INTERNATIONAL NORM IMPLEMENTATION IN COMBATING HUMAN TRAFFICKING IN POST-COMMUNIST DEMOCRACIES: AN ANALYSIS OF THE CZECH REPUBLIC, POLAND, AND UKRAINE

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This thesis analyzes how post-Communist transitional democracies implement international human rights norms and to what extent international regimes contribute to this process. The study of norm implementation has become more relevant in the international relations field as a result of increasing globalization, and such research can likewise provide insight into state behavior. Using the framework of the UN Protocol, the author focuses on three countries- the Czech Republic, Poland, and Ukraine-and how they have implemented international human rights norms in the area of human trafficking. This study ultimately finds that economic conditions, NGOs, and regional international government organizations, such as the European Union, seem to have a greater impact on how successfully these case studies have implemented anti-trafficking norms. In contrast, international human rights regimes appear to play a less significant role in international norm implementation.

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James Rae, Ph.D.

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Date
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Chapter 1
INTRODUCTION

Statement of the Problem

How do human rights norms spread in new democracies? What role does the international community play in the implementation of international norms in these states? Answering these questions has become more relevant as new democracies continue to emerge in the international realm, particularly since the fall of Communism. The study of norm implementation itself can provide greater political analysis of conflict and cooperation and give insight into state behavior. If transitional democracies understand how norm implementation functions, then they may be more likely to overcome challenges in this process and enact appropriate government policies domestically. Likewise, both established democracies and the international community can promote human rights more successfully and peacefully based on an understanding of how transitional democracies implement international human rights standards.

This study examines the efforts of three countries- the Czech Republic, Poland, and Ukraine- to implement international norms in human trafficking in women for the purposes of sexual exploitation. The topic of human trafficking has been chosen because the issue itself has become more salient due to increasing globalization. The transitional democracies of Eastern Europe have especially experienced a marked rise in this crime since the fall of Communism. Human trafficking is likewise connected to increasing poverty and lack of economic opportunities for women. The extent to which new democracies combat human trafficking, then, can indicate whether they are also
addressing these adjunct issues and whether they prioritize the implementation of human rights.

This study examines each country’s legislative approach as well as its socio-economic conditions in order to determine the specific factors that are significant in how each country adopts international human rights norms. The countries’ cooperation with international regimes is likewise compared in order to determine whether these institutions have helped the case studies combat human trafficking. This comparative analysis can thus help in answering the above questions of how transitional democracies implement international norms and whether international regimes significantly influence this process.

**Research Question**

Which factors have the greatest impact on implementation of international human rights norms? Specifically, do normative factors derived from international organizations or instruments have greater influence on the dissemination of norms than legal and social factors?

**Additional Research Question**

Have the transitional democratic states of the former Soviet Bloc successfully implemented international norms related to human trafficking twenty years after the fall of Communism? To what extent have these countries assimilated international norms related to gender equality? These questions entail analysis of various economic, cultural,
and social factors that can affect norm implementation, as well as an examination of the involvement of international regimes and non-governmental organizations.

**Purpose of the Study**

The purpose of the study is to determine the extent to which the new transitional democracies have been able to implement international norms in human rights twenty years after the fall of Communism. The national process of norm implementation can also provide insight into whether national policy changes and reform is linked to domestic or external influences, such as membership in an international organization or being a state party to international treaties. Hence, in connection to the first purpose of studying national norm implementation, this paper also seeks to evaluate whether international instruments influence domestic change or whether internal factors play a greater role.

**Methodology**

This thesis is a qualitative, cross-national comparison of three post-Socialist transitional democracies—the Czech Republic, Poland, and Ukraine—and their implementation of international human rights norms. The qualitative method involves an interpretive, pragmatic approach, which can provide a deeper understanding of the subject matter.

The degree of norm implementation related to anti-trafficking guidelines will be based on the prevalence of human trafficking in each country in conjunction with other
factors, such as legal provisions, social perspectives on gender, and international cooperation. While the author recognizes that criminal organizations significantly contribute to the prevalence of human trafficking, as has been shown by other research, a satisfactory examination of this complex element would require its own separate analysis, which would be outside the scope of this thesis. The author has therefore chosen not to include criminal organizations in this study.

The comparison in this thesis will incorporate statistical data from international organizations and national monitoring reports in order to compare the extent of the human trafficking problem in each case study. The paper will examine causality of the human trafficking prevalence among the case studies and make a determination of norm compliance through analysis of their legislative and social frameworks.

The anti-trafficking norms specified will be used from the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (hereinafter “UN Protocol” or “Palermo Protocol”), supplementing the United Nations Convention against Transnational Organized Crime. This paper will specifically focus on the three areas that the UN Protocol outlines as key to combating trafficking, namely: (1) criminalization; (2) prevention; and (3) protection of and assistance to victims.

It is important to note that both Poland and Ukraine have signed and ratified this treaty, whereas the Czech Republic, to date, has not. This will provide an interesting comparison in terms of norm implementation because it will delve into the crux of the
issue—whether being a state party to an international treaty, such as the UN Protocol, affects legislation, reform, and activities on a domestic level.

The Czech Republic, Poland, and Ukraine were chosen as case studies specifically for the commonalities that they share. Their transition from Communism to a more democratic and capitalist system occurred within a small timeframe (1989 for the Czech Republic and Poland, and 1991 for Ukraine). All three countries have been ranked by Freedom House as electoral democracies for the years 2000-2008.\(^1\) They are also physically located in proximity to each other, which focuses this study on one specific geographical area. Since human trafficking is closely linked to movement across borders, it would be natural to assume that each country will experience the same prevalence of human trafficking. Therefore, any variance in this crime among the countries should not be correlated to geographical location.

Despite the above similarities, each country’s experience in transitioning to democracy has differed. In terms of political rights and civil liberties status, only the Czech Republic and Poland are considered free by Freedom House for the years 2000-2008. Ukraine, on the other hand, has only been categorized as free from 2005-2008.\(^2\) Other variances in the economic, political, or cultural areas, can also impact each country’s international norm implementation. Noting the differences among the case studies can help determine what specific factors have either helped or hindered their handling of human trafficking. Likewise, since human trafficking is an issue directly

\(^1\) See Appendix K for full listing.
\(^2\) See Appendix K for full listing.
related to human rights, as well as gender rights, the success in dealing with this transnational crime will likewise indicate the extent of each country’s adherence to the democratic principles of gender equality and protection of human rights.

The specific choice of these countries also provides an interesting comparison regarding the norms set out by the UN Protocol because only two of the case studies—Poland and Ukraine—are state parties to this treaty. The Czech Republic has chosen not to sign because it believes that its authority to sanction legal entities for criminal acts would be curtailed by becoming party to this agreement.

Theoretical Model

While some studies indicate that new democracies are more likely to join international regimes, this does not necessarily increase norm implementation within the nation-state. These nations seek to join international regimes in order to gain diplomatic status and legitimacy in the international community and to improve relations with other nations. Thus, in accordance with liberal theory, new democracies join international regimes out of self-interest and because the benefits outweigh the costs. However, although new democracies may be more likely to join international regimes, the implementation of norms set forth by these regimes is hindered by these nations’ internal political and economic situation. The more entrenched that a nation has historically been in dictatorial governments, the more likely it will have a difficult time implementing human rights norms within the society and adjusting to new governmental measures aimed at combating transnational crime. Regimes and institutions will have a tendency to
be most successful in nations that already effectively guarantee basic rights, rather than in situations where human rights are introduced in new jurisdictions. Nations are most likely to benefit from international human rights regimes if they seek to improve and legitimize their own democratic practices.

Hypotheses

This study puts forth the following hypotheses:

1. Although the Czech Republic, Poland, and Ukraine follow the international norms on anti-trafficking specified in the UN Protocol in theory, the Czech Republic, Poland, and Ukraine will differ on a national level in their implementation of international norms on anti-trafficking (as specified in the UN Protocol) due to their varying socio-economic conditions.

2. The implementation of anti-trafficking norms will be determined to a greater degree by economic, institutional, and cultural settings of each country, rather than state-party signatory status to the UN Protocol and other human rights conventions.

3. International regimes do not influence the implementation of international norms in transitional democracies because of a lack of enforcement mechanisms. Rather, international governmental organizations, such as the EU, have a greater influence on norm implementation on a domestic level as a result of their Western democratic traditions and long-term support of human rights.
Limitations of the Study

It is important to note that reliable statistics on the rate of human trafficking are notoriously difficult to compile and authenticate. Many experts on trafficking in persons agree that the incidence of this transnational crime is highly underreported and statistically underestimated. Frequently, the statistics from national law enforcement, non-governmental organizations (NGOs), and international organizations (IOs) differ as a result of variances in categorization. Statistics can also be difficult to collate because of discrepancies among different types of data; the act of human trafficking can be recognized or prosecuted under crimes or penal codes not directly related to trafficking; the victim may be incorrectly categorized as an illegal immigrant or refugee, not as a trafficking victim; language and communication barriers increase misjudgment of the situation by law enforcement, especially in border areas; and the victim may not report the trafficking crime. Due to these limitations, the rate of human trafficking has been based on various sources to give a general idea of the extent of the problem in the Czech Republic, Poland, and Ukraine.

Furthermore, this is a qualitative, cross-national comparison. Comparative analysis entails some common problems in gathering information, such as differences in categorization, definitions, and measurement standards. Specifically in comparing legislation in human trafficking, legal definitions may vary among the countries, while countries may use several different laws not directly related to human trafficking to prosecute traffickers. Consequently, this can significantly misrepresent statistics. Furthermore, national reports on this crime are not based on a template and can address
different issues, again, using measures and evaluation techniques that are dissimilar, making it more difficult to formulate a standard comparison.

The Case Studies and Human Rights Records

All three countries have established as part of their government the office of the ombudsman. The position of the ombudsman can play an important role in propagating not only the concept of human rights within a nation, but also ensuring that these rights are actually carried out in practice. An effective ombudsman, therefore, can help implement human rights norms.

The duties of the Czech ombudsman position include publishing annual reports on the office activities in the Czech Republic and Poland. The independence of this position appears to be upheld only in the Czech Republic. In Poland, the ombudsman is selected by the parliament and at times has been criticized by the media for being influenced by party politics (U.S. Human Rights Report 2008). This is likewise the situation in Ukraine, where the ombudsman is designated by the parliamentary commissioner on human rights. Furthermore, there have been some criticisms by human rights organizations that the ombudsman office in Ukraine has insufficiently responded to accounts of human rights violations and has not worked together with human rights groups (U.S. Human Rights Report 2008). Human rights organizations are likewise troubled that the Ukrainian public seems to not be aware of the method to bring

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complaints to the ombudsman’ Office. In addition, there have been concerns that the office lacks transparency, that it has not responded to information requests, and that its website, which is potentially a lead resource for communication, has been poorly updated (U.S. Human Rights Report 2008).

Each of the three case studies so far has shown at least a superficial commitment to the concept of human rights through establishing the ombudsman office as part of their governments. However, the effectiveness of this position in promoting human rights varies among the countries, with Ukraine’s record showing most need for improvement thus far. Whether these differences among the three case studies in implementing human rights persist will be explored throughout this thesis.

The Case Studies and Human Trafficking

Among the three case studies, Ukraine has been ranked by the United Nations as having the greatest problem with human trafficking, particularly as a country of origin and transit, as compared to the other two case studies (see Figure 1). This does not mean that the Czech Republic and Poland have no trouble in this area, but they have started to become more countries of destination, particularly in the Czech Republic. Consequently, these two nations may focus on different aspects of the fight against human trafficking than Ukraine. For example, as destination countries, the Czech Republic and Poland may have to deal more with ensuring protection for the foreign victims once they are identified, whereas Ukraine may deal more with prevention of human trafficking, especially through improving social conditions.
While it has already been mentioned that obtaining statistics of human trafficking rates is often quite challenging, the United Nations rankings of these three countries form the basis for the analysis of the variances in the human trafficking norm implementation among the three case studies. A brief description of the human trafficking problem in each country is described below in order to provide reference for the reader.

**Czech Republic**

After the fall of Communism, the Czech Republic became an important source country for trafficking in women for the purpose of sexual exploitation. Eventually, the country’s position changed from being a source to a transit point and eventual destination country during the 1990s, due in part to a strengthening of the economy. However, even as recently as 2008, there have been cases of Czech women becoming victims of trafficking abroad, which means that the Czech Republic still qualifies as a source country of trafficking (Czech Ministry of the Interior 2009 Status Report CR, hereinafter “Czech Status Report 2009”).

The Czech Republic continues to be a source, transit, and destination country for women from Russia, Ukraine, Romania, Belarus, Moldova, Slovakia, Bulgaria, China, and Vietnam trafficked to Germany, Austria, the Netherlands, and Denmark for the purpose of commercial sexual exploitation. Roma women are also frequent victims that are trafficked within the country and abroad for sexual exploitation. The United States Department of State has ranked the Czech Republic as a Tier One country for all the years 2001 through 2009, with the exception of 2001 and 2006, during which time it was
placed as Tier Two. According to the U.S. Department of State, the Czech government has continued to improve its compliance with the minimum standards for the elimination of trafficking.

Poland

Poland is a source, destination, and transit country for human trafficking, with the majority of women being trafficked from Ukraine, Belarus, and the other former Soviet nations (Polish Ministry of Interior and Administration Trafficking in Human Beings 2008, hereinafter “Polish Trafficking Report 2008”). With the exception of 2001, when it was placed in as a Tier Two country, it has continued to be ranked in the Tier One category in the U.S. Department’s annual Trafficking in Persons Report. Like the Czech Republic, Poland continues to make effort to combat human trafficking, according to the U.S. Department of State.

Ukraine

Ukraine is primarily a source and transit country, rather than a destination one. In 2008 alone, forty-eight percent of the trafficked victims that were helped by the IOM or its NGO affiliates were trafficked for the purpose of sexual exploitation (TIP 2009).

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4 The U.S. Department of State ranks each country in Tier One, Tier Two, or Tier Three based on the actions of the governments to combat trafficking in persons, not on the extent of the problem. Governments that fully comply with the U.S. Trafficking Victims Protection Reauthorization Act of 2008 are ranked in Tier One; governments that make meaningful efforts are placed in Tier Two; and governments that are not making significant efforts are placed in Tier Three. For a more detailed explanation, see the U.S. Department Trafficking in Persons Report 2009, available on http://www.state.gov/g/tip/rls/tiprpt/2009.
Ukrainian victims are most often trafficked to Russia, Poland, Turkey, the Czech Republic, and Western Europe. According to the U.S. Department of State, Ukraine has not been fully compliant in its efforts to combat human trafficking since the inception of the Trafficking in Persons Report monitoring began in 2000 (TIP 2009).
**Figure 1: Ukraine Ranks Highest in Human Trafficking**

<table>
<thead>
<tr>
<th><strong>UN Trafficking Report - Indeces 2009</strong></th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population (in thousands)</td>
<td>10,220</td>
<td>38,530</td>
<td>46,481</td>
</tr>
<tr>
<td>Population under 14</td>
<td>14.6%</td>
<td>16.3%</td>
<td>14.9%</td>
</tr>
<tr>
<td>Net Migration</td>
<td>1</td>
<td>-.5</td>
<td>-2</td>
</tr>
<tr>
<td>Human Development Index</td>
<td>31/177</td>
<td>36/177</td>
<td>78/177</td>
</tr>
<tr>
<td>Gender-Related Development Index</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TI Corruption Perceptions Index</td>
<td>4.2/10</td>
<td>3.5/10</td>
<td>2.2/10</td>
</tr>
<tr>
<td>WEF-Organized Crime Index</td>
<td>4.2/7</td>
<td>3.7/7</td>
<td>3.1/7</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th><strong>Reported Trafficking (According to the Citation Index)</strong></th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country of Origin</td>
<td>High</td>
<td>High</td>
<td>Very High</td>
</tr>
<tr>
<td>Country of Transit</td>
<td>High</td>
<td>Very High</td>
<td>High</td>
</tr>
<tr>
<td>Country of Destination</td>
<td>High</td>
<td>High</td>
<td>Medium</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th><strong>Reported Trafficking (According to the Citation Index)</strong></th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Cases Recorded January 2004 to January 2005</td>
<td>20</td>
<td>44</td>
<td>289</td>
</tr>
</tbody>
</table>

Organization of the Study

The second chapter of this thesis is a literature review of international regime theory and norm implementation. The third chapter provides the reader with background on the crime of human trafficking, including the various international instruments that have addressed this issue, followed by a brief background on each country’s human rights record. Following this will be an analysis of the three case studies. Chapter four analyzes the legislative factors of the Czech Republic, Poland, and Ukraine that impact norm implementation through an examination of the area of criminalization and prosecution of human trafficking, as specified in Article 5 of the UN Protocol. I will examine the legislative framework, judiciary system and functioning, and the extent of corruption, in the form of bribery and political influence, in both the law enforcement and judicial system in each country. Chapter five pertains to the normative factors, specifically relating to the protection of and assistance to victims of human trafficking, as outlined in Articles 6 and 7 of the UN Protocol. I will focus on each country’s involvement with NGOs, their legislative measures related to residency status of the victim, and protection of the victim both in and outside of court. I will also examine the role of international regimes and whether they can impact norm implementation on a domestic level in these case studies. Chapter six examines the socio-economic factors as they relate to each country’s efforts to prevent human trafficking, prescribed by Articles 9 and 10 of the UN Protocol. I will analyze the economic and education opportunities that the governments have provided to women in order to assess the case studies’ efforts to improve the economic conditions of this population group. I will also appraise their
efforts to reduce demand of sex services, including their measures on prostitution, as well as actions related to anti-trafficking campaigns and training of law enforcement. This chapter will also examine how each country has dealt with the issue of violence against women. Violence against women is not only a women’s issue, but concerns human rights in general, and so is connected to human trafficking. Therefore, a country’s response to this topic can give insight into its norm implementation on human trafficking. The final chapter will be a summary of my findings and a conclusion, including recommendations.
LITERATURE REVIEW

Do Regimes Matter?

Not all theorists agree with the assertion that established regimes affect state behavior and outcomes (Krasner 1982a). The theoretical distinction on international regimes is based on the basic premise about the normal state of international affairs (Krasner 1982a). The realist and liberal debate on cooperation rests on factors related to reciprocity, the number of actors, actors’ expectations about future interaction, and the distribution of power (Baldwin 1993). Realism views regimes as a “phenomenon whose presence cannot be assumed and whose existence requires careful explanation” (Krasner, 1982a: 194), whereas liberal theorists believe that regimes are significant in the international system (Krasner 1982a).

According to liberals, regimes matter only under certain conditions (Keohane 1995) and would not apply to zero-sum situations (Krasner 1982a). Regimes can do three things, however—help states establish legal rights and obligations, lower bargaining costs, and reduce uncertainty (information costs), thus diminishing the risk of international cooperation (Keohane 1984; Keohane 1982). Regimes may survive if at least the dominant actors believe that the benefits of maintaining the regime outweigh the costs of dismantling it (Keohane 1984; Keohane 1982a).

In contrast, realists believe that in the conventional structural view, regimes are inconsequential and have little or no impact on behavior (Waltz 1979; Mearsheimer 1994). When states change their behavior, it is not because of international regime
effects, but because the capability distribution and the position of specific states have also
changed (Krasner 1982a). “…In a self-help system like anarchy, where survival is not
assured, states face formidable, often insuperable obstacles to institutionalizing
cooperation” (Stone 1994). In essence, realist theory is based on the supposition that
states are more concerned with absolute gains, thus disregarding other states’ losses. In
this way, realists believe that only the presence of a hegemon can make a successful
regime, and that regimes are only the result of a distribution of power in the international
system. Thus, they discount the role that institutions can play in not only promoting
international cooperation but also norm dissemination. In contrast to liberalism, then,
realism holds that international regimes have no independent power and are only an
extension of state power, particularly that of a hegemon.

Establishment of Regimes

Liberal arguments on the establishment of regimes are based on the ideational
concept of principle, namely, that regimes are adapted not through coercion but rather
socialization by the establishment of transnational networks, epistemic communities, and
interstate interaction promoted by established democracies (Moravcsik 2000).

Usage, custom, and knowledge can also affect regime development and
implementation. Usage implies “regular patterns of behavior based on actual practice;
custom, to long-standing practice” (Krasner 1982a). This patterned behavior combined
with expectations incorporates norms, whereas actions that are based more on imposed
calculations become “rule-like or principled behavior” (Krasner 1982a). This, however,
provides legitimacy in spontaneous and imposed regimes (Krasner 1982a). Even if state power and interests shift, the historic custom of regime adherence results in actual practice remaining stable (Krasner 1982b). Furthermore, international regimes may persist because policy makers may fail to convince others that new arrangements are right and applicable and because of an inability to create an alternative framework (Krasner 1982b). However, since regimes can be considered to be social institutions, deviance and nonconformity are likely to occur (Young 1982). Knowledge is an important variable in explaining regime maintenance because “stable regimes are likely to be based on consensual knowledge” (Krasner 1982b), which enables agreement on principles, norms, rules, and decision-making structures.

States choose to join a regime if this cooperation brings greater benefits than individual action (Moravscik 2000; Krasner 1982a), which can occur under two circumstances: the dilemma of common interests; and where individual decision-making brings about unwelcome effects (Krasner 1982a). The cost of regime formation is lowered due to high levels of formal and informal communications among states in open political systems (Krasner 1982a). “Where these costs are low, adherence to principles, norms, and rules is high” (Krasner 1982a).

Established regimes can become quite independent of state power and influence, and can thus account for the continuance of behavior and outcomes, despite changes in state political power. In fact, regimes can alter the distribution of power and the evaluation of interests (Krasner 1982b; Krasner 1991). “Regimes may become interactive, not simply intervening, variables” (Krasner 1982b). A regime may actually
change the eventual interests that led to its creation in the first place through increased transaction flows, knowledge enhancement, and understanding (Krasner 1982b).

The element of sovereignty can have a great impact on regime formation. It can be seen as a dominant principle that influences the behavior of others (Krasner 1981). Except in a few cases, where sovereignty does not apply, regimes are often weak or non-existent. The power of sovereignty provides states with unlimited rights in the international regime (Krasner 1982a). However, although international regimes are associated with state actors, they include activities that are outside the “jurisdictional boundaries of sovereign states” (Young 1980). Conflicts can often arise due to international regime rules imposition on “indivisible state sovereignty” (Young 1980).

Implementation of Norms

The origin of regimes can affect the eventual implementation of international norms in societies. The formation of these regimes can emphasize an issue area such as human rights in the international community. New democracies, eager to align themselves with the international realm, thus join these human rights regimes to indicate their new democratic direction. From then on, the implementation of norms can take several tracks.

The first of these is known as the evolutionary track, where social institutions develop over time from common practice; the piecemeal track, where agreement is reached without a formal, comprehensive contract; and the contractarian track, which entails the negotiation of a formal “constitutional” contract among the members (Young
In the third scenario, group size can make a difference as to the success of negotiations. The success of implementing these contracts depends on whether the actors intend to follow in practice what they agree to contractually (Young 1980; Donnelly 1986).

Norm Creators

Powerful states have an advantage if they want to create a new norm because they have greater diplomatic representation in many other states, participate regularly and to a great degree in international organizations and conferences, and, therefore, have a greater opportunity to persuade others of their own view and cultural standards (Florini 1996). They can help spread norms via emulation by other smaller or weaker states, even if the powerful state is non-proactive. However, powerful states can also block certain initiatives and can use information to their own strategic benefit (Katzenstein, et al., 1998).

International organizations and nongovernmental organizations are also important norm entrepreneurs, particularly in the area of human rights. These entities can force governments to accept international agreements, as well as to propagate the adoption of societal norms and governmental change related to the authority exercised on citizens (Sikkink 1993). International institutions can only be legitimate if they are given independence and autonomy (Krasner 1981). Institutions can enforce regimes because they can provide information, monitor compliance, and offer concrete and applicable solutions (Katzenstein et al., 1998; Keohane 1982; Donnelly 1986; Krasner 1991). Some
Theorists assert, however, that regimes must be distinguished from institutions. Regimes aid the “institutionalization” of different issue-areas, but that does not mean that all international institutions are tied to specific rights and rules, unlike international regimes (Haggard and Simmons 1987). Regimes are examples of cooperation and can help implement it, but cooperation can exist without the presence of established regimes (Haggard and Simmons 1987). Institutionalization, however, is key to norms obtaining staying power and influence domestically (Checkel 1999).

The element of leadership, in terms of the individual not just the state (Checkel 1999; Young 1991), is critical in the formation and implementation of international regimes because of its role in determining the success or failure of institutional bargaining (Young 1991), regime formation, contract agreement, and norm reproduction (Young 1991). Institutional agreements and bargaining can be complicated by collective action problems that can delay international regime formation (Young 1991). In particular, norm diffusion within a nation is highly dependent on the policy of elite decision makers (Checkel 1999).

The Spread of Norms

The formation of international regimes is the result of actions of groups of actors (Young 1980) and social relationships where states share the idea of what is acceptable behavior. In some instances, new norms often fit with already existing norms, which enhances their legitimacy (Florini 1996) and can lead to the eventual expansion of norms. According to Florini, this can take two forms—vertical or horizontal. Horizontal
reproduction of norms is basically emulation, where actors copy the behavior of others. Rapid social change is usually associated with horizontal emulation (Florini 1996), which could explain behavioral change occurring in new democratic states. Furthermore, certain conditions facilitate horizontal expansion of norms, such as a large-scale turnover of decision makers, failure of previous behavioral norms, and the emergence of new issue areas (Florini 1996).

Although further analysis is needed, it is probable that these conditions for behavioral change are present in newly emerging democracies, and thus, enhance the opportunity for rapid norm adaptation. Because norm adaptation must be both internal as well as external, it is thus a two-level game (Florini 1996; Young 1991; Young 1980). This can make norm adaptation more complex because domestic strife may divert attention from the institutional bargaining involved in regime formation (Young 1991; Young 1980). Because new democracies often have intricate domestic issues that they have to deal with, adapting international norms may be more difficult for them as opposed to well-established liberal states. Vertical norm reproduction rarely ends in change because of the slower process of adaptation through several generations of leaders within a single state (Florini 1996).

The successful diffusion of norms and their adoption by transitional democracies is also dependent on the extent of the “cultural match” between global norms and the domestic practice, as well as the adopting country’s previous experience, norms, values, and intentions. Norm adaptation also depends on the social and cultural characteristics of the population (Checkel 1999). Where international norms are in sync with domestic
norms, in areas of discourse, the legal system, and bureaucracies, the cultural match is
higher and thus norm diffusion more likely to be successful (Checkel 1999). Norm
diffusion can be either top-down or bottom-up. In the first scenario, norm
implementation is carried out by non-state actors, who coerce decision makers; in the
latter scenario, social learning, rather than political pressure, results in domestic
adaptation of international norms (Checkel 1999).

The Impact of Regimes

Constructivist empirical research indicates that regimes actually do alter state
behavior, which is not explained solely by short-term power enhancement, as realism
purports (Florini 1996). However, most theories, including constructivism, do not focus
on formation of preferences, how norms expand, or on norm selection (Florini 1996).
Institutionalism asserts that regimes are effective only to the extent that the members
follow its rules and norms and the degree to which the objectives are achieved
(Hasenclever, et al. 1996). The most fundamental of these objectives is the improvement
in states’ abilities to cooperate in issue areas (Hasenclever, et al. 1996). Neoliberal
institutionalists further believe that institutions have an independent impact (Jervis 1999).

International regimes include different components that facilitate norm
distribution among its members. The substantive component, which addresses the
principle of rights, incorporates methods such as incentives, rules, and regulations
(Young 1980). Procedural components attempt to resolve situations via social choice
mechanisms. These mechanisms are “institutional arrangements specialized to the
resolution of problems of social choice arising within the framework of particular regimes” (Young 1980). This includes such devices as bargaining, administration, unilateral action supported by coercion, and voting systems, all of which are instrumental in enabling social choice in international regimes (Young 1980).

Methods and Barriers of Implementation

The implementation of international regimes can be difficult to achieve (Baldwin 1993). Social institutions and states often resist change or reform. For this reason, a compliance mechanism is needed to “pursue compliance with the substantive provisions of a regime, or with the outcomes generated by its social choice mechanisms” (Young, 1980: 339). This can include institutions such as governmental agencies, although less formal ones are also relevant. The decentralized characteristic of the international system makes it unlikely that international regimes will pursue extensive investment in compliance mechanisms (Young 1980).

The effect that regimes have on national behavior may be mitigated because the regime itself may not be constructed to be “authoritatively binding” (Haggard and Simmons, 1987). This is especially true in human rights regimes, which are usually very weak. Furthermore, there is the element of “involuntary defection,” which happens when a member of a regime is unable to hold its commitments due to domestic political constraints (Putnam 1986). The extent to which an international regime will impact state behavior is reliant on the domestic situation of the member state and the domestic prominence of the international norm (Cortell and Davis 1996), as well as the national
commitment of the regime member (Donnelly 1986). Regimes can have greater influence if the lines between international and domestic politics are diminished (Haggard and Simmons 1987).

Transparency is another factor that is vital to regime effectiveness and compliance. Transparency can be a factor in enhancing cooperation among states and can likewise prevent conflict, especially among democratic nations. Thus, countries that have more complete information about each other, including new democracies, are more likely to comply with international norms because any deviance can be more readily discovered by the international community and result in less cooperation and benefits. Transparency is dependent on both supply and demand of information, and can help regimes determine whether members are achieving regime objectives and fulfilling their commitments (Mitchell 1998). The regime’s method of reporting, whether self-reporting, other-reporting, or problem-reporting, can affect the desire and ability of members to supply information. On the other hand, too much transparency can inhibit cooperation.

Negotiators need to determine the cost-benefit of transparency versus other regime objectives. The type of states that are involved in a regime may influence the regime’s ability to form transparency (Mitchell 1998). “Regimes composed largely of liberal democracies will probably achieve greater transparency simply because of the generally more open information flow within such societies” (Mitchell 1998). “Democracies are by definition more open, less able and less willing to restrict the flow of information” (Florini 1996). However, being a democracy does not necessarily mean that a state will be more open to transparency, nor does the future of transparency and
information dissemination necessarily correlate with the type of government regime (Florini 1996).

**Domestic Factors in Regime Implementation**

In forming international regimes on human rights after WWII, established democracies allied with dictatorships and transitional regimes “in reciprocally binding human rights enforcement” (Moravscik 2000). Ironically, at this time, the main supporters of mutually binding human rights agreements were governments of newly established democracies (Moravscik 2000). This phenomenon can be explained by the domestic political self-interest of national governments, where governments create semi-independent judicial bodies as a means of accumulating democratic institutions in order to enhance their credibility and stability. “…Governments turn to international enforcement when an international commitment effectively enforces the policy preferences of a particular government at a particular point in time against future domestic alternatives” (Moravscik 2000). Thus, successful implementation of international regimes in transition democracies is more likely when the benefits of reducing future political uncertainty outweigh the costs of giving up some sovereignty as a result of regime membership. This “self-binding” method applies predominantly to newly established democracies (Moravscik 2000).

Domestic structures also determine which norm diffusion mechanism will work in various states (Checkel 1999). In the case of transition democracies, a state-above-society structure would be applicable, where top-down norm implementation occurs and
is the result of elite learning (Checkel 1999). This may not bode well for successful human rights regime implementation in new democracies since “most governments that respect human rights have been created not from the top down, but from the bottom up” (Donnelly 1986). However, it is more likely that weak international regimes will be more acceptable to states since weaker regime norms and procedures do not seem immediately threatening (Donnelly 1986).

Whether transitional democracies will accept international regimes depends on whether these governments continue to protect the autonomy of their decision-making from the outside world. If this is the case, participation in international regimes will be more complex. Furthermore, the success of regime implementation also rests on expectations, communication, and information, which are determined by the internal political structures of these governments and their openness to established democracies (Keohane 1982).

A study of 178 countries across an eighteen-year period, 1976-1993, suggests that being party to an international human rights regime does not produce an observable impact on states’ actual behavior (Keith 1999). This coincides with the claim that a treaty’s implementation mechanisms are too weak and depend too much on a nation’s goodwill to result in any significant changes in state behavior (Keith 1999). Furthermore, states that do join the regime acknowledge these weaknesses and realize that there is little risk to their sovereignty. As a result, they choose to join these regimes in order to enhance their public relations position without having to change their internal politics (Keith 1999). Another possible explanation for the lack of change in states’ behavior is
the occurrence of serious domestic upheavals, such as civil war or other domestic unrest, which can prevent states from implementing human rights regimes, despite having good intentions to do so (Keith 1999). During times of national difficulties, human rights norms implementation may be impeded by the slow development of domestic laws and institutions (Keith 1999). A lack of observable change on a state’s behavior can also be due to a treaty having an impact mostly via an indirect process rather than a direct one. A second factor in this lack of impact can also be attributed to the state joining an international regime as a final step in a long socialization process. Thus, any change through joining the regime would not be observable because the state has already been involved in a long-term process to protect human rights (Keith 1999).

The Role of the West

The actions of the West and older democratic states have significant impact on the success of behavioral regime implementation in transitional democracies (Hopf 1992). To facilitate this process, the West should set standards for each nation’s security policy, foreign conduct, and domestic behavior, especially relating to human rights. Established democracies that include great powers, should also enact incentives (economic, political, and cultural) and penalties that would be based on how thoroughly transitional economies follow these standards (Hopf 1992). The extent to which the Western states are involved and monitor the adherence to behavioral regimes can greatly affect whether these regimes will be successful in newly democratic states.
This thesis is heavily influenced by the liberal perspective of Keohane, and follows the tradition of the liberal school of thought with respect to norm implementation. The author is aware of the dominance of liberalism in international regime theory—a traditional liberal concept—as well as its domestic attribute and obstacles. The author likewise acknowledges the criticism that liberal theory, particularly international regime theory, has its roots in Western political thought, and does not take into account other theories that originate from non-Western political fields.
Chapter 3

THE HISTORY OF HUMAN TRAFFICKING

Introduction

Human trafficking is a form of modern-day slavery involving about 600,000 to 800,000 victims being “forced, defrauded, or coerced into labor or sexual exploitation” (Against Their Will 2006). Article 3 of the UN Protocol defines trafficking in persons as

The recruitment, transportation, transfer, harboring 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.

This transnational crime particularly affects women and children because they are the more vulnerable population in societies. According to Interpol, trafficking is the fastest-growing crime category today. “The profit from trafficked women is vast compared with the $54 million over two years that the U.S. government invested worldwide to stop trafficking” (Cwikel and Hoban 2005). Especially in developing countries that still have a patriarchal and unequal structure, women often take desperate measures in order to provide for their families and themselves, which often involves seeking job opportunities abroad. This is especially true for the women of the former Soviet Bloc countries, especially the lesser economically developed Commonwealth of Independent States countries. These women have seen their way of life turned upside
down since the fall of Communism in 1989, with their social, health, and welfare benefits decreasing to such an extent that many of them have ended up homeless, destitute, and have even become prostitutes in their native countries in order to survive their economic situation. This desperation further leads women to seek opportunities outside of their own countries by accepting jobs posted as employment in the service or entertainment industry, but that are actually cover-ups for work in the sex industry. The young women are often tricked into being trafficked by being offered well-paying jobs as entertainers in other countries, only to be forced to work in a brothel once they are in the foreign land (Miers 2000). They are often held via intimidation and threats of harm or being deported, a consequence they fear since they often have families at home to support. In many cases, they may not have the money to pay their way back home (Miers 2000).

Victims

The most frequently reported type of human trafficking is one that deals with sexual exploitation rather than forced labor. Women and children are the most targeted for trafficking related to sexual services, with women alone comprising 77 percent of the reported victims on a global level, according to the UN report *Trafficking in Persons: Global Patterns* (April 2006).

Identifying victims of trafficking can be quite a difficult process. Victims are moved across borders secretly, making accurate estimates hard to obtain (Cwikel and Hoban 2005). Furthermore, women trafficked for sex work “lack citizens’ rights, often do not have passports, and are wary of authorities for fear of deportation” (Cwikel and
Hoban 2005). Even after identification of trafficked women takes place, allowing for some statistical compilation, the women are often moved between brothels in order to avoid the police.

In general, trafficked women come from poor or developing countries, looking to escape the situation in which they currently reside (Koslowski and Kyle 2001). This is especially true for women in the South and Central European region and the countries of the Commonwealth of Independent States (CIS). “Research has shown that human trafficking cases for sexual exploitation in the countries of the Central Caucasus Republic have involved more than 10,000 to 15,000 people annually” (Glonti 2001). The demand for women of Slavic origin has risen in the past decade, increasing dramatically after the fall of the Iron Curtain. This number of Slavic victims more than doubled in Belgium and tripled in the Netherlands between 1992 and 1995. According to German crime statistics, there was a greater number of trafficked female victims being transported to Germany from the countries of the former Soviet Union than from anywhere else (Stoecker 2002), with Poland being in second place, thus, outnumbering the victims from countries such as Thailand. Women trafficked from Russia, Ukraine, Latvia, Lithuania, Estonia, as well as from Hungary, Poland, Romania, the Czech Republic, and Slovakia have outnumbered the victims trafficked from the traditional group of countries in Africa, South America, and Asia. The Slavic women trafficked to Western Europe and other countries are seen as exotic and desirable and are in high demand by Asian businessmen from Japan and China who work in Thailand. In Southeast Asia, Russian women are considered to be “a symbol of social prestige” (Stoecker 2002).
While it may be tempting to say that women trafficked from CIS countries and South and Central Europe all share the same background, this is not necessarily the case. It is evident that having a difficult life situation increases the chance that a woman may become a victim of human trafficking for sexual exploitation (Koslowski and Kyle 2001). However, not all trafficked women lack education or employable skills. For these women, it is not their backgrounds that make them victims so much as the social and economic situations in which they live. “Many of the Russian women exported and enslaved tend to be well educated and are answering advertisements for positions in the service sectors for which they are frequently overqualified” (Stoecker 2002). This may seem quite ironic, especially since studies show that the higher education a woman has, the less are her chances of being enslaved or abused. However, it is important to remember that the majority of these educated women are reacting to the desperate situations in which they live, and are thus deceived into becoming prostitutes by being promised a better life in another, most likely an industrialized and developed, country.

The Offenders

According to the United Nations Office on Drugs and Crime (UNODC) report *Trafficking in Persons: Global Patterns*, there are mainly two types of groups involved in human trafficking activities. Group one is called the “Hierarchical” group because of its hierarchical structure, “characterized by strong internal lines of control and discipline” (*Trafficking in Persons* 2006). These groups are often involved in other transnational crimes besides trafficking, such as trafficking of drugs, firearms, smuggling of migrants,
and kidnapping. Most of these types of groups have a strong leadership structure, a strong ethnic identity, and use violence to reach their ends.

The second type of group is what is known as the “Core” group, which has a limited number of individuals and is relatively close-knit and structured. These groups often loosely collaborate with “associates” and very rarely have a social or ethnic identity that would bind them. The organizations are strictly profit-oriented and change their illegal activities based on what will generate the highest earnings. It is this group whose primary activity is human trafficking.

The role of organized criminal groups in human trafficking is especially prominent in the CIS countries and in South and Central Europe. The fall of Communism has seen a tremendous increase in crime committed by these groups. The sudden collapse of the social and economic system resulted in high unemployment and an increase in the number of people living at or below the poverty level. The lowered standard of living combined with more contact and open borders with the West increased the desire for many of the citizens of these countries to leave their countries and seek jobs in more advanced nations. This desire became a golden opportunity for criminals and crooked businessmen, who sought to make money by exploiting the poor. New criminal organizations have affected the rise of prostitution transnational networks (Glonti 2001).

Traffickers use various strategies in enticing their victims. These strategies can include use of organized crime methods, kidnapping, purchasing young girls from their families, husbands, or other procurers (who can sometimes pose as marriage contractors),
using fraudulent potential employers and entertainment agencies, and using the pretense of love and friendship (Barry 1981).

**The Causes of Human Trafficking**

The rapid increase of human trafficking, particularly in the countries of the former Soviet Union, has been attributed to several factors. After the fall of Communism in this part of the world, contact between the East and West became more open. The people of the former Soviet Bloc were given freedom from the authoritarian regimes, which brought about many social changes, not always positive ones. While it is true that the economies of these states were able to benefit from the liberalization of trade and technology transfer, the new democracies also faced changes to their social welfare and structures. The CIS countries, including Ukraine, were especially affected by interethnic conflicts, rising unemployment, loss or decrease of retirement benefits, increase in organized crime and corruption, and an overall decrease in safety and security. The disparity between the rich and the poor began to dramatically increase. The result is homelessness, increased crime, and a growing desperation on the part of the population. “Women have suffered disproportionately from the massive unemployment following the collapse of the socialist economies and the decline of social services” (Jaggar 2001). They are thus especially vulnerable to seeking opportunities abroad in order to better their lives, and increasing their chances of falling prey to human traffickers.

There are other factors that studies have shown to be responsible for the worldwide rise in human trafficking. One is globalization and the changes it has made in
economic policies, where many services that used to be state-supported, such as education, health care, and social welfare, became privatized. As mentioned above, this is especially applicable to the former Communist countries, where these basic social services now need to be financed out-of-pocket as a result of the transition to free-market economies. The sex industry itself has also become more globalized, “with recruitment and transport being conducted in larger and more sophisticated trafficking networks” (Cwikel and Hoban 2005). The growth in technology has helped communication and organization between the source country of trafficking and the destination country as well as along trafficking routes. Sex industry advertising is becoming more sophisticated and easily accessible via the internet, which is connected to another causal factor in the increase of human trafficking, namely, the fact that the (predominantly male) market for sex will always have high demand. Technology has further increased contact of populations among different countries, thus exposing foreign women to national males, who may associate exotic with erotic and thus propagate the demand for foreign women to enter prostitution (Cwikel and Hoban 2005).

Additional factors in the increase of human trafficking throughout the world include women’s continued unequal status and economic dependence on fathers, husbands, or other male relatives as well as the pervasive view that women’s bodies are sexual objects and, therefore, for sale.

Ultimately, it is important to view trafficking not merely as criminal acts of violence, but to see it in the broader sense, as a “product of the larger socioeconomic forces” (Chuang 2006) such as migration, poverty, discrimination, and gender-based
violence. Therefore, in addition to approaching this problem from a strictly legal perspective, it is necessary for governments, intergovernmental agencies, and NGOs to address human trafficking from a broader context which incorporates the socioeconomic aspects of this issue.

**International Instruments**

Human trafficking started to be recognized as an issue for international treaty-making in the early 20th century. The concern of “white slave traffic” became more prominent with the export of prostitutes from Europe to brothels in various colonies throughout the world. The French government initiated the International Agreement for the Suppression of the White Slave Traffic, which was established in 1904. The main purpose was to coordinate information “relative to the procuring ‘for immoral purposes’ abroad of women and girls” (Reanda 1991). It called for the punishment of traffickers who had transported victims that were under twenty years of age.

The League of Nations also considered the issue of human trafficking as important and even included it in the Covenant. In 1922, various advisory committees carried out the League’s work by exclusively specializing in this matter. The League organized international conferences and conducted inquiries and investigations (Reanda 1991). The work of the League led to two more international treaties—the International Convention for the Suppression of the Traffic in Women and Children (1921) and the International Convention for the Suppression of the Traffic in Women of Full Age (1933). Unfortunately, any further work by the League of Nations was interrupted by the
Second World War. However, after the war ended, the newly formed United Nations, especially its Economic and Social Council sector, took over the issue of human trafficking.

In March 1947, the United Nations put forth the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (hereinafter “1947 UN Convention”). Its primary purpose was to punish trafficking, procurement, and exploitation, regardless of the victim’s age or consent (Reanda 1991). For the first time, an international body declared that prostitution and trafficking was “incompatible with the dignity and worth of the human person and endanger(s) the welfare of the individual, the family, and the community” (Reanda 1991). Another milestone was that it regarded trafficking offenses as extraditable offenses (Article 8), required states to establish systems of coordination and exchange of information among themselves (Article 14 and 15), urged them to take suitable actions regarding migration policies (Article 17), and supervised employment agencies (Article 20). Although these provisions appear to be long-term solutions to human trafficking, the Convention itself has a number of weaknesses and has come under increasing criticism in recent years. NGOs have asserted that the 1947 UN Convention’s “vague terminology and ineffective implementation machinery have allowed states to ignore its application” (Reanda 1991). Various nations have themselves complained about the terminology used, which leads to various interpretations and increases the difficulty of enacting legislature to deal with human trafficking. The 1947 UN Convention also fails to address the modern forms of prostitution, such as sex tourism and trafficking disguised as employment abroad,
marriage markets, and other methods. This is a significant shortcoming considering that rapidly changing technology helps spread human trafficking across borders (Reanda 1991).

The UN Protocol

Human trafficking, especially for the purpose of sexual exploitation, began to receive greater attention during the 1980s and 1990s when human rights advocates began to focus on this issue. Although their aim was to spread concern over the abuses of the victims’ human rights, the approach enacted by international and national governing bodies was to view trafficking as a “border and crime control issue” (Chuang 2006). Governments were concerned primarily with national security issues from increased migration and the involvement of transnational crime networks. The result of this concern was a new international cooperation treaty to combat transnational crime—the U.N. Convention against Transnational Organized Crime (hereinafter “Crime Convention”). This included the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which came into force on December 25, 2003 (also known as the Palermo Protocol). As a result of this protocol, many consequent counter-trafficking laws have been developed in the past few years.

The Palermo Protocol contains measures that are aimed at protecting trafficked persons. As part of the Crime Convention, its purpose is to open communication and cooperation between national law enforcement authorities and assist in legal matters, ease
the process of extradition, as well as “establish bilateral and multilateral joint investigative bodies and techniques” (Chuang 2006). Although it may seem that the Palermo Protocol presents a solution to human trafficking, its primary focus is mainly on criminal justice measures and not on addressing the issue of human trafficking itself. States are asked to consider implementing measures to help in a trafficked persons’ physical and psychological recovery, but there is no specific obligation required. Furthermore, the Protocol only encourages preventive actions such as campaigns and information distribution, but any concrete actions are not outlined nor mandated. The Protocol also lacks any provisions that would protect trafficked persons against prosecution for offenses such as illegal immigration and undocumented work (Chuang 2006). In drafting the Palermo Protocol, states were more concerned with maintaining their strong border control, national sovereignty, and control over legal jurisdiction than with truly seeking a socioeconomic solution to the problem of human trafficking.

The United Nations and Trafficking as a Human Rights Violation

In order to successfully deal with the problem of human trafficking on an international level, it is important to address the underlying causes of this transnational crime and see it as a violation of human rights. In the past few decades, the United Nations has been the leading international body that has attempted to deal with this issue from a human rights violation perspective, although its efforts have not proven to be as effective as would be desired (Karns and Mingst 2000). “The United Nations emphasized the promotion of social reform rather than the investigation of the traffic”
(Reanda 1991). Starting in the early 1950s, the UN Secretariat established a system for collecting information on this issue from states biennially. This was used as the basis for a comprehensive study put forth by the Secretariat in 1958, which proposed a broad program for repression of traffic and exploitation via action by governments. Unfortunately, the proposals received very minimal follow-up. Any information received by governments through these reports was not published and the number of reporting countries declined (Reanda 1991).

After a few decades of inaction, the issue of human trafficking was revived with the Sub-Commission on Prevention of Discrimination and Protection of Minorities directed by the UN Economic and Social Council in 1972. The Sub-Commission was set up to “examine the possibility of the establishment of some form of permanent machinery to give advice on…the suppression of the traffic in persons…and to make recommendations with a view to seeking the better implementation of the UN instruments concerned” (Reanda 1991). The Sub-Commission established a Working Group which was to have three functions: to review developments in the issue of human trafficking, slavery, and prostitution; to evaluate this information received from reliable sources; and to make recommendations for action to its parent bodies (Reanda 1991). It operates from the view that sexual exploitation is the result of extreme poverty, underdevelopment, and discrimination. However, the UN and the Working Group are restricted from fully implementing and enforcing any measures and proposals put forth because the Working Group does not include any provisions for supervision, while the
inherent structure of the UN impedes it from fully combating the occurrences of human trafficking.

Although the United Nations views human trafficking as a transnational crime as well as a human rights violation, its multitude of treaties and conventions addressing this issue has been essentially ineffective (Karns and Mingst 2000; Thakur 1994; Lai and Ralph 1995). As an intergovernmental body, the UN itself does not have an exemplary record in defending human rights. Although it is quite successful in setting high standards for maintaining human rights in countries worldwide, it is only partially successful in monitoring human rights abuses, and quite “feeble and ineffectual in enforcement” (Thakur 1994). The United Nations is an organization that has multiple purposes and agendas that monitors human rights issues worldwide, but at the same time has to take its relationship with other countries into consideration. This means that the UN is not an independent body (Karns and Mingst 2000), but has instead, been “harnessed to the cause of serving state interests and has become a creature of member governments” (Thakur 1994). Its agencies and committees are staffed by employees who owe their jobs to national governments, making impartiality in addressing human rights issues sometimes difficult. Furthermore, any UN proposals or actions on human trafficking require financing, which often fluctuate as a result of member-states refusing to pay their estimated share of costs or to pay for certain UN activities or agencies that are offensive to their political stance. As a result, the UN is impeded from more effectively investigating human rights abuses as well as enforcing them. Furthermore, in
order to maintain its diplomatic relations with the more globally dominant nations, the UN has focused on only a select number of countries on the issue of human trafficking. Although the UN is weak when it comes to enforcement of its proposals, it is nonetheless an important body in dealing with the issue of human trafficking (Karns and Mingst 2000). Because of its character, it is quite effective in ensuring formal investigations and gathering large amounts of information from member governments. The United Nations has also been quite prolific in setting forth various conventions and recommendations for the elimination of human trafficking. In 1979 the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “1979 UN Convention”) declared in Article 8 that “[s]tates parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women” (Reanda 1991). The 1979 UN Convention was successful in establishing a procedure for report submittals, although the reporting system itself encountered several difficulties, including a lessening of states’ responses. Eventually in 1981, the Committee on the Elimination of Discrimination against Women (CEDAW) was put into place to monitor implementation of the Convention. CEDAW has very definite powers and functions that it takes from the 1979 UN Convention, namely, to review reports from states that are part of the 1979 UN Convention at its annual session and to submit its own report with general recommendations to the UN General Assembly via the Economic and Social Council (Reanda 1991). The role of CEDAW is important because it is the “only existing mechanism with a formal mandate to supervise the implementation of internationally binding provisions on traffic in women” (Reanda 1991). However, there are some limits
to CEDAW, one being that an official role for NGOs is not included in the reporting procedure (Karns and Mingst 2000). This means that the reports come exclusively from governments, which has obvious implications. A greater drawback to CEDAW is the limited scope and vagueness of Article 8 of the 1979 UN Convention because it does not specify the types of activities that are included nor the measures that governments are required to take (Reanda 1991). The issue goes back to that of the UN’s lack of implementation and enforcement of measures aimed at curtailing human trafficking since CEDAW can only make “suggestions and general recommendations” (Reanda 1991).

Although the UN may have difficulties in actual enforcement, it can nonetheless coordinate the work of its own and outside agencies that are active in the fields of education, health, labor, child welfare, tourism, development, and crime prevention. This could be vital in improving the socioeconomic situations in developing countries as well as newly democratic ones. Some concrete steps could be taken to combat human trafficking in these global areas. These include sending visiting missions composed of UN experts; establishing training programs for responsible government officials; developing assistance projects for countries that would like to restructure their social and economic programs; and organizing study tours, education programs, and publicity activities (Reanda 1991).

The United States and NGOs

NGOs have been especially committed to the issue of human trafficking, often directly helping trafficked women and reintegrating them into society (Karns and Mingst
2000). They have raised awareness of trafficking and have pressed governments for accountability. Local NGOs in particular carry out much needed programs that warn girls and their families of the dangers of trafficking, “shelter those who have managed to escape, provide urgent medical and psychological care, assist in repatriation, and press governments to strengthen domestic laws against trafficking” (Lai and Ralph 1995). The actions of NGOs have at times actually led to improvement in governments’ behavior, but they can only be successful up to a point. Because governments often fail to make human trafficking a priority issue in their legislation, many human rights advocates have suggested that NGOs take a greater role in addressing this issue. But, ultimately, NGOs cannot be expected to “make up for the shortcomings of the state” (Lai and Ralph 1995). Furthermore, in the vast majority of cases, NGOs lack adequate funding to meet even the basic needs of these women and their workers are often exposed to considerable risk and danger.
Chapter 4

THE IMPACT OF LEGISLATIVE FACTORS

Measures to Criminalize and Prosecute Human Trafficking

The UN Protocol specifically calls for state parties to adopt legislation that criminalizes human trafficking by mandating that “each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in…this Protocol” (Article 5). Consequently, governments are obligated to follow this international norm as prescribed, which means not only establishing legislation that makes human trafficking a criminal offence, but ensuring that the sentences imposed for human trafficking are sufficiently commensurate with the gravity of this crime.5

Furthermore, effective implementation of legislation and punitive measures is highly dependent on the integrity of the judiciary branch and law enforcement, as research has shown that the prevalence of corruption within a nation’s infrastructure contributes to human trafficking (Smith and Mattar 2004).

This chapter will therefore examine the following legislative factors for each of the case studies: (1) legislative framework on human trafficking; (2) punitive measures in the form of prosecution and conviction rates; (3) the efficacy of the judiciary system; and (4) the degree of corruption present in the government bodies. The extent to which each of these governments adheres to and enforces these factors meant to combat human

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5 According to the United Nations Convention against Transnational Organized Crime, which is supplemented by the UN Protocol on human trafficking, “serious crime shall mean conduct constituting an offense punishable by a maximum deprivation of liberty of at least four years or a more serious penalty“ (Article 2 (b)).
trafficking can help demonstrate how committed the leadership is to international human rights norms. Consistent efforts to enforce legislative standards and reduce corruption can indicate that the idea of human rights norms has become more ingrained within society.

**Legislative Frameworks**

The foundation of legislation for combating human trafficking begins with a country’s laws. In this respect, all three of the case studies conform to the international norm by having basic laws that criminalize human trafficking.

The Czech Republic prohibits the trafficking of women and children for the purpose of sexual exploitation through Sections 232a, 216, and 204 of its criminal code (U.S. Department Trafficking in Persons Report, hereinafter “TIP” 2009). In Poland, human trafficking cases are tried under Article 253 and Sections 3 and 4 of Article 204 (Polish Trafficking Report 2008; TIP 2007) and prosecutors rely on trafficking definitions in the 2000 UN Protocol when preparing cases against traffickers (TIP 2007). The Ukraine Government has a Criminal Code, Article 149, which replaced Article 124-1 of the Criminal Code of Ukraine in 2001, only three years after the original law was established in 1998 (Nalyvayko 2006). Article 149 prohibits all forms of human

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6 Section 204 pertains to the offense of procuring, with the procurer defined as a person who “forces or lures another person(s) to act as a prostitute and/or who receives a profit from the said prostitute’s activities” (Czech Status Report 2009).

7 Article 253 states that whoever conducts trafficking in human beings, even with their consent, shall be subject to imprisonment from three to 15 years (Polish Trafficking Report 2008).

8 Article 204 specifies imprisonment from one to 10 years for kidnapping or coercing a person into prostitution. The punishment for exploitation of prostitution with consent is up to three years imprisonment for the perpetrator (Polish Trafficking Report 2008).
trafficking and was amended in 2005 to bring the definition of trafficking in greater concordance with the Palermo Protocol (TIP 2005). All three countries have thus taken the first step in their legislative framework by having these laws. In this way, they follow international norms theoretically.

However, the Czech Republic has gone further in dealing with this crime and following international norms by adopting a new Criminal Code, effective in January 1, 2010, which encompasses all possible victims of human trafficking, not just a specific population. Both the definition of the crime of human trafficking and other areas relating to this issue will be changed, including the reinforcement of the status of victims and efforts at stricter punishment of offenders. In addition, the definition of sexual exploitation will include force into the production of pornography (Czech Status Report 2009). This expands the idea of human rights protection for a greater part of the population and is a positive sign of dissemination of norms. The Czech Republic seems to have realized that it is not enough to just have laws in place, but that these laws must be periodically reviewed and revised as needed, so as to more closely follow democratic principles or recommendations by the international community.

Poland, on the other hand, has not taken any steps to amend its laws on the criminalization of human trafficking, despite the long-standing, problematic issue that its legislative framework lacks a clear definition of trafficking. Since the inception of the U.S. Department’s monitoring in 1999, there have been reports by law enforcement, prosecutors, and NGOS that this murky definition in Poland’s criminal code impedes

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9 See Appendix D for full text
prosecutions of trafficking crimes (TIP 2008). To date, the Polish government has not remedied this matter, which indicates a certain nonchalant approach to human trafficking.

Ukraine has recently been active in improving its legislation on trafficking, but so far, the initiatives have been only in theory. Specifically, a public hearing was held in Ukraine on June 30, 2009 on a new draft law, composed with the assistance of the OSCE Project Coordinator in Ukraine. The draft law would form an all-around approach to combat human trafficking, which would be in greater compliance with international norms and standards as stipulated in the OSCE Action Plan to Combat Trafficking in Human Beings, adopted in 2003. The provisions of the draft law include measures to bolster anti-trafficking coordination, monitoring, and reporting methods as well as measures for the prevention and prosecution of human trafficking crimes and protection of victims (OSCE Press Release, June 30, 2009). However, although this is a positive sign that the country is moving towards greater norm implementation related to human trafficking, it is only a very recent development, which can make it difficult to determine if the strategies outlined in this new draft law will actually be carried out in reality, and not just on paper. Furthermore, it should be noted that this draft law came about with the help of the OSCE, an international organization, and not of the government’s own initiative. This suggests that international organizations working with the government

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10 In May 2007, the Polish Human Rights Ombudsman called on the Justice Minister to include a definition of human trafficking into the criminal code (U.S. Human Rights Report 2008).
12 http://www.osce.org/ukraine/item_1_38545.html
can be quite instrumental in bringing about domestic change on human trafficking as well as human rights.

On a positive note, all three countries have had several national action plans to combat human trafficking, which are meant to bring further government efforts to deal with this transnational crime.\textsuperscript{13} While no significant critiques of these plans have been found for either the Czech Republic or Poland, the Ukrainian government’s plan has been evaluated by the OSCE as being still too general and lacking significant elements, such as performance indicators.\textsuperscript{14} This also applies to the regional and national coordinating activities outlined in the Ukrainian plan (OSCE Ukraine Report 2009).

It is important to note that all three countries have had the above mentioned laws criminalizing human trafficking for several years, yet any amendments have occurred only very recently in the Czech Republic and Ukraine, and in the case, of Poland, not much change has taken place in the laws that are used to prosecute human trafficking crimes. Thus, this indicates that in all three of the countries, legislation regarding human trafficking has only recently become a focus area by the governments in addressing their human rights record. Whether these recent legislative improvements will also apply to punitive measures will be examined next.

\textsuperscript{13} The Czech Republic’s plan is called the National Strategy to Combat Trafficking in Human Beings 2008-2011; Poland’s plan is titled National Program for Combating and Preventing Trafficking in Human Beings; and in Ukraine it is called State Program of Combating Trafficking in Human Beings for the period 2007-2010, approved in March 2007.

\textsuperscript{14} The objectives for the Ukrainian plan include the following: provide assistance to trafficked persons; support the activities of victim recovery centers; cooperate with NGOs and IGOs (OSCE Needs Assessment of the NRM for Victims of Trafficking In Human Beings, Ukraine June 2009)
Punitive Measures

Addressing human trafficking means that a country must not only have national laws that criminalize this crime but also punishments that are stringent enough to be comparable to punishments for other serious crimes. A country can thus signal to the international community that it believes that protecting human life is top priority and considers any such violation of this right to life or liberty as reprehensible.

All three of the case studies follow the prescribed norm outlined in the UN Protocol by having penalties for trafficking that are commensurate with those for other serious crimes, such as rape and sexual assault. Ukraine and Poland have sentences that range from three to 15 years in prison (TIP 2009), while the Czech Republic has a minimum penalty of two years with up to 15 years of prison (TIP 2009). Furthermore, traffickers in the Czech Republic can be prosecuted for other crimes such as organized prostitution and pimping, which carries a sentence of up to 12 years in prison, while in Poland, traffickers can be prosecuted for pimping, recruiting, or luring persons, which carry a sentence of up to ten years (U.S. Country Report on Human Rights Abuses, hereinafter “U.S. Human Rights Report,” 2008). It would seem that all three countries, then, follow the international norm of having sentences commensurate with those of other serious crimes. However, carrying out these sentences has been quite a different matter.

All three case studies have not seen to it that the punitive measures set out in their laws are actually enforced. In fact, the tendency for traffickers to receive minimal prison sentences, or none at all, is a common trend, which means that the majority of those convicted do not actually go to prison. Statistical analysis from the U.S. Department’s
Trafficking in Persons reports from 2003 to 2008 indicates that the enforcement of prison terms for convicted traffickers is quite low (see Figure 2). In fact, the punitive measure of imprisonment is carried out in less than 50 percent of the convictions, with the Czech Republic showing the greatest prevalence of not strictly punishing traffickers. This low rate can be attributed to both light sentences handed down in court and the frequent occurrence of appeals for harsher sentences. In Ukraine, for example, penalties are rarely carried out to the maximum, if at all, despite the Prosecutor General ordering judges to be stricter with regard to sentencing (TIP 2008).15

Needless to say, this practice has been criticized by international organizations as well as other governmental bodies, such as the U.S. Department of State. It further demonstrates that all three countries have not yet fully heeded the international recommendations on criminalizing human trafficking in terms of carrying out punishment, although the data does indicate that the Poland’s record is somewhat more commendable. Still, the three countries have so far followed these criminalization norms only in theory, but in practice, the idea of punishment for violation of human rights, as in the case of human trafficking, has still not taken complete hold.

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15 This includes appealing every case where a judge has ordered only probation instead of a prison sentence (TIP 2008).
Figure 2: Poland Best at Enforcing Punitive Measures

Average Trafficking Prison Sentences 2003-2008

Source: U.S. Department of State
Judiciary System

Successful prosecution and sentencing of human trafficking cases is reliant on the proper functioning of the judiciary system. If this branch of government performs its duties efficiently and without political influence or any other bias, then a nation will be more likely to effectively implement international norms on criminalization of human trafficking, as specified in the UN Protocol. This section will examine the judiciary system of each of the case studies, with a particular focus on performance as well as the existence of corruption, including that of law enforcement. The greater the corruption, meaning ineffective courts that are easily bribed, the more likely it is that this country will not be as effective in combating human trafficking, and will therefore have a higher prevalence of this crime. If this correlation can be shown, then the judiciary system’s performance and level of corruption can be a significant legislative factor in determining whether a country successfully combats human trafficking and implements these human rights standards.

Performance

Delays in court proceedings can significantly hinder the prosecution of human trafficking cases and thus undermine any attempts by governments to combat this transnational crime in a legal manner. It can also signal that the government does not care about punishing the perpetrator and sends a message of tolerance for this crime to the public. These delays can likewise diminish the public’s confidence in the justice system and diminish the notion of justice and human rights within that society. Analysis
of the courts’ performance in the three case studies shows a poor record, thus indicating that justice can certainly take a long time. However, the degree of shortcomings varies among the three countries.

For example, all three case studies experience delays in court trials. During the time frame 1999-2009, the Czech Republic’s judiciary system has continuously suffered from a backlog of cases,\(^\text{16}\) which has been exacerbated by the vacancies of judicial positions, a situation that has been noted by the European Court of Human Rights (ECHR) and by the complaints received about the country’s judicial system (U.S. Human Rights Report 2008).\(^\text{17}\) In Ukraine, the requirement for trials to begin no later than three weeks after criminal charges are filed with the court is rarely fulfilled because of the overburdened court system. In reality, it can be several months before a defendant is brought to trial, with complicated cases taking several years to go to trial (U.S. Human Rights Report 2008).

In Poland, the poor functioning of the courts is intensified by the lack of resources and budgets, although the Polish Ministry of Justice had in the past increased the budget to hire over 200 judicial assistants and extending judicial staff work hours (U.S. Human Rights Report 2003). This has not been enough, however, to correct the staffing problems of the Polish Courts. For example, many districts have more criminal judges than prosecutors, which has been the pattern since 1999. In addition, the courts’

\(^\text{16}\) From 1997 to 2002, the ECHR delivered five decisions against the Czech Republic for its excessive length of court proceedings; and the following year, the ECHR ruled in 24 cases against the country in this issue (U.S. Human Rights Report 2003).

\(^\text{17}\) The Czech government did attempt to address the problem of delays in court proceedings by establishing a hotline in 2003 (U.S. Human Rights Report 2003); however, the use of this hotline or its ultimate success has been inconsistent.
inefficiencies have led to many capable and experienced judges and prosecutors leaving the public service for better positions in the private sector (U.S. Human Rights Report 1999). These factors result in court decisions that are often not implemented or delays in trials, with all three countries being the target of frequent complaints to the ECHR for the lack of due process.

Evidently, all three case studies experience similar problems with their courts’ performances. The delays caused by insufficient staff are more likely to be readily fixable, so in that sense, these countries may be able to correct this issue quite soon. However, it is also possible that these delays are the bureaucratic remnants of the former communist system, and these systemic patterns may take longer to improve. Still, as long as these performance issues continue to exist within the judiciary system, then it is highly likely that combating human trafficking will be negatively affected. In this context, then, this legislative factor can certainly negatively impact human rights norm implementation.

However, given the fact that each of the case studies has varying levels of the human trafficking prevalence but similar issues with their courts’ poor performance, this particular legislative factor does not appear to correlate. Hence, in these cases, the court’s performance does not distinguish the norm implementation in human trafficking norms. The following analysis of corruption may prove to be a more significant indicator of how well these countries handle human trafficking.
An independent and efficient judiciary indicates the existence of the rule of law in a nation (Nwabuzor 2005). Rule of law is one of the ways countries can maintain law and order, punish crimes, and enforce individual freedoms and rights. The weaker the rule of law, the less likely a government will be able to enforce human trafficking legislation, prosecute traffickers, and protect trafficking victims. An analysis of the corruption levels for the three case studies can provide insight into not only whether they adhere to rule of law but also whether they ensure human rights in practice, not just in theory. The higher a country’s level of corruption in the form of bribery and political influence within its judiciary system, the less likely that this country can successfully combat human trafficking and the less likely it is that it supports the dissemination of human rights norms within the society. If all three countries will show to have similar levels of corruption, despite their variances in human trafficking prevalence, then the legislative factor of corruption would not be a significant indicator of norm implementation. However, if a country seems to have lower corruption levels within the judiciary system with a corresponding lower level of human trafficking, then corruption could be a significant indicator of norm implementation.

In all three nations, the judiciary system is independent according to the provisions of the constitution and law. However, reality does not conform to these provisions because in practice, all three of these case studies continue to be beset by corruption in the form of bribes and political influence in the judiciary system. In the
Czech Republic, the main problems are political influence, structural deficiencies, and a lack of specialized training and resources, which lead to the system’s ineffectiveness (U.S. Human Rights Report 2008). In Poland, the most recent corruption has been related to government officials and financial dealings. In both countries, public perception continues to be negative toward the court system (U.S. Human Rights Report 2008).

Corruption appears to be the most significant in Ukraine, however. The judiciary continues to be pressured by the executive and legislative branches (U.S. Human Rights Report 2008). There have been accusations that the President has attempted to put pressure on courts by dissolving them and that the Prime Minister’s parliamentary bloc made efforts to interfere with the courts’ activities (U.S. Human Rights Report 2008). Judges in Ukraine have themselves succumbed to less than honest legal dealings and in 2008, Parliament, following the recommendation of the High Council of Justice, dismissed eight judges for violating their oath of office (U.S. Human Rights Report 2008).

It is easy for judges in the Ukraine to be tempted into accepting bribes because they are immune from prosecution and may not be detained or arrested without the

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18 For example, in 2004, the judiciary’s independence from improper political influence was questioned when the long-time Chief State Prosecutor Marie Benesova was removed from her position after a series of disputes with Justice Minister Pavel Nemec. This was significant because Benesova had been highly respected for her tough position against corruption, and her removal increased concern that future prosecutors would be more likely to be influenced by political pressure (U.S. Human Rights Report 2005).

19 In fact, in some instances, the president has considerable power over the judiciary, and is able to determine the number of judges in the court system, appoints and removes chairpersons and deputy chairpersons of courts, and appoints the head of the State Judicial Administration, which funds most of the nation’s courts and is responsible for their staffing (U.S. Human Rights Report 2008).
consent of Parliament. There have been numerous media reports of these corrupt charges happening, even as recently as 2008 (U.S. Human Rights Report 2008). There are also signs that suspects often bribe court officials to drop charges before cases go to trial or they attempt to at least lessen their sentences (U.S. Human Rights Report 2008).

The greater magnitude of Ukraine’s corruption problem, in comparison to the other two case studies, is further demonstrated by the Corruption Perception Index (see Figure 3). Ukraine ranks significantly lower than both the Czech Republic and Poland. Furthermore, this ranking continues unchanged or decreases, unlike the other two case studies, whose rankings have actually increased since 2006. This means that both national and international experts believe that Ukraine’s corruption is actually getting worse, while the Czech Republic and Poland have improved in this area.

The fact that Ukraine appears to have the most significant problem with corruption in the judiciary system in comparison to the other two case studies, and that human trafficking is more prevalent in that country, suggests a significant correlation. Corruption distorts democracy and the rule of law, and can significantly undermine any attempts at promoting equality, human rights, and justice. Furthermore, it causes

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It is no wonder, then, that a 2008 survey conducted as part of the Promoting Active Citizen Engagement Project showed that almost one third of lawyers and prosecutors believed that corruption was common in all aspects of court proceedings and more than 64 percent of these respondents felt that this corruption has become even more widespread in the year 2008 (U.S. Human Rights Report 2008).

The Corruption Perception Index (CPI) is an annual indicator, published by the global civil society Transparency International, that ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians. It defines corruption as “the abuse of public office for private gain” and focuses on corruption in the public sector (http://www.transparency.org/policy_research/surveys_indices/cpi/2007/faq#general1). Since it is a “poll of polls,” so to speak, it is not hard empirical data, which can often be difficult to obtain and may not actually reflect actual levels of corruption. However, it is nonetheless a strong method for comparing cross-country data because it uses the experience and perception of those who most frequently encounter corruption in their professions.
poverty, which research has shown to be positively linked to the incidence of human trafficking. Corrupt governmental systems also tend to escalate the problem of gender discrimination, another important variable in human trafficking.

It is therefore not without reason to surmise that Ukraine’s greater degree of corruption also impedes not only actual enforcement of anti-trafficking laws and punitive measures, but also successful implementation of human rights norms, particularly among the judicial elites and law enforcement authorities. When it relates to the judiciary system, Ukraine does not appear to understand the importance of the democratic principle of having an independent and ethical judiciary system. The fact that judges in Ukraine are immune from prosecution is just one example of this lack of democratic norm implementation. This is a significant difference from countries that have implemented democratic principles, such as the United States, where judges are prosecuted for taking bribes and have their own stringent rules on professional conduct.

Consequently, it appears that Ukraine has by far the most serious problem with corruption among the three case studies. This indicates that corruption can be seen as a significant legislative factor in regard to not only the level of human trafficking but the country’s implementation of anti-trafficking norms.
Figure 3: Ukraine Seen as Most Corrupt and not Improving

Corruption Perception Index Reporting Period 2001-2008

Source: Transparency International
Summary

In the area of prosecution of human trafficking crimes, all three case studies have problems with strictly enforcing the punitive measures, which are in theory commensurate with sentences dealing with serious crimes. In this way, the significance of this transnational crime is recognized, but some follow-through is missing. Furthermore, the efforts to deal with human trafficking on a judicial level have been impacted by the presence of corruption in all three countries, both in the judiciary and law enforcement. The level of corruption can certainly vary within countries, in general, even if they have similar economic and social practices and similar levels of democratization (Tavits 2007). In this study, corruption is evidently a problem for all three countries, but it is much more significant in Ukraine, and actually seems to have worsened in recent years. Law enforcement, bailiffs, prosecutors, and even judges continue to be susceptible to bribes, which has lead to many trafficking perpetrators escaping justice. Furthermore, the extensive level of corruption in Ukraine, as compared to the other two case studies, has continued despite the more democratic direction it has taken since the 2004 elections.

The poverty that continues to be a problem in Ukraine helps explain the higher level of corruption as compared to that in the Czech Republic and Poland, since a high level of poverty has been shown by research to be “a breeding ground for anti-social and unethical behavior such as bribe taking” (Nwabuzor 2005). In the case of Ukraine, the so called “petty corruption” is practiced among the junior government functionaries, including those at the judicial level. Ukraine’s corruption problem has certainly slowed
its efforts to achieve political and economic development, which has had a negative impact especially on the country’s poor. Since women have a greater tendency to live at the poverty level, they are more likely to be victims of trafficking. Thus, Ukraine’s corruption directly contributes to its high prevalence of human trafficking and continues to impede its efforts to deal with this issue.

The high level of corruption in Ukraine furthermore appears to correlate with the high level of human trafficking. Out of the various legislative factors analyzed thus far—legislative framework, punitive measures, and court performance—corruption seems to be the most significant in providing insight into the case studies’ implementation of anti-trafficking norms, and consequently, human rights norms.

In the next chapter, I will examine the normative factors, such as the governments’ collaboration with NGOs, international organizations, and international regimes and their impact, or lack thereof, on the success of these countries’ actions to combat human trafficking. Any correlation between these normative factors and the level of human trafficking within the country can pinpoint which of these normative factors are significant in explaining the norm implementation process of these countries and how they compare in their importance to legislative factors.
Chapter 5
THE IMPACT OF NORMATIVE FACTORS

Measures to Assist and Protect the Human Trafficking Victim

A key aspect of the UN Protocol relates to the assistance and protection of trafficking victims. Frequently, this provision relies extensively on the work of NGOs within a country. Furthermore, protecting and assisting victims of human trafficking, especially those that have been trafficked for the purpose of sexual exploitation, is a vital component of ensuring human rights, specifically those of women. Likewise, international organizations, as well as international human rights regimes, have played a role on a global level in promoting human rights norms. Since this thesis is the study of how three transitional democracies have implemented human rights norms, via their approaches to human trafficking, it would be beneficial to assess the extent that government collaboration with NGOs and international regimes have affected these nations’ implementation of international human rights norms. This chapter will therefore seek to answer the following question: to what extent do NGOs and international regimes influence the implementation of human rights norms in the Czech Republic, Poland, and Ukraine? Are these normative factors more significant than the legislative factors examined previously?

I will aim to analyze the role of NGOs through the UN Protocol recommendations on protecting and assisting the human trafficking victim. Specifically, the UN Protocol recommends that state parties have domestic measures to provide the victim with “physical, psychological, and social” recovery (Article 6). In addition, the victim should
have the opportunity to remain in the country in which she has been trafficked, either temporarily or permanently, with appropriate consideration given to “humanitarian and compassionate factors” (Article 7) so that she can testify against her traffickers. Victims should likewise be protected from retribution or other dangers they may face upon deportation.

The first part of this chapter, then, will focus on each country’s direct government efforts to protect and assist victims, as well as their support of NGOs. This will be analyzed through (1) each case study’s legal and social provisions on assistance and protection of the victim; and (2) the residency status options available to the victim. Such analysis can show whether the idea of gender-protection has taken hold within the society, and whether the gender issues in general are important human rights considerations. The more that a government directly funds assistance and protection programs aimed at the trafficking and promotes the work of NGOs, the more likely it is that this government will also implement human rights norms. Such a correlation would occur if a country whose prevalence of human trafficking is low would show greater effort in assisting and protecting the victim, as well as granting residency status.

The second part of this chapter will focus on the role of international human rights regimes in the case studies’ human rights norm implementation. Is state-party status to human rights conventions a factor in how well these countries have not only combated human trafficking, but also promoted the idea of human rights on a domestic level? As mentioned previously, only two of the countries- Poland and Ukraine- have ratified the UN Protocol, one of the founding conventions on human trafficking. This section, then,
will further analyze whether this ratification, along with state-party status to other human rights conventions, shows any correlation with the way these countries have addressed this transnational crime. Correlation would exist if a country shows high involvement with human rights conventions, via ratifications and adherence to reporting requirements, and a low prevalence of human trafficking. Such correlation can indicate that international regimes are likely to impact the domestic dissemination of human rights norms.

The Collaboration with NGOs

All three of the case studies claim that they are supporters of the human rights work that human rights NGOs do within their borders, and in theory at least, this seems to be borne out. In general, NGOs operate without government interference and are usually free to publish their findings on human rights cases (U.S. Human Rights Report 2008). However, while government officials in Poland and the Czech Republic usually cooperate and respond to human rights inquiries, Ukraine officials are less consistent in this respect and occasionally resist taking NGOs recommendations into account on policy-making (U.S. Human Rights Report 2008). It seems already evident, then, that the Ukrainian government seems to cooperate with NGOs only when it fits its own purpose, most likely in cases that keep the policy status quo.

That is not to say that cooperation with NGOs automatically equals an impeccable human rights record for the other two countries, and in fact, all three of the case studies have improvements to make in this area. However, NGOs can often have a large impact
not only on directly helping the population within a country, but also reforming government policy to be more human rights oriented. Therefore, governments that willingly collaborate with these organizations, and financially support their work, are also more likely to disseminate and promote the idea of human rights in practice, not just in theory. The next section will examine how the countries support NGOs in their efforts to assist and protect the human trafficking victim.

**Assistance**

Measures to enact protection of the victim starts with states providing a reintegration process that would allow the victim to safely return to her native country, or to allow the victim to stay in the country to which she was trafficked—without fear of retaliation from her former traffickers. As soon as a woman is identified as a trafficking victim, she should have access to social services, such as medical assistance and health-related counseling, and eventual job training, economic support, and the chance to be educated (Twitty 2003). A combination of these factors can help the victim attain independence and self-esteem, which is directly linked to both protection of the victim and prevention of trafficking. The government that recognizes the importance of assisting the trafficking victim will also be more likely to recognize the importance of promoting human rights, not only for its citizens, but also for those who may not hold national citizenship, as is often the case in human trafficking incidences.

A comparison of the three case studies reveals that the Czech government has been more directly involved in providing assistance to trafficking victims than the Polish
or Ukrainian governments. The Czech government, namely the Interior Ministry, has funded NGOs for several years and has thus been more able to help victims find shelter, and receive medical and psychological treatment, clothing, and food.\textsuperscript{22} It has also helped victims return to their countries or to reintegrate into Czech society (TIP 2002, 2003). The Ministry of Social Labor and Social Affairs (MLSA) likewise offers annual grants for subsidies from the state budget to legal agencies that provide social services. In 2008, the MLSA granted subsidies to the following organizations that deal with human trafficking victims as a key target group: La Strada,\textsuperscript{23} Diocese Charity Brno, and the Archdiocese Charity Prague. The subsidies totaled 5,670,000 CZK ($919,594) (Czech Status Report 2009).\textsuperscript{24}

In comparison, both Poland and Ukraine have suffered from a lack of financial resources, which has limited their governments’ direct funding of assistance programs. The Polish government’s financial provisions, which have increased only very recently,\textsuperscript{25} have meant an inadequate amount of shelters for the number of trafficked victims (TIP

\textsuperscript{22} The Czech Republic has also funded NGOs in the past 10 years, with a $14 million endowment in 1999 to be used by 39 NGOs to work on issues of social welfare, health, culture, education, human rights, and environment. In 2000, the Government Council for NGOs announced it was allotting another $37.5 million for organizations focusing on human rights and the environment (U.S. Human Rights Report 2002).

\textsuperscript{23} La Strada started its operation in the Czech Republic in 1995 as a project of the ProFem organization and has been registered as a separate legal entity since 1998. It is a member organization of the international alliance The Global Alliance Against Trafficking in Women (GAATW). The purpose of the organization is to contribute to the elimination of trafficking in human beings and to provide support and protection to exploited and trafficked persons. It provides social services to its target group, focuses on prevention activities and training, and seeks to attain systemic changes or legislative amendments to prevent trafficking in human beings. La Strada utilizes grants provided by the Ministry of the Interior for specific anti-trafficking activities related to, among others, legal and advisory representation, street work, and prevention (Czech Status Report 2009).

\textsuperscript{24} www.xe.com/ucc/convert (accessed of September 23, 2009)

\textsuperscript{25} For example, in 2007, the government provided assistance only to 27 percent of identified trafficking victims (TIP 2008). In 2008, the government increased its direct aid to a specialized trafficking shelter by 40 percent (approximately $70,000) and promised an additional $215,000 in emergency funding to keep the shelter open through December 2009 (TIP 2009).
2003, 2008); although in 2008, the Polish government did increase support for the network of crisis intervention centers, which help both trafficking and domestic violence victims (TIP 2009).

Of course, governments worldwide must strive to balance their fiscal budgets and can therefore not allocate all of their social welfare funding to only one specific group of people or to one governmental agency, such as those dealing with human trafficking. Furthermore, it is a given that some governments are more financially prosperous than others and can therefore have greater opportunity to provide for its citizens. However, a country that chooses to provide at least some funding to assistance programs for human trafficking victims, which are predominantly female, sometimes foreign, and do not comprise a large percent of the general victim population, indicates its commitment to protecting minorities’ rights in general. It is not the amount per se that matters but the fact that the government does allocate at least some monies to these victims.

As mentioned above, the Czech Republic has progressively shown improvement in this area, while the Polish government is slowly realizing that even these victims have a right to aid. In contrast, the Ukrainian government seems to have a considerably diminutive role in directly assisting trafficking victims.

The Ukrainian government continues to depend primarily on the international community, including NGOs and other international organizations, to carry out rehabilitation and reintegration for victims of human trafficking, and helping them contact law enforcement officials to begin any legal proceedings against their traffickers (TIP 2008; Open Society Violence Against Women in Ukraine Report, hereinafter
“VAW Ukraine Report 2007”). Without the work of the two most significant international NGOs in Ukraine, the International Organization for Migration and La Strada-Ukraine, human trafficking victims would not be able to receive basic services nor have access to rehabilitation centers and shelters. While it is commendable that Ukraine at least supports these NGOs’ work in spirit, the direct funding and involvement of the government is still lacking.

Governmental funding to assist human trafficking victims is so important because it not only enables assistance programs to exist, but also improves the quality of services that the human trafficking victim receives. The services provided by NGOs in the Czech Republic and Poland are of higher quality due to at least moderate government funding. In contrast, the limited financial resources available to local NGOs in Ukraine, which rely on the small amount of government funding, means that any services provided to victims are of poor quality. Conditions of the hospitals and shelters are quite deficient. The inferior quality of services is also due to the lack of experience and skills of the staff in local agencies, such as hospitals and local NGOs. Personnel often lack clear direction and knowledge in terms of their assigned responsibilities, and are sometimes not even able to identify a victim of trafficking, much less provide any other assistance (OSCE Ukraine Report 2009). Again, this is most likely due to the lack of specific regulations

26 Specifically, IOM finances almost 95 percent of all assistance programs targeted at trafficking victims in Ukraine (OSCE Ukraine Report 2009).
27 Officially called the International Women’s Rights Center La Strada-Ukraine, it was established in 1997. One of its main successes has been its cooperation with Ukraine’s Parliament in advocating for a criminal code on trafficking in women, Article 124, which was eventually adopted in 1998. Between the years of 1997-2005 La Strada-Ukraine also received financial support from international agencies (Nalyvayko 2006).
on the part of the Ukrainian government for providing support and assistance to trafficked persons (OSCE Ukraine Report 2009). Likewise, the inexperience of the staff in local agencies denotes a failure of the Ukrainian government to provide adequate schooling or training to these social service providers.

Assistance in the form of social services is also another way that a government can show whether it truly wants to assist and protect victims of human trafficking. Again, there is a distinct difference between the two European Union countries - the Czech Republic and Poland - and Ukraine. The Czech Republic has established the Act on Social Services that gives assistance in the form of social services to each identified trafficking victim regardless of whether he or she is willing or able to cooperate with law enforcement.  

This latter condition is significant because frequently, victims are too afraid to cooperate with government authorities, yet they still need assistance and rehabilitation. The Czech Republic thus recognizes the plight of the human trafficking victim by including this provision.

The Polish government’s Law on Social Assistance, amended in February 2007, is also commendable because it includes regulations that would allow for support for trafficking victims that are Polish citizens, foreign nationals entitled to social benefits, and foreign nationals who have residence or visas or permission to reside in the country

28 The Act on Social Services became effective on January 1, 2007. Its provisions include the following: regulation of conditions under which assistance and support via social services can be provided to persons in adverse social situations; inspection of how social services are provided; the form and method of funding; and prerequisites for performing social services. Organizations registered for the provision of social services under Sec. 78 of Act 108/2006 Coll. on Social Services can therefore provide necessary social services to victims of human trafficking (Czech Status Report 2009).

29 For example, those who have permanent residency or are EU nationals.
for a specified amount of time (Polish Trafficking Report 2008). As a result, these foreign nationals are now also entitled to such services as crisis intervention, shelter, and other living necessities. Again, this indicates that the Polish government acknowledges that many victims of human trafficking are foreigners, often transported illegally to the country, but that they still need assistance. In contrast, victims in Ukraine cannot rely on the government for social benefits, even in receiving maternity allowances (OSCE Ukraine Report 2009). This applies to both nationals and foreign victims.

To summarize, the three countries’ variances in direct government funding for victim assistance programs correlates to the variances in their prevalence in human trafficking. Ukraine, which relies almost exclusively on outside sources for victim assistance, also has the most serious problem in human trafficking compared to the other two case studies. While it is true that the country is also the least fiscally wealthy out of the three, this general disregard for victims of trafficking is apparent in other ways. For example, even though the Ukrainian government has put forth the new State Program of Combating Trafficking in Human Beings for the period 2007-2010, which specifically aims to enhance cooperation with NGOs and IGOs, the state has still not fully conceptualized direct funding for these organizations (OSCE Ukraine Report 2009). So, perhaps while the intent may be there, the Ukrainian government has not yet made direct funding, and consequently the protection of the human rights of trafficking victims, a priority.

Overall, it appears that the two European Union case studies are more committed to providing assistance to the human trafficking victim, at least to the best of their ability.
The direct government funding and collaboration with NGOs, in this respect, seems to be linked to their lower prevalence of human trafficking. Thus, it would appear that these two factors, particularly the work of NGOs, can be significant in determining the extent to which a country combats human trafficking, and promotes human rights. However, it is also apparent, that even the most significant effort of NGOs is not enough without some form of financial involvement, or at least training of workers, by the national government. This applies to the situation in Ukraine. Therefore, NGOs can certainly do much to help combat human trafficking and disseminate human rights norms, but to be fully effective at lowering the prevalence of human trafficking, they still need at least some government assistance.

Protection

In addition to providing assistance to trafficking victims, governments can demonstrate that they follow human rights norms by also offering protection to this population. Both the Czech Republic and Poland have taken steps to protect the victim. For example, the Czech government established a victim protection law in 2001. The Czech government has also sheltered trafficking victims and potential victims that apply for asylum in guarded asylum centers in order to prevent unwanted contact with traffickers (TIP 2005). The government protects victims of human trafficking by not penalizing or prosecuting them for the acts that they have committed, even if unlawful. This type of approach on the part of the Czech Republic indicates that the notion of humanitarian concerns for victims has taken hold in the country.
Poland has also taken more concrete steps toward protecting victims of human trafficking. The country’s law makes it possible for the victim to testify during court proceedings in the absence of the defendant if there are reasons to believe that the defendant’s presence in court would be intimidating to the witness (Polish Trafficking Report 2008). 

Although Ukraine in theory supports the idea of protecting the human trafficking victim, in practice, this policy is not carried out. A case in point is the government’s witness protection program, which is rarely utilized due to a lack of funding or a lack of prosecutors’ understanding of the program (TIP 2009). Consequently, NGOs, not the Ukrainian government, are primarily responsible for working with local police to ensure victim protection and any other witnesses for cases—similar to the situation discussed previously in which NGOs contribute significantly to the work related to helping human trafficking victims (TIP 2007).

Furthermore, law enforcement authorities in Ukraine have in general a disregard for the tenet of confidentiality when dealing with trafficking victims, and court cases in general are public. Human trafficking cases, for the most part, are made private only on the order of the judge (OSCE Ukraine Report 2009). This arbitrary posture on confidentiality in human trafficking cases, along with the government’s allowance for

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30 Article 390 (2) of the Code of Penal Procedure.
punishment of victims, diminishes the compliance with the UN Protocol’s Article 6. It shows a certain disregard for the victim’s safety concerns. In addition, it indicates that the Ukrainian government has not yet fully considered the human rights of these women, since it disregards their needs for privacy in such sensitive matters as being trafficked for sexual purposes.

It is apparent that out of the three case studies, Ukraine’s measures to protect victims of trafficking are not followed due to a general lack of enforcement and human rights dissemination throughout the judiciary system and other governmental agencies. The insensitive approach by these authorities undermines the victim’s plight and makes a mockery of respecting the rights of those who have been abused. Furthermore, the Ukrainian government has not done much to alleviate this situation, such as providing more training to the law and police authorities that handle these cases. It also implies that in Ukraine, victims are not taken seriously, particularly victims of human trafficking, and their rights are not fully taken into consideration. Since a large portion of human trafficking victims are female, the insinuation is that gender rights norms are likewise not yet a part of Ukrainian society. In the Czech Republic and Poland, the protection aspect of human trafficking norms seem to be at least taking root. Since these countries have a lower rate of this crime as compared to Ukraine, it would seem that this particular factor is likewise significant in determining human trafficking norm implementation.
Governments can reveal a great deal about their adherence to international norms on protecting its citizens through their measures on residency status of the human trafficking victim. The status allowed for this victim within a country’s borders is especially pertinent to how a government views foreigners, since a significant number of those trafficked end up in countries that are not their own. If a foreign government nonetheless recognizes the human needs of this victim and tries to assist her, despite her non-legal status within the country, it is also more likely to recognize the universality of human rights.

An analysis of the three case studies shows that the Czech Republic and Poland have shown greater concern for foreign victims of human trafficking during the past few years than Ukraine. This is evident most significantly through their legal measures. The Czech government provides victims with a 60-day grace period during which they can decide whether to aid in prosecuting their traffickers (Czech Status Report 2009; TIP 2005; TIP 2008). Furthermore, victims who cooperate with law enforcement are granted temporary residence and work visas for the duration of the investigations and prosecutions, and have the option of filing for permanent residency after the end of legal proceedings. 31 The Czech Republic also implemented the Program of Voluntary Returns, which can also be used for Czech nationals returning from abroad after being trafficked. For those who are foreigners in the Czech Republic, this program means that returns to their countries of origin are arranged. NGOs also cooperate on this program.

Residency Status of the Victim

31 Section 42e under the Act on the Residence of Foreign Nationals (Czech Status Report 2009).
although costs are sometimes covered by foreign organizations or the victim herself (Czech Status Report 2009).

The Polish government amended a law in 2003 that granted victims a one-year temporary residence permit in Poland (TIP 2001-2003). This was a first step to recognizing the immediate needs of victims to stay in a country and get immediate assistance and to seek legal recourse against their traffickers. Similar to the provision in the Czech Republic, Poland offers a reflection period to the victim, which was extended to three months in 2008 (TIP 2006). 32 This is actually a more generous timeframe than that in the Czech Republic and would suggest that the Polish government recognizes that victims of crime need extensive time to overcome their trauma and make rational decisions whether to cooperate with law enforcement. However, there have been concerns that the implementation of this new provision has not been carried out appropriately, with at least one victim reportedly being deported without the offer of a decision period (TIP 2007).

The intentions of the Czech and Polish governments seem generally supportive of the victim. This approach is in stark contrast to that of Ukraine, which does not have any legislation allowing for a reflection period or other legal provisions for foreigners trafficked in Ukraine. Consequently, the regular migration measures apply to those that have been trafficked (OSCE Ukraine 2009). The Ukrainian government likewise fails to carry out the appropriate risk assessment procedures in dealing with victims, which

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32 The original reflection period was two months per a legal amendment to the Law on Aliens in 2005 (TIP 2006).
shows a lack of concern as to whether a victim that is being deported faces a dangerous situation back in her native country. This indicates a blatant disregard for a victim’s safety or humanitarian needs. However, Ukraine is categorized by the UN and other international organization to be predominantly a country of origin when it comes to human trafficking. The government’s low emphasis in the area of residency status could simply be because it has not had to deal extensively with foreign victims actually staying in the country. Therefore, it may view this issue as a low priority in its overall efforts to combat human trafficking within its borders. While this does not excuse the government’s lack of provisions in residency status, it does provide greater understanding of its actions.

In sum, the EU countries of the Czech Republic and Poland have made significant steps in ensuring that a victim can stay in the country during investigations and even after the trial. However, it should be noted that this provision depends on a victim’s cooperation and so does not apply to all trafficking victims. Ukraine, on the other hand, treats trafficking victims to the same migration laws as any other persons, and therefore, does not apply special protective residency status—even for humanitarian or compassionate reasons. This shows a lack of consideration for the victim and her safety.

With the new 2007-2010 national anti-trafficking action plan, Ukraine has asserted, at least in writing, that it will take steps to identify and refer trafficked victims, protect their rights, and secure their justice. However, given its continued lack of financial resources, the prejudices of law enforcement and judges, and the poor record overall of effectively implementing other victim protection measures, it is highly
questionable that the government’s endeavor to follow the UN Protocol’s guidelines will be successful any time soon.

**International Cooperation**

As mentioned previously, human trafficking is a human rights violation and combating it effectively on a national level entails following human rights norms. Since human rights are closely monitored by a multitude of international organizations and instruments, it is conducive to briefly compare the Czech Republic, Poland, and Ukraine in terms of their signatory and ratification status and international cooperation with human rights regimes.

It can be helpful to observe whether there are differences among the three case studies in their ratification of international treaties and whether these differences correlate with the differences in their human trafficking prevalence. In other words, it would seem logical that, for example, Ukraine, which has the highest prevalence of human trafficking, would also have ratified the least number of treaties. If this were to be the case, it would mean that international cooperation and treaties would be a significant factor in determining the implementation of international norms. Again, this is based on the assumption that a lower prevalence of human trafficking is an indication that the country has devoted more attention to addressing this issue through the dissemination of human rights norms.

An important first step entails an analysis of each country’s state-party status to the basic human rights instruments. The U.S. Department’s chart of Human Rights
Conventions (Figure 4) shows 24 human rights treaties. An obvious gap is evident in Ukraine’s non-party status of the UN Refugee Convention and the UN Refugee Protocol (all three countries are not part of the American Human Rights Convention). This would seem to support the poor record that Ukraine has had in granting residency status to foreign victims of human trafficking that have been transported to that country illegally, as mentioned previously. Compared to the other two countries, then, Ukraine would seem to be party to less human rights conventions than the Czech Republic and Poland. However, the difference is only very slight and in fact, the Czech Republic is a non-party to two of these human rights instruments, while its record of addressing human trafficking in general has so far been better than that of Ukraine. Consequently, state-party status to these particular international human rights conventions does not strongly correlate to whether a country is better able to deal with human trafficking as a human rights issue.

An analysis of the ratification status of the Convention against Transnational Organized Crime might be a better indicator of whether international instruments are a significant factor in norm implementation, especially since this particular convention deals directly with human trafficking. The chart in Figure 5 shows that in fact, Ukraine, which has the most serious problem with the prevalence of human trafficking, has actually ratified all components of the Convention against Transnational Organized Crime, including the prevailing instrument on human trafficking norms—the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (referred to in this thesis as the UN Protocol or Palermo Protocol). Ironically, the Czech
Republic, which so far has shown a greater willingness than Poland and especially Ukraine in dealing with this issue, has only signed the Palermo Protocol, but not ratified it. This indicates that the state-party status of this key international instrument, despite its dominant place in prescribing international norms on human trafficking, has not either positively or negatively impacted how the three case studies have addressed human trafficking.

Since the way a country handles its problem with human trafficking in women for sexual exploitation is closely related to how it handles gender issues in general, it is conducive to examine international instruments aimed specifically at women’s rights. State-party status as well as observance of reporting mandates of gender-specific international conventions can show whether these factors correlate to a country’s prevalence of human trafficking and its success rate in dealing with this crime. If a country has ratified an important convention dealing with gender equality and has abided by the convention’s report requirements, and if this country also has a low incidence of human trafficking, then it is also more likely that overall, the country’s government has also accepted international norms on women’s equality.

An analysis of the ratification status for all such gender-related conventions would be beyond the scope of this thesis, but a comparison of the case studies association with one of these instruments—the Convention on the Elimination of All Forms of Discrimination against Women of 1979 (hereinafter the “1979 Convention”)—can provide some clues as to whether this international convention correlates to these case studies’ international norm implementation.
The 1979 Convention declares that “states parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women” (Article 6) and prohibits “exploitation of prostitution of women” (Article 6). The Committee on the Elimination of Discrimination against Women (CEDAW) also requires state parties to promote equality between men and women, which helps achieve the goals of suppressing trafficking and prostitution (Twitty 2003). The 1979 Convention was successful in establishing a procedure for report submittals, although the reporting system itself encountered several difficulties, including a lessening of states’ responses.

The role of this Convention and its Committee is important because it decrees a formal mandate to supervise the implementation of internationally binding stipulations on human trafficking in women (Reanda 1991). Furthermore, the U.N. General Assembly adopted an Optional Protocol on October 6, 1999 which gave individuals and groups of women the right to petition to CEDAW about violations. This right enables the Committee to investigate allegations of abuse of women’s rights in countries that are party to the Optional Protocol.

A positive sign for all three case studies is that they have ratified this Optional Protocol. The Czech Republic ratified this Optional Protocol on February 26, 2001; Poland accessed on December 22, 2003; and Ukraine ratified it on September 26, 2003. These ratifications occurred within a close timeframe after the Optional Protocol was adopted, which indicates that at least all three of the case studies want to demonstrate on an international level that they are committed to promoting gender rights as well as combating human trafficking. However, the level of commitment in dealing with human
trafficking has so far shows variation among the three case studies since they have become democracies, with Ukraine having the most difficulty in fighting this international crime. Consequently, ratification of this Optional Protocol may not have done much to affect the efforts that these countries have put forth in combating human trafficking.

As mentioned above, the 1979 Convention also requires mandatory reports from the state-parties. Adhering to the deadlines for submitting reports can indicate that a country places a high priority on following the 1979 Convention’s mandates and, in turn, can indicate greater commitment to the actual standards to eliminate human trafficking as well as promoting gender equality.

An analysis of the report submission status for all three case studies (Figure 6) first of all shows that Ukraine and Poland have been party to the 1979 Convention much longer than the Czech Republic. In fact, Ukraine has had state-party status even while it was still part of the Soviet Union. In addition, Ukraine has for the most part submitted its periodic reports very closely to the actual deadline, approximately one year following the deadline, with the exception of the Fourth Periodic Report. In contrast, the submittals of Poland and the Czech Republic have been on average about two to three years following the deadlines. The fact that Ukraine has followed the reporting deadlines more faithfully than the other two case studies would seem to indicate a greater commitment to norm implementation.

However, the thesis has so far shown that Ukraine actually has the most significant problem with human trafficking in its country and trails behind the other two
case studies in its actions steps in combating this crime. Therefore, a more likely explanation for Ukraine’s consistency in submitting reports according to the 1979 Convention’s mandates is that this is merely a display to the international community that the country is committed to dealing with this issue as well as to promoting gender equality. It appears, then, that the decision to become a state-party to the 1979 Convention, which was actually made by the Soviet Union, not Ukraine per se, was more of a public relations move intended to enhance international reputation, without having to change any internal politics. Ukraine’s state-party status to the 1979 UN Convention does not appear to have resulted in the government implementing anti-trafficking norms to a greater degree than the other two case studies.

The timeline of Poland’s submission of its most recent three periodic reports is also telling in that all three were submitted in 2004, even though they were all submitted quite late after the deadline. The year 2004 is significant because that is the same year that Poland became part of the European Union (European Union). By the time that Poland acceded to the European Union, the government most likely knew that it was behind schedule on its submissions. The sudden submittal of all three reports during the same month and year, then, seem to indicate a hurried rush to comply with the gender rights standards set by the EU. This would seem to support the idea that the EU has had a greater impact on behavior, at least in the sense of report submissions, at least in Poland, than the authority of the 1979 Convention.

Consequently, it appears that ratification of international mechanisms, including those that require reports, is not strongly correlated to the prevalence of human
trafficking for the transitional democracies in this case study. Furthermore, it is likely that being member to these international conventions is more of a display in conforming to international norms, but has not directly affected these governments’ specific actions in combating human trafficking, and in turn, addressing human rights. This appears to be applicable especially to Ukraine, who has adhered to the reporting mandates of CEDAW and has ratified a large portion of human rights instruments, but continues to have the most significant problem in dealing with human trafficking and implementing human rights norms in the areas analyzed so far.

These transitional democracies’ efforts in fighting human trafficking, and thus, ensuring human rights, especially those for women, seems more evident in their specific legal measures related to residency status and budget allocations to NGOs, as mentioned previously, rather than ratification of international conventions, even if they include supervisory reporting mandates.
Figure 4: Case Studies Similar in Human Rights Regime State-Party Status

<table>
<thead>
<tr>
<th>International Human Rights Conventions</th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slavery</td>
<td>2</td>
<td>2</td>
<td>P</td>
</tr>
<tr>
<td>ILO Convention 29</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>ILO Convention 87</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Genocide</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>ILO Convention 98</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Prisoners of War</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Civilians in War</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Traffic in Persons</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>European HR Conv.</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Pol. Rights of Women</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Suppl. Slavery Conv.</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>ILO Convention 105</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Racial Discrimination</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Civil and Pol. Rights</td>
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<td>P</td>
<td>P</td>
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<tr>
<td>Econ/Soc/Cul. Rights</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>UN Refugee Convention</td>
<td>P</td>
<td>P</td>
<td></td>
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<tr>
<td>UN Refugee Protocol</td>
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<td>P</td>
<td></td>
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<tr>
<td>American HR Conv.</td>
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<td></td>
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</tr>
<tr>
<td>ILO Convention 138</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Geneva Protocol I</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Geneva Protocol II</td>
<td>P</td>
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<td>P</td>
</tr>
<tr>
<td>Disc. Against Women</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Torture</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Rights of the Child</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

P=Party  S=Signatory  Source: U.S. Department of State
2= Party to 1926 Convention Only
Figure 5: Czech Republic Alone in Non-Ratification of UN Protocol

<table>
<thead>
<tr>
<th>Convention against Transnational Organized Crime</th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
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<table>
<thead>
<tr>
<th>Optional Protocol against the Smuggling of Migrants by Land, Sea, and Air</th>
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<th>Ukraine</th>
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<tbody>
<tr>
<td>Signed</td>
<td>Ratified</td>
<td>Signed</td>
<td>Ratified</td>
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<table>
<thead>
<tr>
<th>Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children</th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signed</td>
<td>Ratified</td>
<td>Ratified</td>
<td>Ratified</td>
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<table>
<thead>
<tr>
<th>Convention on the Rights of the Child</th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ratified</td>
<td>Ratified</td>
<td>Ratified</td>
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<thead>
<tr>
<th>Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography</th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
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<tbody>
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<td>Signed</td>
<td>Signed</td>
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<table>
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<tr>
<th>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)</th>
<th>Czech Republic</th>
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<th>Ukraine</th>
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<tbody>
<tr>
<td>Ratified</td>
<td>Ratified</td>
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<thead>
<tr>
<th>Optional Protocol to CEDAW</th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
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<tbody>
<tr>
<td>Ratified</td>
<td>Ratified</td>
<td>Ratified</td>
<td>Ratified</td>
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</table>

Source: United Nations Refugee Agency (UNHCR), *Combating Human Trafficking: Overview of UNHCR Anti-Trafficking Activities in Europe, Bureau for Europe Policy Unit, 2005*
Figure 6: Ukraine Adheres to CEDAW’s Reporting Submissions

<table>
<thead>
<tr>
<th>State Party</th>
<th>Report</th>
<th>Date Due</th>
<th>Date of Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>Initial Report</td>
<td>24 March 1994</td>
<td>30 October 1995</td>
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<tr>
<td></td>
<td>Third Periodic Report</td>
<td>24 March 2001</td>
<td>31 August 2004</td>
</tr>
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<td></td>
<td>Fourth Periodic Report</td>
<td>24 March 2005</td>
<td></td>
</tr>
<tr>
<td>Poland</td>
<td>Initial Report</td>
<td>3 September 1982</td>
<td>10 October 1985</td>
</tr>
<tr>
<td></td>
<td>Second Periodic Report</td>
<td>3 September 1986</td>
<td>17 November 1988</td>
</tr>
<tr>
<td></td>
<td>Third Periodic Report</td>
<td>3 September 1990</td>
<td>22 November 1990</td>
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<tr>
<td></td>
<td>Fourth Periodic Report</td>
<td>3 September 1994</td>
<td>29 November 2004</td>
</tr>
<tr>
<td></td>
<td>Fifth Periodic Report</td>
<td>3 September 1998</td>
<td>29 November 2004</td>
</tr>
<tr>
<td></td>
<td>Sixth Periodic Report</td>
<td>3 September 2002</td>
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<td>Ukraine</td>
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<td>3 September 1998</td>
<td>2 August 1999</td>
</tr>
<tr>
<td></td>
<td>Sixth Periodic Report</td>
<td>3 September 2002</td>
<td></td>
</tr>
</tbody>
</table>

Summary

While each of the three nations cooperates with NGOs that directly provide assistance to trafficking victims, direct financial support has been the most tangible in the Czech Republic, although Poland has increased its funding recently. In contrast, Ukraine’s lack of financial sources means that the anti-trafficking NGOs present in Ukraine must rely primarily on international donors or their own sources. It is apparent that Ukraine wishes to follow international norms in theory, even including more provisions to assist victims and work with NGOs in its new national anti-trafficking program, but the intent has so far been mostly in writing and not in action.

However, all three case studies continue to be hindered in implementing anti-trafficking norms because of an inadequate amount of shelters for trafficking victims. The scarcity is more acute in Poland and Ukraine, and has been noted as such in various international monitoring reports. Moreover, in Ukraine the quality of services is by far the worst out of the three case studies, affected not only by insufficient government funding, but by the meager skills of the staff and inferior coordination among service agencies. Obviously, the scope of Ukraine’s problem in implementing assistance to victims extends beyond that of mere limited financial resources. Even if these resources were available, the government would still have a long process ahead in training the personnel and communication of the agencies that directly interact with victims.

The Czech Republic and Poland have made vast improvements in conforming to the standards set by the UN Protocol regarding the status of the victim. Both countries provide a reflection period of at least 60 days, in which the victim can decide whether to
cooperate with the investigation of her case. This regulation has actually promoted the participation of victims in the judicial proceedings (UN GIFT Legislative Framework Report 2008), and has therefore had a positive effect on the overall government efforts in combating human trafficking via prosecution.

Although the Czech Republic and Poland fulfill Article 7 of the UN Protocol, and follow the recommendations of Article 13 of the European Convention, by providing a reflection period, each country has some deficiencies in complete implementation of this guideline. Poland still continues to have cases where victims are deported. This impinges on the rights of the victim because she does not have the chance to prove that she has been a victim of trafficking. Meanwhile, the Czech Republic provides long-term residency only to those victims who choose to cooperate with the police, which shows some disregard for humanitarian considerations to victims that do not participate in the investigation or judicial process, but who may still need long-term residency given their precarious situation.

However, the inadequate implementation of the victim status recommendations, as prescribed by the UN Protocol, is most apparent in Ukraine. The Ukrainian government has no laws allowing for a reflection period and has no mechanisms in place for identifying foreign victims of trafficking, much less providing them with distinct residency status. It should be noted that implementing this provision in practice is somewhat reliant on the government having the financial resources necessary to take care of the victims if they were granted residency. However, putting this provision into law itself requires no such immediate financial expenditure on the part of the government.
The fact that Ukraine has not established specific residency laws for trafficking victims shows a disregard for the humanitarian approach to protecting the trafficking victim. This inaction also suggests that the Ukrainian government perpetuates xenophobia and insensitivity to the victim.

Protecting and assisting the victim of human trafficking demonstrates how seriously the case studies consider protecting human rights. An analysis of ratification and party status to international human rights conventions shows that all three are at least theoretically committed to the issue of human rights. In fact, given that the Czech Republic has not ratified the most significant international treaty on human trafficking, the Palermo Protocol, it would seem logical that this country would also perhaps fail to follow any of its guidelines. However, the opposite has shown to be the case—especially regarding the protection and assistance of the trafficking victim. The Czech Republic seems to have made the greater effort to implement norms in this area, followed by Poland. Ironically, Ukraine has been least effective in providing the human trafficking victim with humanitarian or compassionate provisions, despite the government’s great commitment, at least in writing, to international conventions.

Thus, the findings in this chapter seem to indicate that the Czech Republic, while still having room for improvement in the areas of assistance, has nonetheless shown greatest effort in collaborating with NGOs and supporting them, both on a social and financial level. This would seem to correspond to its comparatively low prevalence of human trafficking and suggests that this type of collaboration is significant in showing a country’s human trafficking norm implementation. The other factors that have shown
These actions seem to indicate a greater conformity to international norms and recognition by the Czech Republic and Poland of humanitarian concerns regarding the victim. Ukraine has not done much to change the lack of residency status of the trafficking victim, often a foreigner, even though this would not require much financial expenditure.

Most importantly, however, this chapter has shown that the normative factor of NGOs is much more significant in determining human rights norm implementation than the normative factor of international regimes. The state-party status has shown to not have much affect on whether a country actually implements norms or follows the guidelines outlined in the UN Protocol.

So far, then, this thesis has examined both legislative and normative factors and their impact on these three countries’ human rights norm implementation. Corruption has been shown to be the most significant legislative factor, while the collaboration of government with NGOs has been more notable than membership to international human rights conventions. The next chapter will examine socio-economic factors, including women’s economic opportunities, and the government handling of prostitution and the issue-area of violence against women. The government actions of the three case studies in these areas will then indicate to what extent they have been successful in implementing human trafficking and human rights norms on a national level.
Chapter 6
THE IMPACT OF SOCIO-ECONOMIC FACTORS

Social and Economic Factors and Prevention of Human Trafficking

Legislative factors and normative factors are not the only components that affect how successfully a nation combats human trafficking in women for the purposes of sexual exploitation. The way that a government addresses the socio-economic aspect of this issue can also impact the prevalence of this crime, particularly the prevention of human trafficking in women. These preventive methods include improving the economic conditions of women that make them “vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity” (UN Protocol Article 2), utilizing informational and education campaigns on human trafficking, addressing the issue of prostitution as it relates to human trafficking, and decreasing the incidences of violence against women in general.

An analysis of socio-economic factors that belong to the fight against human trafficking can possibly reveal not only how a country deals with human trafficking but also whether it considers human rights important. In particular, the degree to which a country applies socio-economic measures aimed at preventing human trafficking can point to whether the idea of gender rights has been disseminated within that country.

In this chapter, then, I will compare how each of the case studies has attempted to prevent human trafficking of women for the purpose of sexual services. Since prevention is connected to social considerations, this comparison will examine the socio-economic factors that apply to the conditions of women’s lives and thus help prevent human
trafficking. Specifically, I will compare the following factors for each of the case studies:

1. Labor laws as indicators of women’s economic opportunities;
2. Dissemination of educational campaigns;
3. Measures to reduce the demand for human trafficking in women via each country’s position on prostitution;
4. Legal framework and social attitudes on rape and domestic violence.

These socio-economic factors will ultimately be compared to the other two factors studied in this thesis—legislative and normative—that also have a bearing on the fight against human trafficking. If socio-economic factors correlate to a greater degree with the incidences of human trafficking for the three case studies, then they would most likely be considered significant indicators of these countries’ success in combating human trafficking, as well as implementation of their human rights norms within society.

**Socio-Economic Conditions and Correlation to Human Trafficking**

Before comparing the specific legislative framework aimed at improving women’s economic opportunities, it is useful to briefly examine the socio-economic conditions among the three countries as a backdrop to their various experiences with human trafficking. An analysis of women’s unemployment and opportunities for economic advancement via education can indicate whether this is in any way correlated to the rate of human trafficking in each of the countries. It would seem logical that higher unemployment and less opportunity for women to earn a decent living would correspond to higher levels of human trafficking for sexual purposes. The examination of these underlying socio-economic conditions will then lead into an analysis of the labor
legislation of each country, and whether provisions exist that would allow women to have opportunity to gain equal employment so as to decrease their likelihood of becoming human trafficking victims. While it is true that men can likewise be trafficked for labor purposes, this thesis focuses on trafficking of women for the purpose of sexual exploitation. As has been documented in other research, women who do not have economic opportunities for obtaining a decent standard of living can look for job opportunities, where they may eventually become exploited as sexual objects. Thus, a country that has made attempts to grant women equal access to the labor market, including comparable wages and job positions, will also probably aid in the prevention of these women becoming human trafficking victims for the specific purpose of sexual exploitation.

In addition, social attitudes that place women in submissive positions not only in the labor market, but in family and social life, can impede women’s economic and educational opportunities. If governments fail to address any existing patriarchal norms, they also fail to improve the conditions of women’s lives. Consequently, such governments would most likely not be proactive in preventing human trafficking or disseminating gender rights norms.

To begin with, it is beneficial to examine the socio-economic backgrounds of the three case studies. For example, while the performance of the three transitional democracies has not been as expected after the fall of Communism, the Czech Republic and Poland have generally performed better than Ukraine (Svejnar 2002). Furthermore, in Poland, the rate of growth has been enough to close the relative income with the
advanced OECD countries by the start of the 21st century (Svejnar 2002). Both the Czech Republic33 and Poland have likewise had greater connections with the West throughout the transition period (Bienkowski 2002; Haynes 1996), whereas Ukraine has been more oriented toward Russia (Shulman 2005).34

In terms of human development, the United Nations has ranked Ukraine lower in its Human Development Index than either the Czech Republic or Poland. This means that Ukraine has experienced less socio-economic progress than the Czech Republic and Poland. Furthermore, women in Ukraine experience greater gender disparity in achievement than women in the Czech Republic or Poland (see GDI column in Figure 7).35 They are also less empowered, especially in the areas of political participation, decision-making power, economic participation, and command over resources (see GEM column in Figure 7).

Difficult socio-economic conditions for women and general gender disparity within a nation have been linked to a higher prevalence of human trafficking mostly for countries of origin, and this seems to be likewise borne out by these case studies. Ukraine has the greatest prevalence of human trafficking both overall and especially as a country of origin. In comparison, the Czech Republic and Poland are ranked higher in

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33 For example, most foreign investment between 1989 and 1994 went to Hungary and the Czech Republic, out of the Central European states (Haynes 1996).

34 Previous research has shown that there is a trace of ethnic Ukrainian nationalism at the elite level that is decidedly undemocratic. Furthermore, regression analysis has shown that support for socialist economic values has negatively affected support for democratic values in Ukraine (Shulman 2005).

35 The Human Development Index is used to assess a country’s level of development in the areas of health, knowledge, and a decent standard of living. These areas are measured by the following indicators, respectively: life expectancy at birth, adult literacy rate and school gross enrollment ratio; and GDP per capita (/hdr.undp.org/en/statistics).
terms of economic development, and also have shifted more to being countries of
destination or transition, rather than origin.

One of the reasons that women in Ukraine have difficulty getting out of their
economic situations may be linked to the lack of financial reward with higher education.
In Ukraine, a woman who has a higher education does not necessarily increase her
chances of finding employment. A comparison of the average unemployment rate for
women with secondary and tertiary education shows that the unemployment rate for
highly educated women is only about ten percentage points less than for women with a
secondary education, which is a minimal difference (see Figure 8).

In contrast, the Czech Republic and Poland, like most industrialized democratic
nations, provide greater employment opportunities for women with higher education, thus
offering incentives for women to attend university and improve their economic
conditions. The result can be favorable economic conditions for women, which can
minimize the occurrences of women being trafficked for sexual purposes due to their
financial desperation.

With regard to economic opportunities for employed women, the situation is
much more unfavorable in Ukraine than in the two European Union countries. On
average, Ukrainian women have tended to experience a greater wage gap than Polish or
Czech women between 2000 and 2007 (see Figure 9), despite the slight improvement in
this area that Ukraine has experienced in the past few years, following the democratic
Thus, there seems to be a correlation between a general lack of opportunity for women in Ukraine and the country’s greater prevalence of human trafficking in women, as compared to that of the other two case studies. The lower ranking in terms of gender disparity likewise indicates that Ukraine also faces some challenges in its gender norm implementation. This indicates an underlying problem with the country’s dissemination of gender rights norms. The following analysis of the actual labor market legislation, and whether it grants women adequate economic opportunity, can shed more light as to whether gender rights norms do not yet fully prevail in Ukraine. If this is the case, then this would most likely have an impact on human trafficking norm implementation, as well.

36 However, both Czech and Polish women often hold lower-level positions and continue to be paid less than men for equal work (U.S. Human Rights Report 2008).
Figure 7: Ukraine Ranked Lowest in Human Development

<table>
<thead>
<tr>
<th>UN Human Development Index</th>
<th>Czech Republic</th>
<th>Poland</th>
<th>Ukraine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Development Index Rank 2006</td>
<td>32- High Human Development</td>
<td>37- High Human Development</td>
<td>76- Medium Human Development</td>
</tr>
<tr>
<td>Gender-Related Development Index (GDI) Rank 2005</td>
<td>29- High Human Development</td>
<td>35- High Human Development</td>
<td>68- Medium Human Development</td>
</tr>
<tr>
<td>Gender Empowerment Measure (GEM) Rank 2005</td>
<td>34- High Human Development</td>
<td>39- High Human Development</td>
<td>75- Medium Human Development</td>
</tr>
<tr>
<td>Ratio of Estimated Female to Male Earned Income</td>
<td>.51</td>
<td>.60</td>
<td>.55</td>
</tr>
<tr>
<td>Contraceptive Prevalence Rate (% of married women aged 15-49) 1997-2005</td>
<td>72</td>
<td>49</td>
<td>68</td>
</tr>
<tr>
<td>Population Living Below $4 a Day (1990 PPP US$) 2000-2004</td>
<td>1</td>
<td>20.6</td>
<td>44.7</td>
</tr>
</tbody>
</table>

Figure 8: Polish Women Experience Highest Unemployment

Average Unemployment Rate - Women (2000-2007)

- Poland, 17.875
- Czech Republic, 9.16
- Ukraine, 8.9

Source: United Nations
Figure 9: Higher Unemployment for Women vs. Men in EU Case Studies
Figure 10: Ukrainian Women Experience Highest Gender Pay Gap

*Data not available for all years
Figure 11: Higher Education Is Benefit in Czech Republic, Poland


Source: World Bank
**Labor Legislation**

Existent socio-economic conditions can only provide a partial answer to why a country, such as Ukraine, would have a significant problem in human trafficking. Other socio-economic factors, such as legislative measures pertaining to the labor market, can also shed light on whether a nation really seeks to improve women’s economic conditions and so prevent women from becoming victims of trafficking. The comparison of government efforts among the three case studies may be able to demonstrate to what extent these countries seek to improve women’s economic lives, prevent human trafficking, and concurrently address gender disparity. A country that has laws against discrimination and sexual harassment in the workplace, and actively enforces these laws, most likely also strives to improve the working conditions of women in general. Thus, this country would more likely have a better record of creating a situation that would decrease human trafficking in women for the purpose of sexual exploitation. If such a correlation will be found in an analysis of the three countries, then labor laws are likely to indicate strong government efforts to fight human trafficking and increase implementation of human rights.

A preliminary analysis shows that there is not much difference in labor practices among the three case studies. All three of the case studies have difficulty implementing their gender-equality laws that specifically prohibit gender discrimination in family matters, property law, and labor. For example, in both the Czech Republic and Ukraine, employers are known to have considered job candidates based on their gender, age, or attractiveness when making hiring decisions (U.S. Human Rights Report 2004; U.S.
Furthermore, it has not been uncommon for employers to ask women about their family situations to determine whether they are likely to get pregnant in the future. This information can then be used to deny a woman employment. Women in Poland likewise face restrictions when it comes to employment, although more in the form of specific occupations. For example, they are not allowed to work in mines or in jobs that require heavy lifting of weights above a specified minimum. Pregnant women also are restricted in employment opportunities (U.S. Human Rights Report 2005).

There has not been much effort over the years to improve these discriminatory patterns, although the Czech Republic has taken initial steps by revising its Labor Code in 2004 to make it illegal for employers to ask personal questions during job interviews (U.S. Human Rights Report 2004). Still, the implementation of this law has not been completely successful.

Besides discriminatory hiring practices, the issue of sexual harassment can also illuminate how a country handles gender issues in general, which can then be applied to how it handles human trafficking. If sexual harassment continues to persist within the workplace and is tolerated by society, this can indicate that the society as a whole continues to accept patriarchal norms. Government efforts to address this issue can provide clues as to whether the government is also determined to address other gender issues, including those of human trafficking of women for sexual exploitation.

Regarding the three case studies, sexual harassment in the workplace, alongside the persistent discriminatory hiring practices, continues to be a problem for women in all
three countries, despite all three having laws against this offense. However, the law on sexual harassment in Ukraine is much more limiting than in the Czech Republic or Poland since it does not name the specific measures to be taken nor does it set punishments for committing this offense. In this way, Ukraine lags behind the two European Union countries in setting down punitive measures for this offense. This undermines the effect of Ukrainian law because employers, as well as the offenders, know that they will bear no consequences for any sexual harassment incidences. The Ukrainian government thus sends a message to its society that this type of behavior is still acceptable.

The social stigma associated with sexual harassment, however, continues to be a factor in all three countries, although to a greater degree in Poland and Ukraine. In Poland, women fail to report sexual harassment incidences due to a fear of losing their jobs or out of a feeling of shame. However, this may be slowly changing as awareness seems to be on the rise due to increased reporting of sexual harassment by the media (U.S. Human Rights Report 2008). Sexual harassment perseveres as a permissible norm because employers continue to accept this behavior and fail to take steps in diminishing or even investigating these practices. It can also indicate that both the Czech and Polish governments fail to actively enforce the punitive measures related to this offense, while in Ukraine these measures do not even exist, as mentioned previously. Thus, the norm of

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38 Article 1 in the Law of January 1, 2006 on Ensuring the Equal Rights and Opportunities of Women and Men (VAW Report 2007) also contains provisions on redress of material and moral damages caused by discrimination or by sexual harassment (Article 23).
tolerance for sexual harassment continues, while the cultivation of gender rights and norms is undermined.

If women continue to fear reporting sexual harassment, it is probably because they worry that either no one will believe them or that they will be viewed as the provocateurs. Likewise, these victims obviously still feel as if they would not receive any support for their claims from the law authorities or even their employers (if the harassment was made by a co-worker). Such a belief on the part of the victim indicates continued patriarchal social attitudes that can hinder human rights norms, such as those related to gender equality, from penetrating the society. So far, this low norm implementation seems to apply to all three of the case studies.

In sum, each of the three case studies still has room for improvement in their efforts to improve women’s economic situation. Discriminatory hiring practices as well as sexual harassment appear to still be in place, which indicates that the full implementation of gender norms has yet to be realized. However, certain social perceptions can help to either mitigate this pattern or exacerbate it. In the case of the Czech Republic, even though women continue to face a certain hierarchy in the labor market, they are not relegated to a significantly less subservient role in society or the labor market. “Their education, skills, experience, and disproportionate representation in expanding industries enable them to make valuable contributions in the changing economy. This…bolsters Czech women’s confidence in their status in the labor market” (Ferber and Raabe 2003, 416). Furthermore, Czech women attach great personal value to their jobs, “derive their identity from their own rather than their husbands’ position”
(Ferber and Raabe 2003, 415), and believe, along with Czech men, that it is part of a woman’s family responsibility to contribute to the household income. Thus, although in some aspects of the labor market, such as income, women still trail behind men, the social perception that women are valuable economic contributors overall speaks in favor of future improvements in gender norm dissemination in the Czech Republic.

In comparison, the disadvantages that Polish women face in the labor market are actually exacerbated by a rather negative social attitude toward this gender. Not only are Polish women highly likely to seek jobs abroad due to the high unemployment (see Figure 8), they continue to face patriarchal attitudes in the labor market. Thus they encounter more challenges than Czech women- an unfavorable labor market, as well as the presence of patriarchal norms. These norms could be partly attributed to the conservative gender ideologies in Poland that continue to influence women’s positions in the post-Socialist labor force. The Catholic Church of Poland, which has been connected to revoking abortion rights, and the national symbol of “Matka Polka” (the stately Polish Mother) have propagated the notions of what is acceptable for women both in their sexual behavior, personal character, and social status (Hanson and Wells-Dang 2006). These influences reinforce the message that a woman’s place is in the home, outside of the labor force, and justifies male authority, which results in the norm of men obtaining superior job positions and higher wages (van der Lippe and Fodor 1998).

However, the lack of economic opportunities for women, which has been shown in other research to contribute to human trafficking, seems to be especially pertinent to Ukrainian women. Not only does Ukraine rank lower on the socio-economic and human
development scale compared to the other two countries, its lack of a basic punitive clause for the offense of sexual harassment, implies that it is even a step behind that of the Czech Republic and Poland. It appears to be the pattern in Ukraine that “whatever women’s individual circumstances, their overall prospects are typically limited, making promises of their dreams coming true elsewhere adequate incentive to accept plausible offers from traffickers” (Kligman and Limoncelli 2005, 129). Gendered practices, such as hiring based on marital status, have generally not abated. In contrast, these practices combined with other macroeconomic factors, have actually contributed to high poverty rates and unemployment for women, making this population more vulnerable to being trafficked for the purpose of sexual exploitation.

In sum, the presence of these barriers to women in the labor market diminishes their opportunities for enhancing their economic opportunities. Low economic opportunities for women, especially those that live in countries that rank low on the socio-economic scale, such as Ukraine, have been shown to correlate with greater vulnerability to human trafficking. Thus, the fact that these three cases continue to somewhat uphold unfavorable labor conditions for women can potentially undermine their efforts to combat human trafficking.

However, these efforts are also partially affected by general social attitudes to women in the workplace. Positive social attitudes that value women’s work can lessen the likelihood that a woman will look to potentially illegitimate sources for work. This appears to be the case in the Czech Republic. In contrast, women in Poland, and to a greater extent in Ukraine, continue to face patriarchal attitudes when it comes to
employment. Thus, they may face an additional challenge in obtaining equal work and being able to earn decent wages. These barriers to employment may then lead them to take jobs abroad, which may then turn out to be illegitimate. In such a way, they may ultimately end up as victims of human trafficking.

The importance of improving women’s economic opportunities is therefore self-evident. It helps to minimize the prevalence of human trafficking through government efforts to address the issue of improving the conditions that may lead to human trafficking, particularly for women. None of the countries has perfect records in propagating gender norms in the labor market. However, overall, it appears that Ukrainian women experience the greatest disadvantage when it comes to improving their economic opportunities. This is due to socio-economic conditions, lack of punitive measures for sexual harassment, continued discriminatory hiring practices, and entrenched patriarchal attitudes. Given that Ukraine has the highest prevalence of human trafficking compared to both the Czech Republic and Poland, it appears that these social factors do in some way provide a clue as to the extent that a country combats human trafficking, and thus addresses human rights.

The social factors mentioned above, such as the labor market conditions and social attitudes toward women’s work, comprise only part of the strategy to prevent human trafficking. The next section looks at decreasing the demand for sexual services, mostly via prostitution, as a means to prevent this transnational crime. How these countries address this issue through their legal framework can provide more answers as to the extent they implement their human rights norms.
Implementing measures to improve women’s economic opportunities is only one part of preventing human trafficking. In order to comply with the international norms, countries must also address the issue of demand “that fosters all forms of exploitation of persons” (UN Protocol, Article 9). Although the UN Protocol does not specifically mention the criminalization of prostitution as a means of preventing trafficking (Smith and Mattar 2004), research has suggested a link between the extent of trafficking in persons and legalization or decriminalization of prostitution (Smith and Mattar 2004). Debates continue between those who assert that prostitution involves exploitation and so is not voluntary and those who defend it as a form of legitimate and voluntary labor that allows women to be autonomous. Regardless of the various controversies surrounding prostitution, some women who seek prostitution opportunities end up in coercive circumstances, without any freedom of choice. Reducing demand for sexual services, such as prostitution, can reduce demand for trafficked women. It is, therefore, important to examine prostitution in each of the three case studies so as to gain a better understanding of their efforts to address the demand side of human trafficking.

Since the issue of prostitution is complex, criminalizing this activity does not necessarily mean that demand is reduced or that human trafficking will decline. Rather, efforts to reduce demand can include humanitarian approaches that protect prostitutes, which can often be victims of human trafficking, as well as law enforcement measures that make it difficult for pimps and traffickers to hide or escape. Therefore, a successful

**Addressing Demand for Sexual Services**

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approach to reducing demand is more likely to be a balance of sensitivity and strictness, rather than just the criminalization of prostitution.

Among the case studies, both the Czech Republic and Poland legalize prostitution, while Ukraine prohibits it.\(^{39}\) The Czech Republic has a higher rate of prostitution than Poland\(^{40}\) but this rate has declined in large part to the activities of the local authorities, as well as the country’s entry into the EU.\(^{41}\) Furthermore, the Czech Republic has focused on campaigns to reduce demand for commercial sex acts, mostly through NGOs, while Poland has not. This demonstrates a significant difference between the two EU countries and shows that the Czech Republic at least makes an active effort to reduce demand. However, the government could more significantly address sex tourism in the country, which is still legally permitted and continues to be highly prevalent (U.S. Human Rights Report 2008).

On the other hand, the Czech government has established the new criminal code 273, adopted in 2008, which allows police officers to enter business premises, including all possible rooms in which individuals could possibly be working even after hours. This will make it easier for law enforcement to find trafficked victims who would otherwise have been hidden away (Czech Status Report 2009). This can help human trafficking victims by improving their chances of being found as well as obtaining assistance from

\(^{39}\) The Czech law, however, prohibits pimping and allows for local governments to limit or regulate prostitution (U.S. Human Rights Report 2004).

\(^{40}\) The estimate for Poland was thought to be 3,000 prostitutes in 2008, although NGOs believe that the number of women in all areas of the sex industry was much higher, somewhere between 18,000 and 20,000 (TIP 2008).

\(^{41}\) This is in large part due to the decline in vehicles awaiting border crossings (U.S. Human Rights Report 2004).
NGOs (Czech Status Report 2009). Thus, the Czech Republic with this law acknowledges that there is a problem with prostitution but at the same time makes efforts to at least reduce human trafficking incidences within its borders.

In general, then, the Czech Republic’s efforts appear more industrious than that of Poland in addressing the issue of prostitution. However, Ukraine’s efforts have so far not improved the country’s prevalence of prostitution. Despite the government’s prohibition of this practice, it continues to be quite widespread. Furthermore, again in contrast to the other two case studies, this issue seems to be largely ignored by the government. There have been no campaigns aimed at reducing the demand for trafficking, targeted at the potential clients of the sex trade (TIP 2009). In addition, NGOs are concerned that this criminalization of prostitution actually inhibits victims that have been trafficked for prostitution from reporting these incidences to the police for fear that they will themselves be prosecuted (Nalyvayko 2006). Essentially, the Ukrainian government’s legal position that allows for possible punishment of the victim negates the UN Protocol’s Article 6 regarding the protection and assistance of victims.

Training Programs

Article 10 of the UN Protocol calls for prevention of trafficking via training of law enforcement and other authorities. This training should also take into account the “need to consider human rights and …gender-sensitive issues” (Article 10). A country whose training program is more extensive will also be more likely to have a greater success at combating human trafficking. The comparative efforts of the three case
studies in providing training programs can show whether greater effort correlates to a lesser prevalence of human trafficking. If such a correlation can be shown, then this means that training programs can be included as a significant factor that positively impacts the fight against human trafficking. If this positive effect occurs, it can also indicate that a country is more open to implementation of international human rights norms. To determine the extent of norm implementation of the UN Protocol’s prevention clause, this section will evaluate the following: (1) the efforts of the Czech Republic, Poland, and Ukraine to administer training to law enforcement and other agencies, such as judges and prosecutors.

Among the three transitional democracies, the Czech Republic seems to demonstrate the greatest effort in actualizing training programs for law enforcement and the judiciary officials. For example, in 2008 the Czech Ministry of Interior has organized and participated in training activities with other governmental institutions and NGOs and in 2007 has launched an information anti-trafficking campaign. The Judicial Academy also organized several training sessions on this topic for public prosecutors and judges in 2008 and provided education and training programs on human trafficking for those training to be police officers at secondary schools of the Ministry of the Interior (Czech Status Report 2009). Providing training programs to those who are still in school is especially important because it enables the students to be aware of this crime before their first encounter. These future police officers can have the knowledge of how to recognize victims as well as traffickers beforehand, rather than receiving this information after making an arrest. In other words, they are better prepared, which can prevent
mismanagement of an investigation. Therefore, providing training on human trafficking to students shows a certain foresight on the part of the Czech government. It is an attempt to prevent possible mishandling of these cases, rather than just trying to fix something after it happens.

The Czech Republic’s efforts, along with those of Poland, are also commendable because they are based on direct actions by its government. In contrast to these two countries, Ukraine relies on international agencies to provide training. One such incidence was a training provided by the OSCE to the Ukrainian Academy of Judges and the Academy of Prosecutors, who took part in eight seminars throughout Ukraine on sensitivity training related to trafficking cases (TIP 2008). Ukraine’s persistent dependency on NGOs may indicate collaboration with these organizations, but on the other hand, it shows a certain lack of effort in the government directly taking an active part in addressing the issue of human trafficking. It appears more as a means of transferring the responsibility to non-government entities and thus avoids any accountability. This trend seems to indicate that the Ukrainian government has so far not fully prioritized human trafficking as part of its national agenda.

Direct government funding of training programs alone is not the sole measure of these nation-states’ efforts to prevent human trafficking. After all, the three countries do not have the same financial resources available to them, with Ukraine’s government being the most disadvantaged. Instead, the end results of training programs can provide a more telling picture of whether government efforts to combat this transnational crime, and to disseminate human rights norms, have been successful. In this respect, the Czech
Republic appears to be more efficacious than either Poland or Ukraine. For example, despite the Polish government’s training of law enforcement officers to identify victims of trafficking, the country continues to have a problem with border police deporting human trafficking victims (TIP 2009). This indicates that the training may not have been disseminated properly into all areas of the country. Ukraine has encountered similar difficulties, which have also been exacerbated by the continued corruption of the law enforcement (TIP 2007). Such corruption tends to hamper any type of training, no matter if it is extensive or not.

Campaigns

Another significant component of preventing trafficking is the use of information campaigns. Utilizing various outlets and methods such as advertising campaigns, church sermons, and educational programs in schools can play an important role in “enabling women to make better informed choices about opportunities and potential risks” (Kligman and Limoncelli 2005, 130). These campaigns, which usually involve cooperation between government groups and NGOs, can also encourage women to report to law enforcement if they have become victims of trafficking and should make it clear that they will be protected. Furthermore, these campaigns can help change the stigma that is associated with human trafficking. Quite often, female victims are blamed for being trafficked in the first place and have a difficult time reintegrating back into society, particularly if they are from a small town, because of the perception that they are “tainted goods.” Education campaigns on human trafficking, if carried out effectively, can
therefore also impact the implementation of human rights norms, specifically those that relate to the protection of victims and women in general. Consequently, a comparison of these campaigns among the three case studies can contribute to the understanding of how these countries have progressed in their diffusion of international norms. The country that closely cooperates with NGOs and also directly promotes these educational and informative campaigns will also be more likely to be aware of the need to disseminate human rights and its citizens will also be more likely to accept these norms.

Informational campaigns closely relate to the analysis of NGO and government collaboration as discussed in the previous chapter on normative factors. The below analysis, then, is merely another means of assessing whether NGO and government collaboration impacts the human trafficking norm implementation of the three transitional democracies.

The campaign efforts of the three case studies vary in their intensity and methods. While all three countries do collaborate with NGOs, Ukraine relies the most on outside international organizations, such as the OSCE and IOM, to implement these campaigns. In this case, the OSCE has established in 1999 the position of the Project Coordinator in Ukraine (PCU), who assists local NGOs involved in the prevention of trafficking by helping the Ukrainian government implement its national strategy on combating human trafficking through the guidance of the OSCE’s Action Plan on Combating Trafficking in Human Beings.\(^{42}\) However, on the whole, Ukraine does far too little in terms of educational campaigns aimed at improving the public’s perception of trafficked women.

\(^{42}\) Adopted in July 2003 (www.osce.org/ukraine/13186.html)
Consequently, Ukrainian society continues to frequently denounce women who have traveled abroad and become victims of human trafficking in the form of sexual exploitation since the public presumes that the victims must have known that they would work in the sex industry when emigrating (Nalyvayko 2006). In fact, the Czech Republic, rather than Ukraine, has been central in informing Ukrainians of the dangers of human trafficking. For example, in 2006 the Czech government funded two NGOs to provide information to Ukrainian citizens, living in ten Ukrainian cities, who were seeking work in the Czech Republic. Furthermore, the Czech Ministry of Foreign Affairs also began training consular officers in trafficking awareness and cooperation with NGOs, and to provide trafficking information to applicants from known trafficking source countries, including Ukraine, that were seeking Czech visas (TIP 2005).

Poland has likewise cooperated with other countries in preventive and informational campaigns. In 2005 the Polish government collaborated with NGOs who worked with border guards on a “safe travel” campaign that distributed information, mostly in Russian, to potential targets of trafficking on employment laws (TIP 2006). The work of these two nations in informing foreigners, such as Ukrainians and Russians that come to find work within their borders, has likely improved their knowledge of local labor laws and of their rights. Knowledge such as this can significantly reduce the likelihood that a person will become a victim of trafficking. Given Ukraine’s lack of initiative in disseminating such information, it is likely that its citizens would be much
more vulnerable to being victimized if they had only the Ukrainian government to depend on for such information.

While informing the general public comprises a significant part of the success of anti-trafficking campaigns, a vital component that takes this type of strategy to the next level is campaigns aimed at the student population. Young students, especially those still in elementary schools or secondary schools, have quite often not yet formed their own opinions about social issues. They can also be very inquisitive and may be more willing to learn about human trafficking as a transnational crime than someone who perhaps has no time to delve into such matters due to everyday life pressures. Therefore, exposing young students to the causes of human trafficking as well as presenting the victim as a blameless target of traffickers can raise these students’ awareness of the crime and thus, prevent them or those close to them from becoming victims. Most importantly, educational campaigns of human trafficking presented in schools can diffuse the idea that victims have rights, even if they are foreigners or women.

Among the three case studies, only the two European Union nations- the Czech Republic and Poland- have most extensively incorporated the strategy of campaigns in schools. Poland in particular has made significant progress in this area. In 2004, the Polish government launched new programs, such as the Ministry of Education’s training of teachers to teach human rights, including those related to human trafficking. Furthermore, the national fourth, fifth, and sixth grade curricula were changed to incorporate education on protection against trafficking, while the national high school curriculum began to include areas on the dangers of trafficking and prostitution (TIP
2005). Although not a directly school-related campaign, the Polish Ministry of Education also provided a grant to an NGO in 2005 to distribute educational leaflets to at-risk groups throughout Poland (TIP 2006).

The Czech Republic has also collaborated with NGOs in the realization of a successful primary and secondary school campaign with the aim of educating Czech youth about the risks of working abroad and the ways that trafficking lures women (TIP 2003). This actually occurred before the country was even part of the European Union, which indicates more of an independent initiative.

In stark contrast, there have been no significant incidences where Ukraine propagated anti-trafficking campaigns in schools or other educational institutions. In fact, the government has only recently begun to focus on prevention campaigns at all. Funding for prevention of trafficking has not been a priority for the country until 2009, when the government spent a modest $34,431 for the printing and distribution of anti-trafficking awareness materials (TIP 2009).

**Violence against Women**

Domestic violence is a universal problem and a continuous form of human rights abuse in the world. It has been an issue in all three of the case studies and has a direct impact on human trafficking. Domestic violence is one of the social factors that compel women to seek a “better life” abroad in order to escape from their abuser, find a highly-paid job, and become financially independent. Unfortunately, the desperation to escape their current violent situation often means that these women run the risk of becoming
prey to traffickers. Government efforts to eradicate the social problem of violence against women, both at a domestic level and in society, alleviates the female gender’s desperate situations and can also play a great role in eradicating human trafficking.

Therefore, the analysis of how a nation aims to prevent human trafficking entails a thorough look at its legislation and stance toward the related issue of domestic violence. Such an analysis further sheds light on the extent of patriarchy within the society, and whether the government follows the democratic principles of granting equal rights and opportunities to all members of society, including women. It stands to reason that a government that attempts to address violence against women will also make greater attempts to implement anti-trafficking norms. A country that enforces legislation to prevent violence against women and supports the work of NGOs who aim to help these victims will also be more likely to promote human rights norms throughout this society. Likewise, these actions may be able to not only help implement these norms in society, but they may also decrease the rate of human trafficking. An analysis can show whether any of these case studies exhibit both greater efforts in preventing violence against women and a lower prevalence of human trafficking. If such a correlation is indicated, then this would mean that this particular social factor can be significant in determining whether human rights norms have been more fully disseminated in comparing the three case studies.
Since rape comprises one aspect of violence against women, a country’s legislation, including its strict sentencing of offenders, provides some clues as to how it handles such abuse against women. A country that enforces legislation and criminal codes that protect women from this violent crime is more likely to successfully implement norms related to other women’s issues, as well as human trafficking norms. Furthermore, the attitudes of governments and society toward rape victims can shed light on the attitudes toward trafficked women, as well. Negative attitudes generally would lead to more difficulty in a trafficked women reintegrating back into society.

All three case studies prohibit rape, but only the Czech Republic and Poland specifically prohibit spousal rape. Ukraine does not address this particular form of rape, although it does have a law against “forced sex with a materially dependent person,” which could technically be applied to prosecution of spousal rape (U.S. Human Rights Report 2006). Still, this clause seems to address only a specific category of spouses—wives who basically do not work outside the home and have no income of their own. The lack of a spousal rape law implies that government should not interfere in the personal married lives of its citizens, even if this means ignoring the physical abuses that can take place there. Materially independent wives who are raped essentially have no recourse to get legal help, and if they do, it would most likely be difficult to bring about a trial, much less a conviction. Through their spousal-rape clause, the Czech Republic and Poland seem to acknowledge that all women, whether married or single, regardless of their
financial autonomy or lack thereof, need to have their human safety rights legally protected.

In contrast, Ukraine’s exclusion of a spousal rape law diminishes the right of a materially independent wife to take legal recourse if such an event takes place. It also implies that if she were to do so, she would not be believed or taken seriously by the authorities. In essence, the Ukrainian government promulgates the social norm that a woman’s will is essentially subject to that of her husband and that she has no autonomy of her own. In the case of rape, a woman has legal recourse only if she is materially dependent on her husband. This puts a double bind on women—either they have to be financially dependent to be legally heard on this issue, or they can be materially independent but have no legal options if raped in a marriage. In both circumstances, women are viewed as subservient to men and their rights restrained. They must either give up the right to be financially independent or give up the right to seek justice, if raped within marriage. Consequently, out of the three case studies, Ukraine seems to not fully implement gender norms.

Surprisingly, all three case studies have similar penalties for rape. In both the Czech Republic and Ukraine the punishment is up to 15 years in prison, while in Poland, the punishment is up to 12 years (U.S. Human Rights Report 2008). These punitive measures appear to be commensurate with those of a serious crime, so at least in this respect, all three countries follow international guidelines. It also appears that these punishments are carried out, which contrasts to their sentencing in human trafficking crimes, as mentioned in the chapter on legislative factors. The difference in these
enforcements indicates that rape is seen as a more serious violent act than human trafficking. There have been reports that the Czech Republic has actually had an upward trend in the number of rape convictions since 2001, mostly due to improved police training, public awareness campaigns, and greater interaction between the police and NGOs, such as Elektra and White Circle of Safety. This is a positive step in addressing this particular form of violence against women because it sends a message that it is acceptable for a woman to report incidences of rape. It also shows how instrumental NGOs continue to be in disseminating these types of norms. The increasing convictions of rape in the Czech Republic can also indicate a lessening of the stigma associated with rape victims and empowering these victims to report these crimes.

However, despite the indications that a rape victim in the Czech Republic will be heard and believed by the authorities and that her attacker will be tried and convicted, many experts believe that the instances of rape are greatly underreported. In Poland, reports of rape have actually increased over the past few years, but similar to the situation in the Czech Republic, many NGOs believe that the statistics are still highly underreported. While research on the Czech Republic did not specify whether the underreporting was due to victims’ feeling of shame or fear, it would seem a likely scenario. In Poland, NGOs outright believe that the underreporting of rape is due to the persistent social stigma that is associated with this crime (U.S. Human Rights Report 2008). While no specific details were available on the reporting of this crime in Ukraine, it would seem reasonable to deduce that a similar pattern of underreporting exists there, as well. Evidently, in this particular matter, all three case studies still have improvements
to make in spreading the norms related to protection of victims and making these women feel more assured.

In sum, the Czech Republic and Poland seem to be slightly more aware of human rights norms than Ukraine, particularly due to their acknowledgement that rape can happen within a marriage. Both also have seen improvements in the number of cases being reported, which demonstrates a decrease in social stigma related to this crime. However, overall the variances among these countries in their approach to rape have not been significant. Therefore, this particular social factor does not highly correlate to the degrees of human trafficking among the three case studies and so is not a strong determinant of whether these countries successfully combat human trafficking and implement human rights norms.

**Domestic Violence**

Since women who are abused are more likely to want to escape their situation, they may also be more likely to become targets to human traffickers. Furthermore, once trafficked, they are less likely to report their cases if their previous experience with domestic violence has made them mistrustful of law enforcement’s response. Consequently, improving the situation of abused women and making an effort to eradicate domestic abuse and violence against women in general is a significant step in also combating human trafficking. Greater efforts by a government to remedy the issue of domestic violence, through both criminalization and eliminating the social stigma that is associated with this form of violence, can indicate that the government is more
committed to not only combating human trafficking, but also to disseminating the idea of gender and human rights norms throughout the society. An analysis of how the three case studies address the social factor of domestic violence can show whether there is any correlation with their level of human trafficking. If such a correlation can be shown, then this would indicate that more efforts to address domestic violence can also decrease the prevalence of human trafficking. This section will therefore compare the legislation and social attitudes on domestic violence among the three transitional democracies to determine the connection to their norm implementation on human trafficking and human rights.

With respect to legislation on domestic violence, both the Czech Republic and Poland have criminalized domestic violence, which demonstrates some effort to follow international legislative guidelines.\(^{43}\) Czech law made domestic violence a distinct crime in 2004, punishable by up to three years in prison, while in Poland, the crime is punishable by five years (U.S. Human Rights Report 2008). In Ukraine, domestic violence is not criminalized per se, although spousal abuse is illegal.\(^{44}\) However, only 18 percent of Ukrainian citizens were aware of the law on preventing domestic violence in 2006 (U.S. Human Rights Report 2006). Since violence in the family is not directly recognized as a criminal offense, the only way to punish the abuser under criminal procedure in Ukraine is to use the criminal law related to bodily injuries or other crimes.


\(^{44}\) Law No. 2789-III of November 15, 2001 on the Prevention of Domestic Violence. The law identifies and defines the following types of violence: physical, sexual, psychological, and economic violence in the family (VAW Ukraine Report 2007).
Furthermore, if an abuser violates a protective order that has been prescribed, he is not penalized under the criminal code, although this is punishable by fine or correctional work (VAW Ukraine Report 2007). Regarding criminalization of domestic violence, then, Ukraine has not fully recognized the seriousness of this particular form of violence against women, as compared to the other two case studies.

Criminalization, along with punitive measures, only partly contributes toward full domestic implementation of gender and human rights norms. Punishments for this act should actually be enforced, which has not been the case for Poland and Ukraine. In Poland, punishment is rarely enforced in practice and most convictions end up in suspended sentences. Furthermore, courts often treat domestic violence as a minor crime, sometimes even dismissing cases (U.S. Human Rights Report 2006). In Ukraine, the enforcement of punishments for spousal abuse is likewise inadequate. Prosecution of perpetrators usually only results in an administrative fine, and other punitive measures, such as correction work for one month or administrative arrest for 15 days, are rarely used. This is most likely due to a lack of knowledge and understanding of the problem of domestic violence on the part of the judges (VAW Ukraine Report 2007). It appears then, that in both Poland and Ukraine, domestic violence is not perceived by the judges nor law enforcement as a serious matter; the victim’s dire situation is downplayed; and her human rights for safety and well-being are ignored. The attitude of these government authorities likely reflects socially accepted views, but their perception is all the more detrimental to the implementation of gender norms since they are in an elite position and...
could therefore have a great impact on social views. The dismissive actions of the judicial officials in both Poland and Ukraine, then, have probably not helped to decrease the stigma associated with domestic violence victims and so improve gender norm implementation.

Combating domestic violence requires efforts by both the government and NGOs to alter negative perception of victims that can exist in both law enforcement and society. Since law enforcement authorities are often the first source of help for the victim, their attitude can impact whether the victim feels assured and safe. If police officers are sensitive to the victim, then the victim will be more likely to take legal action against her abuser and to report any future incidences of this crime. These actions can then lead to an overall decrease in domestic violence.

Among the three case studies, the Czech Republic has made efforts to improve its law enforcement’s handling of these cases. For example, the police have received extensive training on identifying domestic violence cases and helping them become more sensitive in the treatment of victims (U.S. Human Rights Report 2007). The law enforcement in Poland and Ukraine, on the other hand, continue to show a somewhat dismissive attitude toward domestic violence. As recently as 2008, there have been reports that the Polish police are unwilling to intervene in these violent incidents if the abuser was a member of the police or if the victims were reluctant to cooperate (U.S. Human Rights Report 2008).
In Ukraine, the situation appears more serious. Authorities often pressure women not to press charges against their husbands (U.S. Human Rights Report 2008). In addition, there have been reports of more cases where police officers use a legal provision on “provocative behavior” to threaten or prevent victims from reporting to the police that there was violence committed (VAW Ukraine Report 2007). Even if a victim files a protective order against her abuser, she is not protected in practice because the order does not actually evict the perpetrator from the home.

Hence, there are visible differences among the three case studies in the way that their law enforcement deals with victims of domestic violence. The Czech Republic appears to have realized that fighting domestic violence starts with a sensitive approach on the part of law enforcement authorities. This makes the victim feel that she can get help in her dire situation. Training law enforcement therefore demonstrates that the Czech Republic is attempting to likewise improve its human rights approach. In contrast, both Poland and especially Ukraine continue to experience serious problems with the way that police handle domestic violence incidences. In 2000, the Polish government has set up the Office of Victims’ Rights Spokesman at the Ministry of Internal Affairs and Administration, whose main purpose is to ensure that victims of violence are treated with

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45 In 2007, there were 90,500 domestic violence cases registered with the precinct police. Of these cases, 88.8 percent involved violence against women ((http://www.osce.org/ukraine/13186.html).

46 Ukraine’s legislation on domestic violence includes a provision on “provocative behavior,” which means that a district police inspector can issue an official warning in the case of “systematic (three or more cases) of provocative behavior of a family member,” which has created the situation of violence in the family (VAW Ukraine Report 2007). If such a warning is placed on the victim, it means that a protective order to prohibit an abuser from committing further violent acts is not issued. This provocative behavior clause clearly violates the human rights of the domestic violence victim, who is in majority of cases a woman (VAW Ukraine Report 2007).
respect by law enforcement and by the judiciary system (U.S. Human Rights Report 2000), but it seems that this has not improved the patriarchal attitude of these government authorities. Likewise, in Ukraine, the law enforcement’s attitudes most likely reflect social norms, and so may not seem out of place. However, given that law enforcement officials are in a position of authority, a positive approach to domestic violence victims could potentially diminish the severity of this social problem in Ukraine.

The government can do much to address this type of violence against women, but NGOs can also be instrumental in assisting victims as well as diminishing the social stigma that these women often experience. If a country has NGOs that are highly active in addressing this issue, it is also more likely that the country’s government overall makes greater efforts to combat human trafficking and disseminate human rights norms throughout the society.

The collaboration between government and NGOs has been extensive in both the Czech Republic and Poland, particularly since their accession to the EU. In the Czech Republic, for example, an association of 13 NGOs dealing with domestic violence called Koordona has provided specialized training manuals for health care workers and distributed materials to inform victims of their rights. These NGOs, with the support of the Czech government, also provide psychological counseling to victims of rape and domestic abuse through various hot lines and crisis centers (U.S. Human Rights Report 2007). As of 2005, there were about 107 government-supported shelters for these victims, located in most major cities and towns.
In Poland, the government passed a law in 2005, a year after the EU accession, which provides for the creation of a national program on counteracting domestic violence, with provisions for providing victims psychological, legal, and physical support (U.S. Human Rights Report 2005). Since these services are most frequently provided by NGOs, the Polish government thus demonstrates increasing collaboration with these agencies. Furthermore, according to NGOs, the government has been increasingly more receptive to this women’s issue, especially since 2002, when legislation was required for Poland’s accession to the EU. In addition, media campaigns and NGO efforts have raised the number of domestic violence reports (U.S. Human Rights Report 2005). The Polish government has also spent $181,000 in 2005 on public awareness programs to combat domestic violence, which were implemented by local NGOs and governments (U.S. Human Rights Report 2007).

Summary

This section has focused on the factors of employment and education in assessing the extent to which the case studies have implemented norms meant to improve women’s opportunities. It is evident that gender disparities continue to exist in each of the three nations, with women generally experiencing lower income than men, even when controlling for education, which is the case even in Western countries. Likewise, women tend to be concentrated in specific, “traditionally female” vocations. However, analysis of UN data shows that by far, Ukrainian women experience far less opportunity to advance economically than women in both the Czech Republic and Poland, even if they
attain a higher education degree. Thus, higher education attainment in Ukraine does not preclude these women from becoming victims of human trafficking.

Analysis of employment hiring practices and sexual harassment laws indicates that all three countries have practiced discrimination against young women based on their marital status, likelihood of having children, and appearances. While the Czech Republic and Poland have passed laws prohibiting the asking of personal questions in interviews, putting this law into practice has not happened quickly. Each country likewise has laws against sexual harassment, but again, these laws have not been fully implemented and women continue to not report these incidences, due to shame or lack of understanding in society. Nonetheless, both the Czech Republic and Poland do provide its female populations with greater opportunity for economic advancement. Particularly in the Czech Republic, women who attain a higher education are more likely to find employment compared to their national counterparts who only have a secondary education degree. Furthermore, the social norms in this country evince women’s position in the labor market to be highly valuable, and women in general place much importance on being able to work, even if they do end up doing double-duty as homemaker and employee. Still, the social attitude in the Czech Republic toward women’s roles and equality, while patriarchal to some degree, is much more favorable than that of Poland, which is more gender-traditional, in part due to its strong historical and current connection to the influences of the Catholic Church. In Ukraine, patriarchy has been most apparent, which correlates to the lesser economic opportunities for Ukrainian
women, as well as the higher prevalence of human trafficking in Ukraine, in comparison to the Czech Republic and Poland.

Ukraine differs from the other two case studies in its position on prostitution, which it criminalizes, unlike the Czech Republic and Poland. Whether criminalization of prostitution increases or decreases the overall rate of human trafficking is still subject to debate, but nonetheless, Ukraine’s approach relegates prostitution as a social evil. Given the complexity of the connection between prostitution and human trafficking, it is difficult to assess whether the Ukrainian government’s prohibition of prostitution is an effective means to reduce demand of sex services, but since Ukraine has a far greater problem with prostitution than either the Czech Republic or Poland, it seems likely that additional action needs to occur, and the criminalization that trafficking victims may face should be addressed in efforts to combat human trafficking.

Out of the three case studies, the Czech Republic has at least made deliberate efforts to decrease demand through focused campaigns. Interest in sex services has actually declined, but it is unclear whether the Czech government’s efforts have been the cause, or whether the decline is due to the country’s accession into the EU and consequently, less waiting time for vehicles at the border between Germany and Austria. Nonetheless, the Czech Republic has been more pro-active, via campaigns, in meeting the guidelines on reducing demand as prescribed by the UN Protocol than either Poland or Ukraine, despite its non-membership to the convention.

As has been shown in the previous chapter on normative factors, collaboration with NGOs seems to contribute to a country’s implementation of norms on human
trafficking and human rights. The above analysis on information campaigns has shown that both the Czech Republic and Poland have made considerable effort in this respect and this has most likely had a positive contribution to their lower prevalence of human trafficking incidences as opposed to Ukraine, which has not propagated these campaigns extensively. Furthermore, again, the collaboration between NGOs and government, indicates that this is an important means of implementing human rights norms throughout society, particularly the young adult population.

Social attitudes and the legislative framework on domestic violence, rather than rape, seem to correlate with the prevalence of human trafficking, as well. The Czech Republic and Poland have increased their efforts to deal with violence against women and their actions have no doubt been helped by the presence of women’s NGOs in the country.47 Concurrently, they have been ranked by the United Nations as having a less extensive problem with human trafficking than Ukraine.

However, Ukraine can still take greater action in diminishing abuse against women, such as criminalizing domestic violence and abolishing the provocative clause, which lays blame on the victim. These actions do not require the presence of NGOs, nor expenditure on the part of the government, but they would be a step closer to meeting international norms in this human rights issue.

47 For an overview of the NGOs in each country, see Appendix H, I, and J.
Chapter 7

CONCLUSION

Conclusion

This thesis has set out to examine how the Czech Republic, Poland, and Ukraine have implemented international norms on combating human trafficking and what specific factors have either helped or impeded this process. The three case studies’ efforts in implementing these norms can indicate their level of commitment to protecting human rights. The case studies were chosen specifically because, while the three became democracies at the same time, their progress in implementing human rights norms within their societies has varied.

The author has also sought to determine the extent to which international human rights regimes influence human rights norm implementation in transitional democracies. The new wave of democratic states worldwide has made the study of norm implementation a more salient issue in international relations. Understanding how norms are implemented in transitional democratic states can shed light on the behavior of these states. It can also help established democracies promote democratic principles in transitional democracies in a way that avoids conflict. Ultimately, if both state and non-state actors understand the process of human rights norm implementation, they may be more effective in propagating protection of human rights worldwide.

The study of human trafficking in women for the purposes of sexual exploitation is likewise a relevant topic in international relations, particularly in the area of human rights. It has become much more problematic in Eastern Europe since the fall of
Communism. Thus, determining the areas where the three post-Communist case studies excel and where they falter in their fight against human trafficking can allow both national and international decision-makers to adjust policies and strategies so as to be more effective in combating this transnational crime.

In an effort to determine which democratic institutions have impacted these countries’ norm implementation relating to human trafficking, this study has focused on three aspects related to fighting this crime, as outlined in the UN Protocol. They are as follows: the criminalization of human trafficking, assistance and protection of the victim, and prevention of human trafficking. The way the three countries handled these different aspects of human trafficking was analyzed through legislative actions, the role of NGOs and international regimes, and economic conditions. The role of each factor in determining the countries’ norm implementation was based on whether they related to the prevalence of human trafficking in each country. For example, if a case study demonstrated superior efforts in combating human trafficking in the legislative area and likewise had the lowest prevalence of human trafficking among the three case studies, then this legislative factor would show a correlation and thus be termed significant as an indicator of human trafficking norm implementation.

The overall analysis itself shows that the Czech Republic and Poland have fared much better than Ukraine in their implementation of norms on human trafficking. The factor that seems to most influence the extent of anti-trafficking norm implementation is the underlying economic condition of each country. The activities of NGOs and government cooperation with these organizations, and the role of regional
intergovernmental organizations, such as the European Union in this case, also emerged as significant influences. The impact of international human rights regimes seems more minimal on these countries’ anti-trafficking norm implementation.

As mentioned above, one of the major determinants of how these countries have implemented international norms related to human trafficking appears to be their differing economic situations. It is important to note that since the fall of Communism, both Poland and the Czech Republic have had a better rate of economic growth than Ukraine. According to the UN Human Development Ranking, Ukraine is ranked lower than the other two countries, which means that it has experienced less socio-economic progress. One of the results of Ukraine’s inadequate financial resources has been its inability to financially support NGOs. The “on the ground” activities of these organizations appears to be instrumental not only in assisting the human trafficking victim, but also reducing human trafficking through various educational campaigns and other methods. Thus, the lack of direct funding to NGOs by the Ukrainian government has meant fewer shelters for victims, and a generally inferior quality of the services that are provided.

Ukraine’s poor economic conditions can likewise be linked to its higher level of corruption, in the form of bribery, as compared to either the Czech Republic or Poland. Research has shown a correlation between poverty and corruption because corruption can promote unfair income distribution, discourage foreign and domestic investment, and can weaken political institutions and infrastructure, among other effects.
Ukraine’s high level of corruption appears to have negatively impacted the implementation of human trafficking norms in this country. If judges in Ukraine can be easily bribed by traffickers on trial and if these judges are immune from prosecution, according to Ukrainian law, then this can lower the conviction rate of human traffickers and hinder effective prosecution of human trafficking cases. The analysis of conviction rates shows that this has been the case. Human traffickers convicted in Ukraine seldom have to actually serve out their sentences. While this low punitive enforcement also applies to both the Czech Republic and Poland, the higher corruption in Ukraine’s judiciary system may prove to be a more substantive barrier to ultimately enforcing punitive measures, as compared to the other two case studies.

The poor economic situation in Ukraine not only seems interlinked with more corruption, but also appears to result in women having fewer economic opportunities to make a decent standard of living. Research on human trafficking has shown that such a lack of opportunity for women can make them more vulnerable to becoming victims of human trafficking. Government efforts to improve economic opportunities for women and bring them out of poverty can thus ultimately prevent human trafficking.

More economically prosperous nations seem to have more success in implementing anti-trafficking norms. This study has shown that the Czech Republic, where women have greater opportunity to earn a decent living, whether through higher education or being viewed as valued contributors in the workplace, appear to have a better record of protecting trafficking victims, implementing regulations on violence against women, supporting women’s NGOs, and enacting equal employment legislation.
The situation is similar in Poland, although to a lesser degree, since women are more likely to seek jobs abroad due to the country’s high unemployment in general. Women in Poland also experience more patriarchal attitudes in the labor market, such as being unable to work in jobs that require heavy lifting. These somewhat discriminatory labor conditions could partly be due to the strong influence of the Catholic Church.

The situation of women in Ukraine stands out precisely because more education does not result in more job opportunities. In fact, generally, Ukrainian women, regardless of their education, are at an economic disadvantage compared to their counterparts in the Czech Republic and Poland. The lack of economic improvement explains the country’s prevalence of human trafficking as being the highest out of the three case studies. In sum, poor economic conditions appear to negatively affect the implementation of human trafficking norms. In the case of Ukraine, a poor economy seems to have hindered its norm implementation process.

Direct government funding of NGOs can greatly promote the direct activities of NGOs themselves, which seems to help implement human rights norms within societies. NGOs assist human trafficking victims through the provision of psychological counseling, legal aid, and shelters. This study has shown that government collaboration with NGOs is another significant factor that seems to be important in the actual implementation of these norms. The work of these organizations is affected by the case studies’ economic means, since direct governmental funding of NGOs seems to indicate more effective norm implementation, as has shown to be the case in the Czech Republic. The Czech Republic has funded NGOs for the past ten years, with several notable
contributions to NGOs in those years. In conjunction, its efforts to combat human trafficking tend to be more impressive than those of the other two case studies. Poland has contributed more directly only within the past few years, whereas Ukraine relies mostly on international NGOs, with the government itself providing very little direct financial support. It appears that the countries that directly fund NGOs, such as the Czech Republic and to a lesser extent, Poland, seem to be more successful in implementing norms related to assisting the human trafficking victim.

NGOs also contribute to the prevention of human trafficking through educational campaigns and government collaboration. In particular, in-school campaigns, as supported by the government, appear to be effective in implementing anti-trafficking norms. These campaigns often target young people, who tend to be more open to learning new concepts, including human rights, and passing them on to others as they get older.

Both the Czech Republic and Poland have been more active in promoting such in-school campaigns. Poland’s actions in changing the national grade school curricula to include human rights education is especially commendable. This higher level of campaign activity in both the Czech Republic and Poland, as opposed to Ukraine, further correlates with their lower prevalence of human trafficking. The work of NGOs and government collaboration with these organizations thus seems to be indicative of more effective anti-trafficking norm implementation.

In addition to factors such as economic conditions and NGOs, this thesis also examined international human rights regimes and how influential they are in the
implementation of human rights norms on a national level in transitional democracies. The surprising finding is that international human rights regimes do not seem to play an important role in these countries’ domestic implementation of international norms. The state-party status pertaining to the UN Protocol and other conventions, such as CEDAW, has not been shown in this study to be highly influential.

Ukraine has adamantly signed on to various international treaties and regimes dealing with human rights. Likewise, it has most steadfastly followed the reporting mandates of CEDAW as compared to either Poland or the Czech Republic. Yet, the Ukrainian government appears to have the greatest difficulty in implementing these norms, at least in the areas of human trafficking and gender rights. In contrast, the Czech Republic’s record appears to be much more successful in implementing these anti-trafficking norms, despite the Czech government’s refusal so far to sign the UN Protocol, as well as its inconsistent report submissions to CEDAW.

The low influence of international human rights regimes, as opposed to the countries’ economic conditions and the activities of NGOs, could be attributed to the fact that these conventions are in human rights. As other theories have already related, human rights regimes are themselves usually weak, and often have no authority. Thus, states may be less willing to take proactive steps to actually implement human rights norms.

This applies to the case of the UN Protocol. While exemplary for bringing greater attention to the issue of human trafficking worldwide, it has no enforcement or sanctioning power. Rather, it can only recommend or suggest. Secondly, it was created as a result of governments’ concerns with national security issues, including migration
and the increase in transnational criminal networks (Chuang 2006). Its purpose therefore includes opening communication and cooperation between national law enforcement authorities and to help in legal matters. Thirdly, its guidelines for preventing human trafficking, such as campaigns, are quite general and broad, and so concrete actions are not outlined or mandated. In addition, states are asked to consider implementing measures to help in a trafficked person’s physical and psychological recovery, but there is no specific obligation required (Chuang 2006). Ultimately, the UN Protocol is an ineffective convention when it comes to enforcing its guidelines. “For many nations, the signing and ratification of these treaties is an act of good will and nothing more. There is virtually no pressure on countries to follow through with treaty obligations, thus relying on the international community and their internal commitment to human rights. This reflects a reluctance of signatory countries to pursue claims on behalf of trafficking victims—an unpopular group” (Twitty 2003, p. 131). Out of the three case studies, Ukraine certainly belongs to the aforementioned category of states whose signatory status to the UN Protocol is basically just a display of good intentions to the international community, rather than strong government actions.

Thus, this study has shown that ratification of an international treaty without enforcement measures is not likely to impact domestic actions in norm implementation, nor does it lead a transitional democracy to faithfully ensure democratic principles in its governance. However, this study has also shown to some extent that membership in international governmental organizations (IGOs), particularly well-developed regional ones, does have a concrete impact on the national laws of the member country, if
membership is conditional on law harmonization and the IGO has enforcement authority. This is particularly relevant to new democracies.

As has become evident, the Czech and Polish governments have made greater efforts than Ukraine in complying with international norms related to human trafficking, particularly in improving their immigration laws and providing the trafficking victim with a reflection period. The improvement in these laws corresponds to roughly the same time period when these countries became members of the EU (in 2004). Obtaining the benefits of EU membership meant adjusting national laws and committing to economic and political liberalization in order to meet the standards set by the EU (Mansfield and Pevehouse 2006). Therefore, entrance into this type of organization can “help leaders in transitional states credibly commit to carry out democratic reforms” (Mansfield and Pevehouse 2006, 137). It appears that this was the case for both the Czech Republic and Poland when they adjusted their national laws.

However, membership in an IGO is not enough to change domestic policy. The EU has helped both the Czech Republic and Poland commit to reform because of the presence of specific conditions imposed on these new members and the costs associated with deviating from the norms set by this IGO, including the loss of the members’ international reputation. The EU also has actively “enforced its terms of membership” (Mansfield and Pevehouse 2006, 143). Furthermore, the EU is a regional organization that is originally composed of highly democratic states, which means that it is “especially effective at promoting democracy and assisting in its consolidation” (Mansfield and Pevehouse 2006, 143).
Likewise, domestic policy change is influenced more by joining international organizations, including IGOs such as the EU, because this membership has been viewed in Central and Eastern Europe as an “important signal to the mass publics and a key means to lock in democratic institutions” (Mansfield and Pevehouse 2006, 144). As new democracies, the Czech Republic and Poland would experience negative repercussion, both nationally and internationally, if there was any shift in implementing the standards set by the EU. In addition, the EU may have been successful in improving the Czech Republic’s and Poland’s norm implementation because these two countries have to some extent already shared the EU’s idea of what is acceptable behavior. Part of this sharing of ideas and existing norms can be attributed to the close proximity of both Poland and the Czech Republic to the other countries of the EU, specifically Germany and Austria. The social and economic interactions that would have taken place since the fall of Communism most likely facilitated the interaction of social ideas, which most likely extended to human rights norms and standards. Thus, the norm implementation of the two EU countries could be attributed to the horizontal reproduction of norms, or in other words, emulation of other state actors and their citizens’ behaviors. This could likewise explain the progressive improvements that seem to have taken place in their fight to decrease human trafficking.

In conclusion, the first hypothesis stated that the three countries would vary in terms of their norm implementation due to economic conditions. This has been shown to be the case. The greatest variance has occurred between the two EU states Czech Republic and Poland and the non-EU member Ukraine. The former two nations appear
to be more successful in implementing international norms related to trafficking in prosecution, prevention, and assistance and protection of victim. However, even the Czech Republic and Poland, along with Ukraine, did not perform significantly better in the area of prosecution due to a lax enforcement in punitive measures.

The study has also confirmed the second hypothesis that ratification of the UN Protocol is less significant in norm implementation than other factors, such as economic, institutional, and social variables. All three countries are members of other significant international organizations, such as the UN, and signatories to important international conventions like CEDAW, which could lead to the assumption that all three then should have the same level of norm compliance, particularly if these IOs are composed primarily of democratic nations (Mansfield and Pevehouse 2006). In fact, if international cooperation as measured through the ratification of treaties and human rights conventions was a determinant of norm implementation, then the Czech Republic should have been least effective in norm implementation given that the government has actually ratified less human rights conventions than Poland or Ukraine. However, this has not been the case and in fact, the Czech government has shown continuous effort to follow international norms in combating human trafficking, oftentimes exceeding the implementation success of the other two case studies.

Finally, international government organizations, such as the EU, that have enforcement capability, have greater impact on domestic change as opposed to

48 According to one study, “states that had been ruled by communist governments enter IOs at a rate about 80 percent higher than other states, once these governments fall from power” (Mansfield and Pevehouse 2006, 153).
international treaties or conventions, which often lack authority to enforce their recommendations. This confirms the third hypothesis.

**Recommendations**

The implementation of human rights norms is complex and is affected by external and internal actors, as well as historical and social forces. The problem of human trafficking is becoming more complicated and multifaceted, with roots in socio-economic and gender inequalities, and its inherent hidden nature makes it more difficult for states to effectively combat this transnational crime. The first step toward preventing human trafficking is to improve economic opportunities for women. This requires that the governments provide equal opportunity for women in the labor market. For example, they should increase their monitoring of discriminatory hiring practices and sexual harassment behavior in the workplace and actively enforce punishment, in the form of fines or other means, on companies that are found to engage in these practices. In addition, the Ukrainian government should perhaps set up a system of affirmative action in the labor market so that women, especially those with a higher education, actually have a greater opportunity to attain a higher paying job. This would certainly improve the ability for a woman to earn a livable wage and so become less susceptible to being trafficked.

Although preventing human trafficking should certainly be a primary focus for these countries, they should likewise concentrate on more enforcement of punitive measures so that human trafficking perpetrators actually serve their full sentences. In
addition, each country should work to increase the timely processing of court cases and improve the level of corruption in their judiciary system. Particularly in Ukraine, the government should establish a law that would allow prosecution of judges for illegal behavior and more closely monitor unethical practices, such as the taking of bribes, and enforce punishment of these activities.

The strategies of each of the countries must also continue to focus on assisting and protecting the victim by getting her out of her coerced situation, helping her either stay in the destination country and providing social benefits and integration, or repatriating her to her homeland if that is her wish. This is especially applicable to Ukraine, who should enact legislation that would provide a reflection period for the trafficking victim that would allow her to stay in the country for a certain amount of time and decide whether to cooperate with law enforcement. As to the Czech Republic and Poland, although they provide this benefit, they should do so regardless of whether the victim chooses to cooperate with law enforcement.

Focusing on the victim also means providing counseling to help her deal with this traumatic experience. This requires an adequate number of shelters within the country—an issue that all three countries need to improve. It is important that the Czech Republic and Poland continue their collaboration with NGOs to assist the victim and prevent human trafficking through educational campaigns. This includes maintaining and even increasing direct funding of NGOs so that these organizations can continue to carry out their activities in combating human trafficking. For Ukraine, more direct government allocation to NGOs that deal with human trafficking is likewise highly recommended. In
addition, it would be conducive for Ukraine to improve training of staff that work in NGOs and social service centers so as to better the coordination and communication among these agencies.

Recommendations for the three case studies apply not only to the national action level, but pertain to the international realm. This study has shown that membership in a regional intergovernmental organization, such as the EU, can positively impact the implementation of human rights norms. It seems likely, then, that transitional democracies may in general benefit from membership in IOs that have enforcement capability. Membership in a financially prosperous and established IO would especially benefit Ukraine. Financial support and investment could help the Ukrainian government and its local NGOs assist trafficking victims. Most importantly, the flow of financial resources into Ukraine could improve the country’s infrastructure, such as the schooling system as well as the labor market opportunities for women, which could ultimately help in preventing women from being trafficked in the first place.

Aside from membership in IOs, the formation of a cultural community appears to be important in states accepting norms, again, similar to the case of the Czech Republic’s and Poland’s historical and cultural ties with the West. Older democracies strive to engage in diplomacy and communication with new democracies in order to increase the sense of cultural and social connection with these states. Although this is more of a long-term strategy, this study has shown that the act of norm implementation on a national level is in itself a very long process. Even twenty years after the fall of Communism, all
three of the countries still have room for improvement in implementing anti-trafficking and human rights norms.

Although human trafficking is quite complex, with focused and diligent effort, on a national and international scale, this transnational crime can be combated, thus helping the victims who have already been trafficked and preventing others from ever experiencing this human rights violation.
APPENDIX A

UN PROTOCOL TEXT

Annex II

Protocol to Prevent, Suppress and Punish
Trafficking in Persons, Especially Women
and Children, supplementing the
United Nations Convention against
Transnational Organized Crime

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,
Have agreed as follows:

I. General provisions


1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2. Statement of purpose

The purposes of this Protocol are:

(a) To prevent and combat trafficking in persons, paying particular attention to women and children;
(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
(c) To promote cooperation among States Parties in order to meet those objectives.

Article 3. Use of terms

For the purposes of this Protocol:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons”
even if this does not involve any of the means set forth in subparagraph (a) of this article;
(d) “Child” shall mean any person under eighteen years of age.

Article 4. Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5. Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
   (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
   (b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
   (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6. Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
   (a) Information on relevant court and administrative proceedings;
   (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for
the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
(a) Appropriate housing;
(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
(c) Medical, psychological and material assistance; and
(d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7. Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8. Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9. Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:
   (a) To prevent and combat trafficking in persons; and
   (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10. Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States
Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with nongovernmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

**Article 11. Border measures**

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12. Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:
(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13. Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14. Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention1 and the 1967 Protocol2 relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of nondiscrimination.

Article 15. Settlement of disputes
1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.  
2Ibid., vol. 606, No. 8791.  
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.  
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.  
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.  

Article 16. Signature, ratification, acceptance, approval and accession  

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.  
2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.  
3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.  
4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-
General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17. Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18. Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of
ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19. Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20. Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.
APPENDIX B

CRIMINAL CODE OF THE CZECH REPUBLIC

(excerpts)


(...)

Article 204

(1) Whoever engages, forces or lures another person to carry out prostitution or profits from prostitution carried out by another person, shall be punished by imprisonment for a term of three years.

(2) Whoever commits such act as defined in paragraph 1 shall be sentenced to imprisonment for a term of two to eight years in case he made use of violence or threat or other violent means or if the person abused is in a dependent position in the relation to him/her.

(3) Two to eight years of imprisonment shall be served by a person

a) who gains a substantial profit from the acts defined in paragraph 1 or 2,

b) who commits the act as a member of an organized group; or

c) who commits the act on a person younger than eighteen years.

(4) The imprisonment of five to twelve years shall be served by a perpetrator who has committed the act defined in paragraph 2 on a person younger than fifteen years.

(...)

Article 232a (as amended by the Act No. 537/2004)

Trafficking in Human Beings

1) Whoever induces, engages, hires, lures, transports, hides, detains or delivers a person under 18 years of age to be used

a) for sexual intercourse or other forms of sexual molestation or exploitation,
b) for slavery or servitude, or

c) for forced labour or other forms of exploitation, shall be punished to imprisonment for two to ten years.

2) In the same manner will be punished whoever by means of the use of force, threat of force, deception or abuse of his mistake, stress or dependence induces, engages, hires, lures, transports, hides, detains or delivers another to be used

a) for sexual intercourse or other forms of sexual molestation or exploitation,

b) for slavery or servitude, or

c) for forced labour or other forms of exploitation.

3) Offender shall be punished by imprisonment of five to twelve years,

a) if he commits the crime stated in Article 1 or 2 as a member of an organised group,

b) if he exposes another by such act to danger of an aggravated bodily harm or death,

c) if he commits such act with the intent of obtaining a substantial gain, or

d) if he commits such act with the intent of using another for prostitution.

4) Offender shall be punished by imprisonment of eight to fifteen years,

a) if he causes by the crime stated in Article 1 or 2 an aggravated bodily harm, death or another particularly grave consequence,

b) if he commits such act with the intent of obtaining a gain of large scope, or

if he commits such act in connection with an organised group operating in more countries.

**Article 233**

(1) Whoever entices another person abroad shall be punished by imprisonment for a term of three to eight years.

(2) The perpetrator shall be punished by imprisonment for a term of five to twelve years.
a) if he/she commits the crime defined in paragraph 1 as a member of an organized group,

b) if he/she commits such act on a person younger than eighteen years or a person suffering from a mental disease or disorder; or

c) if the act results in a severe damage to the health of the victim, his death or another severe consequence.

(...)

Chapter XXIII Offences Against Liberty

Article 189.

§ 1. Whoever deprives a human being of their liberty shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

§ 2. If the deprivation of liberty exceeded longer than seven days, or was coupled with special torment, the perpetrator shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

Article 190.

§ 1. Whoever makes a threat to another person to commit an offence detrimental to that person or detrimental to his next of kin, and if the threat causes in the threatened person a justified fear that it will be carried out shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§ 2. The prosecution shall occur on a motion of the injured person.

Article 191.

§ 1. Whoever uses force or an illegal threat with the purpose of compelling another person to conduct himself in a specified manner, or to resist from or to submit to a certain conduct shall be subject to the penalty of deprivation of liberty for up to 3 years.

(...)

Chapter XXV Offences against Sexual Liberty and Decency
Article 197.

§ 1. Whoever, by force, illegal threat or deceit subjects another person to sexual intercourse shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

§ 2. If the perpetrator, in the manner specified in § 1, makes another person submit to other sexual act or to perform such an act, he shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

§ 3. If the perpetrator commits the rape specified in § 1 or 2, with particular cruelty, or commits it in common with other person, he shall be subject to the penalty of the deprivation of liberty for a term of between 2 and 12 years.

Article 198.

Whoever, taking advantage of the vulnerability of another person, or of the lack of ability to recognise the significance of the act or ability to control his/her conduct, resulting from mental disability or disorder, subjects such a person to sexual intercourse or makes him/her submit to another sexual act or to perform such an act shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

Article 199.

Whoever, abusing a relationship of dependence or by taking advantage of a critical situation, subjects such a person to sexual intercourse or makes him/her submit to another sexual act or to perform such an act shall be subject to the penalty of deprivation of liberty for up to 3 years.

Article 200.

§ 1. Whoever subjects a minor under 15 years of age to sexual intercourse or makes him/her submit to another sexual act or to perform such an act shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

Article 203.

Whoever, by force, illegal threat or deceit, or by abusing a relationship of dependence or by taking advantage of a critical situation, subjects another person to practice prostitution shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

Article 204.
§ 1. Whoever, in order to derive a material benefit, induces another person to practice prostitution or facilitates it, shall be subject to the penalty of deprivation of liberty for up to 3 years.

§ 2. Whoever derives material benefits from prostitution practiced by another person shall be subject to the penalty specified in § 1.

§ 3. If the person specified in § 1 or 2 is a minor, the perpetrator shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

§ 4. The punishment specified in § 3 should be imposed on anyone who entices or abducts another person with the aim of having him/her engage in prostitution abroad.

Article 205.

The prosecution of the offence specified in Article 197 or 199, as well as in Article 198, unless the condition of the victim specified in this provision is a result of a permanent mental disorder, shall occur on a motion of the injured person.

(...)

Chapter XXXII Offences against Public Order

Article 253.

§ 1 Whoever is trading in persons even with their consent, shall be subject to the penalty of the deprivation of liberty for a minimum term of 3 years.

(...)
Chapter III – Criminal Offences Against Liberty, Honour and Dignity of a Person

Article 146 – Illegal confinement or abduction of a person

1. Illegal confinement or abduction of a person, –

shall be punishable by restraint of liberty for a term up to three years, or imprisonment for the same term.

2. The same acts committed in regard of a minor, or for mercenary purposes, or in regard of two or more persons, or by a group of persons upon their prior conspiracy, or by a method dangerous to the victim’s life or health, or causing bodily suffering to him or her, or with the use of weapons, or within a lasting period of time, –

shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.

3. Any such acts as provided for by paragraph 1 or 2 of this Article, where committed by an organized group, or where they caused any grave consequences, –

shall be punishable by imprisonment for a term of five to ten years.

(...)
is punishable by deprivation of liberty for a term of three to eight years.

2. Any such actions as provided for by paragraph 1 of this Article, committed in respect to a minor (up to 18 years of age) [1] or perpetrated upon two or more persons, or repeatedly, or by a group of persons with prior conspiracy, or by an official through the abuse of authority, or by a person upon whom the victim was dependent materially or otherwise, or committed in combination with violence that is not endangering life or health of the victim or his/her close relatives,[2] or in combination with threats of such violence -

is punishable by deprivation of liberty for a term of five to twelve years, with or without the forfeiture of property.

3. Any such actions as provided for by paragraphs 1 or 2 of this Article, committed in respect to a minor (up to 14 years of age), or by an organized group, or if committed in combination with violence that is endangering life or health of the victim or his/her close relatives, or in combination with threats of such violence or committed by an organized group, or if causing grave consequences, -

are punishable by deprivation of liberty for a term of eight to fifteen years, with or without the forfeiture of property.

Note 1. Exploitation of a person in this Article shall be understood as: all forms of sexual exploitation, use in porno business, forced labour or services; slavery or practices similar to slavery, servitude, involvement in debt bondage, extraction of organs, experimentation over a person without his/her consent, adoption for commercial purposes, forced pregnancy, involvement into the criminal activity, use in armed conflicts, etc.

Note 2. Vulnerable condition of a person in the Articles 149 and 303 of this Code shall be understood as: the status of a person, due to his/her physical or mental peculiarities or external conditions, that divests or abridges his/her ability to comprehend his/her commission or omission of an act or to manage his/her actions, to make his/her own decisions according to his/her will, to maintain adequate resistance to violent or other illegal actions, as well as concourse of severe personal, family or other circumstances.

Note 3. Responsibility for recruitment, transportation, harbouring transfer or receipt of a minor (up to 14 or 18 years of age) according to this Article shall be fixed whether or not such actions were committed with use of deceit, blackmail, or the use of vulnerable condition of a minor, or use or threat of violence, through the abuse of authority or by a person upon whom the victim was dependent materially or otherwise.

**Article 150 – Exploitation of children**
1. Exploitation of children, who are under legally employable age, by way of profit-seeking employment, –

shall be punishable by arrest for a term up to six months, or restraint of liberty for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

2. The same actions committed in regard of several children, or where they caused significant harm to health, physical development or educational level of a child, or accompanied with the use of children labor in hazardous production, –

shall be punishable by imprisonment for a term of two to five years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

Chapter IV – Crimes against Sexual Freedom and Sexual Inviolability of a Person

Article 152 – Rape

1. Rape, that is sexual intercourse combined with violence, threats of violence, or committed by taking advantage of the victim’s helpless condition, –

shall be punishable by imprisonment for a term of three to five years.

2. Rape, where it was repeated, or committed by a person who previously committed any of the offences provided for by Articles 153 to 155 of this Code, –

shall be punishable by imprisonment for a term of five to ten years.

3. Rape committed by a group of persons, or rape of a minor, –

shall be punishable by imprisonment for a term of seven to twelve years.

4. Rape which caused any grave consequences, and also rape of a young child, –

shall be punishable by imprisonment for a term of eight to fifteen years.

Article 153 – Violent unnatural gratification of sexual desire

1. Violent unnatural gratification of sexual desire combined with physical violence, or threats of violence, or committed by taking advantage of the victim’s helpless condition, –
shall be punishable by imprisonment for a term up to five years.

2. The same act, if repeated, or committed by a group of persons, or by a person who previously committed any of the offences provided for by Articles 152 or 154 of this Code, and also committed in regard of a minor, –

shall be punishable by imprisonment for a term of three to seven years.

3. The same act committed in regard of a young child, where it caused especially grave consequences, –

shall be punishable by imprisonment for a term of eight to twelve years.

**Article 154 – Compulsion to sexual intercourse**

1. Compulsion of a female or male to natural or unnatural sexual intercourse by a person on whom such female or male is financially or officially dependent, –

shall be punishable by a fine up to 50 tax-free minimum incomes, or arrest for a term up to six months.

2. The same actions accompanied with threats to destroy, damage or seize property of the victim or his/her close relatives, or to disclose information defaming the victim or his/her close relatives, –

shall be punishable by arrest for a term up to six months, or restraint of liberty for a term up to three years.

**Article 155 – Sexual intercourse with a sexually immature person**

1. Sexual intercourse with a sexually immature person, –

shall be punishable by restraint of liberty for a term up to three years or imprisonment for the same term.

2. The same actions committed by a parent or surrogate parent, or where they caused sterility or other grave consequences, –

shall be punishable by imprisonment for a term of three to five years.

**Article 156 – Debauchery of minors**

1. Debauched actions committed in regard of a person under 16 years of age, –
shall be punishable by arrest for a term up to six months, or restraint of liberty for a term up to three years.

2. The same actions committed in regard of a young child, or by a parent or surrogate parent, –

shall be punishable by restraint of liberty for a term up to five years, or imprisonment for a term up to three years.

(...)

Chapter XII – Criminal Offences against Public Order and Morality

Article 302 – Creating or running brothels and trading in prostitution

1. Creating or running brothels, and also trading in prostitution,

shall be punishable by a fine up to 50 tax-free minimum incomes, or restraint of liberty for a term up to two years.

2. The same actions committed for gainful purposes, or by a person previously convicted of this offense, or by an organized group, –

shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.

3. Any such acts as provided for by paragraph 1 or 2 of this Article, if committed by engaging a minor, –

shall be punishable by imprisonment for a term of two to seven years.

Article 303 – Pimping or involving of a person into prostitution

1. Involving or forcing a person into prostitution by fraud, blackmail, or by taking advantage of the vulnerable status of this person or by force or under the threat of using force, or pimping –

shall be punishable by a 3 to 5 year’s jail term.

2. Actions provided by Part 1 of this Article and committed with regard to several persons or repeatedly, or subject to prior group collusion by several persons, or by an
employee who took advantage of his/her official position, or by a person on whom the victim was materially or otherwise dependent –

shall be punishable by a 4 to 7 year’s jail term.

3. Actions provided by Part 1 or 2 of this Article an committed with regard to a minor, or by an organized group –

shall be punishable by a 5 to 10 year’s jail term with or without the seizure of property.

4. Actions provided by Part 1, 2 or 3 of this Article and committed with regard to a minor, or if they have brought about grave consequences –

shall be punishable by a 8 to 15 year’s jail term with or without the seizure of property.

Note 1. For the purposes of this Article, pimping shall mean a person’s actions aimed at facilitating another person’s involvement in prostitution.

Note 2. Under this Article, the responsibility for involving a juvenile or a minor in prostitution shall arise regardless of whether or not such actions have been carried out by fraud, blackmail, or by taking advantage of the vulnerable status of the above-said persons or by force or under the threat of using force, by using one’s official position, or by a person on whom the victim was materially or otherwise dependent.

**Article 304 – Engaging minors in criminal activity**

Engaging minors in criminal activity, drinking alcohol, begging, or gambling, –

shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.

(...)
## APPENDIX E
### CZECH LEGISLATION

<table>
<thead>
<tr>
<th>LEGISLATION</th>
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<tbody>
<tr>
<td><strong>PRIMARY LEGISLATION</strong></td>
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<tr>
<td>Act No. 326/1999 on the Residence of Aliens in the Territory of the Czech Republic</td>
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<tr>
<td>Act No. 137/2001 on the Special Protection of Witnesses and other Persons in Connection with Criminal Proceedings</td>
<td>2001</td>
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<tr>
<td><strong>SECONDARY LEGISLATION</strong></td>
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<tr>
<td>National Strategy to Combat Trafficking in Human Beings</td>
<td>(2008-2011)</td>
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<tr>
<td>Ministry of Interior, Guidelines: Program of Support and Protection of Victims of Trafficking in Human Beings and Its Institutional Support</td>
<td>2005</td>
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<tr>
<td><strong>OTHERS</strong></td>
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<tr>
<td>Ministry of Interior, 2005 Status Report on Migration in the Czech Republic</td>
<td>2006</td>
</tr>
<tr>
<td>Permanent Mission of the Czech Republic to the OSCE, Trafficking in Humans: National Report on the Situation in the Czech Republic</td>
<td>2002</td>
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Source: www.legislationline.org
## APPENDIX F

### POLISH LEGISLATION

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<td>Constitution</td>
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<td>Criminal Code</td>
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<td>Criminal Procedure Code</td>
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<tr>
<td>Act on Aliens</td>
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<tr>
<td>Act on Granting Protection to Aliens within the Territory of the Republic of Poland</td>
<td>2003</td>
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<td><strong>SECONDARY LEGISLATION</strong></td>
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<tr>
<td>2007-2008 National Program for Combating and Preventing Trafficking in Human Beings</td>
<td>2007-2008</td>
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<td><strong>OTHERS</strong></td>
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<tr>
<td>National Coordination of the Fight against Trafficking in Human Beings: Recommendations for Poland as a New EU Member State</td>
<td>2006</td>
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<tr>
<td>National Program of Fighting and Prevention of Trafficking in People for 2005-2006</td>
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<tr>
<td>National Program of Fighting and Prevention of Trafficking in People</td>
<td>2002</td>
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Source: www.legislationline.org
# APPENDIX G

## UKRAINIAN LEGISLATION

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<td>Law on Social Services</td>
<td>2003</td>
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<td>Criminal Code</td>
<td>2001 as amended 2006</td>
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<td><strong>SECONDARY LEGISLATION</strong></td>
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<tr>
<td>Decree on Approving the State Program on Combating Trafficking in Human Beings for the Period until 2010</td>
<td>2007</td>
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<tr>
<td>Governmental Decree on Enactment of the Complex Program on Anti-Trafficking in Human Beings 2002-2005</td>
<td>2002</td>
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<tr>
<td>Presidential Decree No. 509 on the Concept of Reforming the System of Free Legal Aid in Ukraine</td>
<td>2006</td>
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<tr>
<td>Governmental Resolution on the Establishment of the Interagency Coordinating Council for Combating Trafficking in Human Beings</td>
<td>2002</td>
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<td><strong>CASE-LAW</strong></td>
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<tr>
<td>Supreme Court Decree on the Rights of Victims of Crime</td>
<td>2004</td>
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<tr>
<td><strong>OTHERS</strong></td>
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<tr>
<td>Guidelines on Trafficking in Human Beings for the Criminal Justice Chain in Ukraine</td>
<td>June 2006</td>
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<tr>
<td>Trafficking in Ukraine – An Assessment of Current Responses (Part I)</td>
<td>2005</td>
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<td>Trafficking in Ukraine – An Assessment of Current Responses (Part II)</td>
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Source: [www.legislationline.org](http://www.legislationline.org)
APPENDIX H

NGOS IN THE CZECH REPUBLIC

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<th>Women's NGOs providing support to the victims of violence</th>
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<tr>
<td>proFem, o.p.s.</td>
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<tr>
<td>consultation centre for women’s projects</td>
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<tr>
<td>ROSA- Information and Counseling Center for Battered Women</td>
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<tr>
<td>Advice Center for Women in Emergency-</td>
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<tr>
<td>Bridge to Life</td>
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<td>ELPIS- Christian Counseling Center</td>
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<td>EVA- Advice Center for Women and Girls in Need</td>
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<tr>
<td>Koordona: Coalition of Organizations Against Domestic Violence</td>
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<td>Magdala: Project of the Czech National Charity</td>
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<td>Psychosocial Centre Acorus</td>
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<td>White Circle of Safety</td>
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<tr>
<th>Women’s NGOs providing support to Victims of Trafficking and Sexual Assault</th>
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<tr>
<td>Bliss without Risk</td>
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<tr>
<td>Elektra- Centre of Help to Women Abused in Childhood</td>
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<td>La Strada</td>
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<th>Gender and Science NGOs</th>
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<td>Gender and Sociology- Sociological Institute of Academy of Sciences</td>
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<td>Gender Center- Faculty of Social Studies, Masaryk University</td>
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<td>Gender Studies Centre: Gender Studies, Philosophical Faculty, Charles University</td>
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### Other NGOs, clubs, and associations working with women

<table>
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<th>Organization</th>
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<tr>
<td>Altisa International network</td>
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<td>Aperio- Healthy Parenting Association</td>
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<tr>
<td>Association for Equal Opportunities of Men and Women</td>
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<tr>
<td>Association of Businesswomen and Managers in the CR</td>
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<tr>
<td>Association of South Czech Mothers</td>
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<tr>
<td>Association of Women and Men Self-Bread-Winners, their Children, and Teenagers</td>
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<td>Commission of Women at Ecumenical Council of Churches</td>
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<td>Club of Christian Women</td>
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<td>Czech Association of Doulas</td>
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<td>Czech Women’s Union</td>
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<td>Government Council for Human Rights- Committee for Elimination of All Forms of Discrimination Against Women</td>
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<td>Jantar- Civic Association for Women after Breast Ablation</td>
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<td>Movement for Active Motherhood</td>
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<td>NESEHNUTI Brno (Independent Social Ecological Movement)</td>
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<td>Slovak-Czech Women’s Fund</td>
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<td>The NGO Slovo 21- The Roma Women’s Group Manushe</td>
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<td>Women’s Forum</td>
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<tr>
<td>YWCA in the Czech Republic- Young Women’s Christian Association</td>
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## APPENDIX I

### NGOS IN POLAND

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<td>Federacja Organizacji Sluzebnych Na Rzecz Kobiet i Ich Rodzin &quot;VICTORIA&quot;</td>
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<td>Fundacja Centrum Promocji Kobiet</td>
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<td>Klub &quot;Kobieta 2000&quot;</td>
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<td>Kobiety Tez, grupa nieformalna</td>
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<td>La Strada Foundation Poland</td>
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<td>Liga Kobiet Polskich</td>
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<td>Lubuskie Stowarzyszenie na rzecz Kobiet BABA</td>
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<td>Slaskie Centrum Równych Szans</td>
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<td>Stowarzyszenie Kobiet Konsola</td>
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<td>Stowarzyszenie Współpracy Kobiet NEWW - Polska</td>
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<td>The Women's Rights Center</td>
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<td>Towarzystwo Interwencji Krzysowej</td>
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<td>Women's Foundation eFKa</td>
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Source: Advocates for Human Rights, Project Stop Violence Against Women
APPENDIX J

NGOS IN UKRAINE

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<td>&quot;Chayka&quot; Center for Support of Public Initiatives</td>
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Source: Open Society Institute, Stop Violence Against Women Report 2007
## APPENDIX K

### FREEDOM HOUSE RATINGS

#### Freedom of the Press - SCORE

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Source: Freedom House

#### Freedom of the Press - STATUS

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Source: Freedom House

#### Electoral Democracy*

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Source: Freedom House

*Yes indicates that a country was considered to be an electoral democracy for that year; No indicates that a country was not.

#### Freedom in the World - Political Rights and Civil Liberties Status

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Source: Freedom House
BIBLIOGRAPHY


_______, “Structural Realism after the Cold War.” International Security 25 no. 3 (Summer 2000): 5-41.

