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Book Review - Policing Sexuality: The Mann Act and the Making of the FBI

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POLICING SEXUALITY: THE MANN ACT AND THE MAKING OF THE FBI by Jessica R. Pliley. Cambridge, Massachusetts: Harvard University Press, 2014. 304 pp. \$29.95 hardcover.

“You may trod me in the very dirt
But still, like dust, I’ll rise.”¹

INTRODUCTION

Americans believe in freedom of movement.² In the United States, approximately 40 million people migrate from one state to another each year.³ Women⁴ greatly contribute to this number, as increasing numbers of college-educated women move into urban economies in pursuit of the American dream.⁵ Women’s upward mobility has also improved, as women today enjoy greater equality in the work force than prior generations.⁶ And since the late twentieth century, more females have immigrated to the United States than males.⁷ Many women today would agree that travel is essential to accessing safety, family, economic opportunity, and self-actualization.⁸

Dehumanization in the form of human trafficking is a shameful barrier to volitional mobility. In 2015, over three thousand cases of women being trafficked into the United States were reported through the National Human

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1. MAYA ANGELOU, *STILL I RISE*, in *AND STILL I RISE* (1978), *reprinted in* POETS.ORG, <http://poets.org/print/node/47855>.
 2. *See, e.g.*, *Saenz v. Roe*, 526 U.S. 489 (1999) (declaring that the right to travel embraces the right to move domiciles across state lines and protects citizens from alienage in states of which they are not citizens).
 3. Jon Bruner, *Migration in America*, FORBES (Nov. 16, 2011), <http://www.forbes.com/sites/jonbruner/2011/11/16/migration-in-america/#8eac85f45183> (reporting that Internal Revenue Service data indicates that approximately 37.5 million people migrate within the United States annually).
 4. The term “woman” refers to an adult female. Although the term “woman” typically denotes gender and the term “female” typically denotes sex, these terms are sufficiently conceptually related to be used interchangeably in this book review.
 5. *See* THE COUNCIL OF ECON. ADVISERS, 15 ECONOMIC FACTS ABOUT MILLENNIALS (Oct. 2014), https://www.whitehouse.gov/sites/default/files/docs/millennials_report.pdf.
 6. *See id.* at 31, 42.
 7. *See, e.g.*, *The Facts on Immigration Today*, CTR. FOR AM. PROGRESS (Oct. 23, 2014), <https://www.americanprogress.org/issues/immigration/report/2014/10/23/59040/the-facts-on-immigration-today-3/>.
 8. *See generally* Monica Boyd & Elizabeth Grieco, *Women and Migration: Incorporating Gender into International Migration Theory*, MIGRATION POLICY INST. (Mar. 1, 2003), <http://www.migrationpolicy.org/article/women-and-migration-incorporating-gender-international-migration-theory> (explaining the dynamics between women and migration).

Trafficking Resource Center.⁹ Victims of a broad range of ages, ethnicities, genders, nationalities, and races were reported.¹⁰ According to the Federal Bureau of Investigation (FBI), human trafficking currently generates billions of dollars in annual profit worldwide.¹¹ For example, in American cities like Atlanta, Georgia, sex work linked to sex trafficking has generated approximately \$290 million in recent years.¹² Unfortunately, human trafficking has long undermined human dignity, dating back to the eighteenth century in the United States.¹³ Since the 1900s, the Mann Act has operated as a tool in the U.S. federal government's arsenal to combat this dehumanizing enterprise.¹⁴

Policing Sexuality, by Jessica R. Pliley, traces the early history of the Mann Act. As early as the 1900s, concerns about vice rings intent on exploiting white womanhood inspired Congressional action to protect white women from falling victim to sex slavery (p. 172). Signed into law in 1910, the Mann Act made it a federal offense to transport women across state or international territorial boundaries for the purpose of prostitution,¹⁵ debauchery, or "any other immoral purpose."¹⁶ In her book, Pliley's central argument is that the Mann Act's vague language vested the Bureau of Investigation (Bureau) with boundless discretion when investigating alleged violations of the statute, which led to the implementation of a discriminatory criminal/victim paradigm rooted in prejudiced fears pervasive in twentieth-century America (p. 5, 196). Detailed case studies in *Policing Sexuality* demonstrate how the Bureau abused its discretion under the Mann Act by giving preferential treatment to girls and women who conformed to its ideologically conservative standards, often

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9. See *Hotline Statistics*, NAT'L HUMAN TRAFFICKING RES. CTR. (Dec. 31, 2015) <https://traffickingresourcecenter.org/states> ("The NHTRC maintains one of the most extensive data sets on the issue of human trafficking in the United States. The statistics contained on this website are based on aggregated information learned through signals—phone calls, emails, and online tip reports—received by the hotline.").
 10. See, e.g., Heather J. Clawson et al., *Human Trafficking into and Within the United States: A Review of the Literature*, OFFICE OF THE ASSISTANT SEC'Y FOR PLANNING & EVALUATION, U.S. DEP'T OF HEALTH & HUMAN SERVS. 4 (Aug. 30, 2009), <https://aspe.hhs.gov/basic-report/human-trafficking-and-within-united-states-review-literature>.
 11. *Stories, Human Trafficking Prevention*, FED. BUREAU OF INVESTIGATION (Jan. 20, 2012), https://www.fbi.gov/news/stories/2012/january/trafficking_012012.
 12. Leif Coorlim & Dana Ford, *Sex Trafficking: The New American Slavery*, THE CNN FREEDOM PROJECT (July 21, 2015), <http://www.cnn.com/2015/07/20/us/sex-trafficking/>.
 13. See Cheryl N. Butler, *The Racial Roots of Human Trafficking*, 62 UCLA L. REV. 1464 (2015).
 14. See, e.g., 2027. *Mann Act*, U.S. DEP'T OF JUSTICE, <http://www.justice.gov/usam/criminal-resource-manual-2027-mann-act> (last visited Jan. 29, 2016) [hereinafter *Mann Act*].
 15. In this book review, the term "prostitution" is generally used when quoting legislation or the text from other authors. See John Godwin, *Sex Work and the Law in Asia and the Pacific*, UNITED NATIONS DEVELOPMENT PROGRAMME 9, (Oct. 2012), <http://www.undp.org/content/dam/undp/library/hiv/aids/English/HIV-2012-SexWorkAndLaw.pdf> ("Prostitution is a term that was commonly used in legislation enacted in the nineteenth and twentieth centuries to refer to sex work. The terms 'prostitution' and 'prostitute' have negative connotations and are considered by advocates of sex workers to be stigmatizing.").
 16. White-Slave Traffic (Mann) Act, Ch. 395, 36 Stat. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421–2424 (2012)).

punishing and marginalizing girls and women who did not fit the white sex slave archetype by denying them access to legal protection (p. 5, 196). Although historians generally acknowledge the FBI's involvement in the "political policing of ideological and racial minorities," as evidenced by the agency's harassment of Dr. Martin Luther King, Jr., Pliley's work is unique in that it highlights how the Bureau's culture of gendered conservatism guided the agency's watchful eyes and protective arms during the Progressive Era in America (p. 8).¹⁷

Pliley argues that the Bureau's discretion in delineating the Mann Act's parameters allowed the agency to transform into a politically powerful bureaucracy (p. 3). She attributes the Bureau's selective enforcement of the Mann Act to its ideologically conservative culture, as it often turned a blind eye to the extramarital sexual activities of men perceived as respectable while shaming women perceived as sexually impure—a stigma from which often "they could never escape" (p. 14). Also turning a blind eye to Americans' increased acceptance of an economic analysis of prostitution and women's equal role in the workforce, the Bureau insisted on policing sexuality in order to eradicate women's extramarital sexual relationships and restore domesticity (p. 179). In effect, by portraying itself as a guardian of patriarchy and tradition, the Bureau augmented its own respectability as an important component of the federal bureaucracy.

Pliley tells a story of female movement under federal surveillance and scrutiny. It is a story of unaccompanied girls and women who willingly or unwillingly crossed territorial jurisdictions, sometimes triggering federal investigations (pp. 3–4, 62, 126, 197). Their policed movement, as portrayed in *Policing Sexuality*, raised questions about culpability and innocence, especially given the federal government's internal disagreement as to the meaning of "immoral purposes" in the statutory language (pp. 80–81, 83). In garnering Congressional support for the Mann Act, its proponents had furthered a sex-trafficking narrative in which the victim was a chaste, native-born, white girl or woman, thereby bringing into existence the American white sex slave archetype (pp. 20, 70–78). This archetype coincided with Congress' general conception of respectable women, who were perceived as unlikely to have intentionally invited improper sexual attention or to have consented to their moral corruption, namely due to their presumed inherent good moral character (pp. 70–78). In accordance with Congress' intent to protect women fitting the white sex slave archetype, the Bureau developed a culpability/innocence paradigm whereby chaste, native-

17. See, e.g., Partnership for Public Service, *Exploring the FBI's Role in American History*, THE WASHINGTON POST (Mar. 15, 2010, 2:47 PM), <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/15/AR2010031502119.html>; see also Beverly Gage, *What an Uncensored Letter to M.L.K. Reveals*, N.Y. TIMES (Nov. 11, 2014), http://www.nytimes.com/2014/11/16/magazine/what-an-uncensored-letter-to-mlk-reveals.html?_r=0 (discussing a harassing letter from Director of the Federal Bureau of Investigation J. Edgar Hoover to Dr. Martin Luther King, Jr.).

born, white females were presumed to be respectable, while foreign-born,¹⁸ allegedly promiscuous, or nonwhite women were presumed to lack respectability (pp. 4–6, 99).

Pliley's work makes it clear that a prejudiced culpability/innocence paradigm guided Mann Act investigations. For example, when recounting its Interesting Cases¹⁹ to the press, the Bureau advanced a Mann Act narrative that, Pliley notes,

featured elements of the dangers posed to dutiful daughters leaving the home to enter the labor market. . . the attempt to use fraud and force to sexually compromise an innocent girl, and a gallant young man who rescued the white slave, and a shameless villain who preyed on a young girl's naïveté while seeking to profit from her sexuality (p. 78).

Interestingly, Pliley makes note of a 1917 study that found that most Mann Act violators in several federal prisons were native-born,²⁰ white males, yet the villain in the Bureau's Mann Act narrative was nonetheless repeatedly portrayed as a recently arrived immigrant or man of color (p. 82). According to Pliley, this politically tailored narrative reinforced public trust in the Bureau and widespread nativist fears, despite empirical evidence to the contrary (p. 82).

As the Bureau diligently searched for nominally respectable females to rescue from sex trafficking at the hands of stereotypical villains, Pliley's work emphasizes that it simultaneously marginalized and punished victims who did not fit a nearly mythical white sex slave archetype (pp. 93, 196–97). Since the Mann Act's language did not expressly deny protection to any class of women, victims perceived as lacking respectability bore the humiliating and often insurmountable burden of lobbying for the Bureau's protection, often through allies with respectable social standing vouching for their moral worth (pp. 145–46). Nonetheless, even victims of sexual abuse or trafficking who gained the Bureau's attention did not always receive equitable treatment or protection during investigations (p. 144).

In cases involving women that the Bureau perceived as lacking respectability, the agency's intervention often resulted in the victims' exclusion from legal protection, mainstream society, or the country (pp. 13, 92–93). While Pliley extensively addresses the general unavailability of protection for certain

18. The term "foreign-born" refers to a person born in another country and who does not have birthright United States citizenship. *Foreign Born*, BLACK'S LAW DICTIONARY (9th ed. 2009) ("Foreigner" is defined as "[a] citizen of another country.").

19. Pliley explains that the Bureau, as part of its Interesting Case program, drafted case summaries and made them available to the press when it perceived it would be convenient for public-relations purposes.

20. The term "native-born" refers to a person born in the United States and who has birthright citizenship. *Jus soli*, BLACK'S LAW DICTIONARY (9th ed. 2009) (defining "*jus soli*" as "The rule that a child's citizenship is determined by the place of birth. This is the U.S. rule, as affirmed by the 14th Amendment to the Constitution. . . ."); see *Native-born*, BLACK'S LAW DICTIONARY (9th ed. 2009) ("[N]ative-born, *adj.* 1. Born within the territorial jurisdiction of a country. . . .").

communities, such as black women, she also highlights the disparate quality of treatment experienced by women the Bureau did seek to protect (pp. 99, 144–46). For example, whereas native-born sex-trafficking victims were typically not legally limited in their volitional mobility once rescued, the Bureau subjected non-naturalized victims to repatriation²¹ in the interest of their so-called protection (pp. 41–44, 93). Removal from the country was the likely outcome for both non-naturalized sex-trafficking victims, forced into sex work and “rescued” by the Bureau, and willing non-naturalized women resorting to sex work for financial support (pp. 93, 212). The result, as becomes clear through Pliley’s detailed case studies about real-life people affected by the Mann Act, was that subsets of non-naturalized women were de facto punished (through removal from the country) for their own sexual abuse or exploitation while native-born white women enduring similar afflictions faced no such hardship (pp. 58, 92–93). Similarly, whereas the U.S. Department of Justice (DOJ) sought the full-fledged prosecution of traffickers whose victims included chaste white women, the DOJ’s protection of white women perceived as promiscuous generally entailed only brief and half-hearted investigations (pp. 143–44). Pliley’s case studies effectively demonstrate how access to Mann Act protection, and the quality of protection afforded by the federal government during the early 1900s, hinged on the victim’s respectability, which was inextricably linked to immigration status, reputation for promiscuity, and race (pp. 58, 143–44).

Policing Sexuality’s discussion of respectability as a precondition for legal protection is a common thread in feminist legal scholarship (pp. 13, 143–44).²² For example, one legal area that scholars have examined is the U.S. admissions and naturalization process for immigrant female foreign nationals, which has traditionally required women to prove their respectability to immigration officials.²³ Although respectability is a debatable concept, feminist scholar Robin S. Dillon has explained it as involving “a person’s status as a full and equal member of the moral community and as the bearer of certain basic moral

21. The term “repatriation” refers to the federal government’s process of returning a person to his or her country of citizenship. See *Repatriate*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/repatriate> (last visited Mar. 3, 2016).

22. See, e.g., MARTHA GARDNER, *THE QUALITIES OF A CITIZEN* 54–57 (2005) (“If immorality was marked primarily by race, respectability came to be marked by a series of gender and class codes. In the eyes of [U.S.] immigration officials, respectable women did not travel unaccompanied by male family members. . . . Immigration officials assumed that respectable married women lived with their husbands, providing household and reproductive labor. . . . When women . . . attempted to defend their respectability and stave off deportation, however, they were at a decided disadvantage in immigration hearings, where they faced circumstantial evidence, insinuation, and inspector’s judgments.”).

23. See, e.g., EITHNE LUIBHÉID, *ENTRY DENIED: CONTROLLING SEXUALITY AT THE BORDER* xxv (1st ed. 2002) (describing how the U.S. immigration control system has served as a crucial site for the construction and regulation of sexual norms, identities, and behaviors since 1875, such as through gender-biased “examination” procedures at the border); see also Leti Volpp, *The Culture of Citizenship*, 8 IMMIGR. & NAT’LITY L. REV. 493, 497–504 (2007) (explaining that the concept of citizenship is defined by the often gender-biased moral values of a nation state’s dominant culture).

rights.”²⁴ Unfortunately, rather than perceiving all female victims of sexual abuse or exploitation as being equally worthy of Mann Act protection by virtue of their human dignity, the Progressive Era Bureau assessed a woman’s worthiness of protection by virtue of her respectability (pp. 13, 143–44).²⁵ When assessing a woman’s respectability, the Bureau was responsive to features that made a person morally worthy and thereby deserving of Mann Act protection in its view (pp. 99, 143–44).²⁶ Specifically, to ascertain a woman’s respectability or lack thereof, the Bureau used immigration status, reputation for promiscuity, and race as proxies (pp. 93, 99, 143–44). In her book, Pliley demonstrates that by tacitly establishing respectability as the de facto requirement for Mann Act protection, the Bureau humiliated victims it perceived as lacking respectability while “rescuing” nominally respectable women from consenting romantic relationships and stigmatizing the latter’s male sexual partners.

Policing Sexuality immerses the reader in a time period when an unprecedented number of unaccompanied women embarked on journeys toward economic opportunity. Through chronologically organized case studies tracing the Bureau’s early Mann Act enforcement efforts, Pliley illustrates how the statute affected members of various social communities differently and highlights inequities endured by working females in urban areas (pp. 1–7). Pliley’s work establishes that despite Progressive Era press accounts of white sex slavery and coerced interstate movement, many unmarried young women nonetheless chose to risk leaving the comfort of their hometowns in order to access the opportunities for self-actualization available in cities (p. 4). Both native-born and foreign-born women migrated to male-dominated American metropolises, where economic and educational opportunity was believed to be strong (p. 4). In doing so, they employed their intellectual skills and physical assets to earn their own living, particularly during the years leading up to the Great Depression (pp. 1–13, 64, 137, 157, 178, 185). This ambition, this boldness, caused onlookers to reassess their understanding of respectability.

While Pliley provides a rich historical account of the Bureau’s Mann Act enforcement practices in the Progressive Era context, this book review will focus on a common thread which runs through *Policing Sexuality*’s case studies and contemporary criminal investigations: respectability (pp. 13–14). By reflecting on how the Bureau’s understanding of respectability influenced its early Mann Act enforcement efforts as described in *Policing Sexuality*, this book review emphasizes that innocence/culpability paradigms are often predicated on prejudiced presumptions, which influence federal authorities to perceive

24. Robin Dillon, *Toward a Feminist Conception of Self-Respect* (1992), reprinted in DIGNITY, CHARACTER, AND SELF RESPECT 290, 293 (Robin Dillon ed., 1995).

25. See *id.* at 292–93 (“Now respect is, most generally, a particular sort of response to worth; but these kinds of worth call for different kinds of responses, which is to say, different kinds of respect. . . . [Appraisal respect] is something we earn more or less of and which we may rightly lose or fail to earn altogether. . . . Recognition respect for persons is a matter of taking appropriate account of the fact that something is a person.”).

26. See *id.* at 294.

different classes of people as possessing varying degrees of respectability and therefore as deserving varying degrees of legal protection. The review begins with a summary of the history described in *Policing Sexuality* to contextualize the Mann Act in the Progressive Era, which is the time period most relevant to understanding the Mann Act's enactment and intended jurisdictional scope. Next is a discussion of how the Bureau's prejudiced culpability/innocence paradigm, which made respectability the de facto prerequisite for Mann Act protection, served to humiliate victims who did not fit the Bureau's white sex slave archetype and stigmatize unwitting Mann Act violators. This discussion is divided into two thematic sections: 1) females unworthy of Mann Act protection and 2) degrees of morality. Both of these sections emphasize how the Bureau defined girls and women as unworthy of Mann Act protection based on an underlying adverse presumption that foreign-born, allegedly promiscuous, and nonwhite females lacked respectability. Following this discussion, the review notes the Mann Act's amendments and argues that the statute has recently been used to stigmatize otherwise respectable men. The review concludes by discussing several *Policing Sexuality* takeaways about respectability; as this piece will demonstrate, by looking back upon history, Pliley's work ultimately sheds light on the malleability of what is perceived as "respectable."

HISTORY

Policing Sexuality explores the Mann Act's inception and evolution in the early decades of the twentieth century. Denoting the time period from the 1890s to the 1920s, the Progressive Era was a time of wide-sweeping federal morals legislation.²⁷ The influx of unmarried female immigrants to cities—"like the growing numbers of wage-earning women, the feminists taking to the streets demanding the vote," and the increasing visibility of interracial heterosexual couples—upended traditional conceptions of a woman's respectability (p. 4). Industrial smoke and scandal lingered in the air, and legislators endeavored to bring women's unconventional behaviors within the law's jurisdiction.²⁸

Pliley recounts how, as people flocked to cities in search of employment, muckrakers and other investigative journalists churned out sensationalized stories of commercial vice rings preying on white American women (pp. 58, 61–62).²⁹ Most stories placed sexual slavery in urban settings, portraying sex traffickers as foreign-born males and their victims as previously chaste white

27. See generally *The Progressive Era (1819–1920)*, THE ELEANOR ROOSEVELT PAPERS PROJECT, <https://www.gwu.edu/~erpapers/teaching/glossary/progressive-era.cfm> (last visited June 10, 2016) (describing how the government was seen as a "tool for change" to guard against the social and moral perils of the time, such as corporate greed, political corruption, and poverty).

28. See GARDNER, *supra* note 22, at 85–86.

29. See generally Eric Weiner, *The Long, Colorful History of the Mann Act*, NAT'L PUB. RADIO (Mar. 11, 2008), <http://www.npr.org/templates/story/story.php?storyId=88104308> (describing the press' role in exacerbating public fear about white sex slaves during the early 1900s).

females with a countryside upbringing (p. 32). Through a series of case studies, however, *Policing Sexuality* puts a different, and more diverse, face on criminality and victimhood.

In the book's first few chapters, such as the chapter appropriately titled "The American Myth of White Slavery," Pliley meticulously describes the social climate that motivated Congress to enact the Mann Act (p. 9). The movement of young women from farms to cities and from domesticity to the labor force raised questions about women's respectability and tested the nation's moral backbone (p. 4). Unfounded anxieties about white sex slaves, interracial intimacy, sex work's appeal in a gendered labor market, and the onset of venereal disease in the marital bed propelled the federal government to protect women's respectability by policing their sexual behaviors (pp. 5, 82–83). Public outcry against declining moral and social hygiene standards threatening to corrupt America's daughters resonated with Illinois Congressman James R. Mann, who chaired the House Committee on Interstate and Foreign Commerce and ultimately persuaded Congress to enact legislation intended to police morality through sexuality (p. 67).

Pliley provides excellent insight into Congressional intent by giving an account of the Mann Act from its beginning as an idea to its enactment as law. In doing so, she introduces readers to men of conservative ideologies and social stature, such as Chicago's U.S. Attorney Edwin W. Sims, who initially persuaded Mann to join the fight against dealers in America's "white daughters" (pp. 25, 66). Having once written that, if he lived in the countryside and had a young daughter, he would "go to any length of hardship and privation...rather than allow her to go into the city to work or to study," Sim was committed to protecting white womanhood from the grasp of vice (p. 66). He and Assistant State's Attorney Clifford G. Roe, who helped draft the Illinois White Slave Bill of 1908, drafted the bill that became the White-Slave Traffic Act (p. 67). President William Howard Taft signed the White-Slave Traffic Act, which would become better known as the Mann Act, into law in 1910 (p. 75). The Mann Act made it a felony to transport a female in interstate or foreign commerce "for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice."³⁰

Modeled after the federal ban on lottery ticket trafficking, Mann's bill extended the federal government's authority to police ticket traffickers to include the policing of traffickers in females, as both types of policing regulated mischief perceived as significantly contributing to the nation's moral decline (p. 68). Mann argued that women were akin to lottery tickets because both carried

30. 36 Stat. 825, *supra* note 16; *see* *Caminetti v. United States*, 242 U.S. 470 (1917) (explaining that Congress had likely intended a broad interpretation of the "any other immoral purpose" clause).

the enticement of immorality across state lines (p. 68). Some legislators argued that comparing women to lottery tickets ignored their volition and reduced them to “creatures per se vile and immoral, designed and intended in nature for no other than immoral purposes” (p. 72). Nonetheless, the public outcry demanding that federal authorities declare a full-fledged war on white slavery ultimately overcame such backlash (p. 31).³¹ Pliley’s thorough account of the thoughts, biases, and fears that gave shape and form to the Mann Act excellently acquaints readers with the Progressive Era culture and Congress’ power to regulate behavior to conform to a time period’s prevalent moral values.

After exploring the Mann Act’s legislative history, Pliley proceeds to introduce readers to the Bureau and its White Slave Officers. The Bureau, under the DOJ, was tasked with interpreting the Mann Act’s vague language and enforcing it (p. 76). White Slave Officers, mostly well-intentioned and college-educated white males from across the country, were promptly recruited for the Bureau’s White Slave Division (p. 89). From early on, however, the Bureau struggled with the Mann Act’s vague language while developing its “own understanding of white slavery” (p. 77). While the vagueness of the “any other immoral purposes clause” brought a myriad of cases under the Bureau’s watchful eye, including those of adultery, *Policing Sexuality* narrates many real-life scenarios that challenged the Bureau’s broad interpretation of that clause (pp. 154–56). As the book reveals, growing challenges and related concerns about inequities stemming from a broad reading of the Mann Act eventually led the agency to generally limit itself to investigating sexual abuse of minors or commercialized vice, principally in the interest of efficiency and fairness (pp. 97–98, 186–88, 197–98, 206).

As White Slave Officer accounts in *Policing Sexuality* suggest, Mann Act enforcement required discernment between angels and devils. A woman’s innocence and concomitant worthiness of protection became a test of her respectability, which the Bureau gleaned through her immigration status, reputation for promiscuity, or race (p. 136). A victim of sexual abuse or exploitation perceived as lacking respectability would typically not be extended Mann Act protection (p. 144). Knowing the legal significance of a woman’s respectable reputation, many people used gossip and evidence of immorality to undermine women’s respectability, sometimes even employing blackmail (pp. 139, 113). Pliley’s attentiveness to the role that whisper campaigns played in placing victims beyond Mann Act protection is clever and refreshing (p. 5).

Despite the Bureau’s best efforts to rescue white sex slaves (women fitting the white sex slave archetype), most women in the sex industry could not be said to be entirely good (innocent) or entirely evil (culpable). Pliley describes Progressive Era vice districts as being, for the most part, horizontally organized communities of willing sex workers (p. 190). In enforcing the Mann Act, the Bureau discovered that sex-trafficking rings were not as pervasive as muckraker

31. See Weiner, *supra* note 29.

journalists made them out to be, and investigations into brothels revealed that many were actually owned and operated by business-savvy women (pp. 80, 94). In rescuing adulterous women, most often at husbands' requests, White Slave Officers sometimes took them from their romantic partners to return them to their physically abusive marriages (p. 148). Many white women were found to have willingly engaged in sex work or noncommercial intimacy with men of color (pp. 101–02). These women risked being perceived as beyond moral redemption and permanently forfeiting their respectability and right to Mann Act protection as a result of their consent (pp. 101–02).

The Bureau became firmly institutionalized as the Federal Bureau of Investigation (FBI) by the 1930s, and *Policing Sexuality* presents a compelling case that its perceived success in combating white sex slavery propelled the FBI's rise to eminence in the federal bureaucracy (pp. 9, 184). Pliley claims that, among other things, strategic use of prejudiced Mann Act narratives was instrumental in building the Bureau's public image (p. 184). For example, under J. Edgar Hoover, Bureau director from 1924 to 1972, the Bureau launched the Interesting Case program, which was designed to increase press interest in agency activities and Mann Act cases (p. 178). Pliley explains how Hoover's gendered "habits of mind" influenced Interesting Case narratives, which often portrayed the quintessential victim as a chaste, native-born, white, respectable female who had underestimated the city's dangers (pp. 163, 179). Yet of the 47,500 Mann Act cases that Hoover claimed to have investigated from 1921 to 1936, Pliley notes that only 6,335 resulted in convictions, primarily because U.S. Attorneys chose not to prosecute the remaining thousands (p. 216). She infers that U.S. Attorneys' choice not to prosecute those remaining cases reflects a significant difference in agency cultures, with U.S. Attorneys being more socially liberal than Bureau agents and less susceptible to the "myth of white slavery" (p. 9).

GIRLS AND WOMEN

Unworthy of Protection

In the Bible's New Testament, Jesus encountered a woman accused of adultery.³² A crowd had gathered to stone her as punishment when Jesus defiantly said, "Let him who is without sin among you be the first to throw a stone at her."³³ The vengeful crowd dispersed; Jesus had protected the allegedly adulterous woman.³⁴

A great many stones were thrown in Progressive Era America—and not by those without sin. People who threw these stones of shame and humiliation were largely those who held adverse presumptions about certain groups of women (pp.

32. See *John* 8:1–11 (Amplified Bible, Classic Edition).

33. *John* 8:5–7 (Amplified Bible, Classic Edition).

34. See *John* 8:9 (Amplified Bible, Classic Edition).

5–8). In contrast to native-born white women, for example, women of color and foreign-born women were presumed to be inherently promiscuous and likely sex workers³⁵ (p. 58). As a result, sex workers were shunned by mainstream society, as were unaccompanied foreign-born women and those whose reputations had been damaged by rumors of their alleged sexual indiscretions (pp. 93, 144). This presumption was particularly stigmatizing since, as the Supreme Court explained in 1908, sex workers and promiscuous women were “in hostility. . . with the holy estate of matrimony; the sure foundation of all that is stable and noble in our civilization.”³⁶ Pliley’s insights into how the Bureau’s gendered conservatism and underlying presumptions about different classes of people influenced its investigations demonstrate that de facto placement on the fringes of Mann Act protection was part of women’s punishment for seemingly lacking respectability (p. 8).³⁷

Pliley’s work strongly suggests that the Bureau’s institutionalization further marginalized women generally perceived as lacking respectability in Progressive Era society. Her use of detailed case studies illustrates the Bureau’s gendered and racially biased justice paradigm through the experiences of women from varying social communities. According to this paradigm, chaste, native-born, white victims were perceived as most worthy of Mann Act protection while foreign-born, allegedly promiscuous, nonwhite women were perceived as minimally worthy (pp. 4–6, 62–63). Because the latter were presumed to be inherently morally suspect, they bore the stigma and burden of rebutting this presumption in order to establish their respectability and worthiness of protection (pp. 58, 93). However, even when rescue by the Bureau became available, Pliley suggests throughout her case studies that the type and quality of protection or investigation afforded hinged on the victim’s immigration status, reputation for promiscuity, or race.

Investigation or Marginalization?

Policing Sexuality’s case studies illustrate how the Bureau perpetuated an “American myth of white slavery” by selecting the girls and women it would rescue from sexual abuse or exploitation by virtue of their perceived respectability or lack thereof (p. 9). Mann Act investigations “privileged victims that had a constellation of the following: whiteness, youth, previous chastity, and respectable reputations” (p.139). In determining whether or not she was respectable or worthy of protection, a woman’s “clothing, length of hair, and use

35. In this book review, “sex workers” refers to “adults who sell or exchange sex for money, goods or services.” See Godwin, *supra* note 15.

36. United States v. Bitty, 208 U.S. 393, 401 (1908).

37. See *Punishment*, BLACK’S LAW DICTIONARY (9th ed. 2009) (“[P]unishment is defined as a “sanction—such as a fine, penalty, confinement, or loss of property, right, or privilege — assessed against a person who has violated the law.”). See generally *Exile*, BLACK’S LAW DICTIONARY (9th ed. 2009) (“[E]xile” is defined as “[e]xpulsion from a country, esp. from the country of one’s origin or longtime [*de jure* or *de facto*] residence; banishment.”).

of cosmetics were noted when they seemed to denote a sexually liberal lifestyle” (p. 136). A Mann Act investigation was especially likely to end if nominally respectable community members corroborated the Bureau’s prima facie suspicions about a woman’s promiscuous tendencies (p. 144).³⁸ Therefore, even when women of respectable stature spoke up about sexual abuse or exploitation, “without a good reputation a girl’s life was effectively ruined” (p. 175).

History has repeatedly shown that gossip is a quick way to undermine a woman’s respectability.³⁹ Yet *Policing Sexuality* indicates that respectability was unfortunately the de facto requirement for Mann Act protection (pp. 143–44). For example, Pliley tells the story of eighteen-year-old Irene Wireman, who in 1936 accused a thirty-one-year-old man of having seduced her into crossing state lines for his immoral purposes (p. 144). The investigator noted, “Although the victim’s family is obviously poor, the victim appears to be a refined type of girl and is fairly well educated, having some college training. The Victim stated that she had never had intercourse with any man” (p. 144). The local postmaster, however, led the investigator to believe that Wireman “ran around” with men and came from a family of suspected bootleggers (p. 144). Given Wireman’s questionable reputation, the Bureau did not conduct a serious investigation and Wireman’s alleged seducer was never prosecuted (p. 144). Gossip had permanently placed Wireman near the bottom of the social hierarchy and the Bureau’s priorities, “in spite of America’s core beliefs in second chances, equality of opportunity, and individual independence” (p. 144).

In rhetoric reminiscent of that still used to blame rape victims for inviting sexual attention, society blamed allegedly promiscuous women for inviting sexual abuse or exploitation.⁴⁰ *Policing Sexuality* shows how, by denying certain girls and women Mann Act protection, the federal government gave credence to unfounded gossip and marginalized victims that it perceived as lacking respectability due to malicious whisper campaigns (p. 5). Pliley makes the astute observation that many victims of sexual abuse or exploitation who were suspected of having once violated the norms of chastity, and who carried a humiliating stain of shame because of gossip, “fell outside of the bounds of respectability and often forfeited legal and, possibly, familial protection” (p. 13). Nonetheless, Pliley paints an optimistic picture of Progressive Era women who, undeterred by the dangers of stepping outside domestic confines and assuming great reputational risk, “promiscuously” powdered their faces to seek education and work in urban communities (pp. 2, 136–37).

38. In this book review, the term “promiscuity” will refer to courting and sexual behaviors that were perceived as unbecoming of chaste or married women in the early 1900s.

39. See generally Slander of Women Act 1891 54 & 55 Vict. c. 51 (Eng. & Ir.) (providing legal recourse to female victims of gossip).

40. See, e.g., Patricia N.L. Donat & John D’Emilio, *A Feminist Redefinition of Rape and Sexual Assault: Historical Foundations and Change*, 48 J. SOC. ISSUES 9, 13 (describing how an attorney once presented a soda bottle before a jury, put it on a table, spun it, and then unsuccessfully attempted to put a pencil through the bottle’s opening in an attempt to somehow demonstrate that if a woman was raped she must have invited it).

Protection or Punishment?

Policing Sexuality reveals how, despite the fact that the Mann Act did not criminalize prostitution, rescued sex workers were not adequately protected from further abuse and victimization because they did not fit the white sex slave archetype (pp. 94–95). For example, in Mann Act cases involving rescued sex workers, “if a city had no rescue home willing to take prostitutes, the Bureau agents placed the women in a local jail until the case moved forward . . . [which] could be dangerous for women. . .” (p. 95). As another example of the Bureau’s failed or inadequate protection, Pliley makes note of the threat that removal (arguably tantamount to punishment) posed for non-naturalized willing and unwilling sex workers alike (pp. 203, 212–13). She explains that non-naturalized sex-trafficking victims, sex workers, brothel owners, and sex traffickers were frequently exiled from the country after arrest or “rescue” (pp. 202–03, 212).⁴¹ As the book’s case studies demonstrate, many undocumented sex-trafficking victims who stood at the intersection of the Mann Act and immigration policy were placed in removal proceedings virtually alongside sex traffickers (pp. 93–95, 202–03, 212–13).⁴²

Pliley promptly acclimates the reader to the highly restrictive 1900s American immigration policy, highlighting its importance in fueling nativist fears about incoming sex workers and sex traffickers. She describes the 1911 United States Immigration Commission report, which declared foreign-born sex workers a permanent threat to the nation’s moral integrity, in a way that would allow people unfamiliar with the history of U.S. immigration policy to understand the Commission’s role in developing a uniform national moral outlook (pp. 51, 58). The Commission’s message to Congress was clear: “Once a prostitute always a prostitute.”⁴³ Congress agreed and placed sex workers alongside felons as the top excludable and “deportable class of aliens.”⁴⁴ At ports of entry, women considered “likely to become a public charge”⁴⁵ also faced exclusion, especially since unmarried women of low socioeconomic status were perceived as being at high risk of becoming sex workers.⁴⁶ Pliley astutely notes that there was an inherent unfairness in that policy; while convicted felons “were

41. The term “non-naturalized” refers to foreign-born people in the United States who are not U.S. citizens. The term “naturalized” refers to a legal process by which a foreign-born person becomes a citizen of the United States. See *Naturalization*, BLACK’S LAW DICTIONARY (9th ed. 2009) (“[N]aturalization” is defined as “[t]he granting of citizenship to a foreign-born person under statutory authority.”).

42. The term “undocumented” refers to a person in the United States who does not have a legal immigrant or legal nonimmigrant status. See *generally Alien*, BLACK’S LAW DICTIONARY (9th ed. 2009) (“In the United States, an alien is a person who was born outside the jurisdiction of the United States, who is subject to some foreign government, and who has not been naturalized under U.S. law. . .”).

43. GARDNER, *supra* note 22, at 75.

44. *Id.*

45. GARDNER, *supra* note 22, at 87 (“‘Likely to become a public charge’ . . . in the parlance of immigration officials, denoted not only current poverty but potential poverty.”).

46. See *id.* at 91.

excluded based on past illegal conduct, and medical patients for their present condition, prostitutes [and law-abiding women perceived as likely to become public charges] were excluded for their past, present, and potential future conduct.”⁴⁷

Pliley’s discussion of the perils facing non-naturalized poor women grappling with the moral calculus of sex work during the early twentieth century is supported by other scholarship. In her book *The Qualities of a Citizen*, Martha Gardner tells the story of Lina Marino, a foreign-born and non-naturalized Italian eighteen-year-old who arrived in the United States in 1906 to become a domestic servant.⁴⁸ Marino was arrested for prostitution in 1910, and at her hearing before the Commissioner of Immigration she testified, “that she was a pure girl when she came to this country. . . and that if she could get honest work she would take it.”⁴⁹ The Commissioner of Immigration, citing the nation’s sovereign power to exclude and expel undesirable classes of people, ordered her deportation.⁵⁰ Unfortunately, the trade that facilitated Marino’s survival also facilitated her removal from the land of opportunity.⁵¹

Gardner and Pliley’s keen observation that foreign-born women during the Progressive Era felt compelled to present an appearance of respectability to either gain entry into the United States or avoid removal is one that has long been true, particularly with respect to Chinese female immigrants during the late 1800s and early 1900s.⁵² Under the Chinese Exclusion Act of 1882, ethnic Chinese women suffered intense scrutiny at ports of entry by immigration officials who capitalized on their knowledge of Chinese culture and the fact that Chinese women bound their feet to demonstrate a genuine wifely disposition.⁵³ Bound feet permanently limited a woman’s mobility, hindering her self-sufficiency—and increasing her dependency on her husband.⁵⁴ As one immigration inspector revealingly remarked, a woman with bound feet was widely perceived as wearing a “badge of respectability.”⁵⁵ In both China and the

47. *Id.* at 74.

48. *See id.* at 78.

49. U.S. *ex rel.* *Mango v. Weis*, 181 F. 860, 861–62 (D. Md. 1910).

50. *Id.* at 865; *see also* *Fong Yue Ting v. United States*, 149 U.S. 698, 740 (1893) (Brewer, J., dissenting) (“Deportation is punishment. It involves—First, an arrest, a deprivation of liberty; and, second, a removal from home, from family, from business, from property.”).

51. *See* GARDNER, *supra* note 22, at 79–80; *but see* *Fong Yue Ting*, 149 U.S. at 739–40 (Brewer, J., dissenting) (asserting that deportation “imposes punishment without a trial, and punishment cruel and severe”).

52. *See* GARDNER, *supra* note 22, at 85; *Chae Chan Ping v. United States*, 130 U.S. 581, 606 (1889) (explaining that it is within Congressional power to exclude people based on race or unwillingness to assimilate to American culture).

53. *See id.* at 55.

54. *But see* Amanda Foreman, *Why Footbinding Persisted in China for a Millennium*, SMITHSONIAN.COM (Feb. 25, 2016), <http://www.smithsonianmag.com/history/why-footbinding-persisted-china-millennium-180953971/?no-ist> (“From the start, foot-binding was imbued with erotic overtones. . . . For families with marriageable daughters, foot size translated into its own form of currency and a means of achieving upward mobility.”).

55. *See* GARDNER, *supra* note 22, at 55.

United States, acts indicating self-sufficiency were attributed to husbands, whereas acts indicating dependency were attributed to respectable wives.⁵⁶ This attributional bias⁵⁷ permeates the white sex slave narratives that Pliley interprets as partially intended to dissuade young women from aspiring to achieve economic independence (p. 147).

The federal government's power to exclude or expel sex workers from the country, which both Gardner and Pliley address in their scholarship, dates back to the Supreme Court's ruling on the constitutionality of the Chinese Exclusion Act (pp. 58, 92–93).⁵⁸ Even today, while current immigration law does not permanently deny sex workers entry, a person who "is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within ten years of the date of application for a visa, admission, or adjustment of status" is inadmissible.⁵⁹ This is without regard to the legality of sex work in the individual's home country. For example, since Canada does not outlaw sex work, a non-United States citizen who engaged in sex work in Canada without violating any of the country's laws would still be required to wait ten years after leaving the profession in order to be eligible for admission into the United States.⁶⁰ By setting this ten-year restriction, during which the mere passage of time is assumed to help rectify a former sex worker's moral character, current immigration policy continues to stigmatize sex workers and "deny girls who have made some serious mistakes at home the chance which they need to begin a new life here in the United States" (p. 59).

Policing Sexuality rightfully mentions that undocumented sex-trafficking victims may still be unjustly removed from the country (pp. 212–13).⁶¹ Pliley is correct in noting that non-naturalized sex-trafficking victims, once rescued, face an uphill battle to remain in the United States, despite the mechanisms now in place to provide recourse for victims (pp. 212–13). For example, under the Trafficking Victims Protection Act of 2000, undocumented victims of sexual abuse or exploitation can now apply for T-visas or U-visas, which provide a path to adjustment of status and naturalization.⁶² To qualify for a T-visa, however, the

56. *See id.* at 99.

57. An attributional bias is an inference about the causes of other people's behavior that conforms to a person's preconceptions. *See* Philip E. Teltlock et al., *Attribution Bias: On the Inconclusiveness of the Cognition-Motivation Debate*, 18 J. EXPERIMENTAL PSYCHOL. 68, 68–69 (1982).

58. *See* GARDNER, *supra* note 22, at 79.

59. 8 U.S.C. § 1182 (a)(2)(D)(i) (2013).

60. *See generally* The Protection of Communities and Exploited Persons Act, or Bill C-36, http://laws-lois.justice.gc.ca/eng/annualstatutes/2014_25/page-1.html (demonstrating how Canadian law criminalizes the purchase but not the sale of sex services and providing that sex-trafficking victims may remain in the country if they cooperate in the investigation or prosecution of human-trafficking cases).

61. *Cf.* 8 C.F.R. § 214.11(b)(3)(i) (2009) (providing that sex-trafficking victims may remain in the country only if they cooperate in the investigation or prosecution of human-trafficking cases).

62. INA § 101(a)(15)(U); 8 C.F.R. § 214.14 (2015); *see* April Rieger, *Missing the Mark: Why the Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United*

victim must have suffered a “severe form of trafficking in persons” and, if over 15 years of age, must comply “with any reasonable request for assistance in the investigation or prosecution of acts of such trafficking in persons.”⁶³ Similarly, to qualify for a U-visa, the victim must have “suffered substantial physical or mental abuse,” and the victim must be willing to help federal or local authorities in investigating or prosecuting her trafficker.⁶⁴ The application is filed through U.S. Citizenship and Immigration Services (USCIS), who then determines whether a victim qualifies for a T-visa or a U-visa. If the application is denied, the non-naturalized sex-trafficking victim may be placed in removal proceedings.⁶⁵

Lawmakers continue to struggle to ensure better protection of undocumented sex-trafficking victims, such as those Pliley gives a voice to in *Policing Sexuality*. As Senator Paul Wellstone (D-WA) stated in support of the Trafficking Victims Protection Act in 2000, “The bitter, bitter, bitter irony. . . is that quite often the victims [of sex trafficking] are the ones who are punished. . . One of the problems is that these girls and women can’t step forward because then they will be deported.”⁶⁶ Current FBI efforts to rescue sex-trafficking victims are admirable but, as Pliley suggests, the legal remedies and victim services available to sex-trafficking victims are lacking (pp. 212–215). This is largely due to the stigma still attributed to both willing and unwilling sex workers (pp. 212–215). When considering sex-trafficking victims who, for example, may have been denied T-visas because USCIS determined that the evidence showed insufficiently severe sexual exploitation or that the victim had been a willing sex worker in the ten years prior to filing the T-visa application, Senator Wellstone’s words continue to ring true.

Like the early Bureau’s Interesting Cases that were prepared for the press, some of which are narrated in *Policing Sexuality*, the FBI still publicly shares human trafficking stories that give insight into the Bureau’s evolving culpability/innocence paradigm and fight against sex trafficking (p. 184). In 2004, for example, four undocumented sex-trafficking victims were rescued in Texas.⁶⁷ The FBI’s story reads:

Four Central American women agreed to pay \$5,000—half up front—to be

States, 30 HARV. J. L. & GENDER 231, 252 (2007).

63. 8 C.F.R. § 214.11(b)(3)(i)(I)–(II) (2009); 8 C.F.R. § 214.11(b)(3)(i)(I)–(II) (2009).

64. INA § 101(a)(15)(U); 8 C.F.R. § 214.14 (2015).

65. See DEP’T OF HOMELAND SEC., I-914 APPLICATION FOR T NONIMMIGRANT STATUS (2014), <https://www.uscis.gov/sites/default/files/files/form/i-914.pdf> (“Applicants who are in the United States are subject to removal if their claims are not granted. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is withdrawn.”).

66. 146 CONG. REC. S7788-01 (daily ed. July 27, 2000) (statement of Sen. Wellstone), <https://www.gpo.gov/fdsys/pkg/CREC-2000-07-27/pdf/CREC-2000-07-27-pt1-PgS7788.pdf>.

67. Press Release, The Fed. Bureau of Investigation, Enforcing Civil Rights: Justice Served in the Case of the Texas Sex Slaves (Feb. 13, 2004), https://www.fbi.gov/news/stories/2004/february/slave_021304.

smuggled into the U.S. They were taken across the border into Texas, but the gang then demanded more money. When they didn't pay, the women were forced into lives of total servitude. By day, they worked as unpaid domestic servants. At night, they became the gang's sex slaves. All the while, their families were extorted for more money.⁶⁸

Although the traffickers were prosecuted, the fate of the victims is uncertain.⁶⁹ Fear for their families' well-being, for instance, could have influenced a decision to remain silent on the severity of their suffering or to not comply with any "reasonable request for assistance in the investigation or prosecution" of their traffickers.⁷⁰ If that was the case, the victims were probably placed in removal proceedings. Unfortunately, a victim's return to her or his home country can be very dangerous and may result in the victim's retrafficking, especially if it involves returning to a developing country.⁷¹

While *Policing Sexuality* is largely a historical exposition of the Bureau's Mann Act investigations during the early 1900s, Pliley does argue that current legislation intended to protect sex-trafficking victims is still interpreted as disproportionately prioritizing law enforcement over victim remedies or services (p. 214). She points to Texas where, as part of its first state-level antitrafficking law, an account for up to ten million dollars in grant funds to support nongovernmental victim-services organizations was established in 2003 (p. 215). Victims' needs include counseling, food, safe housing, and legal services.⁷² Yet funding for the account remains elusive (p. 215).⁷³ Even when Texas accepted a federal grant to help combat human trafficking, most of the money was used for law enforcement training rather than for victim services (p. 215). According to Pliley, this reflects a U.S. trafficking policy that continues to be "antiprostitution, and antiprostitution in practice means antiprostitute, implicating as it does all sex work" (p. 215).

DEGREES OF MORALITY

Policing Sexuality elucidates that legality and morality are not always

68. *Id.*

69. See Press Release, U.S. Dep't of Justice, Justice Department Announces Sentencing in South Texas Human Trafficking And Sex Slavery Prosecution (Jan. 29, 2004), http://www.justice.gov/archive/opa/pr/2004/January/04_crt_054.htm.

70. 8 C.F.R. § 214.11(b)(i) (2009).

71. See Rieger, *supra* note 62, at 243–44.

72. See OFFICE OF THE ATTORNEY GEN., THE TEX. HUMAN TRAFFICKING PREVENTION TASK FORCE REPORT 2014 18 (2014) https://texasattorneygeneral.gov/files/agency/20142312_htr_fin.pdf ("Those needs [of trafficking victims] include, but are not limited to: safety, housing, food and clothing, translation services, legal services, transitional housing, long-term housing, advocacy, mental health counseling, life skills training, education, financial assistance, child care, and job training.").

73. See *id.* ("Funding for such services remains elusive, and the coordination of available services is lacking.").

equivalent.⁷⁴ Indeed, when Mann introduced the White Slave Traffic Act to Congress, members of the Immigration Committee worried that it ignored “that there are degrees in chastity and morality” (p. 75). As the DOJ strived to develop a reasonable understanding of the victim class Congress intended to protect and the immoral class it intended to punish, the allegedly immoral behaviors of otherwise respectable Americans came under suspicion (p. 132). The Bureau’s broad reading of the “any other immoral purpose” clause resulted in labeling people guilty of common immoral acts as “criminals” and consenting, previously chaste, white women as “victims” (p. 132). Yet Pliley’s case studies reveal how the Bureau increasingly abandoned the prejudiced culpability/innocence paradigm on which the Mann Act was predicated in order to protect actual victims of sexual abuse or exploitation (pp. 145–46, 196–97).

White Couples

Pliley notes that cases of adultery comprised the majority of noncommercial Mann Act investigations and even devotes several chapters, entitled “Defining Immoral Purposes” and “Policing Seduction and Adultery,” to exploring the Bureau’s difficulties in resolving domestic disputes (pp. 106, 131). To Progressive Era Americans, the traditional institution of marriage represented a strong safeguard against sexual immorality.⁷⁵ Pliley implies that the Mann Act therefore allowed ordinary cross-state domestic arrangements and quarrels to become the subject of Bureau investigations (pp. 131–35). With protecting domesticity as one of its principal goals, the Bureau chose to monitor single women’s cross-state interactions with married men in order to regulate extramarital sex and thereby spouses’ respectability (pp. 131–35). As Pliley asserts, this “tendency to treat all single women as potentially promiscuous threatened the freedom of mobility of all women” (p. 126).

To illustrate the problem of criminalizing common moral failings, Pliley recounts the story of two unmarried Sacramento couples. In 1913, two young women became romantically involved with two men from prominent Sacramento families, Maury Diggs and Drew Caminetti (p. 107). Twenty-year-old Marsha Washington and nineteen-year-old Lola Norris were single and had been previously chaste, but their lovers were married (p. 107). Marsha and Maury, like Lola and Drew, were not discreet about their affair (p. 107). The couples traveled from California to Nevada, where Maury and Drew planned to file for divorce from their respective wives (p. 108). Word of the white couples’ affairs caused national scandal and resulted in two Mann Act prosecutions (p. 109). As with most Mann Act cases involving previously chaste white women,

74. See Steven Shavell, *Law Versus Morality as Regulators of Conduct*, 4 AM. L. & ECON. REV. 227 (2002), http://www.law.harvard.edu/faculty/shavell/pdf/4_Amer_Law_Econ_Rev_227.pdf (explaining that morality and legality are different concepts which are used to shape behavior).

75. See GARDNER, *supra* note 22, at 81.

the women's consent to sex or to partake in any other immoral purposes was irrelevant to a finding of the men's culpability (pp. 107–09, 112). Tellingly, when interviewed by the press, Diggs said, "If I am a white slaver, 90 percent of the men living are as guilty as I am" (p. 109).

Pliley's use of case studies to show specific federal government efforts to police adultery and domestic arrangements, such as in the case of young unmarried women involved with married men, was particularly illustrative of social justice issues that can arise in a culture that embraces the doctrine of coverture.⁷⁶ Pliley successfully highlights how, in search of a safeguard against sexual immorality, the Bureau mistook domesticity for respectability and women for property to be maintained in the patriarchal home (pp. 146–47). She also suggests that as American culture became more embrative of companionate marriage as opposed to domesticity, the Bureau reluctantly acknowledged that the line between moral and immoral behavior between consenting adults was often blurred (pp. 136–38). Accordingly, it increasingly prioritized cases that it perceived as having "the most obvious immoral characteristics—cases involving the corruption of youth and sex between nonwhite men and white women" (p. 98).

Black Victims

Throughout *Policing Sexuality*, Pliley demonstrates that the Bureau's view on black women's respectability eventually grew in conformity with the American public's changing mores. Prior to the bill being signed into law, Mann Act proponents had appealed to Congress members' emotions by linking the barbarity of African American chattel slavery to sex slavery (p. 74). Yet the white sex slave archetype was not inclusive of black females (p. 145). Due to widespread racial bias in early twentieth-century society, a black girl or woman was perceived as having "no innocence to lose" and therefore as not needing Mann Act protection (p. 145). Nonetheless, as many White Slave Officers interacted with victims belonging to different racial and ethnic demographics throughout their tenure, they eventually opened their eyes to the human face of victimhood, which can be readily gathered from Pliley's rich recounting of the Officer's experiences (pp. 93–94, 145–46).

One particular case study in *Policing Sexuality* most strongly exemplifies how white allies were sometimes successful in emphasizing to government authorities that black and white females were of equal moral worth (p. 145). In 1921, only at the behest of a "prominent white lady," was the Bureau prompted to investigate the case of a black fourteen-year-old girl named Loretta (p. 145).

76. *Coverture*, BLACK'S LAW DICTIONARY (9th ed. 2009) ("[C]overture" is defined as "[t]he condition of being a married woman. Under former law, a woman under coverture was allowed to sue only through the personality of her husband."); *see, e.g.*, *Graham v. Graham*, 33 F. Supp. 936, 938 (E.D. Mich. 1940) ("As a result of the marriage contract, for example, the husband has a duty to support and to live with his wife and the wife must contribute her services and society to the husband and follow him in his choice of domicile.").

Jack Stephenson, a married man, had taken Loretta to another state and impregnated her (pp. 145–46). The “prominent white lady” supplicated for the girl’s rescue, telling Bureau investigators that Loretta’s mother was a most upright and valuable employee (p. 145). At the white woman’s insistence, the Bureau investigated the case and returned Loretta to her family (pp. 145–46). Unlike most other Mann Act cases involving black victims without white allies at their side, the U.S. Attorney even prosecuted Stephenson, because Loretta’s case was considered “aggravated enough” to evoke the federal government’s sympathy and make her worthy of protection (p. 146). This is particularly interesting because it demonstrates the federal government’s acknowledgement that previously chaste black females, like females fitting the white sex slave archetype, could actually possess the quality of innocence necessary for the purpose of enforcing the Mann Act (p. 146). Both her young age and the “prominent white lady” attesting to her mother’s respectability allowed Loretta to be perceived as an innocent victim of another’s immoral desires (p. 146). Nonetheless, Pliley notes that Stephenson was black, which fit the Bureau’s racially biased culpability/innocence paradigm and white sex slave narratives (p. 146). Yet Pliley does not address Stephenson’s race in a way that analyzes how it could have been a factor in reinforcing his perceived Mann Act culpability or how the case’s outcome may have been different if Stephenson had been white.⁷⁷ Moreover, despite the Bureau’s commendable effort in rescuing Loretta, the fact that the case was considered “aggravated enough” to justify prosecution could have dangerously raised the threshold for what is considered sexual abuse or exploitation of girls and women of color, namely by creating an expectation that they must suffer more appalling mental and physical harms than those suffered by white victims in order to warrant Bureau intervention (p. 146). Yet Pliley only alludes to this danger without analyzing the barrier to Mann Act protection posed by an arbitrarily high abuse threshold for black girls and women.⁷⁸

Policing Sexuality makes it clear that in a misguided attempt to fulfill legislative intent, the Bureau mistook whiteness for respectability. Pliley’s use of stories like Loretta’s supports her argument that when cases involving black victims tested the Bureau’s preconceived notions of innocence (morality) and culpability (immorality), labeling people with the semblance of respectability as victims worthy of Mann Act protection became blatantly arbitrary (p. 146). Pliley excellently documents how inefficiencies caused by this arbitrariness spurred a shift of focus in the Bureau, as it increasingly abandoned the use of

77. See generally Khalil G. Muhammad, *Where Did All the White Criminals Go?: Reconfiguring Race and Crime on the Road to Mass Incarceration*, 13 *SOULS: CRITICAL J. BLACK POLITICS, CULTURE, & SOC’Y* 72, 72 (2011) (Muhammad proposes that “responses to similarly stigmatized white immigrant populations actually led to more humane reforms and shifts away from harsh laws and incapacitation as preeminent responses” for whites, whereas “blackness was recon-figured as a more durable criminal identity.”).

78. Cf. Butler, *supra* note 13, at 1505 (Sex trafficking “does not always look like chattel slavery . . . ‘equating trafficking with slavery risks inadvertently raising the legal threshold of trafficking by creating expectations of more extreme harms than required under the law.’”).

race as a proxy for respectability or moral worth and devoted its resources to investigating cases involving minors or commercial vice (pp. 154–56, 186–87).

MOVING FORWARD

The Mann Act Today

Amendments

The Mann Act today is not the Mann Act of 1910. It was amended in 1978 and again in 1986.⁷⁹ These amendments reflect values more progressive than those which originally supported the Mann Act.⁸⁰ Today, the Mann Act reads:

Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.⁸¹

No longer called the White Slave Traffic Act in common parlance, the Mann Act has replaced the “any other immoral purpose” clause with “prostitution, or any sexual activity for which any person can be charged with a criminal offense” (p. 358).⁸² The Mann Act’s current gender-neutral language has also extended protection to male victims of human trafficking, and the amendments reflect a well-placed Congressional concern for prioritizing the protection of minors.⁸³ Overall, the Mann Act’s amendments reined in the DOJ’s discretion, which Pliley critiques in her book as being overly broad, namely because it allowed the Bureau to police an indefinite number of indeterminate immoral purposes and behaviors (pp. 106–12, 129–30).⁸⁴

Yet *Policing Sexuality* ends without fully introducing the reader to the Mann Act’s amendments and its role in twenty-first-century America. The book gives a detailed account of the making of the Bureau and its use of the Mann Act for justifying its national expansion and institutionalization as the FBI in the early 1900s, but Pliley examines the Mann Act’s role in contemporary society only briefly towards the end of the book (pp. 209–13). Perhaps an extensive account of how the Mann Act has been used to protect sex-trafficking victims in

79. See *supra* note 29.

80. See generally *Mann Act*, *supra* note 14 (providing an overview of the Mann Act’s current language, which is more progressive than it was in 1910).

81. 18 U.S.C. § 2421(a) (2015).

82. 18 U.S.C. § 2421(a) (2015); see *Mann Act*, *supra* note 14 (showing that the Mann Act applies to prostitution or criminal sexual activity and not to an indefinite range of immoral purposes); Weiner, *supra* note 29.

83. See *Mann Act*, *supra* note 14.

84. See *id.*

the twenty-first century is beyond the book's intended scope, but an introduction to the Mann Act's amendments would have given readers a knowledge base for analyzing the complicated twenty-first-century brothel crackdown discussed in the book's conclusion (p. 209).

In *Policing Sexuality*'s last few pages, the Mann Act is contextualized in modern-day society and readers have an opportunity to consider the moral impetus behind a contemporary Mann Act investigation. Pliley recounts a 2007 investigation by the Western New York Human Trafficking Task Force and Alliance⁸⁵ that looked into massage parlors operating as brothels and gives readers a glimpse of how "a nexus of immigration, sex work, and policing of . . . respectability is still present in contemporary investigations" (p. 209). Investigation into the massage parlors, which sold the sexual services of undocumented sex-trafficking victims, resulted in several Mann Act prosecutions, including the prosecution and conviction of a retired judge (p. 210). Highlighting a possible injustice committed by the federal government during this investigation, Pliley suggests that the rescued victims, like non-naturalized trafficking victims who were repatriated in the early 1900s, were likely ultimately removed from the country (p. 213).

Politicized Stories: Male Victims of Stigma

Recent media stories reveal how the Mann Act is still being used as a tool to attack or question respectability today. Such stories demonstrate that even liberal amendments to the Mann Act's language have not substantially rectified the Bureau's Progressive Era implementation tactics, which Pliley claims were highly prejudiced and politically motivated (pp. 5–6, 8). The Mann Act has been especially used to stigmatize the adulterous and criminal transgressions of emerging male leaders who disrupt racial hierarchies or are otherwise politically threatening.⁸⁶ For example, in 2008, New York Governor Elliot Spitzer was discovered to be a regular customer of the Emperor's Club, a high-end prostitution ring, and was investigated by the FBI.⁸⁷ Spitzer's liaisons with sex workers who crossed state lines to provide their services raised questions as to the Mann Act's applicability in his case.⁸⁸ Yet as a customer, and not a "trafficker" in the general understanding, Spitzer should have been de facto exempt from Mann Act liability.⁸⁹ Since sex workers' customers are typically not investigated or prosecuted under the Mann Act, the federal investigation into

85. The Western New York Human Trafficking Task Force and Alliance (HTTFA) was a coalition composed of the FBI, U.S. Border Patrol, U.S. Immigration and Customs Enforcement, and other governmental and nongovernmental agencies (p. 209).

86. See, e.g., Joseph Goldstein, *A Criminal Case Possible Under the Mann Act*, N.Y. SUN (Mar. 11, 2008), <http://www.nysun.com/new-york/criminal-case-possible-under-the-mann-act/72642/>.

87. See CLIENT 9: THE RISE AND FALL OF ELIOT SPITZER (2010).

88. See *id.*

89. See Goldstein, *supra* note 86.

Spitzer as a potential Mann Act violator was surprising.⁹⁰ But Spitzer's violation of state prostitution law was widely perceived as unbecoming of an American politician, and his leadership role as New York governor likely influenced the federal government's interest in this particular customer's involvement with interstate commercial vice.⁹¹ Although Spitzer was not prosecuted at the federal level, the FBI's investigation into his potential Mann Act violations brought increased notoriety and stigma to his alleged moral transgressions, which further tarnished his reputation as a Democratic Party favorite.⁹²

The Bureau has a history of political policing, which, Pliley argues, cannot be overlooked when considering the ethical propriety of a Mann Act investigation both today and in the future (pp. 8, 208–09).⁹³ Showing the Bureau's early participation in stigmatizing otherwise respectable men like Spitzer, Pliley discusses the investigation and prosecution of a prominent Progressive Era man whose relationship with a former sex worker was similarly politicized: Jack Johnson (pp. 101–02). As the most admired black boxer of his time, Johnson's political influence drew the federal government's attention to his alleged moral failings.⁹⁴ Unlike Spitzer, who was only investigated, Johnson was prosecuted and found guilty of having violated the Mann Act (p. 102). His 1913 conviction, Pliley maintains, "stands out as . . . a case of political targeting of a celebrity amid standard Jim Crow racial scapegoating" (p. 102).

In 1910, Johnson defended his world heavyweight boxing title by defeating Jim Jeffries, a famed white boxer whose motivation for fighting Johnson was demonstrating his racial superiority to blacks (p. 102).⁹⁵ When Johnson defeated Jeffries, Johnson became known as the most famous black athlete worldwide, and race riots erupted across the United States in protest of Johnson's victory (p. 102). The heavyweight champion was quickly thrust into the limelight, as was his history of sexual and romantic partners (p. 102). Prior to marrying Lucille Cameron in 1912, Johnson had entered into a consensual relationship with former sex worker Belle Schreiber (p. 102). During the course of the relationship, Schreiber frequently traveled over state lines in order to join her lover (p. 102). Given the racist backdrop of Progressive Era politics, Schreiber's personal travel was interpreted as Johnson's interstate transportation of Schreiber for immoral purposes (p. 103). Despite the Bureau's general reluctance to protect former sex workers from sexual exploitation, especially those with a history of consensual relationships with black men, Johnson was convicted on charges of

90. *See id.*

91. *See CLIENT 9, supra* note 87.

92. *See id.*

93. *See* James B. Comey, Director, Fed. Bureau of Investigation, Remarks at Georgetown University's McCourt School of Public Policy: Hard Truths: Law Enforcement and Race (Feb. 12, 2015), <https://www.fbi.gov/news/speeches/hard-truths-law-enforcement-and-race>.

94. *See* Gerald Early, *Rebel of the Progressive Era*, UNFORGIVABLE BLACKNESS (Jan. 2005) <http://www.pbs.org/unforgivableblackness/rebel/>.

95. *See About the Film*, UNFORGIVABLE BLACKNESS (Jan. 2005) <http://www.pbs.org/unforgivableblackness/about/>.

having violated the Mann Act (p. 102).

The stigma attributed to Johnson's criminal actions in the early 1900s, like the stigma attributed to Spitzer's allegedly immoral actions in 2008, undermined his respectability (pp. 102–03). Johnson's relationship with a former sex worker, like Spitzer's patronage of the Emperor's Club, made the headlines.⁹⁶ As a black man with social clout in early twentieth-century America, due to his world heavyweight boxing title, Johnson's athletic achievements challenged many people's prejudiced political ideologies.⁹⁷ His relationship with Schreiber was therefore most harshly scrutinized by racists, who reveled in press accounts of the boxing champion's alleged moral downfall and the humiliation attached to his criminal conviction (pp. 102–03). His sex life, like Spitzer's, quickly became politicized, and the Mann Act became a tool to punish him for the political threat posed by his athletic talent.

CONCLUSION

I highly recommend *Policing Sexuality* to people with an interest in the history of morals legislation. Arguably, all legislation stems from a moral premise, but the Mann Act is an example of early nationwide legislation intended to regulate mischief by putting a face on the nation's moral cornerstone: chaste, native-born, white females (p. 6, 62). By painting a detailed picture of early twentieth-century America, as seen through the lens of the 1910 Congress, the Bureau, and many people affected by the Mann Act, the book gives readers an opportunity to reassess their own notions of respectability and its adequacy as evidence of culpability or innocence.

As a John Steinbeck fan, *Policing Sexuality* informed my conceptualization of the Progressive Era culture in which *East of Eden's* Cathy Ames operated her notorious brothel.⁹⁸ Congress intended the Mann Act to protect charming young white women like Cathy, yet this young rebel actually desired to become a sex worker.⁹⁹ By writing Cathy's story as one of a seemingly angelic face concealing taboo motives, Steinbeck dared imply that a woman's moral integrity could not rationally be discerned through her race or superficial charm.¹⁰⁰ Ironically, *East of Eden* may nonetheless reflect Steinbeck's own implicit bias against sex workers, as Cathy is distinctly the book's foremost "evil" and unrespectable character.¹⁰¹ Outside literary fiction, however, *Policing Sexuality* tells the stories

96. See Goldstein, *supra* note 86; see generally Danny Hakim & William K. Rashbaum, *Spitzer is Linked to Prostitution Ring*, N.Y. TIMES (Mar. 10, 2008), <http://www.nytimes.com/2008/03/10/nyregion/10cnd-spitzer.html>; CLIENT 9, *supra* note 87 (showing great media interest in Spitzer's involvement with the Emperor's Club); Early, *supra* note 94.

97. See Early, *supra* note 94.

98. See JOHN STEINBECK, *EAST OF EDEN* 442 (1952).

99. See *id.* at 132.

100. See *id.* at 72–75.

101. See *id.* at 322.

of many real-life women who broke the mold: early twentieth-century women who, evil or not, desired and attempted to lead a life of financial and sexual independence (p. 3–7).

Pliley's extensive assessment of the prejudiced culpability/innocence paradigm that guided the Bureau's Mann Act investigations serves as proof that respectability is in the eye of the beholder. Although the Bureau, in interpreting and enforcing the Mann Act, tried to make "angels" (i.e., chaste white women) and "devils" (i.e., willing sex workers) out of women, White Slave Officers quickly found that sentient beings are more complex than the archetypes and stereotypes that often serve as inspiration for morals legislation (pp. 97–98, 197). Given this complexity, the Bureau could not arrive at a consistent and fair understanding of white sex slavery. Just as Cathy, with her "face of innocence," belied the early Progressive Era woman archetype by making sex work her profession of choice, Pliley reveals how real-life sexually liberal women like Marsha and Lola tested the Bureau's notion of respectability, ultimately causing it to readjust its moral compass to focus on protecting actual victims of sexual abuse or exploitation (p. 107).¹⁰²

Importantly, *Policing Sexuality* strongly reaffirms that a person's moral character is often not easily discernable. The degree of respect which a woman may deserve by virtue of her perceived moral character, for example, cannot be determined by her willing participation in the sex-work industry. Countless sexually exploited individuals await rescue, protection, and inclusion in the mainstream of global society.¹⁰³ Yet given widening gaps between the world's rich and its poor, sex work remains an appealing profession for respectable women lacking in other opportunities to experience self-determination.¹⁰⁴ By consenting to sex work, albeit frequently under economic duress, women may find an opportunity to consent to their own upward mobility in a world that has afforded them a narrow range of economic choices.¹⁰⁵ Sex work can therefore be worthy of respect and reflect a commitment to persevere—to move forward and upward towards self-determination through employment—despite an unequal playing field.¹⁰⁶ But as Pliley's narratives about real-life sex workers make amply clear, so long as our understanding of respectability is premised on

102. *See id.* at 72.

103. *See generally* U.S. DEP'T OF STATE, 2015 TRAFFICKING IN PERSONS REPORT 13 (July 2015), <http://www.state.gov/j/tip/rls/tiprpt/> (reporting that there are millions of human-trafficking victims worldwide awaiting rescue).

104. *See generally* Press Release, U.S. Census Bureau, Gap Between Higher-and Lower-Wealth Households Widens, Census Bureau Reports (Aug. 21, 2014), <http://www.census.gov/newsroom/press-releases/2014/cb14-156.html> (providing evidence that the gap between high-income and low-income households is widening).

105. *See generally* THE UNITED STATES (HANDBOOK TO THE MODERN WORLD, VOL. 3) 1637 (Godfrey Hodgson ed. 1992) ("Economists have explained crime as a rational decision-making behavior in which offenders choose between crime and legitimate pursuits.")

106. For example, as Pliley notes in the text, "low wages [during the early 1900s] seemed to be a chronic cause of immigrant women's entry into commercial prostitution. . . . As [sex worker] Mollie Kessler admitted, 'I cannot exist on \$4 to \$5 per week.'" (p. 57).

prejudices about people's moral worth, we "undermine possibilities for empowerment."¹⁰⁷

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107. Dillon, *supra* note 24, at 298.