation to prevent trafficking. This article includes the 1921 and 1933 emphasis on research and information about trafficking for signatories (United Nations, 2017). Article 10 is the exchanging of information about trafficking between states. Article 11 discusses states right to strengthen border controls and to check transportation devices for anti-trafficking means (United Nations, 2017). Article Twelve is about states creating identity documentation difficult to duplicate and Article Thirteen gives the state the ability to claim legitimacy over documentation used (United Nations, 2017).

Article fourteen ensures the protocol does not infringe on states' rights. Article fifteen discusses the issue of disputes, whereby a country that takes issue with another country over trafficking shall negotiate, if in six months nothing is resolved, one country and take the other to the International Court of Justice. Article sixteen verifies that the Protocol is signed in Palermo, Italy and Article Seventeen verifies when the protocol takes effect (United Nations, 2017).

The 2000s definition of human trafficking is broader compared to other international definitions for that reason 186 countries signed the 2000s protocol. The majority of countries responded to the protocol and objected to Article fifteen (United Nations, 2017). Article fifteen addresses issues between the states and when international court is a viable option. Paragraph two of Article fifteen states if one state has an issue with another over the protocol, the consent of one state is all that is needed to start an international court trial (United Nations, 2017). Paragraph 3 states that any state can opt out of paragraph two. The majority of states opted out of paragraph two stating that both states in a dispute should consent to the international court and not just one. Malawi was one of the countries that stated compliance with Article two (United Nations, 2017).

A few states took reacting to the protocol as an opportunity to challenge the power and influence of other states. For example, Algeria signed the protocol and stated that their signing was not indicating a recognition of Israel who also signed the protocol. Israel objected to Algeria and was the only official objection added to the protocol. Some states also indicated areas were the protocol goes beyond their power, such as Azerbaijan in reference to occupied territories that the state cannot protect and China in reference to Hong Kong. Moldova could also not enforce the protocol in all of its territories. The European Union referenced member states that applied the protocol but also stated that there were member states that did not feel obligated to sign. Indonesia signed the protocol but stated that sovereignty maintenance was of utmost importance (United Nations, 2017).

Qatar had reservations over the insuring employment, education, and training opportunities for survivors of human trafficking and Paragraph 1 of Article 7, which states that: “each State Party shall consider adopting legislative or other appropriate measures that permit

victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases" (United Nations, 2017). This reservation where in addition to reservations over article 15 paragraph 2. Saudi Arabia had similar reservations. The Syrian Arab Republic also had reservations on article 7. Similarly, Singapore declared that "The Government of the Republic of Singapore declares that nothing in the Protocol shall impose obligations on Singapore to admit or retain within its territory, persons in respect of whom Singapore would not otherwise have an obligation to admit or retain within its territory" (United Nations, 2017).

The United States declared that protocol does not apply to United States ships flying the state flag or aircrafts due to United States having their own laws governing trafficking. Furthermore, the United States only signed the protocol with the reservation that the protocol will be implanted only in a manner that upholds federalism whereby the Thirteen Amendment is deemed adequate enough to uphold the protocol (United Nations, 2017). United States add an understanding that money laundering was included in the protocol despite no mention of money laundering in the actual protocol (United Nations, 2017). Furthermore, the United States created its own independent report system to monitor other countries outside of United Nations supervision.

"The Protocol against the Smuggling of Migrants by Land, Sea and Air."

"The Protocol against the Smuggling of Migrants by Land, Sea and Air" was established during the 1998 and 1999 meeting whereby states were concerned about the reasons of migration, i.e. poverty, organized crimes involvement, and migrant rights. The first article establishes the protocol as an aspect of the *United Nations Convention against Transnational Organized Crime* (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against

Transnational Organized Crime, 2000). Article two states the purpose of the protocol to combat the smuggling of migrants with international cooperation for the task. Article three is the definitions whereby smuggling is defined as "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Further definitions include illegal entry, fraudulent travel or identity document, and Vessel (government ships are excluded). Article 4 limits the scope of the article to transnational offenses that involve organized crime with thought to protecting the rights of the objects of the offenses (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime 2000). Article five establishes that the migrants themselves are not criminals due to being used by organized crime (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Article six is all about criminalization. States are required by the protocol to add legislation criminalizing the smuggling of migrants by organized crime for the benefit of material gain (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). The aspects that are criminalized are smuggling, acts committed with a purpose of smuggling, producing or procuring fraudulent documents, enabling a person to remain in a state that is not their origin state without proper documentation. Furthermore, states are to create

legislation criminalizing unsafe environments for migrants, exploitation of migrants, and the scope of the protocol does not challenge domestic laws.

Part II and Article seven focus on migrants of the sea. Article seven establishes state cooperation. Article Eight establishes that ship not flying the appropriate flags can be considered smuggling ships and states have the right to check the vessel (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). If a ship flying the flag of another state is not in accordance to international navigation laws, it is the right of a state to contact the state signified by the vessels flag, where if it is found that the vessel is not registered, the state can board, search, and if smuggling is found, act (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Flag states (if the vessel is flying the flag of a certain state) are always to be notified. If a request is made from one state to another about possible smuggling, there is to be immediate cooperation. The Flag States has the right to conditions to the search or procurement of a vessel and the State involved is to honor flag states conditions unless there is imminent danger (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). An official is to be established to respond to requests of assistance and have a registry of state vessels. If nationality is not notified on a vessel, states have the right to search it if it is suspected of smuggling. Article nine is the safeguard clauses where, if smuggling victims are found, a state is required to ensure safety and humane treatment of the migrant (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and

Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Not endanger the vessel, not prejudice the legal or commercial authority of the flag state or any other state and to take environmentally sound actions. If a search is conducted and no migrants are found, the ship is to be compensated for any loss or damages. The protocol does not interfere with coastal states jurisdiction and obligation or the jurisdiction of a flag state (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). When ships are pursued, the pursing ships or planes are government military ships and readily known as such.

Part III and Article ten focuses on Prevention, Cooperation and other measures. States that share borders are to communicate with each other about their laws and procedures over, embarkment and destination points, transportation, carriers and routes known or suspected to be taken by organized criminal groups (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Identity and methods of organized criminal groups. Authenticity of travel documents as well as theft or misuse of documents. Mean and methods of concealment and transportation of persons whereby mishandled documents are used. Legislative measures and practices states create for the protocol (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). The sharing of scientific and technological advances necessary to fight organized criminals. A state can place restrictions on the use of information that is respected by other states (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and

Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000).

Article eleven focuses on border measures, border controls are strengthened to prevent and detect smuggled migrants (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Legislation is to be made to prohibit commercial vessels from smuggling migrants. Commercial transportation companies are to ascertain the documentation of passengers. Sanctions are to be created in accordance to domestic laws for the violations of commercial obligations. States are allowed the denial or revocation of visas of persons found to commit the offense of smuggling. Strengthening border control with communication to and from states (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000).

Article twelve is security and control of documentation. States are responsible for issuing documentation that cannot be easily misused or falsified and to ensure documentation is used properly (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Article thirteen states that if the validity of a document is questions by one state, the state that issued the documentation can verify if the documents are valid (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Article fourteen is training and technical cooperation. Specialized training on immigration to prevent inhumane treatment of migrants. States are to cooperate with

each other and other organizations for improving the security of travel documentation, recognizing fraudulent documents, gather criminal intelligence, improving procedures detecting smuggled migrants, the humane treatment of migrants, and states with expertise should assist in technical support for other states when requested (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Article fifteen is other prevention methods. This includes the need to increase public awareness, public information to prevent migrants from becoming victims, and to focus on the lower socio-economic part of the state to ensure they do not become smuggled migrants (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000).

Article sixteen is protection and assistance measures. States are to protect migrants right to life, right to not be tortured or experience cruel punishment and right to humane treatment. States are to protect migrants from violence. States are to give assistance to migrants that were smuggled with the special needs of women and children in mind. Dentition of a smuggled person is subject to the requirements of the Vienna Convention on Consular Relations where the detained person is to be informed of their situation (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Article seventeen is agreements and arrangements where states are to establish or enhance their measures to comply with the protocol (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000).

Article eighteen to the return of smuggled migrants. States are to facilitate and accept the return of smuggled migrants to national origin or territorial permanent residency. If the person is without documents, their destination will send correct documents to the state with the migrant. States are to communicate about the situation of the migrant and can use non-governmental organization aide in returning a migrant (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000).

Part IV is the Final Protocol. Article nineteen established This protocol does not impact other international laws such as the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. This protocol is to be used without discrimination (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Article twenty is on disputes, where disputes are to be settled with negotiation. A state can send the dispute to arbitration, afterwards to the International Court of Justice. States are not bound by paragraph 2 and if there are reservations about paragraph 3 states can withhold signing (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). The majority of states had reservations about the settling of disputes where only one state could send a dispute into the International Court of Justice. Ecuador stated that the Protocol should be in conjunction with Rights of All Migrant Workers and Members of Their Families (UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000).

Conclusion

Human trafficking is often thought of as modern-day slavery and the evolution of abolition movements that started to end the Atlantic Slave Trade. Yet, the concept of human trafficking has been around at the same time the Atlantic Slave Trade was active and did not impact that Slave Trade. Rather, the history of human trafficking focuses on European women and girls susceptible to being trafficked and moral qualms with prostitution.

The 2000s protocol is both a product of historical evolution of anti-human trafficking international laws that began with concerns over white slavery. However, the new threat of terrorism and international criminal organizations has changed the way in which anti-human trafficking laws are perceived and implemented. By establishing human trafficking within the transnational organized crime convention, the concern is no longer the end of human trafficking but the end of international crime. Defining international organized crime committed by three or more people establishes that trafficking cannot be committed by private individuals under the convention. States are then capable of defining domestic forms of human trafficking which remains as broad as in the past.

Historically, anti-human trafficking laws have focused primarily on the protection women and girls. This protection has been implemented as monitoring and policing of women travel and employment. The new protocol has gender neutral terms within the protocol but is accompanied by human smuggling protocol. These protocols together strengthen the monitoring, not only of women, but of those in low socio-economic conditions by their states. The presence of smuggling protocol establishes different understandings of how migrants are treated under international law. Women remain considered human trafficking victims, not having the freedom

to choose migration, whereby men are considered free to choose migration qualifying them as smuggling victims.

Chapter Three: Biopower and Thailand

Despite anti-human trafficking laws being adapted and modified in the present, the historical assumptions that were used to create the laws still impact how the laws are applied globally. The purpose of Chapter three is to examine how international human trafficking laws have impacted countries outside of Europe and how they were pressured into accepting the anti-human trafficking laws internationally into their domestic laws. Power defines the knowledge of human trafficking as a universal problem. Europe and the United States have been the definers of human trafficking and established criminalization as the means to end human trafficking. However, other countries have different needs and viewpoints on human trafficking. Thailand is an example where NGOs created for survivor protections are based on Thailand's models.

I will use Thailand for my case study illustrating how anti-human trafficking laws built in assumptions impact countries outside of Europe. Thailand has a unique history, as it was one of the few places in Southeast Asia uncolonized during the New Imperialism era. While Thailand was colonialized, it has also experienced imperialism in recent history with the United States military. Sex tourism, an industry created from colonial and imperial demands, is a major form of revenue for the country. Thailand is an important case study due to its power dynamics with European and United States. There is not enough power for Thailand to be considered equal, but Thailand has remained sovereign throughout its history.

Before examining Thailand in relation with international anti-human trafficking laws, there are a few theoretical perspectives to discuss. When human trafficking is discussed, there are two theoretical assumption made by schools: World Polity Theory and Coercion. The first assumption is world polity theory which claims that anti-human trafficking norms where created in the west and spread to the rest of the world. The second assumption is that coercion is

involved in creating anti-human trafficking laws where more powerful states forces, primarily with physical threats such as sanctions, less powerful states to accept anti-human trafficking legislation.

World Polity Theory is the spread of norms and values worldwide creating a world culture. The spread of norms and values leads to similarities in nation-states formations and agreement on social global issues (Limoncelli, 2017, pg. 816). The theorists that support world polity theory are opposed to the notion that power or interests are reasons behind the spread of norms. They are also opposed to 'realist' concepts such as the idea that if there is a shared problem between states, the states are more likely to sign off on international law. According to the world polity theorists, there are issues that are not experienced by a state, but the international law still is signed. World Polity theorists also counter materialistic assumption citing that states adhere to world cultural norms at a cost (Limoncelli, 2017, pg. 816). World culture spread, according to World Polity Theorists, from the West to the rest, and while there is contestation over norms, there is a general isomorphism is happening. The most important players in the international system to these theorists are International Government Organizations (IGOs).

The second perspective used in literature about international diffusion of anti-human trafficking sentiments id the coercion perspective. This perspective draws from world system and critical perspectives whereby power and inequalities between states is analyzed to understand emergence and development of international advocacy. States with political and economic power control the issues stated on agendas. The most powerful states dominate in direct or indirect ways to force the importance of an issue and use sanctions to achieve compliance. Powerful States were established during the colonial period, whereby countries that used to be colonizers

maintained their political dominance in the international system (Limoncelli, 2017, pg.817). IGOs, International Non-Government Organizations (INGOs) and Non-Governmental Organizations (NGOs) are created and influenced by western needs and perspectives. INGOs and NGOs are often headquartered in wealthy countries and reflect the interests of their country of origin. Domestic NGOs rely on funding from wealthier countries that are given to influence domestic participation (Limoncelli, 2017, pg. 817-818). Both theories rely on the assumption that anti-human trafficking sentiments started in the west and spread.

While power is an important aspect of international relations, it would be an incredible oversight not to recognize how countries experienced domestic retaliation to human trafficking. However, human trafficking internationally was brought up in concern to white slavery at the same time the Atlantic Slave Trade was active and colonization of Africa and Asia. Colonization influenced how different states could combat and understand human trafficking. Thailand is in unique historical position to better understand how human trafficking was thought of and addressed before the international agreements. According to an article my Stephanie Limoncelli found that Thailand developed anti-human trafficking advocacy domestically and transferred the knowledge internationally (2017, pg. 823). Thailand spread information to the Dutch, and both had anti-human trafficking campaigns at the same time which created the Dutch INGO. Thailand activists were also responsible for two influential INGOs on trafficking: End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) in 1991 and the Global Alliance Against Traffic in Women (GAATW) in 1994 (Limoncelli, 2017, pg. 824). This INGOs are headquartered in Thailand and are influential over current anti-trafficking legislation.

Despite Thailand's initial influence over anti-human trafficking laws, many of the efforts have been taken over by western efforts. About 72% of anti-human trafficking headquarters are

in Europe and the United States. While Asia and Europe have roughly the same number of NGOs, INGOs are located in wealthier countries (Limoncelli, 2017, pg. 815). Even though Thailand is responsible for the advocacy of anti-human trafficking efforts in the 1980s, they are given little credit and there is little research about Asian and African influences over present international anti-human trafficking laws. Thailand's unique history with colonialism and United States imperialism impacts the influential aspect of Thailand activists.

Thailand During Colonialism

In the late 1800s Thailand (Siam) witnessed the rise of power of two imperial forces, France and Great Britain. Britain conquered India, Burma, and Malaya while France conquered Vietnam, and claimed to be the protector of Cambodia. Due to colonization, Siam lost extraterritorial rights to those areas. The French wanted control over Laos, in the Mekong territory, which was part of Siam. Siam believed it was backed by Britain when they denied France the territory (Simms and Simms, 2001, pg. 205-207). In 1892, three French merchants were expelled from the Mekong territory due to the merchants having ties to opium smuggling. The French consular committed suicide over discouragement of French relations with Siam. The expulsion of French merchants and consular's suicide was used to incite anti-Siam sentiment in France which created the push for French intervention in the region (Simms and Simms, 2001, pg. 206- 207.) The new French consular claimed that the east part of the Mekong territory belonged to Vietnam and ordered Siam military posts out.

1893, Siam refused to cede the Mekong territory to France. In retaliation, the French sent three military columns into Siam. The central column met little to no resistance, however the North and south column met significant resistance. On the Island of Khoung, the French general was seized and in the South the military was ambushed resulting in the death of a French police

inspector (Dommen, 2001, pg. 18). The death of the police inspector became known as "Affair of Kham Muon (Kien Chek)" and was used to push for more French intervention in the region (Simms and Simms, 2001, pg. 205-207). The French intervention afterwards is known as the Paknam incident.

The French then called for reparations and sent cannon ships up the Phraya River toward Bangkok with Siam permission, resulting in the Siam coastal forts firing on the ships (Atherley-Jones, 1907, pg. 182). The French returned fire and forced their way to Bangkok. Demands from the French were made including the release of the east part of the Mekong territory from Siam rule, three million Francs as reparation for battle, and the punishment of those responsible for killing French officials (Simms and Simms, 2001, pg. 209-210). Siam did not comply believing Britain would come to their aid which led to a blockade. Britain did not come, and Siam was forced to submit to France's demands. This led to the Franco-Siamese Treaty of 1893 (Simms and Simms, 2001, pg. 209-210).

Siam borders became defined by colonial powers; however, Siam was never colonized itself. Britain and France determined Siam as a buffer state between the two power is in 1986. Entente Cordiale of 8 April 1904 and Anglo-Siamese Treaty of 1909 defined the British and French spheres of influence around Siam, and by 1910, the two colonial powers defined the borders around Siam to the current borders (Goldman, 1972, pg. 210-228). King Chulalongkorn decided that Siam needed to change due to the current political situation. Thus, Siam went from a feudal system to centrally governed nation-state with political institutions (Vechbanyongratana, 2019, pg. 289-331).

Thailand was interacting with Britain and France colonial powers during New Imperialism and the same time period as the creation of anti-human trafficking legislation. While

Thailand was never itself colonized, colonization shaped its borders and political systems. During the reign of Rama VI, the elites of Thailand gained education from western countries. Thailand integrated the Gregorian Calendar, family names, citizenship law, etc. There was an attempt at a coup in 1912 called the Palace Revolt where the military desired a constitutional government. The Palace Revolt failed (Phongpaichit and Baker, 2005).

During World War I Siam declared War on Germany to gain favor from Britain and France. This alliance secure Siam in Versailles Peace Conference were Siam sovereignty was fought for and won. Extraterritorial rights were restored, and unequal treaties were repealed ("The Elimination of Extraterritoriality"). Thailand was instrumental in the decolonization of Asia in the 1940's in the Franco-Thai war. Thailand was able to subvert colonial powers, however, World War II and the relationship with the United States.

During World War II, Japan invaded Thailand immediately after the Franco-Thai War and Pearl Harbor. This led to an alliance between Thailand and Japan and Thailand declared war on both Britain and the United States (Foot, 2016, pg. 1107). The United States believed Thailand was a puppet of Japan and blocked Britain from imposing punitive peace after the war. Further, after World War II, Thailand was briefly occupied by Britain and United States during the disarmament of Japanese soldiers. The territories Thailand gained at the end of the Franco-Thai War were established as independent Cambodia and Laos. The government was turned over to civilians which was the first-time civilians ran the government in Thai history. Britain demanded rice as reparation, France demanded territory back, and the Soviet Union demanded that the Thai government repeal anti-communist legislation before Thailand could be part of the United Nations. These demands weakened the new civilian Thai government (Horvach, 1995). Thailand's power is restricted by European power.

1957 there was a military coup against the Prime Minister starting a history of US-backed military campaigns in Thailand. In 1961, Thailand supported the United States during the Vietnam war, allowing the United States to set up bases and joining in military efforts against the Vietnamese and Laos (Glasser, 1995). The United States has played a role in Thai politics since. Anti-human trafficking activism in Thailand started before

History of Anti-human trafficking Activism

Thailand is considered a source, destination, transit country for human trafficking. In the 1980s Thailand, South Korea and the Philippines started activism against military prostitution, sex tourism, and migration. Women that created the NGOs in Thailand became the backbone of domestic and international advocacy against anti-human trafficking. These women attended Dutch universities and secured funding from the Dutch government and NGOs which helped establish international connections. Thai activism worked with the Thai government to establish domestic anti-human trafficking legislation in 1997 before the 2000s protocol and before the United States. Thailand then linked their efforts with the Netherlands establishing more international support. NGOs against anti-human trafficking are all based on Thailand's model. (Limoncelli, 2017, pg. 822-823). While anti-human trafficking started before the 1980s, Thailand reestablished advocacy in the international system.

Thailand's Anti-Human Trafficking Laws

An act in 1996 states, "it is prohibited to engage in sexual intercourse or sexual acts in a 'prostitution establishment' with a person under 18 years of age, regardless of consent" (Hevamange, 2011). The Prostitution Prevention and Suppression Act focuses on "the total elimination of entry into the commercial sex business by children of both sexes under 18" (Lim, 1998). This act also puts the blame on pimps and brothels more than the prostitutes. Any law

enforcement official involved with prostitution "shall be punished with imprisonment of 15-20 years and a fine of 300,000-400,000 baht" (Lim, 1998). ECPAT is an NGO established to help end child prostitution (Hevamange, 2011). In 2015 Thailand amended *Criminal Code of Thailand* to criminalize child pornography. 2018, Thailand created a task force of law enforcement, social workers, and non-governmental organization member to combat human trafficking. Yet, the foreign tourism involved in trafficking makes prosecution difficult since many foreigners come from wealthier countries.

Thailand is criticized due to its difficult in prosecuting traffickers. 2007 laws were passed where male victims and survivors of human trafficking were recognized by Thailand. In 2015, the Anti-Money Laundering Act was amended so that assets of traffickers would be frozen, and some assets would be given to survivors as compensation. Thailand also signed the ASEAN convention against Human Trafficking (2016 Trafficking in Persons Report - United States Department of State, 2016). Critics believe that Thailand creates harsh laws against human trafficking in March before the June trafficking reports so that the country can maintain an appearance while not actually stopping human trafficking (Dawson, 2015). In May of 2015 bodies were found in the jungle which resulted in finding a human trafficking route into Thailand. This came after several changes in domestic laws to please the United States and Europe. There was a major crack-down were over fifty police officers were fired as well as the mayor much like in Brussels (Doksone, 2015). The largest trail involving human trafficking in Thailand was in 2016. A mass grave of 30 human trafficking victims was found implicating police officers and military personal in trafficking routes. This revelation led to threats of sanctions from the international community. The results of the court were the imprisonment of the Lt General for twenty-seven years (Editorial Board, 2016). Thailand has difficulty

prosecuting traffickers; however, protection of survivors has always been a main concern of Thailand's'.

Thailand offers shelter and social services to survivors of human traffickers of foreign and Thai descent. Initially, Thailand provides for foreign survivors before repatriation, there is no alternative the country of origin is unsafe such as Burma. Women are encouraged to participate in the investigation and prosecution of those that committed trafficking crimes. In cases of forced labor, however, there are few workers that have the means of fighting employers due to lack of aid from the Thailand government. Female victims are not jailed or deported, men are usually deported due to illegal entry. There are seven regional shelters run by the government that offers counseling, medical aid, food, and board (2018 Trafficking in Persons Report - United States Department of State, 2018) .In 2008, new guidelines were released that protects survivors of trafficking from criminal charges from prostitution and immigration issues. Consular protection is offered to Thai citizens overseas. While the Thai government has laws to reparation survivors from traffickers, those laws remain lax and many survivors do not receive their funds (2018 Trafficking in Persons Report - United States Department of State, 2018). In 2017, legal assistance was given to survivors of human trafficking through the government. The government also provides reparation funds to survivors and there is legal alternative to deportation if the country of origin is dangerous (2018 Trafficking in Persons Report - United States Department of State, 2018). Thailand has made great efforts to combat human trafficking.

The United States Impact

While Thailand introduced advocacy of anti-human trafficking into the international system, they were not as involved creating the international law. Thailand does not currently uphold the minimum requirements of the 2000s protocol. The United States is a monitoring body

for the 2000s anti-human trafficking protocol and ranks Thailand as Tier 2 in 2019 after a Tier 3 ranking in 2014 (2014 Trafficking in Persons Report - United States Department of State, 2014; 2019 Trafficking in Persons Report - United States Department of State, 2019). Tier 2 refers to states that do not meet the minimum requirements of the protocol but are making efforts to comply while Tier 3 are states that do not meet the minimum requirements and are not making efforts to comply. Thailand was angered by the Tier 3 ranking in 2014 especially since it had established new legislation in 2008 to meet more recommendations of the protocol (2008 Trafficking in Persons Report - United States Department of State, 2008). There are several areas of issues with trafficking in Thailand.

While the United Nations and United States have internationally respected reporting and monitoring systems, these entities take little responsibility for their impact on human trafficking. The International Monetary Fund (IMF) works to establish monetary and trade cooperation among countries and to facilitate financial stability. The IMF was formed in 1945 as part of the United Nations but acts independently. Furthermore, the United States determines its aid funding based on the IMF. The United States relationship with the IMF enables the United States to leverage funding as a means of persuading other countries to support United States programs and goals (Bergsten, 2018). IMF rules and regulations caused major impacts to countries financial stability but in opposition to the IMF goals.

In the 1990s, the IMF implemented austerity measures which cut funding to social services in countries such as healthcare and unemployment. The IMF also encouraged that the market should set the price for items rather than central authorities. Market liberalization, a neoliberal creation, was endorsed by the IMF where local markets are opened to foreign interests. Privation was also a goal of the IMF where goods are sold by private entities rather

than by governments. Finally, there were massive increases to interest rates. These policies caused massive upheaval in East Asia, exacerbating poor communities (Kara, 2009, pg. 26). The increase in poverty levels cause major migration to Thailand, Malaysia, and Indonesia from other East Asian countries. This globalization caused negative outcomes, where before the IMF Asian countries were economically stable and steadily but after, the countries are declining.

Thailand is one of the main examples of negative impacts that the IMF has on countries. Thailand was certified by the IMF so that the government could receive Western founding for infrastructure development. However, foreign funding in Thailand created economic bubbles. United States hedge funds gave money to East Asian currencies, capitols and real estates. When the real-estate bubble burst in Thailand, all the United States investors stopped investing and started selling Thai money (baht) in exchange for United States dollars, thus, devaluating Thai currency. In 1997, the baht crashed (Kara, 2009, pg. 28). The IMF attempted to fix the situation by offering a bailout, however, the money paid out to was expected to be returned with interest that was increased to fifty times greater than previous interest rates. This created one of the worst global economic crises in living memory. Unemployment in Thailand tripled. One-half of bank loans in Thailand defaulted. IMF cut welfare programs in East Asia while food price went up between fifty to eighty percent (Kara, 2009, pg. 28). Essentially, IMF policies created mass migration and poverty which ultimately created vulnerable populations, increasing instances of human trafficking.

Thailand is the world's largest seafood exporter. The Fishing Industry is one of the main issues with human trafficking in Thailand and the reason the United States lowered Thailand to the Tier 3 in 2014. The European Union also issued Thailand a "yellow card" due to the trafficking in the industry (Rujivanarom, 2018). Migrants are often forced to work on dangerous

fishing boats without stable wages or a contract. Thailand government officials got scared that their largest export would be banned internationally so they started to require boats to have GPS (The Nation, 2015). In 2018, international organization are still finding trafficking abuses in the fishing industry because local officials are not enforcing the anti-human trafficking laws (Murphy, 2018). However, the Thailand government states that recent claims of trafficking abuses are based on data in 2012 and not recent (Patana, 2018). To placate the European commission Thailand enacted the Command Centre for Combating Illegal Fishing in May 2015

Sex tourism is a main form of human trafficking. Often sex tourism are men that come from wealthier countries from Europe and the United States to poorer countries like Cambodia and Thailand (Global Report on Trafficking, 2014). Victims and Survivors of sex tourism are usually women and girls (Samarasinghe, 2008). Child sex tourism and prostitution is part of Thailand's reputation. Prostitution of Thai women is connected to World War Two and Japanese occupation where Thai women were used as comfort women for the Japanese military. During the Vietnam War, United States soldiers also used Thai women as comfort women (Sorajjakool, 2003). Sex tourism in Thailand grew in the 1970s. In the 1990s, sex tourism was the highest source of foreign currency in the country (Harrison, 2001). The Thai government promoted sex tourism as well (Reyes, 2015). While prostitution is an acceptable job in Thailand, the sex industry has allowed for instances of human trafficking.

Thailand's change from an agricultural economic system to an industrial one is claimed to be a reason for traffickers' prevalence in the country. Families sell their daughters to traffickers believing that they will be working in the city and providing the family money. Many families do not realize their children are being trafficked in the sex industry (Montgomery, 2009). The industry is profitable so there is little stigma culturally (Taylor et al., 2005). Both

girls and boys as young as ten are trafficked with both local and foreign clientele (Willis, 2002). There are laws in Thailand that prohibit child prostitution.

Even though Thailand was the first areas of anti-human trafficking advocacy, the government has a difficult time combatting human trafficking. Many of the international laws focus on prosecution and make the state responsible for ending human trafficking in their borders. However, human trafficking is considered an aspect of transnational organized crime, that operates around the globe making state accountability difficult to achieve. Further, Thailand is threatened with sanctions and economic hardship despite efforts to end human trafficking. Thailand NGOs focus on protection of survivors which is where anti-human trafficking in Thailand excels. International concern is on prosecution, so the protection aspect is not fully valued. Wealthy countries citizens exacerbate the human trafficking in Thailand and yet, European countries and the United States remain unaffected by the actions of their citizens.

Chapter Four: Biopower and Survivors/Victims

Anti-human trafficking researchers tend to focus on the plight of non-Western countries or on non-Western women. However, the purpose of this chapter is to discuss how anti-human trafficking laws impact survivors knowing that colonial norms are still involved.

In the United States, many advocates and politicians like to say that anyone can be a human trafficking victim. This statement is a rhetorical attempt to get more people involved and to care about the problem of human trafficking; however, the statement is ultimately untrue. As a white, American woman that lives in a suburban type of neighborhood, I am less likely to be a target of human trafficking than an American black woman living in an underfunded neighborhood and both of us are less likely than an immigrant woman to be trafficked. It is not just anyone that can be a victim of human trafficking. In fact, traffickers have a specific demographic that they look for, that is vulnerable people (Srikantiah). Vulnerable people are not just anyone, they are created This creation of vulnerable people happens in global political contexts and shapes how human trafficking is advocated against and how laws and regulations are created globally to combat human trafficking.

Vulnerable people are not only created but are maintained through systems and institutions. The acknowledgement of the state as the basis around regulating civil and legal life has resulted in both citizen protection and human neglect. Anti-human trafficking laws both in domestic states and international arenas, are places were biopolitics occur between governments and citizens and between states for power. In the present times, Europe and the United States have been instrumental in creating and maintaining anti-human trafficking laws domestically and internationally. These laws focus primarily on criminalization and victim protection. This binary creates assumptions over who is deemed the ideal victim and who is deemed the ideal perpetrator

of human trafficking which is explained throughout this chapter. These assumptions are rooted in colonial binaries of otherness, race, and notions of choice and freedom. Neoliberalism is a large component in United States' and Europe's approaches to economics and politics, which relies on and builds on the historical colonial ideals. Those individuals that do not fit into the assumed ideal victim role do not get the attention or protection from the State leaving them in a constant state of vulnerability and thus constantly exploited/exploitable.

The United Nation's definition of human trafficking is the one that is the most widely used and understood in today's norms. The League of Nations' definition also has valuable insight into how human trafficking is viewed. The League of Nations' definition states that slavery is, "the status or conditions of a person over whom any or all of the powers attaching to the right of ownership are exercised." As Davidson points out, this definition of slavery sounds similar to everyday social interactions (pg. 246). A husband is thought to have power over his wife and family and employers have power over their employees. The United Nations attempted to clarify this distinction in their definition.

Forced labor is mostly discussed in terms of policies in state legislation. The International Labor Organization (ILO) identifies three types of forced labor: forced labor exploitation, forced sexual exploitation, and state-imposed forced labor (LeBaron and Philips, pg. 2). According to the ILO, states are the only entities involved in one form of forced labor, however, the most discussed type of forced labor and form of trafficking is sex trafficking. Laws attempting at ending these forms are trafficking are rooted in concept of freedom and choice.

Freedom Versus Choice, the Ideal Victim, and Migration

The literature in human trafficking discourse shows two binary systems at work in the creation of the definition of human trafficking. There is the binary of innocent versus guilty and

the binary of freedom versus slavery. Aradau points to the innocent versus guilt binary where the United States and European governments have two stances toward trafficked women (2004). Either the trafficked women are considered a security threat and must be deported, or they are victims that deserve the pity of the state (Aradau, 2004, pg. 258-260). In order for governments to address the solution as to whether or not a trafficked woman is a threat to the state or a victim, the woman must answer the question "who are you"? (Aradau, 2004, pg. 260). Thus, trafficked women exist in a state between two identities, an identity of voluntary action which deems them threats to the state or an identity of victim that deserves a state's pity.

These identity distinctions are played out in the legal distinction between the two terms Human Trafficking and Human Smuggling. The legal definition of human trafficking operates in a binary system between the ideas of free or slave (Davidson, pg. 245). This binary comes from western philosophical thought which can be traced into Constitutions particularly of the United States, where individuals are deemed free agents to act on their own will (Davidson, pg. 245-248). This freedom is juxtaposed to the idea of slavery where individuals are controlled by an authoritative power. Human trafficking is the term used to denote the concept of slavery where trafficked women are subjected to slave-like conditions and are given access to protections such as visas to the countries they were trafficked to. Human smuggling is the term used to denote freedom where people have the ability to voluntarily cross borders and immigration laws are created in response to this notion (Davidson, pg. 249). The problem is that these two terms do not reflect the actualities of trafficking and in many cases freedom and slavery are blurred. People can choose to immigrate and willingly cross into another country and they can still be subjected to slave-like conditions once in that country.

There is a criterion that trafficked women must meet in order to be determined innocent by the State and not be deported. Todres defines that those that can be considered innocent or the ideal victims are a woman or girl trafficked for sex where they are considered to be a good witness for law enforcement, and she cooperates in investigations whereby she is rescued rather than an escapee from the trafficking enterprise (2009, pg. 634). Men and boys are overlooked, as are women and girls who escape on their own and those that do not wish to testify or cooperate with law enforcement (Todres, 2009, pg. 635). The innocence of the trafficking survivor is based on those criteria. Furthermore, to access state protection such as T-visas in the United States, the burden of proof to show innocence is on the trafficking survivor (Capous Desyllas, 2007, pg. 67).

The notion of an ideal victim is created both legally and through advocacy networks. Activism and public discourse are the driver that creates the ideas of what human trafficking victims look like. Sex trafficking gets the majority of the public attention compared to that of forced labor trafficking. Thus, the first aspect of the ideal human trafficking victim is of a woman who is sexually exploited (O'Brien, 2013, pg. 3). The ideal victim is one considered to be weak and is often portrayed as a young woman or girl. Weakness deemed through the age and gender of the ideal victim. Women are typically thought of as passive and therefore unable to protect themselves from traffickers (O'Brien, 2013, pg. 5-7). Campaigns highlight the innocent or blameless nature of young women picked to represent human trafficking. Women are usually shown as blameless by being involved in respectable activities (O'Brien, 2013, pg.8). Furthermore, the ideal offender remains unknown in campaigns (O'Brien, 2013, pg. 4). Those involved in the sex industry, the brothels and buyers, are often faulted and considered an ideal offender; however, those that create demand for labor trafficking go unnoticed (O'Brien, 2013, pg. 5). The ideal victim is socially constructed further along racial lines.

Cheryl Nelson Butler wrote in, *The Racial Roots of Human Trafficking*, historical and present-day racism involved in the societal perception of the human trafficking victim. Butler discusses the connection between the African slave trade and the oversexualization of black women that led to exploitation often with the stereotype of the Jezebel (pg. 1469). Furthermore, age is a factor where girls are often targeted. Black women and girls that survive sex trafficking are often overlooked and ignored due to attention of "white slavery" rhetoric that has been influential in creating anti-human trafficking laws (Butler, 2015, pg.1489-1493). The United States' legislation victimizes black people rather than protects them in the Mann Act, where black men are persecuted for consensual relationships with white women and black girls and women are viewed as having a predisposition for prostitution (Butler, 2015, pg. 1494,1492). There is an abundance of reports focusing on human trafficking that happens globally. People often forget or are unwilling to acknowledge that human trafficking also exists in the United States.

There is also a heteronormative nature to the human trafficking victim. Legislation was created for the purpose of women to be useful citizens by being good wives and mothers (Butler, 2015, pg. 1493). Anti-human trafficking policies focus heavily on the ideal victim as a female and the ideal perpetrator as a male based on western gender construction and heteronormative beliefs. Men are rarely recognized as human trafficking victims in cases of sex trafficking and there is no way to understand how sexuality plays a role into victimization and marginalization in anti-human trafficking policies (Robertson, 427). Despite, Lesbian, Gay, Bisexual, Trans, and Queer (LGBTQ) youth being targeted and impacted by human trafficking, there is little scholarly research detailing policy and experience that impact how they are advocated for or if they are able to claim protection for the state or NGOs.

The media tends to sensationalize the sex industry and the criminal aspects of human trafficking, which allows the government to create legislation only for prosecution while instituting political agendas that harm the economic agency of women. Politicians and media outlets tend to focus on Central or Eastern European victims of human trafficking creating the notion of a new white slave trade (Berman, 2010, pg. 87). Agency is stripped from the victim as being both an insiders (white) and an outsiders (non-national), the victim must fit into a standard of passiveness (Berman, 2010, pg.86). Sex work and sex trafficking are often conflated and those that wish to pursue sex work are deemed either a victim or a criminal depending on the gaze of the government or media outlet (Berman, 2010, pg.86-87). By blurring the lines between voluntary sex work and sex trafficking, states are able to control and police the sex industry thus limiting and criminalizing the economic activity of the industry (Berman, 2010, pg. 87). Anti-immigration rhetoric often deploys anti-human trafficking measures, so that securing and militarizing the border is a means of controlling human trafficking routes and destinations (Berman, 2010, pg.88). These narratives create a structure around those that cross a border irregularly, they are either the white, female victim or the black/brown, male threat (Berman, 2010, pg. 90).

According to Berman "The figure of the white trafficked woman exploited for sex becomes a synecdochally location for anxiety over the meaning of family, community, nation, belonging, and sexuality. Her constructed position as victim of a crime occludes her legal and sexual transgressions, including the fact that she has violated immigration and labour laws – as well as sexual mores –to work irregularly in an informal sector of a national economy" (210, pg. 91). Criminal activity of a white woman thought to be a victim of human trafficking is voided and/or ignored.

Furthermore, criminalizing human trafficking also involves criminalizing and scrutinizing women's movements across borders. Ant-human trafficking frameworks have made border control more abundant. Women who are thought to illegally move across the border are first deemed an illegal immigrant and are only considered a trafficking victim after they testify against an identifiable trafficker (Berman, 2010, pg. 92; Milivojevic, 2013, pg. 598). Where controlling the sex industry controls women's options of labor, concern over women's bodies becomes part of the rhetoric to control borders, meanwhile upholding racial and sexist stereotypes and oppressions.

The 1990s had a resurgence of anti-human trafficking discourse. One of the reasons is sex trafficking became a moral crusade (Milivojevic, 2013, pg. 586-587). Another reason is immigration, which created a need to regulate women's bodies by the state. Anti-human trafficking resurrection connected to the fall of the Soviet Union where Europe had to reestablish power roles and people were given more options of mobility (Milivojevic, 2013, pg. 587). Reports about the vulnerability of the Global South women who may have to resort to working in the sex industry (Milivojevic, 2013, pg. 588). Then there is crime which creates the idea of the dark menacing foreigner and the ideal victim.

The use of state control was called upon by activists that encourage the creation and legality of anti-human trafficking laws both domestically and internationally. Activists of the anti-human trafficking discourse are referred to as Neo-abolitionists. The members of the Neo-abolitionist movement are feminists, conservatives, and Evangelical Christians. The feminists in the movement blur the lines between consent and coercion. There are feminists that view prostitution as part of patriarchal system that degrades women, therefore all forms of prostitution are deemed nonconsensual. The Evangelical Christians believe prostitution is against moral codes and that women should be in the home and not the marketplace. Conservatives would like

to maintain that men dominate the marketplace and the symbolic notion of domestic space (Chuang, 2010, pg. 1665-1666). This group also makes the connection between human trafficking and the transatlantic slave trade. They also refer back to the early 20th century where legal prostitution in Europe and the United States began to be referred to as the white slave trade leading to the illegality of prostitution. White slavery began to become synonymous with prostitution (Chuang, 2010, pg. 1666-1667). This group defined prostitution as slavery in order to create laws criminalizing prostitution which have been encoded internationally. Anti-human trafficking laws were created out of prostitution reform movements (Chuang, 2010, pg. 1677). This coalition may have different agendas but, have been influential in the creation of human trafficking norms and laws.

The concept of the ideal victim is slightly altered on an international scale. In the international context, the Global South is considered victims where women are likely to be in prostitution due to lack of options compared to the Global North. Prostitution in the Global North is considered a choice and sign of immorality (Capous Desyllas, 2007, pg. 64). Often in international campaigns, the media shows the victim of human trafficking as a poor Asian or black girl that needs rescue (Capous Desyllas, 2007, pg. 71). Women in the developing countries are shown as victims of poor socioeconomic conditions and need to be rescued by the Global North (Capous Desyllas,2007, pg. 73). This image allows for NGOs from the Global North to insert themselves into Global South countries. Trafficking policy "...sets up a need for feminists, NGOs and even governments to ‘save’ every woman migrating to work... The best policy is to put on a victimized facade-which may be partially true-allowing NGO helpers to believe they are indispensable" (Agustin, pg.107). These ideas around who is the assumed victim of human trafficking is constructed into international rhetoric and law.

The activist groups, influential in creating domestic laws to regulate human trafficking, also have influence over international understandings of human trafficking. European and United States history is tied to colonialism and international anti-human trafficking laws being sponsored by neo-abolitionists is considered a continuation of imperialism. As Todres discusses, the use of otherness in creating anti-human trafficking laws. The self-versus the other is a colonial concept. Otherness in human trafficking creates an idea of who perpetrates "gross human rights violations as human trafficking". The perpetrators of human trafficking are imagined as those that are other, where the Global North perceives the Global South as the threat (Todres, 2009, pg. 622-623). The Global North has no issue exploiting those in the Global South which is exemplified in the sex tourism industry (Todres, 2009, pg. 624). Those in Western Countries, particularly the United States tend to ignore the problem of human trafficking within their own borders and instead focus on the "other" (Todres, pg. 630). The United States reports on other countries but does not report on itself in terms of human trafficking (Todres, 2009, pg. 634). Part of the creation of anti-human trafficking rhetoric is an assumed perpetrator and an assumed victim.

There is international history where the assumed victim of human trafficking is created on racial lines. White women as victims historically in treaties from the 1870s and 1900s, as well as, the attention of anti-prostitution activism (Todres, 2009, pg. 639 – 642). Current human trafficking laws focus on criminalizing because there is a belief that traffickers are a deviant other that can be punished by the dominate good and non-protection of those who are trafficked is due to the fact that they are also another (Todres, 2009, pg. 645). The human trafficking victim is imagined as an immigrant to the country. bell hooks stated that a weak other is created through western framework discounting women's agency and constructing non-western women as

needing to be rescued which furthers colonization through the use of a hegemonic framework. In this case, the hegemonic framework used is through international law. International attention to violence against women and women's rights were meant to be empowering to women. Instead, this movement emphases old colonial notions that women are weak and need protecting particularly women from the Global South. This rhetoric also tries to essentialize gender into a universal womanhood, that is fictious and erases the actual needs of women in the Global South to what western feminist and politicians think women from the Global South need (Kapur, 2008, pg. 36- 39).

United States' imperialism is enforced through international normalization of anti-human trafficking rhetoric. The United States ranks other countries based on their human trafficking records. The ranking may be more political than practical, as the lower ranks are Cuba, North Korea and Venezuela, which their low ranking may be due to the lack of acknowledgement of the US anti-human trafficking program than actual trafficking (Capous Desyllas, 2007, pg. 67). Trafficking policies feed into colonial savior complexes because the policies require the NGOs, abolitionist feminists and governments to speak on behalf of victims and work to protect victims rather than question and change the current framework that allows trafficking (Capous Desyllas, pg. 68). Global participants in human trafficking schemes are often corrupt political and government officials (Capous Desyllas, 2007, pg. 68). Even though there are government policies based on the assumption that human trafficking is done by criminal organizations, UN Crime Commission's own report found limited evidence of such activity (Capous Desyllas, 2007, pg. 68). Thus, the reason for international intervention based on human trafficking concerns by the United States and United Nations to end organized crime, especially human trafficking, may be unfounded and a continuation of imperialism.

As Berman stated, the creation of anti-human trafficking laws is a form of biopolitics in respect to prostitution being viable employment opportunity (2010). Whereby the state is executing control of the female body by limiting labor opportunities with high profits by defining all forms of prostitution as a form of trafficking. I would argue that it is also a form of state necropolitics. Necropolitics is a continuation of Foucault's concept of biopower. Biopower is the mechanisms of power that states use over life in terms of individuals and populations. Agamben alters Foucault's concept of biopower by applying it to sovereignty, where a life is included in politics through exclusion becoming a "bare life" (Genel). Mbembe continue this discussion through the creation of necropolitics which further alters biopower from a state's power over life to a state's power over death. In necropolitics theory, the sovereign has the right to kill (Mbembe). Necropolitics has two main forms which are linked to Foucault's biopower: state of exception and state of siege (Mbembe, pg. 16). State of exception is defined group of people are considered outside and within the system at the same time. Mbmebe uses the concept of slaves, where slaves were treated as tools for production within laws and institutions. Then there is the state of siege which is an aspect of military institution. "It allows a modality of killing that does not distinguish between the external and the internal enemy" (Mbmebe, pg. 30). The state of siege is where populations are controlled to the point of "bare life" or as Mbembe puts it the "living dead". The consequences of norm creation through power can be productive at times, but also creates spaces detrimental to certain people.

Human trafficking exists in a form of necropolitics. While there can be a known tangible survivor of human trafficking, that survivor only exists based on state definition and restrictions. Domestic and international laws are socially constructed and define who is considered a survivor of human trafficking and who can be deemed exploitable by the capitalistic system. Race, class,

nationality, and gender are identities play a role in who States and NGOs view as survivors and who they view as criminals. White, women/girls from Europe and the United States are often deemed vulnerable to human trafficking. Women and girls with national origins are defined as needing protection from human trafficking from people with similar national origin. However, European or United States citizens are allowed to exploit the women for example the sex tourism industry in Thailand. Colonialism doctrines of civilization define African and Asian people as less than human, and those definitions have yet to be addressed when discussing human trafficking.

By the state defining and assuming who can be and who cannot be identifiable as a human trafficking survivor, there are people legally excluded from human trafficking protections. A space is created that excludes possible survivors and does not allow for the mourning of possible victims. A human trafficking survivor is, therefore, someone who survives and is able to assist the state in apprehending human trafficking perpetrators fitting into the ideal victim in all possible ways. A human trafficking victim is someone who died and was unable to be saved by the state. Yet, the definition is so confining as to who a survivor and victim is, there is an identifiable population of human trafficking victims and survivors that go unrecognized. In this day and age, state recognition is vital to survival and continuation. I would argue that those still in human trafficking situations and those that have survived, died, or still in human trafficking situations unrecognized by the state are stateless because they are not given proper rights and protections. Thus, there is a space where a living dead category exists from those in human trafficking.

Case Study: Cyntoia Brown

Cyntoia Brown was convicted of robbery and murder in 2004 at the age of 16. She was runaway child. She had been taken care of by the Department of Child Services (DHS) from 2001 to 2003, from which she fled from (Bottorff, 2004 and Shaw, 2004). After escaping DHS, Brown was found by Garion L. McGlothen (known by his street name as Kut-Throat or Kut) (Burk). Garion took in the homeless Brown and exploited her through sex trafficking. Brown was beaten and raped by Garion and sold without consent (Kaba et al, 2017). In 2004, she was picked up by a 43-year-old stranger, who took Brown to his home (Burke). Brown shot the man, took his wallet and car and ran back to Garion (Bottorff). She was arrested, put on trial as an adult, charged for murder and robbery and sentenced to a 51-year jail sentence.

During the trail, DHS representatives made statements purporting Brown as a criminal stating that she committed crimes against a person and property (Bottorff and Shaw). During the trial, several witnesses, including Brown's cellmate testified stating that Brown confessed to murder and killing because she wanted to know what it felt like (Bottorff). Brown testified that the killing was in self-defense and that she was paid $150 dollars to have sex with the stranger (Burke, 2004 and Bottorff). Since she was tried as an adult, the history of statutory rape was not discussed. In 2018, Brown was given a clemency hearing, where she was released in August 2019 with ten years of parole ("Haslam grants clemency to Cyntoia Brown, to be released Aug. 7").

Brown was obviously a survivor of human trafficking, specifically sex trafficking and yet, she was treated as though her crime and her circumstances were not related. As a black child, it was assumed that she consented to be prostituted and that she murdered and robbed the white man she "consented" to have sex with (Butler, 2015). She was also criminalized during the trial through accounts from DHS stating that she committed crimes before (Butler, 2015). Brown

was never given the option to testify against Garion as a human trafficker. Brown was not defined as a human trafficking survivor or victim by an individual, the state got involved to make Brown a State slave by putting her in prison. Due to Brown being a black woman, she was treated like a willing participant in rape, she was criminalized, and the State asserted its power to maintain her slave status as a state detainee rather than as an individual.

Brown was a human trafficking survivor, yet she was not defined as such due to the fact that she did not fit the assumed criteria. She was not an immigrant, rather she was a United States citizen therefore she was thought of as being free, therefore she was thought to be able to choose being prostituted. She was not white; she is black, and the stereotypes led to her being thought of as a voluntarily prostitute and as an adult. Finally, she was not given the option to cooperate with law enforcement to apprehend her trafficker because she went unrecognized (Todres, 2009). Despite fitting the description of a human trafficking survivor, she did not fit the definition under the United States law, so she was an exception.

Prisons were facilitated as a continuation of slavery after slavery itself was abolished. Black people in the United States were arrested and tried either wrongfully or too harshly so that they would be placed in the prison system where slave-like conditions continue (Burris-Kitchen and Burris, 2011). Brown was moved from being an individual's slave to a slave of the state due to the lack of consideration of anti-human trafficking laws and movements. While there have been attempts to further expand the definition of human trafficking to include labor exploitation in the United Nations, individual countries vary on interpretation and implementation of anti-human trafficking policies. This type of case is not universal to all countries; However, almost every country has a group that faces disadvantages. In the United States blacks and natives are targeted by both individual and the State as slave labor, there are the Untouchables in India, and

the Roma in Eastern Europe, and Palestinians in Israel, where the lack of inclusive definitions continues to make these people vulnerable to individual and state implemented slavery.6.

Conclusion

The United States helped to create definitions of human trafficking that expands on colonial and imperialistic ideologies. Due to the United States' influence and control over international anti-human trafficking laws, there is a creation of a specific victim and a specific perpetrator of human trafficking. I am adding in the philosophical component of biopolitics and necropolitics where states have control over how people live and die. The international definition of human trafficking and criminalization methods that are conveyed in states' domestic policies, cause people who do not fit in the definition but have experienced human trafficking, to be undefinable and thus unprotected by States.

There is a class of people that go unprotected by the state and are thus stateless. Due to exclusionary definitions and protocols, anti-human trafficking laws create boundaries around women by monitoring women traveling and crossing borders and controlling professions that women can or cannot belong in which is a use of biopolitics. Biopolitics are more complicated on an international level where imperial methods can be used to create an international biopolitical system. Since the United States has been instrumental in creating the anti-human trafficking laws internationally and has instituted a monitoring system, there is an attempt at imperial biopolitics over anti-human trafficking laws. Exclusionary definition creates people that go undetected and unprotected by anti-human trafficking laws creating a class of vulnerable people with high risks of exploitation and death showing a necropolitics on an international scale, where state's exclude protection deliberately to certain people. This is important because it

means that the anti-human trafficking laws are not actually helping end human trafficking and survivors of human trafficking cannot benefit from aid.

Chapter Five: Conclusion: Human Trafficking and the Necropolitics

This Thesis covered the legal creation and maintenance of anti-human trafficking laws internationally. These laws were created out of power structures established by colonialism. Since laws are socially constructed, they are impacted by colonial thoughts. Power dynamics of colonialism was not limited to the physical domination of spaces, but also the knowledge and truth systems established internationally.

Colonial thought produced the concept of freedom through the Enlightenment movement. Freedom is considered a human right in modern times; however, the term is not simple. Freedom was first introduced as a relationship between individuals and governments. Employment options were exempt from the principle of freedom. Therefore, trafficking and slavery could continue so long as it wasn't by the government. In modern times, under Neoliberal principles, this notion of freedom has evolved were freedom is a state of certain individuals but does not apply to all based on specification of class, race, gender, and nationality. Colonization defined these individuals in civilization doctrines used to justify the enslavement of African and Asian peoples.

These principles impact anti-human trafficking laws on a fundamental level. Governments and campaigns against human trafficking claim that human trafficking is modern day slavery. This is a story told by the powerful, where knowledge and truth is gathered to support this claim. However, human trafficking has become an appropriation of slavery narrative. Human trafficking and slavery are different. Human trafficking norms started at the same time that the transatlantic slave trade was becoming popular. Human trafficking was used to distinguish white women as unacceptable trafficking victims. Anti-human trafficking laws were created to protect white, European, working class women and girls.

There are two forms of activism that created anti-human trafficking norms, there were those that opposed slavery in general, and then there were those teaching the civilization doctrine. Prostitution was at the forefront of anti-human trafficking laws, as white slave traffic referred to women being forced to work in brothels. Activists believed prostitution was immoral and cheapened whiteness and thus, used anti-human trafficking laws as a tool to control and monitor women's employment options. This is exemplified in the 1902, 1904, 1910, and 1921 Conventions were states were required to aid foreign women in gaining employment in their country.

Many of the main assertions from the early conventions remain present in the current protocol. The 2000s protocol often gets cited as the first protocol defining trafficking, however, the 2000s protocol took the definition established in 1902. The International Conference on the White Slave Traffic of 1902 defined white slave traffic as "…committed by any person who, to satisfy the passions of another, has procured, enticed, or led astray a woman or girl, with immoral intent." Further, "'to "procure"' is to invite or lead the woman or girl to become a prostitute; to '"entice"' is to take her away with or persuade her to follow; to '"lead astray"' is to remove her illegally from her surroundings" (Allain, 2017, pg. 9). To protect white women from trafficking, monitoring systems outlined in 1899 are still in force as border control and has been expanded.

The word "white" defined the victim of human trafficking until the 1920s, when the League of Nations removed the word. However, removal of the word "white" without considering how institutions were established benefiting white women and girls. To this day, there has been little examination as to the role the term "white" has on applications of anti-human trafficking laws. Since human trafficking was established during the time of colonization

of African and Asian countries, those countries have a disproportionate power in the international system compared to old European colonizer countries. While prostitution in Europe and the United States is considered immoral and policed, sex industries in other countries like Thailand is unaffected. These led to European and United States citizens going to Thailand to participate in the sex industry often times breaking the international laws. Different nations experience human trafficking differently, and often African and Asian countries experience human trafficking with European and United States perpetrators but lack power to address the issue on the international scale since the laws were created to protect European i.e. white women.

The main difference between the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children" and earlier anti-human trafficking laws is that, rather than being its own Convention, it is inside of *the Convention against Transnational Organized Crime*. It is also connected to the: "Protocol against the Smuggling of Migrants by Land, Sea and Air". Organized crime redefines human trafficking as being a crime committed by three or more people rather than by individuals. It also specifies that people that do not aid in criminal proceedings are liable to be tried as accessories to the organized crime. The trafficking protocol exists alongside the smuggling protocol. This establishes a gender dynamic to trafficking. Trafficking is defined as something that happens to women, where women are seen as having a lack of choices, or no freedom when it comes to mobility. Men on the other hand are viewed as always having choices and therefore always free, so men cannot be trafficked, instead they are smuggled. These historical and present conceptions of human trafficking create a necropolitical space.

In cases of human trafficking, those involved are neither dead nor alive because they go unrecognized and unprotected by both domestic and international law. Regardless of who or how

someone is subjected to being trafficked. The consistent monitoring required by both international and domestic laws establish state's control in people's lives, specially those in lower-socio-economic conditions. This gives states more power over their citizens where the international law does not protection abuses of that power.

Necropolitics is often associated as an aspect of power of individual states rather an international issue. However, many of the creations of necropolitical situations have a history in colonialism much like anti-human trafficking does. There is a power dynamic on an international level that creates a system whereby human trafficking can exist. European and United States citizens take advantage of sex tourism in Thailand with no retribution; however, Thailand receives sanctions for continued human trafficking within the country's borders. Cyntoia Brown is sentenced to prison for murdering her assailant despite being a human trafficking survivor because of racism connected to colonial power.

The power structure created by international law gives two ideal assumptions. One, the ideal country where people are trafficked from such as Britain, where the women gain more international sympathy. Second, the ideal perpetrator country which would be a country in Africa or Asia. These ideals were created by colonialism. Ideals such as these create an international power structure where ideal victim countries are given authority over ideal perpetrator countries. The United States is given the international authority to monitor other countries domestic laws and policies and grade those policies for a recognized international documentation system. Yet, they are not checked by countries that may be harmed by United States citizens like the country of Thailand.

Ideal victims of human trafficking remain women in the sex industry. Women are constantly monitored. Yet, race and nationality remain important aspects as to how they are

perceived. The women and men that survivor human trafficking are then subjected to domestic and international policies. Anti-human trafficking laws are less of how to help combat human trafficking but rather define who are and who are not victims or in other words, who is allowed to be colonized and who is not. There is so much attention toward the definition of trafficking that no one thinks about the definition of human.

References

Agamben, G. (1998). *Homo sacer: Sovereign power and bare life*. Stanford University Press.

Allain, J. (2017). White slave traffic in international law. *Journal of Trafficking and Human Exploitation*, *1*(1), 1-40.

Aradau, C. (2004). The perverse politics of four-letter words: Risk and pity in the securitisation of human trafficking. *Millennium*, *33*(2), 251-277.

Atherley-Jones, Llewellyn Archer; Bellot, Hugh Hale Leigh (1907). Commerce in War *by Llewellyn Archer Atherley, p.182*

Phongpaichit, P., & Baker, C. (2005). Challenge and Change in East Asia:" Business Populism" in Thailand. *Journal of Democracy*, *16*(2), 58-72.

Bell, Ernest Albert (1910), *The War on the White Slave Trade* (ebook), Chicago: GS Ball

Bantekas, Ilias; Susan Nash (2003). *International Criminal Law 2/E*. Cavendish: Routledge.

Barnett, M., & Duvall, R. (2005). Power in International Politics. *International Organization,59*(1), 39-75. doi:10.1017/S0020818305050010

Bergsten, C. Fred. "The International Monetary Fund and the National Interests of the United States." *PIIE*, Peterson Institute for International Economics, 31 Aug. 2018, www.piie.com/commentary/testimonies/international-monetary-fund-and-national-interests-united-states.

Berkovitch, Nitzka (1999). "Chapter 3: "For the Protection of Women and Children" – The Interwar Era Discourse on Women". *From Motherhood to Citizenship: Women's Rights and International Organizations*

Berman, J. (2010). Biopolitical management, economic calculation and "trafficked women". *International Migration*, *48*(4), 84-113.

Beutin, L. P. (2017). Black Suffering for/from Anti-trafficking Advocacy. *Anti-Trafficking*

Review, (9).

Bottorff, Christian (2004). "Court: Teen told why she shot; detective says". *The Tennesseean Archives*.

Bottorff, Christian (2004). "Suspect spent time with DCS". *The Tennesseean Archives*.

Bottorff, Christian (2006). "Brown: Teen guilty in murder, robbery". *The Tennesseean Archives*.

Butler, C. N. (2015). The racial roots of human trafficking. *UCLA L. Rev.*, *62*, 1464.

Burke, Sheila (2004). "Teen to be tried as adult in man's death". *The Tennesseean Archives*.

Burke, Sheila (2004). "Judge to decide soon if teen gets trialed as adult". *The Tennesseean Archives*.

Burris-Kitchen, D., & Burris, P. (2011). FROM SLAVERY TO PRISONS: A HISTORICAL DELINEATION OF THE CRIMINALIZATION OF AFRICAN AMERICANS. *Journal of Global Intelligence & Policy*, *4*(5).

Capous Desyllas, M. (2007). A critique of the global trafficking discourse and US policy. *J. Soc. & Soc. Welfare*, *34*, 57.

Chaumont, J. M. (2011). The white slave trade affair (1880-1881): a scandal specific to Brussels?. *Brussels Studies. La revue scientifique électronique pour les recherches sur Bruxelles/Het elektronisch wetenschappelijk tijdschrift voor onderzoek over Brussel/The e-journal for academic research on Brussels*.

Convention for the Suppression of the Traffic in Persons. (2012). Retrieved from https://www.ohchr.org/EN/ProfessionalInterest/Pages/TrafficInPersons.aspx.

Chuang, J. A. (2010). Rescuing trafficking from ideological capture: Prostitution reform and anti-trafficking law and policy. *University of Pennsylvania Law Review*, *158*(6), 1655-1728.

Cisney, V. W., & Morar, N. (Eds.). (2015). *Biopower: Foucault and beyond*. University of Chicago Press.

"C029 - Forced Labour Convention, 1930 (No. 29)." *Convention C029 - Forced Labour Convention, 1930 (No. 29)*, International Labour Organization, 2019, www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CODE%3AC029.

C105 - Abolition of Forced Labour Convention, 1957 (No. 105). (2019). Retrieved from http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C105

"C138 Minimum Age Convention, 1973." *Humanium*, Humanium, 2019, www.humanium.org/en/minimum-age-convention/.

"C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)." *Convention C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)*, 2019, www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CODE%3AC182.

The Covenant of the League of Nations. "Peace Treaty of Versailles." *Peace Treaty of Versailles , Articles 1-30 and Annex / The Covenant of the League of Nations*, 1998, net.lib.byu.edu/~rdh7/wwi/versa/versa1.html.

Craven, M. (2015). "Between law and history: the Berlin Conference of 1884-1885 and the logic of free trade". *London Review of International Law*. Oxford University Press.

Davidson, J. O. (2010). New Slavery, Old Binaries: Human Trafficking and The Borders of 'Freedom'. *Global Networks, 10*(2), 244-261. doi:10.1111/j.1471-0374.2010.00284.x

Davidson, J. O. C. (2017). The Presence of the Past: Lessons of history for anti-trafficking work. *Anti-Trafficking Review*, (9).

Dawson, Alan (2015). "The big issue: The TIP-ping point". *Bangkok Post*.

Doksone, Thanyarat (2015). "Thailand cracks down on human trafficking syndicates, targeting corrupt police, officials". *US News & World Report*. Associated Press. Archived from the original on 18 May 2015.

Dommen, Arthur J. (2001). *The Indochinese Experience of the French and the Americans: Nationalism and Communism in Cambodia, Laos, and Vietnam*. Indiana University Press. ISBN 0-253-33854-9.

Doucet, Marie-Michèle (2015). "Prise de parole au féminin : la paix et les relations internationales dans les revendications du mouvement de femmes pour la paix en France (1919-1934)"

Editorial Board (2016). "Human Trafficking on Trial in Thailand". *New York Times*.

"The Elimination of Extraterritoriality". Ministry of Foreign Affairs (Thailand).

Finnemore, M., & Sikkink, K. (1998). International Norm Dynamics and Political Change. *International Organization, 52*(4), 887-917. doi:10.1162/002081898550789

Foot, M. R. D. (2016). Oxford Companion to World War II - Oxford Reference. Retrieved from https://www.oxfordreference.com/view/10.1093/acref/9780198604464.001.0001/acref-9780198604464.

Foucault, M. (2012). *Discipline and punish: The birth of the prison*. Vintage.

Foucault, M. (1980). *Language, Counter-Memory, Practice: Selected Essays and Interviews.*

Ithaca, NY: Cornell University Press. p. 139.

Foucault, M. (1990). *The history of sexuality: An introduction*. Vintage.

García, M. R. (2012). The League of Nations and the moral recruitment of women. *International Review of Social History*, *57*(S20), 97-128.

Garland, D. (2014). What is a "history of the present"? On Foucault's genealogies and their critical preconditions. *Punishment & Society*, *16*(4), 365-384.

Gaventa, John (2003) *Power after Lukes: a review of the literature*, Brighton: Institute of Development Studies.

Genel, K. (2006). The question of biopower: Foucault and Agamben. *Rethinking Marxism*, *18*(1), 43-62.

Goldman, M. F. (1972). Franco-British Rivalry over Siam, 1896–1904. *Journal of Southeast Asian Studies*, *3*(2), 210-228.

Gorman, Daniel. "Empire, Internationalism, and the Campaign against the Traffic in Women and Children in the 1920s". *Twentieth Century British History,* 2007. Oxford University Press, p.12

Glasser, J. D. (1995). *The Secret Vietnam War: The United States Air Force in Thailand, 1961-1975*. McFarland & Co Inc Pub.

Global Report on Trafficking in Persons. Vienna: The United Nations Office on Drugs and Crime. 2014

Gramsci, Antonio (1971). "Introduction". In Hoare, Quentin; Smith, Geoffrey Nowell. *Selections from the Prison Notebooks*. New York: International Publishers. pp. xvii–xcvi. ISBN 978-0-85315-280-4.

Hafner-Burton, E. M., Mansfield, E. D., & Pevehouse, J. C. (2015). Human rights institutions,

sovereignty costs and democratization. *British Journal of Political Science*, *45*(1), 1-27.

Harrison, David (2001-01-01). *Tourism and the Less Developed World: Issues and Case Studies*. CABI. ISBN 9780851994338.

Harvey, D. (2005). Freedoms Just Another Word.... In *A Brief History of Neoliberalism* (pp. 5-35). Oxford University Press.

"Haslam grants clemency to Cyntoia Brown, to be released Aug. 7". *WATE News*.

Hevamange, Veyoma et al. *Global Monitoring: Status of Action Against Commercial Sexual Exploitation of Children* . ECPAT Internationa, 2011.

Horvath, G. (1995). Thailand's War With Vichy France. Retrieved from https://www.historytoday.com/archive/thailands-war-vichy-france.

Horzum, E. D. (2017). *Charting the international legal framework applicable to modern day human trafficking* (Doctoral dissertation, University of Glasgow).

Hurd, I. F. (2009). Constructivism. In *The Oxford handbook of international relations*. Oxford University Press.

"International Law and Justice." *United Nations*, United Nations, 2019, www.un.org/en/sections/issues-depth/international-law "International Law and Justice." United Nations, United Nations, 2019, www.un.org/en/sections/issues-depth/international-law-and-justice/index.html.-and-justice/index.html.

Kaba, M., Schulte, B., Gullapalli, V., Pishko, J., Morrison, N., Trivedi, S., & Weill-Greenberg, E. (2017). Not A Cardboard Cutout: Cyntoia Brown and the Framing of a Victim. Retrieved from https://theappeal.org/not-a-cardboard-cut-out-cyntoia-brown-and-the-framing-of-a-victim-aa61f80f9cbb/.

Kara, S. (2009). *Sex trafficking: Inside the business of modern slavery*. Columbia University Press.

Katzenellenbogen, S. (1996). "It didn't happen at Berlin: Politics, economics and ignorance in the setting of Africa's colonial boundaries". In Nugent, P. And Asiwaju, A. I. (Eds.), African Boundaries: Barriers, Conduits and Opportunities. Pp. 21-34. London: Pinter.

Kapur, R. (2008). The Tragedy of Victimization Rhetoric: Resurrecting the" Native" Subject in International/Post-Colonial Feminist Legal Politics'(2002). *Harvard Human Rights Journal*, *15*, 1.

Kaye, M., & McQuade, A. (2007). Poverty, Development and the Elimination of Slavery.

Kershaw, Ian (2015). *To Hell and Back, Europe 1914-1949*. London: Penguin. p. 249. ISBN 9780141980430.

Koskenniemi, M. (2012). A history of international law histories. In *The Oxford Handbook of the History of International Law*.

Krebs, R. R., & Jackson, P. T. (2016). Twisting Tongues and Twisting Arms: The Power of Political Rhetoric. *European Journal of International Relations,13*(1), 35-66. doi:10.1177/1354066107074284

Lammasniemi, L. (2017). Anti-White Slavery Legislation and its Legacies in England. *Anti-Trafficking Review*, (9).

Lebaron, G., & Phillips, N. (2018). States and the Political Economy of Unfree Labour. *New Political Economy,* 1-21. doi:10.1080/13563467.2017.1420642

"Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)" (PDF). *International Court of Justice*: 28–32. 21 June 1971.

Lemke, T. (2001). 'The birth of bio-politics': Michel Foucault's lecture at the Collège de France on neo-liberal governmentality. *Economy and society*, *30*(2), 190-207.

Lim, Lim Lean, ed. (1998). *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia* (PDF). Geneva: International Labour Office (ILO). ISBN 978-92-2-109522-4.

Limoncelli, S. A. (2017). The global development of contemporary anti-human trafficking advocacy. *International Sociology*, *32*(6), 814-834.

Louis, William Roger (2006). "32: Robinson and Gallagher and Their Critics". *Ends of British Imperialism: The Scramble for Empire, Suez, and Decolonization*. London: I.B.Tauris. ISBN 9781845113476.

"Mann Act", (2003) *Dictionary of American History*, Encyclopedia.

Massad, J. A. (2001). *Colonial effects: The making of national identity in Jordan*. Columbia University Press.

Mbembé, J. A., & Meintjes, L. (2003). Necropolitics. *Public culture*, *15*(1), 11-40.

Milivojevic, S., & Pickering, S. (2013). Trafficking in people, 20 years on: Sex, migration and crime in the global anti-trafficking discourse and the rise of the 'Global Trafficking Complex'. *Current Issues in Criminal Justice*, *25*(2), 585-604.

Mirowski, P. (2014). *Never Let A Serious Crisis Go to Waste: How Neoliberalism Survived the Financial Meltdown*. London: Verso.

Montgomery, Heather (2009). "Are child prostitutes child workers? A case study". *International Journal of Sociology and Social Policy*. **29** (3/4): 130–140. doi:10.1108/01443330910947507. ISSN 0144-333X

Müller, H. (2004). Arguing, bargaining and all that: Communicative action, rationalist theory and the logic of appropriateness in international relations. *European journal of international relations*, *10*(3), 395-435.

Murphy, Daniel (2018). *Hidden Chains; Rights Abuses and Forced Labor in Thailand's Fishing Industry* (PDF). Human Rights Watch (HRW). ISBN 9781623135669.

The Nation. (2015). All fishing vessels 'must have GPS'. Retrieved from https://www.nationthailand.com/politics/30256949.

National Vigilance Association, Transactions of the International Congress on the White Slave Trade, held in London on 21-23 of June 1899 (London: National Vigilance Association, 1899), 17.

Nebehay, Stephanie (2014). "Pact to halt forced labour snubbed by Thailand, Gulf – ILO". *Reuters*. Geneva.

O'Brien, E. (2013). Ideal victims in trafficking awareness campaigns. In *Crime, Justice and Social Democracy* (pp. 315-326). Palgrave Macmillan, London.

Otto, D. (1998). Rethinking universals: opening transformative possibilities in international human rights law. *The Australian Year Book of International Law Online*, *18*(1), 1-36.

Panke, D., & Petersohn, U. (2012). Why international norms disappear sometimes. European Journal of International Relations, 18(4), 719-742.

Pantana, Jettana (2018). "Thailand objects to Human Rights Watch assessment on Thai fishing industry". *National News Bureau of Thailand (NNT)*.

Polaris. (2017). The Facts. Retrieved December 07, 2017, from https://polarisproject.org/human-trafficking/facts

Preis, A. B. S. (1996). Human rights as cultural practice: an anthropological critique. *Hum. Rts.*

Q., *18*, 286.

Rabinow, Paul (editor) (1991) *The Foucault Reader: An introduction to Foulcault's thought*, London, Penguin.

Reyes, C. (2015). History of Prostitution and Sex Trafficking in Thailand. Retrieved from https://www.endslaverynow.org/blog/articles/history-of-prostitution-and-sex-trafficking-in-thailand.

Rujivanarom, Pratch (2018). "EU rap a result of 'flawed policies'". *The Nation*.

Samarasinghe, Vidyamali (2008). *Female Sex Trafficking in Asia: The Resilience of Patriarchy in a Changing World*. New York and London: Routledge.

Sarkin, J. (2018). The Need to Reform the Political Role of the African Union in Promoting Democracy and Human Rights in Domestic States: Making States More Accountable and Less Able to Avoid Scrutiny at the United Nations and at the African Union, Using Swaziland to Spotlight the Issues. *African Journal of International and Comparative Law*, *26*(1), 84-107.

Sandholtz, W. (2008). Dynamics of International Norm Change: Rules Against Wartime Plunder. *European Journal of International Relations* , *14*(1), 101-131. doi:10.1177/1354066107087766

Shaw, Michelle (2002). "Senator, sorority members aid female offenders". *The Tennesseean Archives.* Retrieved January 8, 2018.

Simms, Peter; Simms, Sanda (2001). *The Kingdoms of Laos: Six Hundred Years of History*. Psychology Press. pp. 206–207. ISBN 0700715312.

Sorajjakool, Siroj. (2003). *Child prostitution in Thailand: listening to Rahab*. New York: Haworth Press. ISBN 9781315865027. OCLC 65797185

Steinfeld, R. (2001) *Coercion, contract and free labour in the nineteenth century*, Cambridge: Cambridge University Press.

"Supplementary Convention on the Abolition of Slavery." (2019) *OHCHR*, United Nations Human Rights Office of High Commissioner, www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx.

Taylor, L., Mulder, M., Formoso, B., Liddell, C., Montgomery, H., Nieuwenhuys, O., ... & Taylor, L. (2005). Dangerous trade-offs: The behavioral ecology of child labor and prostitution in rural northern Thailand. *Current Anthropology*, *46*(3), 411-431.

Todres, J. (2009). Law, otherness, and human trafficking. *Santa Clara L. Rev.*, *49*, 605.

UN, United Nations, UN Treaties, Treaties: International Convention for the Suppression of the White Slave Traffic. (1910). Retrieved from https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VII-10&chapter=7&clang=_en.

UN, United Nations, UN Treaties, Treaties: International Agreement for the suppression of the "White Slave Traffic". (1904). Retrieved from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VII-8&chapter=7&lang=en.

UN, United Nations, UN Treaties, Treaties: Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. (2000). Retrieved from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&clang=_en.

UN, United Nations, UN Treaties, Treaties: United Nations Convention against Transnational Organized Crime. (2017). Retrieved from https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en.

United Nations. (2017). Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime. Retrieved from http://www.refworld.org/docid/4720706c0.html.

Vechbanyongratana, Jessica; Paik, Christopher (2019). "Path to Centralization and Development: Evidence from Siam". *World Politics*. **71** (2): 289 331. doi:10.1017/S0043887118000321. ISSN 0043-8871

Weber, M. (2015). Weber's rationalism and modern society: New translations on politics, bureaucracy, and social stratification (T. Waters & D. Waters, Eds. & Trans.).

Willis, Brian M; Levy, Barry S (April 2002). "Child prostitution: global health burden, research needs, and interventions". *The Lancet*. **359** (9315): 1417–1422. doi:10.1016/s0140-6736(02)08355-1. ISSN 0140-6736. PMID 11978356

1921 International Convention for the Suppression of the Traffic in Women and Children, as amended by the 1947 Protocol. (1947). Retrieved from https://web.archive.org/web/20120110120011/http://cil.nus.edu.sg/1947/1921-international-convention-for-the-suppression-of-the-traffic-in-women-and-children-as-amended-by-the-1947-protocol/.

2008 Trafficking in Persons Report - United States Department of State. (2008). Retrieved from https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm.

2014 Trafficking in Persons Report - United States Department of State. (2014). Retrieved from https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm.

2016 Trafficking in Persons Report - United States Department of State. (2016). Retrieved from https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm.

2018 Trafficking in Persons Report - United States Department of State. (2018). Retrieved from https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm.

2019 Trafficking in Persons Report - United States Department of State. (2019). Retrieved from https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm.

Table 1.

International Laws Protections Based on Race, Gender, Class, and Nationality

International Law	**Race**	**Gender**	**Class**	**Nationality**	**Priority: Criminalization or victim protection**
The International Congress on the White Slave Trade in 1899	White	Girls/Women	Working class	European Nationality's, primarily British	Criminalize traffickers, Monitor for traffickers at border, Aid Women seeking employment
The International Conference on the White Slave Traffic of 1902	White	Girls/Women	Working class	European Nationalities and Brazil	Criminalize, Monitor for traffickers at border, Aid Women seeking employment
The 1904 International Agreement for the Suppression of the White Slave Traffic	White	Girls/Women	Working class	European Nationalities and Brazil	Prevention; monitoring traveling women and girls
The 1910 International Convention for the Suppression of the White Slave Traffic	White	Girls/Women; ages are defined whereby girls are under 20 and women are 20 and over	Working class	European Nationalities and Brazil	Victim Protection
International Convention for the Suppression of the Traffic in Women and Children 1921	The term white was removed but only European Countries were monitored	Girls/Women	Working class	All nationalities, but only European countries were monitored	Protection; large scale border control and aid for women looking for employment
1933, International Convention for the Suppression of the Traffic in Women of Full Age	The term white was removed but only European Countries were monitored	women	Working class	All nationalities, but only European countries were monitored	Protection; the Advisory board was created
Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices	Inclusive	Women/Men	Working class	All nationalities yet directed toward African and Asian nationalities	Protection and criminalization

International Law	**Race**	**Gender**	**Class**	**Nationality**	**Priority: Criminalization or victim protection**
Similar to Slavery in 1956					
The Forced Labour Convention of 1930	Inclusive but mostly applied to Europe and United States	Women and men; however, able-bodied men are except	Working class	All nationalities; mostly applied to European countries	protection
Abolition of Forced Labour of 1957	Inclusive but mostly applied to Europe and United States	Women and men	Working class	All nationalities	protection
Minimum Age Convention of 1973	inclusive	Girls and boys	Working class	All nationalities	protection
Worst Forms of Child Labour Convention of 1999	Inclusive	Girls and boys	Working class	All nationalities	protection
United Nations Convention against Transnational Organized	Targets terrorists' organizations, often from the Middle East and Africa	Men	Poor and working class	African, Asian, and Middle Eastern nationalities	Criminalization
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Inclusive language but applies either to white women, or used to save foreign women from men of their same nationalities	Women/girls	Poor and working class	European nationalities, the United States	Criminalization
Protocol against the Smuggling of Migrants by Land, Sea and Air	Inclusive language, applies to migrants, primarily migrants going to Europe or the United States	men	Poor and working class	Latin American, South American, Middle Eastern, African, Asian	Criminalization, usually, those supposed to protected b this act is treated as the criminals

Appendix

List of Acronyms and Abbreviations

AMSH	Association for Moral and Social Hygiene
CDA	Contagious Diseases Act
CLAA	Criminal Law Amendment Act
DHS	Department of Child Services
ECPAT	End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes
GAATW	Global Alliance Against Traffic in Women
IAF	International Abolitionist Federation
IBSTWC	International Bureau for the Suppression of Trafficking in Women and Children
IGOs	International Government Organizations
ILO	The International Labor Organization
IMF	International Monetary Fund
INGOs	International Non-Government Organizations
LGBTQ	Lesbian, Gay, Bisexual, Trans, and Queer
NGO	Non-Governmental Organizations
NVA	The National Vigilance Association