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Trafficking on Trial: The Judge, the Pimp and the Victim

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ABSTRACT *Based on an ethnography of French trials for trafficking in human beings and aggravated procuring, this article seeks to contribute to the analysis of the reframing, in penal terms, of the struggles engaged in the name of social justice and women's rights, of which anti-trafficking policies are particularly emblematic. Studying the judging practices and logics at stake during trials reveals how fantasized representations of the pimp and the victim take on substance. In particular, I argue that judges invoke a set of gendered, sexualized and racialized extra-legal norms, which, along with their legal foundations, constitute their knowledge base and impose a moral and penal hierarchy among litigants. Therefore, not only does this analysis contribute to defining the contours of the elusive figures of the pimp and the victim in the penal arena, it also exposes how maintaining public order is based on the perpetuation of a gendered and sexual national order in the name of gender justice.*

KEYWORDS human trafficking; criminal justice practices; gender and judging; racialization

Trafficking reappeared on national and international agendas in the early 1990s in terms that not only emphasized the sexual dimension of exploitation (Weitzer, 2007),[1] but also conflated trafficking with migration and security issues (Aradau, 2008; Darley, 2006). Indeed, problematized in this way, trafficking for the purpose of sexual exploitation offers a space for prolonging particularly acute controversies related to migration and its supposed links with

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[1] The types of offenses associated with human trafficking also include forced labor or services, the removal of organs, incitement to commit crimes, enslavement or servitude, the exploitation of begging, or unworthy working or accommodation conditions (see Art. 225-4-1. - I. Of the French Penal Code, 5/08/2013).

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organized crime, and to the relationship between sex work and coercion or consent.

In France, the abolitionist framework equating all forms of sex work with violence developed after World War II,[2] and quickly became dominant. Since the 2000s, its increasing proximity with radical feminism contributed to reinforcing the abolitionist narrative: eradicating prostitution has become a battle to be fought in the name of defending women's rights (Mathieu, 2014). Here as elsewhere (see e.g., Chapkis, 2003; Outshoorn, 2001), anti-trafficking arguments have been used in national parliamentary debates (Jacquemart & Jakšić, 2018) to promote a tougher stance on illegal immigration in the name of "sexual humanitarianism" (Mai, 2014) constructed around the idealized figure of a suffering female victim in need of rescuing (Agustín, 2007), whom the judge must protect. Indeed, the various legislative changes adopted in the last 20 years in France have all been made in the name of the protection of women, be it those criminalizing the sale (such as the Internal Security Act or Loi sur la Sécurité intérieure of 2003) or purchase (such as the law against the prostitution system in force since 2016) of sexual services.[3] Reframed in terms of gender justice, sex work and its potential exploitation have increasingly become a criminal issue, justifying repressive policies such as the strengthening of border controls and fighting exploiters, traffickers, pimps and clients (Mai, 2014; Ticktin, 2008). The fact that cases of aggravated procuring and human trafficking are processed by French courts specializing in organized crime has reinforced an association between the most serious forms of sexual exploitation and the foreign origins of litigants, as it puts cases with international ramifications – more likely to involve foreigners – at the core of judicial work. Furthermore, in the French abolitionist context, the policing of commercial sex activities tends to focus on the most visible forms (i.e., those occurring on the street and typically involving foreign women).[4] As a result, foreigners are clearly overrepresented in court; and the two "moral" figures that permeate both political and public debates – of the pimp/exploiter and the victim – are considered in France to be predominantly extra-national, encouraging a representation of human trafficking or aggravated procuring as a "cultural offense" (Darley, 2022a). These forms of othering of both victims and perpetrators are likely to be reinforced by the sexual nature of the offense:

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[2] Act 46-685 of 13 April 1946 (so-called "Marthe Richard law") aimed at closing brothels and strengthening the fight against procuring.

[3] Internal Security Act 2003-239 of 18 March 2003 (re)introduced the offense of passive soliciting for persons engaged in prostitution. Act 2016-444 of 13 April 2016 abolished the offense of passive soliciting for persons engaged in prostitution and introduced the criminalization of clients of sexual services.

[4] The police interlocutors interviewed estimate that "persons of foreign nationality" make up "at least" 90% of Parisian street prostitution (interview conducted with the head of the Brigade for the Repression of Procuring, 28/10/2015).

sexuality, which has played an important historical role in the way Western societies have constructed the idea of their civilized nature (Stoler, 2002), appears in the French context particularly influential in linking anti-trafficking policies to border and migration control policies on the one hand, and to humanitarian rhetoric on the other (Mai, 2014; Ticktin, 2008).

Singularly caught between order and benevolence, between coercion and protection, anti-trafficking policies therefore illustrate with particular clarity the dual dimension of the State, between a "monopoly of legitimate physical violence" (in a Weberian sense, see Weber, 1976, p. 821-822) and as an "organ of social justice" (as theorized by Durkheim, 1975, p. 175).

However, while social science researchers have analyzed public policies to combat trafficking, and the policy and media narratives (e.g., Doezema, 2010) that underpin them, the judicial arena has remained largely in the shadows. Yet it is the court – in charge, by definition, of the legal qualification of criminal acts – that ultimately determines and thereby labels sexual exploitation and its protagonists, victims and exploiters.[5] In this sense, criminal trials dealing with sexual exploitation appear as a "moral arena" par excellence, where good and evil are defined or confirmed.

Following from the concept of "carceral feminism" proposed by Elizabeth Bernstein (2010),[6] this article therefore offers an analysis of the reformulation, in penal terms, of struggles undertaken in the name of women's rights. It does this in particular by looking at the fight against sexual exploitation through its implementation in trials for trafficking in human beings for the purpose of sexual exploitation and aggravated procuring in France. In so doing, it aims to pay greater attention, in the analysis of contemporary punitivity, to its gendered, sexualized and racialized presumptions, of which anti-trafficking policies are singularly emblematic; and also, in a context of research on anti-trafficking policies that prioritizes discourse analysis, to integrate the penal state and its institutions more fully into feminist debates and research.

Because they are accessible, public and ritualized, trials for sexual exploitation constitute a privileged arena for analyzing the ways in which the demand for social justice is translated into criminal law, but also, *a contrario*, how the ideal-typical figures of the exploiter and the victim, both implicit in demands for social justice, are (re)produced through criminal judgments. The

[5] The term "sexual exploitation" is used here to reflect the joint and often undifferentiated treatment, by the same specialized courts, of the offenses of trafficking in human beings for the purpose of sexual exploitation and aggravated procuring, which judges still tend to regard as equivalent. The criminal policy instruments relating to the fight against trafficking, taking note of this tendency for judges to prefer the offense of procuring to that of trafficking because they consider it easier to handle, encourage them to make greater use of the latter (Circular CRIM/2015-1/G1-22.01.2015, Politique pénale en matière de lutte contre la traite des êtres humains, Garde des Sceaux, Ministre de la Justice, January 2015).

[6] E. Bernstein developed the concept of "carceral feminism" to analyze how the feminist anti-trafficking activism is "fueled by a shared commitment to carceral paradigms of social, and in particular gender, justice and to militarized humanitarianism as the preeminent mode of engagement by the state" (see Bernstein, 2010, p. 47).

aim of this article is therefore to question the ways in which anti-trafficking policies – adopted in the name of an ideal of social equality that promotes the recognition and protection of victims' sexuality, gender and race (Fraser, 2011) – are embodied in the practices, discourses and representations of criminal justice professionals.

Thinking of the French republican model as "colorblind" has made it complicated to question the weight of culturalism at hearings, or more generally the role of the law in producing differentiation and discriminations.[7] Neveretheless, observing trials and interviewing legal professionals can help reveal the impact of racialized, sexualized and gendered preconceptions on the construction of the figures of the perpetrator and the victim of sexual exploitation. As I show below, the most common archetypes here associated the "Roma" exploiter with unparalleled degrees of violence and unscrupulousness (Favarel-Garrigues & Mathieu, 2022),[8] whereas Nigerian trafficking victims were presented as "absolute victims" (Mai, 2014; i.e., naïve and abused foreign women whose sexual integrity had been violated through gender-based violence). At opposite ends of the compassion spectrum, the ideal-typical gendered and racialized figures of the pimp and the victim constitute a blending of sexual and "cultural" otherness (Anderson & O'Connell Davidson, 2003; Jacobsen & Skilbrei, 2010). However, it is the in-between unthought-of and unthinkable figure of the (Nigerian) victim-perpetrator that highlights, in a singular way, the legal professionals' implicit presumptions about gender, race and sexuality. By shedding light on the extra-legal norms that function – in tandem with legal norms – to constitute the forms of knowledge mobilized by the judges (Valverde, 2003), the analysis lays out the State logics that base the preservation of public order on the perpetuation of a gendered and racialized national order. Under the guise of social justice and the defense of women's rights, anti-trafficking policies hence are key in the (re)production of this national order.

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[7] The republican model is distinguished by a specific conception of nationality and citizenship that implies a direct relationship between the State and individual citizens, as well as the latter's moral adherence to the universalist values of the Republic. This assimilationist model has been usually opposed to that of multiculturalism, which tolerates the expression of particular cultural and religious communities in the public arena. Only a few research works have questioned the influence of litigants' origins (for instance Gautron & Retière, 2013; Herpin, 1977; Jobard & Névanen, 2007) or "culture" (for instance Bessière et al., 2018; Terrio, 2009) on forms of judgment in France (see also Escafré-Dublet et al., 2023).
[8] Most legal professionals use the terms "Roma" and "Romanians" interchangeably to describe people involved in sexual exploitation cases that they have come to know and whose "Roma" membership is presumed from their Romanian origin, although not necessarily claimed by the litigants themselves. To show the racialized nature of this characterization when it replaces that of national belonging, "Roma" will only be used here in quotation marks.

Methodology

The use of ethnography here has as reference a body of research that analyzes the practices and relationships through which public policy is carried out, referred to as ethnographies of the state (Darley et al., 2010). It starts from the premise that the practices of "street-level bureaucrats" (or SLBs) do not boil down to blindly implementing pre-existing political orientations, but rather contribute decisively to the production of public policy (Lipsky, 1980). Ethnographies of the state are especially appropriate for studying those places and situations in which direct interactions between SLBs and target populations are particularly influential in determining the effects of public policies on the latter. Lipsky (1980) expressly mentions "law enforcement personnel" – and more specifically, judges – among the bureaucrats with considerable impact on people's lives through the benefits and sanctions that they hand out. Acting as mediators in the relationship between citizens and the state, "they hold the keys to a dimension of citizenship" (Lipsky, 1980, pp. 3-4), as sentencing is understood as a social pronouncement that aims to assess the perpetrator's degree of belonging to society (Garfinkel, 1949).

This article is based on the observation of 35 hearings for aggravated procuring or human trafficking in criminal courts of different major cities in France between 2014 and 2019. Some of the fieldwork supporting the analysis is part of a collective research project;[9] others have been gathered by the author alone. The observed trials were spread over periods ranging from one to 13 days, resulting in a total of 113 days of hearings, for an estimated cumulative duration of about 900 hours. Most observations were made in pairs to facilitate continuous notetaking, including verbatim transcriptions of the comments made by the various participants during the hearing. The observations were supplemented by informal conversations with lawyers (both prosecution and defense) during recesses, and, later, by semi-structured interviews with the various legal professionals involved in the case (judges, public prosecutors, prosecution and defense lawyers).

The courtrooms where trials were observed all manifest more-or-less the same spatial organization: at the back of the room is a platform where the judges are seated (i.e. the president and his two assessors). At one end of the platform, but in a lower position, is the court clerk. On one side, also higher up, stands the public prosecutor. The lawyers' area is opposite the dais, behind the benches provided for defendants appearing in liberty. Depending on the court, one (or even two) cubicles are provided for defendants and the *gendarmes* in charge of them during the hearing.

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[9] ProsCrim research project (Institutionalizing Trafficking - a Franco-German comparison, 2014-2018), funded by the Agence Nationale de la Recherche (ANR-13- FRAL-0014- 01) and the Deutsche Forschungsgemeinschaft. The investigation materials collected in the framework of this research project consist of interviews and observations with different state and non-state actors involved in public policies to combat trafficking, and pay particular attention to police and judicial practices.

The hearing is chaired by the presiding judge and begins with a presentation of the defendants' identities and the charges against them. Referring to the case file (of which there are usually many thick volumes in front of him or her), the presiding judge (and more rarely their assessors) questions the defendants in turn, asking them to confirm or clarify various police filings in support of the prosecution. In pimping cases, this mainly involves material evidence such as extracts from telephone taps (which are also translated and only include statements relevant to the investigation), photographs, records of money transfers and minutes from questionings (by the police and the examining judge) or searches. The prosecutor and lawyers are then invited to ask their own questions, and the civil parties' lawyers (if any) to present their claims for compensation. This is followed by the prosecutor's indictment and the lawyers' closing arguments before the defendants are invited to speak one last time. Deliberation may take place immediately after the hearing or be postponed to a later date.

In accordance with the adversarial principle, which governs all legal proceedings in France, a criminal hearing is a time for debating and confronting different – if not opposing – evaluations and categorizations of the acts of the accused. The defense replies to the negative assessments by the public prosecutor with arguments intended to nuance or balance out (or on rare occasions disqualify) the charges against the defendant. Although the main protagonists in this adversarial debate are the legal professionals, the defendants themselves also participate, as well as their alleged victims or the families of the victims, albeit more rarely.

As most of the trials observed involved foreigners who do not speak French as a native language, translators accompany the defendants to relay, quietly, the questions addressed to them and, more audibly, their answers. The need for translation has a major impact on the conduct of hearings (Darley, 2020): its quality is sometimes challenged by defendants with a relative command of French, or by lawyers arguing that French legal categories make no sense in their client's language. Although the hearing is strictly ritualized, its tone depends heavily on the presiding judge, from whom sarcasm, irony or personal comments are not uncommon. The foreign background of most litigants, and the fact that they very often do not speak French, seems to encourage judges to make extensive use of humor, irony and asides.

Punishing the Perpetrators: The "Roma" Pimp as a Folk Devil

If there is one figure that brings together a myriad of stereotypes, it is the pimp or sexual exploiter. While pimps have barely been studied by social sciences, their presence in popular culture has largely shaped the commonly accepted definition (Williamson & Marcus, 2017). Focusing on the judicial arena thus

allows us to take up the invitation in new pimp studies (Horning & Marcus, 2017) to deconstruct stereotypes surrounding perceptions of the pimp, while at the same time observing in action the framing of this deviant figure.

In the French abolitionist framework that conceives sex work as a form of violence against women, procuring is ranked among the most grievous forms of masculine domination (Darley, 2022a). The notion of "modern slavery," recurrent during trials,[10] reinforces this interpretation by offering fictional and latently racialized representations of both victims and perpetrators (Andrijasevic & Mai, 2016). The socially dominant representation of the pimp as a violent man conforms in every respect to a gendered order that associates the masculine with virility and violence (Cardi & Pruvost, 2012), and relegates the feminine to "care" and concern for others. Linking the figure of the pimp to a criminal configuration referred to as "ring," "clan" or "mafia" (even with only minimal proof presented of a "criminal network"; see also Favarel-Garrigues & Mathieu, 2022) further reinforces his image as virile, violent and powerful.

In interviews, judges tend to evoke imaginings from popular culture that associate the pimp with a violent, idle spendthrift, generally a man, who exploits the sexuality of women, described as submissive, gullible and abused:

> The pure pimp, you know the imposing one – well, pure, I mean, he's not exactly pure. Mean, let's say. He's the guy who turns the case into a squalid affair. […] Some cases are utterly sordid because you have guys who do absolutely nothing besides pressuring girls, not even leaving them half their money. Girls who can barely afford food. (Interview, judge, 07/12/2015)

These characteristics do not apply to all defendants, however. Rather, "Roma" defendants are usually presented as emblematic of this repulsive figure of the pimp. Described by judges and prosecutors as "vulgar," "boorish," "lazy," "boozy" and "spineless," the "Roma" pimp is framed as the result of a particular "culture," such as in this interview with a prosecutor: "the men do nothing; they spend their time drinking, gambling, smoking and watching over the girls who are selling themselves" (Interview, prosecutor, 9/12/2014).

Marked both by its brutality and the total absence of moral proscriptions – including, in particular, the sexual exploitation of their spouse or partner (Darley, 2021) – the culture behind "Roma" pimping is considered by judges to be an extreme form of gender violence: "Romanian girls […], they just get … sorry, but … they just get totally beaten the shit out of, that's all! […] I've never seen any other cases where girls were so much at the mercy of their pimps" (Interview, judge, 05/05/2016).

At the hearing, when the violence is not corroborated by the statements of the victims (indeed, in many cases, the latter even defend the accused), judges will bring recorded phone conversations to demonstrate that the accused

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[10] One prosecutor summed it up as follows: "This man who exploits these women is the banality of modern slavery" (Zhao trial, March 2016).

matches the profile of the violent pimp. For instance, the defendant's use of coarse language in his conversations with the supposed victims is taken as the sign of his brutality and cynicism, especially when the exploitative relationship is compounded by an emotional grip on the victim, such as when a man is living off the prostitution income of his spouse or partner. More generally, the pimp's attitude to love, sexuality and male-female relations is placed at the heart of the debate, and is central to the court's moral labelling process (see Darley, 2022a; Favarel-Garrigues & Mathieu, 2022), as in this prosecutor's indictment of "Roma" defendants:

> I know that hearings are not about moralizing. But it is extremely important for me to make it clear that they are victims, and he is a perpetrator. […] They are subordinate to him; their own bodies don't belong to them, nor do their minds. They belong to the clan! They have a peculiar relationship towards women: women are objects, a regular walking wallet! […] They talk about 'luggage' to talk about the victims; […] they also call them 'pussies'. I'm not sure which I find more offensive, that utterly filthy word or using the word 'luggage'. […] I was appalled, even though I'm not here to moralize. (Indictment of the prosecution, Tampiar trial, March 2016)

Here, while the woman would "bring home the bacon" (Tampiar trial, March 2016), the man would squander all the income. Doing so, he deviates from the classic gendered division of labor featuring a traditional breadwinning father figure and a caregiving mother, which the presiding judge defends in these terms: "why – and without being sexist here – doesn't [the defendant] let [his prostitute spouse] stay at home and take care of the kids while he goes to work?" (Tampiar trial, March 2016).

What is striking here is the fact that issues relating to sexual exploitation often appear to be marginal to the debates, whereas couple and male-female relationships generally tend to command the judges' and prosecutor's attention. In order to determine whether the accused and the charges against him or her are in line with the legal characterization of sexual exploitation (procuring or trafficking), legal professionals tend to evaluate the pimp's adherence to their own imagined gendered, but also racialized, constructions of the figure (see also Williamson & Marcus, 2017). Judging by their own standards, they convey a vision of conjugality and sexuality "kept within the confines of the romantic couple" (Bernstein, 2012). Under the guise of the struggle against gender violence, the gendered calls to order spoken in the name of condemning pimps often amount, in fact, to the promotion of a form of familialism that (re)inscribes (foreign) women and their supposed loose sexuality into a space of heterosexual domesticity (Andrijasevic, 2010; Darley, 2022b; Sharma, 2003). By doing so, they also contribute to a representation of migrants' masculinity as "archaic" (Scheibelhofer, 2012) and threatening, a

representation that underpins the definition of certain populations as undesirable and justifies their exclusion.

For the Sake of Women: Nigerians as Ideal-typical Victims?

While the racialized and gendered figure of the "pure pimp" serves as a yardstick for judges' appreciation of the acts committed, and of the personalities of the perpetrators, it remains inextricably connected to an opposing but interconnected other figure: the "ideal victim" (Jakšić, 2016), conveyed in the media for many years, as innocent and naïve. Thus, while consent to prostitution is irrelevant in the judicial characterization of trafficking acts in France, much of the debate observed at trials centers on the prior knowledge women may have had of the prostitution activity they would be required to carry out. Not only should the victim who testifies at the hearing not have consented to the selling of her body, she should also have never taken part in paid – or, better yet, any – sexual activity before being forced into prostitution. Whereas this conception of a "pure" victim tends to exclude "Roma" women, who would be characterized by their very deviant sexuality as a result of the absence of sexual taboos in their "community,"[11] it seems to fit particularly well with the representation of Nigerian women in prostitution, who are generally described as very young, naïve and misled about the purpose of their migration to Europe.

> In September 2014, this young girl, barely 16 years old, was recruited by P. and K. […] She did not know that she was going to be a prostitute, but she had no choice. She had never had any sexual relations in Africa; as the file indicates, she was a clean girl, in every regard. (Argument of a victim's lawyer, Onwudiwe trial, France, October 2016)

"Clean in every regard," the victim must also, above all, have quit prostitution at the time of the hearing and have begun a "good life" (Jakšić, 2022), notably by engaging (or being willing to engage) in professional rehabilitation.

> Presiding judge: Can you tell us about your current situation?
> Victim: I am well. I go to school. I am taking a course. I am being helped by some associations. I am working on a project.
> Presiding judge: Have you cut all ties with prostitution?
> Victim: No.
> Presiding judge [indignant, raising his voice]: No?! You are still engaged in prostitution?
> Victim: Oh! No. (Onwudiwe trial, France, October 2016)

[11] On the way imaginings of their sexuality interfere with the judicial treatment of Romanian female teenagers, see Vuattoux (2016).

In an abolitionist context, where the eradication of prostitution is a governmental priority, the continuity of prostitution and the absence of consent are important vectors in establishing a hierarchy of victims – but also, consequently, of the offense and its perpetrators.

Those victims – in whose name anti-trafficking policies are adopted and applied, and whose suffering is regularly raised during the hearing to morally and emotionally strengthen a case against the perpetrators – are, however, remarkably absent from the courtroom. Their testimony, though rare and deemed insufficient to establish guilt (in contrast to the importance given to victim testimonies in German criminal proceedings, for example, see Darley, 2022b), is nevertheless sought by legal professionals, and the public prosecution in particular. The capacity of testimonies to "make things more concrete" (Interview, judge, France, 5/05/2016) and to "make people cry" would help to "convince" and, thereby, to increase the severity of the sentence (Interview, prosecutor, France, 9/12/2014). To achieve this, it is necessary, however, that the victim appears to conform, emotionally, to the expectations of legal professionals. During a court recess, I took part in an informal discussion with some women who were lawyers for the plaintiffs and others representing associations that had assisted the (Nigerian) victims to file their complaint. One of the lawyers declared: "Apparently, Precious [the victim] is really tough. Her lawyer is freaking out that she might not show any emotions, no affect." The psychologist from the association assisting Precious said: "If you ask me, there's no chance she'll cry if she starts talking." Then the first lawyer added: "Yes, well, it would be good if she did cry… We wish she would!" (Udoka trial, France, December 2019)

Yet the cultural affiliation attributed to the victim largely determines the assessment of her emotional conformity. For instance, because their relationship to sexuality is presented as deviant within the whole "community," "Roma" women are seen as incapable of realizing their own victim status; concerning Chinese women in prostitution, the assumed primacy of economic strategies over the preservation of their own intimacy also excludes them *de facto* from the ideal victim pool (Darley, 2021). By contrast, in the case of Nigerian women, the psychological and intimate violations permitted in the Juju rites (Taliani, 2012) would bias their ability to consent, and explain their involvement, imagined as taken up against their will, in forms of sexuality perceived as deviant. As a result, the testimony of Nigerian women is considered to add an expected emotional value, and their presence at the hearing is therefore sought. Victims are hence hierarchized according to the degree of victimhood associated with their origin, as in the following interview with a presiding judge:

> This poor wretch who is taken from her remote village in the darkest parts of Africa, brought to Europe under all sorts of pretexts, then threatened and made to walk our

> streets, with pimps who just want to get as much out of her as possible, treating these girls like meat; that's what I call the archetypal victim, without question. But then, on the other hand, with these women [referring to Chinese prostitutes identified as victims in a trafficking trial in which the charges were later changed to aggravated procuring], you have to wonder, since they clearly have an approach to money such that, when faced with a choice between making money and, quote/unquote, debasing their body, it's a no-brainer! […] It's a question of de-fi-ni-tion. That is in fact extremely important, since, depending on your definition of victim, the way you see her supposed exploiter is totally different! (Interview, judge, France, 03/02/2016)

Indeed, in most western societies, and all the more in the French abolitionist society, monetary compensation for sexual relations is unthinkable, and forces many judges to think of prostitution in terms of humiliation and degradation. In addition, the suspicion of venality attached to women who migrate knowing that they will have to engage in sex work and who consider prostitution a source of "migratory income" (Andrijasevic, 2010; Lévy & Lieber, 2011), seems, in theory, to rule them out as "authentic" and "pure" victim figures. This creates a perception of the ideal victim as having necessarily been forced to migrate for the purpose of prostitution, which, while absent from the international and national definitions adopted, permeates both the public debate and the courtroom. By contrast, those women who use their sexuality as a tool for work – and thus position themselves as the subjects of their own sexuality – thereby concluding a process of emancipation that is the basis of stigma around prostitution (Tabet, 2004), are dismissed as "undisciplined and irregular" (Berman, 2003, p. 61).

This hierarchy appears to be strongly correlated with the nationality of the victims and establishes the sub-Saharan African prostitute as the emblematic figure of coercion. In contrast to those who do not hesitate to "debase their body" in exchange for money, thereby reactivating the repulsive image of the venal woman, the "Nigerian victims", "some of them virgins, who come to get jobs as hairdressers" (Observation, prosecutor, January 2015), appear to have everyone in agreement: they only engaged in prostitution due to the coercion and deception that are part of Juju; they likely even lost their virginity during a first non-consensual sexual encounter with a client, and can thus uphold, despite the prostitution, the ideal of purity associated with female sexual reserve.

Thus, the non-consensual sexual exploitation of Nigerian women and the association of that exploitation with exotic forms of coercion (*juju*) – both as fascinating as they are worrying – coalesce with the fact that they *de facto* embody the figures furthest from the socio-professional background and experience of the judges to render them "archetypal victims" (Interview, judge, 03/02/2016).

"Roma" prostitutes, on the contrary, who are often present in the courtroom, are not generally considered as desirable witnesses. In one trial we observed, while a number of the victims were present in the courtroom, they were never

asked to testify, and for good reason. While the judges had been trying to obtain justice for them for several days, most of them had been blowing kisses from their seats in the public benches, and conniving with the defendants, resulting in them being called to order on several occasions. When the verdict was announced and her partner sentenced to prison, one of the women burst noisily into tears, crumbling to the floor, and had to be escorted out by the police officers present. This eviction, which in this case serves to remove from the stage a protagonist whose performance contradicts the dominant narrative, is highly symbolic of the importance given in criminal trials for sexual exploitation to the voice of the victims. Questioned about the absence of testimony from these women, the prosecutor replied bluntly, extending his considerations to the entire "Roma" "community" in question: "what's the point in hearing them if they're going to say they're not victims?" (Tampiar trial, March 2016).

Indeed, by supporting rather than accusing their pimp, they counter the image of the ideal victim expected by the institution. Not hearing "victims" who are reluctant to comply emotionally to the expected figure makes it possible for legal professionals to think of them as complying to the images they have of them (see also Dölemeyer et al., 2017). The mismatch between the imagined victim and the women present in the courtroom is recurrently justified with an explanation analogous to the alienation of consciousness: "they [the so-called "Roma" victims] are not aware that they are victims, but for us, that's even worse!" (Interview, prosecutors (female), 30/05/2016).

Thus, when their testimony is considered important at the hearing, rather than speaking themselves, victims are spoken of. Indeed, their not speaking appears to be a *sine qua non* for legal professionals to deploy the projections likely to trigger policies of compassion (Fassin, 2011). Observations of these hearings thus reveal the "victim of sexual exploitation" (Lefranc & Mathieu, 2009, p. 22) as an idealized construct; a perfect vessel for the discursive and behavioral expectations held in her regard, she seems to provide, in matters of sexual exploitation, a unique surface upon which to project.

In pronouncing the law in matters of the exploitation of paid sexuality, and in seeking to incarnate the figures of the victim and the pimp in the name of criminal and social justice, judges produce differentiation by reason of the gendered and racialized imaginings that condition their judgement. In so doing, they draw not only the legal boundaries of the offense, but also, and more importantly, the moral and national boundaries of "proper sexuality" and the "proper genders" thereof (Shepard, 2017; Stoler, 2002). They purport, more-or-less explicitly, to represent a heteronormative gendered order positing a particular model of male-female relationships as "the standard of humanity" (Keskinen, 2012, p. 263), and upholding Western norms around gender and sexuality as "the paragon of progress and the archetypal model of modernity" (Bilge & Scheibelhofer, 2012, p. 256). What the criminal sexual exploitation

hearing tells, then, is above all the story of the relationship between sexuality and the nation.

The Perpetrating Victim: Gender and Cultural Disorder

In between these two gendered and racialized emblematic figures of the “true pimp” and the “proper victim,” which mutually sustain one another as much as they sustain the assumed moral superiority of French society, and which guide both police investigations (Mainsant, 2021) and the construct of the criminal judgement, there is a gray area where a unique in-between figure comes into play: that of the perpetrating victim. Not complying with the gendered order, women who resort to “buying” another woman to repay their own debts more quickly – a phenomenon described by legal professionals as “typical” of the “Nigerian community” – counter dominant representations of the “pure pimp” as a violent man who exploits the sexuality of female victims, as well as the primary rendering of black women involved in prostitution as “archetypical victims.” The prostitute-turned-Madam thus blurs the prism of male domination, and more broadly the usual boundaries between victim and perpetrator, man and woman, coercion and consent.

A number of avenues emerge, then, for judges to resolve this gender trouble and establish the moral foundations for criminal judgement. One of these consists in denying the prostitute who has become a Madam any self-determination in her decision to exploit others, by presenting her as under the control of a man in charge of the ring. She can then be considered an intermediary between this “true pimp” (who is often not identified by the investigation, nor brought to justice) and the prostitutes. Since she is presented as less violent and less idle than this “true pimp,” she also appears less guilty. Training courses on Nigerian trafficking taught at the Ecole nationale de la magistrature (French school for the training of judges) insist on the specificity of these “perpetrating victims” in Nigerian cases. Judges are encouraged to be discerning in order to distinguish between the “real perpetrators, who are always men” and towards whom they should show “no mercy,” on the one hand and, on the other, the “victim turned persecutor” who, lest one should forget, “were victims first” (Judge, trainer on trafficking at the *Ecole nationale de la magistrature*, November 2015). To this end, judges refer more frequently to the hardships endured by women pimps, when compared with their male counterparts,. The discord that the victim’s shift from victim to perpetrator produces is thus partly resolved by recalling the trauma suffered and the miserable living conditions endured by the women, as in this woman prosecutor’s indictment:

> Where women are concerned, one always finds some tragedy – a death, an illness – that sank the defendant’s family into poverty. They have to leave in order to escape this, to help their family. With prostitution as a migration strategy.

> Defendants and victims therefore have a shared history. (Observation, prosecutor, Onwudiwe trial, October 2016)

At the hearing, however, it is rather the rationality of the victim's decision to in turn purchase girls that is emphasized, in particular by the prosecutors.

> [The fact that she became a perpetrator after having been a victim of trafficking] doesn't play in her favor, precisely because she knows what has happened; she's been through it, because, sure, air travel is fine, but when you have to go through Libya on foot, it's a different story altogether, erm… you know, but… they've been there, they know it and they make others go through it and, for me, that's almost an aggravating factor. (Interview, prosecutor, 28/11/2016)

Whereas the French abolitionist context spontaneously associates the identity of "victim" with the condition of the prostitute, thereby apparently justifying the fact that Nigerian sex workers are perceived first and foremost as victims (therefore unable to exercise their free will), here it is actually their involvement in a crime that takes precedence. Worse still, it is in fact compounded by their "victim" status:

> It's important to make the distinction between, first, the defendants who have committed [something], chosen to reproduce the pattern and exploit human beings, and, second, the victims who have spoken out. So, we need to not only bust up the ring, but also punish this about turn. (Observation, prosecutor, Onwudiwe Trial, October 2016)

These perpetrating victims thus seem to be irrevocably cast out of the culture of legal professionals. In other words, the female figure of the Nigerian Madam, when confronted with a social order founded on "the social construct of a threatening sex and another deemed more harmless" (Cardi & Pruvost, 2012, p. 57), seems to gravitate to the side of the violent male. As has been shown in different studies on sentencing, the more a woman's behavior displays characteristics attributed to masculinity ("evil woman"), the weaker the judges' tolerance seems to be (Gelsthorpe & Loucks, 1997). The exotification of practices related to black magic also seems to facilitate this shift, by marking the dual gendered and cultural estrangement of the defendants from the national order. It is therefore through cultural othering that the discord in the moral and gendered order caused by the perpetrating victim – who upsets the two "pure" figures of the pimp and the victim – is resolved when pronouncing the law, thus continuing to organize the "master narrative" (Snajdr, 2013) of trafficking and to shape legal professionals' imaginings and practices in cases of sexual exploitation.

Conclusion

Understanding anti-trafficking and its effects from the standpoint of the courtroom contributes to filling an analytical gap in the literature on anti-trafficking policies and their implementation. Indeed, it usefully complements the existing research on public policies and discourses by focusing on the oft-forgotten last link in the chain of public policy, the penal arena, thus enabling an integrated analysis of the different labelling processes to "see how everything fits together" (Garriott, 2018, p. 169). Of course, the ethnographic approach proposed in this paper does not allow for a quantitative, objectivized assessment of standardized forms of judgment, as would a sentencing study. However, by analyzing the human and interactional dimension of judging, it unravels the practices, discourses and logics underlying a criminal justice policy pursued in the name of social justice.

Observing criminal trials makes it possible to grasp how each participant produces their own truth, and the arguments used to legitimize their perspective. While the judgement in any trial must necessarily be perceived as "acceptable" to the public (be they experts or laymen), this legitimation is all the more important in sexual exploitation trials where particularly contrasting statements can be heard regarding the dynamics of exploitation. In this heteroglossic context, the figures of the pimp and the victim appear to be structuring for the court to put forward its own interpretations of the facts, and to construct a dominant narrative.

In particular, looking at institutional labelling and judgment practices in the court makes it possible to underline the decisive role of extra-legal norms, such as concerning gender, racial and sexual imaginings, in labelling and (re)producing the figures of victims and exploiters. The effects of these extra-legal sets of norms go beyond the mere description and ordering of the cases and the populations involved by legal professionals. Invisible in the formalized (written) form of the judgment, they nevertheless shape the debates in the court, and therefore constitute one form of lay knowledge on which judges base their decisions. What is at stake, then, through the gendered and racialized figures of the pimp and the victim in court, is the construction of a national self-image by the actors in charge of the law in action.

The criminal treatment of sexual exploitation (aggravated pimping and trafficking for prostitution) thus appears to be a singularly enlightening case study for questioning the link between social justice and criminal justice. It illustrates, with particular acuity, the active participation of the criminal judge in producing the ideal of social justice through the (re)production of the ideal-typical figures of the exploiter and the victim, which underpin the demand for social and gender justice. In the name of social justice, and its injunction to care for the vulnerable, it is a certain ideal type of "Western" female sexuality, as neither venal nor coerced, that gets reaffirmed here.

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