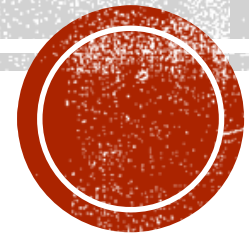


# **The consequences of the psychological impact of THB for sexual exploitation on legal proceedings: results of the analysis of proceedings in Spain**



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# THB FOR SEXUAL EXPLOITATION

- Extreme form of gender violence. Sexual slavery increasingly brought to light.
- However, lack of awareness and knowledge about the psychological impact of these situations of physical and sexual violence, intimidation, humiliation and denial of dignity on victims.
- Most cases: Depression and Post-Traumatic Stress Disorder (PTSD) likely consequences.
- Victims themselves mention fear, disgust, guilt, shame, ambivalent feelings and distrust.





# ANALYSIS OF CRIMINAL PROCEEDINGS.

- **Aim of the activity:**
- Analysis of 10 relevant THB cases in order to determine the concrete role of PHIT within criminal procedures (investigation, prosecution, trial, convictions)
- Starting point: absolute lack of awareness.
- Our hypothesis: lack of awareness may have a negative effect both on victims and on the procedure.



# METHODOLOGY

- Empirical research: based on the data collection from the files.
- Object of study: selection of 10 **significant** cases in Madrid and Barcelona.
- Data collection: NGO's interviews and Prosecutor's files and judicial decisions.
- No direct access to psychological reports nor victims' interviews.



# FILE ANALYSIS PATTERN

## 1. Files Data

Sentence:

Defendants:

Víctims: Nationality, adult/minor

Protected by NGO? Which one?

Protected by another Institution? Which one?

Proven facts:

Incriminating Evidence:

Convicted criminal's sentence: Yes/No

Sentence of compensation: No/Yes

Amount of compensation:



# FILE ANALYSIS PATTERN

## 2. Psychological health impact of THB:

Not taken into account:

Taken into account:

What kind of impact:

When:

Investigation

Procedure:

Prosecution report

Evidence proposal

Ask for compensation based on psychological damage.

Decision:

as a proven fact.

when evaluating victim's testimony

as a criterion to fix the amount of compensation

By Whom: (experts, police officers, prosecutors, judges, others)



# MAIN FINDINGS

- Different approaches to PHIT within criminal procedures in both cities (Madrid/Barcelona).
  - More sensitive approach to victim's mental health and psychological impact of trafficking from Barcelona local police. National Spanish police usually don't take it into account in their reports.
  - Much more effective approach from Madrid Prosecutor Office in comparison with Barcelona.



- Madrid Prosecution report: PHIT taken into account:
  - when proposing evidence (psychological reports proposed as evidence in most cases; psycho-social reports in many cases) and
  - when asking for compensation based on psychological damage according to those reports.







- PHIT is taken into account in most final judicial decisions if a psychological report and/or a psycho-social report (from NGO's psychologist or social workers in most cases; from other public institutions in some cases) is provided.



- PHIT is taken into account in the decision:
  - -as a proven fact
  - -as a point to consider when evaluating victim's testimony and its credibility
  - -as a criterion to fix the amount of compensation.



- Prosecutors and judges usually describe impact and symptoms following psychological reports.
- In most cases, those reports describe PHIT as PTSD (posttraumatic stress disorder).
- The most common symptoms are depression, extreme anxiety, sadness, fear, nightmares, insomnia, concentration and memory problems, mistrust, avoidance.



- No psychological or medical report provided, PHIT not taken into account.
- Victim's testimony/statement (most of the time as anticipated evidence or videoconference) is still of central importance to ensure a conviction.
- Judges are still very reluctant to take into account PHIT in order to understand changes in victim's testimony. Some exceptions. Case example 1.



- Despite all the difficulties, an increasing awareness of PHIT can be stated.
  - From no role in the first two cases (2012), to psychological reports in most Madrid cases since 2013 which have an impact in the final decision. In Barcelona, the last two cases (2016, 2018) take into account PHIT.



# TO SUM UP

- Our hypothesis has been confirmed:
  - improving awareness and knowledge on the psychological impact of trafficking in victims have positive effects on victims within the criminal proceedings and make it easier to get criminal convictions without victims revictimization.



# CASE EXAMPLE 1

- **File Information:**
- Sentence of the Provincial Court of Madrid (Section 3), May 19<sup>th</sup> 2015.
- *Defendants:* Three men and a woman. Romanian family gang (Raducan). Mother and brothers of one of the victims.
- *Victim:* Two Romanian girls. Both Minors. One of them is the daughter of the female defendant.
- Protected witness: Yes.
- Protected by NGO: Yes (APRAMP) [Association for the Prevention, reintegration and Attention of Prostituted Women].



# CASE EXAMPLE 1

- *Proven facts:* Gang of Romanian pimps who exploited many girls, including their minor sister. In 2012, the female defendant, while staying in Romania, decided to bring her daughter (15) to Spain in order to be exploited by her own brothers, who already were in Spain exploiting other women. When the minor travelled to Spain, one of her brothers picked her up and she stayed with him until her mother came from Romania. Her brothers first and then her mother convinced her that she had to work as a prostitute at Polígono Marconi.
- In addition, the gang exploited another minor (16), at Polígono Marconi, taken advantage that she was in love with a member of the gang. Her “boyfriend” forced her to go to Marconi every day, threatening and beaten her up sometimes. She also was under continuous surveillance and the defendants kept all the money she earned.





# CASE EXAMPLE 1

- *Convicted criminal's sentence:* Yes. THB and forced prostitution, 16 years/ 15 years in prison.
- *Incriminating evidence:* Wiretapping, house searching and many other evidences. Psychological and psycho-social reports, as well as the experts' testimonies. No victim's testimony as incriminating evidence.
- *Sentence of compensation:*
- *Amount:* 45.000 (minor exploited by her own family) and 20.000 euros the other minor.



# CASE EXAMPLE 1

- **Psychological health impact of THB:**
- *kind of impact:* stress and extreme anxiety, insomnia, headaches, stomachaches. Feeling of guilt. Denial. Need of psychological treatment.
- Taken into account: Yes.
  - *When:* Procedure. Prosecution report and decision.
  - *By Whom:* NGO social workers; psychologist; prosecutor, judges.
- *\*Prosecution report:* Evidence proposal: psychological report and expert testimony; psycho-social report and expert testimony; Anticipated evidence. Ask for compensation sentence based on psychological damage.



# CASE EXAMPLE 1

- *\*Decision:*
- *-As a proven fact: Yes. Psychological damage.*
- *-when evaluating victim's testimony: Yes. Psychological and psycho-social reports, as well as the experts' testimonies on them were crucial to support the conviction, despite victim's testimony. She denied having been exploited by her family in the hearing.*
- *-as a criterion to fix the amount of compensation: Yes.*



# CASE EXAMPLE 2

- **File Information:**

- Sentence of the Provincial Court of Barcelona (Section 7), March 14<sup>th</sup> 2018.
- *Defendants:* A Nigerian woman.
- *Victim:* An adult Nigerian woman.
- Protected witness: Yes
- Protected by NGO: No
- Protected by another Institution? Which one? No
- 



# CASE EXAMPLE 2

- ***Proven facts:*** The victim, a 19 year old woman, used to live in Nigeria in very poor conditions. She first moved to Libya and from there she arrived to Europe (Lampedusa) by boat (patera). While staying in Italy, she contacted her mother in Nigeria, who had been threaten by the defendant. Her mother told her about a 30.000 euros debt for the trip she had to pay working as a prostitute in Spain. Fearing the consequences for her family, she accepted and moved to Barcelona, as requested, following instructions. Once in Barcelona, she was brought to the defendant's apartment (where she lived with other 6 Nigerian girls), threaten again and shown where she had to work, at Villa Olímpica. She was under continuous surveillance and couldn't leave the apartment without the defendant's permission. All the money she earned was handed over to the defendant. If she did not get enough, she was threaten and beaten up. Helped by an organization not identified in the proceedings, she left the apartment one night and denounced the fact to the police.



# CASE EXAMPLE 2

- *Convicted criminal's sentence:* Yes, the defendant was sentenced to 7 years in prison (THB for sexual exploitation, forced prostitution and other crimes).
- *Incriminating evidence:* Victim's testimony evaluated as consistent and reliable, supported by witnesses and police officers who assisted the victim. Medical report. No psychological report.
- *Sentence of compensation:* Yes.
- *Amount:* 10.000 € (vague reference to psychological damage: "these crimes cause psychological alterations).



# CASE EXAMPLE 2

- **Psychological health impact of THB:**
- *Taken into account: Yes.*
- *By Whom:* polices officers; medical report; prosecutor; judges.
- *What kind of impact:* PTSD (posttraumatic stress disorder)
- *When:* Investigation and procedure.
- *Investigation:* The police officers who assisted the victim declared that she was very nervous, crying and almost unable to talk.



# CASE EXAMPLE 2

- *Procedure:*
- *\*Prosecution report:*
  - Evidence proposal: medical report
  - Specific reference to PHIT (1st conclusion: PTSD as an effect of the crime, Quoting the medical report)
  - Ask for compensation sentence based on psychological damage: 10.000 euros.
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# CASE EXAMPLE 2

- *\*Decision:*

- *-As a proven fact: Yes. PTSD as an effect of the crime.*
- *-when evaluating victim's testimony: No*
- *-as a criterion to fix the amount of compensation: No.*



# RECOMMENDATIONS

- Victim's testimony/statement should not be the only evidence. More investigation is needed.
- Training and cooperation between stakeholders are crucial to succeed.
- The influence of trauma in the accuracy/inconsistency of statements should be taken into account from the very beginning.
- Police officers -especially those who first meet and interview victims -should be trained on this issue.



# RECOMMENDATIONS

- Prosecutors should coordinate themselves in order to have a more consistent approach to PHIT.
- Prosecutors should ask for a psychological/medical report in every single case.
- Judges should be trained in order to know PHIT and take it into account when evaluating victim's testimony.
- Psychological support by experts to police officers, prosecutors and judges needs to be implemented/strengthened.

