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BLAMING VICTIMS OF CRIMES AGAINST MORALITY AND PENAL LAW.

The criminalization of sexual offenses and crimes against morality, as opposed to the establishment of protective measures for victims, remains a critical area of penal law. It requires a nuanced understanding of how societal narratives and institutional frameworks influence victimization. The relativistic perspectives and the forces of globalization challenge classical moral principles, undermining societal stability, while the proliferation of networked imagery contributes significantly to the perpetuation of impunity.

These dynamics, coupled with the persistent collapse or systemic inaction of law enforcement agencies and the crisis of authority in religious institutions, have led to a profound decline in societal morality. The study of criminal law protection of morality as a socially and historically determined aspect of human development is a multifaceted endeavor. It involves examining the social preconditions for criminalizing such offenses, analyzing the evolution of modern concepts of criminal law protection, and exploring prospects for improving relevant legal norms.

The existence of numerous, often conflicting, scholarly perspectives on the regulation of criminal law protection of morality—particularly in an era marked by cultural relativism—underscores both the relevance of the issue and the complexities in classifying crimes that target these values. This divergence highlights the significant challenges in addressing such crimes within the contemporary legal framework [1, 153].

Victimisation operates on multiple levels: as a societal institution, through its portrayal in the media, and as a lived reality for individuals. These dimensions often exist independently but intersect through prejudices and social structures that influence public perceptions and policy decisions. Media representations, in particular, play a pivotal role in

amplifying certain narratives while suppressing others, often creating stereotypes of "worthy" and "unworthy" victims. This dynamic can obscure the systemic causes of violence, reinforce harmful societal norms, and shape the criminal justice response.

Prejudice and fear further compound these issues. Prejudices about victims often manifest as stigmas, isolating individuals or blaming them for their circumstances, especially in socially contentious cases such as prostitution or migration. Fear, propagated through media narratives or societal rumours, creates a "culture of fear" that justifies control over vulnerable groups, legitimises violence, and perpetuates systemic inequalities. For instance, the portrayal of certain groups as inherently vulnerable or criminal can lead to heightened discrimination and marginalisation. These dynamics not only affect individual experiences of victimisation but also influence societal responses, including legal frameworks.

A neuroscientist from Barcelona is studying how people become extremists and how the brain processes disinformation in polarised situations.

An interesting conclusion is that histories (images) of victimisation can legitimise violence in a certain way.

That is, victimisation as an institution of society, its image in the media or a target social group, and individual victimisation as a social reality exist separately.

And it is the prejudice for or against that is the subject of manipulation.

It would be interesting to investigate how rumours of victimisation and the generation of a sense of fear influence the formation of individual victimisation and the legitimisation of violence at the individual, group and social levels [2].

Field research targets are not difficult to find.

In 2023, almost half (49%) of the EU population aged 16 to 29 who used the internet in the last 3 months reported having encountered online messages that they considered hostile or derogatory towards groups or individuals. The second highest rate in the EU was recorded for the group 'sexual orientation (LGBTIQ identity)' at 32%. This group has the highest share in Estonia (46%), Slovakia and Portugal (both 44%). The category of 'racial or ethnic origin' came in third at 30%. The highest rates for this

category were recorded in the Netherlands and Portugal (both 45%) and Estonia (44%) [3]

The Nordic model, which criminalises the purchase of sexual acts rather than the sale, provides an instructive case study. By shifting criminal liability to the client, this approach reframes sex workers as victims of systemic exploitation rather than as offenders. It addresses the stigma associated with sex work and seeks to dismantle the structures enabling exploitation.

The European Court of Human Rights' judgment in *M.A. and Others v. France* affirmed this approach, ruling that the criminalisation of clients does not violate the European Convention on Human Rights [4]

The criminalisation of the purchase of sexual services does not constitute a violation of the Convention. The case concerned the creation in French criminal law of the offence of 'purchase of sexual relations', which, according to the applicants, seriously threatened the physical and mental integrity and health of persons engaged in prostitution and radically violated their right to respect for private life, as it included the right to personal autonomy and sexual freedom.

The applicants were 261 men and women of various nationalities: Albanians, Algerians, Argentines, Belgians, Brazilians, British, Bulgarians, Cameroonians, Canadians, Chinese, Colombians, Dominicans, Ecuadorians, French, Nigerians, Peruvians, Romanians, Romanians, Spanish, and Venezuelans. they stated that they 'usually engage in prostitution in a legal manner as provided for by French law'.

They complained about the criminalisation of the purchase of sexual services, even between consenting adults, introduced by Law No. 2016-444 of 13 April 2016 'to strengthen the fight against the prostitution system and to provide support to persons engaged in prostitution' and codified in Articles 611-1 and 225-12-1 of the Criminal Code. Before the Court, they described how their situation had worsened after the purchase of prostitution had been criminalised.

Referring to Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private life) of the European Convention on Human Rights, the applicants argued that French law criminalising the purchase of sexual relations even between consenting adults in a private place, seriously endangers the physical and mental integrity and health of persons engaged in prostitution, as well as

fundamentally violates the right to respect for private life, as it includes the right to personal liberty and freedom of sexual life.

The Court has already stated that it considers prostitution to be incompatible with human rights and dignity if it is forced. It has also repeatedly emphasised the importance of combating prostitution and trafficking networks, as well as the obligation of States parties to the Convention to protect victims.

The Court emphasised the legitimacy of such laws in protecting human dignity, preventing exploitation, and promoting gender equality. It recognised that these measures are proportional, balancing the rights of sex workers with the broader societal interest in reducing harm.

The Court recognised that the aims pursued by the impugned measure as submitted by the Government, namely, ensuring public safety, preventing crime and protecting the health, rights and freedoms of others, were legitimate aims within the meaning of Article 8 of the Convention.

At the same time, the Court noted that the problems associated with prostitution raise very sensitive moral and ethical issues, giving rise to different, often contradictory views, and that there is still no general consensus among the member states of the Council of Europe, or even among the various international organisations that study the issue, on how best to approach prostitution.

The Court also noted that the recourse to the general and absolute criminalisation of the purchase of sexual services as a means of combating trafficking in human beings is currently the subject of heated debate, causing wide divergence at both European and international levels, and no clear position has been formed.

The Court noted that the concerns expressed by the applicants in this case, in particular with regard to health and safety risks, had been largely taken into account during the parliamentary debate, leading to some improvements in the originally proposed text.

The challenged measure - the criminalisation of sexual acts - was part of a comprehensive approach based on four main pillars, namely: the repeal of any legal provision that might encourage prostitution but did not prohibit it; the introduction of measures to protect persons engaged in prostitution, in particular by punishing the concealment of the sexual exploitation of others; steps to prevent persons from being drawn into prostitution; and support for the rehabilitation of persons engaged in prostitution who wish to leave the activity.

In addition, the Court noted that, despite significant differences of opinion, the parties and third parties were unanimous in recognising the positive effect of the abolition of the offence of pimping, which was punishable under former Article 225-10-1 of the Criminal Code, and, as a result, the decriminalisation of persons engaged in prostitution.

This measure was aimed at combating the social stigma associated with prostitution, as well as at enhancing access to rights and all available protections for persons providing sexual services for remuneration.

The Court therefore concluded that the French authorities had not exceeded their margin of appreciation ('margin of discretion') in adopting the impugned ban, as it was the result of a balance struck by the democratic process in the society concerned and was part of a comprehensive approach provided for by Law no. 2016-444 of 13 April 2016, which took into account the various concerns raised by the applicants in the present case[4].

Another case. Castilla-León. The homeland of Don Quixote is ahead of the pack in implementing the methodology of postmodernism in terms of destroying the normative stability of penal law. A man who had actually raped a 12-year-old girl was acquitted by a court that recognised their relationship as 'part of the cultural reality of the Roma community'. Under Spanish law, minors under the age of 16 cannot consent to sex. However, the court ruled that the man, who was 20 at the time, should benefit from a legal exception. The decision of the court in Ciudad Real, a city in central Spain, said that the relationship was 'always voluntary within the framework of a romantic relationship' and that they were 'close in age and maturity'. The acquittal is the latest in a series of rulings in which judges have taken into account the customs held by some members of Spain's Roma population when considering cases of sexual abuse of minors. The court acquitted abuser, calling it 'an indisputable fact that the relationship took place in the cultural and social context of the Roma community, where marriages between very young people are common'. Civil society leaders and government officials have expressed outrage that the ethnicity of the alleged victim and perpetrator in cases of underage sex should have any bearing on legal rights.

This legal precedents underscores the need for comprehensive strategies to address victimisation. Media accountability must be part of this effort, with ethical guidelines to ensure balanced and non-stereotypical portrayals of victims. Simultaneously, legal reforms should target

manipulative practices that exploit societal fears and prejudices. This integrated approach offers a path forward in addressing the complexities of victimisation in contemporary society with proper penal regulation.

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