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Who is the (“Ideal”) Victim of Labor Exploitation? Two Qualitative Vignette Studies on Labor Inspectors’ Discretion

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ABSTRACT

This paper analyzes how labor inspectors deal with ambiguous legal boundaries between those who can and who cannot be identified as a labor exploitation victim. Street-level bureaucracy research has largely overlooked how frontline officers deal with victims. We combine the street-level bureaucracy framework with insights from symbolic interactionism and criminology about ‘ideal/iconic victims’ to explain how inspectors use heuristics based on societal norms about victimhood to deal with legal ambiguity when dealing with potential labor exploitation cases. Using qualitative vignette studies in Belgium and the Netherlands, our results show that the perceived vulnerability and blamelessness of employees have a crucial role in inspectors’ assessment of who is and is not a labor exploitation victim. More specifically, migrant workers are seen as more vulnerable than native workers, particularly if they are female, and perceived complicity of social fraud reduces the chance that workers are seen as exploitation victims. Furthermore, also perceived employer characteristics have a role in case assessment. Our findings thus show that within the context of legal ambiguity, labor inspectors use stereotypical societal victim perceptions as heuristics, which can result in legal uncertainty and the risk that those suffering exploitations do not receive the support they need.

KEYWORDS

Street-level bureaucracy; “iconic victim”; inspectors; labor exploitation; deservingness; heuristics; social norms; stereotypes

Introduction

Labor exploitation is infused with moral and legal ambiguity, as there are blurred boundaries between those who can and cannot be identified as a victim (Charman 2019; Davies 2019; Farrell, Pfeffer, and Bright 2015; Van Meeteren and Wiering 2019). In the past decennia various international and national legal frameworks have been installed that all consider serious labor exploitation as a form of human trafficking, but stipulate different conditions for victimhood. The European Union Agency for Fundamental Rights (FRA) makes a distinction between, on the one hand, severe forms of abuse and slavery that are considered forms of human trafficking, and, on the other, less severe work irregularities that do not necessarily constitute a criminal offense, such as poor working conditions and underpayment (FRA 2015). For various reasons it is difficult to establish the boundary between criminal and non-criminal offenses (Paraciani and Rizza 2020). EU countries determine the conditions under which work irregularities are criminalized as labor exploitation, which results in diverging and sometimes very broad regulatory frameworks in

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which central terms are not clearly defined. This legal ambiguity confronts inspectors with the challenge to determine who can and who cannot be considered a victim of serious (and thus criminal) labor exploitation.

In this paper we analyze how labor inspectors, as typical street-level bureaucrats, shape policy making at the micro-level by using societal norms in the categorization and assessment of potential victims of labor exploitation when they are confronted with legal ambiguity (Hupe and Hill 2007). By doing so, we will address two research gaps, respectively in public administration and criminology. Street-level bureaucracy research on client-worker relations has largely neglected how frontline officers deal with victims (Leser, Pates, and Dölemeyer 2017). Criminological literature on human trafficking has overlooked the important role of labor inspectors in identifying potential victims (Schwarz 2019). Prior research has focused on important aspects such as clients' (lack of) self-identification as victims or the role of police officers and social workers in the identification of sexual exploitation victims (Farrell, McDevitt, and Fahy 2008; Lutnick 2016; Musto 2016). Yet, street-level work of inspectors is crucial to understand the categorical ambiguity of victims in a context of labor exploitation. Our contribution is threefold. First, this paper draws attention to the victim of work irregularities as a different type of clients than typically addressed in street-level bureaucracy research. Second, it combines the street-level bureaucracy framework with insights from symbolic interactionism and criminology about "ideal/iconic victims" (Christie 1986; Wilson and O'Brien 2016) to explore whether insights about categorization, stereotyping and perceived deservingness that have already been identified can also be applied to how inspectors deal with victims. Third, we show that inspectors' perceptions are not only the result of interactions between client and worker, but also shaped by perceived characteristics of the alleged offender.

This paper reports the findings of qualitative vignette studies in two EU countries (Belgium and the Netherlands), in which respectively 17 and 15 labor inspectors were interviewed about three vignettes with much information and interpretation uncertainty. We find that how inspectors perceive employees' vulnerability and blamelessness has an important role in the decision of whether someone is or is not a labor exploitation victim. More specifically, migrant workers are seen as more vulnerable than native workers, particularly if they are female, and perceived complicity of social fraud reduces the chance that workers are seen as victims. Moreover, perceived employer characteristics play a role in case assessment. Our findings show that within the context of legal ambiguity, labor inspectors use stereotypical societal victim perceptions as heuristics, which can result in legal uncertainty and the risk that those suffering exploitations do not receive the support they need.

Labor Inspectors and Two Narratives in Street-level Research

Inspectors as Street-level Bureaucrats

The term "street-level bureaucrat" has first been coined by Lipsky (1980), referring to frontline officers with considerable discretion who implement policy while interacting with citizen-clients on a daily basis. Research in this field has since mainly focused on police officers, social workers, and teachers (Hupe 2019; Maynard-Moody, Musheno, and

Musheno 2003). Only relatively recently scholars have begun studying inspectors from the street-level bureaucracy perspective, resulting in studies on for example tax inspectors (Raaphorst 2018), food safety inspectors (De Boer and Eshuis 2018; De Boer, Eshuis, and Klijn 2018; Thomann and Sager 2017), veterinary inspectors (Thomann 2015; Van Kleef, Steen, and Schott 2018), and labor inspectors (Loyens 2015; Paraciani and Rizza 2019; Raaphorst and Loyens 2020).

Labor inspectors have a crucial role in the identification of labor exploitation victims. As other street-level bureaucrats, they have considerable discretion to make decisions in particular situations by interpreting rules and policies (Raaphorst 2019). In the literature, inspection work has often been addressed from the “state agent” narrative (May and Winter 2000; Maynard-Moody and Musheno 2000; van de Walle and Raaphorst 2019), focusing on their law enforcement role (Pires 2008), but also the “citizen agent” narrative is important for this type of street-level bureaucrats.

The Role of Labor Inspectors in the “State Agent” Narrative

The state agent narrative emphasizes the inevitability of discretion for policy implementation and depicts street-level bureaucrats’ behavior as guided by legal norms and procedures (Maynard-Moody and Musheno 2000). Labor inspectors are expected to act in accordance with labor and criminal law, which consist of regulations for employers that labor inspectors need to enforce and prescribe how inspectors could use their discretion. In doing so, they are “surrounded by unknowns” (Raaphorst 2019:13), which have been categorized as information and interpretation uncertainty, respectively referring to (1) the “lack of unambiguous information” and (2) “uncertainty about standards to evaluate situations” (Raaphorst 2019:21). Both are relevant when labor inspectors are confronted with employees in poor working conditions and need to assess whether these employees can/cannot be considered victims of labor exploitation. In practice, it is particularly difficult for inspectors to determine whether the working conditions are severe enough to be considered labor exploitation as a form of human trafficking (interpretation uncertainty), because national laws often use unclear phrases, like “work in conditions contrary to human dignity” (Belgian criminal code) and “forced/ compulsory labor” (Dutch criminal code) without precisely defining them. Moreover, labor inspectors have to assess the trustworthiness of employees’ stories based on limited and possibly false information (information uncertainty). From previous research we know that exploited persons often do not frame their experience as exploitation to protect their dignity or because they (or their families) are threatened (Schwarz 2019). Victims also often consent with exploitation, which does, however, not negate it (Kook 2018).

The Role of Labor Inspectors in the “Citizen Agent” Narrative

Within the context of information and interpretation uncertainty, the “citizen agent” narrative becomes very relevant. This narrative emphasizes that street-level bureaucrats’ behavior is based on “judgements about the perceived moral worthiness of clients” and “the interplay between worker and client identities” (Maynard-Moody and Musheno 2012:516). Previous studies show that perceptions of clients’ worthiness are shaped in worker-client interactions (Bartels 2013, 2014; Raaphorst and Loyens 2020; Schneider and Ingram 1993).

Jilke and Tummers (2018) have applied their model of deservingness cues in an experimental study among US teachers and show that clients who are considered “hardworking” (earned deservingness) and “needy” (needed deservingness) are treated more favorably than clients who are perceived as “lazy” (earned deservingness) or “having high resources” (needed deservingness). Studies on inspection work also show that inspectees who are perceived as cooperative and hard-working tend to be treated more leniently than those who are perceived as uncooperative or rude (Raaphorst and Loyens 2020; Scott 2015). In addition, Raaphorst and Groeneveld (2018) found that inspectors rely on various cues to evaluate the trustworthiness of entrepreneurs they inspect and judgments about their perceived worthiness are partly based on entrepreneurs’ perceived intentions.

Perceptions of client characteristics and their deservingness can also be influenced by societal ideas and guided by stereotypical classifications (Bowling and Phillips 2007; Epp, Maynard-Moody, and Haider-Markel 2014; Harrits and Møller 2014; Olson 2016). Our study focuses on how labor inspectors (often implicitly) draw upon societal ideas about victimhood when assessing cases. Research in the domain of labor exploitation finds that in society and among public professionals over-generalized assumptions exist about what victims (should) look like (Farrell, Pfeffer, and Bright 2015; Schwarz 2019), as will be explained in the next section.

The “Ideal” or “Iconic” Victim Narrative

The Concept of “Ideal” or “Iconic” Victim

In news reports and NGO awareness campaigns, human trafficking victims are often portrayed as vulnerable and powerless (Bouché, Farrell, and Wittmer-Wolfe 2018; Johnston, Friedman, and Shafer 2014) and those who exploit them as villains who profit from other people’s misery (O’Brien 2019). The typical narrative about victimhood is that victims passively try to survive and did not contribute to their tragic situation (O’Brien 2019). Previous research on sex trafficking shows that media mostly report on female victims, whereas men who experienced the same form of victimization are portrayed as “irregular migrants” that risk deportation (Gallagher and Pearson 2010). This distinction in framing can be explained by gendered assumptions about “women’s vulnerability in the migration stream,” linked to paternalism (Chuang 2010:1710). Those ideas are often based on societal ideas and assumptions. Christie (1986)’s notion of the “ideal/iconic victim” – built on a long tradition of symbolic interactionism in sociology (Blumer 1969; Goffman 1978) – shows that the victim-concept cannot be considered “a rigid objective truth” (Herkes 2018:27), but a label in which “a person or a category of individuals who – when hit by crime – most readily are given the complete and legitimate status of being a victim” (Christie 1986:18). Other scholars (Herkes 2018; Kenney 2002; Lima De Perez and Vermeulen 2015) have further developed these theories and conclude that the victim concept is a socially constructed label, developed through processes of meaning-making by important societal actors, including policy-makers. It entails assumptions about conditions that show when individuals “deserve” the victim status, which implies “a societal necessity to morally convince others to sympathize and pity them because of what they have experienced” (Herkes 2018:28).

According to Christie (1986), the “ideal/ironic” victim is weak, respectable and blameless. Moreover, they are oppressed by “ideal/iconic” assailants who are “big and bad, unknown and in no personal relationship to the victim” (Christie 1986:19). Victims are also assumed to passively wait to be rescued by heroes, personified by law enforcement officers or social workers

(Srikantiah 2007). Only when people meet these “criteria of popularly conceived injustice” (Wilson and O’Brien 2016:9), they are approached as victims deserving compassion and sympathy. If not, they may fit the “non-ideal” victim concept, referring to individuals with too much strength or power to convincingly claim legitimate victim status (Christie 1986) or victims who do not want to be associated with the victim label (Fohring 2018; Strobl 2010).

Challenging Characteristics of “Iconic” Human Trafficking Victims

Studies show that female sex trafficking victims are – in line with the “iconic” victim narrative – often portrayed as weak, vulnerable and passive (Bouché, Farrell, and Wittmer-Wolfe 2018; Johnston, Friedman, and Shafer 2014; O’Brien 2019). However, Contreras (2018) states that these characteristics do not apply to (all) human trafficking victims, for example, those who apparently are in a consensual sexual relationship with the trafficker or not physically forced but by means of “subtle threats of deportation to maintain [...] cooperation” (in the case of labor exploitation) (Contreras 2018:187). Moreover, victims of human trafficking often consent with or have partly contributed to their exploitation, which makes them appear blameful (Schwarz 2019; Spencer 2015; Van Dijk 2009; Van Meeteren and Wiering 2019). Also, the “iconic” assailant looks different in practice, because victimization by a known offender is very common in human trafficking (Ullman and Siegel 1993; Viuhko 2018).

Nevertheless, studies have shown that assumptions about “iconic” victims and assailants still have an enormous impact on how people perceive human trafficking (Bouché, Farrell, and Wittmer-Wolfe 2018; O’Brien 2019). Research on mass-media reporting of sex trafficking shows that narratives about “sex slaves” and “all brothels as prisons [...] reinforce stereotypes of female passiveness” (Johnston, Friedman, and Shafer 2014:421). Moreover, street-level bureaucracy studies show that police officers and social workers use stereotypes to assess victims of human trafficking (Farrell, Pfeffer, and Bright 2015; Schwarz 2019), rape (Frohmann 1991; Javaid 2016; Larcombe 2002), domestic violence (Meyer 2016), and other crimes (Charman 2019). Using stereotypes about “iconic” victims to assess potential human trafficking cases implies the risk that victims who do not fit the dominant frame are overlooked and that victims do not turn to public authorities for protection (Chuang 2010).

How the “ideal/iconic” victim narrative affects the identification of labor exploitation victims by frontline officers is, however, under-researched (Owens et al. 2014; Schwarz 2019). Labor exploitation as a form of human trafficking is, in practice and academia, not given as much attention as sex trafficking (Contreras 2018; Littenberg and Baldwin 2017). This study aims to fill this gap by analyzing whether and how labor inspectors use societal norms about victims as heuristics to deal with legal ambiguity in the identification process of potential labor exploitation victims.

Research Design and Case Description

Research Design

This study reports on qualitative exploratory vignette studies in two EU countries (Belgium and the Netherlands) where inspectors experience legal ambiguity in the assessment and classification of labor exploitation victims. We conducted a “light” comparison (Paraciani and Saruis 2019), comparing inspectors’ narratives in relation to the legal framework in their country

instead of the broader institutional contexts. The comparison is facilitated by using a qualitative vignette design. Adding the scenarios as an artificial constant indeed allows to analyze decision-making by different respondents in various institutional contexts (Harrits 2019; Hupe and Hill 2015; Jewell 2007). Vignettes are short hypothetical, but realistic, descriptions of situations that resemble daily experiences of respondents (Wilks 2004), and are often - as in this study - built during ethnographic fieldwork and further developed with the help of experts. Vignettes are very flexible “tools” (Barter and Renold 2000), that allow in-depth analysis of decision-making processes, and enable researchers to overcome the barrier of confidentiality, which can be an important constraint when interviewing law enforcement officers.

For this research, three vignettes (see Appendix) were constructed during ethnographic fieldwork by the second author and validated during expert interviews,¹ and describe similar work irregularities in different sectors. The first vignette involves a native worker (“Thomas/Joram”) in a restaurant who has not been paid for four months. The second and third vignette are about migrant workers: a Romanian domestic worker “Alina” who has not been paid for almost four months and an Albanian truck driver “Dardan”/“Paci” who has not been paid for two months and lives in his truck. Migrant workers from Eastern Europe are often employed in sectors that are characterized by labor-intensive production methods and poorly skilled labor (Pire 1979). We assume that migrant workers are more easily considered victims compared to non-migrant workers, even though legislation in both countries does not consider worker’ nationality a relevant factor. Because Romania is part of the EU - with free movement of labor - and Albania is not, we expect that inspectors consider ‘Paci/Dardan’s case to be more serious than Alina’s case.

If necessary, the scenarios were adapted to the context (e.g. different name for the worker, correct legal terminology) to make them plausible and recognizable for all respondents. Indeed, using the same scenarios in different countries requires a thorough knowledge of the different contexts and the necessity to slightly adjust vignettes to fit the contexts (Harrits 2019; Møller 2016). The vignettes show much information and interpretation uncertainty, which make them very realistic, because in practice labor inspectors often have to deal with complaints that are rather brief and difficult to interpret.

17 labor inspectors in Belgium and 15 labor inspectors in the Netherlands were interviewed in 2018 and 2019. For the selection of inspectors, we used a maximum variation sampling technique (Patton 2002) to be able to identify overall patterns across inspectors with different characteristics and backgrounds.² Our sample shows variation in gender (19 male and 13 female), work experience (variation between 2 and 37 years with an average of 13 years), previous job,³ region,⁴ and specialization. As for the latter, we included in both countries inspectors from different specialized departments; social fraud, transnational employment, economic and social exploitation. We also included inspectors with little experience in labor exploitation because they have an important role in the detection and referral of criminal exploitation to experts within their organization. During interviews of on average one hour an inductive approach was taken in which inspectors’ reasoning, hunches and ideas were at the forefront. The respondents were invited to think-aloud (Willis 2005) about how they would assess and categorize this case and to explain the steps they would take during the investigation of the case. When both⁵ or three vignettes had been discussed, interviewees were asked to compare the vignettes, and to explain the possible differences in how they would approach them. The interviews were recorded and transcribed. Open coding in Nvivo resulted in general themes like “characteristics of labor exploitation,” “(dealing with) legal uncertainty,”

“perceived employee characteristics” and “perceived employer characteristics.” The data were in a second round categorized in Excel by explicitly using theoretical concepts like “ideal/ iconic victim” and “deservingness” as theoretical lenses, after which we explored the relationship between legal uncertainty and the role of societal ideas about victimhood in the respondents’ answers concerning the three vignettes.

Research Contexts

The vignette studies were conducted in labor inspectorates in Belgium and the Netherlands, respectively the *Rijksdienst voor Sociale Zekerheid*⁶ (Federal Agency for Social Security) and *Inspectie Sociale Zaken en Werkgelegenheid*⁷ (Inspectorate Social Affairs and Employment). Access to the organization and data is one of the reasons these two countries were selected. Furthermore, in both countries legal ambiguity exists in defining (severe) labor exploitation. This phenomenon can be placed on a *continuum* between real forms of abuse or slavery, and relatively less severe work irregularities (FRA 2015). Whereas it is quite straightforward for inspectors to classify cases in the middle of the two extremes, case in the middle (like our vignettes) are more difficult to assess. In Belgium, Article 433 quinquies of Belgian Criminal Code defines labor exploitation as a type of trafficking in human beings with the aim to exploit a person in conditions contrary to human dignity. The phrase “in conditions contrary to human dignity” is considered ambiguous in practice, because it is not clear which standards have to be used to assess working conditions. Therefore, prosecutorial guidelines have been provided to help labor inspectors decide when the working conditions are bad enough to permit criminal prosecution. These guidelines still offer relatively much leeway for inspectors. In the Netherlands, Article 273 f of Dutch Criminal Code defines labor exploitation as a type of trafficking in human beings that includes forced or compulsory labor or services, slavery, practices similar to slavery or servitude. There is much uncertainty about how “force” should be defined and proven in particular cases. For some, psychological force is considered sufficient, while others are convinced that the law refers to physical force, thereby excluding all cases in which employees have (partly) agreed with the working situation.

Results

This paper analyzes how labor inspectors,⁸ as street-level bureaucrats, use stereotypical victim perceptions as heuristics to deal with the legal uncertainty in deciding whether work irregularities can or cannot be categorized as severe labor exploitation. Although the legislation in both countries defines labor exploitation in terms of the working conditions or circumstances in which workers are employed, the respondents’ assessment of victimhood is primarily based on perceived employee and employer characteristics.

The Role of Employees’ Perceived Vulnerability and Blamelessness to Assess Victimhood

The findings show that the perceived vulnerability and blamelessness of employees play an important role in how labor inspectors assess victimhood in the vignettes. We will in this part successively focus on the case of Alina (Romanian domestic worker), Thomas/Joram (Belgian/Dutch worker in catering) and Dardan/Paci (Albanian truck driver).

Alina

15 out of 20 respondents who discussed Alina's case consider it an example of criminal labor exploitation and 11 of them consider her case the most severe among those discussed.⁹ This is particularly high compared to how inspectors assess the native worker's case; only 13 out of 32 consider this case an example of labor exploitation. Most Belgian and Dutch inspectors who discussed Alina's case say that she is vulnerable, because she is non-native, probably does not know the language and has no social network in Belgium or the Netherlands. This makes it very difficult for her to escape her exploited situation and make other choices.

Alina is in a foreign country and maybe she does not know the laws, the ways in which people can help her. She is not able to make her own choice. (Dutch respondent 10)

Alina is vulnerable. She needs money for her family and she doesn't have other options. She has no options and no freedom. She is living under Mrs Brown's control. (Dutch respondent 13)

Nationality of course does not play a role, but it can be an element that makes force easier. The fact that she is Romanian, I don't know, maybe her Dutch was perfect, okay, but this lady [Alina] will probably, maybe not speak Dutch very well [...]. (Belgian respondent 2)

The referral by Dutch inspector 10 about Alina's migration background must be understood in the context of a landmark decision by the Dutch Supreme Court in 2009 on how to assess whether a situation can qualify as trafficking in human beings.¹⁰ The Court's decision says that exploitation can be determined by assessing the nature and duration of the work, the profit for the exploiter, and the limitations it brings about for the employee. Although Dutch inspectors in our study do not explicitly refer to this decision, some of their responses imply that workers like Alina are considered more vulnerable because of limitations they may experience as a result of their migration background. Alina's assumed vulnerability becomes even more clear when inspectors compare her situation with that of the native worker who is said to have "friends and a family here" (Dutch respondent 13), is considered "mature enough" (Belgian respondent 5) and thus "can move on" (Belgian respondent 15) and make other choices, unlike Alina who is considered "psychologically stuck" and even "scarred for life."

"Because they [women like Alina] are also psychologically stuck, they are scarred for life, 325 while that boy [Thomas] will at that time, he can move on." (Belgian respondent 15)

There are a few Belgian and Dutch inspectors who do not consider Alina a victim, but also apply the "vulnerability" dimension of the "ideal" victim narrative in reverse. They explicitly refer to her EU citizenship to indicate that she is *not* vulnerable, even though nationality *as such* is irrelevant according to the labor exploitation laws in both countries. Inspectors reason that she is from Europe and, for that reason, more protected than a non-European (and possibly illegal) worker. She is, for example, allowed to travel and work within the EU, and therefore not dependent on a single employer. Inspectors explain that she can make other choices, which makes her less vulnerable and therefore not a victim of labor exploitation.

She [Alina] is from the EU, so she could immediately say ‘I will look for a job in the catering industry’, or well she has the freedom to . . . If you would say she is from Albania or I don’t know, or from Morocco, then they could have taken her passport or something like that, well, it is more difficult to find work elsewhere because you don’t have a work permit or you don’t have your ID. (Belgian respondent 5)

If Alina were 46 years old and I am just saying something, from Nigeria, it would be more severe. [Interviewer: Why?] Because she would be illegal. So an illegal cannot go wherever she wants, does not have another choice than to take this job, because otherwise she will starve, etc. That makes a difference in how you assess labor exploitation as a form of human trafficking. (Belgian respondent 8)

I see no force. She’s not locked up or something, she has her passport. (Dutch inspector 14)

In the last quotation, it is striking that even though the vignette does not say anything about a passport, the inspector assumes that as a EU citizen she has one and can thus freely move within the EU, while the Belgian respondent 5 assumes that the passports of Albanian and Moroccan workers would be taken away. Another important finding is that Dutch inspector 14 refers to a central concept in the legislation (“force”), but interprets it in a rather narrow way as *physical* force, as Dutch respondent 7 does, while other Dutch inspectors see Alina as a victim because she is considered to be under *emotional* force, probably also due to her being a woman, which increases her perceived vulnerability (Srikantiah 2007).

The problem is that a woman in this situation feels that she has to take care of the sick mother. Maybe she feels that if she is leaving, nobody would take care of the mother. (Dutch inspector 3)

These examples show that the Dutch legislation, and particularly the concept of “force,” lacks clarity in practice. To deal with this legal ambiguity, inspectors rely on societal ideas about victims to assess this case (either based on nationality or gender), resulting in an assessment that is not only based on the working conditions, but also on perceived employee characteristics.

Thomas or Joram

Only 2 out of 32 respondents consider the native worker as the most severe of the cases that are discussed, either because of objective circumstances (no wage during four months) (Belgian respondent 10) or because as a Dutch person in such circumstances there is no other explanation than that he is being forced: “*if you are Dutch, you have more chance not to be forced*” and “[*a*] *Dutch person can defend himself better*” (Dutch respondent 5). The results also show that Dutch and Belgian inspectors add information to the vignette that would make the case more logical or plausible in their view. Only if the native worker would be socially weak, mentally disabled or addicted to drugs, inspectors would understand why he would “let himself be exploited” and consider him a victim. Belgian inspector 5, for example, explains that vulnerability in emotional or other sense is of course not a constitutive element in the Belgian labor exploitation law but assumes that in the case of a native ‘healthy boy of 29’, exploitation is not very likely if there are no additional elements such as a mental disability.

So perhaps this is also someone like that, but if it is a healthy boy of 29, then I can't imagine it. [...] You know if someone is handicapped, does not have so many chances, or is emotionally vulnerable, or . . . and that is all possible, it is not a constitutive element, but it would be more logical. (Belgian respondent 5)

The best solution for Joram is to find another job! Joram is Dutch. So he could change jobs. If he doesn't, we have to understand why he doesn't. Maybe he has drug or mental problems. (Dutch respondent 1)

Because the iconic victim is assumed to be “passive,” vulnerable and powerless, and those traits are more often used for female trafficking victims (Johnston, Friedman, and Shafer 2014), gender inequality must also be considered when trying to understand why Alina is seen as more vulnerable than the male native worker, even though their situations are comparable. Whereas the native worker is considered “healthy” (Belgian respondent 5), “able to move on” (Belgian respondent 15) and “find another job” (Dutch respondent 1), Alina, on the other hand, is considered “psychologically stuck” and even “scarred for life” (Belgian inspector 15). According to Srikantiah (2007) the construction of the “iconic” victimhood is indeed shaped by gender, but also by other dynamics that are at play in the individual circumstances of the exploitative situation, such as class and race.

Dardan or Paci

The migration aspect plays an important role in how inspectors assess the case of Dardan/Paci. Those who consider him a victim (10 out of 13 inspectors) often do so because his illegal status makes him vulnerable. Dutch respondent 12 explicitly refers to him being a victim because he is in bad working conditions *and* not Dutch. Also, other inspectors explicitly mention the role of his illegal status in determining victimhood.

The fact that he does or does not have a legal residence permit in Belgium can be important, it can be an indicator of, well the status is more precarious if he is not allowed to be in the country. (Belgian respondent 2)

I think that in the interrogation of that person [Dardan], who is illegal, you will more likely push the victim towards ‘will you claim to be a victim of labor exploitation?’ [...] I think I would give priority to our Albanian friend [Dardan]. [...] That person [Thomas] can always be interrogated again and asked ‘what happened?’ With the person from Albania you are not sure whether you will ever see him again. (Belgian respondent 9)

If you are an illegal worker, you are not allowed to work here and then you run the risk of getting deported and then you need a protected status. (Belgian respondent 13)

Other respondents, however, refer to another aspect of the “ideal” victim narrative, namely blamelessness, to explain that Dardan/Paci should *not* be seen as a victim. The reasoning is that only persons who did not contribute to the situation they are in deserve the victim label. Two Dutch Inspectors explain that, although Paci is in a weak position, they would not consider him a victim, because – by working illegally in the Netherlands – he has committed a crime and is thus to blame for his own situation.

Paci's case is a very bad case. Not only for Paci, but for the Netherlands. [...] He came to the Netherlands hoping to find better conditions, but he is an illegal worker. His work is a crime for us. (Dutch respondent 4)

Paci is from Albania and he can't work in the Netherlands without permission. And I think he doesn't have a permission [...]. So he decides to come to the Netherlands to work illegally. (Dutch respondent 2)

The same type of reasoning is used by several Belgian and Dutch inspectors concerning the native worker (Thomas/Joram). Although it is not mentioned in the vignette, respondents suspect that he is an accomplice to social security fraud and in reality has agreed to work partly off the books. One respondent adds that his complaint should probably be understood as “a personal revenge on the employer” because of disagreements about working conditions (Dutch respondent 3). Perceived complicity of social fraud, like illegal labor (Dardan/Parci) or working off the books (Thomas/Joram) reduces the chance that workers are seen as exploitation victims.

Concluding, although Dardan/Paci is considered vulnerable, his illegal status makes him appear blameful for his exploitative situation, and therefore not deserving the victim status. These findings show that aspects in the story (sometimes added by respondents themselves) that presumably contradict just one component of the “ideal” victim narrative may lead to employees who work in exploitative conditions (and can according to the law be considered victims) not being categorized as labor exploitation victims. This shows that using stereotypical societal victim perceptions as heuristics can imply legal uncertainty for employees and the risk that those suffering exploitation do not receive the support they need.

The Role of Perceived Employer Characteristics to Assess Victimhood

Labor inspectors not only refer to perceived employee characteristics when assessing vignettes, but sometimes also to perceived employer characteristics. Some Belgian inspectors consider Alina's working conditions exploitative, but explain that they would not consider her a victim, because (1) the employer in this case is a “normal standard family” (2) with a name that “sounds very Flemish,” (3) that lives in a “normal neighborhood,” which makes them assume (4) that there is “no (criminal) organization” behind it.

The only thing that makes me doubt a bit [in Alina's case]: it is a normal family. There is no organization involved. (Belgian respondent 8)

Here [with Alina] it was not so clear to me, because yes, Alina is a Romanian, but how did she get here? Most normal families, the Peters family that sounds very Flemish, right so yes how do they get here? [...] That is somewhat weird, that neighbor is that a normal neighbor like I imagine my neighbor in a normal neighborhood? That seems contradictory. [...] But it does not make me think of human trafficking, just because of the context. [...] Well yes, the thing that is different, yes it seems to me that it is a normal standard family here, with a normal house, so well while with those diplomats from Saudi Arabia [...] those people can't leave their [house]. (Belgian respondent 3)

Several Belgian inspectors explicitly compare Alina's case with other cases in which a criminal network was involved or with one particular case of labor exploitation by diplomats from Saudi Arabia in a hotel in Brussels that had been extensively reported in the news shortly before the interviews.¹¹ The domestic workers in that case did not have a residence permit, had to work very hard 24/7, were not allowed to leave the hotel floor, and did not receive any (or very little) wage. When perceived characteristics of the employer deviate from this “ideal” narrative of the big, bad and unknown assailant

(Christie 1986:19), like in Alina's case, workers may not be considered a victim, despite the exploitative conditions they find themselves in. This shows how the mediatization of extremely serious cases of labor exploitation, may have negative effects for potential victims who work in less devastating, but still exploitative, conditions (Chuang 2014; O'Brien 2019; Schwarz 2019). Moreover, it shows that ethnicity of employers also impacts how inspectors perceive them and assess whether they could be involved in labor exploitation. The comparison between the "normal," "Flemish" family in a "normal neighborhood," on the one hand, with "those diplomats from Saudi Arabia" on the other hand, may indicate that ethnicity shapes how criminal attributes are given to some but not to other employers. Concluding, our results show that inspectors' decisions are not only shaped by stereotyped perceptions of victims, but also by stereotyped perceptions of offender characteristics.

Discussion and Conclusion

This paper analyzed how labor inspectors categorize and assess potential labor exploitation cases, based on qualitative vignette studies in Belgium and the Netherlands. Our findings provide valuable insights into how labor inspectors use societal norms (Hupe and Hill 2007; Thomann, Hupe, and Sager 2018) about victimhood as heuristics to deal with information and interpretation uncertainty (Raaphorst 2019). Before discussing the results, we will address a number of limitations linked to the exploratory nature of our study, that have to be taken into account. First, we only interviewed labor inspectors in two West-European countries. Further research should analyze whether these findings are also relevant in non-West European contexts and non-Western countries where the labor market and labor legislation may be very different. Second, the sample size in our study did not allow for the systematic manipulation of migration, sector and gender. Therefore, our findings about gendered and ethnic assumptions of victimhood must be interpreted with care. Future research could investigate how ethnicity and gender influence labor inspectors' and other street-level bureaucrats' perceptions of labor exploitation cases (Chuang 2010; Frohmann 1991; Srikantiah 2007). Third, employer characteristics were not systematically discussed with all inspectors during the interviews, but spontaneously mentioned by some inspectors in relation to Alina's case.

We find that inspectors' decisions about victimhood are determined by perceived moral worthiness of victims (Maynard-Moody and Musheno 2012). Whereas inspection work has often been addressed from the state agent narrative and has primarily focused on their law enforcement role, our study shows the relevance of the citizen agent narrative for how inspectors make decisions about victimhood. In the context of unclear legislation, and the "lack of unambiguous information" (Raaphorst 2019:21), labor inspectors indeed base their decisions on perceptions about whether employees "deserve" to be addressed as a victim. We combined the street-level bureaucracy framework with insights from symbolic interactionism and labeling theory in criminology. The victim-concept is in these bodies of literature used as a label for those who are considered to deserve the victim status (Christie 1986; Herkes 2018). Emphasis is not on perceptions that are socially constructed during officer-client interactions, but on societal assumptions about the "ideal" or "iconic" victim that serve as a frame to assess victimhood (Schwarz 2019).

Two of the three attributes that are in the literature ascribed to the “ideal” or “iconic” victim (Christie 1986) help to explain how labor inspectors assess potential labor exploitation cases. Particularly the “weakness” dimension of the “ideal” victim concept seems to be crucial. Many Belgian and Dutch inspectors consider Alina a victim of labor exploitation *because* of her vulnerability. Also, those who consider Dardan/Paci a victim refer to his vulnerability, linked to his illegal status. The importance of the vulnerability dimension is shown even more in the assumption of some that *only if* the native worker would be socially weak, mentally disabled or addicted to drugs he would let himself be exploited like that. Combined, these results seem to indicate that migrant workers are seen as more vulnerable than native workers, particularly if they are female, which confirms previous research on sex trafficking: female victims are seen as more vulnerable than male victims in the same circumstances (Chuang 2010; Gallagher and Pearson 2010). By adding information (about other reasons why the native man is exploited) inspectors try to make the story more coherent so that it fits their assumptions about victimhood, and thereby (from their perspective) more plausible (Schildt, Mantere, and Cornelissen 2020). Whereas the easy dismissal of the “native worker” case as a victim, could partly be due to the fact that the inspectors rarely encounter such cases in practice, this tendency to “fill in the blanks” on the basis of stereotypical ideas about who is (not) victimized, nevertheless involves important risks. The exploitation of native citizens is criminalized in both countries, and may be overlooked if labor inspectors do not consider their situation exploitative simply because they are native citizens.

Coherency can also only be achieved by using a different frame. If employees do not meet the “criteria of popularly conceived injustice” (Wilson and O’Brien 2016:9), they may be approached as “non-ideal” victims or even as criminals. First, the “non-ideal” victim label is used for those who are victimized but considered to be too powerful to be victims. This resonates with the native worker who is *assumed* by most inspectors (1) to have a social network, (2) to have other options and (3) therefore has to take responsibility by quitting his job and finding another one. Also Alina is by some inspectors seen as a “non-ideal” victim because she is an EU citizen and, for that reason, more protected than an illegal worker.

Second, inspectors in our study also consider some of the employees as criminal or complicit to social fraud, which resonates with the “blamelessness” dimension of the “ideal” victim narrative. Some Dutch inspectors consider Paci a criminal because he is an illegal worker, which must be understood in the context of the broader trend of “crimmigration” or “the intersection of crime control and immigration control” (van der Woude, van der Leun, and Nijland 2014:560). Also the native worker is considered blameful, because he is assumed to be complicit to social fraud. Perceived complicity of social fraud thus reduces the chance that workers are seen as exploitation victims. We must also take into account that the findings concerning Dardan/Paci’s case may be linked to gendered assumptions. Previous research indeed shows that male (sex) trafficking victims are more often than women in the same circumstances portrayed as “irregular migrants” who risk deportation, while female victims are more often seen as victims who need protection (Gallagher and Pearson 2010). These findings have important implications for the categorization and treatment of employees who work in exploitative conditions, especially because previous research shows that many victims of human trafficking and exploitation have at least partly

contributed to their exploitation (Kook 2018; Schwarz 2019; Spencer 2015; Van Dijk 2009; Van Meeteren and Wiering 2019), and often do not want to portray themselves as vulnerable victims for various reasons (Schwarz 2019).

This paper furthermore shows the importance of taking a multi-relational approach when analyzing the role of deservingness perceptions in frontline decision-making. Although such perceptions have in the street-level bureaucracy literature been addressed as the result of interactions between street-level workers and their clients (Bartels 2013, 2014; Raaphorst and Loyens 2020), our findings illustrate that they are also shaped by perceptions of employer characteristics and the perceived relationship between the employer and the alleged victim. When inspectors assess the case of Alina, they explicitly refer to an extreme case of labor exploitation in a hotel in Brussels that could be considered slavery, or other cases in which a criminal network was involved, to downplay the situation in which Alina finds herself. Because inspectors assume that no criminal network is involved and she is thus not exploited by a big, bad, unknown offender (Christie 1986), she is not considered a victim of labor exploitation. The comparison between the “normal,” “Flemish” family in a “normal neighborhood” with “those diplomats” from Saudi Arabia, may further indicate that inspectors’ assessment of employer characteristics are (at least partly) based on ethnicity. Future studies of deservingness perceptions by frontline officers would benefit from also taking into account the perceived relationship between client-victims and other actors (indirectly) involved in the case – and thus go beyond client-bureaucrat interactions – when analyzing frontline decision-making.

Our findings also show that the mediatization of extremely serious cases of labor exploitation, may have negative effects for potential victims of labor exploitation (Chuang 2014; O’Brien 2019; Schwarz 2019). When labor inspectors are confronted with cases (like our vignettes) that are less clear-cut, as they are situated at the boundary between non-criminal and criminal offenses, and less horrific than those that are portrayed in the media, those who are exploited risk not to be considered victims, even if their situation can from a legal perspective be considered a form of serious labor exploitation. We agree with Frohmann (1991) that it is necessary to challenge the assumptions of frontline officers on which the assessment of (potential) serious crime are based to avoid that certain types of crimes remain unsanctioned or certain types of victims will not get the protection they need. Moreover, as Farrell, Pfeffer, and Bright (2015) suggest, more effort should be made to clarify ambiguous human trafficking definitions in the legislation and to better train labor inspectors and other law enforcement officers) in the identification of human trafficking victims.

Notes

1. Five experts in the Netherlands and two in Belgium were interviewed to test the methodology and to determine if scenarios were plausible.
2. Because of the exploratory nature of this study, our aim is not to provide generalizable findings for inspectors’ perceptions in both countries. A diverse sample can provide patterns that could be analyzed in future quantitative studies with representative samples.
3. The inspectors’ previous jobs included police, social work, finances, employment agency, insurance agency, tax office, labor union, HR, law and post office.
4. The interviews in Belgium were conducted with inspectors from 6 (out of 11) provinces. The Dutch inspectors were from 5 (out of 12) provinces.

5. If there was time for only two vignettes, the respondent was asked to reflect on the native worker's case and one migrant workers' case to analyze the role of migration context and ethnicity. The choice for the case was determined on the basis of inspectors' experience/expertise. In Belgium, transportation is inspected by a small group of specialists. Given our exploratory qualitative in-depth analysis, this choice did not create any methodological problems.
6. <https://www.rsz.fgov.be/nl>.
7. <https://www.inspectieszw.nl/>.
8. For confidentiality reasons, all respondents will be referred to with gender neutral pronouns.
9. Because this is a qualitative, exploratory study with a small sample, these numbers should be interpreted with care. However, they may give an indication of how serious respondents consider Alina's case, also in comparison to other cases.
10. See: <https://2018.jaarverslaghogeraad.nl/strafzaken/mensenhandel/>.
11. See: <https://www.demorgen.be/nieuws/arabische-prinsessen-veroordeeld-voor-mensenhandel-en-onterende-behandeling~bc1c8b1b/>.

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No potential conflict of interest was reported by the authors.

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Appendix

Table A1. Vignettes developed for this study.

| Case 1: native worker in restaurant | Case 2: domestic worker from Romania | Case 3: truck driver from Albania |
|---|--|---|
| <p>Thomas (Belgium)/Joram (Netherlands) is 29 years old and he comes from Belgium/the Netherlands. He turned to the labor inspectorate stating the following:</p> <p>From the 13th of February 2017 I was hired by the restaurant "Goede keuken" (Belgium)/"Eet Goed" (Netherlands) with a permanent contract. I ended my employment relationship on the 4th of September 2017 because I have not been paid for the last four months. I was hired with a dishwasher contract, but I worked as a cook assistant, dealing with the preparation of appetizers and set lunch menus. I worked in the kitchen with the owner's son. The working hours provided for in the contract were 30 hours per week, but I have always worked 60 hours, without the payment of overtime and without breaks during the shifts. In addition to the last four salaries, I have never been paid overtime (I have always received a fixed salary of 1000 euro per month) and did not receive severance pays.</p> | <p>Alina is 46 years old and she comes from Romania. She turned to the labor inspectorate stating the following:</p> <p>I worked for the family Brown as a live-in caregiver from 23 November 2016 to 17 March 2017, without a contract and not even any payment of a salary or of a contributory nature. My neighbor put me in touch with the Brown family because they needed a caregiver for their sick mother, Mrs Brown. The sick lady's daughter told me what to do with her mother, who besides being blind required assistance to walk, and on Monday and Wednesday of every week her daughter did the shopping for me and Mrs Brown. The daughter was very strict with me: she often scolded me, checked how much I ate and called me several times a day to find out what I was doing. I assisted the lady from 7.00 to 22.00. I had just 3 days off. On March 17 Mrs Brown's daughter told me that they would not need my services anymore. From that day on she no longer answered my calls and my messages.</p> | <p>Dardan (Belgium)/Paci (Netherlands) is 39 years old and he comes from Albania. He turned to the labor inspectorate stating the following:</p> <p>I started working for the company DND TRANSPORT on January 27, 2015, with a full-time permanent contract as a driver. I always had to be available from Monday to Sunday. I was the owner of a semi-trailer that I also used as a home as I did not have one in Belgium/the Netherlands. My job consisted of delivering and unloading goods at various storages facilities throughout Belgium/the Netherlands. I did not receive a salary for the overtime I did, and my busy schedule prevented me from taking my full scheduled breaks during and between shifts. I was not allowed to shift with other drivers or have a holiday. Before starting my job, I was made to sign a declaration accepting responsibility for any damage to vehicles or traffic infringements. My contract stated that all repairs would be paid for by the company; however, money for repairs was deducted from my salary. I resigned for just cause not having received any wage the last two months.</p> |