



The counter-trafficking apparatus in action: who benefits from it?

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Abstract

Based on long-term ethnographic research, including documentary research, qualitative interviews and observations made at a Portuguese shelter for “sex trafficked women,” this paper explores the counter-trafficking apparatus questioning who benefits from it. The discussion explores the contrasts between an institutional commitment to constructing this apparatus and the actuality of procedural efforts purporting to support “trafficking victims.” I argue that the higher goal of building a counter-trafficking apparatus — in itself a political objective — limits the rights of “victims,” making processes that claim to be part of their protection de facto neo-liberal anti-political exercises in reenforcing bureaucratic state power.

Keywords Critical trafficking studies · Human trafficking · Portugal · Prostitution · Protection · Reintegration

Introduction

Over the course of the last two decades, the fight against human trafficking has gradually consolidated in a significant number of countries. An indicator of the level of attention now directed towards counter-trafficking can be found in the number of states that have either signed or are parties to the 2000 United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also known as the Trafficking Protocol).¹ In different contexts, “trafficking” is, increasingly, the only prism through which we become aware of the abuse and exploitation experienced by migrant laborers. Outside of this interpretive

¹ These are 117 countries that have signed the protocol, and 178 countries that are parties to the main international instrument on trafficking. Retrieved on March 2022, from https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18

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framework, it is often difficult to find a way to talk about such issues without the women, men, transgender, and gender-diverse persons on the move being framed as a threat to state sovereignty, national identity, welfare system, and—especially with the Covid-19 pandemic—public health.

While globally described as the undisputed goal, it is difficult to say that counter-trafficking actually benefits its “victims.”² Counter-trafficking in fact deprives their lives of politics. For example, the ways in which people can and cannot use their own bodies to trade sex or sexual services for some type of payment, free from abuse and violence, affects their lives, and restricted freedom of movement contributes towards creating conditions for the labor exploitation of migrant workers. However, counter-trafficking ignores these and other political realities on the ground, privileging technical interventions both in the “prevention” of trafficking and in the “protection” of its victims. In this article, I argue that in privileging technical policy discourses, and depoliticizing interventions, counter-trafficking becomes configured as a refined “dispositif” (or apparatus) (Foucault 1977, 1980) for expanding the bureaucratic control of the state.

For its recognized efforts to eliminate “trafficking,” alongside a purported victim-centered human rights-based approach of legal and policy frameworks on trafficking, Portugal is an illustrative site for analysis of counter-trafficking’s reluctance to acknowledge and address, through political action, the needs and expectations of people on the move labeled as “victims.” The Portuguese case also allows me to unpack how certain ideas about trafficking become dominant; the manner in which they are translated (or not translated) into political demands, and with what effects. With this aim, my research examines how “trafficking” has been framed, what kinds of politics counter-trafficking contains (and omits), and the impact of trafficking discourse on what Denise Brennan (2014a) would term “life after trafficking.” I focus, in particular, on “sex trafficked women” for the historical prominence they have had in the construction of the Portuguese as well as the transnational counter-trafficking apparatus.

My work employs key ideas from debates about the dynamics of power and knowledge. This includes the work of James Ferguson (1990) who, adapting Michel Foucault’s idea of discourse, introduces the concept of the “anti-politics machine.”

² The use of labels such as “victim” is the subject of much ongoing discussion and scientific debate. Feminist scholarship on sexual violence has contributed to the popularization of the use of “survivor” to emphasize the agency and the healing of women surviving violence (Kelly 1988), in contrast to passivity and powerlessness, associated with the victim label. In turn, critical human trafficking scholarship has problematized the portrayal of individuals who are victims of trafficking crimes as powerless, preferring to refer to them as “trafficked persons” (GAATW 2007). Scholarship on migration and sex work challenges the labels “trafficked” and “victim,” emphasizing that their deployment is a largely political and prejudiced subjective judgment, not dependent on migrants who make rational choices to travel and work in the sex trade or other low-wage service industries (Agustín 2002). In the meanwhile, to be labeled as a survivor implies a focus on life in itself, without advocating for the rights of migrant worker (Molland 2019a). Keeping in mind the continuum of agency and exploration that crosses the migration experience, in this discussion and, more generally, in my research, I prefer to avoid the victim label. I occasionally use double quote marks for this and other terms to emphasize that I do not take their meanings for granted.

Discourse, as defined by Foucault (1972, 49), refers to a set of “practices that systematically form the objects of which they speak.” Foucault draws attention to the mechanics through which discourses are brought into being, are produced, and become dominant, recognizing that the rules of formation are not found in the mentality or conscience of individuals but rather in the discourse itself, which is then imposed on individuals speaking within a certain discursive field.

In his analysis of a development project in the African state of Lesotho, Ferguson (1990) denounced the failure of interventions produced by “development” discourse and focused attention on what the “development apparatus” actually did: creating an “anti-politics machine” that produced unplanned forms of control and exercises of power. More precisely, political problems were transformed into technical problems, with a resultant de-politicized development apparatus—which included a complex array of different institutions, initiatives, laws, scientific statements, and discourses (Foucault 1977, 1980)—producing an expansion and entrenchment of bureaucratic state power (Ferguson 1990). Adapting Ferguson’s insights to a different context, this paper focuses its attention on what the counter-trafficking apparatus does, as well as on what it does not, in its mobilization of the concept of the anti-politics machine.

Ethnographic data from Portugal illustrates a number of debates that have muted and marginalized interventions, starting from those involving the politics of prostitution. Added to these debates are politics relating to the rights of migrant laborers as well as the current security problematization of trafficking and the disciplinary effects of identity politics that, in replacing justice with sensitivity, create the damaged and tamable subjectivity of “trafficking victim.” I contend that the persistence of certain trafficking ideas and unresolved politics—which fails to bring any meaningful benefit to its “victims”—is closely linked to the need state and non-state actors have to maintain distance from debates and interventions that create tensions and compromise the counter-trafficking apparatus. Politics is left outside of counter-trafficking as it would undermine the ability to control the counter-trafficking apparatus, thus threatening it. The existence of this apparatus can then be seen as a kind of political project, or anti-politics project, in itself.

By looking at the question of who ultimately benefits from counter-trafficking apparatus and what it really produces, I am able to argue that counter-trafficking has become what Ferguson (1990) might describe as a neo-liberal “anti-politics machine,” reinforcing the bureaucratic power of state while displacing certain politics, and cancelling the participation of bearers of differing understandings of “trafficking.”

The counter-trafficking dispositif and the anti-anti-trafficking debate

My research draws heavily on critical perspectives about trafficking which have been effective in showing how views of “trafficking” are heterogeneous, with the political agendas of actors identifying trafficking as a problem historically characterized by fierce contrasts and contradictory practices.

In regard to its genesis, trafficking as a conceptual framework equated with prostitution was first utilized by feminist abolitionist groups and religious and social purity organizations, with the emancipatory objective of attaining a decrease in state control of women, associated with the pre-Victorian regulation of prostitution (Doezema 2010; Wylie 2016). Thus, from the 1880s until the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others, different international counter-trafficking instruments—the “prehistory” (Wylie 2016) of current counter-trafficking norms—were abolitionist in character. With the UN Trafficking Protocol, we begin to observe a substantial divergence from the past, with recognition of the distinction between “forced” and “voluntary” prostitution based on the qualifier of “consent.”³ However, since the Protocol negotiation process took place, counter-trafficking efforts have generated discontent among sex workers’ rights advocates and scholars. This discontent arose out of something the Trafficking Protocol did not actually intend to do, nor indeed does, namely, protecting women (as well as men, transgender, and gender-diverse individuals) who choose to engage in the sale of sex as a means to an end, and whose movement across borders is rarely coerced (Doezema 2010). The practical implications of the counter-trafficking dispositif have been denounced due to the way in which, in reality, it worsens the living and working conditions of sex workers. This comes as a result of the raft of measures aimed at suppressing trade in sex and the impact of racist, classist and gendered “raid and rescue” operations, increased border controls, and deportations of both “voluntary” and “forced” sex workers alike (Kook 2018; Lam 2018; Mai 2018; Plambech 2014; Shih 2016). Alongside other forms of “collateral damage” (GAATW 2007), such as the aggravation of debt and loss of income, this has negatively impacted the lives of numerous marginalized migrants, in addition to sex workers from different countries (Blanchette et al. 2013; Brennan 2017; O’Connell Davidson 2016; Piscitelli 2016).

Nevertheless, instruments such as the UN Convention on Transnational Crime, of which the Trafficking Protocol constitutes one of three supplemental protocols, fueled by a change in geopolitical context from the mid-to-late 1980s onwards, have been favored in the process of defining counter-trafficking norms that meet the security interests of nation states (Davidson 2016; Wylie 2016). In reality, the deployment of the counter-trafficking dispositif has tended to reflect specific political interests rather than concerns about the crime of trafficking (Anderson and O’Connell Davidson 2002; Brennan 2014b; Molland 2019b). A growing body of critical

³ The UN Trafficking Protocol contains the definition of trafficking that informs the vast majority of national laws, providing a framework for counter-trafficking policies around the world. According to art. 3(a), “‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.” In subparagraph (b), art. 3 also states that “the consent of a victim of trafficking in persons to the intended exploitation (...) shall be irrelevant where any of the means set forth in subparagraph (a) have been used.”

anti-trafficking scholarship has also emphasized how the counter-trafficking dispositif—the result of an unusual convergence between the agendas of a number of state and non-state actors—through concentrating on transnational networks of traffickers as the parties responsible for abuse overshadows the necessity of the “sponsors” (Plambech 2017) and “service providers” (Aradau 2008) that enable migration, leading to the substantial acquittal of the state and the role it plays in creating the structural economic and social conditions that sustain inequalities, discrimination, and exploitation through its approach to migration, employment, gender, sexuality, and race (Anderson 2013; Anderson and Andrijasevic 2008; Andrijasevic 2010; O’Connell Davidson 2006; Molland 2019a).

The critique of “anti-anti-trafficking” (Marcus and Snajdr 2013) scholars extends to the controversial and mostly ineffective efforts that have been made to assist people labeled as “victims.” In this regard, a substantial amount of mainstream literature, as well as the efforts of national and international agencies, focuses on “trafficking”—more so than current neo-liberal migration, labor, and gender regimes—as the cause of the physical and mental health issues of its “victims” (see, e.g., Le 2018; Nodzinski et al. 2020). Careful prescriptions are ascribed to various interlocutors, but in particular, to law enforcement and social services engaged in conducting ethical and safe identification, rehabilitation, and (re)integration interventions (Cock 2014; UNODC 2008). As pointed out by Luke S. Bearup (2016), ethnocentric claims of “empowerment” and “independence” are cited as central elements of the (re)integration process—from an initial crisis intervention to the final and challenging goal of (re)establishing social inclusion.

A more distanced position is assumed by scholars who primarily emphasize the “procedural” conception of the “reintegration” of trafficked persons as mandated by counter-trafficking policies, conventions, and laws (Bearup 2016), and the fixation with the individuated and biological living body of “trafficking survivors” in counter-trafficking programs (Molland 2019a). Despite a progressive embracing of the language of human rights by international organizations and different states, and the forging of controversial alliances between police forces and NGOs, the rights of people labeled as “victims” are traditionally a secondary concern in counter-trafficking legal and policy frameworks. This is the case, for example, with residence permits, which have historically been dependent upon the readiness or the capacity of trafficked persons to cooperate with law enforcement authorities in criminal proceedings against traffickers, despite scant contributions to the protection of “victims” and the prosecution of “traffickers” being made (Aradau 2008; Brunovskis and Skilbrei 2016; GAATW 2007; Musto 2010). Meanwhile, a variety of assistance programs from compassionate and benevolent “saviors”—especially religious and white Western middle-class neo-abolitionist factions—mobilize markedly different languages. Specifically, this encompasses the pathologization of recovery and restoration in the attempt to “reform survivors,” who have usually been detained in private or public shelters before being returned to exploitation in low-wage labor market sectors (Brennan 2016; Brunovskis and Surtees 2008; GAATW 2007; Giordano 2014). Scholarship has repeatedly denounced a controversial “rescue industry” and the multiple business opportunities connected to the current neoliberal governance of human mobility (Agustín 2007; Plambech 2017). Within this industry, the

instrumental use of—in some cases fraudulent—narratives and controversial practices by “legal” non-state actors, to whom certain counter-trafficking services are outsourced, is constituted as a “legitimate” form of profit-making, in contrast to the “illegitimate” labor exploitation of “illegal” actors (Anderson 2013; Henriksen 2018; Hoefinger 2016).

Methodology

While the Portuguese case presents an opportunity to study various critical aspects of this debate, the evidence on which this article is based combines documentary research, qualitative interviews, and participant observation, also incorporating a review of relevant conventions, agreements, legislation, action plans, reports, and statistical data. The original fieldwork was composed of more than fifty qualitative interviews, alongside informal discussions with members of governmental organizations (GOs), non-governmental organizations (NGOs), police bodies, and other agencies that, since 2013, have comprised the National Trafficking Victims Support and Protection Network (RAPVT). This fieldwork also engaged with lay and religious organizations that, since 2006, have formed part of the Support Commission for Human Trafficking Victims (CAVITP)—an initiative of the Conference of Religious Institutes of Portugal (CIRP) and liaison with the Portuguese organizations working with sex workers that, since 2011, have formed part of The Network on Sex Work (RTS). Finally, a number of inter-governmental organizations (IGOs) and NGOs involved in assistance programs for the assisted voluntary return of migrants and trafficked persons were contacted. Alongside the interview subjects and collaborations outlined above, the fieldwork encompassed an ethnographic dimension. This took the form of participation in various events, training and awareness actions, discussion groups, and networks, as well as making first-hand observations at a Portuguese shelter for trafficked women.

This material was collected during the course of two research projects. The first, conducted during 2014–2018, studied the protection of sex-trafficked women in Portugal, while the second (still ongoing) project (2018–2024) looks at the construction of counter-trafficking systems in Southern Europe. While the observation in the shelter occurred between July 2016 and January 2017, the interviews took place over a longer period, between 2015 and 2019.

When I started this fieldwork, the main research question related to how “victims” and counter-trafficking actors describe their experiences of protection and the (re)integration of “sex trafficked” women. However, as the work progressed, concerns about interventions with these “victims” appeared to be restricted to a small number of participants who, over the last few years, had remained on the sidelines of the current counter-trafficking apparatus. This prompted a “vivisection” (Ferguson 1990) of this apparatus to better consider its actors and the power relationships within it. Therefore, in the next section, I will briefly look at how and why current counter-trafficking norms and actors came into existence and become involved with the field. In the following sections, I deepen the analysis of what the main counter-trafficking actors mean by “trafficking,” what is their idea of “victim,” and how these

ideas became dominant the counter-trafficking affecting practices and the experiences of “protection.”

The Portuguese counter-trafficking apparatus: norms and actors

Pivotal in the Portuguese counter-trafficking apparatus, and recognized in the Criminal Code since 1982, has been a change in the treatment of the crime of trafficking, especially after the ratification of the Trafficking Protocol in 2004. One of the most significant developments was in 2007, when the revision of Article 160 of the Criminal Code initiated a process of adjusting of the trafficking definition to conform with the international and EU counter-trafficking regulatory framework.

Despite what Bearup (2018) would describe as positivist-inspired efforts to identify instances of human trafficking, the various legislative changes initiated during 2007 were informed by limited empirical evidence (Clemente 2019). The transnational counter-trafficking dispositif played an essential role in the institutional mobilization against trafficking. As explained in the following interview with a governmental representative, an important boost came through the field of diplomacy: “We had the Portuguese António Vitorino as European Commissioner for Justice and Home Affairs, who gave a lot of importance to this matter [counter-trafficking], then we started to work on it” (interview, August 2015). The transnational counter-trafficking apparatus also provided the economic resources for the construction of the Portuguese counter-trafficking apparatus. For example, what is generally regarded as a crucial tool in the construction of this apparatus, the Cooperation, Action, Research, Worldview (CAIM) pilot project, was funded by the EU’s EQUAL Community Initiative. The whole process that took place from 2004 onwards within the sphere of the CAIM is described by the words of the following police representative:

We work a bit in tow: Portuguese legislation has made a serious effort to become as current and comprehensive as possible. This is reflected in this article [article 160 of the Criminal Code] today. There was not only a tremendous effort to try to cover any and all situations, however disparate or distinct, but also to encompass the Community directives. (interview, February 2016)

As a result, overlooking its political dimension, the shared discourse of the counter-trafficking “community” (Snajdr 2013) has also described trafficking as a transnational organized crime in Portugal. This was followed by the implementation of interventions focused on the “4P’s” paradigm—prosecution, protection, prevention, and partnership. In particular, CAIM created the conditions for the mobilization of different agencies. Focused on trafficking for the purpose of sexual exploitation, the project favored the drafting and implementation of the first national Plan to Prevent and Combat Trafficking in Human Beings—I PAPCTSH (2007–2010). In turn, the plan focused on “sex trafficking,” structured into four main strategic areas of intervention, which have remained substantially unchanged up to the most recent plan—the IV PAPCTSH (2018–2021): (i) to know and spread information; (ii) to prevent, spread awareness, and train; (iii) to protect, support, and integrate; (iv) to criminally investigate and suppress trafficking.

The protection of “victims of trafficking” has entailed supporting a shelter, in operation since 2008, planned as a women-only initiative. However, in subsequent years, four further shelters were opened, two of which (in 2013 and 2019) were for men: one for minors (in 2018) and one for trafficked women (in 2014). All were run by NGOs that are part of the National Referral Mechanism (NRM). This mechanism was introduced in 2008, focused, at first, on the “sex trafficking” of women. Since 2013, the transnational counter-trafficking apparatus has also stimulated the creation of various national and regional multi-profession networks—the National Trafficking Victims Support and Protection Networks (RAPVTs)—to bring together GOs and some NGOs to prevent, protect, and reintegrate “victims of trafficking.” The national RAPVT is coordinated by the Commission for Citizenship and Gender Equality (CIG).⁴ A component of the Bureau of the Presidency of the Council of Ministers, the CIG was traditionally tasked with promoting citizenship and gender equality. As such, the CIG is also the agency to which the coordination of counter-trafficking activities in Portugal has been assigned.

Significantly, the NGOs invited to be part of this network had a residual experience with potential “victims of trafficking” but, as NGOs belonging to the Council Advisory of the CIG, they held the “symbolic” and “social capital” (Bourdieu 1986) to warrant inclusion in the RAPVT. The ability of these NGOs to enter and/or consolidate their presence and capital within this network has also been limited by the main institutional actors to those not strongly advocating for changes in prostitution policy (Clemente 2021b). The entry of “sex trafficking” into the national agenda was in fact welcomed by some neo-abolitionist NGOs as an opportunity to combat prostitution, understood as a form of violence against women (see Varandas and Saraiva 2000). However, in the words of an NGO representative, “the issue of prostitution is an issue around which there is no agreement among NGOs. It is a divisive, sometimes violent issue even in Portugal” (interview, July 2016). The risk of this issue compromising the institutional effort being made to mobilize and aggregate different actors around a shared counter-trafficking agenda has also meant limited involvement of both the organizations that make up the CAVITP—mostly neo-abolitionist—and the NGOs advocating for sex workers’ rights that make up the RTS. As the representative of a religious organization of CAVITP recalls:

We have always helped prostituted women and, even before the creation of the RAPVT, we had our own working group, but from a long time they have not sought us out to talk about these women. (interview, July 2015)

Meanwhile, in the case of the NGOs of RTS, sometimes the need to distinguish trafficking from sex work has contributed to keeping several of them outside the counter-trafficking apparatus (see Clemente 2021b). As a result, the few

⁴ The activities of regional RAPVTs are entrusted to multi-disciplinary teams—the *Equipas Multidisciplinares Especializadas* (EMEs)—run by the Family Planning Association (APF). Since 2012, these teams have progressively covered the country, through governmental funds, once again in response to international commitments and to strengthen the multi-disciplinary approach to “victim” identification (see GRETA 2013, 2017).

organizations of CAVITP and/or RTS, which joined the RAPVT and have remained in a central position in counter-trafficking activities, are those who, within the apparatus, have remained “on the fence” (Quirk et al. 2021) in public debates over prostitution so as to not endanger their relationships with, and the funding of, the main GOs (see also Clemente 2021a). In the next sections, I address the discourses of the main counter-trafficking state and non-state actors of RAPVT, and their evolution, starting with their conceptualization of trafficking.

The disappearing idea of “sex trafficking”

Confirming documentary research, evidence from the interviews supports the idea that, in the early 2000s, “in Portugal, when people started talking about human trafficking, what was discussed was the sex trafficking of women” (interview, NGO representative, April 2018). However, as I mentioned above, when I began my fieldwork in 2015, “sex-trafficked” women appeared distant from the idea of “victim” and the rescue concerns of many actors. This impression was confirmed by an analysis of data from the Observatory of Trafficking in Human Beings (OTSH)—an initiative of the Ministry of the Interior (MAI)—which suggested that “presumed victims”⁵ of “sexual exploitation” had given way to (predominantly male) cases of “labor exploitation” (Clemente 2017).

Changes in the profile of trafficked persons in Portugal are sometimes traced back to the success of “prevention” activities, alongside the progressive stiffening of border controls and an increase in international police cooperation. This narrative is supported by the following interview with a police spokesperson:

That the occurrences reduced a lot was a product, for me, of several factors. The intervention of some agencies to support victims and the awareness campaigns here: people arrive and are confronted with this. On the other hand, a more attentive intervention by SEF [the Portuguese Immigration and Borders Service]. This in the last ten or twelve years. A more attentive and robust SEF intervention at the borders to not let them enter. They are sent back, ok? In order not to let them enter because it is clear that they are coming for prostitution. (interview, October 2015)

Since the initial construction of the current counter-trafficking system, the fight against the crime of trafficking has re-enforced the selective and repressive function of the Portuguese border police through an increase in controls and a greater number of refusals of entry into Portugal, as well as an “exponential increase” in the level of control exerted over the permanence and activities of foreigners in the country (SEF 2007, 90). However, in order to gain a

⁵ As a component of the Portuguese NRM, the expression “presumed victim” is used with reference to a person regarding whom there are strong indications of the existence of a trafficking experience. Previous studies indicate that slightly more than 25% of “presumed victims” are usually confirmed as such by competent Portuguese authorities (Clemente 2017).

better understanding of the substantial removal of “sex trafficking” and its “victims” from the discourse of counter-trafficking actors, it is necessary to consider once again the role played by the state’s concern to not compromise the current national counter-trafficking system via a national “sex war” on prostitution. This concern seems to have made discourse of “sex trafficking” subject to stricter governance. Thus, despite the historical abolitionist position of the main agency coordinating trafficking policies (the CIG), from the first years of interventions on “trafficking” onwards, it has firstly tried not to be identified with prostitution (see, e.g., Varandas and Saraiva 2000). This effort, to distance trafficking efforts from prostitution, was followed by the substantial elimination of the issue of “sex trafficking” from the discourse on trafficking at a national level. This process is aptly described by the following governmental representative:

Although the work on trafficking started from work on prostitution, it is very dangerous for us to return to this issue. Because we are going to decentralize the objective and we are going to fall into what we want to avoid, which is for the prostitution debate to take a central place in the trafficking debate. If we do so, we decentralize the objective, which is the trafficking, and create again a whole set of barriers to an intervention in trafficking. We had to decentralize prostitution to work on trafficking. If we go back to prostitution and the prostitution debate, we decentralize everything that has to do with trafficking. (interview, August 2015)

The following NGO representative confirms this strategic choice to downsize “sex trafficking” within the counter-trafficking discourse:

We carried out projects on sex trafficking. At one point, they [the CIG] did not want to debate neither the issue of prostitution nor the issue of sex trafficking in this network [the RAPVT]. As I said you, they even advised that, if we wanted to see our projects approved, to not include the issue of prostitution. At the EU level, they also want to talk about labor exploitation, then they [the CIG] become more interested in talking about this. (interview, July 2016)

In a context characterized by historical dependence on state support (Clemente 2021b), a convergence in the strategies of civil society agencies in a field that requires investment and resources would seem to have contributed to the NGOs involved in the counter-trafficking apparatus becoming “open to all forms of trafficking,” downsizing previous concerns about “sex trafficking,” and, with it, limiting access to protection for its “victims.”

In any case, the protection for women as well as men, transgender, and gender-diverse persons who are “presumed victims” appears subject to further limitations. As I will explain below, one of these limitations relates to a knowledge of trafficking as a transnationally organized crime and counter-trafficking practices focused on a criminal justice response, and with them, (dis)trust and power dynamics within the counter-trafficking apparatus.

Criminal justice practices, and (dis)trust and power dynamics

As indicated above, a criminal justice approach to trafficking has also come to prevail in Portugal, leading to the subordination of the rights of trafficked individuals according in two respects: their formal identification as “victims” by the police force⁶ and their co-operation in criminal investigations against traffickers.⁷

Reflecting on this approach to trafficking, various NGOs within the RAPVT have indicated that distrust of the police and the justice system, with the fear of reprisals and the risk of being returned home voluntarily, or in some cases forcibly, represents substantial obstacles:

Victims do not have trust, nor do they want to be at this level of exposure because their families are threatened and they have a series of complicated situations and therefore, they do not want to be with the police in this strategy. They can provide some information, but they are not going to follow a strategy like this. (interview, NGO representative, July 2016)

In reality, distrust of the police, one of the legacies of Portuguese authoritarianism, seemed to be present primarily as a remnant of earlier times within some NGOs (see also Jackson et al. 2011). This appears to have encouraged them to be cautious about the possibility of building partnerships and acting with the police. Indeed, a representative of one such NGO explained:

There was a situation in which there was a European project and we did not want to tie ourselves to a project that included partnerships with the police. And it wasn't just the Portuguese police, there was a European connection. Having a left-wing base, despite different sensibilities, made us cautious from the outset. At the level of domestic violence, when it is necessary to go to the police to get a victim out of a house, we turn to the police, and the police collaborate with us, but we are not their partners. Collaborating is different than being partners. (interview, April 2018)

Distrust and caution in relations with the police seems to have encouraged an, albeit timid, resistance towards the practices that characterize the current security

⁶ The formal identification of “presumed victims” is the responsibility of the Judicial Police (PJ) and the Immigration and Borders Service (SEF). These two police bodies have the specific remit to conduct investigations related to trafficking in persons (see Decree-Law no. 49/2008 of 27 August and Decree-Law no. 252/2000 of 16 October).

⁷ In particular, Immigration Law that made provision (in Article 109) for a residence permit to be issued to “victims of trafficking” under three cumulative conditions: (a) the potential benefit of the victim’s presence for the purposes of the investigation and criminal proceedings; (b) the victim’s clear intention to cooperate with the authorities to facilitate the investigation; and (c) the cessation of relations with the persons suspected of having committed the offence concerned. Since 2007, a special regime for granting a residence permit (Legislative Decree 368/2007, passed on 5 November 2007) for trafficked persons unwilling or unable to cooperate with law enforcement, but justified by the personal situation of the victim or members of his/her family, has existed. However, despite this legal framework, such circumstances have never concretely applied.

approach to trafficking by some NGOs—in some cases, with opposing views on the sale of sex. In the words of one NGO representative:

In the limited space we had during RAPVT's meetings for discussion, one of the things the various NGOs did agree upon, was the need to be able to formally identifying a presumed victim. I remember a meeting with GRETA where we told them that we wanted NGOs to identify victims because many of them do not want to collaborate with the police. GRETA kept the notes but [the institutional representatives] said it was not possible because it is the police that identify [victims]. (interview, April 2018)

As this interview excerpt emphasizes, despite the signed cooperation protocols and memorandums of understanding, the *modus operandi* that characterize the various multi-professional networks in which actors with different missions have mobilized seems to have offered few possibilities for dialogue about the challenges posed by a crime-security approach to trafficking characterized by a substantial subordination of the protection of “victims” to the priority of fighting the crime of “trafficking.” Rather, dynamics of distrust and hierarchies of power have provided opportunities for the creation of shared knowledge and everyday practices based on solid partnerships between an ever-decreasing number of these NGOs and the main governmental and law enforcement bodies (see also Clemente 2021b). This seems to have contributed to the distillation of activities, and their coordination, in the hands of a single NGO, the Family Planning Association (APF).

This organization, which can be now considered the main NGO in the counter-trafficking apparatus, now manages two of the five shelters for trafficked persons. The APF is also the only organization that manages the specialized multidisciplinary teams (EMEs), their main role being to liaise with law enforcement when “presumed victims” are first identified. The approach of these practices and the APF in general is summed up in the following interview excerpt:

... and there are those [NGOs] that do the work of continuous partnership in the whole process, working with the police agencies and the victim at the same time, for the formal identification of the victims. Working so that a relationship of trust between the victims and the police can be established and the victims realize that the police are not bad. They are not bad guys, but are people who are there to help and protect them. Therefore, these NGOs work on this aspect of trust between the actors, which leads to the identification of the victim and the condemnation [of traffickers]. (interview, GO representative, August 2015)

The alliances the above interviewee refers to constitute a controversial attempt to combine, without questioning, humanitarian discourses with law-and-order practices in trafficking. The substantial limitation—in some cases exit (Clemente 2021b)—from the counter-trafficking apparatus of actors not sharing accepted or official truths and practices would seem to contribute to limiting recognition of the real or perceived challenges posed by the inherited security approach.

Governing the imperfect “victim-witness”

Discourses involving the identity, exploitation, and needs of (sex trafficked) “victim-witnesses” appear to further limit access to their rights. Together, these narratives converge to describe a pathological profile of the desirable “victim-witnesses”—one whose victimization is recurrently traced back to personal deficits. In the words of a police representative:

The profiles of victims vary from the homeless, alcoholics, to ex- or current drug users, all of which implies that victims have, in some way, a reduced level of self-determination, of their willingness, due to this addictive behavior or even by a genetic characteristic, which has already significantly reduced their capacity. (interview, October 2015)

As the following excerpt suggests, the NGOs closest to what might be termed the “field of power” (Bourdieu and Wacquant 1992) converge on these ideas:

Victims are people alone, without a family, some of them with cognitive deficits, others homeless. They are people in very vulnerable situations indeed. These people are exploited, they do not eat when they need to, do not drink when they need to, but everything is fine for them because they have a roof over their heads. (interview, February 2016)

Victimization also seems to require the socially accepted qualities of integrity and humility. The supposed inferiority of women makes them potential “victims,” but rectitude and conformity to hegemonic morality are also required, with the result that the stigma surrounding prostitution may call into question any recognition of the possibility of the victimization of women in the sex market. Prostitution, or a “propensity” towards it, in the words of an interviewed police representative, can prevent recognizing the abuse and exploitation of those engaged in prostitution.

Many different actors acknowledge that deceit and the kidnapping of young and naïve women—as vulnerable passive objects who end up in prostitution, experiencing physical suffering and abuse as well as the presence of extreme situations of control and embarrassment—are exceptions rather than the rule:

The victims, the few, the small percentage that actually suffer, those victims that we are waiting to find, that cry and say “those guys hurt me, etc.,” they are very few in number. (...) The cases of abduction for sexual exploitation are very exceptional, ok? I remember only one situation. There are very few, very few, because they walk freely and spontaneously, they go out, they go to shopping centers, they go to this house, they go to that one, all together, so they are free in their movement. (interview, police representative, February 2016)

Yet this awareness does not exclude the possibility that the imperfect “victim-witness” will have little possibility of “self-identification” and/or will be a fragile witness in a criminal trial against traffickers. In the context of scarce economic and human resources, the efforts of criminal investigations and the possibilities for the formal identification of “presumed victims” thus seem to focus on cases that have

the greatest chance of success in court. Among these are those characterized by the coexistence of various trafficked persons whose testimonies are mutually supportive in court. Hence, the frequent presence, among the “confirmed victim,”⁸ of those reported in “major occurrences” (more than twenty “victims;” OTSH/MAI 2017). Stereotypical and simplistic identity characteristics and/or signs of particularly cruel and violent forms of exploitation appear to be decisive. Then, in a similar way to what is recorded in other contexts (Molland 2019a; Smith and Marmo 2013), the burden of proof of trafficking is often shifted onto the body of the “victim.” This burden would seem so internalized by the latter that, in different cases, my meetings with them were preceded or characterized by the need to show or evoke with me, as well as to the investigative authorities, the damage inflicted on the trafficked body through photos or the narrative.

Ideas and practices seeing “trafficking” as a criminal issue join ideas about “victims” that dictate the type of support provided, as well as the possibilities of accessing it. My study suggests that, even when “victim-witnesses” are housed in shelters, the type of assistance provided is geared mainly towards emergency help, with the primary objective being to collect statements to be used as evidence in any subsequent judgment, before repatriation or the “victim’s decision” to leave the shelter (and with it, losing any possibility of assistance in [re]integration). Thus, for the several weeks during which I made my observations at one of the Portuguese shelters for trafficked women, the guests were limited to a child “at risk” of trafficking and her family. During the study, in total, six “presumed victims” were subsequently housed in this shelter. However, four were only housed for a limited time of between a week and a month. The two women who, together with the minor, remained for a longer period were regarded by the managing NGO as coming from situations of domestic violence rather than the crime of trafficking. As a whole, the observations inside the shelter reproduced the same “deafening silence” (Clemente 2017) as that which characterized the larger study. More in general, despite prolonged country-wide empirical research, the research still only involved a limited number of “trafficked” individuals, and only one of the four interviewed trafficked persons entered the shelter where the research was carried out (in the other cases, they refused to enter any shelter). The concern for the “right to be heard” in a criminal trial does not seem to match the concern for a “victims” right to be assisted according to their needs and expectations. Despite awareness that “if [the ‘victim’] is not sheltered, she may not have the same rights,” different NGO representatives emphasized that “assistance is not an obligation [for the ‘victim’]” (interview, March 2017). In other words, permissible and desirable ideas and practices on “trafficking” and its “victims” make long-term assistance and the possibility of socio-economic (re)integration an entirely exceptional experience.

Taken as a whole, economics seems to govern any concern with regard to the protection of “victim-witnesses.” In order for the counter-trafficking apparatus to obtain the absolute advantage, it must leave at the margins the protection of those

⁸ As a component of the Portuguese NRM, the “confirmed victim” classification is designated by law enforcement agencies to a person as a result of a police investigation.

who do not have desirable care needs and expectations for the future, who challenge the available care provisions. Among the objectives of the latter, there is, in addition to the punishment of traffickers, the display of correct behavior and aspirations through the rules defined by and in the shelter. Despite an awareness of the difficulty that the planned assistance can have in responding to the wishes of the “victim,” any attempt to renounce this is transversely and recurrently seen as the responsibility of the “victim,” and tends to be viewed specifically in terms of her “bad temper” or low aspirations:

Just a few can remain there [in the shelter] for a long time, whether they are men or women. It has to do with their bad temper. First, because this type of shelter is not the ideal place, but it also has to do with the financial aims of the “victim’s” project. Foreign “victims” are even more complicated. They don’t want to stay there, after a month they become difficult, then they do not want to remain closed in. They don’t feel well because they have rules. Do not forget that they are people who are not used to following rules. When they are victimized, they obey many rules and are beaten, but then everything passes, right? After trafficking, people want to go back to what they had before. What they had before was to have no rules, to have no boss, not to be employed by anyone. (interview, police representative, October 2015)

In the next section, I will focus on the practices of reintegration of some perfect “victim-witnesses.”

Governing the perfect “victim-witness”

Vera (fictitious name) is one of those rare “victim-witness” assisted in the shelter where I conduct my fieldwork. According to the NGO that runs the shelter, Vera was “recruited” in a village in Eastern Europe by a female friend who promised her a job in a restaurant. Upon arriving in Portugal, Vera remained undocumented with limited freedom. She suffered dietary restrictions and was subject to physical violence while being exploited in the sex market for several months. As one of the representatives accompanying Vera’s care emphasizes:

We created a connection with her because she was funny, she was interesting, she had some interesting individual characteristics. We could not imagine how such people still exist, in terms of naivety. She completely trusted anyone who gave her any confidence. She was a really good person, you really noticed that she had a good heart. (interview, NGO representative, February 2016)

Following her rescue, during her time in the shelter, Vera secured a job in a restaurant as a kitchen assistant and with the money raised, returned to her country of origin. Her whole experience of (re)integration is described by the NGO that runs the shelter as a “success story.” Vera is also the only case, in the NGO’s experience, of a “victim” receiving compensation for violent crimes. Vera is certainly one of a number of exceptional cases of “victim-witnesses” whose profile,

biography, experience of exploitation, and desires for the future (including her wish to return to her country of origin) manage to surpass the discursive limitations placed upon them that characterize access to protection and (re)integration for trafficked people in Portugal.

However, participation in the study of the rare perfect “victim-witnesses” casts doubt on the benefits offered to them by current protection. This is suggested by Aminah (fictitious name), “trafficked” from Africa and identified as “victim of labor exploitation” from her partner who, after their move to Portugal, is also a perpetrator of domestic violence. After her denouncing her “partner” to the police, during which the suspicion of trafficking arises, for Aminah “it was difficult to get answers to leave my husband’s house. Denouncing this person and then going back to live with this person was very difficult.” (interview, February 2016). Aminah and her children manage to find hospitality with a friend and only slowly managed to access to a shelter.

In addition to access times, even the time of stay inside the shelter (about 4 years) does not seem to meet Aminah’s expectations, who excludes returning to her country of origin. In fact, being welcome in a shelter offers Aminah and her children the possibility of a protected physical space. However, her autonomy has slowed down, in addition to the lack of language skills, needed to access the documents needed to search for a job. As Aminah eloquently explains:

I didn’t stop. I was looking, I was looking, I was always looking. It was very difficult to work without documents. People really want the tax identification number to leave me work. (interview, February 2016)

Aminah’s care seems to create further challenges. She finds that when she is required to move from one shelter to another, in a different city, at the end of one period of stay and the beginning of the next, she has to re-engage with virtually the same set of problems she had previously resolved:

When we got here, I started from scratch again. I had to look for a new school for the boys. Previously, they had a school, I also knew everything, I just had to look for work. Here I don’t know anyone, I don’t have friends, I don’t know the city. It has been very difficult.

In this context, Aminah’s autonomization also lacks the basic support that would allow her, as a single mother, without a family and social network of support, to reconcile family time with work:

When I had to work at night, the children could stay at home. To take them to school, it had to be me. I have two children, I have to take them to school, I have to pick them up from school. I have to get there early. Because of the children, I always had to negotiate the working hours to be able to accompany the children to school. (interview, February 2016)

These difficulties seem to make secondary the working conditions, mostly precarious, to which “victims-witnesses” such as Aminah are able to access. “I always work—emphasizes Aminah. In the restaurant it’s a bit tough. The hours

are too much, the work is too much. It's very difficult, but it's better than nothing, isn't it?" Working conditions certainly remain outside the objectives of "prevention" and "protection" of the counter-trafficking apparatus.

The counter-trafficking "anti-politics machine"

Currently, in Portugal, there exists a broad consensus, shared between various state and non-state actors, and indeed, in left- and right-wing politics, regarding the fight against "trafficking," which is discursively framed as a criminal violation of human rights. As happens in the broader international context, counter-trafficking constitutes a "central, unquestioned value" (Ferguson 1990, xiii). However, if we look at the benefits counter-trafficking brings to the people it should aim to "rescue" in the Portuguese context, and that the counter-trafficking apparatus acts as an "anti-politics machine" becomes evident. To better understand it, we should start by considering the narratives of those targeted by its programs.

Even the rare perfect "victim-witnesses" such as Aminah—"trafficked" by their "partners"—suggest that the trafficking knowledge produced by the main counter-trafficking institutions fails to capture many of the causes and conditions of those abuses which, albeit not without difficulty, can be labeled as "trafficking." Focusing on trafficking as the result of the action of transnational networks of traffickers, this knowledge ignores the structural inequality that encourage but also limits the mobility of people with lower levels of human, financial, and social capital, who are also engaged in processes of continuous negotiation of current gender, sexuality, class, and race regimes. Rather, the formulaic style of trafficking knowledge produced by counter-trafficking institutions, on the basis of the idea produced by the broader transnational counter-trafficking apparatus in recent decades, ends up categorizing "victims of trafficking" as subjects outside of society and its struggles, and defines their biographies—including their "life after trafficking" (Brennan 2014a)—as the result of their more or less good character.

As suggested by a number of critical human trafficking studies (see, e.g., Andrijašević 2010; Kapoor 2013), this knowledge produces a "depoliticization" of understandings and discussion of "trafficking" and the protection of its "victims." The trafficking discourse does not consider the political dimensions of what is labeled as "trafficking," and also denies that political action may help to both "prevent" and "protect" its "victims." On the contrary, this discourse renews the "institutional omissions in the prostitution field" (Silva et al. 2013, 179). As the positioning of "sex trafficking" on the sidelines of trafficking discourses and the suspension of any debate around the sex trade suggests, counter-trafficking remains distant from offering a space for discuss prostitution politics, and what the body can mean to women and other individuals trading sex or sexual services. In other words, counter-trafficking loses the chance to dismantle the patriarchal and capitalist power relations that construct the (marginal female) body, improve the conditions under which individuals trade sex, and protect them from abuse and violence. Furthermore, significantly, even in the few European countries like Portugal where immigration is perceived as an opportunity by public opinion and political discourse tends to emphasize its

positive effects (Oliveira 2021), counter-trafficking also leaves outside the apparatus any debate on the current focus on the criminal justice response to trafficking and the protection of migrant workers in the different sectors of the labor market.

Denying the importance of politics in creating and perpetuating “trafficking,” the focus of counter-trafficking protection becomes the provision of “technical” solutions (Ferguson 1990)—including specialized shelters scattered throughout the country, multi-professional networks, seminars, and, more recently, webinars—inspired by the “4P’s” paradigm. With this blinkered focus on the technical aspects, counter-trafficking acts as an anti-politics machine that offers hardly any substantial benefits to its victim-witnesses. Although their character favors their “rehabilitation” (Foucault 1977) within the infrastructures in charge of their protection, as well as cooperation in criminal investigations against the trafficker, their present and the future remain precarious and uncertain. The prevalent focus on the right to be “sent back” to the “origin” countries strengthens the “procedural” nature of the provided (re)integration assistance (Bearup 2016).

Meanwhile, taking up Ferguson’s invitation to look at what the counter-trafficking does as a whole, we can see that, unquestionably, certain institutions—and also laws, plans, reports, national and international projects, seminars, and, more recently, webinars—produce other “instrument-effects” (Ferguson 1990; see also Foucault 1977). In fact, counter-trafficking knowledge and protection practices are not limited to supporting the status quo, rarely meeting their stated objectives of (re)integration. They also benefit certain legal actors, starting with the promotion and extension of the “bureaucratic power” of the state. In other words, even though counter-trafficking is “depoliticized,” state control is also in effect extended with it.

This control is exercised, primarily, on individuals in the international sex trade—whether described as “victims” or not. As Foucault’s (1977) work suggests, the productive rather than the repressive power of the state constructs the subjectivity of “victim.” In particular, a criterion of knowledge established by the state distinguishes the body of the “victim of trafficking” from that of the prostitute and/or other undeserving migrants, legitimating new hierarchies in citizenship (Andri-jasevic 2010). Despite the transversal and widespread experiences of abuse and violence, only the politicized identity of “victim of trafficking” is able to demand protection. However, as the empirical data indicates, counter-trafficking is the site where the state exercises the power to deny care to the undisciplined imperfect body which does not meet its legal and moral criteria and/or does not comply with expectations of “protection.” This study therefore confirms the risk discussed by Jo Doezema (2001) in her reading of Wendy Brown (1995), of the identity of the victim of trafficking shoring up state domination as part of the process of seeking protection from the state, through mobilization of moral arguments over political arguments.

More broadly, this study reinforces some of the concerns already raised by critical human trafficking scholarship. This work has pointed out that the state’s monopoly of violence is reflected in counter-trafficking regimes, as well as gendered and racialized practices of border control, detention, and deportation of migrants, and extends to a victim’s “rehabilitation” (Giordano 2014; O’Connell Davidson 2016; Plambech 2017). In line with the analyses of Cristiana Giordano (2014), this study

highlights how a state's politics of difference and recognition involves an act of violent misrecognition of the other's listening, experience, and needs, that legitimizes the "cure"—the control and discipline of the deprived body of any right—at the expense of "care."

Counter-trafficking extends state control and violence onto other interested parties with different missions, starting with civil society organizations. Despite the "NGO-ification" (Musto 2010) of counter-trafficking through the provision of multi-disciplinary networks and the neoliberal sub-contracting of public services to NGOs, these agencies have little or no opportunity to discuss the knowledge and interventions produced within the counter-trafficking apparatus. Their presence in counter-trafficking is closely linked to the advance of some assumptions in the transnational counter-trafficking "master narrative" (Snajdr 2013), namely, the premise that counter-trafficking requires the involvement of the non-profit sector to assist with helping victims. More precisely, NGOs' intervention within the counter-trafficking apparatus is part of the neoliberal humanitarian practical logics of counter-trafficking. Within these NGOs, there may have been individuals with certain rescue passions and enthusiasm, "looking for the enchantment of valuable work that matters" (Marcus and Curtis 2014, 490). However, the presence of some NGOs rather than others is predicated on the strategic choice of gaining access to new funding opportunities arising from the sharing and reproducing of certain definitions of "trafficking." This extends to ideas about its "victims," and accepting the logics of the "(non-) protection" of bureaucratic state actors through training, events, and practices of "victim's re-education" and/or (more frequently) returning the "victim" to their country of origin. The substantial void that traverses the multi-disciplinary networks of the counter-trafficking apparatus, as well as the spaces that should assist its "victims," suggest that those who could question the strategic purpose of the apparatus—that is, its existence—or question certain types of knowledge and practices, do not and in fact remain substantially outside of it or, at best, on its periphery (see also Clemente 2021b).

The expansion of the state is neither intentional nor based on any alliance between state and non-state actors. This effect came about because the putting into place of the counter-trafficking apparatus—more than counter-trafficking per se—that is undoubtedly a goal also means that, even if the counter-trafficking apparatus lacks explicit political goals, it becomes what Ferguson (1990, xv) would define as a "preeminently political operation."

Concluding remarks

This article focused on the counter-trafficking apparatus, questioning who exactly benefits from it. Focused on the context of Portugal, the analysis allows us to see that bureaucratic institutions generate the idea of the country as a "destination" country for "trafficking victims" and create a structure of knowledge around which interventions can be organized. In doing so, "human trafficking" is turned into an unquestioned problematic worthy of attention. With the aim of alleviating the suffering of "rescued" individuals, counter-trafficking and its institutions and practices

are considered inherently positive. Nevertheless, an examination of protection interventions in a shelter for “sex-trafficked women,” combined with documentary research and qualitative interviews, suggests that counter-trafficking initiatives are failing to protect and re-integrate “victims” because the stated objectives are not the real objectives of the counter-trafficking apparatus. Using Ferguson’s style of analysis, the article has uncovered the actual purpose of counter-trafficking projects: the bringing into existence of this apparatus which, while rarely benefiting its victims, certainly strengthens the bureaucratic powers of the state.

In this study, focused on one of the European contexts characterized by the highest recognition of its counter-trafficking institutional efforts, the long-term ethnographic research approach adopted was essential. Among the challenges facing investigation into “trafficking” is that of resisting the power dynamics at play and the neoliberal logic that characterizes current counter-trafficking interventions and challenges the assumption and positivist requests of bureaucratic state actors. In the future, much more “organized and self-conscious critical ethnography and anthropology of trafficking” (Marcus and Snajdr 2013, 194), inspired by social justice goals, remains to be done.

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