How unpopular policies are made:
Policy making for migrant women in
South Africa, Bangladesh and Singapore

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Abstract

In this paper we address the question: how and why does policy get made in post-colonial In this paper we address the question: how and why does policy get made in post-colonial contexts? Based on three case studies of policy change; from Bangladesh, South Africa, and Singapore, we trace the drivers of policy change in these contexts. Much research has been done on policy making in Europe and North America, which has led to the development of theories and frameworks which theorise how and why specific policies are made. Examples of these include Sabatier's Advocacy Coalition Framework (ACF) (2014) and more recent work on global norms and how these effect national policy making (Betts & Orchard, 2014; Risse, Ropp, & Sikkink, 1999). Whilst the later have certainly made more of an effort to include examples from contexts other than Europe and North America, there remains a lack of information on how policy is actually made and implemented in these contexts. The three case studies, on which this report are based, were conducted by the Refugee and Migratory Movements Research Unit (RMMRU) at the University of Dhaka in Bangladesh, the Asia Research Institute (ARI) at the National University of Singapore, and the African Centre for Migration & Society (ACMS), at the University of the Witwatersrand in South Africa. All the case studies made use of qualitative methods to map out the various roles played by key actors and organizations in influencing the policy under investigation. All three projects are studies on policy process and engage in process tracing methods. Through a thorough analysis of all three studies, we conclude that there are six factors that shaped the policy making process in the three countries. These are components of policy change that were common across the country case studies even if their impact and nature varied. We propose that by paying attention to these aspects of policy making, we will be able to better understand, influence, and predict policy making in contexts outside of Europe and North America.

Executive Summary

Understanding the ways in which policy is made and influenced is important for advocacy organisations and researchers who seek to influence these processes and their outcomes. Unfortunately, whilst research has been done which theorises policy making, it has primarily been done in North America and Europe (U.S./E,U.). This raises certain questions about the applicability of these theories to contexts outside of North America and Europe. Examples of such theories include Sabatier's *Advocacy Coalition Framework* (Jenkins-Smith, Nohrstedt, Weible, & Sabatier, 2014) and Kingdon's *Three Streams Model* (Kingdon, 2001). Whilst some work has been done on trying to understand globalization of norms and their socialization in varied contexts (see for example, Betts & Orchard, 2014; Risse, Ropp, & Sikkink, 1999), these provide a limited understanding of policy making outside of the U.S/E.U.

Based on studies of policy processes outside of North America and Europe, this paper makes a start at trying to unpack the applicability of policy process theories and frameworks, which have largely been developed in the global North, in these post-colonial and global South contexts. This paper hopes to provide some insights as to what are important considerations for organisations and researchers when trying to understand and intervene in the policy process.

This policy brief is based on case studies undertaken in three contexts, Bangladesh, Singapore, and South Africa, and summarizes the conclusions and lessons that can be learnt from them. The first case study was conducted by The Refugee and Migratory Movements Research Unit (RMMRU) at the University of Dhaka in Bangladesh, and is an analysis of the *Domestic Workers Protection and Welfare Policy* (DWPDP), which was approved by the Bangladeshi government in 2015. The second case study was undertaken by the Asia Research Institute (ARI) at the National University of Singapore and investigated the making of the mandatory weekly day off policy for migrant domestic workers (MDWs) introduced by Singapore's Ministry of Manpower (MOM) in 2012. The final case study was done by the African Centre for Migration & Society (ACMS), at the University of the Witwatersrand in South Africa and explored the making of the 2013 *Prevention and Combating of Trafficking in Persons Act* (Trafficking Act).

All three case studies were of policies that were, to varying degrees, unpopular. All three polices ultimately sought to provide protection to migrant women in one form or another. However, the need to provide protection to these groups – domestic workers and trafficking victims - and the social and economic costs of providing such protection were cause of varied contestations. For example, in both Bangladesh and Singapore, the public was concerned about the additional financial burdens that the proposed policies would place on them as employers of domestic workers, and objected to the state's involvement and attempted regulation of domestic work, which was viewed as private and personal (Ashraf, 2016; Koh, Goh, Wee, & Yeoh, 2016). In South Africa, on the other hand, the public was largely in favour of passing and implementing the *Trafficking Act,* but there were concerns expressed about

the potential for abuse of the legislation by migrants and the security risks of a liberal migration policy. (Palmary & de Gruchy, 2016). The *Trafficking Act* was also contested by researchers and civil society who were concerned about the effects of the trafficking discourse on migrants and women who sell sex (Palmary & de Gruchy, 2016).

Unsurprisingly, given these contestations, all three policies took fairly long to move from being advocated for by civil society to being implemented by the state – between nine and eleven years. Tracing the processes through which these policies went during this time brought to light the many bureaucratic steps involved in policy making and consequently the various bottlenecks and obstacles which slow down the policy making process in these contexts. The findings presented in this brief indicate what some of the dynamics are which need to be considered by those wishing to interrogate and intervene in the policy processes in contexts outside of the U.S./E.U.

All three studies made use of qualitative methods to map out the various roles played by key actors and organizations in influencing the policy under investigation. Documentary analysis, to identify key issues and stakeholders, and key informant interviews with identified stakeholders, were used to inform stakeholder mapping and, ultimately, process tracing in the three individual studies. This paper draws on a thematic content analysis of the three case studies, which allows for some comparisons and conclusions to be made.

An analysis of the three case studies indicated that there are six factors that helped to shape the policy making process across the three case studies.

1. The nature of the policy being made

The nature of the policy in question will undoubtedly affect the process through which it is developed and the interest which various actors take in the process. In each of the case studies, on which this report is based, the policy that we analysed was aimed at protecting a group of people who were deemed vulnerable and for whom there were few legal protections. In all cases this included migrant women. This means that the findings from this study are likely to be more easily transferable to other protection oriented policies rather than, for example, security oriented policy, which are far more typical of policy around migration.

2. Who the policy is for

The gendered nature of the policies we studied meant that in each case questions were raised about the moral implications of the policy, as morality remains heavily intertwined in decision making around issues that are related to women. Whilst in principle the policies were developed to protect victims of trafficking (in the South African case) and domestic workers (in the Bangladeshi and Singaporean cases), these groups were not particularly vocal within the policy processes. Those associated with the anti-trafficking movement and employers of domestic workers were far more vocal throughout all three processes. This dynamic is discussed more under

3. Key role players

In each of the case studies the actors involved in making and shaping policy were a complex mix of international and local actors, as well as actors with varied skills and mandates. Four types of actors emerged as having been important within the three processes studied:

a) *International actors* who, in all three cases, played a role in catalysing change through applying pressure and threatening the state in questions international reputation;

b) *Which women?* In all three case studies, the actual women for whom the policy was being developed were largely absent from the policy development processes and debates. In all three cases, men and women who were significantly wealthier than the group that the policy was intended to benefit largely advocated for and developed the policy. This indicates that in the making of protection oriented policy, the process responds far more to perceptions and ideas about the group deemed in need of protection than the actual concerns and narratives of the group itself;

c) *Coalitions* In each case, it was clear that membership of a coalition helped local civil society to draw attention to and advocate for their policy demands. Whilst this was not necessarily a co-ordinated strategy, the organic coalitions which developed undoubtedly aided the advocaters in question; and

d) *Civil servants* Civil servants, in each case, had investments in the policy being made, although to varying degrees. This influenced their interest(s) in getting the policy passed and implemented.

4. Positions taken

In all three of the case studies, the most central messages used for advocating for the policy change represented the problem as a moral one that argued for the humane and ethical treatment of a vulnerable group. This was supported by a more legally oriented human rights discourse that pointed out how the group was rendered vulnerable through their lack of legal protections. Those who argued against the policy, or specific aspects of it, were typically concerned that implementation would not be feasible or would be too expensive. In all cases concessions were made by the coalitions. This suggests that there is indeed a negotiated approach taken to policy making.

5. Contestations over knowledge

In all three case studies, research played only a very limited role in the policy process. Whilst it was valued, it was only one of many competing factors and, it could be argued, marginalised as a form of knowledge in favour of public opinion and moral anxieties. In addition, there were extensive contestations over the credibility of research, which was provided, and the independence of NGO based researchers was questioned.

6. The political environment

In all cases, having access to policy makers was essential for influencing policy. NGOs in particular had to cultivate strong relationships in order to be considered credible and trustworthy. In addition the political environment mattered.

The research on which this paper is based indicates that when trying to make interventions in the policy making process, particularly outside of the U.S./E.U., understanding these six factors and harnessing them are important in planning any intervention. Finally, this research suggests that further work must be done using these relationships to build trust from policy makers and state actors in research, whilst maintaining a critical perspective of research that is provided.

Introduction

In this paper we address the question: how and why does policy get made? Based on three case studies, from Bangladesh, South Africa, and Singapore, we trace the drivers of policy change in these contexts. The case studies all focus on policy aimed at women and at protection of vulnerable groups, and the implications of this are discussed in this paper.

Much research has been done on policy making in North America and Europe (U.S./E.U), work that has led to the development of theories and frameworks as to how and why specific policies are made. Examples of these include Sabatier's Advocacy Coalition Framework (ACF) (2014) and more recent work on global norms and how these effect national policy making (Betts & Orchard, 2014; Risse, Ropp, & Sikkink, 1999). Whilst the later have certainly made more of an effort to include other contexts in their theorising, there remains a lack of information on how policy is actually made and implemented outside of these contexts. By way of explanation, 84 per cent of empirical applications of the ACF are based on work in North America and Europe (Jenkins-Smith et al., 2014), and where the norm socialization theory of Risse et al. (1999) considers other contexts, the focus is more on how international actors are involved in norm socialization than on the actual process of policy change. Consequently, what we know policy change and processes in the rest of the world is, by and large, through literature on the role of international organisations and their influence in the global South.

This synthesis report draws together the thematic lessons learnt from three case studies conducted by The Refugee and Migratory Movements Research Unit (RMMRU) at the University of Dhaka in Bangladesh, the Asia Research Institute (ARI) at the National University of Singapore, and the African Centre for Migration & Society (ACMS) at the University of the Witwatersrand in South Africa. All three organizations form part of the Migrating out of Poverty Research Programme Consortium (MOOP RPC) based at the University of Sussex, in the United Kingdom, which, via a grant from the UK Department for International Development, funded this research. The nature of the research conducted in each country is described below.

This paper proceeds with a brief introduction to the case studies followed by a brief analysis of existing literature on policy making in these contexts. A review of the various methodologies and findings follows, ending with a discussion on some of the more general conclusions that we can draw from the three case studies. In this working paper we conclude that there are six factors that shaped the policy making process in the three case studies. These are:

- The nature of the policy being made;
- Who is policy is for;
- Who the role-players are;
- Contestations over knowledge;
- The positions taken; and

- The political environment.

We argue that understanding these six conditions can contribute to explaining policy changes in contexts outside of the U.S./E.U., and the political and social conditions under which advocacy and other policy change efforts can take place.

National policy contexts

Bangladesh

The findings from Bangladesh are based on a case study on the Domestic Workers Protection and Welfare Policy (DWPDP), which was approved by the Bangladeshi government in 2015 (see Ashraf, 2016 for fuller details, all information in this section, unless otherwise stated comes from his report). Advocacy for the regulation and protection of domestic workers began in 2006, when domestic workers were excluded from the Labour Act of that year, although advocacy for domestic workers has been a feature within Bangladeshi civil society since the 1970s. Most domestic workers in Bangladesh are young women, often under the age of 18, who migrate from rural to urban areas in search of employment. The vast majority take up work that involves living in the home of their employer, which potentially exposes them to long working hours, high levels of abuse, and acts as a barrier to workers being able to access help or mobilise. Given the domestic nature of the work and given that many domestic workers have filial relationships with their employers, this is a sector that is often construed not as work, but as a private arrangement, taking place in the home and between family members. This is, therefore, a sector in which many Bangladeshi see State intervention as inappropriate or unnecessary.

Two clear coalitions were central to the policy process. The first was the Domestic Workers Rights Network (DWRN), which included organisations advocating for domestic workers, women, and children's rights. The DWRN was formed in Bangladesh after the exclusion of domestic work from the 2006 Labour Act. Given the lack of mobilisation of domestic workers themselves, the DWRN acted as the voice of domestic workers throughout the nine-year process, which eventually resulted in the DWPDP. The second coalition was the Bangladesh Employers Federation (BEF), which advocated for the rights of employers and was interested in ensuring that the recognition of the rights of domestic workers would not unduly burden employers. In addition, the Ministry of Labour and Employment played a central role. At an international level, whilst advocacy for the recognition of domestic workers was taking place in Bangladesh, the International Labour Organisation (ILO) was producing C189 – the Domestic Workers Convention. Although Bangladesh had ratified other international Conventions, and the ILO and United Nation's Children's Fund (UNICEF) encouraged the State to ratify C189, the country refused to do so. This is particularly interesting because the

ratification of international Conventions is often critiqued as paying lip service to international norms and maintaining an image of human rights protection, rather than actually leading to any real change (Betts & Orchard, 2014). But in this instance, concerns about the enforceability of the Convention and possibility of real change were cited as reasons for not ratifying. Ashraf (2016) interprets the fact that Bangladesh chose to not ratify the Convention as an attempt at asserting national sovereignty in the face of increasing international involvement in national policy making. At a national level, the High Court in Bangladesh also issued, in 2011, a ten-point directive, which criminalised the employment of children as domestic workers and essentially implemented a draft version of the DWPWP.

The debate around implementing national policy to regulate domestic work centred on two issues: the first was a demand for State recognition and regulation of the sector, and the second was the inclusion of human and labour rights in this State intervention. Whilst the two coalitions (Bangladesh Employers Federation and Domestic Workers Rights Network) could agree that there was a need for State intervention, the extent to which the rights of domestic workers should be regulated and recognised was fiercely debated. Due to the use of domestic workers by civil servants, bureaucrats in the Labour Ministry were far more sympathetic to the BEF position and adopted what could be described as a 'go slow' strategy towards implementing the policy, actively delaying the policy process. Ashraf makes the case that in Bangladesh, bureaucrats can be understood as a 'permanent government', able to delay or speed up the drafting and implementing of policy far more than elected officials (2016).

Whilst the DWPWP would eventually be passed in late 2015, the policy only provides protection to Bangladeshi domestic workers. Concerns around the protection of foreign domestic workers appear to have been raised much later in the general discussion and not to have carried much weight (Ashraf, 2016).

Singapore

The case study for Singapore investigated the mandatory weekly day off policy for migrant domestic workers (MDWs) introduced by Singapore's Ministry of Manpower (MOM) in 2012 (see Koh, Goh, Wee, & Yeoh, 2016 for a fuller account, all information in this section, unless otherwise stated, comes from their report). Singapore, a country with an ageing population and a high rate of formal employment, is largely reliant on migrant domestic workers to care for the elderly and the young, as increasing numbers of Singaporean women are formally employed. By the MOM's estimates there are approximately 231, 500 MDWs in Singapore who provide vital services to the ageing population in a context where eldercare homes are unpopular ('Foreign workforce numbers', n.d.).

MDWs are excluded from Singapore's main labour law, the Employment Act. State policies have also ensured that MDWs remained a transient workforce by granting only two-year work contracts and by placing MDWs on work visas that preclude permanent settlement, marriage to Singaporean citizens, and giving birth in Singapore. This created a context in which local civil society became concerned about the human and labour rights of MDWs.

Subsequently, in 2008, several leading civil society organisations – TWC2, HOME, and the Singapore Committee for UNIFEM[1] - launched a campaign for a policy that would mandate a weekly day off for MDWs. 'Given the dominance of the Singapore State', Koh et al. argue that veto players within the State have to buy into policy in order for it to be implemented. However, a combination of three factors explains how civil society was able to secure this buy in from the State. The first was sustained activism by local NGOs who, over a period of ten years, kept the call for a mandatory day off on the policy agenda. The second was the threat that not implementing a day off policy was having, and would continue to have, a negative effect on Singapore's international reputation. Like Bangladesh, Singapore did not ratify C189 on the basis that it could not commit to implementing some of the Convention's requirements, which include a mandatory day off policy. However, the lack of protection for MDWs led to a report, in 2005, by Human Rights Watch condemning the situation, and warranted comment from the United States Department of State Trafficking in Persons Report[2] which, in its critique of Singapore's response to human trafficking, singled out the lack of a mandatory day off policy as a factor which was facilitating trafficking. Singapore's international reputation was further questioned by the fact that other destination countries for MDWs, like, for example, Hong Kong and Taiwan, were able to provide better protection to MDWs. The third factor leading to the policy development was, given the ability of other countries to provide better protection for MDWs, a fear that MDWs would choose destinations other than for work. In fact, Indonesia even announced that it would stop sending MDWs to Singapore by 2017, if the situation did not improve. Consequently, short-term costs for employers, for example the inconveniences of not having domestic help once a week, and the concerns about immoral behaviour of MDWs if they were given a day off, were used as arguments against the day off policy. However, the growing concerns about the longer-term implications for Singapore as a whole, if the policy was not implemented and MDWs did not choose to work in Singapore, finally gained traction. These longer-term implications, should the status quo continue, were used by sympathetic State actors such as Halimah Yacob, the current Speaker of Parliament and a former Minister of State, to lobby the State to pass the policy. A culmination of these factors compelled the State to implement the mandatory weekly day off policy for MDWs.

South Africa

The South African case study is based on research into the Trafficking in Persons Act, which came into effect on National Women's Day, 9 August, 2015 (for the full report see Palmary & de Gruchy, 2016, all information in this section, unless otherwise stated, comes from their report). South Africa signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol) in 2000, and ratified it in 2004, at which point concerns about the country as a place of 'origin, transit, and destination' for

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[1] In Singapore UNIFEM Singapore is a local NGO and is not connected to the United Nations body UNIFEM, now U.N. Women.

[2] This is the same report that was influential in making of the Trafficking in Persons Act in South Africa.

trafficking were gaining momentum. Whilst the concern about trafficking in South Africa was, in part, driven by local civil society, the influence of international ideas and organisations (for example the annual United States Department of State Trafficking in Persons Report and South Africa's reliance on the U.S. President's Emergency Plan for AIDS Relief (PEPFAR) funding from the U.S) also played a role.

Throughout the early 2000s, organisations and individuals were mobilised by claims of vast numbers of women and children being trafficked for purposes of sexual exploitation. Whilst a lot of these ideas were, and remain, unsubstantiated and improbable, the growing movement was able to recruit individuals and organisations with political and social capital to its cause (for example, Molo Songololo, an organisation with a respected history of advocating for children's rights) and ultimately frame the conversation in moral terms. However, although was concern around trafficking in South Africa from the early 2000s, it was only in the build up to the 2010 FIFA World Cup, which was held in South Africa, amidst concerns about the trafficking of women for sexual exploitation during the event (a common concern around major sporting events (Bonthuys, 2012)) that Parliament started to deliberate a Bill to specifically target trafficking.

Deliberations on the Bill, which was finalised and signed in 2013, were, on one level, uncontested in the sense that there was universal condemnation of trafficking from all stakeholders. There was, however, significant disagreement about the reliability of the evidence of trafficking and there was a great deal of concern about whether trafficking should indeed be a priority for the State and civil society, over other possible responses to practices and systems which exploit migrants. Reports on trafficking were extensively published by both civil society (Martens, Pieczkowski, & van Vuuren-Smyth, 2003; Kropiwnicki, 2010) and the academic sector (Allais et al., 2010), and while questions about the methodology used and, thus, the findings presented were raised (Bonthuys, 2012; Gould, 2010; Gould, Richter, & Palmary, 2010), they were consistently ignored to the effect that many discredited ideas, particularly about the numbers of people trafficked into South Africa, are still today part of the national conversation in South Africa. Through analysing these debates, it is clear that two advocacy coalitions (in the tradition of Sabatier) or networks (Shearer, Abelson, Kouyaté, Lavis, & Walt, 2016) were formed, one being the anti-trafficking coalition, and the other being a rights-based coalition more concerned with the effects that anti-trafficking legislation could have on immigrants and sex workers. However, there was, by and large, only one policy option ever presented – that of criminalising trafficking.

In spite of there being consensus that trafficking should be criminalised, and in spite of the ideas about trafficking as extensive being widely accepted, the actual implementation of legislation took much longer than anticipated (in a far easier manner than that envisioned by Risse et al., 1999). This, to a certain extent, confirms ideas of Betts and Orchard (2014), who argue that an actual reaction on the part of the State to international norms does not end with Convention or Treaty ratification; whilst South Africa ratified the Palermo Protocol as early as 2004, it took a further 11 years until it was implemented.

As was the case in Bangladesh and Singapore, anti-trafficking advocacy was largely undertaken on behalf of the 'victims' who remained invisible, save for their projection in media campaigns against trafficking. Consequently, it was the influence of local civil society, the U.S. Department of State, through the annual trafficking report, and international civil society, which ultimately led to the implementation of the legislation.

Conceptualising policy process analysis

Analysing policy process developed as a method of enquiry in politics in the mid-20th century. Initially theories focused on either institutions or networks, or were based on rational choice theory and the idea that policy makers were rational agents (Surel, 2000). By the mid-1980s, however, far more sophisticated theories were emerging, which were able to account for multiple factors and variables. Referred to as 'cognitive and normative frames', these theories emphasise:

> [T]he influence of ideas, general precepts and representations, over and above social evolution and State action…based on the belief that cognitive and normative elements play an important role in how actors understand and explain the world' (Surel, 2000, p. 495).

By drawing parallels between three of the best developed frameworks of this kind – Hall's policy paradigms, Sabatier and Jenkins-Smith's Advocacy Coalition Framework, and Jobert and Muller's référéntiél – Surel shows that they share 'the goal of establishing the importance of the dynamics of the social construction of reality in the shaping of historically specific and socially legitimate frames and practices' (Surel, 2000, p. 495).

In all three contexts on which this paper is based, policy-making has not been adequately explored through process tracing. As such, it was difficult to know beforehand which frameworks may be most useful for the research. Because of this, the three case studies used the 3-Is framework, with some reference to the Advocacy Coalition Framework. According to Gauvin (2014), the 3-Is brings 'together three of the most common factors to which the political science literature appeals for explaining public policy development processes' – institutions, interests, and ideas (Gauvin, 2014). For our purposes, the 3-Is framework provided 'a theoretical checklist' (2014). However, given some of the limitations of this framework, which will be identified later, we drew on the ACF model to shed light on the various stakeholders who played a role in the process. A recent paper analysing health policy making in Burkina Faso uses the traditional 3-Is – institutions, ideas, and interests – but adds another dimension, namely networks, to understand how specific public health policy decisions were taken (Shearer et al., 2016). Whilst our research would suggest that the inclusion of networks within the 3-Is analysis is helpful and necessary, in this paper we have chosen to rather use the ACF in conjunction with the 3-Is as it provides a more nuanced framework through which to understand networks. The addition of 'networks' in the 3-Is + N

framework merely adds 'networks' to the 'theoretical checklist', rather than providing ways in which to conceptualise and investigate the structure and interactions of the identified networks. Using the ACF in conjunction with the 3-Is also proved useful as it provided the conceptual framing for findings which were not captured by the 3-Is, for example the Devil Shift and the idea that 'external perturbations and shocks' are 'necessary but not sufficient' for policy change to occur. The Devil Shift refers to perceptions that one coalition, the ACF term for network, might have of another, given the other's successes within a subsystem. Frequently this manifests as the 'losing' coalition casting the 'winning' coalition as having access to superior resources or behaving unethically (Jenkins-Smith et al., 2014). 'External perturbations and shocks' can be anything from regime change to changes in other subsystems, but shock the subsystem in question to the extent that policy change occurs (Jenkins-Smith et al., 2014). Both of these concepts proved useful in analysing the three case studies, even though the overall theory had too many predefined hypotheses that did not translate easily in the contexts in which these case studies took place.

We conclude therefore that the 3-Is is a particularly useful tool as it is less prescriptive than the ACF and other highly developed frameworks that, because of its predefined hypotheses, may well have blinded us to aspects of the policy process unique to our contexts. For example, researching policy making in an increasingly globalized world raises questions on the effect that globalization and international ideas and institutions have on policy making and, what Risse et al. (1999) refer to as, norm socialization. Risse et al. use case studies to show how international and local activism around specific human rights issues are able to get governments, who were previously violators of these human rights, to accept new human rights norms (Risse et al., 1999). The authors use examples from South Africa, Kenya, Indonesia, and the Philippines, amongst others to put forward a 'five-phase "spiral model" of human rights change which explains the variation in the extent to which States have internalized these norms' (Risse et al., 1999, p. 3). This model has been critiqued by Betts and Orchard (2014) who claim that once a Treaty or Convention is ratified, it is not a given that the norms in question are, or will be, institutionalized. Rather, they argue that sustained activism is needed after the ratification in order for the norms in question to be implemented. Our research, and the individual case studies on which we draw, lends weight to Betts and Orchard's argument. In the South African case, ten years of sustained activism was needed after South Africa had ratified the Palermo Protocol before national legislation came into effect. In the Singaporean and Bangladeshi cases, whilst neither country ratified C189, the Domestic Workers Convention, after prolonged periods of activism around the rights of domestic workers, both countries implemented policy that better regulated the sector. Both Risse et al.'s seminal work on norm socialization and Betts and Orchard's more recent work on implementation can be effectively used in collaboration with the 3-Is to better understand the role of international interests, ideas, and institutions in policy making.

One of the limitations of the norms socialization and implementation literature is that it assumes that the issues around which both local and international civil society mobilise will

lead to the further protection of human rights and are based in fact. Furthermore, it is often assumed that policy and policymaking is evidence-based, which is not necessarily true (see for example, Gould et al., 2010; and Weitzer, 2011 on the lack of evidence around trafficking in persons and trafficking policy). As we have seen in the implementation of anti-trafficking policy globally, civil society and policy is increasingly responsive to a wealthier sector of society and concerns about moral norms (Hankivsky, 2012; O'Connell Davidson, 2015; Tolhurst et al., 2012). This has meant, amongst other things, that gender concerns are legislated on in response to middle class ideas around gender and sexuality, for example, that domestic work or sex work is not work, or that specific legislation, or the lack thereof will threaten the very moral fabric of society.

Methods

All three studies made use of qualitative methods to map out the various roles played by key actors and organisations in influencing the policy under investigation. All three projects were studies on policy process, and as such, process tracing was the overall method that was used. Defined by Collier (2011) as 'the systematic examination of diagnostic evidence selected and analysed in light of research questions and hypotheses' (p. 823), process tracing is a qualitative method through which casual claims can be made about social and political phenomena. Attempting to trace policy decisions requires the use of multiple methods. In these case studies, documentary analysis, to identify key issues and stakeholders, and key informant interviews with identified stakeholders, were used to inform stakeholder mapping and, ultimately, process tracing.

Once initial stakeholders had been identified through documentary analysis, snowball sampling was found to be particularly effective as key informants were best placed to be able to refer researchers to other key informants. The use of both documents and interviews acted as data triangulation. Stakeholder mapping then allowed researchers to isolate who the key actors were in the process and what institutional mechanisms they used to mobilise policymakers. The structure, length, and formality of interviews varied across the different projects but, as all three projects were exploratory in nature, key informant interviews were able to provide valuable data that was both descriptive and explanatory (Hesse-Biber & Leavy, 2011, pp. 96–98).

The potential limitations of all three projects include selection bias, recall bias, and problems with access. All three of these are serious concerns when doing process tracing as they can affect the outcome of the analysis. However, it appears from the data triangulation that the projects were able to conduct that these limitations did not significantly affect the findings of the studies. For example, in the South African study, interviewees began to confirm what other interviewees had said and refer the researchers to stakeholders who had already been

interviewed. As indicated by Beamer, 'a convergence of recommendations indicates that the sample is complete' (2002, p. 91).

The finer details about ethical clearance and obtaining informed consent from participants differ across the three projects and can be found in the individual working papers. However, all three projects incorporated processes to garner informed consent and keep opinions or quotes confidential or anonymous if necessary.

Findings

In this section we propose six different components of the policy making process that impacted the nature of the policy change in the three case study contexts. These are components of policy change that were common across the case studies even if their impact and nature varied. We propose that by paying attention to these aspects of policy-making we will be able to better understand, influence and predict policy making in contexts outside of the U.S. / E.U. context.

1. The nature of the policy being made

All three case studies reflect on policy processes that informed very particular kinds of policy. We set these out here because this is likely to impact on the transferability of the findings. Most significantly, the case studies focussed on policy that was deemed to be protective of vulnerable groups of people; domestic workers in the case of Singapore and Bangladesh, and trafficking victims in the case of South Africa. This is very different to other kinds of policies such as those that deal with commercial issues or policy that emphasises restricting migration. However, as much as all three of the policies were aimed at protecting vulnerable groups, the groups are also those for whom protections are often unpopular, namely poor, unskilled, female migrants. In general, migrant rights have not been a popular cause in any of the three countries, where notions of protection were frequently trumped by concerns about creating security risk or financial burdens for the State.

Furthermore, all the case studies focussed on gendered policy making, and the ways in which gender impacted on the nature of the policy itself. In Bangladesh, in particular, the fact that domestic work arrangements are frequently made between and within families means that they are popularly construed as a domestic rather than an employment arrangement. This was also true in Singapore. For example, in challenging the domestic workers day off policy, a labour unionist compared domestic workers to housewives, and claimed that housewives are not necessarily exploited just because they do not have a day off. Similarly, the discussions surrounding the Trafficking Act in South Africa were constantly framed by debates about the sale of sex and whether sex could ever be construed as work. Thus, each of these policies focussed on policymaking where the appropriateness of State regulation was in question. For

the studies on domestic work, there were extensive debates regarding whether and what kinds of domestic work actually constitute work and, therefore, given 'unique nature of domestic work' (Koh, et al., 2016) what role the State should play in its regulation of. In the case study on trafficking, the debates were often conflated with debates around the nature of sex work, whether it can be considered work, and whether it should be legal or illegal; formal or informal. This is significant because it is not clear that these findings can be generalised to other areas of policy making. With regard to migration policy, in particular, these case studies represent a very distinct kind of policy, particularly in its protection orientation, which stands in contrast to most migration policy, which is aimed at regulating and controlling the movement of people.

The nature of the policy has two further important implications for our findings in this study. Firstly, this kind of policy making has high levels of public interest, even as the actual affected groups may have low participation in the policy process (see below for more discussion). Secondly, it is a kind of policy making that has very clear political, moral, and ethical entanglements.

2. Who is the policy for?

As described above, across all three case studies the policy in question was aimed primarily at improving conditions for poor, migrant women. Here we elaborate some of the consequences of this.

In each case study, the focus of the policy on women resulted in a public debate regarding morality, which resonates with research around moral panics (Cohen, 1980; Critcher, 2008). Moral panics invariably turn conversations about groups of people who deviate from normative social practices, for example by selling sex, away from being about their protection or inclusion in society and towards identifying and eliminating their perceived deviance. In the South African case study, much of the debate centred on women in sex work, for example, something which was exacerbated by the fact that several of the awareness campaigns were led by Christian organizations who emphasised the moral implications of sex work over evidence or the priorities of the sex workers or trafficking victims themselves. In the case of the day off policy in Singapore, there was concern that if female domestic workers were given a day off they may use that time to act in inappropriate and immoral ways such as 'falling pregnant'. In this way, the gendered nature of the policy meant that the debates set up women's rights in conflict to social norms or morality, and the resultant policy was shaped by a broad discourse on appropriate gendered behaviour as much as one regarding the needs and rights of female workers.

Importantly, the case of Bangladeshi domestic workers focused predominantly on internal domestic workers moving from rural to urban areas, while both of the other case studies focussed on international migrants. A significant finding is that this alone did not affect the frequency or nature of the concerns expressed about offering legal protections to this group.

In other words, the debates on morality and gender were similar regardless of whether the policy beneficiaries were international or internal migrants. This is not to say that migration status did not matter at all and, in the case of Bangladesh, it is noteworthy that the Domestic Workers Protection and Welfare Policy explicitly excluded international migrants.

Finally, given that the population groups that the policies intended to protect were largely unskilled and transient, there were extensive debates that focussed on the economic costs of their presence in a city or country as well as the "burden" they constituted for the State. In Bangladesh and Singapore the costs of protections for migrant domestic workers to employers was a central part of the debate. In the South African case this took the form of the Department of Home Affairs expressing concerns that trafficking victims would be treated in a privileged way relative to other poor people, as well as the fear that trafficking legislation could be a back door into South Africa for foreign migrants.

3. Who are the role players?

In each of the case studies the actors involved in making and shaping policy were a complex mix of international and local actors, as well as actors with varied skills and mandates. In this section we outline some of these complexities.

International actors

One of the key commonalities with all the case studies was the role of international actors in the policy making process. This influence was very particular in that, in all three cases, there had been some attention to the issue from organisations within the country for a very long time. However the introduction of international pressure garnered particular kinds of attention and played the role of catalysing change, or providing what the ACF calls an 'external perturbation or shock' (Jenkins-Smith et al., 2014).

In the case of Singapore, the abuse of domestic workers and advocating for a "Sundays off" had been on the agenda of NGOs since 2003. However, as discussed above, the Human Rights Watch report that caused international embarrassment, the demotion to the Tier 2 Watch List in TiP Report, and source countries' increasing demand for better employment conditions acted as a catalyst for policy change. In the South African case, the catalyst was also a combination of being demoted in the TiP report (in 2005) and the hosting of the FIFA World Cup, which brought with it moral panic around trafficking (in 2010) (Bonthuys, 2012). In the Bangladesh case, the catalyst was the exclusion of domestic workers (as well as other informal workers) from the Labour Act (2006), which sparked frustration among rights groups and galvanised advocacy. For both South Africa and Singapore, the connection of the campaigns to international counter trafficking interventions was significant for its ability to draw on pre-exiting definitions of the problem and debates. For example, South Africa's concern that the World Cup would bring with it an influx of trafficking victims echoed concerns from previous major global sporting events, to the extent that the numbers of potential victims put forward

by civil society ahead of the event was the exact number used prior to the FIFA World Cup in Germany in 2006 (Bonthuys, 2012).

Thus, it can be argued that, whilst international pressure does indeed play a role in policy change, it was not a singular determinant of it, nor was it responsible for putting the issue onto the policy making agenda. Rather, international pressure played the role of catalyst in a context where there were already local NGOs and activists working on an issue. This does not necessarily suggest a close working relationship between local NGOs and international organizations, and, in fact, this relationship varied a great deal across countries. In South Africa some members of the anti-trafficking coalition did indeed work closely with international organizations or were part of them. However, in Singapore there is a great deal more scepticism towards international organisations. In conclusion, these two sources of pressure on the State - local and global - functioned in different, but complementary ways to result in policy change.

In addition, in all three countries, a concern with international reputation was mentioned as a reason for why policy was developed. It is frequently assumed in the literature that global pressure is positive. Indeed, in all three cases the motives of international organizations was to protect vulnerable groups. However, the assumption that issues framed as human rights issues, and supported by international civil society, are 'good' and 'progressive' meant that many of the claims made by civil society were not critically interrogated (see for example, Risse et al. 1999, and Betts and Orchard, 2014). For example, in the South African case it was argued strongly by some human rights organisations that trafficking legislation might be deflecting attention from more broad based labour protections that are needed in the country, and that the legislation may result in increasing human rights abuses against sex workers.

International Conventions and treaties are often recognised as providing leverage for NGOs when advocating for human rights. However, ratification of a Convention can mean very little when it comes to its implementation (Betts & Orchard, 2014). The three case studies in this report exemplify this. For example, whilst South Africa did ratify the Palermo Protocol as early as 2004, it took a further 11 years for national policy to be implemented even though national policy is a requirement of the Protocol. On the other hand, neither Bangladesh nor Singapore signed or ratified C189 in 2011, when it was published, on the understanding that they could not commit to implementing its provisos. However, by 2015 and 2013 respectively, both had implemented policy to protect domestic workers. This indicates the tenuous relationship between Convention ratification and the actual implementation of the rights promoted and protected by the Convention. It further suggests that there are national norms that shape what signing Conventions means symbolically.

Which women?

In all three case studies, the actual women for whom the policy was being developed were largely absent from the policy development processes and debates. The degree of this

absence varied. For example, in Singapore there was a domestic workers support and interest group that was involved in the advocacy, whilst in the South African case no trafficking victims were involved in the policy process in any way. Nevertheless, in all three cases, men and women, who were significantly wealthier than the group that the policy was intended to benefit, largely advocated for and developed the policy. This had a notable impact on the nature of the messages that circulated in the advocacy and, to return to the 3-Is framework, the ideas that were dominating the debates. For example, it meant that the difficulties faced by employers became a dominant debate in the Singapore case. In the South African case, images of young women and children, with accompanying text indicating that the person in the picture could be someone you loved, were evoked to show the horror of trafficking. Most significantly it shows that policy can be made with very little input from the groups it is intended to impact.

Coalitions

In all three cases, at the moment when the policy process began in earnest, NGOs and other interested parties formed coalitions. In Bangladesh, the DWRN emerged in 2006, and comprised 11 national trade unions and eight NGOs who focussed on labour rights and domestic worker rights. In Singapore, the coalition was somewhat smaller, but consisted of three key NGOs who launched the day-off campaign. In South Africa, starting in 2004, various NGOs, some of who already had a long history in South African civil society, started to mobilise around trafficking. Whilst there was a definite affinity between NGOs, it was only in 2011 that the National Freedom Network (NFN) was founded and an active coalition of anti-trafficking campaigners formed.

Although being pro-trafficking or in favour of the abuse of domestic workers was not a position taken in any of the cases, there were nevertheless groups that objected to the specifics of the policy in question. In Bangladesh, the objection came from the BEF, whose primary concern was that the policy was unrealistic given socio-economic conditions and the inability of employers to pay more for domestic help. A similar argument was put forward in Singapore, which also raised questions about how employers were meant to manage without domestic help, given the unaffordability of alternative forms of institutionalised care. In South Africa, the arguments were that the nature and extent of trafficking was unknown and that much of the information informing policy development was incorrect. From the case studies it is difficult to assess whether in the absence of coalitions the campaigns would have had the same success.

There is, however, one clear advantage to NGOs forming coalitions that was evident in these case studies. Many advocacy organisations lacked the skills to contribute to the actual policy drafting. Often those organisations that were able to have an impact on the draft legislation had legal expertise or experience in drafting policy. Whilst other organisations, without this expertise, tended to play advocacy roles, but were less vocal on the actual content of the policy. Thus, coalitions allowed NGOs to work on different phases of the policy change

depending on their particular skills. This is not to suggest that this was a coordinated strategy. But rather to indicate the real benefits of organisations working together, whether it occurs in an organised or organic matter, should they share a common interest or cause. For example, the DWRN in Bangladesh has extensive experience working with government and in policy development. In 2008, they met with the Secretary of Labour Ministry and were tasked with developing a domestic workers code of conduct, which the Department of Labour then revised in keeping with existing laws. This was the foundation of the DWPWP. Even within this coalition, organisations such as the Bangladesh Women Lawyers association were able to play a more central role in the policy writing than other organisations due to their expertise and experience.

Civil servants

Surprisingly, in each case, civil servants themselves had investments in the policy being made beyond that of their office. In the South African case, one of the Members of Parliament (MP) who was involved in the Parliamentary Committee tasked with developing the Act was an active member of the anti-trafficking movement. In both Bangladesh and Singapore, civil servants responsible for drafting and implementing the policy were, by-and-large, also employers of domestic workers. Whilst this has not been explicitly tested, is it possible that this shaped the final policy which offered fewer benefits to domestic workers than advocates had hoped for. For example in Bangladesh, whilst there were civil servants who promoted the passing of the DWPP, there was reference in the interviews to an 'invisible force', namely the bureaucrats who employ domestic workers and therefore had an investment in limiting their rights, who were able to weaken the policy. In addition, MPs and bureaucrats were able to undermine some of the evidence that NGOs confronted them with by questioning the NGOs motives. For example, there were concerns in the South African case study, in particular, that NGOs had alternative financial motives that might influence the data they presented to the State. MPs argued that NGOs own funding rested on trafficking being a big problem and, therefore, their motivations may be self-interest rather than the rights of a vulnerable group.

4. The positions taken

In all three of the case studies, the central messages used for advocating for policy change represented the problem as a moral one, and argued for the humane and ethical treatment of a vulnerable group. This was supported by a more legally oriented human rights discourse that pointed out how the group was rendered vulnerable through their lack of legal protections. Those who argued against the policy, or specific aspects of it, were typically concerned that implementation would not be feasible or would be too expensive. This was the case in all three case studies. In South Africa, the Department of Home Affairs in particular was anxious that the trafficking definitions not be broad enough to allow a 'back-door' for economic migrants to enter the country. In Bangladesh there was an emphasis on the policy

being impractical because of the additional expense that employers would incur. In the Singapore case, the concern was that employers would be unable to cope without domestic workers given their reliance on them for elder care.

In all cases concessions were made by the coalitions. This suggests that there is indeed a negotiated approach taken to policy making. For example, in Bangladesh the policy was passed, but without reference to registration of domestic workers, minimum wages, or employers' responsibility for education and skills training. In addition, the policy excludes international domestic workers. In Singapore, the concession was that employers and domestic workers could mutually agree to pay extra in lieu of a day off if they so wished. In South Africa, there was a decision that the Department of Social Development would be responsible for determining whether someone was indeed a victim of trafficking (rather than relying on the victim's account) and, therefore, whether they were entitled to apply for asylum or obtain State support. Thus, although opposing positions were taken, concessions were a reality in the creation and implementation of the policies.

5. Contestations regarding knowledge

One of the main findings across the countries was that research was used by coalitions and policy makers in ad hoc and problematic ways. In each country, a number of studies had been conducted on the topic in question. In Bangladesh, for example, Human Rights Watch released research on the abuses faced by domestic workers in 2005. Similarly local NGOS that were members of the DWRN conducted research that highlighted the abuses faced by domestic workers. In South Africa, there were key studies which focussed on the extent and nature of trafficking, particularly one commissioned by the National Prosecuting Authority which was explicitly intended to guide the policy process.

A few themes are evident in these research projects. Firstly, all emphasised abuses against the group for whom the policy was being developed. As a result, the research carried over into advocacy. However, the movements that used the research relied on a much looser understanding of knowledge than academics would, and included in their 'evidence' anecdotal experiences of NGOs who provided services to the vulnerable group and research that was methodologically unsound. Secondly, the research was often contested. For example, in Singapore, government officials argued that the Human Rights Watch report was untrue and the standards of research lamentable. In South Africa, there was no doubt that the research of commissioned by the National Prosecuting Authority was extremely flawed and often relied on invented statements of spectacular violence. In both cases the flawed nature of research did not prevent its use, nor did the presence of research that disputed central claims put forward by coalitions make any significant changes to the messages of these coalitions.

Notably, lawmakers were remarkably passive in their consumption of research. They did not seek out researchers nor did they search for research themselves. Rather, they relied on

people coming to them with research findings. In spite of this, in all three cases they lamented the absence of research on the topic. Thus, if one thing is clear it is that advocacy is an important influencer of policy development even if the advocacy is not evidence-based. In addition the quality of research did not influence whether the research had impact or not. In fact, many members of civil society and civil servants appeared relatively illiterate in terms of their abilities to discern between methodologically sound research and problematic research.

6. The political environment

The political context emerged in all three case studies as an important shaper of the policy process. What is noteworthy from all of the studies is that the policies took almost a decade to develop. In most instances the topic for policy development was initiated, but then was not developed further until a catalyst, for example international pressure as discussed above, emerged. Government officials in Bangladesh attributed this to the fact that there are many policy priorities at any one time. However, several NGOs suggested that there were more sinister reasons for the delays. These included MPs' own investments in not passing some policies, such as those protecting domestic workers, as well as their concerns about whether policy could be implemented and what non-implementation would mean.

However, what clearly had an impact on how the policy was shaped was the relationship between NGOs and policy makers. In all three case studies respondents pointed to policy makers' suspicions that NGOs motives were self-serving. Perhaps connected to this, NGOs tended to have more success in accessing MPs if they had access to a particular, and particularly responsive, MP or if they had a long history of working with government. In Bangladesh, in spite of general suspicion about NGOs being the norm, an NGO was assigned the task of drafting the initial policy. This was not the case for South Africa, where the South African Law Reform Commission takes on this role, even though it consults with civil society. In the Singapore case, the issue of a day off policy for domestic workers was raised by several NGOs in a private meeting with a nominated Member of Parliament who then put the issue onto the Parliamentary agenda. In the Singaporean case study, the nominated MP that NGOs approached had a long history of activism and concern for social justice, which helped the coalition.

The ethos and functioning of the State also emerged as a key issue. In the Bangladeshi and Singaporean cases, the State was described as a 'permanent State' whereby law making was reduced to an administrative and bureaucratic task done by career civil servants rather than elected politicians. In both case studies the power of bureaucrats to develop or stall a policy was noted. Whilst the findings in the South African case were somewhat different, the opacity of key decisions around the policy process, for example, why South Africa ratified the *Palermo Protocol* when there was and is little evidence of trafficking in the country, points to the ultimate power of the State in creating the policy agenda.

Conclusions

Whilst the *Findings* section has drawn together the three case studies, there are two broader conclusions that can be drawn about policy making in a postcolonial contexts.

The first is that policy making in these contexts does not happen in isolation from global conversations and ideas. This was made very clear in all three case studies, particularly when it came to Convention ratification. Even though Bangladesh and Singapore did not ratify C189 and attempted to assert their sovereignty within the policymaking sphere, they were still ultimately impressed upon to implement policy that adheres to international norms.

Secondly, whilst the 3-Is framework and ad hoc use of the ACF helped to conceptualise our findings, more work needs to be done to develop a more robust framework through which policy processes in the global South can be explained. For example, throughout this research, it was found that the 3 I's - functioning as a 'theoretical checklist' (Gauvin, 2014) - was best placed to make sense of policy making in these three contexts. Importantly, the use of the 3 I's did not preclude the use of other theories and frameworks. Through exploring the 3 I's – ideas, institutions, and interests – we were able to include aspects of the ACF and theories around norms socialisation and implementation, and moral panics. The 3-I's therefore formed an important basis for the framing of this research, on top of which we could explore other ideas and theories without being bound to more rigid frameworks.

The rigidity of the ACF was our primary concern and we were reluctant to use it exclusively given the very detailed pre-existing hypotheses and ad hoc explanations. No doubt some of the hypotheses of the ACF proved useful in conceptualising what the various ideas, institutions, and interests were in the three policy processes. For example:

> Policy Change Hypothesis 1: Significant perturbations external to the subsystem, a significant perturbation internal to the subsystem, policy-oriented learning, negotiated agreement, or some combination thereof are necessary, but not sufficient, sources of change in the policy core attributes of a governmental program' (p.203)

This hypothesis was particularly useful in the South African case to think about the influence of the international trafficking movement and major sporting events on the subsystem. However it was, by and large, felt that the sheer extent of the assumptions and explanations within the ACF made it too rigid to apply in these studies, which needed to be more descriptive in order to ensure important findings were not obscured by pre-existing hypotheses.

As such, the use of other theories and frameworks strengthened our ability to describe the ideas, institutions, and interests (3-I's) in the three policy processes. So, whilst use of other theories and concepts enriched our use of the 3-I's framework, it also indicated the benefits for projects of this nature to have a more flexible and exploratory framework.

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About the Migrating out of Poverty Research Programme Consortium

Migrating out of Poverty is a research programme consortium (RPC) funded by the UK's Department for International Development (DFID). It focuses on the relationship between migration and poverty – especially migration within countries and regions - and is located in five regions across Asia and Africa. The main goal of *Migrating out of Poverty* is to provide robust evidence on the drivers and impacts of migration in order to contribute to improving policies affecting the lives and well-being of impoverished migrants, their communities and countries, through a programme of innovative research, capacity building and policy engagement. The RPC will also conduct analysis in order to understand the migration policy process in developing regions and will supplement the world-renowned migration databases at the University of Sussex with data on internal migration.

The *Migrating out of Poverty* consortium is coordinated by the University of Sussex, and led by CEO Professor L. Alan Winters with Dr Priya Deshingkar as the Research Director. Core partners are: the Refugee and Migratory Movements Research Unit (RMMRU) in Bangladesh; the Centre for Migration Studies (CMS) at the University of Ghana; the Asia Research Institute (ARI) at the National University of Singapore; the African Centre for Migration & Society (ACMS) at the University of the Witwatersrand in South Africa; and the African Migration and Development Policy Centre (AMADPOC) in Kenya.

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