

Trafficking, ritual oaths and criminal investigations

FMR 64 – Climate crisis and local communities

Oaths play a crucial role in Nigerian trafficking networks. By sealing the pact between women who want to migrate to Europe and their traffickers, oaths strengthen the ties between women and their traffickers, their family and the spirit world. Through these vows – known as juju oaths – women promise to pay off the debt, respect the traffickers and not report their traffickers to the police.

Oaths directly tie women with the spirits, from whom retaliation is expected if the agreement is breached. Women are persuaded that terrible things, including illness, death and madness, will befall them and their families if they do not repay their debt. Furthermore, breaking the pact is seen as an act of dishonour that reflects badly upon a woman's family. Women also consider that, having accepted the oath, they have accepted the situation of exploitation and this serves to reinforce the authority that their madams have over them.

The taking of the oath is performed in symbolic and theatrical ceremonies, usually in shrines to the deity Ayelala, who is known for delivering justice. In the course of these oath-taking ceremonies, women may be asked to remove their clothes, take baths, and drink or eat specific concoctions. Small incisions may be made to their bodies. Items including animal blood, kola nuts, water, palm oil, alcohol or herbs are usually used in addition to fingernails, blood, sweat, menstrual blood or hair, which are generally taken from both the oath-taker and from one of her female relatives. Priests use these corporeal extractions and other symbolic elements such as a woman's underwear to make a small 'packet'. It is believed that whoever has the packet can control the woman. Anecdotal accounts suggest that at times pacts are also being sanctioned in some Pentecostal churches, and that some churches may be involved in trafficking networks, both in Nigeria and in destination countries.

Fear of breaking the pact is so intense that sometimes traffickers may not need to exert other means of control. The result of this is that trafficked Nigerian women appear relatively free from constraints, which in turn hinders their identification as victims by law enforcement actors and renders subsequent police and judicial processes more difficult.

Breaking the oath

To combat the fear that is created in victims, the Nigerian National Agency for the Prohibition of Trafficking in Persons (NAPTIP) recommends that law enforcement officials and NGOs supporting victims inform the women that any contracts they may have signed are not legal, and assist them to seek spiritual counsel, if requested.[1] It encourages law enforcement actors to call on expert witnesses to emphasise the effects of ritual oaths in a prosecution, and also recommends the intervention of religious advisors to help bring forward a prosecution. In an operation in the Netherlands, for example, at least 10 victims agreed to collaborate with the authorities following the intervention of a pastor and a woman who had formerly been trafficked.

The Dutch attorney general claimed that the moral authority of the religious leader encouraged victims to trust the police and overcame any fears linked to breaking the oaths.

In March 2018, the Oba (traditional ruler) of Benin Kingdom in southern Nigeria performed a ritual to neutralise the oath curses that had already been administered to women and to invoke a curse on any native doctor who administers such oaths. Reportedly, this gave strength to some women to flee their traffickers, although there are no data available about how this revocation might have affected criminal investigations.

In destination countries in Europe, law enforcement actors are adapting their approaches to better protect victims and improve prosecution of traffickers.[2] For instance, in Spain, police officers are receiving specific training to bolster their understanding of these networks and the national police has a group of specialist officers who focus on African trafficking networks. However, despite these and other welcome steps, further progress is needed.

Interviewing potential victims

International anti-trafficking guidelines recommend that interviews with potential victims are conducted by specialist officers. Anecdotal evidence gathered in the course of my research suggests that traditional respect for elders means that women respond more positively to older interviewers. Women may interpret physical discomfort or malaise displayed by the interviewer as a sign of being cursed. Some police officers reported feeling nervous and uncomfortable when women avoided looking at them directly, believing that the women were not listening to them or were lying. However, generally in West African cultures, not looking directly into an interlocutor's eyes is a respectful gesture. Being attentive to non-verbal communication is also essential, as women may change their body language when referring to the oaths, for example choking or gagging when recalling the consumption of concoctions.[3]

Statements have to be collected accurately and thoroughly. Any transcription of a statement that is repetitive, automatic or over-simplified has less value in court. For example, one NGO respondent told how: "a victim explained how they made cuts in her chest, back and sides and how they took a kind of lime with which they rubbed her forehead until blood came out, which she had to drink. However, the police wrote that they had removed her nails and pubic hair to do a juju ritual."

Stereotypes may influence the identification of the victim and the evaluation of protection risks. For example, during an interview with a potential victim from Guinea, the same NGO representative asked the police to inquire about ritual oaths. The police dismissed the suggestion, saying that ritual oaths were only relevant to Nigerians. The interpreter had to explain to the police officer that in Guinea people also believe in the power of juju oaths.

Some interpreters used during interviews may not be aware of crucial concepts like juju oaths; others may themselves also believe in the effects of spiritual powers and be afraid to work in cases involving Nigerian networks.

Cultural mediators – usually survivors of trafficking – can ease engagement with victims and provide women with a concrete example of how it is possible to extricate themselves from exploitative situations. And the accompaniment of victims by specialised NGOs can provide the women with the confidence, security and tools that they need in order to cope better with criminal proceedings.

Collecting physical evidence

When conducting forensic examinations such as obtaining blood or saliva for DNA tests, it is essential to explain to the women the purpose and relevance of the procedures performed, as they may link it to juju rituals.[4] It is also crucial to differentiate between tribal scarifications, cuts made to the body linked to traditional medicine and cuts made in the context of trafficking. In conducting such examinations it is important not to dehumanise the women by placing so much emphasis on their physical features that they are reduced to mere human manifestations of juju threats.[5]

Police may recover the ‘packets’ created during the oath ritual. These must be collected, preserved and documented correctly, in the greatest possible detail. After documentation police should return these to the victim if they so wish. Some victims report their exploitation situation only once their packet is in the hands of the police. Any personal object belonging to the victim should be removed from their place of exploitation, as victims may fear that it will be used to curse them.

Oaths in court

The particular dynamics of Nigerian networks should be considered in the preparation and development of a trafficking prosecution. The United Nations Office for Drugs and Crime (UNODC) recommends that consent-related issues should be addressed early on in the trial in order to provide the court with a framework within which to understand the vulnerability, inconsistencies in testimony and apparent consent of the victims to their exploitation.

The presentation of physical evidence, such as remnants of rituals, or telephone conversations alluding to juju threats, gives judges a greater evidence base upon which to adopt a sound verdict.

In at least two cases in the UK, the intervention of experts on sub-Saharan spiritual beliefs was essential both for contextualising the behaviour of the victims and for explaining the cultural aspects linked to the cases.[6] Psychologists are also increasingly providing expert evidence on how oaths become a mechanism of control that intensely influences women’s behaviour.

Judicial considerations

There is a mismatch between the importance attributed to the oaths by law enforcement actors and NGOs and how it is reflected in court decisions. Where oaths and juju are mentioned in court decisions it is mainly in the description of the facts, not in the justification of the sentence. There are also many inaccuracies in references to the oaths and spiritual powers.

A common mistake is to underestimate these beliefs as superstitions or to consider them 'backward', or the people who hold such beliefs credulous. Comments like these serve to discredit these beliefs without adding any value to the judicial reasoning. There is also a lack of knowledge of the prevalence of religious syncretism in sub-Saharan societies, and some judges assert that a woman who declares herself Christian cannot feel coerced by ritual oaths. Tribunals have also assumed that victims with a certain level of education cannot believe in the power of the oaths. Furthermore, courts ignore the fact that such ceremonies may create a situation of fear or psychological distress, even in those with weaker or no faith.

Frequently, there is a lack of understanding of the role played by oaths in trafficking networks. Some judges claim that the traffickers' objective is that women never repay their debt. However, the effectiveness of ritual oaths is based on the fact that it is feasible for the debt to be paid – by repaying what they owe, women can avoid the dire consequences. In this way the ritual oaths are very effective at binding the women to their traffickers. Traffickers instrumentalise the oath to reinforce feelings of submission, secrecy and loyalty, seeking to prevent the victim breaking away from them for as long as possible. More evidence is needed to develop comprehensive, empirically based best practices to better equip those who work to combat trafficking.

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[1] NAPTIP, GAATW and UNIFEM (2008) Access to Justice for Trafficked Persons in Nigeria. A Handbook for Legal Actors and Service Providers
http://gaatw.org/publications/AtJHandbook_Final.pdf

[2] This article is based on analysis of court decisions and information obtained from law enforcement actors and NGOs in Spain, undertaken as part of the author's doctoral thesis. Dols García (2017) 'Tratamiento jurídico-penal de los abusos vinculados a la creencia y ejercicio de la brujería y vudú en España (especial referencia al delito de trata de seres humanos)', Universidad de Extremadura <http://dehesa.unex.es/handle/10662/6228?locale-attribute=en>

[3] Dunkerley A (2005) Juju, Nigeria and Human Trafficking: Considerations for Victim Cooperation in UK Criminal Investigations, University of Portsmouth, UK
<https://www.tandfonline.com/doi/abs/10.1080/15614263.2017.1347786>

[4] See endnote 3.

[5] Carling J (2006) 'Migration, Human Smuggling and Trafficking from Nigeria to Europe', IOM Migration Research Series
<https://publications.iom.int/books/mrs-ndeg23-migration-human-smuggling-and-trafficking-nigeria-europe>

[6] The Anti Trafficking Monitoring Group (2013) 'In the Dock. Examining the UK's Criminal Justice Response to Trafficking
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