TRANSNATIONAL RESPONSES TO HUMAN TRAFFICKING IN THE BALKANS

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ABSTRACT

Human trafficking has become a top policy priority of the international community in the past decade and the Balkans a key target in their anti-trafficking efforts. An expanding network of local non-governmental, state, and transnational actors are directly involved in every stage of the policy making process. The paper outlines four different approaches to the development of anti-trafficking policy – migration, law-enforcement, human rights and economic – and the different transnational actors that advocated each approach, analyzing the unintended consequences of each initiative to date.

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Introduction

In his recent book of essays, *Shifting Obsessions*, Bulgarian political scientist Ivan Krastev critically

dissects the "anti-corruption consensus" of international organizations and the Balkan states in which

they target their anti-corruption efforts.[2] Krastev makes three main claims. First, anti-corruption

initiatives stem less from bottom-up responses to burgeoning corruption than to policies imposed by

international organizations, backed up by sanctions by the United States government and, increasingly,

the European Union. While the implementation of anti-corruption policies depend on an expanding

network of local NGO's, the anti-corruption policy making process has been largely top-down. Second,

attempts to more systematically measure corruption and anti-corruption efforts has become a key priority

of international organizations: collecting data on public and corporate perceptions of corruption and

fashioning instruments to assess the extent to which governments have complied with anti-corruption

policies. Third, the combination of top-down policies and new instruments of measurement has created a

kind of "one-size-fits-all" anti-corruption strategy, a strategy that pays limited attention to local factors. In

examining why this anti-corruption consensus or "obsession" emerged and, more importantly, to what

extent anti-corruption policies yielded by the consensus are well-founded and feasible, Krastev makes an

important contribution to the anti-corruption transnational policy debate.

To what extent might Krastev's claims about the anti-corruption consensus be applied to the

issue of human trafficking in the Balkans? Human trafficking, like corruption, has become a global

obsession of the international community in the past decade and the Balkans a key target in their anti-

trafficking efforts. Policies to combat trafficking have also been followed a top-down pattern, where

international organizations rely on a combination of incentives and sanctions to pressure governments to

conform to common legal standards and policy procedures. An expanding network of local non-governmental, state, and transnational actors are directly involved in every stage of the policy making process. Like in the case of corruption, we can also observe efforts to better measure the scope of trafficking, as well as governments' compliance with anti-trafficking policies. While global anti-trafficking policies interact with different domestic conditions, to date anti-trafficking policy in the Balkans, like anti-corruption policies, has appeared to follow a one-size-fits-all pattern.

Anti-trafficking policy, like anti-corruption, exemplifies a "transnational" policy by Orenstein's definition, one that is "developed, diffused, and implemented with the direct involvement of global policy actors and coalitions at or across the international, national, or local levels of governance."[3] In the case of anti-trafficking in the Balkans, transnational policy actors have not only been involved directly in all stages of the policy process; one could argue that anti-trafficking policy would not exist without the involvement of transnational actors. That is, transnational actors have placed human trafficking high on the policy agenda, developed policies to combat it, and have overseen implementation of these policies. However, by viewing anti-trafficking policy in the Balkans as a strictly top-down process, backed by a consensus among the transnational policy community, we neglect other interesting questions. For one, what are the different ways in which transnational actors frame the problem of trafficking and how have these ideas shaped the development of different policy strategies? Why might one frame and related policy strategy prevail over another? Finally, what can we learn from the implementation of anti-trafficking policies in the Balkans to date, specifically some of the unintended consequences?

The paper investigates these three sets of questions by tracing the process by which anti-trafficking policy has been developed, diffused and implemented in the Balkans. The first section sets forth a constructivist or ideational approach to understanding transnational agenda setting. The second section applies this framework to analyze four different approaches to the development of anti-trafficking policy – migration, law-enforcement, human rights and economic approaches – and the different transnational actors that advocate each approach, highlighting overlaps and conflicts among them. The third section goes on to briefly discuss the process of diffusion and adoption of anti-trafficking policies in the Balkans. The final section examines some unintended consequences of implementing anti-trafficking

initiatives. The paper concludes by offering a set of policy recommendations that can assist in better coordinating national and transnational strategies to combat the human trafficking trade in the Balkans.

A Constructivist Approach to Transnational Policy Agenda-Setting

International relations scholars offer varying explanations for how transnational actors set policy agendas. Realists argue that transnational policy agendas are determined by the structural conditions of the international system, with powerful actors such as the United States acting alone or through international organizations to set priorities and dictate policy strategies.[4] Proponents of an organizational approach argue that international organizations are agents in their own right, with bureaucracies acting independently from states to shape the way problems are interpreted and to design and implement policies accordingly.[5] Constructivist approaches seek to understand how ideas can exert an independent effect on policy formation and policy outcomes.[6] Peter Hall describes the role of ideas in policy making succinctly: "Policymakers customarily work within a framework of ideas and standards that specifies not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing."[7]

This case study takes an explicitly constructivist or ideational approach to examine the process of transnational policy making to combat human trafficking in the Balkans. I posit that while the interests of powerful actors in the region like the US and bureaucratic cultures of international organizations indeed play an important role in forming and implementing anti-trafficking policy, different *ideas* about the nature of the human trafficking problem shape the different kinds of policy responses transnational actors pursue. A high degree of consensus exists among the transnational actors involved in this policy area that trafficking of persons through use of force or coercion is a violation of human rights that should be prevented and suppressed. Issues that involve bodily harm to vulnerable individuals are, according to Keck and Sikkink, policy areas where transnational advocacy networks are typically most consensual and influential, especially when a causal chain of responsibility is vivid.[8] In the case of human trafficking, we can identify a clear "victim" – trafficked persons – around which the transnational policy community can mobilize. The causal chain of responsibility is somewhat murkier, however. If one identifies traffickers as

the main culprits, then a policy response aimed at capturing and prosecuting individual offenders is the preferred policy response. If one focuses on the demand side of trafficking, from customers of the sex industry to business owners who rely on low cost labor, a policy response that targets the source of the demand is warranted. If one focuses on the larger economic inequalities that create a constant supply and demand for trafficking, one might shift focus from individual to structural level policy responses. Focusing on economic rationales for trafficking could have the concomitant effect, however, of weakening the consensus around trafficked persons being considered victims of "coercion" strictly defined.

These three scenarios point to the importance of identifying how actors frame the policy problem that they seek to address. The concept of framing was first utilized by social movement theorists to explain protest mobilization, but has since gained currency in international relations and policy studies to understand other forms of collection action.[9] According to Snow and Benford, framing consists of actors negotiating "a shared understanding of some problematic condition or situation they define as need of change, make attributions regarding who or what is to blame, articulate an alternative set of arrangements, and urge others to act in concert to affect change."[10] What makes collective action frames significant are not so much their innovative ideational features. Rather, framing is a process through which actors articulate or tie together information and existing ideas in order to spur particular forms of collective action.[11] Returning to the three scenarios above, framing trafficking as an issue of transnational organized crime, for instance, entails showing the ways in which the trafficking of persons resembles the trade in other illegal commodities – which, in turn, would justify a law enforcement approach to combating the problem. Applying the concept of framing to transnational policy agenda setting more generally, two questions arise. First, how do frames facilitate (or constrain) certain concrete transnational policy strategies and policy outcomes? Second, why might one frame and related policy strategy prevail over another?

Peter Hall's conceptualization of "policy paradigms" offers one useful analytical framework to address the question of how and when ideas have a significant effect on policy outcomes. Like the concept of framing, Hall suggests that specific policy actions are contingent on how one defines and conceptualizes a problem.[12] Hall's framework thus follows a fundamental ontological tenet of

constructivism: that ideas or collective understandings can constitute interests and preferences. This "constructivist turn" marks a departure from rationalist approaches, which take interests and preferences as given in explaining particular outcomes. Policy paradigms, according to Hall, also set the goals, priorities and content of policy. That is, policy paradigms facilitate action among policy makers by specifying how to solve a defined policy problem through a specific course of action. Policy paradigms or frames also help policy makers legitimize a particular policy strategy to other relevant actors as well as to the general public.[13] In other words, how transnational actors package or frame an issue provides a means to convince each other, as well as key decision makers and the general public, that certain actions constitute a plausible and acceptable policy solution. The focus of this analysis, however, is on the first-order concepts – that is, explicit policy paradigms – rather than on the broader underlying elite or mass perceptions in which policy paradigms are construed.[14]

If we accept that ideas are crucial factor in the adoption and implementation of particular policies, we turn to the question of why one policy paradigm might be prevail over another. Hall outlines two sets of factors. First, a policy paradigm can predominate based on the positional advantages of its main proponents within a given institutional framework, access to material resources, or on exogenous events that can affect the power of one set of actors to impose its paradigm over others.[15] Second, when faced with conflicting information and expert opinions on a particular problem, actors within a policy community will compete for authority to define the problem and chart the best course of action. Yet subsequent policy experimentation and policy failures can result in undermining the authority of the prevailing policy paradigm and its advocates. These failures can, in turn, create windows of opportunity for advocates of competing paradigms to push forth a new policy agenda. Consideration of these factors suggests, for one, that ideas and interests cannot so easily be analytically disentangled. Whether and how one idea prevails over another can be influenced by policy struggles in which political interests, material resources, and power loom large.[16] Consideration of conflict and power struggles is thus a legitimate, and indeed necessary, component of ideational analyses of policy-making. Moreover, Hall incorporates a temporal dimension to our understanding of ideas. Given that policy framing is an ongoing

and dynamic process, ideas can change from the agenda-setting to the implementation stages in the trajectory of any policy path.

Developing Anti-trafficking Policy in the Balkans: Four Approaches

A critical juncture in the development of transnational policies to combat human trafficking was the United Nations (UN) Assembly's adoption of the Convention Against Transnational Crime in November 2000, and the accompanying "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children," which entered in to force in December 2003.[17] The UN Protocol's definition of trafficking aimed to provide a general baseline from which transnational actors could develop and implement a common set of standards to prevent trafficking, protect victims and prosecute offenders. The Protocol provides the single most authoritative collective statement on the goals of policies to combat trafficking and the kind of instruments that should be used to achieve them. These standards have also spurred regional coordination of anti-trafficking efforts in regions, like the Balkans, where the problem is considered most acute. We might assume that extensive transnational and regional coordination in this policy area is based on a consensus on the nature of the trafficking problem. Yet I argue that in practice we can observe significant differences among these transnational actors in how they frame and address the issue of trafficking. These can be categorized into four interrelated approaches: (1) the migration approach; (2) the law-enforcement approach; (3) the human rights approach; and the (4) economic approach. The following section outlines these four approaches in the context of the Balkans, examining which transnational and local actors have framed the issue of human trafficking, how these frames have engendered different strategies actors pursue in combating trafficking, and the potential overlaps and conflicts between each approach.

A.   *Migration approach*

The migration approach is based on the understanding of the trafficking problem as one of unregulated or "irregular" migration. The International Organization for Migration (IOM) is a primary proponent of the migration approach to trafficking in the Balkans, although it works in cooperation with other transnational

and local actors.[18] Two main activities of IOM in the Balkans include providing direct assistance to

trafficked persons and collecting, consolidating, and analyzing information on human trafficking in the

Balkans. The IOM provides direct assistance through funding and operating a network of emergency or

temporary shelters throughout the Balkans. Trafficked persons are either brought to the shelters by law

enforcement agents when they are apprehended on borders or in raids on trafficking destinations, like

brothels, or they seek assistance voluntary. They are given emergency shelter, and in some case

temporary residence permits, before they are "voluntarily" repatriated to their countries of origin.

The IOM also leads regional data collection efforts in the Balkans, which often works in tandem

with its direct assistance programs. Measuring the volume, scope and patterns of trafficking is a

notoriously difficult process. National authorities are generally considered unreliable sources for data on

trafficking. For one, border control authorities generally do not distinguish between trafficking, smuggling

and irregular migration. Moreover, governments might be inclined to underestimate or overestimate the

scope of the trade depending on financial sanctions or incentives, or are reluctant to open their policing

activities to international oversight. In order to collect more systematic data on trafficking in the region,

in 2003 the IOM founded the Regional Clearing Point (RCP), which operates under the umbrella of the

Stability Pact Task Force on Trafficking in Human Beings for South Eastern Europe. International anti-

trafficking experts herald the RCP as a positive example of what can be achieved through better data

management. By creating a sound mechanism for the collection, consolidation, and analysis of

information for the region, drawn from a wide range of sources, the RCP helps to foster a

"comprehensive understanding of human trafficking throughout the Balkans," according to Laczko and

Gramegna.[19] The Clearing Point's primary data source is IOM shelters, which provides numbers of

trafficked persons assisted, their countries of origin, as well as more qualitative data collected from

victims concerning recruitment strategies and trafficking routes. The RCP supplements data collected

from the IOM with national and international law enforcement agencies and other local and transnational

NGO's, but IOM remains the primary data source.

B.   *Law enforcement approach*

The law enforcement approach operates according to the definition of trafficking in persons as a crime under international law that must be prevented, prosecuted and punished. Within this approach we can observe different emphases on various dimensions of trafficking. First, understanding trafficking as a crime equivalent to trafficking in drugs and arms can justify many of the same strategies used to suppress trade in other illegal commodities. Indeed, many of the same routes and actors involved in the illegal trade of arms during the 1990s embargos in former-Yugoslavia now traffic women, which can be more profitable and less risky. Thus many of the same global and regional anti-organized crime tactics are considered transferable to anti-trafficking initiatives. Second, framing trafficking as a problem primarily of illegal migration can lead to strategies more oriented to tightening borders or implementing stricter visa regimes. Finally, linking trafficking more closely to prostitution or sex work has led to the targeting of local sex industries, including brothel and nightclub raids. All three kinds of law enforcement strategies work in tandem in the region, yet with different emphases among different actors. Agencies within the national governments, such as customs and border control, pursue the issue as one of organized crime or illegal migration while local law enforcement agencies often focus on policing the sex industry. International or regional law enforcement agencies and initiatives – such as the US-led South Eastern European Cooperative Initiative (SECI), Europol, or Interpol – tend to promote more comprehensive transnational strategies that incorporate all three aspects.

In September 2002, SECI organized the largest regional anti-trafficking action to date, coined "Operation Mirage." With the cooperation of local law enforcement agencies, the NATO-led Stabilization Force (SFOR) in Bosnia and the United Nations Mission in Kosovo (UNMIK), the Operation resulted in over 20,000 police raids throughout the region in bars, hotels, nightclubs and border points. After conducting 13,000 interviews with women and children, 237 were identified as victims of trafficking, only four percent of who were provided assistance in shelters. Another 2,700 women and children were classified as voluntary migrants and arrested, deported and in several cases prosecuted. The operation resulted in the identification of 293 traffickers, several of whom are now being tried in Bosnia, Kosovo and Serbia and Montenegro.[20] The SECI counter-trafficking task force in Bucharest continues to coordinate regional

anti-trafficking law-enforcement activities. In recent years SECI's mandate has expanded to include the trans-border policing of organized crime, terrorist groups, and other illegal trade networks.

C.   *Human Rights Approach*

The human rights approach frames trafficking in persons as a violation of individual human rights. Emphasizing the violent and coercive nature of the human trafficking trade is central to an advocacy approach, which seeks to protect the human rights of every individual and to prevent human rights violations in the future. This understanding of trafficking underlies the approaches of international organizations such as the United Nations' Office for the High Commissioner for Human Rights and the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR). The Stability Pact Task Force on Trafficking in Human Beings for Southeastern Europe explicitly states that trafficking is "first and foremost a violation of human rights," but advocates that this approach works in tandem with the law enforcement approach.[21]

Most transnational and local human rights groups approach and organize their efforts around such a definition, although with notable differences among them. The Coalition against Trafficking in Women (CATW), the Movement for the Abolition of Pornography and Prostitution (MAPP) and the European Women's Lobby place trafficking in the context of sexual exploitation, resists attempts to separate trafficking from prostitution, and often frames trafficking in women as "slavery" or a "slave trade" in their public awareness campaigns.[22] The Global Alliance Against Trafficking in Women (GAATW), on the other hand, has introduced wider definitions of trafficking into public debate, framing trafficking in women as primarily as an issue of social justice and economic human rights.[21] By defining prostitution as "sex work" or an income generating form of labor GAATW seeks to counter the efforts of organizations such as CATW to portray trafficking as solely sexual exploitation or slavery. Recently groups such as GAATW argue that the focus of anti-trafficking efforts must expand beyond "sex-trafficking" to address other forms of human trafficking such as forced labor for manufacturing and assembly work or child begging.

Differences in definitions and approaches are also visible among local anti-trafficking groups. Some local NGOs – including the Prague-based La Strada network of local chapters, the Belgrade-based ASTRA,

or the local Bosnian NGO, Lara – organize media campaigns to raise awareness of trafficking as modern "slavery" and work with the IOM and other agencies to assist and repatriate victims of trafficking to their countries of origin. Other local NGOs, such as the Belgrade-based Anti-Trafficking Center, fall closer to GAATW's approach to trafficking. These NGOs lobby governments to decriminalize migration and prostitution. They also advocate the creation of reintegration centers, which offer educational and vocational services to integrate women into the local economy, as an alternative to the IOM's repatriation-oriented assistance model. "Empowerment" strategies developed with the aim of enabling people, especially potential victims of trafficking to protect themselves, are at the forefront of this approach.

D.   *Economic approach*

An economic approach to anti-trafficking shares much in common with the human rights approach advocated by transnational groups like GAATW and compatible local NGOs. Proponents of this approach seek to shift the emphasis of anti-trafficking efforts away from strict law enforcement or migration approach to policies that not only protect victims of trafficking but address the broader socioeconomic conditions underlying human trafficking. Advocates also contest the rigid binaries of trafficking versus smuggling, legal and illegal migration, and voluntary versus involuntary prostitution. One underlying assumption of this approach is that women are trafficked for work in the sex industry for a variety of reasons. Many women are coerced to leave their homes under false promises of legal work in the West, and some are forced into prostitution through threats, bondage and even torture. While such egregious violations of human rights attract the sensationalist headlines and place anti-trafficking efforts high on the policy agenda, advocates of this approach suggest that in reality most women migrate more or less voluntarily.[23] Indeed, they claim, few people would opt for prostitution if not for economic hardship or lack of access to legal labor markets. Seeking work in illegal markets abroad is viewed as one of the few available means for people to escape poverty in their home countries and secure legal employment in the West.[24]

Transnational and local groups adopting this view, such as the No Borders activist network or the Belgrade-based Anti-Trafficking Center, draws attention to the broader patterns of exclusion and inclusion in the new Europe, where the new boundaries of Europe divide the prosperous zones of stability from the impoverished zones of instability. They cite the geographical proximity of the EU, combined with the "push" factors of poverty and dislocation of its neighboring states and the "pull" factors of high demand for cheap labor, factors making the EU the primary destination of the Balkan trafficking trade. More concretely, proponents of an economic approach advocate easing restrictive migration policies in the European Union, which makes trafficking more profitable for the traffickers and more exploitative for trafficked persons. Proponents of an economic approach also draw attention to the limitations of migration and law-enforcement approaches by citing the inadequacies of international law to protect trafficked persons or decrease the trafficking trade. For instance, while states are forbidden to expel persons who face possible torture or degrading treatment in their home countries, in most cases trafficked persons face a high probability of deportation to their countries of origin. Returning to the same limited economic opportunities that prompted them to seek employment abroad in the first place, a significant proportion of repatriated persons re-enter the cycle of trafficking. Proponents of an economic approach cite high levels of re-trafficking to advocate shifting the international community's funding priorities away from law enforcement and border control to direct assistance and economic and political development that would reduce "supply" factors.

Diffusing Anti-Trafficking Policies: The Role of Transnational Actors

These four frames have shaped various policies to combat human trafficking in the Balkans since 2001. Returning to the question raised in the theoretical discussion, how and why did one policy paradigm prevail over others? Namely, why have proponents of the migration and law enforcement approaches seemingly managed to shape anti-trafficking policy in the Balkans more successfully than advocates of more human rights or economic approaches? Examining in depth the different political positions, material resources, and power of advocates of each approach is beyond the scope of this paper. However, we can draw some insights from a brief examination of the role of different policy actors – including the Stability

Pact, international organizations such as the IOM, the United States, and the European Union – in the diffusion of anti-trafficking policies in the Balkans on a national and transnational level. I suggest that the process of policy diffusion in the Balkans might appear more horizontal than vertical, with policy networks comprised of local NGOs, governments and transnational actors coordinating anti-trafficking efforts on a regional level. However, returning to Hall, we must also consider positional advantages and material resources of different actors to understand how anti-trafficking policy agendas as formed and diffused. The following section considers the role of different actors in policy diffusion, paying particular attention to the United States and the European Union as the two most powerful actors in the region.

As signatories of the 2000 UN Convention Against Transnational Crime and its supplementing Protocol on Trafficking, governments are required to take legislative action to prevent, suppress, and punish trafficking in persons. The Stability Pact for Southeastern Europe's Trafficking Task Force has taken the lead in coordinating these efforts on a regional level. In 2001 the Task Force initiated National Action Plans as an instrument for national governments to set priorities, create required legal and institutional mechanisms, and implement anti-trafficking policies. While governments were formally responsible for formulating National Action Plans, transnational actors have been directly and indirectly involved in policy implementation. Representatives of the Stability Pact Task Force, the OSCE, the IOM and UN agencies, as well as local anti-trafficking advocacy networks and NGOs serve on formal state bodies responsible for anti-trafficking efforts, as in the case of Montenegro, or participate in a more informal advisory role to government agencies. In addition to drafting and implementing National Action Plans, the Stability Pact also organizes regular regional conferences to coordinate further actions on a regional level. These initiatives include establishing a regional information exchange mechanisms, granting legal protection and temporary residence permits to trafficking victims, and providing witness protection in prosecution cases.[25]

To understand the diffusion of policies to combat trafficking in the Balkans one must also consider the role played by two powerful actors in the region: the United States and the European Union. The United States Trafficking Victims of Protection Act of 2000, drafted in line with the UN Protocol, set the US foreign policy agenda to combat human trafficking.[26] The State Department's Office to Monitor

and Combat Trafficking in Persons oversees implementation of the Act. Annual Trafficking in Persons

Reports are the Office's primary policy instrument, which monitor government's compliance with

minimum standards to prosecute traffickers, protect victims, and prevent trafficking. The United States

can withhold aid or impose sanctions on countries whose governments are deemed to have not "fully

complied with the minimum standards and are not making significant efforts to do so." [27] Thus US policy

combines both "carrots" and "sticks" to ensure governments' compliance with the US anti-trafficking

policy objectives. Policies to combat trafficking advanced by the US correspond most closely with the

migration and law enforcement paradigms. For one, the Reports monitoring government compliance

ignore government practices, such as summary deportation and incarceration of trafficked persons, which

diverges from a strict human rights approach to trafficking and falls most closely to migration policy

paradigms advocated by the IOM.[28] Second, the State Department explicitly places economic approaches

outside its policy mandate. As the introduction to the 2005 Report states: "The report does not focus on

other government efforts that contribute indirectly to reducing trafficking, such as education programs,

support for economic development, or programs aimed at enhancing gender equality, although these are

worthwhile endeavors."[29]

The EU is another key actor in diffusing policies to combat trafficking. Given that EU membership

is a top priority of all governments in the region and that the EU is the largest aid donor to the Western

Balkans, the EU can exert a great deal of direct and indirect leverage over setting the policy agenda as

well as ensuring that individual governments comply. In 2000 the EU launched a special Stabilization and

Association Process (SAP) for the Western Balkans that sets out the political and economic conditions for

entering EU membership negotiations, and the Community Assistance for Reconstruction, Development,

and Stabilization (CARDS) program as its main funding mechanism. With jurisdiction over SAP

negotiations, the European Commission plays the most important role among all EU institutions in making

and implementing EU policies in the region. The Commission has placed strong emphasis on law

enforcement objectives in the region. To meet SAP accession conditions, for instance, all applicant states

must harmonize their legislation with the field of Justice and Home Affairs (JHA), including securing

external borders and combating illegal crime. The high priority the EU has placed on combating illegal

trade and migration in the Balkans is reflected in the proportion of EU assistance committed towards meeting JHA conditions. Among the 4.6 billion euros in aid to the Western Balkans through the CARDS program from 2001 to 2006, over 20 percent was spent on JHA priorities.[30] In Albania, over 50 percent of all CARDS funding is committed towards border control and law enforcement initiatives. Other EU bodies beyond the Commission have raised different policy priorities. For instance, the European Parliament's 2001 Comprehensive European Strategy on Trafficking in Women proposed that the EU should also work to "improve the social and economic conditions of women within and beyond EU borders."[31] Yet while all four policy paradigms are visible to varying degrees in EU anti-trafficking policies in the Balkans, the Commission's emphasis on improving law enforcement capacity to enforce border controls and fighting organized crime has taken precedence.   Given that the overarching aim of SAP and CARDS is to prepare Balkan countries for the many demands of EU membership, every euro allocated for law enforcement and migration control is one less euro available for other more development oriented goals.

Implementing Anti-Trafficking Policies: Unintended Consequences

This final section moves beyond the formal adoption of anti-trafficking policies and official mechanisms to investigate outcomes of the implementation of anti-trafficking policies to date. While the four interrelated policy paradigms have shaped subsequent policies strategies, migration and law enforcement approaches have taken precedence over more human rights and economic emphases. Drawing on Hall, the following section examines potential policy failures or unintended consequences of certain policy actions, which, in turn, might be leading to the re-evaluation of dominant policy paradigms. In other words, these unintended effects can often, but not always, result in a feedback effect in which the frames are re-considered, opening windows of opportunity for proponents of other policy paradigms to put forth alternative strategies. The following section briefly discusses three such unintended consequences.

A. *Measuring trafficking versus measuring anti-trafficking "success"*

Recognizing the need for more comprehensive and "objective" assessment of trafficking patterns, in 2003 the IOM led efforts to create a Regional Clearing Point (RCP) under the auspices of the Stability Pact. The

RCP has produced two comprehensive reports to date, one in 2003 and the other in August 2005. The number of persons assisted in IOM shelters is the primary data source for both reports, yet the 2005 report supplemented this data with information provided from other governmental and non-government sources. From 2000 to 2004, a total of 6,256 trafficked persons were assisted in the Balkans.[32] Concerning how trafficked persons were identified and assisted, the report explains: "Victims were voluntary returned to their countries of origin through assistance programs or identified in their countries of origin upon extradition and subsequently assisted. In addition, victims were identified through police operations and investigations and subsequently referred for assistance."[33] Albanians, Moldovans and Romanians make up the greatest percentage of trafficked persons assisted *from* the region, together comprising over 75 percent of the overall total. Of the 477 persons assisted from *outside* the region, Ukrainians make up by far the largest number (357 persons, or 75 percent). The 2005 report also documents different forms of trafficking. While the largest percentage of persons are trafficked for purposes of "sexual exploitation" (74 percent), the Report also documents trafficking in labor, begging, and children for adoption.

The RCP authors argue that the reports dramatically underestimate the scope of the trafficking trade. Indeed, the RCP report varied significantly from estimates published by IOM headquarters in Geneva in 2001, which claimed that 100,000 women are trafficked each year *through* the Balkans to the EU and further destinations and another 70,000 women trafficked annually *into* the Balkan region.[34] The RCP authors concede their data gathering methods cannot account for the large number of women trafficked undetected through the Balkans to the EU and other markets.[35] IOM officials also attribute low figures to victims being misidentified by law enforcement as illegal migrants who are immediately deported. In 2005 the RCP authors announced a new data gathering clearinghouse, the Nexus Institute to Combat Human Trafficking based in Vienna, which will continue where the RCP left off but expand its data gathering beyond the territorial boundaries of the Balkans and incorporate a wider range of data sources.

Governments, meanwhile, argue that the RCP and assistance agencies like the IOM and local NGOs have numerous incentives to exaggerate the scope of trafficking, as their funding and *raison d'etre*

depends on identifying human trafficking as a problem of crisis proportions.[36] Law enforcement and government agencies are thus more inclined to accept the declining numbers as an objective assessment of the increasing effectiveness of anti-trafficking efforts.[37] Other critics accept the IOM's claim that the RCP reports dramatically underestimate the scope of the trade, but are more inclined to attribute blame to the IOM's migration approach to trafficking. For instance, Barbara Limanowska, a prominent independent expert who works closely with UN and OSCE agencies overseeing human rights in the Balkans, argues that the declining numbers of persons who seek assistance in IOM shelters is not attributable to a decreasing demand for assistance or to the difficulties of locating them. Rather, Limanowska argues that trafficked women have become increasingly aware that IOM assistance is conditional on "voluntary repatriation" – and in recent years conditional on testifying against traffickers in prosecution cases – and in many cases *choose* not to seek IOM assistance. The perspective of trafficked women on the possible shortcomings of migration and law enforcement strategies is rarely considered, however, in formulating anti-trafficking policies.[38]

B.   *Law enforcement strategies versus victim assistance and protection*

Law enforcement strategies have become a central focus of anti-trafficking strategies. Efforts to prevent, suppress and prosecute traffickers have resulted in increased trans-border cooperation among law enforcement agencies as well as high-profile operations such as Mirage. The law enforcement approach has resulted in numerous traffickers being apprehended, convicted and prosecuted. Yet critics argue that the law enforcement approach has failed to significantly reduce the trade, with traffickers demonstrating great flexibility and ingenuity in eluding police by quickly changing transportation and distribution routes or moving the trade further underground. Critics also argue that the law enforcement approach has also resulted in a re-victimization of trafficked persons. For one, they suggest that operations like Mirage result in more women being apprehended and charged on illegal migration or prostitution charges than identifying and assisting trafficked women and their traffickers. Moreover, aggressive policing has the unintended consequence of moving much of the prostitution trade to private apartments, often on the outskirts of cities and towns, where women are further isolated and vulnerable to violent abuse.[39] Helga

Konrad, Chair of the Stability Pact Task Force on Trafficking in Human Beings, referring to the declining RCP numbers, states:

> The [RCP] figures show that the trafficking in human beings is going underground. It shows that the traffickers rapidly react to our responses in the fight against human trafficking. And it shows that the victims are no longer found in bars and brothels. Brothel raids caused traffickers to shift the victims to private locations where, of course, access is more difficult and where it becomes more difficult to provide assistance.[40]

Finally, because the law enforcement approach rests on convicting and prosecuting *individual* traffickers (a condition of the UN Protocol) prosecutors must rely largely on the willingness of victims to testify against their traffickers.[41] Since designated "victims of trafficking" are granted immunity from illegal migration or prostitution charges, refusing to testify can make them more vulnerable to threats of immediate deportation or prosecution. Moreover, as victim assistance programs, including emergency and short-term shelters, are being increasingly being managed and funded by state agencies, assistance can be made conditional on the women cooperating with the prosecution. If a person does agree to testify governments are legally required to provide witness protection. Yet in many cases the very same government and law enforcement agencies tasked with providing this protection have themselves been implicated with being involved in the trafficking trade. In sum, critics of the law enforcement approach argue that when the principal concern of this approach is to stop criminals, the interests of their victims become of secondary concern, often leading to their further exploitation

C.   *Re-trafficking as a failure of migration and law enforcement approaches*

Re-trafficking has been identified as an increasingly prevalent problem. The 2005 RCP report documents that anywhere from three percent to 50 percent of women repatriated from destination countries to their home countries from 2003 to 2005 were re-trafficked within a year. The IOM attributes the high rates of re-trafficking to the predatory strategies of recruiters, who target highly vulnerable repatriated persons.

Recruiters, unlike traffickers, are often embedded in particular cities and towns and thus less vulnerable to being apprehended at border crossings or brothel raids. Yet the IOM also acknowledges serious gaps in the repatriation and reintegration process, where women are returned home to face poverty, shame, and often abuse without adequate social support.[42] IOM's critics, however, argue that the high rates of re-trafficking raise fundamental questions about the long-term effectiveness of its migration approach to anti-trafficking that makes repatriation and preventing illegal migration its central aim. Local and transnational networks of NGOs have taken the lead in addressing the re-trafficking issue, creating assistance and referral networks that track women being repatriated to their home countries. While informal monitoring and referral networks can provide some short-term assistance to repatriated women, advocates of an economic approach to anti-trafficking argue that the ongoing cycle of trafficking illuminates the underlying structural or economic nature of the problem. As the EU fortifies its borders against the migrant and crime exporting states to its south and east, and funds increased law enforcement initiatives in its bordering regions like the Balkans, traffickers continue to profit on the limitless supply of the unemployed and dislocated persons who become trapped in the trafficking cycle.

Concluding remarks

We can draw several conclusions from this analysis. First, anti-trafficking policy has become an "obsession" of the international community, with a wide range of transnational actors coordinating efforts to develop, diffuse and implement anti-trafficking policy. Yet differences exist in how transnational actors frame the nature of the trafficking problem, pointing to the need to investigate points of conflict as well as "consensus" in emerging transnational policy areas. Whether trafficking is portrayed as a migration, law enforcement, human rights or economic problem shapes the kind of policy strategies created to address the issue. Second, what frame prevails over another depends, in part, on the positional advantages and material resources of its main proponents. As the two most powerful actors in the region, the United States and the European Union exert disproportionate influence in promoting a more migration and law enforcement approach to anti-trafficking efforts. Finally, some unintended consequences of implementing anti-trafficking policies to date may be leading to undermining the

authority and legitimacy of the prevailing policy paradigms. Migration and law enforcement approaches can have the unintended effect of exacerbating the vulnerability and exploitation of trafficked persons.

To create more effective transnational anti-trafficking policies we might consider the following shift in focus. For one, including a wide range of relevant actors can make transnational anti-trafficking policy less top-down. For instance, creating mechanisms in which trafficked persons can be given a direct voice in policy-making can help overcome potential conflicts of interest when service providers, whether local NGOs, governments, or transnational actors, have incentives to interpret their first hand accounts to further a particular agenda. This could assist in resolving disputes between the IOM, which claims that declining shelter numbers can be attributed to law enforcement policies, and their critics who argue the IOM's migration approach is to blame. Second, the increasing awareness of re-trafficking highlights the limitations of policing, whether of borders or sex work, and turns our attention towards the underlying economic and social causes of trafficking. Easing strict visa regimes or granting extended or even permanent resident status to trafficked persons are two immediate solutions to reduce re-trafficking.[43] The EU might also rethink the accession model as it now stands, which stresses legal harmonization, with a particular focus on law enforcement, above and often at the expense of more development-oriented priorities. The process could also be more reciprocal where states meeting conditions on combating illegal crime and corruption are offered rewards in return. Liberalizing trade, especially in highly protected sectors such as agriculture and textiles, and funding economic development-oriented projects are some concrete ways in which the European Union – as an increasingly central actor in the Balkans – can also help ease some of the underlying economic factors that contribute to trafficking trade.

NOTES

[1] The paper was prepared with the assistance of Jelena Djordjevic, Anti Trafficking Center, Serbia and Montenegro, and University of Sussex, Brighton, UK.

[2] Ivan Krastev. 2005. *Shifting Obsessions: Three Essays on the Politics of Anticorruption*. Central European University Press.

[3] Mitchell Orenstein. 2005. "The New Pension Reform as Global Policy." *Global Social Policy* 5(2): 175-202.

[4] See G. John Ikenberry. 2001. *After Victory: Institutions, Strategic Restraint and The Rebuilding of Order After Major Wars*. Princeton University Press. For a principal-agent perspective, see Kenneth Abbott and Duncan Snidal. 1988. "Why States Act through Formal International Organizations." *Journal of Conflict Resolution* 42: 3-32.

[5] Michael Barnett and Martha Finnemore. 2004. *Rules for the World: International Organizations in Global Politics*. Cornell University Press.

[6] Albert Lee. 1996. "The Causal Effects of Ideas on Policies." *International Organization* 50 (1)" 69-108; Jeffrey T. Checkel. 1998. The Constructivist Turn in International Relations Theory. *World Politics* 50: 324-348; Richard Price. 1998. "Reversing the Gun Sights: Transnational Civil Society Targets Land Mines." *International Organization* 52(3): 613-44; Martha Finnemore and Kathryn Sikkink. 1998. "International Norm Dynamics and Political Change." *International Organization* 52(4): 887-917.

[7] Peter Hall. 1993. "Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain." *Comparative Politics* 25(3): 275-296.

[8] Margaret Keck and Katherine Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Cornell University Press.

[9] See Andrea Lenschow and Anthony R. Zito. 1998. "Blurring or Shifting of Policy Frames? Institutionalization of the Economic-Environmental Policy Linkage in the European Community." *Governance: An International Journal of Policy and Administration* 11, no. 4: 415-441; Clarissa Hayward. 2000. *De-Facing Power*. Cambridge University Press.

[10] Robert Benford and David Snow. 2000. "Framing Process and Social Movements: An Overview and Assessment." *Annual Review of Sociology* 26: 611-39.

[11] Snow, David A. and Robert D. Benford. 1992. "Master Frames and Cycles of Protest." In *Frontiers in Social Movement Theory*, ed. Aldon D. Morris and Carol Mueller McClurg. Yale University Press: 138.

[12] Mark Blyth. 1997. "'Any More Bright Ideas?' The Ideational Turn of Comparative Political Economy." *Comparative Politics* 29(2): 229-250.

[13] Campbell differentiates among "programs," "paradigms," "frames," and "public sentiment" on the basis that programs and paradigms operate at the cognitive level and frames and public sentiments at the normative level. Campbell also suggests that programs and frames are located in the foreground of policy debate, while paradigms and public sentiments are located in the background. While this conceptual differentiation is useful, this analysis follows Hall in analyzing ideas and outcomes that are readily observable – or, in Campbell's terminology, those in the *foreground* of policy debate. John L. Campbell. 1998. "Institutional Analysis and the Role of Ideas in Political Economy." *Theory and Society* 27: 377-409;

[14] Proponents of ideational analyses differ with respect to how much emphasis they place on agency. In other words, some analysts stress how policy actors can self-consciously and deliberately manipulate existing collective beliefs to promote and legitimize particular policy strategies, while other "thicker" constructivists focus on the broader interpretive frameworks which frame understandings of elites and the public alike.

[15] Hall (1993): 280.

[16] Campbell (1998): 379.

[17] United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. Geneva: United Nations, 2000 (www.uri.edu/dignity/49conven.htm). This supplements the UN Convention on Trans-national Organized Crime adopted by the UN General Assembly in November 2000. The Protocol defines trafficking as follows:

> The recruitment, transportation, transfer, harboring or receipt of persons, by means of 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 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.

The Protocol goes on to define "exploitation" as including, at a minimum, "the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs."

[18] The IOM prides itself on having moved 11 million people since its inception in 1951, 450,000 people worldwide in 2000 alone Franck Duvell. 2003. "The Globalization of Migration Control." *Open Democracy.* www.opendemocracy.net.

[19] See Frank Laczko and Marco Gramegna. 2003. "Developing Better Indicators of Human Trafficking," *Brown Journal of World Affairs* 10 (Summer/Fall): 186-191.

[20] Report on Trafficking in Human Beings in Southeastern Europe. 2003. "2003 Update on Situation and Responses to Trafficking in Human Beings." Warsaw and Sarajevo: UNICEF, UNOHCHR, OSCE/ODIHR. Accessed at www.osce.org/odihr/documents/at_traffse.php3.

[21] Helga Konrad. 2002. "Trafficking in Human Beings: The Ugly Face of Europe." Helsinki Monitor 3: 263.

[22] For an academic example of this kind of analysis see Donna Hughes, "The 'Natasha' Trade: The Transnational Shadow Market of Trafficking in Women" *Journal of International Affairs* 53, No. 2 (Spring 2000): 625-651.

[21] Global Alliance Against Trafficking in Women. 2001. *Human Rights and Trafficking in Persons: A Handbook*. Brussels: 81

[23] Report on Trafficking in Human Beings in Southeastern Europe (2003): 23*.*

[24] For a summary of the "feminization of poverty" in Central and Eastern Europe see Rebecca Jean Emigh and Iván Szelényi, eds. 2001. *Poverty, Ethnicity, and Gender in Eastern Europe During the Market Transition*. Praeger.

[25] These include the 2001 Zagreb agreement on Regional Information Exchange Mechanism; the 2002 Tirana Statement of Commitments on the Legalization of the Status of Trafficked Persons which committed states to provide legal protection to victims of trafficking, namely through the form of temporary residence permits; and a 2003 Sofia Statement on Commitments on Victim/Witness Protection and Trafficking in that obliges each state to develop special comprehensive measures of assistance and protection for witnesses who are victims of trafficking as well as to implement each state's responsibility to systematically address the problem of trafficking in children within the region.

[26] Trafficking Victims Protection Act (22 U.S.C.7101 et seq) and Trafficking Victims Reathorization Protection Act (Public Law 108-193).

[27] See Mohamed Y. Mattar. 2003. "Monitoring the Status of Severe Forms of Trafficking in Foreign Countries: Sanctions Mandated under the US Trafficking Victims Protection Act." *Brown Journal of World Affairs* 10 (Summer/Fall).

[28] Human Rights Watch. 2003. "U.S. State Department Trafficking Report Undercut by Lack of Analysis." Accessed at http://www.hrw.org/press/2003/06/traffickingreport.htm

[29] United State Department of State. 2005. "Trafficking in Persons Report, 2005." Accessed at http://www.state.gov/g/tip/rls/tiprpt/2005/46606.htm

[30] *Regional Strategy Paper, 2002-2006: CARDS Assistance Programme to the Western Balkans*. Brussels: European Commission, 2003. (http://europa.eu.int/comm/external_relations/see/news/ip01_1464.htm).

[31] *Trafficking in Women. The Misery Behind the Fantasy: From Poverty to Sex Slavery. A Comprehensive Strategy* (Brussels: European Commission, 2001) (europa.eu.int/comm/employment_social/equ_opp/violence/ traffinfosheet_en.pdf). See also Jacqueline Berman. 2003. "(Un)Popular Strangers and Crises (Un)bounded:

Discourses of Sex-Trafficking, the European Political Community and the Panicked State of the Modern State." *European Journal of International Relations* 9: 37-86; and Vera Varhegyi, 2002. *'Fantasy Behind Misery': The Meanings of EU Measures on Trafficking in Women*. Central European University. MA thesis.

[32] Rebecca Surtees. 2005. "Second Annual Report on Victims of Trafficking in South-Eastern Europe." Geneva: International Organization for Migration. Accessed at: www.iom.int//DOCUMENTS/PUBLICATION/EN/ Second_Annual_RCP_Report.pdf. The Report includes all former Yugoslav states (except Slovenia), plus Albania, Romania, Bulgaria and Moldova.

[33] Surtees (2005): 32.

[34] International Organization for Migration. 2001. *Applied Research and Data Collection on Trafficking in Human Beings To, Through and From the Balkan Region*. Geneva: International Organization for Migration.

[35] Surtees (2005): 12.

[36] A similar argument is made by Alexander Cooley and James Ron. 2002. "The NGO Scramble: Organizational Insecurity and the Political Economy of Transnational Action." *International Security* 27(1): 5-39.

[37] Report on Trafficking in Human Beings in Southeastern Europe (2003): 117.

[38] Rochelle Jones. 2005. "Prevention as the new approach to human trafficking: AWID interviews Barbara Limanowska." Resource Net, Issue 240 (30 August).

[39] The underground nature of trafficking is portrayed in Lukas Moodysson's 2002 film, "Lilja 4-Ever." In this fictional account, a young Russian woman, unemployed and living in poverty in a Russian province, is recruited by an acquaintance with the promise of working legally. She arrives by plane in Stockholm, is driven to a provincial Swedish industrial city, raped by her handler, and held captive in a private apartment in a nondescript housing bloc.

[40] Konrad. 2002. "Trafficking in Human Beings": 13.

[41] See Elizabeth Bruch. 2004. Models Wanted: The Search for an Effective Response to Human Trafficking. *Stanford Journal of International Law*. Winter:

[42] Surtees (2005): 14.

[43] See Peter Andreas and Tim Snyder, eds. 2000. *The Wall Around the West: State Borders and Immigration Control in North America and Europe*. Roman and Littlefield. See particularly the chapters by Rey Koslowski, "The Mbility Money Can Buy: Human Smuggling and Border Control in the European Union" and Milada Anna Vachudova, "Eastern Europe as Gatekeeper: The Immigration and Asylum Policies of an Enlarging EU."