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Abstract

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The enactment of the Trafficking Victims Protection Act (TVPA) in 2000 marked the beginning of the ongoing systematic attempt by the United States of America to combat human trafficking transnationally. Through this Act, the United States employs a regime of positive and negative incentives, aimed at pressuring other countries to comply with its minimum anti-trafficking standards. Very little is known about the action taking place within the countries thus pressurized and in the transnational shadow of the TVPA. Especially neglected is the aspect relating to the protection of victims of trafficking, including their rehabilitation. In an attempt to address this lacuna, this paper reports a first-of-its-kind study of the approach to victims of trafficking in a destination country pressured by the TVPA. By interviewing officials, activists, professionals and survivors of human trafficking in Israel, and by analyzing policy and legal documents and reports, the study highlights the effectiveness of the United States’ transnational pressure in motivating the Israeli authorities to assist victims of human trafficking. Notwithstanding, the study also reveals the ability of a pressured country to develop compliance strategies that allow it to satisfy the U.S. demands while preserving its sovereignty over its borders. Moreover, the study points to the often-ignored power of the victims of trafficking to mobilize both the domestic legal system and the global human rights discourse to

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their advantage and highlights their definitions of successful protective measures, which differ from the definitions employed by the U.S. and Israel. Hence, on the theoretical level, the study yielded an innovative typology of compliance strategies, and it illuminates the importance of differentiating between “compliance” and “success,” often confused within the literature on global governance in general and on the TVPA in particular, and the need to develop a model that treats superpower states, weaker states — and the victims of human rights violations themselves — as significant players in the global field of norm-making.

**Introduction**

Trafficking in persons has attracted much attention over the last decade and a half. On the one hand, this phenomenon can be seen as the epitome of the dark side of globalization, as it is linked to transnational organized crime and illegal trade, illicit migration and migrant smuggling, and intensified abuse and human rights violations. On the other hand, the struggle against human trafficking can also be perceived as an example of international cooperation and committed, unifying transnational involvement. In particular, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, (Trafficking Protocol), and the U.S. Trafficking Victims Protection Act (TVPA), both drafted at the beginning of the third millennium and demanding the prevention of trafficking, the prosecution of traffickers and the protection of victims of trafficking, can be understood as evidence of global commitment to an uncompromising battle against human trafficking and the protection of its victims. Indeed, almost all the countries of the world

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2 Id. at 7.

3 ASIF EFRAT, GOVERNING GUNS, PREVENTING PLUNDER ch. 5 (2012).


5 Id. at 2-3.


8 Other international efforts include the 2002 European Trafficking Convention and the 2011 Association of South East Asia Nations Progress Report on Criminal Justice Responses to Trafficking in Persons, see Anne T. Gallagher & Janet Chuang, The Use of Indicators to Measure Government Responses to Human Trafficking, in GOVERNANCE BY INDICATORS: GLOBAL POWER THROUGH QUANTIFICATION AND RANKING 317 (Kevin Davis, Angelina Fisher, Benedict Kingsbury & Sally Engle Merry eds., 2012).
have transplanted\(^9\) international anti-trafficking norms into their national legal systems, especially through the criminalization of trafficking.\(^{10}\) However, and as will be detailed below, these international and transnational efforts, have been criticized normatively as well as pragmatically.

This paper contributes to the critical examination of the transnational efforts to combat human trafficking and of their local transplantations, by focusing on Israel’s compliance with international anti-trafficking norms, and in particular with the expectation to protect the victims of human trafficking. This focus is justified on two fronts. First, there is the general relative scholastic neglect of the study of domestic responses to global norm-making, compared to the attention that the global forces receive.\(^{11}\) Beyond this, there is also the particular relative neglect of the protection component — in comparison to the prevention and prosecution components — within the rich literature on anti-human trafficking legislation and enforcement.\(^{12}\)

The Israeli case study reveals, on the one hand, the effectiveness of the U.S. anti-trafficking pressuring transnational regime, in creating a discursive transformation that shifts the local authorities from perceiving trafficked persons as criminals that should be deported to perceiving them as victims deserving protection in special rehabilitative shelters. Indeed, Israel is but an example of Anne Gallagher and Janet Chuang’s claim that the scope, influence and authority of other anti-trafficking global initiatives pale in comparison to the TVPA.\(^{13}\) On the other hand, and notwithstanding, the study also reveals the ability of a pressured country to develop compliance strategies. Based on the findings, an innovative typology of such strategies is offered, which includes “over,” “schizophrenic,” “hybrid,” and “isolating” compliance, and which allows Israel to satisfy the U.S. demands while preserving its sovereignty over its borders. Moreover, the study points to competing definitions of success of protective measures, held by the U.S., Israel and different groups of survivors of trafficking, and to recent developments that demonstrate the power of the victims of trafficking to mobilize both the domestic legal system and the global human rights discourse

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\(^9\) On the notion of legal transplantation, which will not be developed here, see, Symposium, *Histories of Legal Transplantations*, 10 THEORETICAL INQUIRIES L. 299 (2009).


\(^{11}\) Terence C. Halliday, *Recursivity of Global Normmaking: A Sociolegal Agenda*, 5 ANN. REV. SOC. SCI. 263, 284 (2009) (“It still remains quite rare in any discipline for accounts of global normmaking in an issue area to give as much attention to national and local politics as the global politics with which it is in tension”).


\(^{13}\) Gallagher & Chuang, supra note 8.
to their advantage, in a way that forces the hosting country to relax its isolating compliance strategy towards “aliens.”

Hence, the Israeli case study leads to two theoretical arguments, relevant to the discussions over transnational norm-making effectiveness and dynamics. I would argue that the findings illuminate the need to differentiate between “compliance” and “success,” often confused within the literature on global governance in general and on the TVPA in particular. Moreover, they reveal the need to develop a theoretical model that treats superpower states, weaker states — and the victims of human rights violations themselves — as significant players in the global field of human rights norm-making.

Part I briefly presents the anti-trafficking normative framework of the Trafficking Victims Protection Act (TVPA), the current debate over its legitimacy and efficiency, and the relevant theories relating to compliance to international human rights norms. Part II details the four compliance strategies used by Israel in face of U.S. pressure to protect victims of trafficking, which minimize the tension between the transnational pressure and the sovereign’s interests. Part III focuses on the victims’ perspectives and actions and, integrating them with the findings presented in Part II, argues for the study’s contribution to the theorization of the processes and outcomes of global norm-making.

I. The TVPA Incentive Regime in Theoretical and Empirical Context

In October 2000, President of the United States of America Bill Clinton signed the TVPA, in an attempt to provide a transnational framework for the solution to the global problem of human trafficking.14 The TVPA focuses on “severe forms of trafficking in persons,” which are defined as: “the recruitment, harboring, transportation, provision, or obtaining of a person”, for "the purpose of a commercial sex act" that "is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age”; or for "labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."15 The Act is centered on what is called the three P’s framework, according to which combating human trafficking must include the prevention of trafficking, the prosecution of traffickers, and the protection of victims of trafficking.16

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14 For the history of the TVPA, see EFRAT, supra note 3, at 178-90.
16 Janie Chuang, The United States as Global Sheriff: Using Unilateral Sections to Combat Human Trafficking, 27 MICH. J. INT’L L. 437, 450 (2005-2006); Ayla Weiss, Ten Years of Fighting Trafficking: Critiquing the Trafficking in Persons Report through the Case of South Korea, 13 ASIAN-PAC. L & POL’Y J. 304, 310 (2012). In 2009, a fourth P — Partnership, was added to the first three by State

http://law.bepress.com/taulwps/art188
Among other measures aimed at eliminating trafficking in humans around the world, the TVPA established a regime of positive and negative incentives, already labeled by scholars as “Carrot and Stick”\(^{17}\) and “tough love.”\(^{18}\) On the one hand, the TVPA secures U.S. government funds to support overseas projects aimed at combating human trafficking and the rehabilitation of the victims of human trafficking. On the other hand, the Act threatens to sanction countries that do not comply with the “U.S. minimum standards” for eliminating trafficking, by denying foreign assistance from the U.S. government and by opposing assistance that might be provided to non-complying countries by global financial organizations such as the World Bank.\(^{19}\) The U.S. expects minimum standards to include anti-trafficking legislation relating to all forms of trafficking; punishments for sex traffickers commensurate with that for grave crimes as a deterrence for all severe forms of trafficking; and “serious and substantial efforts to eliminate severe forms of trafficking in persons,” including, among other measures, investigation, prosecution, reporting to the U.S. government, protection of victims, and co-operation with other governments.\(^{20}\)

This supervision regime is based, first and foremost, on the U.S. State Department’s annual *Trafficking in Persons* Reports (TIP Reports), which ranks nations in three tiers according to their compliance with the U.S. minimum standards. Countries that maintain an adequate struggle against human trafficking within their borders are placed in the top tier. Countries that have taken tangible steps to combat trafficking, but fail to meet the minimum standards are classed in the second tier, which also includes a secondary category, the Watch List. The Watch List serves as a warning to nations that are liable to be demoted to the third and lowest tier. The third tier includes countries that are not making adequate efforts to address trafficking in their territory. Placement in the third tier can lead to the imposition of the above-mentioned economic sanctions.\(^{21}\)

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The attempt by the United States to regulate and monitor the response of other countries to human trafficking has earned it titles such as the “watchdog of human trafficking around the world,”22 and a self-appointed “global sheriff.”23 More importantly, this effort has prompted debate concerning the legitimacy of this approach, as well as some efforts to evaluate its effectiveness. On the one hand, Frances Bernat and Tatyana Zhilina argue that the TVPA and the TIP Reports are a success, since they nudged the attention of governments towards the issue of human trafficking by collecting data, encouraging discourse, and threatening sanctions through the Tier 3 status stigmatization.24 Likewise, Chuang25 and Gallagher26 have argued convincingly that the unilateral economic sanctions regime motivated an unprecedented number of countries worldwide to pass anti-trafficking laws and to develop a domestic infrastructure that meets the U.S. minimum standards.27

Claims for the positive impact of the TVPA are also supported by a relatively systematic investigation conducted by Susan Tiefenbrun.28 She attempted to measure the impact of the TVPA through the analysis of official U.S. documents, interviews with U.S. officials, and available statistics concerning the numbers of victims of human trafficking and the numbers of criminal prosecutions and assistance programs. She concluded that “there is no doubt that the TVPA in general, and the Department of State TIP Reports in particular, have had a small but positive effect on many foreign governments.”29 This effect is manifested by the substantial U.S. funding of foreign anti-trafficking programs, and in the worldwide increase in anti-trafficking legislation and convictions of traffickers. Tiefenbrun, as others,30 also interpreted the move of several countries from lower to upper tiers as additional evidence of the TVPA’s positive impact.31

On the other hand, there are scholars who accuse the United States of using the reports as a mechanism to label the non-western world as a deviant “Other” and to mask domestic trafficking and abuse,32 and who claim that the United States sets a higher standard

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22 Id. at 775.
23 Chuang, supra note 16.
24 Bernat & Zhilina, supra note 16
25 Chuang, supra note 16.
26 Gallagher, supra note 4.
27 Notwithstanding, Chuang has found that until 2007, the reports gave more credit to governments that made an effort to combat sex trafficking than to those who focused on trafficking for non-sexual purposes, and that only since the 2007 report and thereafter did the reports also highlight the need to combat labor trafficking. See Jamie A. Chuang, Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-Trafficking Law and Policy, 158 U. PA. L. REV. 1655 (2010).
28 Tiefenbrun, supra note 19.
29 Id. at 271.
30 E.g., Holman, supra note 17.
31 Tiefenbrun, supra note 19, at 371.
for other countries than it does for itself. Critics also suggest that the uniform solution imposed on all foreign countries is not sensitive enough to specific national socio-economic and cultural characteristics, and consequently is liable to cause harm to those it allegedly seeks to rescue. Moreover, some argue that the methodology utilized in the reports is faulty, and that the ranking — and hence the attendant sanctions — are biased and manipulated due to U.S. political interests.

An illuminating example that supports these critical claims is Ayala Weiss’s study of South Korea’s ranking. Though South Korea did not have an anti-trafficking law until 2004, it was moved from Tier 3 to Tier 1 in 2002. It has continued to enjoy the highest tier ranking ever since. Weiss argues that this is so even though South Korea does not comply with the U.S. minimum standards, given that it criminalizes only sex-related trafficking, does not have severe and deterring punishments for sex traffickers, and does very little to block trafficking demand, which comes particularly from U.S. military bases located on South Korean territory. Weiss claims that South Korea’s high tier ranking — like the high tier ranking of the United Kingdom, Sweden and Germany, who also lack laws that target non-sexual trafficking — is evidence that “being a U.S. ally can be an unspoken positive factor in a country’s ranking.”

An even harsher criticism against the U.S. transnational anti-trafficking attempts is voiced by Marina Zaloznaya and John Hagan, who studied anti-trafficking practices in Belarus. Based on their findings, they argue that the Belarusian government performs an anti-trafficking “crusade” to consolidate its authoritarianism, and to mask its ongoing human rights violations from the international community. The TIP reports fail to acknowledge these motivations and their harmful outcomes, and grant the Belarusian government legitimation it does not deserve. Hence, Zaloznaya and Hagan argue, the Belarus case study demonstrates the ability of oppressive regimes to reverse the usual power dynamics between the ranker and the ranked, to the advantage of the latter.

33 Dina Francesca Haynes, (Not) Found Chained to a Bed in a Brothel: Conceptual, Legal and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act, 21 GEO. IMMIGR. L.J. 377 (2006-2007). It was only in 2010 that the United States included itself in the U.S. State Department’s Annual Trafficking in Persons Report; it has ranked itself, ever since, in the top category of Tier 1, see Bernat & Zhilina, supra note 16.
35 See Bernat & Zhilina, supra note 16, at 455-57.
36 Haynes, supra note 33.
37 Weiss, supra note 16.
38 Id. at 337.
39 For example, in the name of anti-trafficking efforts, the government legislated laws that restrict Belarusian citizens’ freedom of movement, expression and occupation, see Zaloznaya & Hagan, supra note 55.
40 Id. (calling the Belarusian government’s compliance with anti-trafficking norms “selective compliance strategy”).
The debate between the supporters of the TVPA and its critics notwithstanding, it is clear that there is very little empirical knowledge about its impact on different countries beyond the number of anti-trafficking laws and criminal procedures against alleged traffickers.\(^{41}\) Especially neglected is the aspect of the protection of victims of trafficking. This aspect of the three P’s must include, under the U.S. guidelines, three R’s: Rescue, Rehabilitation and Reintegration.\(^{42}\) Arguably, this component of combating human trafficking is the most complex of the three P’s, not only because the task is very demanding in itself, but also because it does not overlap with a nation’s common interests in minimizing crime and in preventing illegal immigration, as prevention and prosecution do.\(^{43}\) To the contrary, since in many cases trafficking includes a move from the victim’s country of origin to another country,\(^{44}\) and since the latter country is expected to address the victim’s needs of rescue and rehabilitation — at least until reintegration into the country of origin is possible\(^{45}\) — a conflict is created between the protection of the victims as demanded by U.S. standards, and the country of destination’s interest in protecting its borders from “illegal immigrants.” Indeed, in a review conducted in 2011, Seo-Young Cho, Axel Dreher and Eric Neumayer found that all around the world, trafficking victims’ protection policies are significantly less developed and are slowest to improve, when compared with anti-trafficking prevention and prosecution policies.\(^{46}\) This is so even though the TVPA was ahead of the international community in trying to develop compliance indicators related to victims’ protection, and the TIP reports’ move, in recent years, even beyond the TVPA formal indictors in identifying “protection” as a central platform of the U.S. anti-trafficking policy approach.\(^{47}\) The Israeli case study

\(^{41}\) Gallagher & Chuang, supra note 8 (stating that there is little data on the TIP reports impact in the different countries and “the limited research undertaken thus far provides little useful guidance on this point”). This is part of a more general empirical lacuna related to the national and local axes of the “glocal,” see Halliday, supra note 11 (“It still remains quite rare in any discipline for accounts of global normmaking in an issue area to give as much attention to national and local politics as the global politics with which it is in tension”).


\(^{43}\) In a similar vein, Halley and her colleagues argue that the states that ratified the Trafficking Protocol were chiefly concerned with transnational crime and illegal immigration and not with human rights or workers’ rights, and that indeed, with regard to trafficking victims’ protection, the Protocol uses mostly non-binding formulation. Delegates from destination countries rejected proposed mandatory obligations to safeguard the human rights of non-nationals, preferring instead to leave such protections to the discretion of each state. See Introduction; in GOVERNANCE FEMINISM: AN INTRODUCTION (Janet Halley, Prabha Kotiswaran, Rachel Rebouche & Hila Shamir eds., forthcoming 2014).


\(^{47}\) Gallagher & Chuang, supra note 8 (this is in comparison to the Trafficking Protocol, in which “the international legal obligation on states to protect and support victims of trafficking was only vaguely
reported in the next Part is aimed at addressing the empirical lacuna and the negligence of the protection component by reporting the findings of a first-of-its-kind study of the protection measures taken by a country pressured by the TVPA.

Moreover, the debate over the TVPA’s effectiveness can be seen as part of a larger discussion over compliance to international human rights norms. Indeed, one can detect the growing attention being paid by researchers of global norm-making to the difference between commitment to international norms and compliance, i.e., between declarations and behavioral actions. One well-known example is the work of Thomas Risse and Kathryn Sikkink, who offer a theoretical model to explain the conditions under which international human rights regimes — and the principles, norms and rules embedded in them — are internalized and implemented domestically. According to their model, the first step of a domestic socialization to human rights change occurs when a transnational advocacy network succeeds in gathering enough information about a repressive nation-state. In the next stage, the repressive state, which would have been placed on the international agenda of the human rights network, deny the legitimacy of attempts to interfere in its internal affairs. If international pressure continues, the pressured country will move to the third stage, which would include cosmetic changes to the policy in question. These changes are strategic and aimed at easing international pressure. This stage may lead to the flourishing of local groups able to mobilize the international network towards prompting an enduring change in the state’s human rights policy; or it may lead to a backlash and increased repression. In the fourth stage, which Risse and Sikkink label “prescription status,” the legitimacy of the human rights norms is acknowledged by all the relevant domestic actors, at least discursively. According to Risse and Sikkink, the domestic-transnational-international networks must maintain the pressure on the targeted state, in order to ensure that the legitimizing discourse will be transformed to the final stage of rule-consistent behavior.

Another theoretical framework relevant to the action taking place as an outcome of the TVPA, but one that grants more importance to the pressured country than granted by Risse and Sikkink, is Asif Efrat’s. Efrat argues that the dynamics of international regulations

recognized and almost entirely devoid of substantive content”); see also, Trafficking in Persons Report 2009 Introduction, supra note 42. An example, especially relevant to this paper is the “Care Principles for Shelters Programs,” published in U.S. DEP’T OF THE STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, TRAFFICKING IN PERSONS REPORT (2010), available at http://www.state.gov/j/tip/rls/tiprpt/2010/142750.htm#8, which can be seen as part of what Gallagher & Chuang call “shadow indicators.”

48 This model have been used in several studies, see, e.g., THE POWER OF HUMAN RIGHTS (Thomas Risse, Stephen C. Ropp & Kathryn Sikkink eds., 1999); and THE PERSISTENCE OF HUMAN RIGHTS, FROM COMMITMENT TO COMPLIANCE (Thomas Risse, Stephen C. Ropp & Kathryn Sikkink eds., 2013).


50 Id. at 20-35.
are shaped by a state’s preferences on the one hand, and the distribution of power in the global sphere on the other.\textsuperscript{51} First, the state shapes its preferences according to its economic interests, ideology, and internal political struggles. Second, the state interacts, by way of conflict and negotiations, with other states. The international regulation that subsequently emerges will be the outcome of the power distribution between the states involved. Powerful governments are able to change the preferences of weaker governments by economic and reputation coercion, i.e. by economic sanctions and rewards, and by the intentional tarnishing of the violating state’s good name in the global community. One might add military coercion as an additional strategy, available to powerful governments, to ensure compliance.\textsuperscript{52} All this notwithstanding, history teaches us that even military force cannot guarantee compliance with human rights norms. Indeed, Sonia Cardenas argues that states remain very strong players in the global era and are unlikely to dramatically moderate their sovereignty as a result of external human rights norms.\textsuperscript{53}

Risse and Sikkink treat theories that center on international power imbalance, or that argue for the dominance of the sovereign, as “alternatives” to their theory.\textsuperscript{54} Even though these two kinds of theories are themselves in conflict, I would argue, based on the findings presented in Part II, that they can and should be perceived as complementary to Risse and Sikkink’s model, since the evolvement from the first to the fifth stage in that model is not deterministic nor necessarily linear. In this, I will join recent studies that demonstrate that states can simultaneously commit to and violate human rights norms, and have compliance choices that are determined in the light of internal and external forces.\textsuperscript{55} Furthermore, I will offer the term “strategic compliance,” and an innovative typology of different kinds of compliance strategies - “over”, “schizophrenic”, “hybrid”, and “isolating” - which emerged from the empirical findings, to further problematize the often assumed dichotomy and tension between compliance with international norms and sovereignty. I will show that while Israel was substantially affected by the U.S. incentive regime, shifting its perception of victims of human trafficking from unwanted criminal aliens to victims deserving shelter, it at the same time managed to preserve its paramount interest in preserving an ethnic immigration policy, which is unwelcoming to non-Jewish immigrants.

\textsuperscript{51} EFRAT, supra note 33.
\textsuperscript{52} Thomas Risse & Stephen C. Ropp, Introduction and Overview, in THE PERSISTENCE OF HUMAN RIGHTS, supra note 48, at 3.
\textsuperscript{53} SONIA CARDENAS, CONFLICT AND COMPLIANCE STATE RESPONSES TO INTERNATIONAL HUMAN RIGHTS PRESSURE 131-32 (2007).
\textsuperscript{54} Id. at 35-36
\textsuperscript{55} CARDENAS, supra note 53; Marina Zaloznaya & John Hagan, Fighting Human Trafficking or Instituting Authoritarian Control? The Political Co-optation of Human Rights Protection in Belarus, in GOVERNANCE BY INDICATORS, supra note 8.
Finally, the Israeli case study reported below points to the potential incongruence between the definition of successful protection measures shaped by the anti-trafficking norm-making global forces and the pressured countries on the one hand, and the victims’ definition of successful protection on the other hand. Indeed, listening to the victims of human trafficking and immigration-related abuse reveals the different viewpoints and subjective definitions of “successful protection.” Moreover, and notwithstanding the above, I will show in Part III that recent developments in the protective measures taken by Israel have been shaped as a direct outcome of the actions taken by the victims of trafficking themselves, highlighting the need to add victims of human rights violations as an explanatory variable into the theoretical models of humanitarian global norm-making. Thus, by providing a rare detailed description of a country pressured by transnational norm-making, this paper contributes to the theoretical discussion concerning the variables that affect compliance with these norms, and demonstrates the possibly conflicting definitions of success regarding the enforcement of such norms.

II. The Israeli Case Study

A country that found it much harder to climb the tier ladder than South Korea — even though it is also a U.S. ally\(^\text{56}\) — is Israel. In its first TIP Report, published in 2001, the United States placed Israel in the lowest tier due to incoming sex trafficking, stating that “Israel is a destination country for trafficked persons, primarily women. . . . The Government of Israel does not meet the minimum standards for combating trafficking in persons, and has not yet made significant efforts to combat the problem, although it has begun to take some steps to do so.”\(^\text{57}\) Between 2002 and 2011 Israel was placed in Tier 2,\(^\text{58}\) and in 2006 was even warned against a return to Tier 3 by placement on the “Watch List,” due to “its failure to provide evidence of increasing efforts to address trafficking, namely the conditions of involuntary servitude allegedly facing thousands of foreign migrant workers.”\(^\text{59}\) This was so even though Israel had taken many anti-trafficking steps during this period, and since 2008 had been an exceptional example of a country that had managed to almost completely eliminate sex-

\(^{56}\) U.S.-ISRAELI RELATIONS AT THE CROSSROADS (Gabriel Sheffer ed., 1997); Mark R. Clyde, Israel-United State Relations, in ISRAELI-UNITED STATES RELATIONSHIP 21 (John E. Lang ed., 2006).


related trafficking into its territory.\textsuperscript{60} It was only in 2012 that Israel secured placement in Tier 1, retaining this placement in the most recent report, in 2013.\textsuperscript{61}

The study reported here sheds light on the action taking place in the shadow of the U.S. norms-making and ranking, from the perspective(s) of the pressured country. The focus here is on one of the P’s — the protection of victims of human trafficking — and within it, particularly on one of the R’s, rehabilitation.\textsuperscript{62} Notwithstanding, as will become clear from the findings, protection of the survivors of trafficking interrelates with trafficking prevention and with the prosecution of traffickers, and the rehabilitation of survivors depends upon their rescue and reintegration. Hence, while the study follows the U.S. dichotomous terminology, it also demonstrates its superficiality.

Due to the complex and dynamic nature of the research field, the study relied on qualitative research tools that allowed for the in-depth, holistic and naturalistic investigation of practices and justifications.\textsuperscript{63} Interviews were conducted with two groups: (1) sixteen policy makers and professionals in official bodies and in nongovernmental organizations who participated in the development and execution of, or challenges to, the policy relating to the rehabilitation of victims of human trafficking in Israel; and (2) fifteen women and fifteen men residing in the two Israeli shelters designated to survivors of human trafficking at the time of the interview, or who had resided in them in the past. In addition, group discussions were held with the social workers employed at the shelters. Finally, extensive written materials, including laws, Parliament protocols, governmental decisions, ministerial directives, court decisions and official and non-governmental organization (NGO) reports, as well as the sections on Israel in all the TIP Reports, were analyzed.\textsuperscript{64} Forty of the forty-six interviews were recorded and transcribed, and were analyzed together with stenographs of the other interactions and with the legal documents and reports. In order to enhance the reliability

\textsuperscript{60} HACKER & COHEN, supra note 12, at 43-44, 62.
\textsuperscript{61} For all TIP Reports’ reviews of Israel, see Trafficking in Persons Report, supra note 58.
\textsuperscript{62} Some of the project’s findings were published as part of an evaluation report that was submitted to the U.S. Department of State, see HACKER & COHEN, supra note 12.
\textsuperscript{63} By that, the study reported here follows Chuang’s call for qualitative research to measure whether the actions taken by governments result from a genuine commitment to the eradication of human trafficking and the internalization of anti-trafficking norms, or merely serves as expedient cover against the threat of U.S. economic sanctions, see Chuang, supra note 16, at 465. On qualitative research in general, see THE SAGE HANDBOOK OF QUALITATIVE RESEARCH (Norman K. Denzin & Yvonna S. Lincoln eds., 2011). On qualitative research in law, see Lisa Webley, Qualitative Approaches to Empirical Legal Studies, in THE OXFORD HANDBOOK OF EMPIRICAL LEGAL RESEARCH 926 (Peter Cane & Herbert M. Kritzer eds., 2011).
\textsuperscript{64} On the challenges in studying trafficking victims and the importance of using multiple research tools while gaining the trust of victims, officials and activists, see Mary Bosworth, Carolyn Hoyle & Michelle Madden Dempsey, Researching Trafficked Women: On Institutional Resistance and the Limits of Feminist Reflexivity, 17 QUALITATIVE INQUIRY 769 (2011); and Julie Cwikel & Elizabeth Hoban, Contentious Issues in Research on Trafficked Women Working in the Sex Industry, Study Design, Ethics, and Methodology, 42 J. SEX RES. 306 (2005). While not without difficulties, we were fortunate to receive effective cooperation from all relevant informants.
of the findings, they were sent to key informants before theorization, and insights gained from their feedback were integrated into the data.\textsuperscript{65} The findings reported here were gathered mostly during 2010-2011. Since the research field is highly dynamic, it is possible that some aspects have already changed, justifying additional and ongoing research. Indeed, in Part III, I will discuss a very recent development within the research field, which although not thoroughly investigated, is so significant that it could not be ignored.

A. The Dominance of U.S. Pressure

Israel became a destination for sex trafficking in the mid-1990s, and until 2008 — when Israel managed to defeat this kind of trafficking — the sex industry smuggled thousands of women from the former USSR to Israel.\textsuperscript{66} In November 1997, an NGO called the Israel Women’s Network published the first report on the phenomenon.\textsuperscript{67} In the recommendation section of the report, the NGO urged the Israeli government to stop jailing victims, and rather to provide them with social services and assistance. Three years later, in May 2000, Amnesty International published a report documenting sex trafficking in Israel, blaming the Israeli government for failing to address the problem and for violating the victims’ human rights. Among other recommendations, the report urged Israel to recognize trafficked women as victims rather than as offenders, to protect them and to open a shelter where they could live while awaiting deportation. The report also called for victims to be provided with legal aid, psychological counseling and medical services.\textsuperscript{68} A month later, Member of the Israeli Knesset (Parliament) Zehava Galon managed to convince the Israeli Parliament to establish a special committee to investigate the phenomena of trafficking in women.\textsuperscript{69} In her interview for this study,\textsuperscript{70} she recalled that it was a television item that showed an “auction” — in which women smuggled into Israel were bought by pimps — which motivated her to look into the

\textsuperscript{65} On trustworthiness in qualitative research and ways to enhance it, see Yvonna S. Lincoln & Egon G. Guba, But Is It Rigorous? Trustworthiness and Authenticity in Naturalistic Evaluation, 30 NEW DIRECTIONS EVALUATION 73 (1986).


\textsuperscript{70} Interview with Zehava Galon, Member of Israeli Parliament, in Tel Aviv, Isr. (Jan., 11, 2011) (all interviews were conducted by the author, unless mentioned otherwise).
matter, even though she was very much ignorant about the magnitude of the phenomena.\textsuperscript{71} In July 2000, several months before the TVPA was enacted, the Israeli Parliament added a new offence to its penal code, which criminalized trafficking for the purpose of prostitution.\textsuperscript{72}

In September 2000, the Israeli Attorney General at the time, Elyakim Rubenstein, initiated a multi-ministerial team to discuss the phenomenon of trafficking in women in Israel. The team members included high-ranking officials from the Ministry of Justice, the Israeli Police, the Interior Ministry, the Labor and Welfare Ministry, and the Ministry of Foreign Affairs.\textsuperscript{73} During the team’s deliberations, several court decisions criticized the state authorities for imprisoning victims of trafficking whilst awaiting the opportunity to testify against the traffickers; the courts ordered that they should be released and provided with livelihood resources. These decisions made the authorities change their policy. While victims who were not willing to testify were deported immediately, those who participated in legal proceedings against the trafficker were to be placed in a hostel.\textsuperscript{74} Moreover, in November 2001 the Israeli government signed the United Nations Trafficking Protocol,\textsuperscript{75} which shares the three P’s framework with the U.S. TVPA, whilst offering a wider definition of trafficking.\textsuperscript{76}

In the introduction to the Inter-Ministerial Team’s Report, submitted in November 2002, we find a reflexive and remorseful statement:

This report is written with the background of a conceptual revolution in Israeli society. Society has moved from an ambivalence towards prostitution in general to an unequivocally severe attitude against trafficking in women for prostitution. . . . We are witnessing the first signs of another revolution,

\textsuperscript{71} Indeed, this item by Gal Gabai was broadcasted on January 28, 2000, on Israeli television station Channel 2, and had already been discussed the following week at the Knesset plenum, with Member of Knesset Galon and others appalled by what they saw and calling for the elimination of sex trafficking into Israel. See DK (Feb. 2, 2000) (Isr.), available at http://www.knesset.gov.il/kneset_new/knesset15/HTML_28_03_2012_09-20-03-AM/20000202@080-00FEB02@010.html (all Israeli legal materials and analyzed artifacts are in Hebrew, unless mentioned otherwise).

\textsuperscript{72} Penalty Code (Amendment no. 56), 5760-2000, SH No. 1746 p. 226, art. 2 (Isr.) (Penal Code, 5737-1977, SH No. 864 p. 226, art. 203A (Isr.)).

\textsuperscript{73} \textit{The Report of Inter-Ministerial Team for the Coping with and Monitoring of the Phenomena of Trafficking in Women for Prostitution} 3 (2002) (Isr.), available at http://zik.co.il/3pe [hereinafter REPORT OF THE INTER-MINISTERIAL TEAM].

\textsuperscript{74} In 2001, sixty-two women stayed at hostels while awaiting testimony. In 2002, the number rose to 130. See data, discussions and references to unpublished court decisions in the \textit{REPORT OF THE INTER-MINISTERIAL TEAM}, \textit{supra} note 73, at 14; and in \textit{Levenkron & Dahan}, \textit{supra} note 66, at 57. However, the Parliament Investigation Committee on Women Trafficking found that although new directives were issued mandating placement in hostels to all victims of trafficking awaiting testimony, the police continued to arrest and detain many of them, see \textit{PARLIAMENT INVESTIGATION COMMITTEE ON WOMEN TRAFFICKING, FINAL REPORT} (2005) (Isr.), available at http://www.knesset.gov.il/committees/heb/docs/sachar_final2005.htm.

\textsuperscript{75} Israel ratified the Protocol on July 23, 2008, see 56 KA 1529 p. 1.

\textsuperscript{76} Bernat & Zhilina, \textit{supra} note 16.
and this is in society’s attitude towards the victims of trafficking of women. When the phenomenon was first detected, the enforcing authorities did not treat these women as victims who need special aid, but as illegal aliens that should be deported from Israel as soon as possible. This treatment led to their arrest and placement in detention centers and the women’s jail, until their removal from the country. The state did not develop special assistance services for these victims, and did not shape techniques to encourage them to submit complaints in an active and systematic manner. However, in recent years we have witnessed a growing and deepening shift in this treatment, and a growing recognition that these women are first and foremost felony victims, whom one must hurry to assist.77

One of the team’s recommendations was to establish a special shelter for female victims of sex trafficking, where they would receive emotional, social, medical and legal assistance, and would be encouraged to testify against their traffickers. This recommendation was adopted shortly afterwards by the Israeli government.78

One might expect that the reports from the Israeli Women’s Network and Amnesty International, media coverage of the trading in women’s bodies for prostitution, and certainly Israeli courts decisions and the Trafficking Protocol and its signing, would be credited for this change of heart and protective measures. However, the research findings demonstrate clearly that it was U.S. pressure, manifested by Israel’s placement on the lowest tier in the first TIP Report published during the team’s deliberation in July 2001, which was the primary driving force that moved Israeli authorities from treating the foreign women working in the sex industry as unwanted criminal aliens to perceiving them as victims deserving shelter.79 Ada Pliel-Trossman, a member of the Inter-Ministerial Team on behalf of the Labor and Welfare Ministry,80 and who later supervised the shelters, reflected on the work of the team:

The issue of women being trafficked for prostitution came up, and swiftly captured the public’s imagination, along with the U.S. Department of State

77 REPORT OF THE INTER-MINISTERIAL TEAM, supra note 73, at 4, (all Hebrew quotations from documents and interviews were translated by the author).

78 Establishment of a Shelter for the Victims of Human Trafficking for the Purpose of Prostitution, Decision No. 2806 of the 29th Gov’t (Dec. 1, 2002) (Isr.).

79 This is not to say that local NGOs, feminist politicians, judges and media reporters did not contribute to the discursive shift and protective measures related to trafficking victims, see HACKER & COHEN, supra note 12. For a thesis emphasizing the influence of governance feminism, rather than U.S. pressure, on the Israeli response to human trafficking, see, Hila Shamir, Anti Trafficking in Israel: Nationalism, Borders, Markets, in GOVERNANCE FEMINISM: AN INTRODUCTION, supra note 43.

80 This Ministry was later split into the Ministry of Industry, Commerce and Employment (and is now called the Ministry of Economy), and the Ministry of Social Affairs and Social Services. As will be detailed below, the latter is now responsible for the shelters for victims of human trafficking.
initiative that marked and graded countries concerning this. And we were awarded the lowest grading. . . . And then the matter of the U.S. Report came up, which stated that if we were not upgraded by at least one tier there will be economic sanctions on Israel. This was taken quite seriously.  

Similarly, when we asked other interviewees what motivated Israel to assist trafficking victims, there was a consensus among officials, professionals and activists that “the treatment of victims of human trafficking started with American pressure that we do something about it”;  

that “it started with the Americans, the Americans pressured us into establishing the shelter”;  

and that there was “enormous pressure by the U.S. government. We were told that the Americans are threatening to reduce the foreign aid and that a shelter must be opened.”  

Hanny Ben Israel, a lawyer from one of the leading NGOs campaigning for the rights of migrant workers, went as far as to argue that “it started with the Americans. Only with the Americans. There was no internal motivation to assist immigrants in cases of severe exploitation.”  

Interestingly, some of the interviewees who stated these and similar comments asked not to be mentioned by name in connection with this point, as though the Israeli fear of U.S. sanctions and the impact of the TIP Report on Israeli human trafficking policy is a secret or an embarrassment. This was so even though scholars reported their observations that Israeli anti-trafficking actions were first and foremost motivated by the fear of U.S. sanctions under the TVPA, long before the interviews with these informants took place.  

Moreover, in the Inter-Ministerial Team Report itself, the team takes pride in the fact that due to the cooperation it initiated among different state organs and the information flow and new initiatives that this cooperation led to, the U.S. State Department upgraded Israel from Tier 3 to Tier 2 in its second report, published five months before the team’s report was submitted. Hence, the embarrassment of some of the interviewees in relation to U.S. pressure correlates with Gad’s conclusion, informed by the 2002 Knesset discussions, that Israel’s elected

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81 Interview by Orna Cohen with Ada Pliel-Trossman, Member of the Inter-Ministerial Team on behalf of the Labor and Welfare Ministry, in Tel Aviv, Isr. (Dec. 20, 2010).  
82 The interviewee asked to remain anonymous on this point.  
83 Interview with Michal Yosef, Head of the Border Control and Crossings Unit, The Population & Migration Authority, in Jerusalem, Isr. (Jan. 5, 2011).  
84 The interviewee asked to remain anonymous on this point.  
85 Interview by Orna Cohen with Hanny Ben Israel, Legal Advisor, Worker’s Hotline, in Tel Aviv, Isr. (Nov. 25, 2010).  
representatives wished to portray the “conceptual revolution” in relation to the victims of sex trafficking as an independent Israeli development and as proof of its humanistic character, rather than the outcome of international pressure.\textsuperscript{87} Moreover, the interviewees’ embarrassment in admitting the U.S. impact corresponds with Efrat’s conclusion that the Israeli authorities’ response to the TIP report was motivated first and foremost by the fear of reputation coercion, i.e., the tarnishing of Israel’s image as an enlightened, democratic and law-abiding country that respects human rights, rather than by the fear of economic sanctions.\textsuperscript{88} According to Gallagher and Chuang, Israel is not alone in this, as “governments worldwide appear to be very concerned over how well they rank according to US standards and about the reputational impact of their respective ranking.”\textsuperscript{89}

U.S. involvement in the establishment of the shelter for trafficked women was not only through the “stick” of the TIP Reports, but also through a “carrot.” Member of Knesset Zehava Galon recalled in her interview that she fought reluctantly for the establishment of the shelter for victims of sex trafficking, and that she “pressed the Americans” to become more involved. Indeed, although the government agreed to the establishment of the shelter, “nothing happened until the Americans’ assistance, until the Americans gave $200,000.”\textsuperscript{90} Rachel Gershoni, National Anti-Trafficking Coordinator on behalf of the Ministry of Justice during the relevant period, also recalls that it was this sum given by the U.S. government that helped turn the Israeli governmental decision to establish the shelter in 2002 into a reality two years later, with the establishment of the Ma’agan (Harbor) shelter for trafficked women.\textsuperscript{91}

The strong impact of U.S. pressure on the Israeli authorities’ attention to victims of human trafficking emerged from the data once again in relation to the establishment of Atlas — the shelter for male victims of human trafficking. As mentioned above, in June 2006 the TIP Report cautioned Israel against falling back from Tier 2 to Tier 3 and placed it in the “Watch List,” due to its alleged failure to address the trafficking of foreign migrant workers.\textsuperscript{92} Indeed, since the 1990s, Israel has been a destination country for hundreds of thousands of

\textsuperscript{87} Gad, supra note 86.
\textsuperscript{88} Id. at 205; see also Assaf Likovski, Argonauts of the Eastern Mediterranean: Legal Transplants and Signaling, 10 THEORETICAL INQUIRIES L. 619 (2009) (arguing that legal transplantation is a way to signal enlightenment).
\textsuperscript{89} Gallagher & Chuang, supra note 8, at 340.
\textsuperscript{90} Galon also recalls her “use of the Americans” to embarrass the Israeli government and to make it take the American sanctions threat seriously. She did so by inviting U.S. officials to discussions at the Parliament Investigation Committee on Women Trafficking. She especially recalls the media attention that the visit to the committee of the U.S. Ambassador to Israel received. Interview with Zehava Galon, supra note 70.
\textsuperscript{91} Interview with Rachel Gershoni, Nat’l Anti-Trafficking Coordinator, Ministry of Just., in Jerusalem, Isr. (Nov. 30, 2010).
labor migrants, some exposed to severe exploitation at the hands of their employers. However, Israel only began to substantially address this problem after the 2006 TIP Report.

Four months after the report, in September 2006, it enacted the Prevention of Human Trafficking Law, establishing the principle that the trafficking of humans, detention in conditions of slavery and forced labor would be deemed criminal offenses, with penalties ranging from seven to twenty years’ imprisonment. The law also encourages the award of compensation for victims as part of criminal proceedings against the trafficker, and states that a fund is to be established to this end, into which the proceeds from property confiscated from traffickers are to be deposited, and thereafter distributed to victims who cannot execute a compensation decision received against their trafficker. The law further establishes that the state will provide victims of trafficking and slavery with free legal aid. Moreover, in February 2007 the Israeli government agreed to adopt the National Plans to Combat Human Trafficking, prepared by a special committee of the General Managers of the relevant Ministries, including its recommendation to establish a rehabilitation shelter for victims of slavery, trafficking for slavery and trafficking for forced labor.

These substantial efforts did not go unnoticed by the U.S. government, who acknowledged them in the 2007 TIP Report. This report left Israel in Tier 2 but removed the country from the Watch List. Still, Israel was rebuked for not providing “forced labor victims with adequate protection services, such as shelter.” It took an additional two years for the shelter for victims of slavery and trafficking for slavery and for forced labor to be established.

94 Unlike in the case of victims of sex related trafficking — which are perceived as such by the mere fact that they are non-Israeli sex workers — the recognition of a non-sex related labor migrant as a victim of trafficking, slavery or forced labor, is a concrete factual one. Hence, unlike the estimates concerning the number of women who were trafficked to Israel, there are no reliable estimates of the number of labor migrants who have been abused by their Israeli employers. Whether the abuse that does occur amounts to human trafficking or slavery is a point of contention between the Israeli authorities and NGOs, see HACKER & COHEN, supra note 12, at 64-66; Letter from Hanny Ben Israel, Legal Advisor, Workers’ Hotline, to Rachel Gershoni, Nat’l Anti-Trafficking Coordinator, Ministry of Just. (Jan. 17, 2010) (Isr.) (on file with author).
95 The inclusion of forced labor and slavery in the anti-trafficking law correlates with what Janie Chuang calls the “exploitation creep,” led by the U.S., which collapses trafficking with these two other phenomena, see Chuang, supra note 1.
and as in the case of *Ma’agan*, the interviewees stated that they doubt it would have been established without ongoing U.S. pressure. Ada Pliel-Trossman recalls:

The American reports [stated] — you are taking very good care of women who were hurt by sex trafficking, you have done well, but what about slavery? — So we scored less points because of the slavery. So we had another brain storming session, and we concluded: if there are also women in slavery, and if the issue of sex trafficking lessens, then we will have one shelter for women that will cater to both kinds (of exploitation), and one shelter for men.\(^8\)

Interestingly, two activists voiced criticism against the negative outcomes of the U.S. pressure. Nomi Levenkron, a leading anti-trafficking activist lawyer, argued in her interview that U.S. pressure harms women in prostitution since it leads to police raids and violence.\(^9\) Furthermore, Hanny Ben Israel, a lawyer from the Worker’s Hotline, claimed that the focus of the United States on the extreme cases of trafficking allows for the abandonment and deportation of the many victims of the not so severe manifestations of labor migration abuse caused, among other factors, by the state itself.\(^10\) Another kind of concern, regarding a too-harsh judgment of Israel, was voiced by two of the officials interviewed. One of them — who asked to remain anonymous on this point — criticized the U.S. 2010 TIP Report for failing to recognize Israel’s success in stopping sex trafficking and the free legal aid provided to the victims. This interviewee — as well as Superintendent Raanan Caspi, who was responsible for the field of human trafficking in Israel on behalf of the Police National Investigations Office between 2002 and 2010 — also suggested that Israel is more harshly judged by the

\(^{8}\) Interview with Ada Pliel-Trossman, *supra* note 81.

\(^{9}\) Interview by Orna Cohen and the author with Nomi Levenkron, former legal advisor at the Hotline for Migrant Worker, in Tel Aviv, Isr. (Dec. 22, 2010). This argument is also made in by Shamir, *supra* note 79. As in other parts of the world, while most of the feminist Israeli movement opposes prostitution and calls for an uncompromising battle against it, there are alternative voices pointing to the harms caused to women in prostitution through its criminalization. While prostitution in itself is not criminalized under Israeli law, the criminalization of related phenomena such as trafficking, pimping and soliciting exposes women in prostitution to police raids and to detention. For a review of the different feminist positions towards prostitution and their normative, factual and strategic disagreements, as well as for a claim that Israeli authorities unintentionally create a hybrid attitude towards prostitution, of partial abolition and tolerating institutionalization, see Hila Shamir, *Feminist Attitudes to the Regulation of prostitution: A Sympathetic View on the Gap between Law on the Books and Law in Action*, in REGULATIONS (David Levi Faur, Yishai Blank & Roy Kreitner eds., forthcoming 2014) (Isr.).

\(^{10}\) This claim echoes the argument made by several scholars that singling out human trafficking while ignoring it being an extreme end of a spectrum of labor, gender and immigration related exploitations, to which nation states contribute by their labor and immigration laws, results in the assistance to the very few and the forsaking of the many to discrimination, exploitation, and oppression. See, e.g., Catherine Dauvergne, *Globalization Fragmentation, New Pressures on Women Caught in the Immigration Law-Citizenship Law Dichotomy*, in MIGRATION AND MOTILITIES, CITIZENSHIP, BORDERS, AND GENDER 333, 342-44 (Seyla Benhabib & Jusith Resnik eds., 2009); Shamir, *supra* note 1.
U.S. TIP Reports when compared to other countries. This anonymous interviewee explained that if the Reports were perceived by the Israeli authorities as unreliable, the authorities would be less motivated to comply with U.S. standards. However, both these activists and officials did not question the basic legitimacy of the United States to interfere in Israel’s internal affairs; like the other interviewees, who voiced no criticism over the U.S. incentive pressuring regime, they accepted the rules of the framework of this transnational political game as a given.

And so, thanks to U.S. pressure, since 2009 Israel has operated two shelters for victims of human trafficking and slavery, one for women and one for men. The shelters are designated for non-Israelis, who can be admitted to their sanctuary if the police decides there is preliminary evidence that they were trafficked. If the victim participates in legal proceedings against the alleged trafficker, s/he can stay at the shelter for as long as the investigation and trial are ongoing. If s/he does not participate, a one year rehabilitation permit will be issued. While victims of trafficking can receive a rehabilitation visa even if they do not enter a shelter, it will be much more difficult to obtain one as the applicant must demonstrate rehabilitation plans that must be supported by a therapeutic professional. Moreover, a rehabilitation visa will not grant the health and social services provided at the shelters. Hence, the shelters, rather than integration within the community, are the principal rehabilitation route open for victims of trafficking in Israel.

101 Interview with Nomi Levenkron, supra note 99.
102 Following the completion of our field work, we heard, in informal conversations with activists, the argument that Israel’s upgrading to the upper tier in 2011 was not solely due to its anti-trafficking efforts, but rather a consequence of the U.S. political decision to upgrade Egypt and its political inability to leave Israel below Egypt. We have no information to validate or refute this claim, but it is an indication that some Israeli activists share the claim found in the literature on the politicization of the TIP Reports, see Trafficking in Persons Report, supra note 58, and perceive both Israel’s and Egypt’s location at the upper tier inappropriate.
103 The 2007 governmental decision to establish a shelter for victims of slavery and trafficking for slavery and forced labor also included the decision to open three apartments in different parts of Israel. Each apartment was intended for five or six people capable of working, who were expected to remain in the apartment for up to thirty days, while an alternative employer was located, see HACKER & COHEN, supra note 12, at 36. However, the apartments were closed after they remained empty for approximately one year. After the end of the research period, three apartments were reopened as part of the services provided for trafficking victims. As distinct from the target population noted in the 2007 government decision, the apartments are now intended for 18 women who have spent a considerable period of time in the Ma’agan Shelter, and are ready to lead independent lives. Moreover, as will be detailed in Part III, in mid-2013, a third shelter was established, for eighteen female victims of human trafficking. See E-mail from Meirav Shmueli, Nat’l Anti-Trafficking Coordinator, Ministry of Just., to the author (Jan. 19, 2014) (on file with author).
From interviews with women and men who stayed in the shelters, my colleague Orna Cohen and I learned that the shelters provide a comprehensive basket of services, including housing, adequate food, generous medical care and free legal aid across a wide range of issues relating to the residents’ presence in Israel. From interviews with the shelter’s staff, we learned about their intense efforts to secure the necessary work permits for the residents, to locate decent places of employment, and to accompany the residents as they settle into new positions within the labor market. Finally, in the women’s shelter — but not in the men’s — the residents are also provided with therapeutic assistance.105

A review of the TIP Reports, as well as information found in the academic literature concerning rehabilitation services for victims of human trafficking around the globe, reveals that U.S. pressure on Israel yielded a unique, and relatively generous response. Whilst in Israel these shelters are distinctively designated to victims of human trafficking and are totally funded and supervised by the state, in most other countries there are no special shelters for victims of human trafficking, or only shelters for victims of sex-trafficking, and the existing shelters are not necessarily supervised or funded by the state. Moreover, unlike some other countries, Israel does not predicate the benefits of the shelters upon cooperation with the authorities and testimony against traffickers, and allows the residents freedom of movement with only limited restrictions.106

Indeed, Rinat Davidovich, who managed the two Israeli shelters from when they were opened until the end of 2010 on behalf of the NGO appointed to this task by the state, takes pride in the shelters and argues that the Israeli experience can be inspirational to other countries, including the United States:

First of all, I look at the success in the sense that the state of Israel has all these services on offer. I can tell you, as someone who traveled to many conferences around the world, that people (in other countries) have much to learn from us. And you know, I have arrived at conferences expecting to learn, but found myself teaching. Even in the United States where the TIP Reports are produced, I was at a “Combat Trafficking” workshop in 2006,

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105 For a detailed description of all these services, and a critique of their unjustified gendered dimensions, see HACKER & COHEN, supra note 12.

106 Both shelters have a night curfew, and the women’s shelter also monitors unemployed residents’ exit from the shelter during the day. For reviews of assistance services to victims of trafficking in other countries, see, for example, SEGRAVE, MILIVOJEVIC & PICKERING, supra note 1; RUTH ROSENBERG, BEST PRACTICES FOR PROGRAMMING TO PROTECT AND ASSIST VICTIMS OF TRAFFICKING IN EUROPE AND EURASIA, USAID REPORT (2008), available at www.usaid.gov/locations/europe_eurasia/dem_gov/docs/protection_final_121008.pdf. Rachel Shigekane, Rehabilitation and Community Integration of Trafficking Survivors in the United States, 29 HUM. RTS. Q. 112 (2007).
organized by the U.S. State Department,\textsuperscript{107} which brings people from all over the world, about 30 representatives, and teaches them about human trafficking and the American experience. In many locations in the United States, they put female victims of trafficking in shelters for battered women. Just amazing — no specific and tailored treatment.\textsuperscript{108} And you know, I remember returning from there astonished! In 2006 — we had only existed for two years. So I think that this is a great achievement by the state of Israel, with the comprehensive treatment of victims, because all the authorities are recruited to assist. Medical, legal and social aspects now also [received] by victims of slavery.

Returning to the five stages model of Risse and Sikkink presented in Part I, we can observe Israel’s move from the first stage of ignoring the phenomenon of trafficking during the 1990s, whilst beginning to be monitored by global and local NGOs; to the third stage, of cosmetic changes manifested by the establishment of a Parliament committee and by the amendment of the Penal Code in 2000; to the fourth stage, of a discursive transformation that shifts the authorities from perceiving trafficked persons as criminals that should be deported to perceiving them as victims deserving protection; and finally to the last stage, of behavioral change in the shape of the establishment of shelters. Moreover, it is clear that what moved Israel from commitment to compliance, i.e. to actual protective deeds, was U.S. pressure. Indeed, it may be argued that at least when it comes to Israel, U.S. pressure is — to use

\textsuperscript{107} Indeed, part of the “carrot” side of the incentive regime used by the United States were anti-trafficking training programs to which Israeli officials and activists were invited to. Several of the interviewees participated in such programs and reported that no less important than the knowledge they were exposed to, were the connections among themselves that evolved during the trips to the United States and that contributed to the indispensable bridges between the relevant government ministries and NGOs.

\textsuperscript{108} Indeed, not all U.S. states have designated shelters for victims of human trafficking; not all those that do fund them from public resources, and have shelters for both sex and labor related trafficking, and for women, men and children, see CTR. FOR WOMEN POLICY STUDIES, REPORT CARD ON STATE ACTION TO COMBAT INTERNATIONAL TRAFFICKING, (2007), available at www.centerwomenpolicy.org/documents/ReportCardOnStateActionToCombatInternationalTrafficking.pdf; Shigekane, supra note 107. The first shelter in the United States intended for trafficking victims was opened in 2004 by the Coalition to Abolish Slavery and Trafficking (CAST), which is based in Los Angeles. This shelter offers housing, clothing, food, information, legal advice, psychotherapy, health services, vocational training and other services, see Serving the Survivors, COALITION TO ABOLISH SLAVERY & TRAFFICKING, http://www.castla.org/client-services-program (last visited Feb. 6, 2014). Polaris, an NGO working for victims of human trafficking, has recently conducted a survey on the availability of sheltered beds for victims of human trafficking offered by NGOs, concluding that all over the United States, there are 527 beds designated exclusively to victims of human trafficking and additional 1115 beds in shelters that serve victims of human trafficking together with other populations, see POLARIS PROJECT, SHELTER BEDS FOR HUMAN TRAFFICKING SURVIVORS IN THE UNITED STATES (2012), available at https://na4.salesforce.com/sfc/p/300000006E4S9lf7eeqnplT97HrFH4FvCSi5v4.
Gramsci’s term—a hegemonic force: the country did not even experience the second stage of Risse and Sikkink’s model, of denying the legitimacy of attempts to interfere in its internal affairs. As demonstrated above, the transnational rules of the game, set by the United States, are not substantially challenged by the local players within the Israeli field relevant to the protection of victims of human trafficking. Hence, the findings supports Efrat’s findings regarding the U.S. influence on Israel’s anti-trafficking efforts, as well as his general theory that emphasizes the significance of global power relations and the impact of superpowers, such as the United States, on transnational and national regulations.

Notwithstanding, as discussed above, Efrat does not neglect the preferences of the pressured country. Indeed, as will be detailed in the following sections, U.S. pressure by no means eases Israel’s anxiety over preserving its borders from non-Jewish immigration. While this anxiety is at the heart of Israel’s mission to preserve itself as the land of the Jewish people, it is but an example of the overall “borders anxiety” experienced by other countries of immigration destination. Since the victims of trafficking in Israel are non-Israeli non-

109 While the Unites States is mentioned as a hegemonic power in the global anti-trafficking sphere in relations to other countries, see Chuang, supra note 1, the Israeli case study demonstrates the unique hegemonic situation, which according to Gramsci, is not just the manifestation of power, but includes an ideology that convinces the oppressed to accept the situation as a given and even as serving their interests, see Robert W. Cox, Gramsci, Hegemony, and International Relations: An Essay in Method, in Gramsci, HISTORICAL MATERIALISM, AND INTERNATIONAL RELATIONS 49 (Stephen Gill ed., 1993).

110 EFRAT, supra note 33.

111 Israel was established in 1948, after the U.N. recognized the Jewish people’s right for a nation state in Palestine. In its independence statement, as well as in later Basic Laws, Israel defines itself as a Jewish and democratic state. Its Jewishness, manifested in its immigration policy (one that grants automatic citizenship to Jews and make it extremely hard for non-Jews to immigrate), its treatment of its Arab minority (whom are discriminated against, and enjoy very few group rights), and its ongoing control of the Palestinians in the West Bank and the Gaza Strip, has sprang a heated debate between those who argue that Israel’s ethnic preference is still manifested within a democratic framework, see, e.g., Ruth Gavison, Jewish and Democratic? A Rejoinder to the “Ethnic Democracy” Debate, 4 ISR. STUD. 44 (1999); Sammy Smooha, The Model of Ethnic Democracy: Israel as a Jewish and Democratic State, 8 NATIONS & NATIONALISM 475 (2002); see also those who argue that Israel is an ethnocracy rather than a democracy, such as Yoav Peled, Citizenship Betrayed: Israel’s Emerging Immigration and Citizenship Regime, 8 THEORETICAL INQUIRIES L. 603 (2007); and Oren Yiftachel, “Ethnocracy” and Its Discontent: Minorities, Protests and the Israeli Polity, 26 CRITICAL INQUIRY 725 (2000). For a discussion of this debate, see Yoav Peled & Doron Navot, Ethnic Democracy Revisited: On the State of Democracy in the Jewish State, 20 ISR. STUD. F. 3 (2005).

112 Notwithstanding Israel’s uncommon out-front acknowledgment of its discriminatory ethnic policy, the growing anxieties of receiving countries all over the globe regarding the economic, cultural, and ethnic implications of immigration indicates that Israel is not alone in its border’s anxiety and fear of the “other.” See, for example, on the U.S. anxiety, Linda K. Kerber, The Stateless as the Citizen’s Other: A View from the United States, in MIGRATION AND MOTILITIES, CITIZENSHIP, BORDERS, AND GENDER 76 (Seyla Benhabib & Judith Resnik eds., 2009). Indeed, liberal and democratic countries such as Italy and Australia are willing to harm basic human rights of immigrants in the name of their right to secure their borders from illegal aliens, see, e.g., Philip Willan, Italian Navy ‘Let Immigrants Drown,’” GUARDIAN, Mar. 9, 2002, http://www.theguardian.com/world/2002/mar/09/philipwillan (model for Italy); Italy Immigration Law Prompts Lampedusa Rescue Row, EURO NEWS (Oct. 5, 2013), http://www.euronews.com/2013/10/05/italy-immigration-law-prompts-lampedusa-rescue-row/ (model for Italy); Australia Blocks Second Immigrant Ship, GLOBAL TAMIL NEWS (Dec. 4, 2011), http://www.globalthamilnews.ws/GTMNEditorial/tabid/71/articleType/ArticleView/articleId/71025/language/en-US/Australia-blocks-second-immigrant-ship.aspx (model for Australia).
Jewish “foreigners,” their protection and rehabilitation might undermine the Israeli policy of setting clear borders between the Jewish-Israeli collective and those who do not belong to it. Hence, the challenge for Israel is how to satisfy U.S. demands for the protection of victims of human trafficking and to achieve compliance with its standards, whilst at the same time maintaining an exclusionary ethnic immigration policy. Based on the findings, I argue that the Israeli government does so through four compliance strategies: “over” compliance, “schizophrenic” and “hybrid” compliance, and “isolating” compliance. These strategies bring back to our attention Cardenas’s warning, mentioned in Part I, not to forsake too quickly the power of the national sovereign and its significance within the global humanitarian norm-making movement.

**B. “Over” Compliance**

In this section I will argue that Israel performs “over” compliance to the U.S. pressure to protect victims of human trafficking. By “over” compliance I mean granting shelter to women and men whom Israel could have argued are not victims of trafficking, according to the U.S. minimum standards themselves.

As the TIP Reports rhetoric illustrates, establishing the shelters is not enough to satisfy the U.S. pressure to perform protection compliance — the state must demonstrate that the shelters are occupied. The TIP Reports not only detail how many beds there are in each shelter, but also how many women, men and children stayed at them during the reported year. It is evident from the reports that empty beds would probably be interpreted by the U.S. as a failure on the part of Israel in identifying victims and in assisting them. However, another possible interpretation for empty beds could be that there is no longer severe human trafficking in Israel, at least as defined by the TVPA. Indeed, I will argue that Israel could have insisted that it has no eligible victims for sheltering under the minimum U.S. standards, but instead chooses not to and practice “over” compliance.

The residents in the shelters could be ascribed to three distinctive groups:

1) The most veteran residents in the shelters are women who came to Israel from the former USSR and who worked as prostitutes. While the TVPA mentions “force,” “fraud,” “coercion,” or minority as necessary components of severe sex trafficking, the study reveals that the Israeli authorities formulated an understating that every woman from the former USSR, unlawfully present in Israel, and who is found in a brothel or a “discreet apartment,” was almost certainly trafficked for prostitution and is entitled to enter the shelter and stay in it.113 Hence, an expansive interpretation became entrenched, according to which a woman

113 Interview with Superintendent Raanan Caspi, Supervision Officer, the Police Nat’l Investigations Office, in Lod, Isr. (Dec. 22, 2010); Interview with Zehava Galon, supra note 70; Interview with
who knew that she was coming to Israel for the purpose of prostitution is also a trafficking victim eligible for accommodation and care in a shelter, regardless of the circumstances in which she arrived in Israel.

Moreover, since Israel has managed to almost totally eliminate sex trafficking from abroad,114 all the women in this group who are currently at the shelter came to Israel before 2008, and arrived at the shelter after living in Israel for several years without being subordinated to trafficking. Hence, it could have been argued that the time that has elapsed since the incidence of trafficking is proof that these women are not currently victims and that they are already rehabilitated. Indeed, the Ministry of Interior brought up this exact claim in its attempt to block rehabilitation visas for a few of the women who arrived at the shelter. However, the Ministry’s policy changed in 2006, and the current policy is that a woman is entitled to enter the shelter even if several years have elapsed since the trafficking, and that the passage of time in itself is not proof that she does not need rehabilitation services.115

An example demonstrating the meaning of this expansive definition, is the case of Sonia,116 who arrived in Israel in 1995 from Ukraine, at the age of fifteen. She told the staff at the shelter that prostitution traffickers tricked her into believing that she was coming to Israel to work as an au pair. She escaped from the traffickers and worked undocumented for five years, cleaning and caring for elderly people, until she was caught by the Migration Police and deported. After her deportation, she contacted an Israeli man who agreed to forge documents that allowed her to re-enter Israel, in return for her working in prostitution. She was sold to a brothel, escaped, was arrested and deported again. She then entered Israel illegally for the third time, and met a married Israeli man who informed her on to the Migration Police after she became pregnant by him. Whilst in prison, and after experiencing a miscarriage, Sonia went on hunger strike, and was only then referred to the shelter, underweight and in seriously impaired psychological condition. Thanks to the state legal aid she received, Sonia was given a permit allowing her to remain in Israel, at the shelter, for one year for the purpose of rehabilitation. During her stay at the shelter she became pregnant, and

Michal Yosefof, supra note 83. This understanding was due, among other factors, to the position of the court, which stated that consent to prostitution does not negate the foundations of offenses related to trafficking for prostitution, see CA 1609/03 Borisov v. State of Israel, 58(1) PD 55 [2003] (Isr.); see also Guidelines of the State Attorney’s Office to the District Attorneys, Jan. 1, 2003 (Isr.), available at http://www.knesset.gov.il/committees/heb/docs/sachar6_a.pdf.

114 See supra text accompanying note 60.
115 Interview with Sigalit Zohar, Coordinator for Victims of Trafficking in Humans, Legal Aid Division, Nov. 23, 2010.
116 All the residents at the shelters have been given pseudonyms, to protect their privacy. Their stories are based on the interviews conducted with them by Orna Cohen, or Ella Keren or myself, as well as on information Orna Cohen and I gathered from the social workers at the shelters. In order not to burden the residents with the need to retell their distressing stories, in the interviews with them we focused on their experience at the shelter and relied on staff to learn about their past. On the ethical dimensions of research of trafficking victims, including the need to guard their privacy, see Cwikel & Hoban, supra note 64.
gave birth to a baby who suffered from a rare condition that would lead to death by the age of about two years. The baby was hospitalized in a vegetative state, and Sonia was allowed to remain in the shelter until her child’s condition becomes clear, even though the rehabilitation year she was entitled to had ended and she was due to be deported to Ukraine.

As this tragic case demonstrates, not only did the Israeli policy change from deportation to rehabilitation, the shelter was now open to women who were trafficked more than a decade ago, who entered Israel illegally with the intention of working in prostitution, and who required a relatively long stay at the shelter for humanitarian reasons. These women were not victims recently rescued from commercial sex induced by force, coercion or fraud, as suggested by the U.S. definition of victims of sex trafficking. Hence, the Israeli authorities could have argued that, currently, there are no women who had been trafficked for prostitution into Israel and who are eligible for protection under the minimum U.S. anti-trafficking standards; however, they choose not to promote this line of argument and rather allow these women entry to the shelter, i.e. performing “over” compliance.

2) The largest population to receive services from the shelters during the research period were labor migrants who entered Israel legally from Asian countries (mainly Thailand and the Philippines), and who suffered severe abuse at the hands of their employers. A typical example of a labor migrant who came to Atlas Shelter is Santhat, born in 1980, who grew up in rural Thailand. Santhat has completed nine years’ schooling, and is married with two children. His family remained in Thailand when he came to Israel. Santhat stated that he paid the equivalent of approximately $4,500 on the black market in order to come to Israel. He was sent to work on a moshav (a cooperative agricultural village) in central Israel. During the nine months he spent on the moshav, he was required to work almost seventeen hours a day, seven days a week. He was housed together with four other workers in a flimsy caravan, and had to share one toilet and one shower with all the other workers employed by the farmer. He received very little food from his employer and was obliged to purchase food with his own money. The employer was delinquent in paying his salary. One of the workers contacted a local NGO and requested assistance. The NGO contacted the police, who raided the place of work, took eleven workers and collected testimony from them against the employer, and later transferred them all to the shelter.

Among the female migrant workers at the shelter, there is no “typical” story, since the backgrounds of the residents vary widely, including the circumstances in which they came to Israel. The stories of Luciana and Lilia illustrate the differences between the female migrant workers who come to the shelter. Luciana was born in Brazil in 1964, and from the age of twelve worked in agriculture to support her impoverished family. She is divorced and has two

117 Supra note 111.
sons. For twenty years, Luciana was employed as a domestic worker by a Jewish family in Brazil. In 2004, she was sent to Israel with a tourist permit to care for her employer’s mother. She was promised a salary of $600 a month (less than the minimum wage set by Israeli law). During the six months she spent in Israel — after which she returned to her employer in Brazil — she was not paid any wages, and was moved from house to house to serve members of her employer’s extended family, suffering humiliating treatment in the process. Thereafter, Luciana was repeatedly sent to Israel by her employer in Brazil in order to care for relatives, and each time the promised payment failed to materialize. On one occasion, a relative of Luciana’s employer, who visited Israel, discovered the conditions of slavery in which she was being held, and contacted the Brazilian embassy. When the other relatives learned of this, they abandoned Luciana and warned her not to go to the police. With the assistance of the Brazilian embassy and the NGO Hotline for Migrant Workers, Luciana was admitted to the shelter.

Lilia, who is the same age as Luciana, is married and has two children of her own, as well as the three children of her partner. She came to Israel from the Philippines with a tourist permit in order to work as a care-worker and domestic employee. She relates that her employer did not provide her with sufficient food, gave her a vegetable storeroom by way of accommodation, verbally abused her, and would not let her take a shower every day or use the washing machine to launder her clothes. When the elderly man she was caring for fell ill, Lilia met at the hospital another migrant worker from the Philippines, who gave her a telephone number to call for assistance. Lilia assumed that this was the number of an NGO, but it emerged that it was actually a police phone number. Her employer hid her, together with another employee, but the police found them, interviewed them as witnesses, and transferred them to the shelter.

In these three cases — as in all the other instances in which migrant workers came to the Atlas and Ma’agan shelters due to disgraceful working conditions — the employers were not prosecuted for human trafficking (at least up to the end of the research period). Indeed, except in a small number of cases, such as that of Luciana, it is not clear that the harsh employment conditions could be classed as “obtaining a person for labor or services, through the use of subjection to force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery,” as the TVPA defines severe non-sex related trafficking. Again, the Israeli authorities could have refused residency at the shelters in the

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118 In 2004 the minimum wage in Israel per month was 3,335 NIS (about $757 at that time). Today it is about $1,200, see Minimum Wage Table, HILANTECH, http://www.hilan.co.il/calc/minimumwagecalculator.aspx (last visited Feb. 6, 2014).

119 This NGO is now called Hotline for Refugees and Migrants, see HOTLINE FOR REFUGEES AND MIGRANTS, http://hotline.org.il/ (last visited Jan. 29, 2014).

120 Supra note 15 and accompanying text.
cases where they concluded that there is no sufficient evidence for persecuting the employer for human trafficking. However, they choose to create a lower entry bar for sheltering than that needed for the prosecution of traffickers, as part of their “over” compliance strategy.

3) The newest group in the shelters is a small fraction of the thousands of people who have crossed into Israel from Sinai in Egypt, since 2010, seeking work and asylum due to poverty and war in their native countries in Africa. This flow of unauthorized immigration has diminished substantially only recently, after Israel constructed a wall along its border with Egypt. The few that reach the shelters are among those who have been tortured by kidnappers, go-betweens and border smugglers en route to Israel. In many cases, torture was employed in order to pressure the victims into telephoning their families and asking them to forward money to the abusers’ bank account. The forms of torture include shackling with chains for periods ranging from several days to months, intimidation, starvation, whipping, burns, and gang rape. The financial demands of the kidnappers and smugglers have been as high as $30,000.122

The case of Ayoub illustrates the circumstances that bring members of this group to the shelters. Ayoub was born in Eritrea in 1992, and came to Israel via Sudan in an effort to help his parents and his eight siblings, who could barely survive on their father’s work as a farmer. Ayoub relates that he paid $2,500 to smugglers in Sudan, who then demanded a further $2,500. Ayoub claims that in order to secure the second payment from his family, the smugglers imprisoned him in a dark room for six months, during which period he was shackled in chains, beaten, and deprived of food and water. After finally crossing the border into Israel, he was seized and transferred to a custody facility. After a few days, and after the injuries on his body were noticed, he was referred to the shelter.

Another example is the case of Lamlam, born in Eritrea in 1986. Lamlam’s young son remained in Eritrea. The child’s father was abducted by the Eritrean army, and never returned. Lamlam lived in a small village and did not receive an education. She helped her family care for its herds, and later immigrated to Sudan in the hope of finding a livelihood. She explains that she was kidnapped in Sudan by smugglers, who handed her over to Bedouins in Sinai. The Bedouins demanded $1,500 from her, and until she managed to secure this sum from a relative in Australia, she was imprisoned, raped, and forced to cook for her captors for six weeks. After crossing into Israel, Lamlam was caught and transferred to a

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custody facility. She spent eight months in this facility before she was transferred to the shelter.

It is unclear whether the TVPA’s definition of severe human trafficking would apply to all the individuals in this group, given that the instances of torture reported were not, in many cases, for “labor or services,” but rather for ransom or the result of incomprehensible sadism. Moreover, all the abusive acts were conducted outside Israel’s borders; hence, Israel could have argued that it has no responsibility for the rehabilitation of people who entered its territory illegally and who were abused on their way into the country by people with no connection to Israel. Still, some of the judges within the special tribunals operating at the custody facilities recognized the tortured victims’ need for shelter and convinced the police to remove them from the jail-like facility to Ma’agan and Atlas. Hence, at least in a few cases, Israel chooses “over” compliance also in relation to this group.

It is important to note that I do not claim that the residents at the shelters do not need their services, and that they do not deserve them morally, nor that the U.S. minimum standards cannot be interpreted as including such cases as detailed above. If anything, the personal stories of the interviewees reveal the horrific abuse they have experienced, and points to the insufficiency of the minimalistic definition of human trafficking adopted by the VPTA and the arbitrariness of the attempts to create clear lines between human trafficking and other kinds of severe abuse. Indeed, both the Trafficking Protocol and Israeli law

124 Indeed, in her interview, Sigalit Zohar mentioned her attempts to convince the relevant authorities that although the offences occurred outside of Israel, the victims’ presence in Israel make it responsible for their rehabilitation, see Interview with Sigalit Zohar, supra note 115. Moreover, the Police suspect that in some cases, the smugglers were assisted by Eritreans staying in Israel, CP (Jer. Mag.) 1172/10, State of Israel v. Habati (pending).
125 In 2001, Israel established special tribunals to perform judicial reviews over the decisions of the Ministry of Interior to hold in custody or to deport people who entered Israel illegally. These tribunals are located within the custody facilities, see Custody Courts, MINISTRY OF JUST., http://index.justice.gov.il/Units/mishmoret/Pages/Mishmoret.aspx (last visited Feb. 11, 2014).
126 The Trafficking Protocol, supra note 6, art. 3(a), defines human trafficking as follows:

 Trafficking in persons shall mean 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

127 Under Israeli law, human trafficking is defined as “selling or buying a person or carrying out another transaction in a person, whether or not for consideration” for the purpose of or with the endangering for: (1) removing an organ from the person’s body; (2) giving birth to a child and taking the child away; (3) subjecting the person to slavery; (4) subjecting the person to forced labor; (5) instigating the person to commit an act of prostitution; (6) instigating the person to take part in an obscene publication or obscene display; (7) committing a sexual offense against the person. See
address a wider variety of exploitation circumstances under the definition of human trafficking, and the latter also refers to other kinds of abuses in its anti-trafficking statute.\textsuperscript{128} What I do argue, however, is that the definition of human trafficking under the TVPRA is limited and vague enough to allow the claim that not all the shelters’ residents are victims of human trafficking. Notwithstanding, Israel does not offer such a claim, and prefers “over” compliance to the U.S. minimum standards over showing empty beds at the shelters or their closure altogether. This “over” compliance strategy is even manifested in the contract between the government and the NGO that operates the two shelters, which guarantees, for three years, a hundred percent cover of personnel costs and eighty percent cover of other costs, irrespective of actual occupancy levels.\textsuperscript{129} Hence, once the shelters are in existence, there is little additional cost for filling them to maximum capacity.

Hence, it seems that U.S. pressure is so powerful, that it motivates an ethnocracy such as Israel to allow “aliens” to stay in its territory and receive substantial assistance, instead of being immediately deported as the state’s immigration policy mandates. However, as shall be seen next, this “over” compliance strategy is possible due to the other three compliance strategies, which ensure that broadening the definition of victims eligible for protection will not threaten Israel’s sovereignty and ethnic immigration policy.

C. “Schizophrenic,” “Hybrid,” and “Isolating” Compliance

In this section I will explore three additional compliance strategies, used by Israel in face of U.S. pressure to protect victims of trafficking: “schizophrenic” compliance, in which one ministry advances the protection norm while another ministry advances the state’s interest in deporting aliens; “hybrid” compliance, in which the same state’s body performs protective and harmful measures towards victims of human trafficking; and “isolating” compliance, which assists the victims while making sure that they do not integrate into Israeli social fabric.

According to the research findings, the policies and regulations related to the treatment of victims of human trafficking in Israel are shaped and managed mainly by seven authorities: The Knesset (Israeli parliament), the government as a whole, and five of its ministries: the Ministries of Justice, the Interior, Interior Security, Welfare and Social

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\textsuperscript{128} The Israeli anti-trafficking law also criminalizes “holding in slavery conditions,” “forced labor,” and “making a person leave the country for prostitution or slavery.” See Penalty Code (Amendment no. 56) art. 1(8)-(11) (Penal Code art. 375A, 376, 376A).

\textsuperscript{129} See Contract Between the Israeli Gov’t, represented by the Ministry of Welfare and Social Services, and Keshet (non-profit organization), Tender no. 217/2008 (Mar. 18, 2009) (on file with author) [hereinafter Contract Between the Israeli Gov’t and Keshet].

http://law.bepress.com/taulwps/art188
Services, and Health. Moreover, these policies and regulations are organized along two competing axes: the “rehabilitation” axis that centers on the victims’ needs and rights, and the “borders” axis that centers on the state’s interest in preventing non-Jewish immigration. The Table below summarizes the activities of each of the aforementioned authorities that affect the victims of human trafficking, in relation to each of the two axes:

<table>
<thead>
<tr>
<th>Body</th>
<th>Rehabilitation Axis</th>
<th>Borders Axis</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Knesset (Parliament)</td>
<td>Anti-trafficking laws</td>
<td>No right to rehabilitation</td>
</tr>
<tr>
<td>Government</td>
<td>Two designated shelters</td>
<td>Strict ethnic immigration policy</td>
</tr>
<tr>
<td>Ministry of Justice</td>
<td>Bodies coordination; Legal aid; Professionals’ training; Traffickers’ prosecution</td>
<td></td>
</tr>
<tr>
<td>Ministry of Interior (Population and Migration Authority)</td>
<td>Strict visa and working permits policy; Imprisonment; Deportation</td>
<td></td>
</tr>
<tr>
<td>Ministry of Internal Security (Police; Prison Service)</td>
<td>Rescue; Referral to shelters; Arrests of traffickers</td>
<td>Imprisonment; Refusal to refer to shelters</td>
</tr>
<tr>
<td>Ministry of Welfare and Social Services</td>
<td>Shelters</td>
<td>Insufficient community services</td>
</tr>
<tr>
<td>Ministry of Health</td>
<td>Free medical treatment within the shelters</td>
<td>Insufficient community services; Insufficient funding in cases of severe disease</td>
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</tbody>
</table>

The most important policy maker body in Israel, as in all democratic countries, is the parliament. The Israeli parliament, the Knesset, has played a central role in the struggle against human trafficking and in protecting and assisting its victims. Particularly thanks to the Sub-Committee for Combatting Trafficking in Women and the Special Committee on the Problem of Foreign Workers, dozens of discussions were conducted and information
collected regarding trafficking victims and their needs.\textsuperscript{130} Moreover, as mentioned above, comprehensive legislation relating to the subject has been enacted, granting the victims of human trafficking free legal aid and compensation from traffickers.\textsuperscript{131} However, the Knesset has not enshrined in law the right of trafficking survivors to other kinds of assistance and rehabilitation services. Hence, the victims of human trafficking do not have a legal claim for welfare rights, and are dependent upon ad-hoc government decisions in this regard. Moreover, whilst the Israeli government decided to establish the shelters, the majority of both the Knesset and the Government share an ongoing commitment to maintaining a strict policy aimed at preventing unlawful entry to Israel, and to deporting persons unlawfully present in the country.

The obvious tension between the mission to prevent non-Jewish immigration to Israel and assisting survivors of human trafficking is manifested in the actions of the relevant ministries. As can be seen in the Table, the Ministry of Justice represents deep commitment to the rehabilitation axis, while the Ministry of Interior is most closely identified with the borders axis. The study found that this is due to each office’s distinct habitus\textsuperscript{132}: the Ministry of Justice’s shaped by its responsibility to the law, including humanitarian and international law,\textsuperscript{133} and the Ministry of Interior’s shaped by its mission to guard the borders. It is also due to the individuals who occupy the relevant positions within each ministry.\textsuperscript{134}

Indeed, during the research period, the Ministry of Justice employed two senior officials who devoted their full attention to victims of human trafficking. One was Rachel Gershoni, for many years and until recently the National Anti-Trafficking Coordinator; the


\textsuperscript{131} Prohibition of Trafficking in Persons Law (Legislative Amendments), 5767-2006, SH No. 2067 p. 2, art. 1(12), 3 (Isr.) ( Penal Code, 5737-1977, SH No. 864 p. 226, art. 377E (Isr.); Legal Aid Law, 5732-1972, SH No. 654 p. 95, app. (Isr.)).


\textsuperscript{133} See, for similar observation, Gad, supra note 86, at 41.

\textsuperscript{134} The debate between the structuralists and the phenomenologists in sociology is one of this discipline’s major rifts. Notwithstanding, in the past three decades there have been numerous theoretical attempts to synthesize understandings of the centrality of institutions and institutionalization together with those that grant individuals some independent agency. For a review, see Daphna Hacker, Invitation to the Sociology of Law and a Preliminary Mapping of the Field in Israel, 4 Din U’Dvarim 95 (2008) (Isr.). For a fascinating theory and study on the interrelations between international relations and domestic policy, which challenges the unitary state assumption and demonstrates the role of different bodies and individual actors in the policy, see HELEN V. MINER, INTERESTS, INSTITUTIONS, AND INFORMATION (1997).
other is Sigalit Zohar, the Coordinator for Victims of Trafficking in Humans, from the Legal Aid division of the ministry. Both were interviewed for the study, and demonstrated a deep commitment and personal devotion to the protection and rehabilitation of victims of trafficking. Moreover, the other interviewees mentioned Gershoni as a dominant figure in the field that pushed and struggled with others in order to secure protection and sheltering to trafficked victims. Member of Knesset Galon, a dominant figure herself, provides an example of the references to Gershoni made by others:

There was a period during which there was a gap between Rachel Gershoni, the Coordinator, and the Ministries themselves or the responsible people within them. Rachel came with a lot of willingness . . . and she also made many changes, and she found herself dealing with individual stories, which she heard at the Knesset Committee or from the NGOs. This was not at all part of her role, given that she was a policy coordinator. But suddenly, we saw that this woman was about to be deported — what about the money [she was entitled to, by law, from the trafficker]? And where she will go to if she is deported? So Gershoni found herself dealing [with such cases]. What I want to say is that her involvement went beyond that of a formal coordinator.\textsuperscript{135}

Sigalit Zohar was also positively mentioned as “a referent that lives and breathes the matter” and was also recalled by some of the victims interviewed as the lawyer who assisted them whilst they were in the shelter.

In contrast, the Ministry of Interior in general and Michal Yosefof — head of the Border Control and Crossings Unit within the Population and Migration Authority — in particular, were mentioned, especially by activists, as a major barrier to the victims’ rehabilitation. After describing her NGO’s good relationship with Sigalit Zohar’s Legal Aid Division, Hanny Ben Israel claimed:

The Ministry of Interior — getting a visa for a victim of human trafficking is . . . to say that it is like splitting the Red Sea into two — does not even start to describe it. The attitude is very stingy, very literal. The Ministry of Interior see itself as the doorkeeper, yes? That there will not be labor migrants in fields that they cannot control, or that there will be a flood of people . . . I do not know exactly what it is. Sometimes it feels like zealousness for the sake of zealousness, pointless zealousness. It is very very hard to secure

\textsuperscript{135} Interview with Zehava Galon, supra note 70.
cooperation from the Ministry of Interior. It is really . . . words cannot describe.136

Rita Chaikin, an activist from the feminist NGO Isha L’isha (Woman to Woman), was also extremely critical of the Ministry of Interior:

Cristina [a woman Rita assisted], was sent to the Ministry of Interior alone to get a visa. She cannot forget the fact that she was alone, and really, the Ministry of Interior — you should not send a woman there alone, even if you hate her [laughs]. You have to understand that the Ministry of Interior is the body where these women are hated. For them [at the ministry], the women are gentiles, their place is out of the country . . . very racist.137

The anger and frustration of activists who deal with the Ministry of Interior must be understood in light of this ministry’s crucial rule in the rehabilitation of victims of human trafficking. All asylum seekers from Africa and victims of trafficking for prostitution, as well as a minority of migrant workers, entered Israel without residence and work permits, and are destined for deportation if they do not receive a rehabilitation visa from the Ministry of Interior. Moreover, most of the labor migrants in the agricultural sector came to Israel and are present in the country on the basis of a work permit, but many of them require extensions of the permit — again from the Ministry of Interior — in order to enable them to remain in Israel and free themselves from employers who violate their rights. Listening to the residents at the shelters, we learned that indeed the residence, work and rehabilitation permits are of great concern to them all, and that the process of trying to secure a permit is very frustrating. It is not just that without a permit from the Ministry of Interior, they face deportation; during the waiting period for a permit, they stay in the shelter without the legal capacity to work for pay, and thus having no economic independence and no way of paying back loans they took to arrive to Israel or sending money to family members left in the country of origin.

Notwithstanding, Michal Yosefof herself said in her interview that she, and the Ministry of Interior people in general, underwent a process of change:

There were disagreements. In the beginning there were disagreements, because each ministry comes with a different perspective. I came from the perspective that they [the permit applicants] are all illegal aliens that want to legalize their status. But as time passes you start to understand, you start to

136 Interview with Hanny Ben Israel, supra note 85.
137 Interview by Orna Cohen with Rita Chaikin, Coordinator of Struggle against Prostitution and Sex Trafficking Project, Isha L’Isha, in Haifa, Isr. (Dec. 23, 2010).
work on the subject matter and you begin to change your mind. I will give you an example: In the beginning, a woman was a victim here, was given a rehabilitation year and then was deported, then she entered the country illegally again! What is this? This cannot be done! Did she not know what she is coming for? The first time, she was cheated so she was brought as a victim, she was a victim. But the second time? How can that be?! So this was my position for a while but then when you start to read and hear, and attend lectures, then you say — well, she feels she is a victim, she feels she is miserable, so you say I am not the Prisons Service, you change your perceptive. In the beginning they were all suspects, now it is different. I see it differently.\(^{138}\)

Sigalit Zohar reaffirms Yosefof’s claim of change within the Ministry of Interior, observing that whilst at the beginning her clients were wrongly refused rehabilitation visas, after 2006 — when the Ministry published coherent regulations — justified requests were approved:

> I no longer see refusals based on the reasoning that the woman was trafficked three times, or that she should go back to Romania and work at her parents’ dairy, or that since her boyfriend is a criminal she does not deserve a permit. Today, a victim of trafficking — whether she testifies or not — irrelevant, if she is in the shelter or supported by an NGO, she will get a rehabilitation visa.\(^{139}\)

However, because trafficking for prostitution has diminished, the question of rehabilitation visas for its victims now only remains relevant to the very few who still live in Israel. Zohar describes the new threat to Israeli borders as that from African asylum seekers, and details her efforts to secure the Ministry of Interior’s recognition of those among them who were tortured as victims of trafficking or slavery as entitled to a rehabilitation permit.

So, there is some evidence that even in the Ministry most identified with the “borders axis,” there has been some degree of internalization of anti-trafficking norms, though Yosefof’s rhetoric centers on the applicants’ subjective feelings rather than on their objective rights. Still, it seems that Israel suffers from schizophrenia\(^{140}\); one ministry embodying the human rights ethos, with almost angelic officials who dedicate themselves day and night for

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\(^{138}\) Interview with Michal Yosefof, supra note 83.
\(^{139}\) Interview with Sigalit Zohar, supra note 115.
\(^{140}\) I use here the “schizophrenia” metaphor in its popular meaning, which should actually be termed “split personality disorder.”
the protection of human trafficking victims, and another ministry that takes its role as the
gatekeeper of Israel extremely seriously, at the expense of victims’ needs and interests.

One could argue that this is but another example of Israel’s general schizophrenia
stemming from an aspiration to be both Jewish and democratic.141 While this might be very
much the case, I would argue that this is not an uncontrolled “mental disorder”. Rather, it is a
split, coordinated by the Parliament and the government as a whole, as well as by special
coordinating bodies mentioned above, such as the National Anti-Trafficking Coordinator and
multi-ministerial teams established to discuss trafficking, which allows Israel to demonstrate
its commitment to international norms externally while internally reassuring its citizens of its
antagonistic policy towards aliens. Indeed, my suggested interpretation of this schizophrenic
compliance strategy becomes clearer when the “hybrid” compliance strategy, evident from
Knesset and government actions mentioned above, is examined more closely in relation to
specific ministries, and connected to the fourth compliance strategy of isolation.

Returning to the Table above, one can detect a hybridity not only within the
Parliament and the Government as a whole, but also within three of the five ministries. The
Ministry of Internal Security is the ministry that rescues, through the Police, victims of
trafficking, as described in the examples above. The Police is also the only organ authorized
to refer a person to the shelters, based on the assessment that there is prima facie evidence
that the person was a victim of trafficking or slavery. The internalization of victim-centered
norms within the Police can be detected in the interview with Superintendent Adv. Yaacov
Lopaz, deputy head of the Lahav Prosecution Unit, which is responsible — among other
things — for prosecuting offences against labor migrants:

When you think about slavery, you imagine the classic image of someone
tied up in iron chains, held in a cage, and so forth. Modern slavery isn’t like
that. Modern slavery is no less traumatic for the victims, even though,
usually, it cannot be discerned externally. The victims look like anyone else
walking along the street, and appear to be free people, but in fact their free
will and freedom of choice has been taken away from them. This is mainly
done by psychological and economic means; it isn’t something that can be
seen from the outside.142

This notwithstanding, the Ministry of Internal Security’s exclusive authority to
determine who is a victims of trafficking or slavery and who is not might obstruct assistance

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141 Supra note 111.
142 Interview with Yaacov Lopaz, Adv., Deputy Head of the Lahav Prosecution Unit, in Lod, Isr. (July
3, 2011).
for those who need it. During the research period, we came across two cases in which the judge at the custody facility issued a decision recognizing the arrested person as a victim of trafficking according to the Trafficking Protocol ratified by the Israeli government. The judges consequently asked the Police to consider the transfer of the detainee to the Atlas shelter. However, in both cases the Police refused the transfer, arguing that although the detainee suffered horrible torture en route to Israel, the offences against him took place in Egypt; as such he cannot be recognized as a victim of human trafficking, and so must be deported. In one of these cases, the victim was deported before he could receive assistance from a lawyer. In the other case, due to legal representations based on the U.N. Convention against Torture rather than on international and national anti-human trafficking laws, the authorities were willing to postpone the deportation and consider the case again.\textsuperscript{143} Indeed, according to the 2012 TIP Report, while the judges at the custody facilities recognized thirty asylum seekers as possible victims of trafficking eligible for rehabilitation at the shelters, the police agreed to transfer only fifteen of them to Ma‘agan and Atlas, arguing the other fifteen were tortured but not trafficked.\textsuperscript{144}

The hybridity of the two axes is also evident in the actions of the Ministry of Welfare and Social Services and the Ministry of Health. As mentioned above, the Ministry of Welfare and Social Services provides substantial assistance to those who stay at the shelters. However, during the research period, it did not extend substantial socio-economic assistance and therapeutic services to victims of trafficking that could not or did not want to stay at the shelters. Likewise, the Ministry of Health provided only very limited health services to victims who were not in the shelters. Two of the interviewed mothers resident at Ma‘agan recalled that they might have preferred to live in the community, but entered the shelter in the realization that this would be the only way that their children would be able to receive essential medical treatment.

Moreover, even when housed in the shelters, residents are not automatically guaranteed medical care in cases of prolonged or very expensive treatment, and are dependent upon special approval by the Ministry of Health. For example, one of the women interviewed at the shelter was HIV positive, and suffered from hepatitis and tuberculosis. Non-governmental organizations filed a Supreme Court petition in 2007,\textsuperscript{145} demanding that the state finance all the health services required by her. The petition argued that the resident acquired her medical condition while being trafficked for prostitution in Israel and that accordingly, the state is responsible for her treatment. After medical tests had clarified the

\textsuperscript{143} Saharonim Detention Ctr., Case no. 1405989; Case no. 1400223 (documents are on file with author).


\textsuperscript{145} HCJ 5637/07 Anonymous v. Minister of Health [2010] (Isr.).
woman’s state of health and the treatment required, it emerged that this would be particularly expensive, amounting to thousands of dollars a year. During this period, the Inter-Ministerial Team for Medical Treatment for Victims of Trafficking in Women rejected the argument that the state should accept responsibility for protracted treatment in such cases, and determined that medical treatment should be provided for up to one year only. The court accepted the state’s position in full, and permitted the petitioner to receive treatment for only six months, before deportation, at a cost of some $17,000. After our study ended, we were informed that following another petition, this woman recently received a permit allowing her to remain in Israel on humanitarian grounds. This permit must be renewed every year; after five years, the woman will be eligible for permanent residency status. This permit entitles the woman to full medical treatment.

Taken together, these hybrid actions on behalf of the Ministries of Internal Security, Welfare and Social Services, and Health, are not a result of confused or conflicting authorities in which the right and left hands are uncoordinated. Rather, a coherent policy can be detected, one which differentiates the shelters from the rest of the Israeli social fabric. Once a person is allowed entrance to the shelter, s/he is assisted generously; but those denied entrance are left with hardly any state-sponsored assistance, and face possible deportation. This fourth kind of strategy, which I call the “isolating” compliance strategy, allows Israel to perform the protection of victims of trafficking without “endangering” its borders and society through the presence of “aliens.”

The all-or-nothing policy also highlights what might be perceived at first sight as an unplanned schizophrenic pattern of compliance with the U.S. minimum standards of protection on behalf of the Ministry of Justice and the Ministry of Interior, described above. Their two very distinctive and allegedly contradictory discourses are actually a logical response on behalf of a state that wants to please the U.S. government, but at the same time is obsessed with preserving its borders from non-Jewish immigration. Moreover, it is these shelters that help these two discourses to co-exist with each other. According to the government’s decisions, the shelter for victims of sex trafficking should hold fifty beds, and the shelter for victims of slavery and forced labor trafficking thirty beds. In practice, during the research period, the NGO that run the two shelters on behalf of the Ministry of Welfare was obliged to serve no more than thirty-five people at each of them. Hence, the Ministry of Justice can play the “good guy” without jeopardizing Israeli borders with more than seventy non-Israeli residents at the shelters at any given time, which, as mentioned above, the state will pay for in any case; and the Ministry of Interior plays the “bad guy,” by making

146 Gov’t Decision, supra note 78.
147 Contract Between the Israeli Gov’t and Keshet, supra note 129, art. 5.
148 Supra note 129 and accompanying text.
sure that only very few will be recognized as victims of human trafficking, and will be
allowed to remain in Israel for a while and receive assistance. Together, they can face U.S.
pressure by showing that there are two distinctive frameworks for the rehabilitation of human
trafficking victims, whilst at the same time ensuring that these victims — and other non-
Jewish immigrants — will not be fully integrated into the Israeli society nor threaten the
state’s Jewish identity.

III. “Compliance,” “Success,” and the Role of the Victims
Allegedly, the findings presented so far highlight the TVPA’s success. Indeed, the United
States can be satisfied with its impact over Israel — it managed to motivate the Israeli
authorities to replace their criminalization narrative with a victimization one, and to open and
operate two shelters specially designated to victims of human trafficking, offering a
comprehensive basket of services to their residents. Indeed, much of this success story is
already told by the TIP reports produced by the United States itself, which also highlight
Israel’s compliance excellence when compared to the many countries ranked at the lower
tiers. However, this study demonstrates the importance of Engle Merry’s claim that the
common and growing use of quantitative indicators as part of global governance (which the
TIP reports are part of), produces a world knowledge without the detailed particulars of social
contexts.149 In addition, she argues, the aura of objectivity of these indicators masks the
political role of the indicators themselves in shaping the transnational world.150 Indeed, it is
only through the kind of qualitative in-depth study reported here that one can fully understand
the meaning of U.S. pressure in a particular context, and the relational and political nature of
the definition of “success.”

Interestingly, the study shows that the success of the pressuring country does not
necessarily imply failure on the part of the pressured country to preserve its sovereignty
interests. The study shows that through four different compliance strategies, Israel manages to
satisfy the U.S. minimal standards, while preserving sovereignty over its borders and
maintaining an ethnic immigration policy. Hence, the findings corresponds with the critique
of the global anti-trafficking regulation, which claims that it is aimed at strengthening borders
rather than at relaxing them in the name of immigrants’ needs and human rights.151 Moreover,
the findings highlight the shortcomings of much of the literature on the VPTA’s success
presented in Part I of the paper, which assumes that the VPTA requirement are adequate, and

149 Sally Engle Merry, Measuring the World Indicators, Human Rights, and Global Governance, 52
 CURRENT ANTHROPOLOGY S83, S84; see also GOVERNANCE BY INDICATORS, supra note 8.
150 Merry, supra note 149.
151 Supra note 43.
only concentrate on the quantitative indicators developed by the United States to measure its success. Hence, a confusion is created between “compliance” and “success.”

Indeed, as David Nelken reminds us, the meaning of success of transnational legal transplants depends on one’s point of view.\(^{152}\) I would like to end this paper by moving away from the United States as the superpower as well as from Israel as the pressured country, and to focus on the abused immigrants and their points of view and role within the transnational regulative system.

Actually, listening to the victims of immigration-related abuse uncovers competing definitions of successful protective measures to those used by the United States, Israel, and by the anti-trafficking literature. The interviews conducted with present and past residents of Ma‘agan, as well as with the therapeutic staff of the shelter, reveal that for many of the sex trafficking victims, returning to their country of origin is perceived as a disaster which they are inclined to avoid at all costs. Strategies might include leaving the shelter and becoming an illegal alien, or marrying an Israeli citizen — even if he is abusive. For these victims, a successful protective measure will be the right to permanent stay and a work permit that will allow them and their children to remain in Israel. On the other hand, for many of the agriculture and care immigrants from Asia, Israel is but a temporary working destination, and the successful protective arrival and stay in the country is defined by not being extorted by middlemen upon arrival, and by earning enough money to send home while enjoying decent working conditions over a considerable period of time. Finally, for the asylum seekers from Africa who have been tortured en route to Israel, returning to their countries of origin would mean extreme poverty, war, and in some cases the very real risk of death. Successful rehabilitation, for them, can only occur in Israel or in another developed country, and reintegration within the country of origin is not a safe option.

Indeed, introducing the perspectives of the victims of trafficking and of severe immigration-related abuse reminds us that the protection of victims is supposed to include a third R — a long term R — reintegration,\(^{153}\) which in most cases cannot take place in the country of origin. While the staff of the shelters visits past residents at their new agricultural employers to make sure that they are decently treated, it has no connection with the vast majority of survivors of sex trafficking who leave the shelter and live either in Israel or in their country of origin. As for the asylum seekers who are victims of torture, until very recently if they were not in the shelters, they were either deported to a very dangerous reality


or allowed to stay in Israel but with no working permits and social services within the community.

Interestingly, the U.S. TIP Reports do not criticize Israel for the lack of information concerning past residents of the shelters, or for the policies that prevent their integration into Israeli society once outside the shelters. On the contrary, the last two TIP reports create the false impression of a full, long-term and supervised reintegration of victims of trafficking into the Israeli society after they leave the shelters.\textsuperscript{154} Here, it seems that the United States prefers to turn a blind eye, revealing its own weakness in regulating the long term protection of victims of human trafficking in a world that lacks a transnational consensus on the global allocation of the burden that this entails.

Notwithstanding, very recent and surprising developments that occurred after the research ended\textsuperscript{155} — and that manage to crack Israel’s isolating compliance strategy — highlight the failure of the theories on compliance, detailed in Part I, to take into consideration the abused immigrants as active agents who change reality, and not only as victims of global circumstances and regulation.\textsuperscript{156}

\begin{footnotesize}
\begin{enumerate}
\item[154] The lack of welfare community services for victims of trafficking outside of the shelters is mentioned only once, in the 2009 report, in relation to medical and psychological assistance, see U.S. DEP’T OF THE STATE, TRAFFICKING IN PERSONS REPORT 166 (2009), available at http://www.state.gov/documents/organization/123362.pdf. The issue of maintaining contact with past residents is only mentioned for the first time in the 2012 report, which states: “The shelter staff maintained contact with trafficking victims after they had left the shelter to assist victims with long-term reintegration into Israeli society and to ensure future work conditions were not exploitative.” See U.S. DEP’T OF THE STATE, supra note 144, at 195. This statement is not backed up with examples or numbers. Indeed, as detailed above this was true, at least during the research period, only in relation to migrant workers employed in agriculture, who are expected to leave Israel after their work permit ends. In fact, the 2013 report repeats the exact phrasing of the 2012 report, though omitting the words “long-term,” while adding as an example, the assistance given to forced labor victims within the men’s shelter, see U.S. DEP’T OF THE STATE, TRAFFICKING IN PERSONS REPORT 208 (2013), available at http://www.state.gov/documents/organization/210739.pdf. This is the same population identified in our study as the only one systematically followed-up after leaving the shelter. As demonstrated in this paper, Israel has no policy supporting a full, long-term and supervised reintegration of victims of trafficking into Israeli society, but rather the opposite.
\item[155] These developments are so recent and took place so rapidly that there are hardly any official sources that document them. Most of the information that is presented bellow was received through a Telephone Interview with Meirav Shmueli, Nat’l Anti-Trafficking Coordinator, Ministry of Just. (Jan. 19, 2014); and Telephone Interview with Sigalit Zohar, Coordinator for Victims of Trafficking in Humans, Legal Aid Division (Jan. 30, 2014).
\item[156] Ignoring immigration-related victims as active agents is characteristic not only of the literature on compliance to global norms, but also of the literature on trafficking. A fascinating exception to the rule is John Davies’s study of Albanian women trafficked for prostitution. Based on his in-depth field study, Davies argues that divorced Albanian women use trafficking as a mobility strategy in perusing migration goals. Their condition in Albania, as divorced women, is so bad that they are willing to take the risk of abuse by the trafficking network, in order to get to France and to, hopefully, marry a French man. See JOHN DAVIES, MY NAME IS NOT NATASHA; HOW ALBANIAN WOMEN USE TRAFFICKING TO OVERCOME SOCIAL EXCLUSION (1998-2001) (2009).
\end{enumerate}
\end{footnotesize}
During 2012, thirty-five women who were detained in a closed custody facility for illegal immigrants, were identified by the Israeli authorities as victims of slavery, due to the extreme and brutal abuse they suffered by the hands of kidnappers and smugglers during their journey from Africa. As victims of slavery, they were eligible for rehabilitation at the shelter. However, the Ma’agan shelter was fully occupied, and so they were left at the detention facility. While the different ministries discussed possible solutions — including the establishment of an additional third shelter — lawyers from the state legal aid division visited the women to make sure they receive medical treatment and to update them on the rehabilitation options. In January 2013, one of the women asked for legal representation in her request to be released from the detention facility to stay with relatives living in Tel Aviv until her placement within a shelter became possible. The Legal Aid lawyer interviewed the relatives, and after being convinced that they were indeed the slavery victim’s family members and that they can provide her with adequate housing and assistance, submitted the petition on her behalf. The judge at the detention facility refused the request, arguing that rehabilitation can occur only within a shelter, and that until a vacancy at the existing shelter becomes available or a third one is established, the woman must remain at the detention facility. The woman appealed against this decision to the District Court for Administrative Matters, again with the assistance of the state Legal Aid Division. The District Court accepted her petition, on the condition that an NGO will provide her with therapy and rehabilitation services, and that she will cooperate with her removal to the shelter once a vacancy becomes available.

Many similar requests followed and were granted. However, the NGO that volunteered to assist in the first case, stated that it cannot guarantee the safety and rehabilitation of so many women released to the community. Since the Ma’agan shelter was still full, the Minister of Welfare decided in mid-2013 to establish a third shelter, and to fund a day center in Tel Aviv, for a period of six months, to provide food and counseling to the women waiting to be placed in the shelter. The day center was established with the

157 As detailed above, the anti-trafficking Israeli law includes also an offence against holding in slavery conditions, and both shelters were designated to accept victims of slavery as well as victims of trafficking.

158 Ma’agan was fully occupied due to a large group of about fifty women and girls who arrived on April 2012 at the southern border of Israel after being kidnapped from Ethiopia and severely brutalized on the way. While the women from this group were transferred to Ma’agan, the girls were taken to facilities, such as boarding schools.

159 Telephone Interview with Sigalit Zohar, supra note 155.

160 AA 22981-02-13 Tosfay (prisoner) v. The Ministry of Interior (Mar. 6, 3013) (Isr.).

161 The organization was ASSAF, see ASSAF — AID ORGANIZATION FOR REFUGEES AND ASYLUM SEEKERS IN ISRAEL, http://assaf.org.il/en/ (last visited Feb. 6, 2014).

162 One of the fears is that these women will be exploited by the people with whom they are moving in, see E-mail from Meirav Shmueli, supra note 103.
assistance of Mesila, an immigration aid organization established by the Tel Aviv Municipality.\textsuperscript{163}

Staff at the day center soon learned that there were male survivors of trafficking and slavery living in the community,\textsuperscript{164} and that moreover, some of the released female victims prefer to be served by the day center rather than enter a shelter.\textsuperscript{165} And so, while a third shelter was recently opened to serve an additional eighteen women, the day center still operates within the community, serving both women and men (at different times of the day). Moreover, the Ministry of Welfare have just decided that the day center should become the solution to the needs of those victims whose one-year rehabilitation visas at the shelter have expired but cannot return to their country of origin. Finally, because Mesila serves the migrant community at large, it is very possible that the services provided at the day center will be offered to those in actual need, even if not identified by the police as victims of trafficking or slavery.

Though it is too early to tell whether the state-funded rehabilitation day center will remain open, for how long, and for whom, these very recent developments are remarkable since they succeed in compromising Israel’s isolating compliance strategy. The survivors of slavery managed to recruit the assistance of the Ministry of Justice, the Ministry of Welfare and the Tel Aviv municipality, and this led to the establishment of the first community state funded welfare service for victims of trafficking and slavery. This happened at the same time as the Israeli government and Parliament decided to toughen the policy against asylum seekers from Africa and to force them to live, for an unlimited time period, in a special facility in the south of the country,\textsuperscript{166} attracting much criticism from human rights activists,\textsuperscript{167}


\textsuperscript{164} Eighteen men who were identified as victims of slavery within the detention center were also assisted by the state legal aid division. Since the Atlas shelter is now in full capacity, about 10 of them are staying with relatives in the community. See Interview with Sigalit Zohar, supra note 155; E-mail from Sigalit Zohar, Coordinator for Victims of Trafficking in Humans, Legal Aid Division, to the author (Feb. 3, 2014) (on file with author).

\textsuperscript{165} Among other reasons, it is faster and easier to find employment while free in Tel Aviv than when governed by the shelter’s rules in the relatively peripheral city it is located in. Currently there are discussions among the different state organs involved whether the women must be removed to the new shelter. Sigalit Zohar’s position is that if the authorities are convinced that the victims of trafficking or slavery are not abused in the community, they should be allowed to stay outside the shelter if they wish to, phone-interview, id.


scholars, the opposition of Parliament, the Supreme Court, and the asylum seekers themselves through unprecedented massive demonstrations that received global media coverage. While the Israeli government insists on this severe policy of isolation, asylum seekers from Africa, who were severely and extremely abused on their way, have managed to change reality and to create a counter trend, which whilst on a very limited scale, blurs the borders between the Israeli Jewish white majority and the ultimate “Other,” i.e. African Muslims and Christians.

**Conclusion**

In his platform for future socio-legal research agenda of global norm-making, Terence Halliday urges us to address, among many other important issues, two questions: under what conditions are various forms of global leverage more effective on local compliance, and what are the methods utilized by weaker states in the world system to obtain degrees of freedom from global pressure to converge to global norms? The Israeli case study presented in this paper addresses these two questions: it demonstrates the effectiveness of a negative and positive incentive regime imposed by a powerful state with transnational normative ambitions over its relatively weak ally; and it extracts four compliance strategies used by the weak pressured country, which allow it to satisfy the superpower’s demands to protect trafficked

168 For example, about 400 scholars signed a petition against the detention center and for the asylum seekers’ right to work while in Israel, see *Academics 4 Freedom 4 Refugees*, FACEBOOK, https://www.facebook.com/photo.php?fbid=1389033911359051&set=pcb.1389034191359023&type=1&theater (last visited Jan. 29, 2014).
170 In September 2013, the Israeli Supreme Court ruled that the recently enacted amendment to the Prevention of Infiltration Act that allows the detention for up to three years of a person who entered illegally to Israel, is unconstitutional and void since it violates human dignity. Following this decision, the Knesset amended the amendment, and limited the possible detention period to one year, see, Prevention of Infiltration Act (Offences and Jurisdiction) (Amendment No. 4, and Temporary Order), 5773-2013, SH 2419 p. 74. However, the revised law allows the transfer of people staying in Israel illegally to a special facility for an unlimited time. Though this is an open facility, from which the detainees are allowed to exit during the day, its geographic isolation (the facility that was established, Holot (sands), is in the southern part of Israel, in the Negev desert), the demand that the detainees be present in it three times a day at times set by the authorities, and the prohibition on their employment, make it very much like a closed facility. Several human rights organizations petitioned against this new amendment, see HCJ 8425/13 Gavrasalasi v. The Knesset (petition), available at http://assaf.org.il/he/sites/default/files/%D7%A2%D7%AA%D7%99%D7%A8%D7%94%20%D7%9C%D7%97%D7%95%D7%A7%20%D7%94%D7%9D%7A%2A%7A%D7%9D%A0%2A%7A%2A%7A%2A%7A%95%7A%2A%20%D7%AA%2A%7A%2A%7A%99%7D%A7%2A%7A%95%7D%9F%204.pdf. The Supreme Court refused to issue interim order, and so while the petition is still pending, the government started to execute the law and to send asylum seekers to the detention facility, see *Ilan Lior, 150 African Migrants Told to Report to Negev Detention Center*, HA’ARETZ, Dec. 31, 2014, http://www.haaretz.com/news/national/1.566328.
172 Halliday, supra note 11, at 274.
“aliens,” while preserving its ethnic immigration policy. As the United States is experienced by other countries as a powerful global norm-maker, and since Israel is not alone in its “borders anxiety,” the Israeli case study is relevant to many other instances of possible tension between human rights norms and immigration. Hence, the detailed findings demonstrate the need to integrate, rather than separate, the compliance theories detailed in Part I; and to include superpower states, and not only international bodies and local NGOs, as well as weaker nation states, as significant players in any theoretical model attempting to explain international and transitional norm-making and compliance.

Moreover, the Israeli case study demonstrates the power of the “aliens” themselves, in changing reality and mobilizing other players to their advantage. By entering another country and by challenging its legal system, they can use the human rights discourse to encourage protective behavior by the host country. It is not only superpower pressure from the outside that changes discourse and behavior; it is also the underprivileged people who manage to turn the outside into the inside, and the uninvited stranger into a human subject entitled to rights.

Notwithstanding, the ability to satisfy U.S. demands concerning the protection of victims of human trafficking and at a relatively low cost strengthens the argument that anti-trafficking global regulation is motivated more by the wish to preserve national borders than by the concerns for the victims’ human rights. It also strengthens claims regarding the arbitrariness and injustice of the attempts to separate human trafficking from other immigration-related abuses. Moreover, the findings of the competing definitions of “success” held by the United States, Israel, and the different groups of victims, highlight the importance of distinguishing between “compliance” and “success,” often confused in the literature. Furthermore, while the rehabilitation and reintegration of victims of human trafficking are the most neglected aspects of anti-trafficking literature, the stories and voices of the trafficked reveal the immense challenge embedded in any attempt to take the protection of victims of immigration-related abuse seriously. This is particularly pertinent in a world with outrageous gaps between developing and developed countries, one that has not reached an understanding about the allocation of the burdens created by the need and wish of people to move from the first to the latter. In many cases, it is the conditions that trigger and support human

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173 Indeed, Gallagher and Chuang argue that the officials drafting the TIP reports fail to recognize the growing capacity of many states to manipulate the compliance mechanism to their own ends, see Gallagher & Chuang, supra note, 8 at 341. Unlike Belarus, as analyzed by Zaloznaya & Hagan, supra note 55, Israel does not manipulate the United States, but rather shapes strategies that allow, simultaneously, a significant move from the first to the fifth stage, in Risse & Sikkink, supra note 49, in relation to “aliens” victimized by severe immigration-related abuse, and the preservation of its alienating aliens immigration policy. Hence, the findings reported here blur the dichotomy between “manipulating” countries and countries genuinely impacted by global human rights norm-making.
trafficking, which make its victims’ long term rehabilitation and integration in the country of origin impossible.

\footnote{Gallagher & Chuang, supra note 8, at 317 ("Those who profit from exploiting the labor of others are reaping the benefits of inequalities within and between countries; the age-old human compulsion to move in search of a better life; and, in the case of cross-border trafficking, rapidly diminishing opportunities for safe, legal, and gainful migration").}