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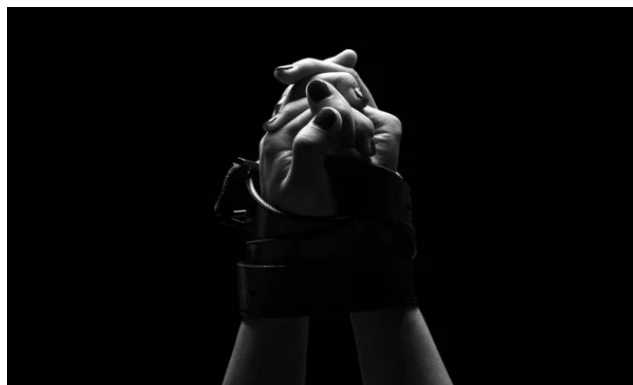
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DEVELOPMENTS OF SEXUAL EXPLOITATION SCHEMES ON FRENCH TERRITORY: WHAT IS AT STAKE FOR LAW ENFORCEMENT ?

I) A complex, multi-faceted criminal phenomenon

Human trafficking for the purpose of sexual exploitation is the oldest and most notorious form of human trafficking in the world. According to the United Nations Office on Drugs and Crime, "53% of victims of human trafficking are victims of sexual exploitation"¹. This pattern applies in France: in a report on the victims monitored by 44 associations in 2022, the Interministerial Mission for the Protection of Women against Violence and the Fight against Trafficking in Human Beings (MIPROF) and the Ministerial Statistical Service for Internal Security (SSMSI) indicate that 76% of victims of human trafficking are victims of sexual exploitation². Elvire Arrighi, Head of the Central Office for the Repression of Trafficking in Human Beings (OCRTEH), underlines that sexual exploitation is a phenomenon in which the territorial aspect loses influence: "In recent years, we have witnessed the rise of networks operating from abroad, which exploit young women on French territory in a nomadic style, without ever having a local presence. Ten, twenty, thirty victims, who are regularly displaced, are simultaneously exploited by the same network, in various towns"³.

Since the 2010s, sexual exploitation has shifted from the street to private premises, hotels and Airbnbs, thanks to the Internet. The 22 January 2015 circular underscores this trend: "(...) a more discreet form of prostitution is developing, hidden behind activities such as massage parlours. The latter may be linked to "cyber-prostitution", which is on the point of becoming a commonplace institution. Its discretion, scale and the difficulty of detecting the existence of a prostitution network behind the 'web' tend to make TEH [trafficking in human beings] disappear from the public arena and make investigative work more difficult"⁴. The French government makes the same observation: "In 2018, for the first time, indoor prostitution represents a larger percentage than street prostitution. Prostitution networks use dating sites or other dedicated sites that appear to be legal to link prostitutes with customers or to notice on the arrival of "sex tours" in local areas. They are also making increasing use of encrypted messaging to communicate and organise the transactions"⁵.

In addition to its transnational dimension, sexual exploitation has also taken on an increasingly national dimension since the 2010s, via the Internet and social networks in particular. The majority of people prosecuted for pimping in 2016 and

1 ONUDC pour United Nations Office on Drugs and Crime. COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME. *La lutte contre la traite et l'exploitation des êtres humains. Année 2015*. Rapport national indépendant, La Documentation française, 2016, p. 90-91.

2 SSMSI, MIPROF. *La traite des êtres humains en France : le profil des victimes accompagnées par les associations en 2022* [online]. 11 octobre 2023, 23 p. Available at : <https://www.interieur.gouv.fr/Interstats/Actualites/La-traite-des-etres-humains-en-France-le-profil-des-victimes-accompagnees-par-les-associations-en-2022/>

3 ARRIGHI, Elvire. 2023. Rencontre avec la cheffe de l'OCRTEH. *AJ Pénal*, Dalloz, janvier 2023.

4 *Circulaire du 22 janvier 2015 de politique pénale en matière de lutte contre la traite des êtres humains*. BOMJ n°2015-01 du 30 janvier 2015.

5 Troisième cycle d'évaluation du Groupe d'Experts sur la lutte contre la traite des êtres humains (GRETA), Réponse du gouvernement au 3^e questionnaire du GRETA [online], reçue le 19 septembre 2020, p. 44. Available at : <http://rm.coe.int/09000016809fea03>

2017 were of French nationality or from a country that is not a member to the European Union⁶. In France, the OCTREH has noted the emergence of new criminal groups that manage prostitution networks: "*these are some kinds of commercial agreements based on interests that [the prostitutes] believe they share with pimps. It's not organised crime at all, but something akin to mass delinquency (...) Our figures show a total explosion in the phenomenon, which now accounts for half of all pimping offences in France. The stakes are high: half of the victims were minors*"⁷. The research report by Bénédicte Lavaud-Legendre, Cécile Plessard and Gaëlle Encrenaz provides a detailed description of the mechanisms involved⁸. Some sources mistakenly refer to this phenomenon as "*urban pimping*". Yet, the notion of limited geographical area is not representative of the actual phenomenon.

The pimping of young French women "*often finds its masterminds among the second knives of delinquency, disappointed narcotics offenders and those who have returned from small-time swindling*"⁹. This form of crime finds its roots in the dangerous nature of drug trafficking and the saturation of its economic opportunities, as well as the extreme trivialisation of the sexual act, the objectification¹⁰ of women and a form of delinquency that adapts to an increasingly dematerialised and connected consumer society. Moreover, crises such as Covid-19¹¹ and major international events such as the 2024 Olympic Games increase opportunities for pimps and vulnerabilities for potential victims.

This is a new form of sexual exploitation, with a three-fold increase in the number of victims between 2021 and 2022¹². Unsocialised women, often with limited financial resources, vulnerable and easily influenced, especially in the most precarious urban areas, are more likely to fall under the yoke of a seducing "*loverboy*". The hold is primarily psychological, based on manipulation and the projection of a "*dream*"¹³ of a better life. The exploiter then leads the victim to believe that, for the sake of love and the couple's relationship, they must prostitute themselves. This has the perverse effect of convincing the person under influence that they consent to their own prostitution, whereas many "*identify the destructive effects [of their prostitution] without managing to emancipate themselves*"¹⁴. The Internet plays a major role in both building a lifestyle promoted by celebrities and influencers, in connecting the victims with clients.

II) The digital environment: a catalyst and lever for housed prostitution

Information and communication technologies (ICTs) facilitate the discretion and anonymity of sexual exploiters¹⁵. In addition to using specialised websites, the growth of digital platforms has enabled traffickers to recruit victims, market their services and monitor them, while dissociating the location of the offence and where the latter is coordinated. ICTs also enable human traffickers to offer new services such as lucrative sexcam businesses. This digital screen makes it increasingly difficult for law enforcement agencies to locate victims and perpetrators, trace networks and understand the financial schemes that feed them. Pimps, in particular, benefit from the "platformisation" and "hyper-circulation"¹⁶ of online social interactions: social networks such as Instagram, TikTok, Facebook, Snapchat or X (formerly Twitter) are used to recruit victims and "market their sexual services"¹⁷; encrypted applications such as WhatsApp or Signal are used for discreet communication; Uber and Airbnb for enabling the act and facilitating money laundering; and finally, payment platforms and cryptocurrencies make it possible to conceal the traceability of crime-generated financial flows.

The digitisation of our society and the rise of web giants are rooted in the neoliberal ideology and the economic theories that feed it. These have a direct impact by "*concealing and downplaying many criminal phenomena*"¹⁸. The evolution of hotel pimping is a prime example. A research project funded by the European Union (EU)¹⁹ carried out between 2014 and 2016 estimated that "*in the EU, on an annual basis, 93,480 sex slaves and 4,560 labour slaves are exploited in hotels, while 12,540 labour slaves are exploited in restaurants*"²⁰. Although the hospitality industry has always been a hotbed for criminal activities, platforms such as Airbnb have amplified and transformed the phenomenon. They offer anonymity,

6 LANGLADE, Aurélien, SOURD, Amandine. La traite et l'exploitation des êtres humains en France : les données administratives. *Grand Angle*, n° 52, octobre 2019.

7 ARRIGHI E., *op. cit.* note 3.

8 LAVAUD-LEGENDRE, Bénédicte, PLESSARD, Cécile, ENCRENAZ, Gaëlle. *Prostitution de mineures – Quelles réalités sociales et juridiques ?* Rapport de recherche, Université de Bordeaux, CNRS - COMPTRASEC, 2021.

9 PASCUAL, Julia. Le « proxénétisme des cités », une filière d'un nouveau genre en pleine expansion. *Le Monde*, 5 avril 2018.

10 KLEIN, Olivier, GERVAIS, Sarah J. « Objectifying others: Social psychological perspectives ». *Revue internationale de psychologie sociale*, 2015/1 (Tome 28), p. 7-14.

11 COXEN, Julia, CASTRO, Vanessa, CARR, Bridgette *et al.* « COVID-19 Pandemic's Impact on Online Sex Advertising and Sex Trafficking, Journal of Human Trafficking », 2021.

12 SSMSI, MIPROF. *op. cit.* note 2, p. 14.

13 LAVAUD-LEGENDRE B., PLESSARD C., ENCRENAZ G., *op. cit.* note 8.

14 LAVAUD-LEGENDRE B., PLESSARD C., ENCRENAZ G., *op. cit.* note 8.

15 CAMPANA, Paolo. *La traite des êtres humains en ligne est facilitée par les technologies*. Rapport pour le GRETA, avril 2022.

16 ELIX, Gil. « Super-circulation: Towards a Political Economy of Platformisation. Critical ». *Critical Sociology*, 46 (7-8), mai 2020, 1221-1232.

17 CAMPANA P., *op. cit.* note 14.

18 CHAMPEYRACHE, Clotilde. Mafias : expansion, réputation – perspectives. *Sécurité globale*, 2022/2 (n° 30).

19 UWL, « *COMBAT Trafficking in Human Beings* » [online], University of West London, 2017. Available at : <https://www.uwl.ac.uk/academic-schools/hospitality-tourism/icharm/projects-publications>

discretion, flexibility and mobility. For example, Airbnb check-ins/outs can be carried out without any human intervention using codes and secure key boxes; pimps can use pseudonyms and coordinate the exploitation of their victims from afar. Moreover, landlords who make their properties available on these platforms are usually private individuals who are not hotel professionals. As a result, they are less vigilant and less prepared than hotels for the risks of seeing their property being misappropriated for criminal purposes. To combat this phenomenon, the OCRTEH is offering awareness-raising campaigns aimed at landlords offering accommodation on Airbnb²¹.

The perpetrators also draw inspiration from the entrepreneurial logic of digital platforms such as Uber, which are no longer based on the sale of goods or services, but rather on their ability to bring buyers and sellers together. According to Gilles Paché, associate professor of management science, "*most juvenile prostitution networks correspond more to the adhocracy model*²² (...) *The structural configuration is organic, with a strong innovative content, and it favours mutual adjustments as the preferred mode of coordination. (...) Minors are exploited by small, highly mobile teams, in which the people in charge of logistics - a kind of service provider - work for a pimp who pays them for a support activity*"²³. Some pimps test the performance of the prostitutes they exploit, ensuring that their clients are contacted and appointments made quickly, and that discreet, secure places are made available for sexual activity²⁴.

Bénédicte Lavaud-Legendre and al. introduce the concept of prostitution "*uberization*"²⁵, referring to the fact that exploiters use the same methods as service platforms such as Uber: the "*loverboy*" sometimes happens to be the "*boss*" who puts the prostitute in touch with the customer by managing the prostitute's appointments on the Internet. Sometimes, the business goes through a "*service provider*" who, although not very involved in prostitution schemes at first sight, ends up handling the meetings logistics. Finally, the prostitute is the person who actually offers their services. This form of exploitation is short, agile and very intense. Digital technology plays a role in exerting pressure on the victim: not only to monitor them, but also to threaten them of publishing pornographic content on the Internet that could damage their image.

Finally, changes in the modus operandi of sexual exploitation make it all the more necessary to include a definition of prostitution in the Criminal Code and to modify its boundaries. The 1996 decision of the French Supreme Court (Cour de Cassation) states that physical contact is required for prostitution to occur. However, this definition excludes some of the prostitution found in pornography²⁶. Sexual exploitation networks happen to use "*caming*" technics, to force their victims to film sexual acts and expose themselves on the Internet on the instructions of a third party in return for payment. Elvire Arrighi underscores the added-value of the definition promoted²⁷ by the working group on the prostitution of minors: "*Prostitution consists of lending oneself, in return for remuneration or benefits in kind or the promise of one of them, to physical or virtual sexual relations*"²⁸.

III) Perpetrators: identifying them, penalising them and preventing repeat offences

The forces in charge of combating this phenomenon need to be trained in the new techniques used by sex exploiters. In 2022, the government rolled out a national plan to combat the prostitution of minors. Although this plan aims at taking account of the digital dimension of the phenomenon, there is still room for improvement²⁹: the plan seems to be limited to a short timeframe and does not extend to all the digital operators that may be involved, the international dimension is not taken into account, nor is the plurality of resources available to law enforcement and the obstacles to their application. Digital technology is a powerful tool for identifying both perpetrators and victims. However, for this digital fight to be effective, it requires the recruitment and training of investigators who are experts in computer technologies, as well as the establishment of cooperation that cannot be imposed on operators based abroad. The globalised nature of this criminal phenomenon also raises the issue of international cooperation. The fight against human trafficking networks is only effective if law enforcement agencies in the countries of origin, transit and exploitation are able to work together to

20 PARASKEVAS, Alexandros. « Human Trafficking and Modern Slavery in Europe's hotels ». In : LASHLEY, Conrad (Ed). « *Slavery and Liberation in Hotels, Restaurants and Bars* », Oxford, 2020.

21 LANNIER, Salomé. Plan national de lutte contre la prostitution des mineurs : aspects numériques. *AJ Pénal*, Dalloz, janvier 2023, p. 20-22.

22 (Neologism) Work organisation that mobilises multi-disciplinary, specialised and cross-disciplinary skills to carry out specific tasks in unstable and complex environments. Concept formulated by Bennis & Slater (1964) and developed by Mintzberg (1982).

23 PACHÉ, Gilles. Prostitution 2.0, la face obscure de la digitalisation [online]. *Management et datascience*, 6 mai 2022. Available at : <https://management-datascience.org/articles/20560/>

24 *Ibid.*

25 LAVAUD-LEGENDRE B., PLESSARD C., ENCRENAZ G., *op.cit.* note 8.

26 The Supreme Court indicated in 2022 that caming was not a form of prostitution due to the absence of physical contact.

27 ARRIGHI, E., *op.cit.* note 3.

28 *Rapport du groupe de travail sur la prostitution des mineurs*. À Monsieur Adrien TAQUET, secrétaire d'État en charge de l'enfance et des familles, 28 juin 2021, p. 69.

29 LANNIER, S., *op.cit.* note 20.

bring the investigation to a successful conclusion. However, the laws, procedures and quality of cooperation differ from one country to another, creating disparities in results.

So as to prostitution in France by French nationals, the difficulties of detection and prosecution lie in the immediacy of the networks and the particularly strong hold they have over certain victims who do not recognise themselves as such. The way these networks operate is increasingly agile: victims move around regularly and are prostituted intensively over a period of a few weeks each time, in a location other than where the exploitation is organised. The network is also much less structured than in sexual exploitation schemes orchestrated by transnational networks. So as to the pimping of young French women, the said networks are more fragile and *ad hoc*. They come and go as opportunities arise, which makes them difficult to track down. Moreover, the legal classification of this form of human trafficking for the purpose of sexual exploitation poses challenges for law enforcement agencies, not in terms of motive, but in "*highlighting the associated means: threats, coercion, violence or deceitful manoeuvres aimed at the victim, her family or a person in a habitual relationship with the victim, abuse of a situation of vulnerability linked to age, etc*"³⁰.

The lack of data on repeat offenders for this type of offence is also a real shortcoming when it comes to assessing the effectiveness of the criminal justice system in combating this phenomenon. Jennifer Maria Ortiz identifies several factors that influence recidivism: age, education, environment and social support, and whether or not the offender uses drugs or alcohol³¹. There is too little research to measure the effectiveness of sentences and of the way in which public authorities deal with offenders.

IV) Victim assistance: identifying them, supporting them and reinstating them

The absence of a third party to regulate social relations, isolation and the loss of reference points all contribute to the increase in the number of victims – who come from all social backgrounds – of this type of sexual exploitation. The number of underage victims is also rising sharply³². The government states that "*this phenomenon is accompanied by a very marked increase in the number of under-age victims, with over 50% of the girls exploited by these offenders being under the age of 18*"³³. In 2021, "*between 7,000 and 10,000 minors*"³⁴ were involved in prostitution schemes in France.

There are a number of difficulties in dealing with victims. Firstly, the phenomenon of human trafficking for sexual exploitation remains largely hidden. In addition, GRETA notes that "*it is rare for measures to be taken during the investigation of trafficking cases to conceal the identity of witnesses or prevent witnesses from meeting traffickers*"³⁵. In France, the national Ac.Sé scheme offers victims of trafficking who are at risk or very vulnerable support and accommodation located far from their traffickers. Mediation by former victims of trafficking is also a relevant option. To this end, the *Mission d'intervention et de sensibilisation contre la traite des êtres humains (MIST)* enables former victims of trafficking, now free from the clutches of their oppressors, to carry out awareness-raising activities among populations at risk. The mediators' impact is said to be highly effective in winning the trust of victims and helping them to free themselves.

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30 LAVAUD-LEGENDRE B., PLESSARD C., ENCRENAZ G., *op.cit.* note 8.

31 ORTIZ J. M. "Recidivism", *The Encyclopedia of Corrections*, published 2017 by John Wiley & Sons, Inc, 2017.

32 *op. cit.* note 27, p. 46.

33 Troisième cycle d'évaluation du Groupe d'Experts sur la lutte contre la traite des êtres humains (GRETA), Réponse du gouvernement au 3^e questionnaire du GRETA.

34 GOUVERNEMENT. *Lancement du premier plan national de lutte contre la prostitution des mineurs [online]*.. Dossier de presse, 15 novembre 2021, p. 2. Available at : https://www.gouvernement.fr/upload/media/default/0001/01/2021_11_prostitution-des-mineurs-lancement-du-premier-plan-national.pdf

35 GRETA. *9^e Rapport général sur les activités du GRETA*. Mars 2020.