

# ‘The Life of Individuals as well as of Nations’: International Law and the League of Nations’ Anti-Trafficking Governmentalities

STEPHEN LEGG\*

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## Abstract

This paper will address an often-neglected agenda of the much-derided League of Nations: its ‘social’ and ‘technical’ works. These targeted human security through regulating different forms of international mobility, including the fight against trafficking in women and children. The League used conventions and conferences to commit nation-states, in a legal model, to standardized anti-trafficking measures. It also, however, worked to educate and inform states, voluntary organizations, and the general public about the nature of trafficking and the ways of combating it. The latter techniques are here interpreted using Foucault’s governmentality writings, which encourage us to look beyond the juridical epistemologies of international relations and international law, but not beyond the interlacing of laws and norms, here explored through interwar League governmentalities.

## Key words

governmentality; international law; League of Nations; prostitution; trafficking

## I. INTRODUCTION

Most people remember the League of Nations as the interwar organization constituted by the Treaty of Versailles, formed at the insistence of American president Woodrow Wilson and diplomats such as Lord Robert Cecil, and inspired by their ideal of liberal internationalism. Its covenant was accepted in April 1919 and represented a belief that peace could be guaranteed through a body that would execute a postwar settlement, mediate international disputes, pursue disarmament, and secure world peace. In these tasks, there is no denying that the League ended in catastrophic failure and it has struggled to escape from the historiographical shadow of its performance in mediating relationships between sovereign states.<sup>1</sup> Yet, besides its core business in the realm of international relations and international law as traditionally defined, there also are less popularly acknowledged covenanted activities of the League that concerned ‘technical’ or ‘economic and social’ duties through which it intervened

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\* Dr, PhD, Associate Professor; School of Geography, University of Nottingham [Stephen.Legg@nottingham.ac.uk].

1 S. Pedersen, ‘Back to the League of Nations’, (2007) 112 *American Historical Review* 1091, at 56.

in international health, economics, and communication.<sup>2</sup> Commenting on these ‘economic and social’ duties of the League, an early appraisal suggested that:

They covered every aspect of international relations: as time went on, they were concerned more and more intimately with the ordinary problems of the life of individuals as well as of nations – with health, housing, nutrition, wages, taxation, emigration, education . . .<sup>3</sup>

One such duty comprised the campaign against trafficking in women and children. This brought the League into contact with a nefariously imagined world of pimps, *madames*, *souteneurs*, and traffickers, who gravitated around brothels. These brothels were, in turn, presumed to create both the supply of, and the demand for, prostitutes. The League helped to institute a change in mindsets and practices regarding prostitution and trafficking by de-racializing the ‘white slave trade’ rhetoric in an attempt to force a recognition of the complexity of global trafficking and its impacts on women, whether white or not, as will be elaborated on below.<sup>4</sup> This is partly evident in the international conventions and national laws it inspired, but is also evidenced by the images, data, questions, questionnaires, and campaigns it produced. These interventions went beyond the domain of sovereign juridical commands, legally binding conventions, and clear territorial borders. Rather, they etched out the possibilities for international, *consensual*, regulation in an increasingly globalized world.

The League’s responses to these ordinary problems of individual and national lives were consensual in two senses: first, governments consented to the League’s authority even though it lacked the equivalent coercive powers of a domestic sovereign, and thus it continued to rely on state-level compliance; second, the League launched normative projects that sought to alter terms of debate (e.g., defining ‘trafficking’ or a ‘brothel’) and thus to penetrate domestic governments and populations through encouraging the consensual acceptance of its discourse and norms.

These two senses of consensual compliance also play on the ambivalence at the heart of the ‘international’. This term traditionally refers to relations ‘[e]xisting, constituted, or carried on between different nations; pertaining to the relations between nations’, but it also refers to a sense of affinity and affiliation across national borders, common standards of measure, or membership of bodies such as the Communist International or, as shall be argued here, the League of Nations.<sup>5</sup> One can see two different kinds of ‘population’ at play here in the ‘international’. In the Westphalian tradition, the population of the international was a family of sovereign states. In the twentieth century, the populations *within* the sovereign states *themselves* became the objects of international discourses and regulation – the family undergoing a transition from a model for the international to a mechanism of

2 Ibid., at 1108: ‘In addition to peacekeeping and managing relations of sovereignty, the League had a third task: fostering international cooperation to address transnational problems or traffics that had been the subject of humanitarian concern and rudimentary intergovernmental collaboration before the war.’

3 F. P. Walters, *A History of the League of Nations* (1952), 175.

4 This paper is in part an attempt to reinsert the League into narratives of the shift from slavery to trafficking, many of which gloss over the interwar period, such as the otherwise excellent J. Doezeema, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (2010).

5 *Oxford English Dictionary* (1989), online version, June 2011.

international intervention into everyday life.<sup>6</sup> Indeed, the populations targeted by the League were twofold: they encompassed the family of nation-states typically studied by international relations and international law; but they also envisaged a global population that could be targeted by the transnational circulation of norms and advice. That is what, in the quote above, is referred to as 'the life of individuals as well as of nations'.

This paper will argue that we should consider the powers of the League through its technical interventions into the lives of individuals, rather than simply its work as an international security organization. This necessarily means thinking about the 'international' not only beyond its traditional subjects (sovereign states), but also beyond the traditional juridical mechanisms of regulation (diplomacy and conventions) to considering the broader informal techniques through which the language and mechanisms of internationalism spread across the globe. This provides a new insight into what Foucault has referred to as biopolitics ('an explosion of numerous and diverse techniques for achieving the subjugations of bodies and the control of populations'<sup>7</sup>) as a political technology different from what he called sovereign or juridical power. Moreover, I will argue that Foucault's work on 'governmentalities' provides us with a useful analytical toolkit to consider international negotiations of sovereign- and bio-power. The argument is developed in three parts. The first section will introduce the terms of governmentality and biopolitics and situate them in the ongoing re-evaluation of Foucault's appreciation of the role of law in modern forms of power and government. It will be argued that governmentality provides an analytics for thinking beyond juridical frameworks associated with sovereign power, without jettisoning an appreciation of the role of law. The second part will suggest that we can think about 'League governmentalities' as international manifestations of modern government through the League's technical duties and manifestation of biopolitics, which augmented but did not supplant the place of sovereign powers of international relations and international law within its work. Section 3 uses the case study of trafficking in women and children to show how laws and norms, sovereign powers and bio-powers, were brought together in League campaigns for both legal conventions and greater understanding of the mechanisms and morals of trafficking and tolerated brothels.

## 2. GOVERNMENTALITIES AND (INTERNATIONAL) LAW

In attempting to retheorize the history of power relations in the West, Michel Foucault's famous injunction to decapitate the sovereign's head of political theory and move beyond an obsession with law has been much commented upon, challenged, and tested on empirical case studies.<sup>8</sup> The origin of the contestation lies with

6 For earlier, comparable comments on the family and the home within nation-states, see M. Foucault, *Security, Territory, Population: Lectures at the Collège de France 1977–78* (2007), 104.

7 M. Foucault, *The History of Sexuality Volume 1: The Will to Knowledge* (1979), 140.

8 M. Foucault, *Power/Knowledge: Selected Interviews and Other Writings 1972–1977* (1980), 121. For a critical review of Foucault's work on law, see A. Hunt and G. Wickham, *Foucault and Law: Towards a Sociology of Law as Governance* (1994).

Foucault's juxtaposition of governmentality with an older sovereign power that works through spectacle, force, deduction, subtraction, seizure, and juridical acts of forbidding. Sovereign power in this sense is summarized by the now totemic phrase 'to *take* life or *let* live'.<sup>9</sup> Identifying emerging bio-powers by their productive, rather than deductive, force, governmentality refers to the rationalities that blend sovereign powers with newer disciplinary powers over individual bodies and biopolitical regulations over a population. Biopolitics, as such, refers to 'the right to "make" live and "let" die'.<sup>10</sup> These logics (rationalities) and practices (technologies) combine extractive, constraining, and delimiting (sovereign) techniques with the powers of observation, suggestion, and stimulation (regulation, or the conduct of conduct) at the level of individual instruction (discipline) and of the population (biopolitics).<sup>11</sup>

Governmentalities' interventions relate not to whether one transgresses a law, but to how closely one conforms to a norm. In the nineteenth century, two senses of the norm emerged: the empirically average and the desirably good.<sup>12</sup> Foucault termed the latter norm-ation and associated it with disciplinary power.<sup>13</sup> The former he termed normalization and associated with attempts to secure population processes through governmentalities. But, vitally, he did not dissociate either form of normativity from law, rather arguing that there is a normativity intrinsic to any legal imperative, while techniques of normalization develop within, around, and against the law.<sup>14</sup>

While this detailed investigation of law and the norm has emerged from recent lecture translations, interpreters of Foucault have long argued that legal and normative modes of power and their specific regulatory mechanisms are not mutually exclusive. François Ewald, for example, argued with regard to the League's successor body, the United Nations, that it not only functions through the force of international law, but also attempts to conduct the conduct of states via more informal instruments: 'At the United Nations, for example, arguments have been made for "resolutions" and "recommendations" that do not have the binding force of treaties and serve instead as points of reference for evaluating the conduct of states.'<sup>15</sup>

Ewald made this argument in a pivotal paper at the beginning of a long campaign to show how Foucault appreciated the role of law in modern societies.<sup>16</sup> Such a perspective is more recently complemented by research on the expansive and indispensable nature of law in Foucault's early works<sup>17</sup> and the imbrication of law with 'governmentalities' in his 1970s lectures.<sup>18</sup> The key questions provoked by this reassessment are: how do governmentalities relate to or encompass other modes of power, notably sovereign or juridical powers, and how does such an

9 Foucault, *supra* note 7, at 136 (emphasis in original).

10 M. Foucault, *Society Must Be Defended: Lectures at the Collège de France 1975–76* (2003), 241.

11 M. Foucault, *supra* note 6.

12 P. Chatterjee, *Lineages of Political Society: Studies in Postcolonial Democracy* (2011), 8.

13 Foucault, *supra* note 6, at 57.

14 *Ibid.*, at 56.

15 F. Ewald, 'Norms, Discipline, and the Law', (1990) 30 *Representations* 138, at 155.

16 See, e.g., V. Tadros, 'Between Governance and Discipline: The Law and Michel Foucault', (1998) 18 *Oxford Journal of Legal Studies* 75.

17 B. Golder and P. Fitzpatrick, *Foucault's Law* (2008).

18 E.g., the limitation of sovereign power through the law and law-market apparatus of 'veridiction'; see M. Foucault, *The Birth of Biopolitics: Lectures at the Collège de France 1978–79* (2008), 32.

understanding allow us to break down a false distinction between 'norms' (associated with governmental power) and 'laws' (often solely associated with sovereign power)? The case study of trafficking will be used here to show that, while the older, sovereign *forms* persist (legal conventions) alongside newer forms (commissions of enquiry, statistics, and descriptions), the content of the activities blends legal and normative techniques. This draws upon the work of Foucault and the ongoing commentaries of his interpreters.

As Rose and Valverde argued, when Foucault called for an analytics of power beyond the code of law,<sup>19</sup> his target was actually 'juridical' thinking, which operated through sanctioning and forbidding types of action, not 'law' itself.<sup>20</sup> Hence, his argument was that our understanding of law would have to expand to include its productive power too. As suggested above, Foucault insisted that normalization had led to a proliferation and transformation of 'law', through which norms themselves circulate, even as law can still operate through constraining and coerced compliance.<sup>21</sup> Hence, Rose and Valverde refer to legal complexes as 'the assemblage of legal practices, legal institutions, statutes, legal codes, authorities, discourses, texts, norms and forms of judgement',<sup>22</sup> which includes but is not limited to law or juridical thinking. In addition, they formulate four analytical foci for investigations of the legal complex from a governmentality perspective: (i) authorizations, which addresses how centres of authority are created by threats of legal action or assuming the power to encode standards or responsibilities; (ii) normalizations, which focuses on how individuals or institutions are encouraged to act in accordance with norms; (iii) subjectifications, which addresses how legal systems create subject categories and encourage self-subjection;<sup>23</sup> and (iv) spatializations, which exposes how spaces are made governable through encouraging rules or routines.

In terms of the subjects and objects of regulation, these foci of a governmental analytics range beyond the traditional understandings of the state to encompass not only municipalities, civil society, and families, but also regional political unions and international corporations or institutions. Whereas Foucault first and foremost focused on the domestic realm, and governmentality has been criticized for methodological localism and nationalism, recent work has shown that he had considered, briefly, the international in terms of law. In 1979, he lectured on early modern spaces of free competition in maritime law that contributed to the 'juridification of the world',<sup>24</sup> building on his previous lectures regarding the 'balance of Europe' and European military–diplomatic apparatuses.<sup>25</sup> But, recently, governmentality studies have been pushed into new territory by exploring its relationship with the international, the supranational, and the global. In their path-breaking volume,

19 Foucault, *supra* note 7, at 90.

20 N. Rose and M. Valverde, 'Governed by Law?', (1998) 7 *Social Legal Studies*, at 541.

21 Ewald, *supra* note 15, at 153.

22 Rose and Valverde, *supra* note 20, at 542.

23 *Ibid.* On the self-subjection/subjectification relationship, see J. Butler, *Psychic Life of Power: Theories in Subjection* (1997).

24 Foucault, *supra* note 18, at 56.

25 Foucault, *supra* note 6, Chapter 12.

*Global Governmentality: Governing International Spaces*, Larner and Walters introduce global governmentality as ‘a heading for studies which problematise the constitution, and governance of spaces above, beyond, between and across states’.<sup>26</sup> Similarly, Neumann and Sending recommend using Foucault to decentre the state as the actor in international politics, bringing attention to bear on governmental practices, norms, and forms of liberal behaviour across and between states.<sup>27</sup> While doing groundbreaking work in transposing the debate on governmentality to the international realm, much of the extant literature on governmentalities beyond the nation-state often focuses on the era of ‘globalization’ since the 1990s. The current article broadens this agenda by arguing that if we can think of international law, we can also think of international governmentalities that emerged with this type of law, but also around, through, and against it. They take on the broader forms of governmentalities more generally but are tailored by circumstances, and organizations, as the League governmentalities explored below will illustrate.

The four analytical foci proposed by Rose and Valverde provide a helpful analytical framework for the case study of trafficking later in this paper, as they allow us to address the different populations targeted by the League in its anti-trafficking campaign, as well as the different technologies applied. Contrary to many writings on Foucault and (international) law, this paper will not be an ‘exegetical’ or ‘interpretative’ analysis of law in his writings, but rather an ‘applied’ account of how Foucault’s methodologies can help us arrive at a more critically incisive approach to international law.<sup>28</sup>

### 3. THE LEAGUE OF NATIONS AND ANTI-TRAFFICKING

A Foucauldian framework enables us to move beyond the traditional conception of the League of Nations as an international security organization, to analyse another and often-neglected agenda of the League of Nations. This concerns its endeavours in the 1920s and 1930s to interpenetrate technical, individual, cultural, and political spheres.<sup>29</sup> Article 23 of the Covenant of the League of Nations charged the organization with a wide variety of tasks that move beyond mediating inter-state relationships as they are traditionally conceived. In the economic sphere, for instance, some of its goals included minimizing waste, the scientific organization of labour, standardizing products, simplifying transport systems, and securing higher standards of life.<sup>30</sup> These ‘technical’ or ‘socioeconomic’ activities included, amongst other things, improving labour conditions, the treatment of ‘natives’, trade in arms, communications, and disease. According to Article 23c, the League was also

26 W. Larner and W. Walters, ‘Introduction: Global Governmentality’, in W. Larner and W. Walters (eds.), *Global Governmentality: Governing International Spaces* (2004), 1, at 2.

27 I. B. Neumann and O. J. Sending, ‘“The International” as Governmentality’, (2007) 35 *Millennium – Journal of International Studies* 677. Also see N. J. Kiersey and D. Stokes (eds.), *Foucault and International Relations: New Critical Engagements* (2011).

28 B. E. N. Golder, ‘Foucault and the Incompletion of Law’, (2008) 21 *LJIL* 747, at 749.

29 See J.-A. Pemberton, ‘New Worlds for Old: The League of Nations in the Age of Electricity’, (2002) 28 *RIS* 311.

30 D. Ekbladh, ‘Exile Economics: The Transnational Contributions and Limits of the League of Nations’ Economic and Financial Section’, (2010) 4 *New Global Studies*, Article 9.

entrusted 'with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs'. Such endeavours went beyond the domestic and were referred to in a 1927 League report as 'internationalised rationalisation'.<sup>31</sup> Age-of-consent debates, in terms of trafficking, fitted into wider concerns with population regulation and sexual reproduction, while other debates over cannabis production focused on individual economic productivity, mediated through a colonial lens.<sup>32</sup>

Though planned as a minor part of the League's mandate, interwar crises of economy, disease, and refugees meant that such 'technical' work in practice accounted for over 50 per cent of the League budget by the late 1930s. This money was spent on data collection, travelling commissions, and forging agreements between member states. In Foucauldian terms, these could be identified as what I would like to call League governmentalities.<sup>33</sup>

In this role, the League made a key contribution to the emergence of international welfare, health, and hygiene.<sup>34</sup> This emergence was marked by innovative collaborations between the League and voluntary, state, and corporate philanthropic organizations, experts, and professionals. Hence, this work also moved beyond the international to the global, including non-members and working extensively with non-state institutions. Dunbabin described the League's work with the Red Cross, the International Labour Organisation, refugees and epidemics in Eastern Europe, and financial reconstruction as amongst its most striking.<sup>35</sup> This work with an emergent international civil society increased in the 1930s as the League's diplomatic capacities collapsed in the face of growing geopolitical tension.<sup>36</sup> During what Walters termed the renaissance of the economic and social agencies between 1935 and 1939, these bodies specialized in establishing models for governments to accept themselves, rather than using formal treaties.<sup>37</sup> These included clauses that could be inserted into domestic legislation embodying norms regarding, for instance, working hours, age of consent, or spending on armaments.

In this context, it could be argued that the League was also central to an emergent transnational (if inherently Eurocentric) epistemic community investigating the causes of poverty and disease. National rivalries did, of course, inflect these relationships.<sup>38</sup> Yet, the economic and social institutions of the League also contributed to a fundamentally new and different focus on the lives of individuals as

31 Pemberton, *supra* note 29, at 321.

32 A. Tambe, 'Climate, Race Science and the Age of Consent in the League of Nations', (2011) 28 *Theory, Culture Society* 109; L. Kozma, 'The League of Nations and the Debate over Cannabis Prohibition', (2011) 9 *History Compass* 61.

33 Also see S. Legg, 'Inter-War Spatial Chaos? Imperialism, Internationalism and the League of Nations', in S. Legg (ed.), *Spatiality, Sovereignty and Carl Schmitt: Geographies of the Nomos* (2011), 106.

34 P. Weindling, 'Introduction: Constructing International Health between the Wars', in P. Weindling (ed.), *International Health Organisations and Movements 1918–39* (1995), 1.

35 J. P. Dunbabin, 'The League of Nations' Place in the International System', (1993) 78 *Journal of the Historical Association* 421, at 433.

36 M. Smith, 'The League of Nations and International Politics', (1976) 2 *British Journal of International Studies* 311, at 320.

37 Walters, *supra* note 3, at 750.

38 See P. M. H. Mazumdar, "'In the Silence of the Laboratory": The League of Nations Standardizes Syphilis Tests', (2003) 16 *Social History of Medicine* 437.

well as nations. These institutions focused on welfare, exchanging ideas, and influencing public opinion: 'their primary attention was no longer concentrated upon the action of governments but directed towards the cares and interests of the individual and his family.'<sup>39</sup> This attention worked towards forming a 'network of connexions' between League offices, members' administrations, and non-members.<sup>40</sup>

One of the most emotionally evocative of these networks concerned the trafficking of women and children, the campaign against it being described by Indian League delegate Sir J. C. Coyajee as 'the greatest in history', which extended League work 'from that of securing life and increasing its material endowment to the task of raising the value of life itself'.<sup>41</sup> The League honoured clause 23c of its covenant at the first meeting of its Advisory Committee for Trafficking in Women and Children (TWC) in 1922.<sup>42</sup>

The TWC Committee worked through conventions and publications, to encourage legislation and policies that would reduce enforced prostitution and international trafficking. The campaign was one of ethical concerns and moral hygiene as well as a public-health project of social hygiene. The moral reform project fed, in part, on the broader debate the League was engendering regarding (sovereign) rights.<sup>43</sup> TWC thus became a debate about the rights of women not to be trafficked.<sup>44</sup> This humanitarian concern favoured a social-scientific investigation into the conditions of prostitutes and trafficked women, rather than the social-purist emphasis on repressing and policing prostitutes. This had been the dominant response to the hysteria over the 'white slave trade' at the end of the nineteenth century that had led to repressionist legislation like the British Criminal Law Amendment Act of 1912.<sup>45</sup> This reminds us that at the heart of many biopolitical projects are laws and debates over sovereignty. Literature on the League has tended to focus on the latter. The review below will show how these subjects are of vital importance, but also how they can be and need to be thought of in relation to the League's governmentalities. This will be demonstrated through an analysis of trafficking policy on the basis of the four analytical foci proposed by Rose and Valverde: (i) authorizations, (ii) normalizations, (iii) subjectifications, and (iv) spatializations.

39 Walters, *supra* note 3, at 750.

40 *Ibid.*, at 176 ff.

41 J. C. Coyajee, *India and the League of Nations* (1932), 191.

42 B. Metzger, 'Towards an International Human Rights Regime during the Interwar Years: The League of Nations' Combat of Traffic in Women and Children', in K. Grant, P. Levine, and F. Trentmann (eds.), *Beyond Sovereignty: Britain, Empire and Transnationalism, c.1880–1950* (2007), 54; D. Gorman, 'Empire, Internationalism, and the Campaign against the Traffic in Women and Children in the 1920s', (2008) 19 *Twentieth Century British History* 186; S. A. Limoncelli, *The Politics of Trafficking: The First International Movement to Combat the Sexual Exploitation of Women* (2010).

43 See B. Metzger, 'The League of Nations and Human Rights: From Practice to Theory' (2001, unpublished doctoral thesis, University of Cambridge) for League debates and actions over the rights of refugees, children, and trafficked individuals. For more contemporary work on international law, sex, and rights, see A. M. Gross, 'Sex, Love, and Marriage: Questioning Gender and Sexuality Rights in International Law', (2008) 21 *LJIL* 235.

44 C. A. Miller, 'The Social Section and Advisory Committee on Social Questions at the League of Nations', in *International Health Organisations and Movements, 1918–39* (1995), 154, at 158.

45 Doezeema, *supra* note 4; the evolution of the anti-TWC movement in the Netherlands, France, and Italy has also been traced by Limoncelli, *supra* note 42.



## 4. LEAGUE GOVERNMENTALITIES

### 4.1. League authorizations: Geneva and New York

The Traffic in Women and Children Advisory Committee to the Social Questions branch of the League marked a new form of enquiry and implementation. Its expert investigations and recommendations saw it contribute to an international assemblage of normative concepts, measures, and opinions. In its role in supporting international governmentalities, however, the League would continue to experiment with traditional agreements, based on a sovereign model of power and legal conventions established by congresses and conventions, such as those concerning the 'white slave trade'. These formed one core of authorizations based in Geneva, while American authority was also felt through the more diffuse influence of the New York-based Rockefeller Foundation. These two examples will be explored below.

Evidencing the links between sovereign power and biopolitics, law, and norms, anti-white slave trade conventions helped establish many of the governmentalities that would target trafficking, while, at the same time, the TWC's origins and objects were very clearly informed by civil society and social scandals. As an example of the way in which the TWC's activities and ideology were informed by civil-society groups, the TWC's 1927 'Report of the Special Body of Experts on Traffic in Women and Children' made it very clear that the movement to suppress the trade in women and children, of which the TWC was itself a part, was inaugurated by a congress held in London in 1899. This congress was organized by Alexander Coote, secretary of England's National Vigilance Association, and Senator Bérenger from France in order to co-ordinate policies against the 'white slave trade'.<sup>46</sup> Arising out of this conference, an association to suppress the supposed trade was established that had branches across Europe, with the UK committee being co-ordinated by the National Vigilance Society. As the League's 1927 report claimed:

These Committees, which were independent of the Governments but acted in agreement with them, had at their disposal the copious information supplied by the vast network of organisations for preventative work and the protection of girls which already existed in the Old World.<sup>47</sup>

Many of these civil-society organizations had emerged from purity campaigns such as those of Josephine Butler against the British Contagious Diseases Acts (1864–86). Building on the 1899 London Congress, the French government called an official conference in Paris in 1902, which led to the International Agreement for the Suppression of the White Slave Traffic of 1904. This was signed by 16 nations, including the majority of the major European powers. Though this gave the anti-white slave trade movement the kudos of official recognition, the co-signatories were only consensually committed to establishing modes of surveillance at ports and stations, encouraging the repatriation of foreign prostitutes and investigating the traffic of women and children. This latter activity involved the appointment of central authorities within each nation charged with co-ordinating relevant information

<sup>46</sup> League of Nations, *Report of the Special Body of Experts on Traffic in Women and Children: Part I* (1927), 7.

<sup>47</sup> *Ibid.*, at 8.

regarding trafficking. A further diplomatic conference held in 1910 committed signatories to adjust their domestic legislation to punish traffickers if the victim was under 20 years old, even if travelling under consent, and to punish procurement by force or fraud. Growing concerns about a trade in women and children was reflected domestically in, for instance, the United Kingdom's Criminal Law Amendment Act (1912), which provided powers to punish pimps, traffickers, and procurers. This Act subsequently became a model for legislators throughout the British Empire. Acknowledging the increasingly international nature of the white-slavery discourse, the League's 1927 report recognized the influence of the 1908–09 United States of America Immigration Commission report on the 'Importation and Harboring of Women for Immoral Purposes'. This had led to the 'White Slave Traffic Act', or Mann Act, of 1910, which penalized the inter-state or foreign commerce of women or girls for immoral purposes.

In addition to these state-based acts and meetings, the institutions of an emergent international civil society organized gatherings on similar topics. In 1920 alone, *The Shield* (of the Association for Moral and Social Hygiene) could report three international conferences relevant to its work, namely a meeting of the International Council of Women, the International Abolitionist Conference, and the Conference of the International Woman Suffrage Alliance.<sup>48</sup> But the following year would see a convention passed that would establish the League as the broadest and most influential platform for influencing state policy and disseminating information that was of an increasingly abolitionist nature.

In June 1921, the League organized an international conference in Geneva at which representatives from 34 nations discussed the means by which the organization would honour its commitments under section 23c, namely to offer general supervision over the execution of agreements with regard to the traffic in women and children. It was at this meeting that the rhetoric of the white slave trade was de-racialized to that of Traffic in Women and Children, an Advisory Committee on TWC was established, and the agreement reached that League nations should submit annual reports on conditions relating to trafficking, all of which were embodied in a draft convention. This draft convention subsequently became the International Convention for the Suppression of the Traffic in Women and Children that was put into effect at the September 1921 session of the League. Within six months, it had been signed by 33 states, some of which (Germany, for instance) were not even members of the League. Those states who had not signed the 1904 or 1910 white-slavery conventions were bound to enforce their provisions, to tackle trafficking in women and children (and acts deemed preparatory to such trade), and to allow for the extradition of persons accused of TWC. As will be seen below, the League persistently campaigned against trafficking throughout the 1920s, though this was largely an investigative and educative programme. However, following a conference in Geneva in October 1933, the League passed a convention that would augment the agreements of 1904, 1910, and 1921 by penalizing anyone who procured females of

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48 'International Conferences in 1920' (1920), *The Shield*, Fifth Series, III(2), 1.

'full age', even with their consent, for immoral purposes to be carried out in another country, whether or not those offensive acts were committed in different countries.<sup>49</sup> In addition to the vital abolitionist principle that consent of a trafficked woman was irrelevant, extra powers targeted attempted offences and preparatory acts, but did not remove the age bar or ban tolerated brothels, for which many campaigners outside the state sector had been campaigning. Their influence had, however, been significant.

It had long been clear that the TWC Committee would be just as dependent upon the representatives of charitable and voluntary associations as it would be attentive to the representatives of nation-states. As the Secretary-General of the League commented during his opening speech at the committee's first meeting, since the 1902 Paris conference, 'international and national voluntary associations had remained in the forefront of the battle against traffic, and the Council accepted their co-operation on the Advisory Committee with the greatest pleasure'.<sup>50</sup> The second meeting received reports from various 'international voluntary organisations', including the Federation of National Unions for the Protection of Girls, the International Bureau for the Suppression of the Traffic in Women and Children, and the International Jewish Association for the Protection of Girls.

While the League received delegations from other organizations, it also sent representatives to meetings to put across its views and garner the impressions of other experts in the field. For example, in June 1928, Dame Rachel Crowdy, the head of the Social Section of the League of which the TWC Committee was a part, attended the Seventh International Congress for the Suppression of Traffic in Women and Children in London.<sup>51</sup> Crowdy praised the voluntary associations that had 'blazed the trail' against TWC over the last 50 years and stressed their continued importance in educating the public against the dangers of trafficking.

As such, it was clear that the League had inherited tactics and conventions from international law, but that it was just as indebted to non-state origins and their campaigning tactics. Geneva had established itself as the new centre for authorizing sovereign interventions into trafficking policies, which contained their own norms (regarding age of consent, for instance), subjects (the trafficker, woman, and child), and spatialities (the port and the station). It would remain the centre for authorizing more diverse trafficking governmentalities, with clearer definitions of the people, norms, and spaces at their heart. It was in this realm of education, broadly conceived,<sup>52</sup> that the League would find a domain of influence much wider than that which could be secured through the conventional legal commitments of sovereign states.

49 League of Nations, *Diplomatic Conference Concerning the Suppression of Traffic in Women of Full Age* (1933).

50 League of Nations, *Advisory Committee on the Traffic in Women and Children: Minutes of the First Session, Geneva June 29th–July 1st (1922)*, 4.

51 K. Furse, 'The Seventh International Congress for the Suppression of Traffic in Women and Children', (1927) *II Health and Empire* 133.

52 On the League's more specific work on intellectual co-operation, see D. Laqua, 'Transnational Intellectual Cooperation, the League of Nations, and the Problem of Order', (2011) 6 *Journal of Global History* 223.

But, if the channels of League action and the figures it targeted were diffuse, equally so were its sources of influence and funding. There is a substantial literature regarding international law and the influence of America, spanning historical writings on the absent presence of America's 'global Monroe Doctrine'<sup>53</sup> to contemporary analysis of the American 'Empire'.<sup>54</sup> But, in the interwar years, America also began to exert its influence over global biopolitics. In particular, the Rockefeller Foundation in New York used its vast wealth to inflect the emerging trajectory of international health.<sup>55</sup> Regarding prostitution, J. D. Rockefeller sponsored Abraham Flexner to tour European cities and report on their policies regarding prostitution. His resulting work thoroughly condemned tolerated brothels as justifying and stimulating trafficking.<sup>56</sup> The methodology of this work and its conclusions were extremely influential, but Rockefeller also intervened directly in the League (of which America was not a member). It is clear that the entire history of the TWC Advisory Committee would have been radically undermined without Rockefeller support. It was a US representative to the TWC Advisory Committee, Grace Abbot, who suggested a travelling commission of enquiry into trafficking at their second session in March 1923.<sup>57</sup> A body of experts was appointed in December of that year and met in April 1924 to consider the work to date of the TWC Committee. Thanks to a grant of \$75 000 from the Rockefeller-funded American Social Hygiene Association, the League was able to fund the travelling commission, with Dr William F. Snow acting as personal supervisor and chairman. Snow was an American advocate of social hygiene who believed in the importance of the medical profession securing a prominent role in the campaign against venereal diseases but who also, like Flexner, understood the importance of education and moral guidance.<sup>58</sup>

The enquiry had much in common with Flexner's methodology, but greatly increased his scope of investigations. The belief was that trafficking began in Western Europe and moved to Central and South America. The investigation, however, also spread to North America and Baltic countries, eventually taking in 28 countries and 112 cities, in which 6500 interviews were carried out, of whom roughly 5000 were with prostitutes or *souteneurs*. The *Report of the Special Body of Experts on the Traffic in Women and Children* was published on 18 February 1927 in two parts: the first contained an interpretation of the gathered facts and some conclusions and recommendations; the second contained excerpts from the mass of material gathered. Due, in no small part, to the sensationalist nature of the subject matter, the report became an instant best-seller, with 7000 copies purchased by the end of the year.<sup>59</sup> The report would also come to be widely circulated through reproductions

53 C. Schmitt, 'Großraum versus Universalism: The International Legal Struggle over the Monroe Doctrine' (translated by M. G. Hannah), in S. Legg (ed.), *Spatiality, Sovereignty and Carl Schmitt: Geographies of the Nomos* (2011 [1939]), 46.

54 A. Rasulov, 'Writing about Empire: Remarks on the Logic of a Discourse', (2010) 23 LJIL 449.

55 J. Farley, *To Cast Out Disease: A History of the International Health Division of the Rockefeller Foundation (1913–1951)* (2004).

56 A. Flexner, *Prostitution in Europe* (1914).

57 League of Nations, *supra* note 46, at 5.

58 D. J. Pivar, *Purity and Hygiene: Women, Prostitution, and the 'America Plan', 1900–1930* (2002), 109.

59 Furse, *supra* note 51, at 134.

and summaries, in journals such as the British Social Hygiene Council's *Health and Empire* and the Association for Moral and Social Hygiene's *The Shield*, which reprinted the entire conclusion of the report.<sup>60</sup>

The 1927 report sent out clear messages about the characters and methods employed in TWC, then argued that the traffic actually existed, and suggested both the routes and nodes to blame. These arguments worked around relatively clear notions of trafficking, procurement, and brothels. These proved to be key planks in a broader nominalist programme of the League that set out to name and define the key targets in its campaign against TWC, which would then be used to educate the world about the dangers of trafficking. The report contains a wealth of information and viewpoints, not all of which can be done justice to here (e.g., sections on the type of women trafficked and the routes and methods of mobility). Many of these definitions found their way directly into the clauses of suppressionist legislation worldwide, forming the bases for national projects of normalization, and mark one of the most mobile yet influential governmentalities within the League *techné*.

#### 4.2. Normalization and the definition of trafficking

For the purposes of this study, international traffic has been taken as meaning primarily the direct or indirect procurement and transportation for gain to a foreign country of women and girls for the sexual gratification of one or more other persons. This definition covers the cases in which girls have been procured and transported to become mistresses of wealthy men. It also covers certain cases of the procuring of women as entertainers and artistes, and exploiting them for purposes of prostitution in foreign countries under degrading and demoralising conditions.<sup>61</sup>

Essential to a project of normalization is the definition of the objects under regulation and their forms of circulation, while compatible forms of norm-ation distinguish between the normal and the abnormal – such a definition establishes the terrain over which judgements and adjustments would be encouraged. The 1927 League report began with a chapter on 'the character of the traffic', which sought to address the beliefs of those people who thought that the white slave trade had died out following the conferences and conventions of the previous 30 years. On the contrary, trafficking had been found to exist, as defined in the above quotation. This referred only to international traffic, which was the specific remit of the League. The motive of the traffic was believed to be financial, and it was governed by the business law of supply and demand. Conscious that the de-racialized terminology of the TWC replaced political with financial metaphors, the report stated that:

We have used these economic terms because they seem aptly to describe the commercial aspect of the whole traffic. There exists or arises, owing to a variety of causes, a demand

60 'Summary of the Report of the Special Body of Experts on Traffic in Women and Children', (1927) II *Health and Empire* 109; 'League of Nations' Report on Traffic in Women' (1927), *The Shield*, Third Series, V(3), 109; and 'Full Summary of the Report of the Special Body of Experts on Traffic in Women and Children' (1927), *The Shield*, Third Series, V(3), 129.

61 League of Nations, *supra* note 46, at 9.

for prostitutes in some particular area. The trafficker deliberately sets out to supply it.<sup>62</sup>

The body of experts were obviously aware of the tension between the vast heterogeneity of the places and peoples within the scope of their study and the suggestiveness of their terminology that implied the co-ordinating genius of a 'trafficker'. The *souteneurs* and *madames* were said to speak many different languages, but to share a common slang. While there was not an organized international group, a 'worldwide camaraderie' of 'honour among thieves' bound these 'parasites' together. There were various causes, and circumstances, of the demand for trafficked women and children. These included: surpluses of men over women; theatres, clubs, and cabarets that encouraged prostitution; places with seasonal movements of men (especially soldiers and sailors, workers, or tourists); and vice districts or licensed houses (as discussed below). *The Shield* would report in 1935 that the League's definition of trafficking and its effort to suppress it had found success through forcing governments to consider the phenomenon and marking their efforts as a matter of prestige.<sup>63</sup> While consciousness of this amorphous traffic was essential, governments would be prompted into action by recognition of the subjects of mobility (the pimps and procurers) and the spatialities of transfer and storage (the brothel).

#### 4.3. Trafficking subjectivities

No formal organisation exists to further traffic, but there is evidence of local associations of traffickers in many different countries with groups of their own and meeting-places. In connection with such places, *souteneurs* obtain news of what is going on, learn the movements of their friends and often obtain money or other forms of assistance to promote trafficking in women.<sup>64</sup>

Having described the nature of trafficking, the League's 1927 report went on to try to explain the subjectivities of the people involved, and the mechanisms by which trafficking took place. As the quote above suggests, a cast of subjects was invoked that included traffickers, groups, *souteneurs*, friends, and the women themselves. Again, it came up against the dilemma of explaining how a complex whole was organized without a central co-ordinating agent. 'The question naturally arises to whom did the profits go, or in other words who are the so-called traffickers?' It was insisted that traffickers did not consist of a single class, but formed a group of individuals with various interests, merging into pornography, drug supply, and prostitution. As instanced in the quotation above, the trade operated through intermediaries who combined knowledge of a particular market with experience of transport or traders. Agents and commissioners would be used to find houses suitable for brothel keeping, to locate moneylenders, and to source women themselves. The investigators were able to travel thousands of miles along these dispersed networks, linking up local groups that were not in touch with each other but had traffickers

62 Ibid., at 9.

63 'League of Nations: Report of the Fifth Committee' (1935), *The Shield*, Fifth Series, IV(2), 50.

64 League of Nations, *supra* note 46, at 24.

who could pass on contacts between locations. These different agents converged on specific 'centres of information' to circulate 'dope' (news) as to the prospects of trade in different countries, the number of tourists, the availability of false passports, immigration laws, regulations on prostitution, and rates of deportation. Despite the vast variety of these networks, traffickers were divided into four categories, with their attendant characteristics:

1. Principals: usually the owners of brothels, often retired *souteneurs*, who provided funds and gathered information in order to co-ordinate the traffic.
2. *Madames*: managers of brothels who kept houses full of 'new attractions'; they were often in relationships with principals or *souteneurs* and often kept girls indebted to the brothel.
3. *Souteneurs*: financed the business, secured new girls, transported them, and introduced them to *madames*; they were continually on the move.
4. Intermediaries: transported women for *madames* and *souteneurs*. They procured artists and entertainers, accosted customers and brought them to brothels, and liaised with seamen who smuggled in girls.

The acknowledgement of these traffickers, and the instigation of action against them, were of course not new. Their histories show that, just as legal conventions relied upon norms and social networks, nominalist processes likewise drew upon legal acts and dialogues. In addition to the international congresses from the turn of the century, national legislatures had passed their own acts against traffickers. Following the 'Maiden Tribute' scandal,<sup>65</sup> for instance, the British Criminal Law Amendment Act (1885) against procuration had been passed. The 1927 report acknowledged the importance of the Act's penalization of procuration of a female under the age of 21 for unlawful carnal connection, whether in England or abroad, claiming 'This Act was used as a model in connection with later international discussions'.<sup>66</sup> The League was proactive in seeking legal action against *souteneurs* in particular. It circulated details of legislative measures in force in various countries to deal with *souteneurs* and stressed the need to grant powers for the prompt arrest and penalization of such persons.<sup>67</sup> But the movement narrowed in on the brothel as the storing house of trafficked women and girls and the prime cause of demand for them.

#### 4.4. Spatialities of the licensed house

We are led to the conclusion that commercialised vice leading to international traffic undoubtedly receives a strong stimulus where prostitution is either ignored or where the control takes the form of official recognition by the registration of prostitutes or the licensing of brothels . . . We have definite evidence that licensed houses create a

65 W. Stead, 'The Maiden Tribute of Modern Babylon I: The Report of our Secret Commission', *Pall Mall Gazette*, 6 July 1885.

66 League of Nations, *supra* note 46, at 7; see also 'Laws against Traffic in Women etc.: Extracts from Criminal Laws' (1938), *The Shield*, Fifth Series, VI(3), 130.

67 NA/Home(Judicial)/1929/843/29.

steady demand for new women and that this demand is met by traffickers and causes both national and international traffic.<sup>68</sup>

Whilst the League de-racialized the language of the white slave trade, it clung onto the scalar connection that abolitionist discourses had forged between 'licensed brothels' (as above) and a supposedly global traffic. But it found its hands tied by its limitation to the *international* dimension of prostitution, namely trafficking per se, and not the supposedly domestic dimension of brothel control. Within these limits, the TWC Committee's first effort to target the brothel struck up uneasy comparisons with former efforts targeting the 'slave trade' in white women alone.

During the March 1923 meeting of the TWC Advisory Committee, a resolution by the Assembly was discussed that suggested that, pending abolition of the system of state-regulated prostitution altogether, foreign women should be banned from working in licensed houses.<sup>69</sup> These houses referred to brothels that had been registered and acknowledged by the state. This did not include tolerated brothels that were known of but not registered, allowing states such as British India to consistently proclaim that it did not have, and had not had since 1888, licensed houses.

The suggestions regarding foreign prostitutes were widely opposed. Mme de Sainte-Croix, representing various women's voluntary organizations, stressed to the committee that there were no remaining arguments left for state regulation of any kind, and that it led to a false sense of security regarding venereal diseases. The French representative, M Bourgois, objected on the grounds that state regulation was an internal question beyond the concerns of the League, although the Chair pointed out that the resolution did not propose to interfere in regulation directly.

The focus on licensed brothels increased over the following years. At the 1924 meeting of the TWC Committee, the answers to a questionnaire concerning the effects of abandoning licensed houses had been discussed.<sup>70</sup> Of the 14 governments that replied, having abolished tolerated brothels, only four suggested that this had led to an increase in trafficking. Following this, the Polish representative put a statement on record stressing that the committee was in favour of the abolition of licensed houses.

The TWC Committee very much adopted this viewpoint in its further sessions. In December 1927, ten months after the report was issued, it published the results of its questionnaire distributed in 1922 regarding foreign women in licensed brothels, and also incorporated the results of other questions circulated regarding the links between licensed houses and trafficking.<sup>71</sup> Eight countries, including Great Britain, suggested there was a link, whereas the four that did not (Hungary, Italy, Japan, and Siam) claimed that this was because of the strict observation under which their licensed houses were placed. As a result of this, at the 1928 TWC Committee

68 League of Nations, *supra* note 46, at 14.

69 League of Nations, *Advisory Committee on the Traffic in Women and Children: Minutes of the Second Session: Geneva March 22nd to 27th 1923* (1923).

70 League of Nations, *Advisory Committee on the Traffic in Women and Children: Minutes of the Third Session: Geneva April 7th–11th 1924* (1924).

71 League of Nations, *Abstract of the Reports from Governments on the System of Licensed Houses as Related to Traffic in Women and Children* (1927).



meeting, governments were explicitly asked to close licensed houses. It was admitted, however, that public opinion would have to be worked on and the legislative and administrative measures necessary would have to be researched before such changes could be implemented.<sup>72</sup>

The report's position on licensed brothels was also favourably received elsewhere. Between 28 June and 1 July 1927, the Seventh International Congress for the Suppression of Traffic in Women and Children was held in London.<sup>73</sup> Dame Rachel Crowley, head of the Social Section of the League, presided over a lengthy discussion of the TWC report. Brothels were described as the 'mainspring' of trafficking, and a resolution was passed requesting the closure of 'bordels' in 'all countries, at all times, in all circumstances'. In a further report in *Health and Empire*, Dame Katharine Furse used the report, and the 1928 TWC Committee's reflections on it, to reflect on trafficking more broadly, and the brothel in particular.<sup>74</sup> She commented on the discussions specifically from a 'woman's point of view', wondering how some male members of the committee could continue to defend licensed houses as a public-health measure when they were so clearly unhealthy for the women involved. An investigation by the Health Organisation of the League was suggested, which would surely prove the ill health and high mortality of women in licensed houses – the 'retail' part of the trafficking business.

While the League did not take up this proposal to focus on the fate of women within brothels, it did attempt to formulate the laws that had been put in place to guarantee public health and public order in cases in which licensed houses had been abolished, following a resolution by the TWC Committee in 1929.<sup>75</sup> Of the 15 countries that replied, six had instituted a system of compulsory treatment of venereal diseases, unlike the free and voluntary systems in Britain, South Africa, Canada, and some Swiss cantons, which some regarded as another form of regulation. Regardless of the system, however, it was argued that abolition of tolerated brothels had not led to negative societal or biological effects. This laid the groundwork for the 1933 conference that banned trafficking, even with consent, although the tolerated brothel remained untouched. The League had built up information to prove its specific argument about brothels, but, in so doing, had also outlined a new form of international governmentality that functioned, as the Indian delegates to Geneva reported back to their government, through productive rather than deductive power:

The work of the League in this field is a valuable example of the effects which can be produced, not by creating obligations, but by convincing analysis of essential aims and by mutual enlightenment as to the experience of different countries in securing these aims . . . It is now recognised, as proved by experience, that the licensed house system is not justified as a means of protecting public order and health, and that the abolition

72 K. Furse, 'Part of the Social Work of the League of Nations', (1928) III *Health and Empire* 127, at 131.

73 Furse, *supra* note 51.

74 Furse, *supra* note 72.

75 League of Nations, *Study of Laws and Regulations with a View to Protecting Public Order and Health in Countries where the System of Licensed Houses Has Been Abolished* (1930).

of the system which is essential to the suppression of the traffic, can be carried out without disadvantage in other directions.<sup>76</sup>

## 5. CONCLUSIONS

What I hope to have shown is that, during a critical period in the evolution of international law, the League of Nations used traditions of conventions and conferencing to tackle TWC. These top-down, prohibitory, sovereign-power models were used effectively, but they also drew on non-state social bodies and operated through sponsoring new norms, deploying networked spatialities, subjectivizing new actors, and attempting to establish Geneva as a new authority in the (anti-)trafficking scene. More specifically, Geneva attempted to act as a centre of 'authorizations' through hosting conventions that bound co-signatories to act against trafficking, though in ways heavily inflected by Rockefeller authorizations emanating from New York. In terms of 'subjectifications', the League named and summoned forth governments (as reporting agencies), women and children (as victims), and a host of traffickers (as criminals). Furthermore, the League deployed 'normalizing' tactics that were aimed to make states, towns, and ports inhospitable zones for trafficking and to promote an abolitionist moral turn against tolerated prostitution. Finally, while League 'spatializations' tethered nations to international conventions, the League also circulated literature and terms along routes that aspired to the mobility and range of traffickers themselves.

But the League also experimented with biopolitical tactics that targeted 'the life of individuals as well as of nations', regarding sexual reproduction, drug consumption, economic performance, and moral regulation. Here, its tactics included circulating pamphlets and questionnaires, proposing definitions, compiling comparative data sets, and stigmatizing certain characters while calling others into being. But the chief aim of these governmentalities was to encourage national legislation beyond the scope of international law. This paper has focused on the League's methods. Its legal effects can be traced in the international conventions and national laws that were passed under its influence. Its normative effects are necessarily more diffuse, and must be tracked through intimate archives that trace the impact of League questionnaires, statistics, incitations, and stories.<sup>77</sup> At this level, the realization of the League's hopes will be transcribed, as will be the very differing experiences of women who found their brothels closed down, their movements newly surveyed, and their spatial life worlds radically reformed.

76 National Archives, New Delhi, India/Home(Public)/1931/32/11/31.

77 For work on the tailoring of trafficking policies to India, and the uptake of League work by an India-based anti-brothel campaigner, see S. Legg, 'Of Scales, Networks and Assemblages: The League of Nations Apparatus and the Scalar Sovereignty of the Government of India', (2009) 34 *Transactions of the Institute of British Geographers* NS 234; S. Legg, 'Governing Prostitution in Colonial Delhi: From Cantonment Regulations to International Hygiene (1864–1939)', (2009) 34 *Social History* 447. For comparable work on Siam, see S. Hell, *Siam and the League of Nations: Modernisation, Sovereignty and Multilateral Diplomacy, 1920–1940* (2010).