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The Female Human Trafficker in the Criminal Justice System: A Test of the Chivalry Hypothesis

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THE FEMALE HUMAN TRAFFICKER IN THE CRIMINAL JUSTICE SYSTEM: A TEST OF THE CHIVALRY
HYPOTHESIS

by

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ABSTRACT

The involvement of women in human trafficking within the United States has received limited research attention. Human trafficking encompasses labor, sex, and organ trafficking (Roberts, 2012). In 2009 the United Nations Office on Drugs and Crime (UNODC) reported that women play a significant role in human trafficking. Nagel and Johnson (1994) conclude that, historically, female offenders have stayed at the edge of the criminal justice system. Generally, theories about prosecution and conviction outcomes derive from the study of male offenders. Women can be involved in all aspects of the human trafficking organizations, from the recruitment, to the supervision of prostitutes and to the finances. Pulling from the chivalry theory framework, this study used data sourced from the FBI on human trafficking offenders and their sentencing outcomes to compare the discrepancies between men and women. The current research adds to the existing literature by examining the gender discrepancy on human trafficking case outcomes. The analysis measures how gender influences court-related decisions.

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CHAPTER ONE: INTRODUCTION

Human trafficking is a multifarious problem both in the United States and globally that involves the force, fraud, and/or coercion of adults or children for the purpose of exploiting them for labor, sexual “service”, or even for harvesting of their organs (Roberts, 2012; Trafficking Victims Protection Act [TVPA], 2000). Just within the United States, Brown (2011) asserts that there are “approximately 14,500 to 17,500 people trafficked annually”. Although we have a general idea about the statistics related to human trafficking, Hepburn and Simon (2012) argue that these numbers are nowhere near the actual number of people being forced into what those who study human trafficking call modern day slavery. Consequently, it is likely that an immense number of victims means a large number of offenders.

Nearly 30% of the convicted human traffickers worldwide are female compared to women’s involvement in other violent crime such as murder (13%) or robbery (9%) (United Nations, 2014; UCR, 2014; NIBRS, 2014). Although researchers have explored the problem of human trafficking committed by men, little research has focused on human trafficking committed by women. Developing a better understanding of how the criminal justice system treats female traffickers will be useful for understanding their role within the larger human trafficking subculture. This paper will begin exploring whether women who are charged, convicted, and sentenced with trafficking receive treatment that is comparable to that received by men for similar involvements in human trafficking.

CHAPTER TWO: LITERATURE REVIEW

It's All a Numbers Game

The statistics on human trafficking are both staggering and, due to its secret nature, highly unreliable (Roberts, 2012). Human trafficking tends to occur behind closed doors with the use of legitimate business fronts making it very difficult to account for all the victims from state to state. It is estimated that upwards of 800,000 men, women, and children worldwide are forced into this type of modern day slavery (Butler, 2012). Crime experts have predicted that over the course of the next ten years, the number of human trafficking violations will surpass both arms and drug trafficking, turning human trafficking into an estimated 9.5 billion-dollar a year industry (Zimmer and Gournelos, 2014; Butler, 2012). This figure is most likely due to the fact that humans, unlike drugs, are recyclable. They can, and are, used over and over again.

The Free the Slaves & Human Rights Center (2004, p.1), states that:

More than 90% of all forced labor occurs in five major areas of the U.S. economy: (a) the prostitution and sex sector (46%), (b) the domestic service professions (27%), (c) agriculture professions (10%), (d) sweatshop or factory settings (5%), and (e) restaurant and hotel settings (4%).

Women In Crime

The Uniform Crime Report (UCR) is one of the most prominent ways in which crime rates are measured. Typically, the rate of offenses is calculated as the number of offenses per 100,000 people in the population unit and measured by either police reports as arrests or some other official criminal justice data. The UCR measures yearly arrests reported by the police departments across the United States. Data from the 2014 UCR and NIBRS indicates that when combining arrests for all offenses, boys/men offend (63%) at a rate two and a half times higher

than that of women and girls (25%). When comparing crimes against persons versus crimes against property women/girls account for 27% of the offender of crimes against persons and 25% of property crime arrests. When examining specifically violent crime women account for 13% of murders, 28% of assaults, and 5% of sex offenses.

Historically, female offenders have been at the margins of research on the criminal justice system. Prior to the late 1970's research on criminal offenders was unlikely to include girls or women (Belknap, 2014). The majority of studies looking at arrest, pre-trial, prosecution, and sentencing outcomes focused almost exclusively on the criminality of male offenders (Nagal and Johnson, 1994). These facts point to the reality that the majority of offenders, especially violent offenders, are male (Nagal and Johnson, 1994).

Schwartz, Steffensmeier, and Feldmeyer (2009) note that in contrast to men, women have lower arrest rates for almost all crimes with the exception of prostitution. Additionally, men are more likely to be arrested for a serious crime, while women tend to have the highest representation in minor crimes such as fraud, forgery, and theft (Schwartz, Steffensmeier, & Feldmeyer, 2009).

Cultural stereotypes and normative roles of women produce the notion that women are unable to commit such horrific acts. Bastia (2006) gives credit to the cultural norm that women are perceived as unequipped with the skills necessary for serious criminal activity that causes them to typically be seen as "passive bystanders" or "unknowing partners" (p.24). Trafficking, like any other social process, is shaped by gender relations (Bastia, 2006). As Bem (1993) argues, the institution of male power depends on the different and unequal gender roles assigned

to males and females through social structure. It should be recognized that the trafficking of women lies in the construction and reproduction of hegemonic masculinities, which are shaped through society and culture (Watson and Silkstone, 2006). Through such societal hegemonic and patriarchal views, men are capable of creating cultural perceptions of power and superiority over women, thus forming an image of women that they are incapable of such malicious acts (Connell, 1987).

Through society's traditional ideals of masculinity and femininity the impression is that men are rugged, mighty, and combative, contrary to women who are fragile and feeble (Popova, 2006). Such traditional ways of thought create and foster the notion that men are the offenders and women are the victims for violent offenses.

The judgment of the victim's or perpetrator's credibility by police and prosecutors influences the decisions whether to press charges and to prosecute or not. However, these judgments are often affected by gender stereotypes. Since police officers, prosecutors and judges rely to a large part on their personal experiences while making decisions, they naturally also rely on stereotypes for the assessment of a person's credibility and trustworthiness. These stereotypes vary, depending on the country, culture and individual (Nagel and Johnson, 1994).

The Human Trafficker Female Offender's Role

Recently the U.N. reported that 30% of convicted human traffickers worldwide are female, confirming that women play a greater role in trafficking than previously thought and at a higher percent than women who commit other crimes (United Nations, 2014). Such roles in human trafficking include the madam, the partner-in-crime, the authority figure, the grilla, the handler,

and the bottom bitch. The ‘madam’ is the leader of an organization and typically runs her business out of a brothel. The women in the ‘partners-in-crime’ category typically voluntarily team up with a male offender (spouse, boyfriend, or business partner). The category ‘authority figure’ generally includes a family member who has a senior position within the family (biological parents, foster parents, or older siblings). Another cited category of pimp established in the literature is expressed as a ‘girlilla pimp’. This is a female pimp who uses force to control their women. The most traditional form of female trafficker is the ‘handler’. The handler’s job is to recruit, harbor, groom, and transport victims. The final type of female trafficker is known commonly as the “bottom bitch”. This is the prostitute/victim who has been given additional responsibilities by the pimp. Such responsibilities include: earning the girls trust, teaching them how to take care of clients, showing them how to pose and post online ads, etc. They also discipline the girls when necessary. Typically, this person is one who fits one of three categories: “(a) the longest-serving sex worker, (b) the highest earner, or (c) the most trusted associate of the pimp with an inclination to protect the pimp or advance his objectives before care of self” (Kennedy, Klein, Bristowe, Cooper, & Yuille, 2007).

Theory

To look at the suspected gender bias in the criminal justice system in regards to human trafficking, the primary focus in this paper is chivalry theory. The chivalry theory, first proposed by Pollak in 1961, hypothesizes that gender discrimination within the criminal justice system exists. This theory predicts that men will be treated harsher than women for committing the same crime.

Farnsworth and Teske (1995) have established three additional sub hypotheses to the

chivalry theory: the typicality hypothesis, the selectivity hypothesis, and the differential discretion hypothesis. The typicality hypothesis purports that women are only treated with chivalry within in the criminal justice system if their charge is in line with the typical stereotype of the female offender. The selectivity hypothesis says that chivalrous actions can be found within less formal settings of the criminal justice system, for example, charge reductions.

Furthermore, type of offense has historically dictated how female offenders are treated within the criminal justice system (Chesney-Lind, 1987; Naffine, 1987; Steffensmeier, Kramer, & Streifel, 1993; Zingraff, & Thomson, 1984). Throughout the 1980s and 1990s there were conflicting studies published about how chivalrously women were treated within the criminal justice system (Chesney-Lind, 1987; Naffine, 1987; Steffensmeier, Kramer, & Streifel, 1993). In the 1980's researchers suggested that chivalry was given to women whose offenses were in line with typical gender norms (Chesney-Lind, 1987; Naffine, 1987). In contrast, Steffensmeier, Kramer, and Streifel (1993), found that women were treated more chivalrously for crimes that did not fall into the typical gender stereotypes. Because human trafficking is a violent offense and women are more likely to be viewed as victims than offenders, Steffensmeier et al. (1993) would strongly suggest that women defendants will be treated more leniently than men in the criminal justice system.

CHAPTER THREE: DATA AND METHODS

This study is exploratory in nature in large part due to the lack of basic data regarding human trafficking offenders in the United States. To rectify this situation, data collection for this study consisted of a search through the FBI website for press releases on human trafficking. This study utilizes data gathered from all of the press releases published by the FBI about human trafficking for the months of January-December in the year 2014 (n=147). As certain characteristics of the offender weren't always available in the press releases, additional data was sought through local articles found by a Google search on the offender. The completed data set contains 62 variables. The variables pertinent to this study are: type of trafficking, gender, race, age, conviction, sentence, and arrest. This study uses content analysis of the press releases regarding human trafficking the FBI produces to sort through other media releases to find common characteristics related to the trafficked victims, their traffickers, and criminal justice outcomes.

A content analysis as defined by Krippendorff (1980) is “A research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use” (p. 18). As Krippendorff points out, a content analysis is a scientific tool used to gain reliable, replicable, and valid data (Krippendorff, 1980). Content analysis allowed me to compile the quantitative data in a systematic way. I was able to code the press releases for the specific data needed to answer my research questions. This provided me with a way to quantify human trafficking and start to examine the question of who trafficks people and how involved women are in this process.

I began by compiling a folder of all the press releases the FBI produced on Human Trafficking in the year 2014. The information was compiled by going onto the FBI website and searching “human trafficking.” The search results included all press releases that mentioned human trafficking. Consequently, I obtained a list of all of the 2014 press releases regarding human trafficking available from the FBI web site. After going through all of the articles, I paired the articles that were about the same case. For example, one press release would give information of the crime and after the trial. There would then be an additional press release with the results of the trial. The data set is based around each offender listed in the press release, not the press release as a whole due to multiple offenders being discussed in each press release.

I chose to use press releases for many reasons. First, they provide the most information on human trafficking over the period of a year across the United States. Second, the press releases are the best way to observe the criminal justice process, perhaps the only way to examine which cases are getting prosecuted and ending in convictions. To obtain my data set, I have gone through the process of coding, which has allowed me to examine the data, code it and prepare a quantitative dataset for analysis.

CHAPTER FOUR: MEASURES AND ANALYSIS

Dependent Variable

Charges

The charge variable looks at what the offender was initially charged with when they were arrested. Charge is coded as (1) for a human trafficking offense, and (2) for offenses other than human trafficking.

Sentencing

The sentence variable identifies the length of sentence the offender received. Sentence was coded as the number of months the offender received in jail or left blank if missing. All offenders who were convicted of human trafficking were sentenced to jail time. Sentences ranged from 6 months to life in prison.

Independent Variable

Gender

Gender is coded (1) to represent women respondents and men are coded (0).

Conviction

The conviction variable identifies the offense for each offender who was convicted. Conviction is coded as (1) human trafficking, and (2) Other.

Control Variables

Age

The variable, age was coded by number of years.

Type of Trafficking

The variable type of trafficking is coded (1) for sex trafficking and (2) for labor trafficking.

Offender Status

The variable offender status is coded (1) for main offender and (2) for co-offender. The offender status was defined by who was listed as the main offender and who was listed as co-offenders.

The co-offenders were accomplices in the crime but did not orchestrate the crime.

Number of Victims

The number of victims variable is coded as the number of victims each press release listed for each offender.

Analytic Strategy

To understand the sample characteristics, descriptive statistics were conducted on all research variables split by offender gender (male vs. female). Means and standard deviations were examined for offender age, number of victims, and jail time. Frequencies and percentages were examined for trafficking type (sex vs. labor), offender status (main offender vs. co-offender), charge type (trafficking vs. not trafficking), and conviction (trafficking vs. conspiracy vs. other).

Bivariate relationships were examined using Pearson's correlation coefficient. Pearson's

correlation analysis determines both the strength and direction of the relationship between two variables. The magnitude of the relationship was interpreted based on the conventions put forth by Cohen (1992) in which a correlation of 0.10 represents a small effect, 0.30 represents a moderate effect, and 0.50 or greater represents a large effect. Correlation coefficients with a p value of less than .05 were assessed to be statistically significant.

The effect of offender age, gender, status, and number of victims on type of charge (trafficking vs. not trafficking) was examined using a binary logistic regression. A binary logistic regression is the appropriate analysis when the outcome variable is dichotomous. The overall model significance is determined by the chi-square test statistic; a p value of less than .05 is considered statistically significant. Nagelkerke R^2 is reported but cannot be interpreted as the proportion of variance explained. That is, it is not identical to the R^2 from OLS regression. If the overall model is significant, the individual predictors are examined and the odds ratio is used to interpret the relationship. Because charge was coded such that 0 = not trafficking and 1 = trafficking, an odds ratio of greater than 1.00 indicates the independent variable predicts an increased likelihood of being charged with a trafficking offense. An odds ratio of less than 1.00 indicates that the independent variable predicts a decreased likelihood of being charged with a trafficking offense.

To determine whether any of the research variables predicted sentence length, a multiple regression analysis was conducted. Offender gender, age, status, number of victims, and conviction were entered as predictors with jail time (sentence length) as the outcome variable. A multiple regression is the appropriate analysis to use when the outcome variable is continuous and there are multiple predictors of interest. The regression analysis uses the F statistic to assess

the overall predictive value of the model, as well as the relationship between a given predictor and the outcome variable while controlling for other predictors in the model. The significance of the model is concluded if the p value is less than .05; the R^2 statistic is used to determine the proportion of variance accounted for by all of the predictors in the model. In the case of a statistically significant model, the individual predictors are examined. The beta coefficient is used to understand the relationship between the predictor and the outcome, and is interpreted as the amount sentence length is expected to change for every unit increase on the predictor.

CHAPTER FIVE: RESULTS

The sample consisted of 219 offenders, with a majority of male offenders (161, 74%) and a minority of female offenders (58, 27%). Male offenders ranged in age from 20 to 70 ($M = 32.37$, $SD = 8.59$); female offenders ranged in age from 17 to 72 ($M = 31.39$, $SD = 13.43$). The average number of victims for male offenders was 1.76 ($SD = 1.40$), and the average number of victims for female offenders was 2.13 ($SD = 2.79$). Jail time for male offenders ranged from 10 months to life in prison, with an average jail time of 204.38 months ($SD = 166.95$). Jail time for female offenders ranged from 6 months to 384 months, with an average jail time of 81.56 months ($SD = 75.94$). These descriptive statistics are presented in Table 1.

Table 1 Descriptive Statistics for Continuous Variables by Gender

Variable	<i>Min</i>	<i>Max</i>	<i>M</i>	<i>SD</i>
<i>Male (n = 161)</i>				
Age	20	70	32.37	8.59
Number of Victims	1	12	1.76	1.40
Jail Time	10	800	204.38	166.95
<i>Female (n = 58)</i>				
Age	17	72	31.39	13.43
Number of Victims	1	20	2.13	2.79
Jail Time	6	384	81.56	75.94

Most trafficking types were classified as sex trafficking for males (98%) and females (93%). While most males were categorized as main offenders (83%), slightly more than half of females in the sample were classified as co-offenders (54%). In most cases, the offender was charged with a trafficking crime among both male (81%) and female (70%) offenders. The majority of offenders were convicted of sex trafficking (75%). Most offenders were convicted of

trafficking charges among male (79%) and female (63%) offenders. These descriptive statistics are presented in Table 2.

Table 2 Descriptive Statistics for Categorical Variables by Gender

Variable	Female Offender		Male Offender	
	<i>n</i>	%	<i>n</i>	%
Trafficking Type				
Sex	54	93	158	98
Labor	4	7	3	2
Offender Status				
Main offender	20	36	121	83
Co-offender	36	54	25	17
Charge				
Trafficking	38	70	118	81
Not Trafficking	16	30	27	19
Conviction				
Trafficking	34	63	115	79
Conspiracy	4	7	3	2
Other	16	30	27	19

Correlations were conducted among offender's age, gender, status, amount of jail time, and conviction. According to Cohen (1992), correlations can be classified into three strengths, including weak (i.e., $r \leq .10$), medium (i.e., $r \geq .30$), or strong (i.e., $r \geq .50$). Significant correlations with a small effect size (i.e., weak correlation) were assessed between charge and amount of victims ($r = -.157$), and charge and offender status ($r = -.170$). Correlations with medium strength were assessed between offender status and age ($r = -.200$), offender status and gender ($r = -.460$), amount of jail time and offender status ($r = -.380$), conviction and offender's gender ($r = -.240$), conviction and amount of jail time ($r = -.486$), charge and offender's age ($r = -.205$), amount of jail time and offender's gender ($r = .349$), conviction and offender status ($r = .367$), and charge and amount of jail time ($r = .364$). Only one correlation resulted in a large

effect size, or a strong correlation; this single strong correlation was assessed between charge and conviction ($r = -.850$). Significant negative correlations at the .05 level were assessed. The correlation matrix is presented in Table 3.

Table 3 Correlation Matrix for Variables

	Offender's Age	Offender's Gender	Amount of Victims	Offender Status	Amount of Jail Time	Conviction
Offender's Age	-					
Offender's Gender	.043	-				
Amount of Victims	.054	-.088	-			
Offender Status	-.200**	-.460**	-.021	-		
Amount of Jail Time	-.001	.349**	.132	-.380**	-	
Conviction	.115	-.240**	.102	.367**	-.486**	-
Charge	-.205**	.119	-.157*	-.170*	.364**	-.850**

Note. ** denotes significant correlations at the 0.01 level (2-tailed). * denotes significant correlations at the 0.05 level (2-tailed).

To determine the effects of offender age, gender, status, and number of victims on type of charge (trafficking vs. not trafficking) a binary logistic regression analysis was conducted. The overall model was not statistically significant, $\chi^2(4) = 8.79$, $p = .067$, Nagelkerke $R^2 = .08$. Because the model was not significant, the individual predictors were not examined. The results of the regression are presented in Table 4.

Table 4 Logistic Regression Results with Offender Age, Gender, Status, and Number of Victims Predicting Charge

Variable	B	SE	Wald	OR	p
Age	-0.04	.02	3.38	.96	.066
Gender (ref: Female)	0.01	.48	0.00	1.01	.978
Status (ref: Main Offender)	0.97	.49	3.92	2.63	.048
Number of Victims	-0.14	.10	3.92	0.87	.176

To determine the effect of offender age, gender, status, number of victims and conviction on amount of jail time, a multiple regression analysis was conducted. Gender was coded such that 0 = female, 1 = male. Status was coded such that 0 = main offender, 1 = co-offender. Conviction was coded such that 1 = trafficking, 2 = other.

The overall model was statistically significant, $F(5, 148) = 12.27, p < .001, R^2 = .27$. Examination of the individual predictors indicated that male offenders received longer sentences than female offenders, $B = 89.88, SE = 29.61, p = .003$. Co-offenders received less jail time than main offenders, $B = -65.26, SE = 30.47, p = .034$. Additionally, an increase in the number of victims predicted an increase in sentence length, $B = 15.90, SE = 5.56, p = .005$. Offenders convicted of non-trafficking offenses received shorter sentences than those convicted of trafficking offenses, $B = -131.75, SE = 27.90, p < .001$. The results of the regression analysis are presented in Table 5.

Table 5 Regression Results with Offender Age, Gender, Status, Number of Victims, and Conviction Predicting Sentence Length

Variable	<i>B</i>	SE	β	<i>t</i>	<i>p</i>
Gender	89.88	29.61	0.25	3.04	.003
Age	0.55	1.28	0.03	0.43	.666
Status	-65.26	30.47	-0.18	-2.14	.034
Amount of Victims	15.90	5.56	0.20	2.86	.005
Conviction	-131.75	27.90	-0.34	-4.72	.000

Model Summary: $F(5, 148) = 12.27, p < .001, R^2 = .27$

CHAPTER SIX: DISCUSSION

Sentencing inequality between men and women has been well documented over the last couple decades (Farnsworth & Teske, 1995; Belknap, 2014). The main intention of the study was to explore sentencing verdicts influenced by offender gender as proposed by the chivalry theory. Taken together, these results highlight some important patterns of relationships in determining who is likely to commit trafficking offenses, and the consequences associated with it. Correlational analyses revealed that main offenders are likely to be older, male, and have longer sentence lengths. Being male was also associated with longer sentence lengths and convictions for trafficking offenses. Those charged with trafficking offenses tended to be older, have more victims, and receive more jail time.

Despite the correlational evidence, there was no evidence that the research variables predicted an increased likelihood of being charged with a trafficking offense. When the variables were entered into a binary logistic regression model, the overall model was not statistically significant. Thus, offender age, gender, status, and number of victims do not collectively predict who is likely to be charged with these types of offenses.

There was strong evidence that these variables impact outcomes for offenders in the form of jail time. The multiple regression analysis indicated that the demographic variables (gender, age, status, number of victims, and conviction) collectively predicted the jail time an offender received. Main offenders received longer sentences than co-offenders, and for each additional victim, an offender was predicted to receive a longer sentence by about 16 months. Additionally, those convicted with trafficking offenses received longer sentences than those convicted of conspiracy or other offenses. Notably, males received significantly longer sentences than females

(by about 90 months) which supports the chivalry theory as defined by Pollack (1950). Though the correlational analysis pointed to some differences between male and female offenders (males were more likely to be main offenders and more likely to be convicted of trafficking), a multiple regression analysis assess the effect of a predictor variable while statistically controlling for the effect of the other variables in the model. Thus, males still receive longer sentences than females, even when holding constant the effect of offender status and conviction type.

Furthermore, these findings are similar to previous research, including results from a study conducted by Harrington and Spohn (2007), who note: "One of the more consistent findings of sentencing research is that females are treated more leniently than similarly situated male offenders ..." (p.39). Of the three sub hypotheses (typicality, selectivity, and differential discretion) to the chivalry theory as defined by Farnsworth and Teske (1995), none were specifically supported. However, the results support the general chivalry theory with men receiving significantly longer sentences when all other variables are considered. The current research on sentencing disparities between men and women especially in regards to human trafficking, highlights the need for future empirical investigation. Future research should consider whether not sentencing disparities are affected by the interaction of gender and an offender's role, for instance, women's lighter sentencing may be a reflection of their ambiguous status as both offender and prior victim of trafficking.

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