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## **Policy Responses to Human Trafficking in Southern Africa: Domesticating International Norms**

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### **Abstract**

Human trafficking is increasingly recognized as an outcome of economic insecurity, gender inequality, and conflict, all significant factors in the region of southern Africa. This paper examines policy responses to human trafficking in southern Africa and finds that there has been a diffusion of international norms to the regional and domestic levels. This paper finds that policy change is most notable in the strategies and approaches that differ at each level: international and regional agreements emphasize prevention measures and survivor assistance, but national policies emphasize prosecution measures. Leaders across the region have adapted these policy norms to fit regionally specific conditions, including HIV/AIDS, conflict, traditional leaders, and prostitution. Yet, national policies often fail to incorporate preventative solutions to address gender inequality, human rights, and economic development. Until appropriate funding and preventative measures are introduced, the underlying issues that foster human trafficking will continue.

### **Keywords**

Norms diffusion - Human trafficking - Southern African Development Community - Prostitution - Child trafficking

This paper examines policy approaches used to address human trafficking in southern Africa.<sup>1</sup> Human trafficking and gender-based violence are extremely prevalent in post-conflict societies as unexpected and lasting consequences of war. Facilitated by poverty, disruption in social structures, and discriminatory gender systems, human trafficking poses a threat to human security in Africa by challenging the rule of law, societal peace, and the welfare state (Jonsson 2009). Many southern African countries experienced protracted civil conflict in their quest to gain independence from colonial and apartheid powers during the latter half of the 20<sup>th</sup> century. Now, more than two decades after liberation in most countries, the legacies of war and racial and gender inequality remain. There have been successful, national-level public initiatives to increase women's representation in national office, implement democratic institutions, and support transformative development programs. Despite these initiatives, the region still faces significant gender inequality, economic disparity, and interpersonal violence at the grassroots and household level. This context creates an enabling environment for human trafficking. The region is increasingly being utilized as a source of trafficked persons, a transit hub for trafficking networks, and a destination for trafficked persons and sex trafficking.

We argue that the theories of international norm diffusion and localization<sup>2</sup> are instructive for understanding how trafficking policies are being developed in southern Africa, and these

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<sup>2</sup> For the purposes of this paper, norm diffusion is the transfer of international norms from the international to the regional and national levels of governance through international treaty accession, ratification, approval, or acceptance. Norms can also be diffused through the adoption of new policies aimed to compliment or expand upon these international treaties. Although these norms have diffused and countries have adopted new policies and ratified international treaties, this does not mean that the norms have been localized. Norm localization is defined by Acharya as the "contestation between emerging transnational norms and preexisting regional normative and social order" (2004: 241). This localization occurs when "norm-takers perform acts of selection, borrowing, and modification in accordance with a preexisting normative framework to build congruence between that and emerging global norms" (Acharya 2004: 269).

theories provide important insights into how the policies and norms are working as they are in this region. As the norms of fighting human trafficking move from the international to the regional and national levels, we find that there is significant localization and domestication of the norms to fit the African context. Secondly, we find that, at the regional level, there is more emphasis on prevention of human trafficking and protection of victims and more nuanced understanding of social deterrents of trafficking and human security needs to prevent trafficking. Finally, we find that the emphasis on prosecution of traffickers is most pronounced at the international and national levels – indicating the normative power of the prosecution and law enforcement approach to human trafficking.

Southern Africa is an important region for analysis because of its push to implement comprehensive trafficking policies, following the establishment of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* in 2000, hereafter referred to as the Palermo Protocol or Palermo (United Nations Convention against Transnational Organized Crime and its Protocols, Palermo Protocols 2000).<sup>3</sup> In recent years, there have been a number of political initiatives at different levels of governance that have tried to limit human trafficking. The African Union (AU) and Southern African Development Community (SADC) have taken significant steps toward regional initiatives related to women’s empowerment, including addressing human trafficking. On the national level, these protocols and conventions have been ratified for the most part, along with the passage and implementation of several national policies and National Action Plans to combat trafficking.

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<sup>3</sup> The *United Nations Convention against Transnational Organized Crime* included three protocols the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*; the *Protocol against the Smuggling of Migrants by Land, Sea and Air*; and the *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*.

Through a content analysis of international, regional, and national policies, we found that, as trafficking policies moved from the international to the regional and national levels, significant norm localization occurred. Most importantly, we determined that, at the regional and national levels, there are Africa-specific differences in the policies, which indicates that an important process of norm localization and adaptation is taking place within the region. Africa-specific policy differences include the incorporation of traditional leaders into human trafficking programs, recognition of the impact of war and conflict on human trafficking, and acknowledgement that HIV/AIDS complicates human trafficking. These findings indicate that, in the case of human trafficking policies in southern Africa, international norms have been modified and reconstructed to represent region-specific contexts and conditions.

We also found that policies differ significantly in their emphases: regional agreements at the SADC and AU level focus on preventative measures and protection of survivors, while national policies focus on the prosecution of traffickers, which mirrors the prosecution focus of the Palermo Protocol and the US Victims of Trafficking and Violence Protection Act of 2000 (now known as the Trafficking Victims Protection Act, TVPA). The national-level emphasis on prosecution may be due to role clarification and pragmatism: states know how to focus on prosecution, while human rights and social change are much harder to legislate. On the other hand, the focus on prosecution may instead suggest that states are adopting trafficking policies only to give the appearance of favoring progressive human rights while actually using the laws to strengthen borders, fortify law enforcement, suppress migration, and criminalize prostitution. Finally, the emphasis on prosecution may also be a testament to the normative power of the “three Ps” approach (prosecution, protection, and prevention) that flowed from both the US TVPA legislation and the international agreements at Palermo and that are now expected, monitored, and ranked by the US Department of State each year in the Trafficking in Persons (TIP) Report.

Even though some regional bodies and a few states have seen the need for more complexity and nuance in anti-trafficking initiatives than at the international, the overwhelming power of the prosecution approach embedded within the “three Ps” of Palermo and the TVPA is evident in these southern African policies.<sup>4</sup> The majority of trafficking policies, funding, and government programing across the globe continue to be conflated with national security, law enforcement, and the prevention of criminal activity. The emphasis on human rights and trafficking prevention through social change is scant at best.

The regional bodies of SADC and the AU show more intricacy and localization because they are larger visionary bodies with non-national goals. At the national level, however, the norms are interpreted according to the “three Ps” due to states’ national strategic interests and because this strategy improves their rankings in the annual TIP Report. Improved TIP report rankings are important to many southern African countries that rely on foreign aid.

### **Trafficking in Southern Africa**

Human trafficking in southern Africa, as in most regions of the world, is a varied and complicated mix of governmental responses, policies, and types of trafficking. The major trends that have been documented in the region include forced labor, sex trafficking, street begging, organ trafficking or organ removal for traditional medicine (Bermudez 2008), child soldiers, forced marriage, and adoption. For the purposes of this paper, the region of southern Africa includes the members of the South African Development Community (SADC).<sup>5</sup> We use the Palermo Protocol’s

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<sup>4</sup> The authors would like to thank the comments by the anonymous reviewers for this observation.

<sup>5</sup> SADC member states include Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

definition of trafficking.<sup>6</sup> Southern Africa has the full range of governmental responses to trafficking: some countries have taken significant steps to stop trafficking, while others have done almost nothing. This contrast is evident in the US Department of State Trafficking in Persons (TIP) report, which ranks 188 countries on the basis of their efforts to combat human trafficking. A Tier 1 ranking means that the government has made efforts to combat trafficking, and Tier 3 indicates that the government is not working to combat trafficking.<sup>7</sup> Most of southern Africa falls in the Tier 2 category, including Botswana, Mauritius, Malawi, Mozambique, Swaziland, Zambia, and South Africa. No country in the region has earned the rank of Tier 1, and two countries, the Democratic Republic of the Congo (DRC) and Zimbabwe, have a ranking of Tier 3. Lesotho, Namibia, Seychelles, Madagascar, Tanzania and Angola are on the Tier 2 Watch List. Two countries, Angola and Zimbabwe, have yet to accede to the Protocol.

There is a significant lack of reliable data on trafficking in Africa because, as Smith (2011) notes, “poor countries, from which victims are most likely to originate, are also least able to collect accurate data” (279). Recent attention to international trafficking has stimulated new attempts to

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<sup>6</sup> According to the Palermo Protocol “‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs” (Palermo Protocol).

<sup>7</sup> The ranking methodology utilized in the TIP report is based on the “minimum standards of government action” and adherence to legislation on human trafficking adopted in the United States called the *Trafficking Victims Protection Act*, which the report states are consistent with the Palermo Protocol (US Department of State 2013). A Tier 1 ranking indicates that the country has made efforts to address the problem and meets the TVPA’s minimum standards. Tier 2 are countries that “do not fully comply but are making significant efforts to do” so, while Tier 2 watch list countries have the same problems with non-compliance as Tier 2 but also have a severe form of trafficking with a significant number of victims, and the national government cannot demonstrate that it has made efforts to combat it or will do so in the next year (US Department of State 2013). Tier 3 countries do not comply with the minimum standards and are not making efforts to fight human trafficking (US Department of State 2013). The minimum standards that a country needs to comply with include laws combatting severe forms of trafficking, implementation of these laws through prosecution of traffickers, proactive victim identification measures, government partnerships and funding to NGOs, assistance to victims, and prevention of human trafficking (US Department of State 2013). For more information about these standards, see the TIP Report, US Department of State 2013.

understand these patterns in Africa. Trafficking in SADC follows patterns similar to the rest of the world, but a unique range of causes and manifestations of trafficking in southern Africa make the region a particularly important focus of study. Lack of legislation and weak law enforcement has shaped trafficking patterns in the region (UNICEF 2003). Truong and Angeles (2005) argue that the majority of trafficking happens internally within each country through small, family-related networks. There are also cases of trafficking that include transnational organized crime networks, however (Martens et al. 2003). Across the region, trafficking narratives are similar: most victims are lured by promises of jobs, education, beauty pageants, or better lives, and they find themselves trapped in forced labor in mines, factories, construction, farms, exploitative domestic service, or forced prostitution. Geographic barriers also shape trafficking routes in the region, as traffickers must navigate around rivers, lakes, mountains, deserts, forests, and even wildlife (UNICEF 2003). Economic patterns shape trafficking trends in the region as well. Flows of trade, tourism, and migration have created parallel patterns of human trafficking. There are growing incidences of organized trafficking syndicates operating in the region, in particular in South Africa, Zambia, Zimbabwe, and Angola. For example, victims are trafficked into Zambia via criminal networks from Malawi, Mozambique, South Africa, the DRC, China, Lebanon, and India to work in the mines, agriculture, construction, bonded labor, prostitution, and small businesses such as bakeries (US Department of State 2013).

Poverty fuels trafficking in SADC, and it is one of the main causative factors listed in each country. Mathias and McCabe (2010) outline four factors that facilitate trafficking in southern Africa: poverty, child and female oppression, limited control of borders, and the myth of HIV/AIDS. In addition to these factors, conflict, gender-based violence, child abuse, natural disasters, political unrest, corruption, and instability all contribute to an environment in which trafficking can gain traction (Kreston 2007; Molo Songololo 2000; UNICEF 2003). Orphans are



also particularly vulnerable to trafficking, and the large number of AIDS orphans has put a strain on the region that also fuels trafficking (Kreston 2007). There has been national attention given to the trafficking of orphans in Zambia and Swaziland (US Department of State 2013) and to AIDS orphans in Botswana (US Department of State 2011). Children are also used in criminal activities such as looting, theft, gambling, and drug smuggling in countries like the DRC, Angola, Zimbabwe, and Zambia. Some families voluntarily send children into the cities for employment as part of the practice of child placement for job opportunities (Bermudez 2008). There is some evidence that families knowingly send children into prostitution, sometimes even negotiating the prices with clients, or sell their children into slavery or forced labor for money (Kreston 2007). Some traffickers actively recruit children or adults from their own home villages, using their familiarity to win the trust of family, friends, and neighbors. They become trapped in sex work, begging, street vending, and forced labor (US Department of State 2011). Children may seek prostitution or forced labor themselves as a means of poverty survival (Kreston 2007; Molo Songololo 2000).

Other pull factors include the tourism industry, which fuels trafficking for prostitution and child prostitution in countries like Madagascar, Seychelles, and South Africa. Zimbabwean immigrants have been trafficked throughout the world into forced labor and prostitution (US Department of State 2013). A particularly alarming trend is the mobile sweatshops that take victims, from China especially, throughout South Africa, Swaziland, and Lesotho to avoid detection (US Department of State 2011). In addition to economic inequality, there are ethnic differences that may fuel trafficking. The structural inequalities and discrimination faced by the San people in Namibia make them particularly vulnerable to trafficking (US Department of State 2013).

Conflict is another key factor in determining trafficking patterns. The region has a history of conflict as countries fought to end colonial domination, white-minority governments, and authoritarian rule. The most well-known struggle was the anti-apartheid struggle that centered in

South Africa but affected the entire region of frontline states (including Namibia, Zimbabwe, Mozambique, and Angola) during the latter half of the 20th century. Nearly every conflict in the region was also infused with Cold War politics and military support from the East and West. While many of the conflicts have ended and most of southern Africa is now relatively peaceful and democratically-oriented, the legacies of economic inequality, political unrest, and migration continue (Mathias and McCabe 2010).

A 27-year civil war, fueled by the Cold War and apartheid conflict, left Angola fractured by landmines, refugees, devastated infrastructure, and a population that is armed and not fully demobilized. The instability and migration patterns following decades of conflict set the stage for the trafficking and crime seen today. There is a great deal of forced labor internally, and there is some trafficking of boys regionally to work in other countries or to serve as couriers for criminal activity. The DRC has also been identified as “refugee producing country” and a source for human trafficking due to the armed conflict, increased levels of gender based violence, and limited access to health care (Kropiwnicki 2010). The DRC conflict, which ran from 1999-2013, is known as Africa’s world war due to the involvement of government-led forces supported by Angola, Namibia, and Zimbabwe, and fighting rebel forces supported by Uganda and Rwanda. The conflict killed at least three million people through war or disease and has left the country devastated economically and environmentally. Trafficking in the DRC is mainly internal and caused by instability. Debt bondage, forced domestic labor, and forced prostitution—particularly of girls—around mining and labor camps are common. The DRC is the only SADC country known for trafficking child soldiers. Many die from the harsh conditions or are killed if they refuse to serve (US Department of State 2013).

In the last few years, governments in this region started to create new national trafficking policies, often in response to calls from Palermo, the African Union, and SADC. The countries without national anti-trafficking policies often utilize policies and laws geared at illegal immigration, child protection, and provisions to the penal code. Some do nothing at all.<sup>8</sup> Table 1 identifies these national trafficking policies and their dates of ratification.

Insert Table 1 here.

While a discussion of the political processes involved in the passage of trafficking legislation in each country is outside the scope of this paper, it is useful to examine one case to demonstrate the iterative nature of the policy diffusion in the region. South Africa went through a deeply consultative process to develop their human trafficking legislation over several years. The push for a comprehensive, stand-alone trafficking law was linked to South Africa's need to align its policies with the Palermo Protocol, the UN principles and guidelines, and the TIP Report (SALRC 2004; SALRC 2006; Tørres and du Toit 2010). Several scholars and government panels specifically mentioned the pressure created by South Africa's move from Tier 2 to the Tier 2 Watch List in the 2005 TIP Report (Kreston 2007; SALRC 2006). This negative ranking spurred the government to begin writing human trafficking legislation.

During policy deliberations, particular attention was given to international instruments on labor and human rights and also to regional instruments including charters on human rights, the rights of the child, and women's rights (SALRC 2004; SALRC 2006; Tørres and du Toit 2010). Consultants and policy advocates examined each of these documents while drafting the legislation, and they also worked to localize international policies to fit the South African context, including by

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<sup>8</sup> Countries that do not enact national legislation do not have de-facto legislation on human trafficking as a result of their accession to the Palermo Protocol because the agreement is non-binding. The AU and SADC are thus pushing countries to adopt their own national legislation.

sponsoring research that identified the nature of human trafficking in South Africa and the impact of regional factors on trafficking. In these steps, we can clearly see the process of norm diffusion and norm localization. The final legislation reflects not only the norms of the international protocols and the US TIP report but also embodies the local context and the regional factors affecting trafficking. While South Africa is just one case, it is representative of the process national governments undergo to domesticate international norms.

### **Anti-Trafficking Norm Diffusion and Adaptation**

While many countries have utilized the language of the Palermo Protocol, this action is not an accurate measure of governments' commitments to the implementation process. We assert that a key first step in the process of moving leaders from rhetoric to implementation is ensuring that countries domesticate these international protocols to their own contexts. Nation-specific language and laws demonstrate that countries are moving toward ownership of the problems, rather than merely rubber-stamping the policies provided by the Palermo Protocol. Some governments and law enforcement agencies may tacitly approve or create an environment conducive to trafficking because of economic benefits (bribes, attracting sex tourists, etc.). Publicly, however, almost all governments have voiced their disapproval of trafficking, and most have adopted some domestic anti-trafficking measures.

The international norm of combating human trafficking is moving, therefore, from the second to the third and final stage of what Finnemore and Sikkink (1998) describe as the *norm life cycle*: (1) norm emergence, which is driven by key policy entrepreneurs, (2) norm cascade, when the norm is diffused broadly, and (3) norm internalization, when the norm becomes uncontroversial and taken for granted – much like the assumption now that slavery is wrong. By the second stage, there is international and regional pressure to adopt the norms through a “combination of pressure

for conformity, desire to enhance international legitimation, and the desire of state leaders to enhance their self-esteem” (895). We are seeing this pattern throughout the SADC region as more and more states adopt anti-trafficking attitudes and policies. As the norm approaches stage three of the life cycle, the idea that states should combat trafficking is now being taken for granted.

These new trafficking policies suggest that other types of human rights attitudes are becoming widely-accepted norms in the region as well. We are most interested in understanding how SADC countries are framing their anti-trafficking policies and how policymakers are shaping the direction and manifestation of this international norm within their domestic contexts. Our research shows that, at this third stage, the norm life cycle becomes less linear and more circular and iterative in southern Africa. Domestic policies are now reinforcing and solidifying the norms at the regional and international levels.

Our research goes beyond assessing why states comply with international anti-trafficking norms, since most governments recognize that they do not want to be seen as fostering human trafficking. Instead, we examine how these governments comply with international anti-trafficking norms by focusing on the anti-trafficking policies they pass. While most scholarship focuses on the agency of international actors and norm entrepreneurs (Sundstrom 2005; Towns 2012), or examines the causal mechanisms that determine why governments comply (Checkel 2001; Kelley 2008; Moravcsik 2000), other studies have examined key aspects of norm transfer, including the type and nature of venues in which norms are negotiated (Coleman 2011). Although there are some notable exceptions, the localization of anti-trafficking norms within Africa is made easier by the pre-existing anti-slavery sentiments found throughout Africa. Acharya (2004) argues that, “localization is simply easier, especially when prior norms are embedded in strong local institutions” (247). Coleman (2011) argues that states’ willingness to adopt an international norm is found in the balance between their own interests and their normative beliefs. Rather than thinking that

international anti-trafficking norms are *better than or different from* local norms, they may be seen in Africa as a contemporary manifestation of an enduring anti-slavery attitude found across the continent. In this way, anti-trafficking norms in principle are not attempting to displace local norms. Anti-trafficking ideas are regarded as neither a foreign concept nor some form of western imperialism; rather, since slavery is widely regarded as abhorrent, local leaders can embrace anti-trafficking norms. There may be dissonance, however, in the manifestation of these norms, which may be perceived as anti-immigration attitudes masquerading as anti-trafficking norms.

African leaders have crafted policies, especially at the regional level, in which we see evidence of local agency: policies are going far beyond the confines of the Palermo Protocol to outline local conditions, persistent inequalities, and contributing factors to trafficking in Africa. For localization to be successful, the diffusion of anti-trafficking norms should “accommodate local sensitivity” and leaders own “sense of identity” and autonomy (Acharya 2004: 249). Despite the congruence of the international norm of anti-trafficking to the regional norm of anti-slavery, policy responses by African countries have been uneven.<sup>9</sup> The humanistic interpretation of anti-slavery attitudes at the regional level are replaced by state-centered policies at the national level, which represent the normative power of the prosecution and law enforcement notions found in the Palermo Protocol and the TVPA.

### **Human Trafficking Policy Categorizations**

There are many ways to categorize anti-trafficking norms in human trafficking policies. The international standard arranges policy orientations into three categories: prevention and deterrence, law enforcement and prosecution of traffickers, and protection and rehabilitation of trafficked

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<sup>9</sup> This is similar to other policy areas in which international norms are localized, such as with the norm of a security culture (Williams 2007).

persons (Truong and Angeles 2005). Broadly stated, the “three Ps”—prevention, prosecution, and protection—are the recognized standard for trafficking policies. In the Palermo Protocol, *protection* is defined as economic, housing, language, social, educational, legal, psychological, and medical assistance to trafficked persons. It also promotes a framework to allow for compensation of the trafficked persons as well as granting victims status to remain in the country or be assisted with repatriation. *Prosecution* is discussed as the criminalization of trafficking in its many forms and gives very little direction on this approach. *Prevention* refers to research about the causal factors of trafficking, public information campaigns, training for service providers, and measures to ensure the documents’ validity and border activity. Countries must start to address the push and pull factors driving trafficking. Similarly, an exclusive focus on prevention does very little to provide justice or long-term rehabilitation for the survivors.<sup>10</sup>

In developing our coding typology for human trafficking policies, we were also interested in understanding typologies that expanded the “three Ps.” One such expansion comes from Danailova-Trainor and Laczko (2010), who categorize an alternative three approaches to trafficking policy: the justice approach, the human rights approach, and the development approach. Their categorization underscores the problems that can be caused by policies that focus too much on justice (often linked to prosecution), and not enough on development and human rights, (akin to prevention and protection). In an examination of EU policies, Lindstrom (2006) also offers her own categorization of trafficking policies, classifying different responses to trafficking as the migration approach, the law enforcement approach, the human rights approach, and the economic approach (Lindstrom 2006). She argues that migration and law enforcement prevail over the other two approaches. Goodey (2008) agrees that approaches focusing on migration and law enforcement have prevailed

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<sup>10</sup> Recent TIP reports from the US Department of State are including a fourth “P” – partnerships, to stress the value of partnerships across government sectors and between government and civil society in addressing trafficking.

in government policy, and she categorizes them as state-centered. She argues that even the norms found within the Palermo Protocol promote this state-centered approach to human trafficking, which focuses on trafficking as a crime against the state and not against the individual who was exploited. For example, Goodey criticizes soft laws that only allow trafficking victims to receive residency permits to stay in the country if they cooperate with authorities (2008). This soft legislation she argues is supposed “to be ‘for’ trafficking victims [but instead] is sometimes more focused on the needs of law enforcement in acquiring victim testimonies” (Goodey 2008: 423).

Most scholars, advocates, and NGOs still argue that trafficking policies and programs are state-centric and lean more toward justice, prosecution, and criminalization. Goodey (2008) finds that there is some evidence that this framework is slowly shifting toward a victim-centered approach, which focuses on the rehabilitation and assistance of victims. Increasingly, Goodey finds there is a fresh approach to trafficking law and implementation that shows that there is “a crossover in roles and approaches to trafficking, as well as examples of co-operation between different actors,” including a victim-centered approach to trafficking within law enforcement (Goodey 2008: 433). The approach in some ways combines prevention and protection, but it currently leans more toward the protection of victims and less toward the prevention of social ills that drive trafficking. The idea is that in time, by focusing on the victims, the crime of trafficking will be addressed indirectly, rather than focusing solely on prosecution, immigration, and criminalization. We argue, with Goodey, that this victim-centered approach still lacks the focus on the causal factors of trafficking – such as social, gender, and economic inequality.

Following from these typologies developed in the trafficking literature, we evaluated the policies in our study based on their level of prevention, prosecution, and protection approaches, plus two other normative categories: economic development and human rights. The latter two normative approaches reflect states attempts to address the root causes of human trafficking. Thus we integrate



the typologies utilized in the literature and determine if they are present in the content of the trafficking policies in southern Africa. We found the “three Ps” as singular categorizations to be incomplete because in the actual content of the policies these themes were integrated with one another. As a result we coded for the “three Ps” and the intersection of these themes in order to determine if these themes are distinct or if instead they intersect with each other. We have hybrid codes for protection/prevention, protection/prosecution, prosecution/prevention, prevention/prosecution/protection to indicate where themes are integrated or overlap. By merging the existent typologies utilized in the literature, we test which approach is actually reflected in the content of the policies, if these categorizations accurately represent the policies policymakers are adopting, and if the anti-trafficking norms have transferred to the regional and national levels.

### **Methodology**

To determine the regional policy variation and to see if these categorizations were evident in the policies of southern Africa, we conducted a content analysis of ten policies (one international, two regional, and seven national policies).<sup>11</sup> We coded the Palermo Protocol, which serves as the international foundation for trafficking policy since its formulation in 2000. We then coded two regional policies: the plan of action from the African Union (AU), and the plan of action from

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<sup>11</sup> Despite the explosion of research on this topic, most of the literature on trafficking policy has been descriptive of particular policies or the policy process and has not taken a systematic evaluative approach of the actual policies with policy comparisons across countries. Therefore, our study utilizes an empirical content analysis to systematically compare themes and variables in policies across a number of countries and levels of governance. Most other policy comparisons have been limited to two or three policies where the authors have described the content and comparison of the policies. Instead, our study compares ten policies on the international, regional and national levels. Additionally, to our knowledge, none of the previous comparisons involve the continent of Africa not to mention the region of southern Africa. Therefore, this research both theoretically and empirically adds to the literature on comparative human trafficking policy.

SADC. Eight of the fifteen SADC members have passed national policies, and we coded all of these national policies as well. Only national-level policies wholly devoted to human trafficking were included in this study. While human trafficking overlaps with areas of legislation like the Penal Code or Child Protection Bills, we only coded trafficking-specific policy. All the policies were available in English, except Madagascar's, which was translated from French by the co-author. The policies were located on a variety of international and national websites including, but not limited to, the Harvard School of Public Health, United Nations Secretary General's Database on Violence Against Women, International Labour Organization, the non-governmental organization Southern Africa regional Network against Trafficking and Abuse of Children, and Ministry of Interior websites for the respective countries.

We conducted three cycles of coding using Computer Assisted Qualitative Data Analysis Software (CAQDAS), specifically Atlas.ti 6.2. First-cycle coding began with a list of a priori codes, developed in advance from the literature review and an initial reading of the Palermo Protocol. The first cycle also included open coding, in which we identified emergent codes based upon the policies themselves. In this stage of coding, we were interested in the manifest content of the materials—what was actually present in the policies—to gain an overview of the policies and observe variation among them. (See the Appendix 1 for a table of codes and meanings.) Our goal in the first-level coding was to find the gaps in policies as well as the unique features of each country's policy. We were interested to see if countries conflated trafficking with prostitution, sex trafficking, sex tourism, forced labor, slavery, and child abuse. We looked for country-specific factors that “indigenized” the policy to the specific country, which would suggest that the policy was embraced by the national government and not written merely to fulfill international expectations. We were also interested in identifying specific scope and application, variations in sentencing guidelines, creative solutions for education and outreach, and instances of cross-border collaboration. Each of

these factors can be used to evaluate a country's policy attitudes and how authentically it has adapted the policy to its own context. The eventual success of a policy may not rely upon how closely it follows Palermo but how effectively it matches the trafficking practices and norms of the individual country.

In the second and third cycle of coding, we concentrated on the manifest and the latent content. We used focused coding methods in the second cycle and looked for only five codes: prevention, prosecution, protection, human rights, and development. We also coded for four additional codes that demonstrate the intersections of the "three Ps." The second-cycle coding specifically examines policies' emphasis and intent. We first assessed the policies' emphasis on prevention, prosecution, and protection. We then looked for the latent content of human rights and development to see if these values were also present in the policies. We used the international standard of prevention, prosecution, and protection to assess the overall emphasis and framework of national policies. We employed the two additional codes, human rights and economic development, because they are often not captured by the prevention, prosecution, and protection model but are important frameworks on which to build comprehensive anti-trafficking programs. During the second-level coding, we expected to find that countries would match the international policies' emphasis on the "three Ps," but we instead found that countries overemphasize prosecution and deemphasize prevention and protection. We also expected that the categories of human rights and economic development would be roughly equivalent in national policies and in international policies, but found that states focused less on these key factors and instead emphasized criminal and law-enforcement approaches.

First-cycle coding was conducted by both authors on Palermo, AU, and SADC, with the national policies divided and coded individually. Second- and third-cycle coding were completed on all of the policies by both authors.

## **Findings: Policy Approaches**

One of our main research goals was to ascertain the guiding values and principles of the policies to understand what governments emphasized and deemphasized. This question constituted the focus of our second cycle of coding, and we decided to restrict ourselves to only five codes reflecting five policy approaches. The first three - prevention, prosecution, and protection/rehabilitation - are the international standard of trafficking policies established in Palermo. The second two are developed from the broader literature and look to the normative values within the policies: human rights and development. We hypothesized that (1) national policies would emphasize prosecution above other approaches and that (2) the international and regional policies would be more balanced among the five approaches.

**International Agreements:** Palermo is the international standard on which all other regional and national policies in our study are based. One of our initial questions asked whether AU, SADC, or the national governments developed trafficking policies on their own or implemented them merely to fulfill the mandate of Palermo. The Palermo Protocol was passed in 2000, just after the United States' TVPA, and the two documents overlap significantly. All of the national and regional policies we studied in Africa were passed after that, with the AU in 2006; Madagascar, Tanzania, Mozambique, and Zambia in 2008; Swaziland, Mauritius, and SADC in 2009; Lesotho in 2011; and South Africa in 2012. With the exception of Madagascar, all of the policies refer to Palermo, and almost all to the UN Convention against Transnational Organized Crime (UNTOC), stating that the national policies are intended to domesticate Palermo. Madagascar does not mention any international agreements by name, but its policy does state, "For the compliance of legislation of Malagasy with the provisions of various international instruments ratified by Madagascar, aimed at

protecting children from different forms of violence both physical and moral, morals offenses should be subject to severe and effective prevention and punishment” (Anti-Trafficking Law Madagascar 1), thus indirectly mentioning international agreements. The AU plan of action has the most comprehensive list of international agreements, eighteen in total.

While we found variation among the policies, the evidence of policy dispersion following Palermo is clear. Along with organizations in each country pushing for trafficking programs, the international standard of Palermo in 2000 and the AU Plan of Action in 2006 created a hospitable environment of national policy creation. Governments were eager to demonstrate their legitimacy and to be seen, at least on paper, as working against trafficking.

Since Palermo was the impetus for the national and regional policies, we were interested in understanding the framework of policy approaches within this policy. Palermo clearly outlines the three-pronged approach of prevention, prosecution, and protection. Palermo was designed as a singular instrument focused on human trafficking, to overcome the past piece-meal approach of dealing with trafficking in criminal codes and other legislation. The Protocol calls on states to develop “social and economic initiatives to prevent and combat trafficking in persons” and “to alleviate factors that make persons, especially women and children, vulnerable to trafficking such as poverty, underdevelopment and lack of equal opportunity” (Palermo 5). These calls link prevention to a much wider social transformation in order to combat the root causes of trafficking. The Protocol calls on states to address “demand” factors that support the trafficking, particularly those related to cultural and social practices. In the discussion of training for service providers, police, and border guards, the Protocol calls on states to “consider human rights and child- and gender-sensitive issues” in their programs. As the content-analysis demonstrates, these cultural, social, and poverty-alleviation mandates for prevention were almost universally overlooked in national policies. Of the three approaches, Palermo emphasizes the *protection* approach the most (18

percent) and the *prosecution/law enforcement* approach the least (5 percent; see Table 2 below). Even given the emphasis on protection, the UN-led approach has been widely criticized for being too focused on criminality, as Kaneti (2011) argues: “trafficking is viewed primarily in the framework of criminality and (illegal) migration; there is little emphasis on human rights – either in terms of prevention or support to trafficked persons” (350). This leaves states to “take advantage of their international commitment to execute an alternative agenda – develop legislation that criminalizes the crossing of international borders” (Kaneti 2011 350). The emphasis on prosecution of traffickers is an incomplete strategy: “(p)unishing traffickers, the dominant criminal justice approach to human trafficking privileged by the Palermo Protocol, has proven insufficient in eradicating trafficking” (Smith 2011 283).

Our analysis determined that the emphasis on criminality and migration at the international and domestic levels *was not* the guiding force of the African regional agreements. The AU and SADC policies, while balancing all approaches, are primarily focused on prevention strategies (30 and 39 percent respectively; see Table 2 below). This intuitively makes sense, because these are higher-level agreements focusing on international collaboration and because they are most in line with Palermo. There is some focus on a human-rights-centered approach in each of the international agreements, which is in line with the nature of core values of the UN and international agreements, but a discussion of human rights is only discussed at a superficial level. The SADC policy has the highest percentage of all the policies devoted to development (9 percent).

The AU plan of action is interesting because it recognizes the context of war in many of its member states and expands the discussion of human trafficking to include war and post-conflict factors that foster trafficking. The AU emphasizes economic development, gender inequality, and harmful cultural practices. Rather than shy away from these flash-point issues, the AU plan of action states these cultural practices and gender frameworks should change and cannot be used as a

defense of or an excuse for trafficking. For example, one of the guiding principles of the AU plan is changing gender attitudes:

The empowerment of women and girls through national policies is an important part of combating trafficking. A gender perspective should be applied when adopting and implementing measures to prevent and combat trafficking in human beings (3).

The AU plan also demonstrates a comprehensive understanding of the causes of trafficking:

Poverty and vulnerability, an unbalanced distribution of wealth, unemployment, armed conflicts, poor law enforcement system, degraded environment, poor governance, societies under stress as well as non-inclusive societies, corruption, lack of education and human rights violations including discrimination, increased demand for sex trade and sex tourism are among the root causes of trafficking in human beings and must be addressed (3).

The AU is also focused on issues of the girl-child in particular. A focus on the girl-child has been one of the international approaches embraced readily by the AU, and it is interesting to see it featured so prominently in this plan of action, when it was not a focus of Palermo or subsequent national policies. Each of these policy excerpts indicates an authentic localization of trafficking policies, rather than a mere re-inscription of international rhetoric.

We find a similar pattern in the SADC policy. The SADC plan of action was written later than many of the national policies in our study, and it is a reflection of both a top-down and bottom-up policy, created, in part, by leaders and advocates from within the region that had already created their own legislation. This underscores the iterative, circular nature of the life cycle of international norm diffusion. National policies and leaders are simultaneously reinforcing and reshaping the international norm at the regional level based on their own national understandings. The core framework of the SADC plan of action matches Palermo. But just as we saw in the AU plan of action, the SADC plan directly addresses the specific socio-cultural and economic climate of the region, taking trafficking policy to new levels of specificity and understanding of context:

...the region remains a fertile ground for traffickers who capitalize on the vulnerabilities created by war, endemic poverty, minimal access to health and education, gender inequality, unemployment, and a general lack of opportunity for much of the region's population, especially women who made up the majority of the poor. The SADC region is characterized by high poverty levels, where two thirds of the population lives below the international poverty line of US\$2 per day; high levels of unemployment are experienced in the region ranging between 25%, in Botswana and above 80% in Zimbabwe (1).

While Palermo never mentions HIV/AIDS, the SADC and AU policies address the impact of HIV/AIDS on trafficking. The AU plan calls for an "AIDS-sensitive approach," while the SADC policy details how AIDS fosters poverty, gender inequality, and child-headed households, all of which create vulnerable populations that traffickers target. Given that SADC is one of the key epicenters of the HIV/AIDS pandemic, it is vital that policies in the region acknowledge these factors.

The most interesting finding from our analysis is that, as trafficking policy moved from the international level of Palermo to the regional level of the AU and SADC, the core values of gender, human rights, and development remained intact and became even more developed and context-specific. However, these approaches were dropped when the policy moved to the national level, as we discuss in the next section.

**National Policies:** One of the key observations we can draw from the content analysis is how trafficking policies have changed the initial mandate of the Palermo Protocol, the AU Plan, and the SADC Protocol. Palermo calls on states to take a balanced, three-pronged approach to trafficking, and the AU and SADC Protocols encourage legislation that is infused with a human-rights perspective and development initiatives designed to disrupt trafficking demand and supply. Instead, most states have erred on the side of prosecution. Many states have also deemphasized the focus on human rights and development. Thus, while international policy transfer has occurred, states have chosen to emphasize their own priorities or opted for the path of least resistance—prosecution and



law enforcement—instead of long-term cultural change in attitudes toward human rights and gender. This observation underscores Kaneti’s (2011) assertion that the ambiguity of the Palermo Protocol and emphasis on prosecution leaves room for states to develop more ways to police their borders and criminalize migration and prostitution.

Madagascar, Mauritius, Mozambique, and Zambia all emphasize prosecution, with Zambia and Madagascar serving as the most extreme examples, at 58 and 77 percent of their policies focused on this approach, respectively. Mauritius also holds the unique distinction of calling victims of trafficking “inmates,” which again underscores its law enforcement/prosecution-focused approach to trafficking. The policies from Lesotho and South Africa are the most in line with international policies. Lesotho has the most developed and extensive discussion of the protection of survivors. South Africa is similarly notable for its emphasis on both protection and rehabilitation, with the prosecution focus coming in second and human rights and prevention in third.

Insert Table 2 here.

**Human Rights and Development Approaches:** Poor development has been identified as one of the key forces that propel people into trafficking, yet it receives almost no mention in the national policies. Similarly, a human-rights-based approach disappears from trafficking policies as we move from the international/regional level to the national level policies. Although trafficking in its many forms is a violation of human rights, dignity, and personhood, it has received little attention in national trafficking policies.

One explanation for the national-level omission of human rights approaches is that states are adept at dictating guidelines for prosecution, law enforcement, and sentencing, but they often do not know how to legislate social change or foster a culture of human rights. States may not have the policy tools available to facilitate this type of cultural shift, and states may default into the areas

they know best, including law enforcement. It is legislatively and programmatically easier to focus on prosecution than it is to develop programs that shift gender norms, roles, and attitudes.

Nonetheless, for trafficking to be effectively challenged, states will need to prioritize addressing the root causes of trafficking—both the push and the pull factors—including poverty, development, conflict, and gender discrimination. While these issues are central to the AU and SADC policies, they have been sidelined at the national level, where most of the implementation will occur.

Insert Table 3 here.

### **Findings: Southern African Policy Specifics**

In our first level of coding, we focused on the manifest content of the policies to capture what was unique to trafficking policies in southern Africa, specifically to see if there were regional or national differences from the international trends outlined in Palermo. We found several interesting deviations from international trends at the regional and national levels: a conflation of sex trafficking with pornography and prostitution, an emphasis on child-centered or women-centered policies (which created an unanticipated pitfall by creating an ‘ideal trafficking victim’ that was underscored in sentencing guidelines), and an emphasis on regionally-specific issues that went beyond what Palermo called for, such as discussing traditional leaders, the role of war and conflict, HIV/AIDS, and child-adoption concerns. These regional and country-specific factors indicate that states are not uniformly or indiscriminately adopting international protocols. Instead, we are seeing deliberate action by local policymakers to address the concerns of their specific populations and to reinforce their local approaches to trafficking. Additionally, we see that the third stage of the norm life cycle becomes less linear and more iterative or circular. The norm of combating trafficking is now widely accepted and locally embraced. National innovation and application of this norm reinforce regional and international initiatives, and these new norm interpretations continue to inform and expand international understandings and protocols.

**Pornography, Prostitution, and Trafficking in Southern Africa:** The anti-trafficking movement has created some unlikely bedfellows in national and international policies. In the US, the movement to initiate anti-trafficking legislation brought together “feminists, progressive Democrats and Republicans who closely identified with the evangelical Christian community” who were anti-prostitution and anti-exploitation of women (Gulati 2010: 364). As the movement progressed, a split emerged between feminists that favored the legalization of prostitution and feminists that opposed prostitution outright. Internationally, feminists and anti-trafficking advocates that agitated for the legalization of prostitution argued that legalization or decriminalization would give sex workers the ability to claim greater autonomy, safety, physical security, and economic advancement through legal means. They argued that attempts to further anti-trafficking legislation and combat prostitution were operating from a conservative Christian position of restricting women’s sexual autonomy and from an anti-immigration position of limiting “economic opportunities of women and other marginalized people” (Gulati 2010: 366-7). In contrast, abolitionist feminists and radical feminists from across the globe have called for a larger structural change in the patriarchal norms that subjugate and exploit women (or anyone in a vulnerable position) and coerce them into using their bodies as a commodity (Kaneti 2011). Radical feminists and religious conservatives have united in their view that prostitution represents the patriarchal domination (Gulati 2010: 366). This group would rather criminalize the buyer of sexual services, and they prostitutes as being trafficked, in the legal sense of trading sex and bodies for cash.

Divisiveness within the movement is widespread and has permeated feminist NGO networks, state delegations that are working to pass international legislation, and national governments that are working to pass national legislation (Kempadoo et al. 2005; Lobasz 2009; Doezema 2002; Doezema 2005; Doezema 2010; Outshoorn 2005). This divisiveness was apparent

during the Palermo Protocol negotiations, specifically surrounding the definition of trafficking and interpretations of consent in human trafficking, sometimes categorized as the Madonna/whore dichotomy that corresponds to conception of the innocent trafficking victims versus the prostitute who consents to work in the sex industry as more or less deserving of assistance (O'Brien 2012; Doezema 2005; Iniguez de Heredia 2008; Lobasz 2009; Doezema 2002). On one side, there was “the Human Rights Caucus, which considered sex work as legitimate labour” (Iñiguez de Heredia 2008: 310) while the other side “represented in the Coalition Against Trafficking in Women (CATW), which considered prostitution as an abuse of women’s human rights by invoking the argument that whether or not women give their consent for such an activity is irrelevant” (Ibid). The Human Rights Caucus was an alliance of several organizations, including the Global Alliance Against Trafficking in Women (GAATW), a group that focuses on securing rights for marginalized women. GAATW emphasized a difference between coercion and choice, while the CATW saw all prostitution as coercive.

The problem with this consent-coercion debate is that it often focuses attention on the wrong end of the issue. As Kaneti (2011) argues, “(a)dvocacy groups end up debating on prostitution rather than alerting society to the socio-economic conditions that force people to leave their communities and search for a better life” (356). And leaders and popular cultural outlets “rush to...retell the story of trafficked girls, not realizing that this further reaffirms a negative image of the immoral, irrational, and alien that should be banned from society...a trafficked person is a criminal until proven otherwise” (Kaneti 2011: 356-7). Prioritizing sex trafficking and prostitution over other forms of trafficking also dismisses the underlying gendered implications of the crime, which “rely on gender stereotypes that discount women’s agency” (Lobasz 2009: 322). The result has been a persistent and enduring lack of clarity on the issues of prostitution, sexual exploitation, and trafficking, which in turn has left an opening for individual states to “to abolish prostitution

through an instrument against trafficking” (Iñiguez de Heredia 2008: 311). In some cases, these instruments have led to the harassment of prostitutes and migrants by law enforcement officials attempting to end trafficking. This conflation of prostitution and human trafficking has also “led to restrictions on movement and migration for women, increased surveillance of sex workers, and increased deportation of migrant sex workers” (Doezema 2002).

Given the acrimonious debate in other regions, it is interesting to see how often the policies in southern Africa also align themselves with the dominant philosophy and frequently conflate prostitution and trafficking. Madagascar, Mozambique, Tanzania, South Africa, and SADC all mention prostitution in their human trafficking policies. Tanzania also adds pornography, while Madagascar includes sex tourism. SADC mentions the continuous demand for prostitution, which has led to the increase in human trafficking, and it also mentions prostitution as exploitation. Mozambique defines a trafficking victim as a person who engages in prostitution due to trafficking. While it is unclear whether or not these countries seek to engage this debate, it is clear that many of the countries in southern Africa draw a connection between human trafficking and prostitution in the abolitionist sense.

**Child-Centered Policies and the “Ideal” Trafficking Victims:** The SADC Plan of Action specifically calls on member states to have a child-centered policy. The South African trafficking policy, for example, has mainstreamed protections for children throughout its policy. The child-centered nature of these policies also raises some important questions, including whether this focus creates an unintentional hierarchy of what the "ideal trafficking victim" (Christie 1986) looks like. While the concept and definition of the ideal trafficking victim varies across different countries (Hoyle et al. 2011), children are ideal models of vulnerable and blameless victims. Similarly, are these policies setting a higher standard for some victims and perpetuating the “dichotomy between

deserving and undeserving victims” (Munro 2008: 243). Or is there an underlying message that adult victims are less worthy of protection or more culpable? Tanzania defines trafficking of children as “severe trafficking” and is subject to stricter penalties; the same is true for Mozambique, where child trafficking constitutes an “aggravating circumstance.” Swaziland has stiffer sentencing guidelines for child trafficking than other forms of trafficking.

Most of these policies, while progressive in their child-centeredness, pay less attention to economic factors as causes of trafficking. Less attention is paid to child labor and domestic workers, than say, victims of sex trafficking. Consequently, our analysis reveals the perpetuation of victim hierarchies can also be seen in the actual content and sentencing guidelines of the policies in southern Africa. This is similar to what Oxman-Martinez et al. (2005) found in Canadian policy. They assert that programs in these countries “tend to focus on the trafficking of children or of women for the sex trade, leaving aside the needs of women trafficked for other forms of exploitation (domestic work, sweatshops) or of men in general” (Oxman-Martinez et al. 2005: 21). There is also evidence of racism and the perpetuation of the white slavery myth in the idealized victim hierarchy because this ideal “is tied up in a stereotyped assumption of the purity of white women and the impurity of women of color” (Lobasz 2009: 342).

If service providers receive the message from these policies that some victims are more worthy of help than others, the access to services and the attitudes victims receive may be negatively impacted. Victim hierarchies can also keep service providers from identifying victims who do not fit into this “ideal victim” category (Hoyle et al. 2011) and affects awareness campaigns aimed at identifying victims (O’Brien 2012). Similarly, if victims internalize the attitude that their trafficking was their fault, they may be less apt to seek assistance or protection.

One promising observation in overcoming this “hierarchy of victims” is the shift in trafficking policies away from consent as a defense of trafficking (Hoyle et al. 2011; Doezema

2002). All of the national policies in this study mention that consent of the victim is not a defense of trafficking and is irrelevant for the charges. If you are trafficking in persons, you are guilty.<sup>12</sup>

Notions of consent are controversial for those concerned with the power and agency of individuals, specifically the agency of those that seek to be smuggled across borders. Consent is also interesting when layered with the conflation of pornography/prostitution with trafficking. The hierarchy of the victim creates a type of zero tolerance policy in which traffickers are unable to blame the victim or assert that victims are culpable in any way.<sup>13</sup>

**Traditional Leaders:** South Africa has the only policy that specifically mentions traditional leaders and traditional healers. Tanzania talks about religious leaders, and Zambia discusses harmful cultural practices and threats of witchcraft, but only South Africa discusses traditional leaders and healers as important actors in the fight to end trafficking. Given the importance of traditional leaders in many areas of life in southern Africa, this may be an important contribution of the South African policy. While there are concerns about the integration of traditional leaders into the policy implementation process, they are often the first line of contact or the only visible form of

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<sup>12</sup> Zambia's policy was a bit contradictory. The policy states: "a person who smuggles another person into or out of Zambia, participates in smuggling or who consents to being smuggled commits an offence and is liable, upon conviction, to imprisonment for a term of not less than fifteen years and not exceeding twenty years" (14), but later states it is not a defense if a victim consents (18). Even in Zambia's policy, then, consent is irrelevant.

<sup>13</sup> This is recognized in the trafficking literature (Lobasz 2009; Munro 2008; Hoyle et al. 2011 O'Brien 2012 ) and very similar to a shift to another avenue of gender-based violence policies in South Africa and Namibia, specifically rape laws. In recent anti-rape acts in the two countries, the legal burden is moving away from proving the survivor did not consent and moving to discussing ways the survivor was coerced. These ideological and legal shifts are in line with making gender-based violence policies 'victim-centered,' which is critical when so many survivors come from vulnerable populations.

governance in many areas. Koelble and LiPuma (2011) discuss the “reinvigoration of chiefly authority” (6) in South Africa following decentralization and the constriction of government spending in the face of the global recession. Since traditional leadership is not a democratic institution, partnering with these actors represents a tenuous and unpredictable path for a democratic government. Given this institution’s close proximity to local populations, it should, at the very least, partner with government on educational and awareness programs.

**War, Conflict, and Child Soldiers:** While the AU and SADC plans of action discuss the importance of war and conflict as risk factors, only Tanzania discusses trafficking for the purposes of armed conflict, especially the trafficking of children to be child soldiers. Since many countries in southern Africa have experienced war and protracted conflict, this is a remarkable oversight. Even if many countries now feel beyond the reach of civil unrest, pockets of civil war and conflict still exist across the continent, and traffic flows for forced military service, child soldiers, or mercenaries are legitimate concerns. It is more likely that such victims will come from within, rather than outside, Africa.

**HIV/AIDS:** While the AU called on national governments to pass policies that promoted an “HIV/AIDS sensitive approach,” (5) only two countries in our study mention HIV/AIDS. Mozambique discusses HIV in the context of “aggravating circumstances,” if a victim of trafficking becomes infected with HIV/AIDS, and also states that victims or witnesses should receive special protection if they have been infected. Similarly, Tanzania considers it a case of “severe trafficking” if a victim becomes infected with HIV/AIDS. These countries should be praised for mentioning HIV/AIDS, but both are limited in their discussion of HIV/AIDS as an aggravating circumstance.



Conversely, the SADC policy discussed HIV as a causal factor, contributing to poverty and child-headed households.

**Adoption:** Four national policies specifically mention child adoption, including discussions of adoption for the purposes of sexual exploitation, indentured servitude, or debt bondage. Adoption was not discussed in any of the international agreements: Palermo, AU, or SADC. However, Mozambique, Mauritius, Tanzania, and Madagascar all discuss adoption in their trafficking legislation. Part of this may be the timing of when the policies were implemented, as press coverage of international adoption scandals grew.

### **Conclusions**

The cross-national transfer of human trafficking policies is a unique model for evaluating how transfer and adaptation occurs from the international to the national level. Rarely in policy diffusion do we have direct policy transfer so clearly delineated, and rarely are we able to see how quickly national governments adapt and change international guidelines to fit their own needs or context. This research underscores the salience of the international norm lifecycle, and what we see in this context is that the third stage, norm internalization is an iterative and reinforcing pattern. Leaders in southern Africa have intentionally and purposefully adopted human trafficking policies that are tailored to their specific cultural and political context, and these new interpretations serve to amplify and expand international norms and attitudes. We have clear evidence of how countries alter and change policies to fit their national context or fit their policy preferences. While we imagine that this iterative process if found in other norm life-cycles, this has not been discussed in the literature to date.

Our research also underscores that states focus on prosecution and law enforcement/migration responses to trafficking, while regional and international protocols focus on prevention. Part of this may be the result of available policy instruments, since many countries are formalizing or adapting their existing laws on migration and law enforcement to fit their trafficking concerns. But the international consensus is that law enforcement/migration and prosecution approaches are not the most effective way to combat trafficking. By shifting from a *preventative approach* that centers on human rights and economic development to a *prosecution approach*, most states in southern Africa may have opted for the path of least resistance and may be defaulting to a type of policy choice that is familiar, replicable, and easily audited. It is easier to keep track of the number of traffickers arrested and jailed than to alleviate the underlying causes of poverty or change societal attitudes about gender and human rights – the very things that prevent trafficking. Governments also have an easier time writing prosecution laws and sentencing guidelines than dealing with the root causes of preventing trafficking – such as poverty, gender inequality, and social norms. This is not the most effective approach to combat trafficking, as it is reactionary and deals with the crime after it has happened rather than before it occurs. As Popova asserts “policies aimed at strengthening women's rights and combating gender discrimination would be more successful in countering human trafficking than policies combating illegal immigration, transnational crime, and prostitution” (2006: 71).

We are not arguing that states fail because they do not address prevention factors such as long-term changes in human rights norms and in gender attitudes. What the international consensus shows is that addressing the factors that create vulnerable populations are as important in combating trafficking as are developing good sentencing guidelines and enhancing border patrols. Development initiatives and gender empowerment are key goals of SADC and member states, evidenced most clearly in the 2008 SADC Protocol on Gender and Development. What is

problematic is that trafficking laws often become decoupled from these goals, and trafficking is seen as a stand-alone issue. It is vital that trafficking initiatives are comprehensive in their scope and focus on prevention and cultural change, rather than just focusing on the prosecution of perpetrators and the protection of victims once they are discovered.

SADC has the potential to be a continental and global leader on trafficking. Currently, there are gaps in existing policies, and not all states have adopted policies. But there is a critical mass of governments and leaders committed to ending trafficking, enough so that the region as a whole could become intolerant of trafficking. The question remaining is whether governments will provide the financial support and progressive leadership required to make these policies a reality. It will take both money and attitude transformation to enact the social change necessary to prevent trafficking.

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**Table 1: National Trafficking Policies in Southern Africa**

Country	National Policy	Ratification
Angola		
Botswana		
DRC (Congo)		
Lesotho	Anti-Trafficking in Persons Act	2011
Madagascar	Anti-Trafficking Law No 2007-038	2008
Malawi		
Mauritius	The Combating of Trafficking in Persons Act 2009	2009
Mozambique	Law No 6/2008	2008
Namibia		
South Africa	Prevention and Combating of Trafficking in Persons Act	2013
Swaziland	People Trafficking and People Smuggling (Prohibition) Act	2009
Tanzania	The Anti-Trafficking in Persons Act	2008
Zambia	The Anti-Trafficking Act	2008
Zimbabwe		



**Table 2: Percent of Policy Discussing “Three Ps”**

Country	Prevention	Prevention /Prosecution	Prosecution	Prosecution /Protection	Protection	Protection /Prevention	Prevention/ Protection/ Prosecution
Lesotho	3%	0%	28%	14%	32%	0%	2%
Madagascar	8%	0%	77%	2%	2%	0%	2%
Mauritius	5%	0%	37%	12%	26%	0%	0%
Mozambique	6%	3%	41%	0%	29%	.2%	3%
South Africa	4%	0%	12%	5%	20%	0%	0%
Swaziland	10%	.3%	48%	8%	21%	1%	1%
Tanzania	11%	2%	33%	9%	17%	6%	0%
Zambia	7%	.5%	58%	4%	13%	1%	.5%
SADC	39%	3%	6%	.2%	8%	5%	7%
AU	30%	3%	16%	3%	15%	0%	12%
Palermo	17%	2%	5%	4%	18%	0%	6%

**Table 3: Percent of Policy Discussing Economic Development and Human Rights**

Country	Economic Development	Human Rights
Lesotho	0%	14%
Madagascar	0%	10%
Mauritius	0%	8%
Mozambique	0%	13%
South Africa	.4%	4%
Swaziland	0%	1%
Tanzania	1%	7%
Zambia	0%	4%
SADC	9%	16%
African Union	6%	27%
Palermo	7%	8%

### Appendix 1: Code Book

Code	Description
<b>Protection</b>	Any discussion that discusses the protection of citizens, vulnerable populations, and victims. Protection also includes rehabilitation programs for victims of human trafficking.
<b>Prosecution</b>	Any discussion on the prosecution of human trafficking including sentencing guidelines.
<b>Prevention</b>	Any discussion on the investigation methods for human trafficking cases. This also includes discussions of task forces.
<b>Protection/ Prosecution</b>	Any discussion which includes protection and prosecution.
<b>Prosecution/ Prevention</b>	Any discussion which includes both prosecution and prevention elements.
<b>Prevention/ Protection</b>	Any discussion which includes both prevention and protection elements.
<b>Prevention/ Prosecution/ Protection</b>	Any discussion of research on human trafficking.
<b>Human Rights</b>	Any discussion of human rights of human trafficking. This includes definitions of slavery and human trafficking and the preservation of human rights according to international standards.
<b>Economic Development</b>	Any discussion of economic development. This includes discussions of demand and both regional economic cooperation and integration as well as economic development as a preventative measure for trafficking.
<b>National Characteristics</b>	Any discussion of national level characteristics which are indigenous to the country or region.