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What norms become in use: Emergence, clustering, and applications of the child trafficking norm

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子どもの人身取引に関わる規範の出現、クラスター化、適用

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Abstract

Out of 1,2 million yearly victims of child trafficking, only 1 in 10,000 benefits from some sort of redress, despite the adherence of most countries in the world to the United Nations' legally binding Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000). This gap between limited enforcement and the near-universal acceptance of the norm begs the question: why, despite its diffusion in laws, policies and public discourses, does the child trafficking norm seem to have so little effect in protecting victims and in prosecuting traffickers? This article argues that the multitude of concepts bundled together with child trafficking creates a lot of grey noise, which stands in the way of court trials and more efficient anti-child trafficking policies. It brings an original contribution to the study of international relations, by using fieldwork interviews conducted in mainland South-East Asia and the European Union over the course of three years with government, police, justice, civil society, multilateral organizations and businesses, to inform the novel theoretical concept of "norm clustering" developed by Carla Winston in a recent article published by the leading *European Journal of International Relations* (2018). Tracing the dynamic process of creation of the child trafficking norm in the international system, the article provides an analysis of its codification in international law and its difficult operability in national courts. It argues that "child trafficking" should not be read as a single norm, but rather as a cluster of correlate norms, whose boundaries are evolving. This approach, modeled to visualize possible interpretations of the child trafficking norm cluster, provides a more precise explanation for the diffusion of principle-based action, and the multiple "meanings-in-use" (Wiener 2009) reflected in the practices of anti-child trafficking professionnals in the European Union and South-East Asia.

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1. INTRODUCTION

"On any given day in 2016, there were likely to be more than 40 million" people in forced labor, 10 million of them children (International Labour Organization [ILO] 2017, pp. 5, 9), including 1,2 million trafficked children[1] (ILO 2002, p. x). Of those millions of victims, only 1 in 10,000 has in the past two decades seen their traffickers go through trial, despite the existence of a strong global legal norm: 178 countries around the world are party to the legally binding United Nations' Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), commonly known as the Palermo Protocol[2].

This gap between limited enforcement and the near-universal acceptance of the norm begs the question: why, despite its diffusion in laws, policies and public discourses, does the child trafficking norm seem to have so little effect in protecting victims and in prosecuting traffickers? Whilst "trafficking in persons" benefits from a broad uptake and a seemingly solid definition, the norms of "trafficking", "modern slavery", "forced labor", and "exploitation" are invoked either interchangeably, or with fluctuating understandings of their boundaries. The "child trafficking" norm responds to an even more complex architecture, as it interacts with social and legal constructs of childhood and its specific rights, thereby adding to the norms used in conjunction with – or in replacement of – child trafficking. How do these norms coexist and interact? Are they different designations of the same identified problems and core values, or do they respond to fundamentally different orientations?

International norms can be defined as ideas linked to fundamental values or principles, with varying levels of abstraction and precision, which are widely shared between global actors, and command standards of behaviour (Checkel 1999; Finnemore & Sikkink 1998; Khagram et al. 2002, p. 14; Wiener 2009). The Constructivist literature on norms has attempted to theorize the complexity of the role of international norms, their diffusion over time and space, their characteristics, and their intended and unintended applications in context. It has developed rich analyses on the explanatory power (Finnemore 1996; Katzenstein 1996; Tannenwald 1995), providing compelling theoretical models of norm diffusion in terms of norm cascades and tipping points (Finnemore & Sikkink 1998), boomerang effects brought about by civil society organizations (Keck & Sikkink 2014), or spiral models accounting for change and resistance in the localization of norms (Risse et al. 1999). This "first wave" of Constructivist literature, though it examined the dynamic diffusion of norms, treated them as relatively fixed structures constructed by "purposive entities" (Checkel 1998). As such, it couldn't account for the structural change observed in norms (Keck & Sikkink 2014), and in particular, why norms "often fail to attain their intended goals" (Krook & True 2012, p. 106), as is the case with child trafficking. Moving beyond the findings of the "first wave" of Constructivism, a "second wave" has adopted a more critical and reflexive stance on norm life cycles (Krook & True 2012), on norms' meaning-in-use (Wiener 2009), and on processes of localization (Acharya 2004; Risse et al. 2013).

The puzzle of this research lies at the heart of the conceptual confusion around the child trafficking norm, and the Constructivist literature's recent grappling with the conceptual fluidity of norms: the multitude of concepts bundled together with child trafficking creates a lot of grey

noise, which stands in the way of court trials and more efficient anti-child trafficking policies. The concept of "norm clusters", developed by Carla Winston in a recent article published by the leading academic *European Journal of International Relations* (2018), provides an innovative manner of examining the myriad inflections around the trafficking norm and accompanying practices, and explain their correlation in neat terms.

This article brings an original contribution to the field of international relations, by using fieldwork interviews conducted in mainland South-East Asia (SEA) and the European Union (EU) over the course of three years with government, police, justice, civil society, multilateral organizations and businesses, to inform the novel theoretical exercise of norm clustering. Based on the analysis of legal documents, grey literature and over 30 semi-structured interviews, I argue that shifting the angle through which we examine child trafficking, from a single, stand-alone norm to a norm cluster, creates the conditions for a much more accurate and refined understanding of the global trajectories of the child trafficking norm and the complex mechanisms of local uptake. Tracing the emergence of the child trafficking norm in the international system, by focusing on its dynamic process of creation (Krook & True 2012) (Section 2), the article provides an analysis of its codification in international law and its difficult operability in national courts. It argues that "child trafficking" should not be read as a single norm, but rather as a cluster of correlate norms, whose boundaries are evolving (Section 3). This approach, modeled to visualize possible interpretations of the child trafficking norm cluster, provides a more precise explanation for the diffusion of principle-based action, and the multiple "meanings-in-use" (Wiener 2009) reflected in the practices of anti-child trafficking professionnals in the EU and SEA (Section 4).

2. UNPACKING NORMATIVE TRAJECTORIES: THE MULTIPLE FRAMEWORKS OF CHILD TRAFFICKING'S CODIFICATION IN INTERNATIONAL LAW

The emergence and evolution of an international legislative framework on child trafficking retraces the codification of this recent historic construction of norms pertaining to children and sex work, initially, extending later into other forms of exploitation. Concern over the differential rights of children in general, and the exploitation of children in particular, mounted during the 1990s, whilst human trafficking consolidated into an internationally endorsed legal category after the adoption of the United Nations Palermo Protocol (2000). The elaboration of anti-trafficking laws is complex; it spans across borders and legal disciplines. The codification of children's rights in large part informs international treaties on human trafficking (and vice versa), whilst both lean on an international human rights and criminal law *acquis*, thereby shaping the specific legal boundaries of child trafficking.

2.1 The codification of children's rights

The changes in children's material conditions and the emergence of a new social paradigm of childhood since the Enlightenment (Prout & James 2015; Heywood 2017), has reinterrogated the boundaries of childhood. The legal enshrinement of the peculiarities of childhood has been

the object of negotiation. The term childhood refers to the period between birth and adulthood (O'Reilly et al. 2013), yet, in common parlance, can indifferently qualify a varying range of years in the development of a human being. The legal boundary between childhood and adulthood is set in international law. The United Nations Convention on the Rights of the Child (UNCRC), adopted in 1989 (entered into force in 1990), is the first international instrument of binding human rights law to apply to children, and "the most widely ratified human rights treaty in history" (UNICEF 2019). It defines a child as "anyone below the age of 18 years" and establishes that "childhood is entitled to special care and assistance". It brings a new vision of the child as someone who has specific needs and interests associated with their development.

The UNCRC is built on four cardinal principles: the protection of a child's best interests and welfare, the protection of a child against all forms of discrimination, the right to survival and development, and the importance of the views of the child. The UNCRC further contains provisions that serve as backbone to the fight against child trafficking (Articles 32, 34, 35, 36). The UNCRC's Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography binds the signatory states to cover these activities in their criminal codes. The UNCRC embeds historical markers of the idea of "trade" and moral panic regarding sexuality in its articles concerning trafficking and sexual exploitation, through the use of the terminology "consideration" drawn from contract law (e.g. Article 2(b): "Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration").

The rights outlined in the UNCRC are, in Krasner's terms, general norms, whose definition and scope of application must be specified through sets of rules (Krasner 1982). Complementary norms on child trafficking and accompanying rules developed into a coherent body of law towards the end of the 1990s, delineating more clearly what actions are considered to be exploitative or abusive, thereby construing the boundaries between childhood and adulthood, legitimate and exploitative work, as well as labor exploitation and trafficking. Part of these rules are delineated in the later anti-trafficking instruments, which carry with them the imprint of the prevalence of discourses on commercial and sexual exploitation.

2.2 The emergence of international treaties on human trafficking

International treaties have only recently started to define human trafficking, and to recognise the acute difference between adult and child victims. For the better part of the 20th century, and until the 1970s, prostitution was considered a human trafficking issue, and human trafficking was primarily focused on prostitution. The 1949 United Nations Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others declared prostitution irreconcilable with the dignity and worth of a human being (Coomaraswamy 2000; Doezema 2002) and remained the sole international treaty on trafficking for half a century.

Multiple sectoral instruments have conveyed the issue of human exploitation, and touched upon the diverse facets of human trafficking:

Table 1: International treaties containing human trafficking provisions

Institution, Instrument, Date of adoption / entry into force	
Human rights	UNGA Universal Declaration of Human Rights, 1948
	UNGA International Covenant on Economic, Social and Cultural Rights, 1966 / 1976
	UNGA International Covenant on Civil and Political Rights, 1966 / 1976
	UNGA International Convention on the Elimination of All Forms of Racial Discrimination, 1965 / 1969
	UNGA International Convention relating to the Status of Refugee, 1951 / 1954
	UNGA Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 / 1987
Rights of women	UNGA Convention on the Elimination of All Forms of Discrimination against Women, 1979 / 1981
	UNGA Declaration on the Elimination of Violence against Women, 1993
Rights of migrants	UNGA International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 / 2003
	UNGA Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000 / 2004
Rights of the child	UNGA Convention on the Rights of the Child, 1989 / 1990
	UNGA Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000 / 2002
	ILO Convention no.182 on Worst Forms of Child Labour, 1999 / 2000
"Slavery" and "forced labour"	League of Nations Slavery Convention, 1926 / 1927
	United Nations EcoSoc Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956 / 1957
	ILO Convention no. 29 on Forced Labour Convention, 1930 / 1932
	ILO Convention no. 105 on Forced Labour Convention, 1957 / 1959
Human trafficking and sexual exploitation	UNGA Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949 / 1951
	UNGA Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000 / 2003
Protection and assistance	UNHCR Recommended Principles and Guidelines on Human Rights and Human trafficking, 2002

Acronyms: ILO = International Labour Organization; UNGA = United Nations General Assembly; UNHCR = United Nations High Commissioner for Refugees.
Source: the author's analysis of existing international legal instruments.

Over the second half of the 20th century, a swelling number of sectoral instruments on the rights of migrants, refugees, women, children, or specific instruments tackling exploitative practices (slavery, forced labor, sexual exploitation) and protection mechanisms therefrom, created a momentum for the construction of a separate "human trafficking" category. This international consensus on the growing need for concrete measures to combat trafficking in persons led to the adoption of an international legal framework, culminating in the adoption of the Palermo Protocol (2000). The aspirations behind the Palermo Protocol were to define the crime of human trafficking, encourage states to adopt measures criminalizing the act of trafficking in their domestic laws, and foster dialogue and cooperation amongst states. Victim protection and assistance were at the core of the objectives from the onset of discussions, however it lost part of its clout in the final text of the Protocol. The Palermo Protocol is part of the Convention against Transnational Organized Crime,

and, as such, falls within the framework of transnational criminal law treaties. This brings with it a set of characteristics. Firstly, the provisions concerning the protection and assistance of victims are framed in vague and discretionary language, taking away focus from the human rights elements inherent to the protection of trafficking victims and watering down their effects. Secondly, being a transnational criminal law treaty, it leaves national legal systems sovereign in their decision on technical boundaries pertaining to the crime concerned. Thirdly, it aims at fostering cooperation amongst States, mainly through police cooperation and cooperation of judicial authorities. This is reflected in the structure and object of the Protocol. The tools championed for combating trafficking are the criminalization of the trafficking act in national law, and border and immigration control measures. The States that have ratified the Protocol (117 signatories, 178 parties, as of July 2020) adopt an obligation to criminalize trafficking at national level, which implies establishing human trafficking as a crime within their domestic criminal law. This can occur through the introduction of new provisions in their criminal codes, or through the adoption of a new piece of legislation. National legal systems are free to decide on issues pertaining to the concrete elements of the criminal conduct and the mental element of the crime, which, in practice, opens the possibility for signatory states to define human trafficking on their own terms in their national jurisdiction.

Analyzing the codification of the child trafficking norm brings about four observations: firstly, national jurisdictions may adapt the boundaries of its definition; secondly, it is dispersed across most categories of law (administrative, constitutional and criminal); thirdly, it is folded under, or associated with, other legal categories – irregular migration, smuggling, slavery, forced labor, exploitation, to name only a few; fourthly, treaties are increasingly focusing on the specific needs of minors, particularly in the field of sexual exploitation: "The 2000s have seen further developments (...) through the United Nations Resolution 1307 on Sexual exploitation of children: zero tolerance (2002), the United Nations Resolution 1579 (2007) on Child Prostitution, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007)" (Narminio 2020). Generally, the provisions of these treaties have refined the norms of child protection against trafficking and have guided governments on tools to reach that aim. The scope of actions recommended is largely guided by the definitional elements of the child trafficking norm. The past two decades have thus been instrumental in refining – and concretely defining – the crime of human trafficking.

3. THE INTERNATIONAL LEGAL DEFINITION OF CHILD TRAFFICKING: BETWEEN SINGULARITY AND MULTIPLICITY

3.1 Constitutive elements of its definition in international law

Human trafficking is defined in Article 3(a) of the Palermo Protocol as being constituted by an action, the use of coercive means and the pursuit of the objective of exploitation. This definition has set the standard for future regional and national legislative and policy developments. All three elements of the definition (action, coercive means and purpose) need to be present for the

trafficking act to be established. However, each of the actions, means and examples of exploitation described in Article 3(a) do not need to be cumulatively fulfilled.

Table 2: The Palermo Protocol's Article 3 (a): defining trafficking in persons and chikdren

	Key elements of the international definition of trafficking in adults	child trafficking	Explanation
Action	"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons,	recruitment, transportation, transfer, harbouring or receipt of persons.	The action element of the crime concerns the *process* which could potentially lead to the abuse.
Means	by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving or receiving payments or benefits to achieve consent of a person having control over another person,	/ *(consent deemed irrelevant)*	The *consent of* trafficking victims is *irrelevant if* any of the *means* set forth in this article have been used. Where *children* are concemed, *consent is irrelevant*, whether or not such means have been used to obtain consent.
Purpose	for the purpose of exploitation, including, 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.	exploitation, including, 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.	Trafficking is characterised from the moment that there is an *intent* to exploit. The actual exploitation does not need to have taken place for the trafficking offence to be established. The list of exploitative purposes is open-ended, additional examples may be included in the future through case-law or practice.

Source: The author's analysis of Palermo Protocol, article 3(a)

A striking element of this definition, is that it seeks to establish the boundaries of the trafficking norm through references to its components, notably its purpose, which is itself limited by norms that aren't clearly defined in the Palermo Protocol. Although the definition establishes the contours of the norm from a legal standpoint, the boundaries of child trafficking remain ambivalent, partly due to the logics of argumentation (Risse 2000) at play in its adoption and a degree of vagueness necessary such that it may contain a range of interpretations and implementation options for actors (Bailey 2008; Van Kersbergen & Verbeek 2007). International law formalises the constitutive and constraint functions of the norm, giving it its "intrinsic tripartite structure", defined by Winston as: "If [problem], [value] suggests [behaviour]" (Winston 2018, pp. 640–641). In the present case, this could be formulated as:

If [child trafficking], [best interest of the child] suggests [eradication]

or:

If [child exploitation], [inacceptability of trafficking] suggests [eradication]

depending on whether child trafficking is considered to be the main problem or the main value. However, this univocal reading of the child trafficking norm obliterates the semiotic and conceptual multiplicity upon which it hinges. Do the fuzzy boundaries of the norm, which summon adjacent norms, prove solid enough to stand the test of court?

3.2 The norm's reality check: operability of the child trafficking offence in courts

By analyzing the figures produced by the United Nations Office on Drugs and Crime and the ILO, two of the most trusted sources of data on child trafficking, an estimate can be drawn on the likelihood of a child to experience legal remediation. 1 in 100 trafficked children is detected as a victim, and 1 in 10,000 sees their traffickers go through trial[3]. These numbers should be manipulated with caution and be considered for what they are: estimates. Their real interest lies in the scales they provide, as it lays bare the significant lack of detection and protection of victims, the impunity of traffickers, and therefore the inoperability of the norm from a legal standpoint. It pushes us to interrogate the boundaries of the child trafficking norm, from a conceptual structure standpoint, and from a practical one. Strikingly, a closer look at the case-law suggests that recourse to jurisprudence and legal reasonings of other criminal offences is regularly used to establish the trafficking offence. One such illustration is the Italian criminal case Cass. Pen. Sez. V, n. 35479, judged before the Court of Cassation in Rome in 2010. In this case concerning the sexual exploitation of four Romanian girls and nine young women, the Court made use of legal reasoning developed in the field of drug trafficking to establish the definitional boundaries of "voluntary participation" in a criminal organization through the use of the organization's resources, also drawing a parallel between the "sale" of drugs and human beings to customers, and their availability to be "bought" within the organization. Adjacent norms are used in a variety of ways, sometimes paradoxically: the Vice-Prosecutor and Chief of the Juvenile Section in Paris, Laëtitia Dhervilly, testified that she finds it sometimes necessary to use the count of juvenile delinquency in order to investigate a minor's potential status of trafficking victim. Police custody and pre-trial detention in criminal cases can indeed serve to establish the real identity of the minors and cut them off from their exploitative environment to prepare them to speak out (Dhervilly 2017). In the legal practice, therefore, the boundaries of the child trafficking norm are moving, and the offence is difficult to establish.

4. WHAT NORMS BECOME IN USE: IMPLEMENTATION PRACTICES OF THE CHILD TRAFFICKING NORM CLUSTER

The slipperiness of the child trafficking norm must be investigated from the point of view of its implementation and adaptation, by actors, to their larger normative environment. This section retraces the rationale for such an analysis, arguing that the examination of the different usages of the norm by anti-trafficking actors in SEA and the EU provides a more precise explanation for the diffusion of the principle-based action contained in the law[4]. The multiple "meanings-in-use" (Wiener 2009) reflect actors' interpretation of the core values attached to the norm, their adaptation to local needs, and their enactment of specific interests. The interviews conducted for this research sought to determine a) what definition of trafficking (if any) is adopted by anti-trafficking actors, b) what meanings are allocated to this definition (4.1.), and c) how these meanings are enacted in practice (4.2.). Reading the child trafficking norm cluster in light of these meanings-in-use, I propose an

innovative modelisation of the tripartite structure of the child trafficking norm (4.3.). This allows for a more precise understanding of how the core values of the child trafficking norm diffuse globally, and provides new working hypotheses for future research in this area.

4.1 Composite interpretations: the unsystematic coupling and decoupling of child trafficking and correlate norms

Definitions formally adopted by stakeholders can be divided into three large groups: 1) stakeholders in the EU, for obvious obligations to transpose into national law, adopt the definition of Directive 2011/36/EU; 2) stakeholders in SEA generally refer to the Palermo Protocol, although a minority of those spoken to take ILO Convention C182 as their prime reference point; 3) the private sector: interviews with over 10 multinational corporations revealed a more heterogeneous approach. According to the former Head of Ethical Trade at a leading global textile group, "human trafficking is missing from a lot of businesses' codes of conduct across most industries (...) It is quite a new risk area that people are just starting to look at (...) A lot of businesses will avoid it, because they have no idea how to implement it" (Interview 6). When human trafficking is included in Codes of conduct, its definition is guided by the legislation applicable to companies in their main jurisdiction: Intel for instance uses United States Code 22, §7102. All companies spoken to in the textile, food, and tech industries however insist on the fact that their primary concern lies rather with the ethical recruitment of the migrant workforce of their Tier-1 suppliers, and that therefore the terms "forced labor", "child labor", "debt bondage" are favored over "child trafficking".

Even where stakeholders adopt the same definition of child trafficking, whether premised on international or European legislation, the meanings allocated to the norms vary. It hasn't been uncommon to have interviewees ask me how *I* define child trafficking. In those instances I simply referred to the international definition and stressed that my interest was to comprehend their understanding of the norm, and how they applied this understanding in their behaviors. An interesting feature of these conversations was that in some instances, even well-versed anti-trafficking professionals would slip from one concept to another, using such norms as child labor, trafficking, modern slavery almost synonymously (e.g. Interviews 2, 7). Conceptually, it demonstrated that the varying degrees of overlap and interweaving observed in the different pieces of legislation carry over into the language of the interviewees, reinforcing the fluidity of boundaries between the norms and linking them together in what I argue is a norm-cluster. From a practical point of view, this semiotic slippage translates the reality of anti-trafficking practices, in its difficulty to apprehend the boundaries of child trafficking cases. This reinforces the sentiment expressed by the regional coordinator of a child protection initiative focusing on counter-trafficking in Thailand (Interview 4):

> There is a disconnect between what the international community describes as trafficking and what the legal definition of trafficking is. We think of it as someone bundled in the back of a car in law, but people can be in the country legally and fall into trafficking networks. It's a

> big issue, but the data showing is very small (...). There's a grey area between the children wanting to travel and to get work, and we thinking it's an exploitative condition.

Considered in those terms, there is a disconnect between the law and the development sector, and between the development sector and the wishes of some migrant children. This reveals an additional level of complexity in the conceptual structure of the child trafficking norm, which is interpreted in composite ways.

This unsystematic coupling and decoupling of child trafficking and correlate norms carries over into policy priorities, institutional decoupages, and judicial strategies.

4.2 From the streets to the courts: circumventing the child trafficking norm to meet practical needs

Most of the non-governmental and multilateral organizations contacted over the period of the research had focused their work on one or several specific forms of exploitation. To name just a few, at the time of the research, the primary worry of the United Nations High Commissioner for Refugees (UNHCR) with regards to child trafficking was the risk encountered by Rohingya refugees in Bangladesh and the marrying of refugee child brides in Malaysia; the International Labour Organization and the International Organization for Migration worked on forced labor and issues of labor migration, with a stronger focus on adults; the Alliance Anti-Trafic focused on sex trafficking; Verifik8 worked primarily on forced labor in agricultural supply chains. WorldVision was one of the few organizations contacted, along with Save the Children, to have a holistic approach to child trafficking. Countries that subscribe to the child trafficking norm tend to have a dedicated anti-trafficking unit in one or the other administration (police, justice, social services). Yet, at the national level, understandings of child trafficking may nevertheless vary. France has a special taskforce dedicated to human trafficking: the Ministry of Solidarities and Health's Interministerial Mission for the protection of women against violence and for the fight against trafficking in persons (MIPROF). Despite a clear dedication to human trafficking at national level, the Ministry of the Interior's police services do not treat "child trafficking" as an entity. After entering a referral procedure with the Ministry to request an interview, I had a conversation with a police captain from the Ministry in January 2018, who clarified that I should specify whether I was interested in "trafficking in [adult] persons" or "forced child labor", because those concern two different departments (Interview 8). Though this splitting might not reflect working practices, the classification is nevertheless interesting, as it suggests either a misreading of the child trafficking norm as being separate from the trafficking of adults, or a break-up of the components of child trafficking, and therefore an imperative to classify a given situation in one or the other box.

Beyond the structural organization of public institutions, which obeys numerous obligations and strategies, the child trafficking norm can be willfully circumvented for practical reasons. Fieldwork in both SEA and the EU reveals that it is often avoided by social workers and the police. The need

for training to harmonize the understandings, and therefore improve the detection of cases, is an increasingly acknowledged factor, as confirmed by senior officials from government (Interview 1), Europol (Interview 5), non-governmental organizations (Interview 3) and magistrates (Dhervilly 2017). Training is not solely at fault. The working conditions of those directly in contact with potential victims, be they caseworkers, policemen or teachers, can impede detection. In Thailand, police are tasked to determine whether a case presents instances of trafficking within 24 hours of investigation, with the possibility to extend this period. In practice, Thai authorities often rush to conclude investigations within 24 hours to determine whether someone is a victim of human trafficking (Interview 2). This limited timeframe, combined with insufficient training and means, renders the task next to impossible. Likewise, in France, lawyers at administrative detention centers are submerged by casework and continuous emergencies. In practice, this leaves them around 15 minutes of face-to-face interview with asylum seekers – frequently aided by an interpreter over the phone, which starkly reduces the effective time of conversation – to evaluate the (often delicate and complex) "case" at hand, and determine whether minors may be trafficking victims (Interview 3).

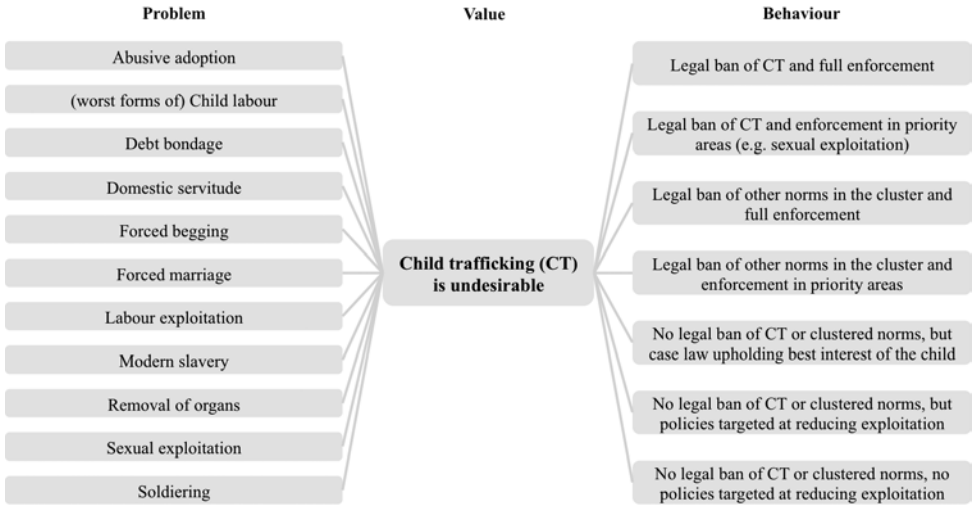
What is less commonly documented in the political science literature, is the pragmatic recourse to adjacent legal norms to limit impunity. The burden of proof is complex in child trafficking cases, as has been demonstrated earlier through the difficulty of establishing a trafficking case in court (see 3.2.). To limit impunity, magistrates, lawyers, judges, policy-makers and caseworkers interviewed for this research, confirm the recourse to adjacent norms such as forced labor to increase chances of conviction. Yet, they insist that it is not satisfactory, considering that redress for victims and punishment of perpetrators are weaker in cases of forced labor, abuse, exploitation and others, than for an established human trafficking offence. According to a former magistrate and head of an anti-trafficking unit, in France, where the law is "in perfect conformity to international and European legislation [on child trafficking]", the "drastic requirements" to prove the trafficking offence "weaken the objective of the trafficking norm, which is the crackdown on exploitation" (Interview 1).

4.3 Modelling child trafficking norm clusters: reflecting anti-trafficking professionals' usages in the field

In this way, the vagueness that has enabled the widespread diffusion of the child trafficking norm has also lead to its difficult use in practice, and translated in a conjunction with other norms. The conceptual structure of "norm clusters" suggested by Winston allows a finer analysis of the composite construction of the child trafficking norm. It is clear from the genesis of the norm and its codification in international law, that it interacts with other sets of norms and various legal structures. To understand these linkages, Winston suggests three types of configurations of norm clusters. The first two correspond to norm clusters typically considered as single norms: one model premised on "a single value and a relatively narrow problem, but a number of different behaviors", another on a single behavior justified by "multiple related, but distinct, values" (Winston 2018, pp. 650–651). Following theories of policy differentiation, a case can be made for reading child

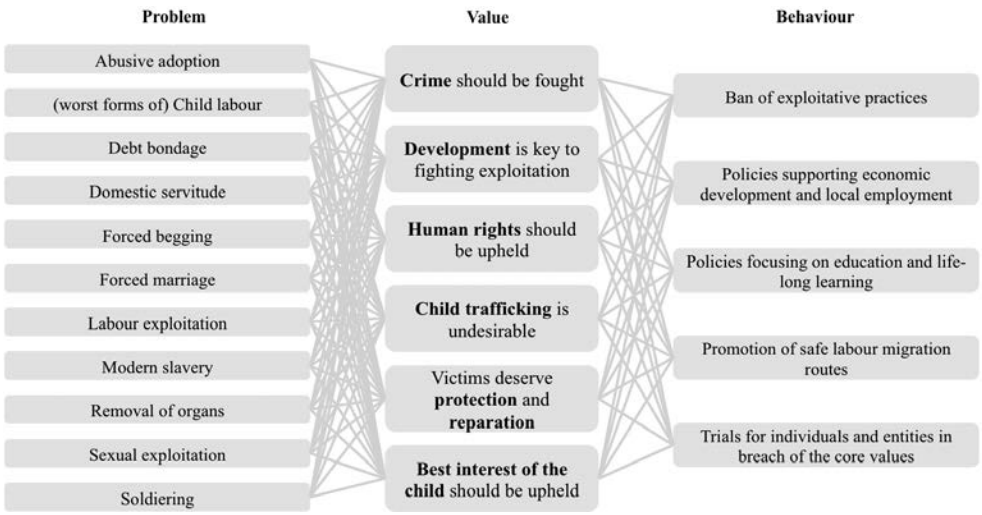
trafficking as a combination of those two models: a single value, premised on a relatively broad problem-set, which justifies a variety of behaviors:

Figure 1: Visualisation of the potential child trafficking norm cluster – single value model
Source: the author's analysis



I argue here that the analysis of legislation, grey literature, white papers and interviews conducted in the field, some examples of which are delineated throughout this article, rather point to Winston's third model, which "allows for both continuity and change, and for the creation of many distinct combinations of problem, ideation, and behavior, offering both greater choice and greater agency for adopting states" (Winston 2018, p. 653):

Figure 2: Visualisation of the potential child trafficking norm cluster – multiple value model
Source: the author's analysis



The structure established in Figure 2 is neither fixed nor determinate; it is a snapshot of fluid issues, ideations and practices, flowing from the global child trafficking norm as analyzed in the EU and SEA in 2016-2020.

5. CONCLUSION

Drawing on analyses of the processes of construction of the child trafficking norm, and its enactement in courts and in the field, this article has demonstrated that the boundaries of the child trafficking norm are constantly reshaped by beliefs and practical imperatives, thus allowing different conceptions of problem-value-behaviour to be weaved into it. This fluidity contributes to explaining the great variety of practices and their commonalities, as well as the limited beneficial effects the child trafficking norm seems to have on the victims. To escape this gap between limited enforcement and the near-universal acceptance of the norm, I have made the case for an alternative reading of the child trafficking norm: locating the unit of analysis at the level of norm clusters, rather than considering child trafficking as a single norm, switches the angle under which to examine variation in the implementation of anti-trafficking initiatives. It avoids the caveat of making, what I argue is, a category error. This article suggests moving away from the mainstream tendency of treating child trafficking univocally and separately from related problems, values, and consequently associated behaviours. On the contrary, our demonstration of the necessary interwovenness of the norms clustered with child trafficking seeks to encourage an agenda for further research. By acknowledging that the fuzzy understanding of the child trafficking norm so far has created an impediment to the implementation of protective law and policy, grasping child trafficking as a norm cluster opens horizons for conceptual work that academia could provide in bringing about richer, more nuanced, and more accurate understandings of the effects of the child trafficking norm in practice, and therefore pave the way to better applicable law, and to more efficient policies to alleviate the suffering of child victims.

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Notes

1 The terminologies "trafficking in persons/children" (international nomenclature) and "human/child trafficking" (largely used in everyday speech) are used interchangeably.

2 Status of the Palermo Protocol, as at 09/07/2020: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en.

3 Calculations by the author. Detail of methodology and data on file with her.

4 Some scholars have examined manifestations of the complex politics – and strategic instrumentalization – behind the domestic implementation of international norms regarding the exploitation of children. In the 1990s and early 2000s in Japan, David Leheny, for instance, investigated the interaction between

international norms on child labor and exploitation, and the "country's existing political fissures" (Leheny 2006, p. 189).

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List of Interviews

Interview 1: Senior civil servant, Head of anti-trafficking unit, Ministry of Solidarities and Health. Paris, France, 02/02/2018.

Interview 2: Manager, Bali Process Regional Support Office. Bangkok, Thailand, 16/11/2018. Follow-up exchange, 06/05/2020.

Interview 3: Legal advisor in detention centre Le Mesnil-Amelot, NGO La Cimade. Paris, France, 17/06/2017.

Interview 4: Senior regional coordinator for child protection against trafficking, World Vision. Bangkok, Thailand, 18/11/2018.

Interview 5: Researcher, Specialist of Human Trafficking, EUROPOL. The Hague, The Netherlands, 22/12/2016.

Interview 6: Former Head of Ethical Trade, Pentland Brands; currently Ethical Supply-Chains Advisor in Thailand. 20/02/2020. Views expressed are his own.

Interview 7: Senior practitioners, organisation providing guidance to fisheries and aquaculture industries to address social challenges in their seafood supply chains. Bangkok, Thailand, 13/11/2018.

Interview 8: Police Captain, Ministry of the Interior. Paris, France, 30/01/2018.