
H-France Review Vol. 16 (November 2016), No. 249

Riadh Ben Khalifa, *Délinquance en temps de crise: L'ordinaire exceptionnel devant la justice correctionnelle des Alpes-Maritimes (1938-1944)*. Paris: Honoré Champion, 2015. 608 pp. Maps, figures, graphs, archival sources, bibliography, and index. 90.00€. (pb). ISBN978-2-7453-2814-4.

Review by Sandra Ott, University of Nevada, Reno.

In this interesting and richly detailed work, Riadh Ben Khalifa offers a micro-historical exploration of particular offenses (*délits*) dealt with by “ordinary” justice through the correctional courts of Nice and Grasse from 1938 to 1944. Drawing upon a wide range of archives, other period documents and secondary sources relating to French criminal justice during the latter years of the Third Republic and the Vichy regime, the author examines certain “exceptional” offenses committed by individuals classified as “undesirables” in the Alpes-Maritimes and by citizens whose actions violated a glorified cornerstone of Vichy ideology, the family.

The scope of this highly structured, dense book is considerable. Transgressions committed by individuals at grassroots level and the judgments made by magistrates within regional and national contexts constitute its central focus. *Délinquance en temps de crise* is divided into two main parts. The first part explores the exclusion of “undesirables”—Jews and foreign refugees—in the Alpes-Maritimes and the misdemeanors to which such exclusion gave rise. In the second half of the book, Ben Khalifa explores Vichy’s institutionalized attempts to control sexuality and to protect the family, with a specific focus on three offenses: adultery, desertion of the marital home, and abortion. By combining a top-down approach with a bottom-up analysis of period documents, he explores the complex relations between individuals, judicial institutions and the state. As the author notes, the relatively few works that relate to the history of French criminal justice and delinquency focus on extrajudicial issues and exceptional jurisdictions, upon which Vichy built its increasingly harsh policies of repression and exclusion. Less attention has been paid to misdemeanors handled in the common law courts under Vichy.

Daladier’s rise to power in 1938 led to an increasingly authoritarian Republic. From May of that year, the authorities made it increasingly difficult for foreigners to obtain or to renew their identity cards. Regulations reinforced hierarchical distinctions between immigrants who had become established in France and new arrivals, between foreigners who “respected the law” and those who committed offenses (*délits*), between well-to-do and destitute refugees, between foreign workers recruited by French employers and those who arrived without contracts, between immigrants classified as “welcome” and those deemed “undesirable” (p. 233). The plight of refugees in those dark times resonates with the current crisis in Europe today.

In July 1939, Daladier’s government implemented the Family Code to address, among other widespread concerns in France, its demographic problem and to protect the family. But nothing more strikingly anticipated Vichy than the intense xenophobia and anti-Semitism that characterized the last two years of the Third Republic.[1] Ben Khalifa explores the plight of Jews and other foreigners who had fled to Italy in the late 1930s. Racial laws implemented by the Italian fascists on 12 March 1939 decreed that

all Jewish “undesirables” should leave the Kingdom. Unable to execute a rapid expulsion of some 5,000 Jewish refugees (almost all women and children) on their own, the fascists decided to utilize Jewish aid organizations, such as the Genoa Committee, which facilitated the clandestine passage of Jews to the French Riviera.

Ben Khalifa also shows how the Italians used various other strategies to push the “undesirables” across the frontier into the Alpes-Maritimes. Clandestine guides operated opportunistically on both land and sea as fugitives made the perilous journey into southeastern France. In parallel fashion, the French authorities sought to control the massive influx of refugees by making it harder for refugees to obtain entry visas and identity cards and by reinforcing surveillance forces on the frontier. Many refugees effectively gained entry into France by using fake passports and visas. They then faced difficult choices, among others: to remain permanently in hiding or to seek legitimate documentation through the proper channels and risk refusal, internment, judicial action against them, and/or eviction.

Despite the prefect’s determination to implement Vichy’s anti-Jewish statutes in the Alpes-Maritimes and counter to Berlin’s order for the immediate arrest and deportation of all Jews in France, the occupying Italian authorities decreed in December 1942 that no Jews in the zone should be interned by Vichy. The author summarizes the conclusions of numerous other studies that explain the Italians’ protection of Jews and notes the important role played by one particular Jewish Italian banker in Nice. The Italians’ stance forced the prefect to suspend Vichy’s anti-Jewish measures. In the correctional court of Nice, no charges were brought against Jews for failing to have a red stamp marked “*Juif*” on their identity cards until the arrival of the Germans in September 1943.

In the second part of the book, the author explores the ideological underpinnings of Vichy legislation on the social control of sexuality. For each of the three *délits* he examines (adultery, desertion of the marital home, and abortion), Ben Khalifa draws upon individual cases of delinquency. Although very abbreviated, these miniature sketches of human choices, the circumstances in which their transgressions occurred and the conclusions of the magistrates who examined their offenses offer a tantalizing glimpse into everyday life and the interference of the regime in the private sphere.

Adultery figured prominently in Vichy’s discourse on sexuality and the family, especially in relation to prisoner-of-war wives. The law of 23 December 1942 placed full responsibility for adultery on the male accomplice who lived in “notorious concubinage” with the spouse of a French prisoner-of-war. Punishment could amount to a three-year prison sentence and a fine up to 25,000 francs.[2] In the correctional courts of the Alpes-Maritimes, however, few convictions were made, owing in part to clever strategies devised by adulterous couples and to the difficulties police faced in detecting such offenses. When sentences were passed, magistrates often applied article 463 (attenuating circumstances) which generally resulted in minimal punishment.

The chapter devoted to desertion of the marital home offers fresh perspectives on an understudied offense during this period in French history. The author explores economic factors underlying this *délit*, such as non-payment of alimony and child support. In principle, the role that each spouse played in the dissolution of the marriage and their material circumstances determined who would pay the maintenance allowance for children. In practice, the civil courts in the Alpes-Maritimes almost always obliged men to meet this obligation. In ninety-five percent of cases heard in the Nice court, the mother gained custody of the children and received a monthly stipend from her ex-husband. The courts also took into account personal factors—moral, material, and sexual, among others—that contributed to commitment of this offense by both men and women. In one case of desertion, the husband rarely went home and when he did so, was quick to criticize the food his wife served. Although his wife supported him, the man left the marital home “without any concerns for his wife or his child” (p. 378). They never heard from him again. The law of 23 July 1942 set the maximum fine for desertion at 20,000 francs, as a deterrent to potential offenders. Prison sentences ranged from less than fifteen days to longer than one

month. Although the law withdrew the option for magistrates to apply article 463 (extenuating circumstances) to the judgment, the correctional courts in the Alpes-Maritimes continued to utilize that article when the accused received a prison sentence. They also continued to grant reprieves. Harsh sentences for this *délit* were very rare in the department. By ignoring article 5 of the law of 23 July 1942, magistrates rendered the law non-repressive. Judicial practice did not square with judicial norms.

A similar pattern emerges in the author's analysis of abortion. The Vichy regime had highly repressive anti-abortion laws. In February 1942, abortion became a "capital offense synonymous with treason."^[3] Natalist discourse regarded abortion as the quintessence of moral decadence and the primary cause of France's demographic problem. Special brigades of mobile police pursued women seeking abortions, abortionists and their accomplices. Networks of informers kept watch over hospitals. Yet statistics on offenses relating to abortion in the Alpes-Maritimes do not correspond to the national trend. While the number of sentences increased in France generally, it consistently fell in the southeast until 1944. Furthermore, the correctional courts in Nice and Grasse took into account the socio-economic and personal circumstances in which transgressions took place. Abortionists motivated by compassion for the woman received less severe sentences than regular practitioners motivated by lucrative financial gain. Overall, in the Alpes-Maritimes, abortionists received sentences of five years or less, the minimum penalty fixed by the Family Code in July 1939. Until the end of 1942, women who aborted easily obtained a reprieve from the courts in Nice and Grasse. Even when the authorities applied the law of 14 September 1941 more rigorously, the courts delivered lenient sentences with liberal application of article 463, extenuating circumstances. Thus, the courts in that part of France treated such women as victims more than as criminals. Once again, magistrates paid close attention to the social conditions and emotional universe in which these women lived.

The principal conclusion drawn by the author is that, in the Alpes-Maritimes, the correctional courts showed greater sympathy with social reality than with the ideology of the National Revolution. The magistrates took into account the circumstances of transgressions committed by the "*étrangers*" and "undesirables" who sought refuge there. They paid attention to the socio-economic and family circumstances of citizens whose private lives the regime sought to control. The courts did not adhere to Vichy's calls for greater severity in sentencing, but rather continued to grant reprieves and to utilize article 463 for as long as possible.

The book has a few minor weaknesses. First, its structure gives rise to some repetitiveness. Each chapter ends with a conclusion, as do parts one and two. The book ends with a set of general conclusions. Second, the content of the book could at times be enhanced by contrastive references to other parts of France. In the first part of the book, for example, the material on human displacement in wartime, on the role played by *passeurs*, and on their relations with both their fugitive clients and the authorities on both sides of the frontier, invites comparison with another borderland, the Pyrenees during the Spanish Civil War (1936-1939), the *exode* of 1940, and the German occupation. The work of Geneviève Dreyfus-Armand is especially relevant.^[4] Finally, the author makes some surprising omissions by failing to draw upon some key sources, especially in the second part of the book. The important work of Miranda Pollard on gender, sexuality and abortion under Vichy is ignored and little attention is paid to the seminal work of Sarah Fishman on prisoner-of-war wives.^[5]

However, the strengths of this book far outweigh its weaknesses. Riadh Ben Khalifa has produced a methodologically sound, well-researched work of considerable interest and significance, not only for specialists on Vichy but also for scholars working at the intersections of history, criminal justice, and gender studies.

NOTES

[1] Julian Jackson, *France: The Dark Years, 1940-1944* (Oxford: Oxford University Press, 2001), pp. 102, 104.

[2] Sarah Fishman, *We Will Wait: Wives of French Prisoners-of-War* (New Haven, Conn.: Yale University Press, 1991), p. 136.

[3] Miranda Pollard, *Reign of Virtue: Mobilizing Gender in Vichy France* (Chicago, Ill.: The University of Chicago Press, 1998), p.174.

[4] Geneviève Dreyfus-Armand, *L'Exil des Républicains espagnols en France: De la guerre civile à la mort de Franco* (Paris: Albin Michel, 1999).

[5] Miranda Pollard, *Reign of Virtue: Mobilizing Gender in Vichy France* (Chicago, Ill.: The University of Chicago Press, 1998); Sarah Fishman, *We Will Wait: Wives of French Prisoners-of-War* (New Haven, Conn.: Yale University Press, 1991).

Sandra Ott
University of Nevada, Reno
sott@unr.edu

Copyright © 2016 by the Society for French Historical Studies, all rights reserved. The Society for French Historical Studies permits the electronic distribution of individual reviews for nonprofit educational purposes, provided that full and accurate credit is given to the author, the date of publication, and the location of the review on the H-France website. The Society for French Historical Studies reserves the right to withdraw the license for edistribution/republication of individual reviews at any time and for any specific case. Neither bulk redistribution/ republication in electronic form of more than five percent of the contents of H-France Review nor re-publication of any amount in print form will be permitted without permission. For any other proposed uses, contact the Editor-in-Chief of H-France. The views posted on H-France Review are not necessarily the views of the Society for French Historical Studies.

ISSN 1553-9172