‘A VILE AND VIOLENT THING’: FEMALE TRAFFICKERS AND THE CRIMINAL JUSTICE RESPONSE

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This paper presents research that analysed data regarding offenders convicted for trafficking offences in the United Kingdom. The paper identifies three themes relating to women’s involvement in trafficking activity. First, women perform lower level roles in trafficking that render them more susceptible to detection. Second, previous experiences of victimization have often provided pathways into offending for these women. Third, convicted female traffickers are frequently involved in intimate relationships with male traffickers. A more responsive approach to female traffickers, it is argued, would acknowledge the role of previous victimization, show greater understanding of the power dynamics between co-defendants and would need to be supported by policy conversant of the intersections between economic and sexual exploitation, gender inequality and global inequalities.

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Human trafficking has been the subject of a narrow political debate in Europe, which has redefined the topic as synonymous with ‘trafficking of women’ (Siegel and de Blank 2010: 436). That victims of trafficking are cast through a gendered framework during interaction with official agencies and institutions at national borders has been ably documented in previous editions of this journal (Pickering and Ham 2014). Attention has also been paid to the prominence of a conception of ‘ideal victimhood’ through official anti-trafficking discourse. This discourse assumes that those who are truly victimized are innocent, naive and powerless women and children in need of rescue from ruthless and sadistic men operating organized crime networks (O’Connell Davidson 2006; Agustin 2008; Munro 2008; Hoyle et al. 2011; Pickering and Ham 2014; Sanchez 2014). However, the disproportionate representation of women convicted for trafficking offences throughout Europe (Kangaspunta 2014) suggests that there are a growing number of women being incarcerated for these offences, many of whom originate from poorer parts of Europe. The dominant discourse constitutes the wider political and policy context of responses to female traffickers in the criminal justice system. The consequent normative gendered judgments surrounding women’s participation in trafficking limit a comprehensive understanding of how women become involved in this activity and how to respond to them.

The most consistently used instrument defining trafficking is The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter referred to as ‘The Protocol’): a supplement to the U.N. Convention Against Transnational Organised Crime (2000). Although The Protocol applies to all instances of trafficking, its title and content prioritizes crimes against women and children; Article 9 of The Protocol expressly targets measures that ‘alleviate the factors that make persons, especially women and children, vulnerable to trafficking’. It has been argued that this, by

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default, constructs the parallel *UN Protocol Against the Smuggling of Migrants by Land, Sea and Air*, as more commonly involving men (Abramson 2003: 478–9). Trafficking offences in the United Kingdom are currently prosecuted under the *Sexual Offences Act 2003*, the *Immigration and Asylum Act 2004* and under *Section 71 Coroners and Justice Act 2009*. However, the recent *Modern Slavery Act 2015* has brought all legislation relevant to human trafficking under one act.

Trafficking in human beings is constructed through policy as a serious offence and as such attracts a maximum sentence of 14 years in the United Kingdom through the main pieces of legislation, which have been used to convict offenders: the *Sexual Offences Act 2003*, the *Immigration and Asylum Act 2004* and *Section 71 Coroners and Justice Act 2009*. In addition, following a sentence of imprisonment of 12 months or more, offenders are now subject to deportation under the *UK Borders Act 2007*. This will return offenders to their countries of origin and to whatever circumstances influenced their initial migration. Legislative provisions have been brought in to all countries that have opted in to *EU Directive 2011/36/EU* that states that ‘the gravity of the offence committed could be taken into account within the framework of the execution of the sentence’ and provides for minimum sentences of five years or ten years for offences with aggravating circumstances under Article 4. Similarly lengthy sentences have been adopted in other European Union (EU) states, e.g. Spain, a maximum of 15 years for sex trafficking; Germany, a maximum of 10 years for all forms of trafficking. This provides a consistent message regarding the seriousness of these offences and the severity of sentencing for those breaching these laws.

Consequently, much criminal justice policy constructs trafficking as an activity exclusively overseen by men who profit by enslaving vulnerable and naive women and children fleeing dire straits in countries where their human rights are poorly protected. However, trafficking often occurs in the complex processes of migration and decision making, which is restricted by the frameworks of immigration laws. By ignoring the wider contexts and markets through which global immigration operates, criminal justice policy produces over-simplistic frameworks for delivering justice. Within these frameworks, there is clear division between victims and perpetrators. The ‘ideal victim’ cannot be involved as a perpetrator too, and women can never be perpetrators, or only exceptionally if they are somehow aberrant as women. As Hoyle et al. argue:

> By creating ‘ideal types’ of trafficked women who are ‘stolen’ from their homes, or coerced into leaving, and imprisoned in brothels, the language of slavery oversimplifies our understanding of the range of causes and experiences of trafficking. (Hoyle et al. 2011: 314)

Consequently, little attention has been paid to women convicted of trafficking offences or the way in which the criminal justice system responds to them. As I show in the next section, however, the small number of official reports on traffickers suggests that some women are perpetrators. They also suggest that practitioners within the criminal justice system struggle to make sense of women’s involvement in trafficking offences. When they are considered in official reports, women convicted of trafficking offences tend to be cast as exceptionally ‘vile and violent’, as ‘stooges’ or as ‘doubly deviant’, drawing on the use of the original concept to refer to judgements of women who have transgressed not just the criminal law but also the fundamental norms of gender role behaviour (Lloyd 1995; Heidensohn 1996). Defining women in these narrow ways misses the complexities of the context within which their decisions are made.
Understanding responses to these experiences can illuminate the social context of perpetration and victimization of these offences because responses are socially embedded. This results in social responses towards victimization that can impact on the continuation or cessation of violence (Hydén et al. 2015). The development of responsive responses is prevented by a range of barriers (Gadd 2015). These include institutionalized practice and binary perceptions, which neglect to include perpetrators’ experiences of victimization and the wider inequalities that support pathways into trafficking. This article is concerned with how such constructions shape criminal justice responses to female traffickers and what a more responsive approach would be. It concludes by highlighting the need for professional responses to women offenders that are convergent of their pathways into trafficking and the harsh choices many of them have had to make.

The Dominant Narrative and Existing Evidence

Doezema (2000; 2005; 2013) highlights the longevity of a dominant discourse of sex trafficking in official and popular accounts of this crime. The dominant discourse of human trafficking presents a:

"paradigmatic image … of a young and naïve innocent lured or deceived into a life of lurid horror from which escape is nearly impossible. (Doezema 2000:24)"

Within this discourse, law enforcement intervention works to save ‘innocent’ but ‘ordinary girls’ from the ‘evil, deviant’ men who have entrapped and deceived them (Berman 2003). The ‘incompatible discursive regimes’ of humanitarianism and security are entwined within the context of human trafficking and particularly in relation to gender within this framework (Aradau 2004: 252). These discourses have redefined trafficking as a specific threat to women. However, whilst constructed as victims in need of support from states, trafficked women are also variously undocumented migrants and sex workers. This then simultaneously casts them as a cause of insecurity on the basis of the perceived threat, exposing the vulnerability of national borders to uncontrollable migration flows (Aradau 2004). When this happens discourses of security tend to outstrip humanitarianism, with what has been termed ‘crimmigration’ (see Stumpf 2006; Aas and Bosworth 2013), driving responses in which security and criminal justice define the issues. Such policy analyses aside, however, research has largely neglected the motivations and experiences of those who engage in trafficking or has otherwise sought to deduce motivation from victims’ reflections, leaving preconceptions about traffickers largely untested (see, e.g. Salt 2000; Goodey 2003; Surtees 2008; Sanchez 2014). This gap in understanding is particularly acute in relation to the role of women in trafficking offences (ATMG 2013; Sanchez 2014).

By contrast, the Dutch Rapporteur on human trafficking reported that a quarter of all convicted offenders during the period 1998–2002 were females (Dutch National Rapporteur 2005: 105). Female recruiters accounted for 40 per cent of foreign trafficked victims in Moldova and 60 per cent of trafficked victims in Macedonia (Surtees 2008: 42). As would be anticipated, the role of women in trafficking offences is reported to differ, with female traffickers being under pressure from male counterparts to recruit more women: as a route to freedom (escaping from trafficking victimization), as a requirement of sustained assistance or in order to avoid violence or abuse (Surtees 2008: 42).
Sanchez (2014) found that women’s involvement in the facilitation of illegal movement develops as a result of friendship and acquaintance networks, which is similar to men’s involvement, but specifically as a result of intimate relationships. In official reports, women are generally assumed to have performed specific roles in trafficking offences. They are described as participating to a greater extent in the recruitment of other women on the basis that it is easier for them than it is for men to develop trusting relationships with other vulnerable women and children (UNODC 2012). The sole mention of female traffickers in a 2006 Europol report focuses on Serbia and Montenegro, where male–female couples were identified as active in the recruitment process for the first time, and on Bosnia Herzegovina, where 57 per cent of recruiters were identified as women. The report makes no further comment on how and why women came to predominate in sex trafficking recruitment roles (Europol 2006).

Analysis of the IOM Counter-Trafficking Database (UNODC 2012) reported on the involvement of women in trafficking offences. The report highlights that trafficking is a crime with relatively high female involvement on the basis of convictions, compared with other types of crime (UNODC 2012: 28). Across Europe, the percentage of females convicted for trafficking offences is higher than other offences in every incidence, and therefore, ‘the role of female offenders appears prominent’ (Kangaspunta 2012: unpaginated). It is suggested that as women traffickers often perform ‘lower ranking’ roles, this places them in increased contact with victims and therefore in positions of greater exposure, making their identification and arrest more likely (Ingrascì 2007; UNODC 2012). But one could also argue that the apparent high level of involvement of women in trafficking is connected to the circumstances that entice them into low-level roles in the illicit trade and/or that male traffickers succeed more in avoiding those roles that risk bringing them into greater contact with law enforcement.

This, as research suggests, maybe particularly true when male and female traffickers in intimate relationships act as co-offenders (Europol 2006). Siegel and de Blank (2010) considered the country of origin, age, relationships with a male co-offender, violence and roles in the offence of women convicted for trafficking offences in The Netherlands. Through analysis of court files, they were able to divide the roles and tasks of female offenders into three types: ‘supporters, partners-in-crime and madams’ (Siegel and de Blank 2010: 440). The largest category was found to be that of the ‘supporters’. These were cases where the women were ‘subordinate to the leading female or male trafficker and either under threat or the ‘voluntarily’ executed order of the leader of other members of the human trafficking networks’ (Siegel and de Blank 2010: 440).

A Study of Individuals Convicted for Human Trafficking Offences in the United Kingdom

The research reported here is based on a range of data sources collected in the course of my doctoral study ‘Stuck in Traffic’ (Broad 2013). This included three qualitative data sets: (1) eleven interviews with police officers and prosecutors in 2010, who had worked extensively on human trafficking cases; (2) ten pre-sentence reports (PSRs) and (3) nine risk assessments using the Offender Assessment System (OASys) both referring to human trafficking cases. The quantitative data set comprised OASys scores regarding all offenders convicted for human trafficking offences between 2004 and 2008 in the United Kingdom (n = 71). The quantitative data set consisted of those convicted for
a range of human trafficking offences. This data set represented 71 cases: 48 (68 per cent) men and 23 (32 per cent) women. Bivariate analyses were performed where possible using gender as the independent variable. However, given the small total sample size, further break down of results within the OASys assessment sections (e.g. accommodation and lifestyle) was not possible.

The data were analysed using an interpretative policy framework that adopts an epistemology of questioning to expand the problem concept in policy theory (Turnbull 2006). This involved measuring the data against the interpretative policy framework. The approach shifts the focus of official policy discourses onto the way in which the problem is set; ‘policy-making is inquiry in two senses: it sets the problem by giving it form and seeks the best solution to that problem’ (Turnbull 2006: 7). Therefore, the way in which the problem is initially defined is key to subsequent policy development. This is particularly the case with complex areas where policy is questioned as soon as it is produced (Turnbull 2006); this is certainly the case with The Protocol, which was not only questioned after its formation but during the formation process (e.g. see Doezema 2005).

Each data set was analysed using thematic analysis (Braun and Clarke 2006) within a framework of grounded theory. This served a dual purpose of extracting theory from concepts and highlighting the process of coding and concept creation (Bryman and Burgess 1994). The quantitative data were ‘described’ using the same grounded theory analytic framework as the qualitative data. All data were understood through the policy framework and through the application of legislation. The mixed methods approach adopted in this research integrated the data in the phase of analysis (Moran-Ellis et al. 2006). Once the phase of data collection was complete, the data were conceptually positioned alongside, and each data source was analysed in order to identify key themes (Moran-Ellis et al. 2006). The themes identified within each data type were followed, and this cross-referencing was used to create a theme-map with the aim of interlinking the findings as they emerged from each data set. The strengths of this approach allow ‘an inductive lead to the analysis, preserving the value of the open, exploratory, qualitative inquiry but incorporating the focus and specificity of the quantitative data’ (Moran-Ellis et al. 2006: 54).

The terms ‘trafficking’ and ‘trafficker’ were problematized throughout the research. The shape of the networks and the multiplicity of roles performed by the actors in these offences indicated informality, opportunism and a lack of organization. The term ‘trafficker’ is used by criminal justice practitioners as a blanket description for all individuals involved in the activity, regardless of their role and some of whom form part of the migratory network of the victims. Therefore, the trafficker/victim dichotomy is less useful than an approach that includes migration experiences within the context of pathways into both law breaking and victimization. The dominant discourse described above projects a default set of images onto the perpetrators and victims of these offences through sex work narratives and the process of ‘bureaucratic ownership’ of policy in

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1 The offences convicted within the sample were trafficking for sexual exploitation under the Sexual Offences Act 2003 and trafficking for prostitution and trafficking within the United Kingdom for the purposes of exploitation under the Asylum and Immigration Act 2004. The data set did not include any additional offences, and so it is not known whether there were additional convictions for other offences under these acts. However, an article regarding convictions under these offences details similar figures (Gilbert and Moore 2010), suggesting that there were not convictions for other offences during this time.
this area (Levi 2009). ‘Bureaucratic ownership’ refers to the reinforcement of trafficking policy narratives through a small number of bureaucratic institutions that advise on policy in limited terms and perpetuate a dominant construction (Spencer and Broad 2012). The thematic analysis exposed the centrality of discourses that define the convicted ‘trafficker’ as villainous: discourses that are nevertheless disrupted by evidence of inequality, victimization and domination, which are hard to reconcile with a security framing of the issues.

As I show below, the analyses of both data sets revealed three recurring features in the cases of women convicted of trafficking offences. The first is that women perform specific, lower level roles in trafficking, such as ‘minding’ or transporting victims. These frequently involved more contact with the victim, which therefore increased the likelihood of their identification as offenders. Second, experiences of exploitation form the basis of some women’s involvement in the trafficking activity. This necessitates a greater understanding of how women respond to previous victimization and exploitation when the pressures to cooperate with the trade are acute. Such previous histories are rarely fully understood within criminal justice systems that remain focused on isolated incidents of law violation, as opposed to the complex network of relations through which trafficking is enacted. Third, where a female trafficker has an intimate relationship with a male trafficker, this often facilitates their pathways into offending further evidencing the need to understand these pathways.

Roles Performed by Women

The mean age at which the 71 offenders in this study were first convicted was 29. The overall range was 16–56. There was not a significant difference between the median ages of male and female offenders in this study, this being 29 for males and 30 for females. Indications regarding age suggest that these offenders may not be engaging with this type of crime until their late twenties/early thirties, which is a comparatively late age of onset (e.g. see Farrington 1986). As other commentators have noted the onset of offending typically begins later in the life course for offenders involved in ‘organized’ crime (Kleemans and de Poot 2008).

Over half of those convicted for human trafficking offences were convicted for the offence of arranging or facilitating the arrival of a person to the United Kingdom for sexual exploitation. A total of 97.2 per cent (n = 69) were convicted for offences relating to sexual exploitation; there were only two convictions during the relevant period for the offences of trafficking for exploitation, rather than sexual exploitation. The pattern of offending between men and women did not vary greatly depending on type of offence although fewer female offenders were convicted for the trafficking for sexual exploitation offence. Conversely, proportionately more female offenders were convicted for the arranging offences, indicating that they were involved in the offence in a more peripheral way.

Analysis of the PSRs also suggested that women were frequently represented as participating in lower level trafficking offending activities. Probation officers in PSRs and interviews with police officers described female offenders as performing a ‘transportation role’ where they drove the victims to and from their accommodation and to premises where they were prostituted.
She’d been there but not been part of it very much … there was no doubt she’d been aware of what was going on, she gave her a lift to one of the houses. (Female Police Officer 1)

However, one interviewee, a prosecutor, stressed that female traffickers were no less callous than their male counterparts.

There are women who are convicted for trafficking … It’s such a vile and violent thing but there are women and the women can be quite cruel certainly when we’re dealing with trafficking for sexual exploitation you know because then we’re also looking at offences of controlling for prostitution which is not a nice thing for a person. I don’t see the women taking a lesser role. (Female Crown Prosecutor 3)

All interviewees, regardless of occupation and gender, tended to focus specifically on gender when they commented on female traffickers, while the gender of male traffickers often went unremarked. There was a moral element to such comments that signalled the ‘unnatural’ presence of women in this type of offence. The juxtaposition of the ‘vile, violent’ and sexual nature of the offence and observations about women’s involvement illustrates the conceptual difficulty for professionals presented with female traffickers. The construction of women in the criminal justice system as doubly deviant has been well established (Lloyd 1995; Heidensohn 1996). In the context of this research, the judgement of deviance was amplified by both gender and involvement in a sexually exploitative offence, transgressing both the law and gender expectations. This deviance was sometimes explained by prosecutors as a response to previous victimization, but this pathway was not necessarily taken account of in the prosecution process. As discussed above, becoming involved as a perpetrator affords greater prominence to the security discourse, negating or neglecting any experiences of victimization (Aradau 2004).

In my experience, the women traffickers have had similar roles to the men, which is interesting, but they may also have been victims. (Female Crown Prosecutor 4)

Being a female relative of the victim added another layer to such moral judgements. Police officers raised specific issues relating to the role of female relatives.

… most of the girls don’t have any family and if they’re being exploited by their families then they’ve got nowhere to turn, you know, often you’ll hear about an uncle, a cousin, whatever, who’s got his relative into it or even sometimes a mother, which is just unthinkable, you know, sending them over and then turning a blind eye but you think, you knew what was happening (Male Police Officer 5)

There was some problem with that because we always thought that maybe the Mum knew about it because there was some evidence that some of the money had been sent back to her, some of the money that [defendant] had made but she was adamant that she’d been lied to and told that [victim] would be fine and she always trusted her brother and I think there was a problem with the financial investigation or it was inadmissible I can’t remember anyway we never got to the bottom of that which was a shame because you just can’t imagine, well you can’t imagine doing that to anyone but to your daughter. (Female Police Officer 1)

The qualifiers used, e.g. ‘which is unthinkable’, highlighted the problem for professionals of reconciling female involvement in trafficking within a framing that is defined in terms of the exploitation of vulnerable women by ruthless men. Women who commit such crimes were thus doubly deviant, vile female traffickers who must never have known a loving mother. Alternatively, they were driven to destruction, broken by their families or exploited by a callous male relative.
Sometimes criminal justice workers cited cases in which women appeared to recover or resolve their involvement as a female trafficker by assisting those they had exploited. In this case, two of the traffickers, one male and one female, were involved in a relationship. The victim stated that the female perpetrator had left the door open on purpose in order that she could escape, and then left the room. This caring behaviour is more easily aligned with gender norms.

they had been keeping her in this room, locked and the windows had been you know wiped over so that she couldn’t see out or in, no one could see in but yes so [female defendant] had said that she’d been pushed over or something but [victim] said that wasn’t what happened and that she sort of helped her. (Male Police Officer 5)

… I put this to her in interview but she wasn’t having it. She denied it and, so, it could have helped you know … I thought that there was some dv between her and her boyfriend who was one of the others who had been arrested but she wouldn’t talk about that either. (Male Police Officer 5)

This description explained the female trafficker’s role in the offence by virtue of her male co-defendant and partner controlling her participation. In addition, her involvement is framed through her empathy and assistance afforded to the victim, although she did not ‘help herself’ by acknowledging her victimhood. These roles also result in the female trafficker spending more time with the victim than their co-defendants. This thereby increases the likelihood of their identification through the ability of the victim to provide greater detail of their participation in the offence.

Previous Victimization

Criminal justice professionals often remarked that previous victimization was a key pathway into trafficking for women. One case described by a police officer involved a former victim who

… was, they were a couple, she’d used to work for him but they got together and she was sort of promoted to looking after the place when he wasn’t there and didn’t have to, have to have sex with clients anymore. She said that he was violent with her and she’d known [name—victim] was there against her will but she’d been too afraid to do anything about it, afraid of [name—p1]. I don’t know whether that was the case or not but that was her story. (Male Police Officer 4)

This case illustrates the operation of two themes emerging from this research: previous victimization and a relationship between male and female traffickers, discussed further below. The use of the word promoted was indicative of the power relations between the male and female trafficker, with the latter assumed to be in subordinate roles.

The status of traffickers as former victims was discussed by prosecutors and was acknowledged as difficult to manage within the constraints of the legal processes in the United Kingdom.

As time goes on, some of the women turn and they actually become like a trusted person and they become almost a trafficker themselves … It’s difficult to work out in some of these cases as, if they are traffickers then they’ve got there through being victims. (Male Crown Prosecutor 3)

Therefore, in the decision to put that person before the courts, it was necessary to assess their level of criminality and to consider whether it was in the public interest to prosecute. Professionals acknowledged that it was difficult to judge the intricacies of
victim-based coercion and active involvement in the offence. Responding effectively to these cases where women have vacillated between victimization and perpetration illustrates the difficulties of a strict offender/victim dichotomy. In addition, acknowledging women’s agency in their initial involvement in the sex industry then appears to impact on their subsequent treatment.

… there are times when you can tell and think to yourself, it’s not really fair to prosecute these people and I think these women, the ones that turn can be quite difficult, how far are they exercising their free will and it’s very much like those people in the concentration camps, who start ingratiating themselves with the SS and get into positions and really start to help them, I mean, how culpable are they? It’s a very difficult situation. I think it’s the sort of thing you’ve got to think about and look at every case and think about what happened to the women and how was she treated and what did she do. I mean, we had one woman who kept going to Lithuania and recruiting people and kept bringing them back and she overstepped the line and she could have stopped doing it or she could have taken the opportunity to go and get help but I think if it’s a question of a woman who is living in the house with the women who becomes like an older sister type role but is helping to control them, it’s not quite so obvious. (Female Crown Prosecutor 1)

This conveys the myriad of moral judgements about women’s involvement in trafficking, their agency in entering the sex industry and the extent to which their previous victimization can be used as a justification for their offending. It appears here that there is an acceptable level of offending behaviour that can be responded to as a result of victimization. But there is also a ‘line’ that can be crossed by these women, after which the criminal justice system cannot deal with their behaviour as a response to victimization. The nature of that ‘line’ is open to interpretation and discussed further below but is undoubtedly informed by the dominant narrative of human trafficking through which female traffickers are constructed as aberrant and unnatural.

Another prosecutor suggested that female traffickers ‘have worked as prostitutes, they have sometimes been trafficked themselves’. The decision to prosecute will be made on the basis of whether it is in the public interest and depending on what they have done:

Women have been just as involved and have known what they were doing and it might be a way out or a desperate choice but they do know what they were doing. (Female Crown Prosecutor 4)

These interviews raise the issue of transgressing the line between victim and perpetrator. Despite knowledge of their involvement as victims of trafficking, the legal and moral frameworks lead them to be treated and punished as offenders who made a free choice.

Female and Male Traffickers in Intimate Relationships

Trafficking, however, is not an offence that can be committed alone and most women involved in it do offend with someone they are close to. Seventy-four per cent (n = 52) within the quantitative sample of cases studied offended with their intimate partner in the commission of the current offence. The quantitative assessments identified 42 per cent of offenders as having a ‘criminogenic’ need in this section, implying that the

2 ‘Criminogenic needs’ refers to dynamic risk factors that are linked to criminal behaviour and are used as the basis for many approaches to offender supervision including that in the UK Offender Assessment System (OASys) (see, e.g. Hollin and Palmer 2006; Bonta and Andrews 2007).
status and nature of their relationship was a risk factor related to their offending. The high incidence of offending with an intimate partner links to the narratives emerging from the interviews regarding women’s roles in trafficking. Whilst this also intersects with the power dynamics within these relationships, the focus on intimate relationships emerged from the data as a theme in its own right.

Analysis of PSRs for men and women convicted for trafficking offences indicated that there were key differences in the way in which responsibility was attributed to the female offenders compared with male offenders, which was frequently linked to their intimate relationship. Where men presented accounts that differed from the other material, PSR writers stated that they were unable to corroborate the accounts with reference to other evidence. One PSR stated that the explanation of the man’s involvement was ‘far-fetched’ (PSR9) whilst another introduced the man’s account, ‘somewhat unbelievably’ (PSR4). All PSRs regarding male offenders indicated that the offender was failing to take full responsibility for the offence. PSRs relating to female offenders, by contrast, described the women as naive and that their involvement in the offence as lesser than male co-defendants and/or due to their intimate involvement with their male co-defendant. In one PSR, the writer had repeatedly suggested that the convicted woman became involved in trafficking as a result of indirect threats due to the nature of the violence and threats towards the victim. This suggestion was not accepted by the offender, which was interpreted by the PSR writer as evidence of the controlling nature of the relationship between these co-defendants.

The tendency to account for the females’ participation in the activity on the basis of an intimate relationship was represented across the qualitative data. The interviewees outlined cases in which the female perpetrator had been in a relationship with the male perpetrator, and the relationship was presented as an additional explanatory factor for the women’s involvement. In one case, the involvement of the female partner was added, almost as an afterthought.

We came in early one day and locked him up and at the same time attended the parlour and took the girl out of there. His girlfriend was there sort of caretaking the place and she was locked up too (Male Police Officer 4).

Another woman had been

... giving the victim lifts, so she could have sex with blokes and then she would take the girl back and hand the money over. (Female Police Officer 1)

Here, the participation in the activity was to a less central, and the female was not described as having made money from the offence, giving all the proceeds to her partner.

The influence of intimate partners on women’s offending was also apparent in narratives of women’s migration accounts in the PSRs and different from the narratives in the PSRs of male convicted traffickers. Accounts of female migration were integrated with employment-based migration journeys of their intimate partners, highlighting their dependency and lack of agency in decision making. Migration accounts pertaining to male offenders did not allude to the female partners in the same way.

Within the theme of co-offending in intimate relationships, the operation of power and control through domestic abuse was also prominent. Almost half of the female traffickers (n = 11) were categorized in the quantitative data as victims of domestic
abuse in their relationships. This theme was reflected across the qualitative data, e.g. ‘there may have been consequences for the defendant if she hadn’t followed instructions’ (7) and ‘power and control played a part in her participation in the offence’ (9). Both of these cases suggested the presence of abuse between the female and male co-defendants where the women were acting under pressure from the male offenders. In the former case, vague cultural issues were evoked (although it is not clear whether they were fully understood) and highlighted as an explanation for gender inequality within the offence though not fully explained:

... clearly the men were the leaders and the women defendants were expected to follow. There were cultural and ethnic issues at play ... She is expected to follow her partner’s instructions (7).

Potential experience of victimization with a co-defendant created further questions within the processes of prosecution, particularly regarding the extent to which they were coerced into their participation in the activity. One female perpetrator:

... claimed that the male trafficker was violent towards her, she’s been there against her will but had been too scared to do anything about it but there was no evidence to prove this. (Male Crown Prosecutor 3)

This again illustrated the difficulty of defining the status of women in these situations within the dominant policy discourse of wicked male traffickers and innocent female victims. It also illustrates the real difficulty women accused of such offences have with regards to giving evidence against intimate partners who have been abusive to them, but whom they have nevertheless been dependent upon and complicit with.

Discussion

In light of the research presented here, this discussion is focused on two issues: (1) the limits of recent political and policy responses to the problem of trafficking and (2) what might constitute a more responsive response to women as perpetrators of trafficking given their pathways into this form of offending. Within the policy discourse of addressing violence against women, responses to trafficking are located within the ‘twin track’ of bringing perpetrators to justice and developing services to protect ‘vulnerable’ victims (Gadd et al. 2014). Such responses are often presented as a straightforward attempt to rescue the innocent from the menacing, without full acknowledgement of the ways in which many become implicated at the intersections between economic and sexual exploitation and gender inequality, particularly within the context of global inequalities underpinning the movement of people. These issues are exacerbated by the complicating dual discourses of security and humanitarianism, as discussed above (Aradau 2004).

Consequently, female traffickers fall foul of a range of normative gendered judgments in criminal justice. Cast primarily as victims in anti-trafficking policy, understandings of how women become involved with trafficking, the roles they perform and how the criminal justice system can effectively respond to them are exceptionally limited. The findings reported above suggest that women’s relationships and previous victimization are significant in their pathways into this offending. The combined effect of interpersonal power dynamics and broader socio-economic inequality amplifies the dynamics of the stigma associated with double deviance within criminal justice settings. This
double deviance was apparent as a two-staged judgement where women were perceived to have transgressed not only just the criminal law but also the fundamental norms of gender role behaviour through involvement in an activity that only the most brutal of men would contemplate. Although female traffickers’ experiences of victimization were acknowledged by criminal justice professionals, they became secondary to the discourses of perpetration and deviance in their commentary on such cases. In responding to the offence for which female traffickers were deemed guilty, the criminal justice processes typically neglect wider issues of migration, exploitation and restrictive frameworks of decision making, which impact on the pathways into this form of offending.

Responding to perpetrators

As outlined in the introduction to this special issue, responsive responses include being willing to see perpetrators’ pain, however bad their deeds (Gadd 2015). The findings presented here suggest that the activities of female traffickers are often shaped by the pressures of multiple and acute oppression in their lives. These findings indicate that stereotypes contained within the dominant paradigm of the ‘dark, haunting criminals’ (Berman 2004: 41) discussed in the literature are not always consistent with those people primarily convicted for these offences. Responses to female traffickers need to acknowledge their involvement in the context of their migration, as well as their experiences in intimate relationships and the opportunities for them to expand their economic choices. While men’s involvement in trafficking was often construed as an adjunct to migration, women’s involvement in trafficking was not. Instead criminal justice officials tended to attribute it primarily to their intimate relationship or otherwise be puzzled as to how they, as women, could be so callous. Responses to female perpetrators have been viewed as part of a broader context of the criminalization of migrant women (Hales and Gelsthorpe 2012). The harsh sentencing frameworks and prospects of deportation, as discussed above, compound these offenders’ original vulnerabilities and limit future opportunities.

Given the dominant security narrative, it is not surprising that criminal justice professionals ask ‘why are these women here?’ If professionals are unable to understand these women, then they will not be able to be responsive, especially if many key aspects of their pathways into the offence are absent from the framework. Despite attempts to increase prosecutions, there remain relatively few cases, and therefore, it is difficult for professionals to develop the necessary expertise and experience. Furthermore, there is a lack of information, from the women themselves by virtue of the pressures and dynamics explored here.

In such circumstances, it is difficult to feel confident that women involved in trafficking are treated justly, let alone responsively, within the criminal justice system. Sentencing guidelines state that prosecutors should be aware of the obligations imposed to consider whether not to prosecute where the suspect has been compelled to commit a criminal offence as a direct consequence of being trafficked (CPS 2014). These obligations stem from Article 26 of the Council of Europe Anti-Trafficking Convention, which provides states with the possibility of not imposing penalties on victims of trafficking for their unlawful behaviour to the extent that they have been compelled to do so, and Article 8 of the EU Anti-Trafficking Directive, which entitles authorities not to prosecute or impose penalties on such victims where they have been compelled to
commit a crime. It is necessary to prove that the suspect acted under duress or if not sufficient to prove duress, that they were compelled to commit the offence. In such cases, it would generally not be in the public interest to continue, depending on the gravity of the offence. The obligations have been interpreted to mean that there is no blanket immunity from prosecution afforded to trafficked victims (LM and Ors v R 2010). This has led the legal profession to maintain that “a victim of trafficking has a right not to be prosecuted for an offence committed as a direct consequence of the trafficking” (Carter 2014: unpaginated).

It is important to note that this is not an issue specifically for female traffickers; male traffickers should be equally protected by Article 26 and Article 8 outlined above. However, the conflicting themes within the dominant trafficking narrative and the gendered operation of the policy combine to have greater impact on women. That is not to underestimate the impact that the migration journey and unequal access to opportunity may have on male traffickers. There remain significant questions regarding the intersectionality of gender and migration status on pathways into and out of trafficking victimization and perpetration that criminology has only a vague understanding to date. Enhancing this understanding is key to developing more effective responses to women whose experiences intersect in these areas.

The findings suggest that from the perspective of many prosecutors, there is a point at which victim status ends and the status as an offender becomes most salient. This was variously described as ‘turning’ or ‘crossing the line’ as above. Although this highlights the role of victimhood in the offending pathways of female traffickers, these experiences are ultimately denied in the criminal justice response. In addition, the same mechanisms may operate for the male perpetrators, but the impact of these experiences was not explored in their narratives. Males are more naturally constructed as offenders, and therefore, there is no tendency to dwell on their engagement with trafficking. The operation of this within the criminal justice processes is also problematic, as interviews suggested, for example

The whole UK criminal justice system is built on the idea that the first response is the truthful response and if you don’t deal with your first response as the truthful response then you’re in danger of being charged and prosecuted. The whole of the legal system is geared up to deal with your first explanation being the truthful explanation which is problematic for trafficking victims and traffickers. (Female Crown Prosecutor 1)

The inability to locate involvement in the trafficking offence in the migration or victimization narrative results in an initial allocation to a group, perpetrator or victim. This is difficult to change retrospectively as it will impact on the perceptions of the whole statement and the presumption of innocence or guilt. Professionals dealing with these cases highlighted the problems in relation to dealing with those who blurred the lines between victim and offender both explicitly and in the content of their comments.

This illustrated the practicalities of prosecutors working to address the gap between victims’ lived experiences and the ideal constructs of sexually exploited women, particularly in instances where they have gone on to violate the law. In terms of a responsive response, dealing with these women’s lived realities must take place without the judgements of deviancy apparent in the dominant narrative.

Narrow responses to victimization limit states’ ability to recognize the full impact of victimization (Stanley 2015). Responses to those who have experienced trafficking
victimization often rely on the ‘rescue’ paradigm and the tough on perpetrators rhetoric. Recognizing agency within the former or victimization within the latter is problematic within the dominant dichotomies and conflicts with the priority responses. Transgressing the victim stereotype created through the dominant construction by offending shifts the response from that of support to that of punishment. Berman (2004) has argued that the criminalization based on dominant constructions presented in the media has become prominent in national and international trafficking policy and instead proposes

An alternative frame for considering many cases of trafficking in women as migration projects or attempts by women to harness trafficking networks in order to move and work ... abroad in pursuit of some individual proposition they have set for themselves. (Berman 2004: 43)

This perspective affords women more agency within a migration frame. Whilst not suggesting that those victimized are responsible for their exploitation, this perspective allows a critical questioning of the ‘incessant portrayal of these women as naïve, duped and forced into a life of iniquity’ (Berman 2004: 49). This framework would also permit a response, which enables an understanding of decision-making processes within the constraints and opportunities of migration. Agustin (2008) stresses that granting agency to these women ‘does not mean denying structural conditions, nor does it make them over-responsible for their fate, but it does consider their own perceptions and desires to be crucial’ (Agustin 2008: 41). Similarly, the dominant security narrative suggests a default relationship between the victim and the traffickers, which in reality is likely to be more complex and based on a process of negotiation. Responses must therefore move towards a deeper consideration of the background of the trafficker and how they engage with the process.

Wider responses to trafficking networks

Official policy documents and law enforcement responses have constructed trafficking as a problem of transnational organized crime. The Protocol, whilst developing more recognition for the protection of trafficked victims, does so ‘while conjuring up the “monster” of organized crime’ (Goodey 2003: 419), which reflects the preoccupation with illegal immigration and the security threat of organized crime (O’Connell Davidson 2006). One of the key findings of this research is the gap between this discourse and the resultant group of convicted traffickers. The over-representation of women with apparently low key roles in the activity does little to disrupt the criminal networks underpinning trafficking. Removing those at the ‘bottom’ of the networks creates a space that will be filled by another young woman, perpetuating the operation of the trade and the further recruitment of women into these roles.

Criminal justice responses are founded in the context of these normative assumptions. Law enforcement strategy and the consequent criminal justice responses take place within the ‘competing paradigms of masculine law enforcement and feminine “rescue”’ (Pickering and Ham 2014). Responding to a ‘woman in trouble’ in relation to previous victimization is different from responding to a predatory, calculating ‘female criminal’; it is the latter that has increasingly become the women of policy discourse (Snider 2008). The wider context of the sex industry and global migration also amplify the gendered distinctions arising from this research. Despite the legislation aiming to
ensure that offences committed in relation to trafficking victimization are not prosecuted, the practical interpretation is less straightforward. The criminal justice system is focussed on individual guilt for very specific acts. However, this makes it difficult to respond in a way that considers a lifetime of exploitation to which complicity can be a reaction.

The representation of female traffickers in the data is a paradox within the dominant construction. On the one hand, the stereotypical offender targeted through official accounts is constructed as a predatory male with organized crime connections. On the other hand, the application of the legislation has resulted in females representing over a third of convictions, some of whom are prior trafficked victims. Convictions for trafficking offences also take place with a framework of severe sentencing, as outlined above. Managing women within this framework is difficult conceptually and practically. There are a number of explanations for this, explored here including the roles that women take and their consequent contact with victims. A consideration of the roles that women take with their co-defendants suggests that they are disposal and replaceable. Incarcerating these women will not disrupt the activities of organized crime. Responding to these women purely on the basis of their offending leads to a failure to locate their experiences in the wider frameworks of migration and oppression.

Conclusion

Research on trafficking is keen to give a ‘voice’ to those not represented, which accounts for the focus on victims and gives rise to the themes on which policy in this area is based. However, the research that underpins policy in this area omits traffickers and particularly female traffickers. In order to understand more about the process referred to as trafficking and the victimization experienced therein, it is crucial to understand all aspects of the issue, including those who are held responsible for it. This exploratory research begins to locate female perpetrators in this framework. In analysing the features of those convicted for these offences, this article has exposed a lack of coherence between the policy emphasis and the policy results as a consequence of processing these cases through the criminal justice system.

Examining pathways into trafficking, for men and women, will enable the inclusion of further relevant characteristics, which have been identified here including the migration journey and access to real economic choice. By adopting a wider lens, the links between this activity and markets for sex can be viewed through opportunities within a market that allow for exploitation for this group. Where highly exploitative labour markets exist, people will manipulate gaps within these labour markets for exploitation and material gain. Developing an awareness of the pathways into this type of criminality is important in understanding the nexus between the illegal movement of people across borders and the structures that control access to employment and income.

As practitioners begin to tackle this activity under provision of the new Modern Slavery Act, it is important that the gendered assumptions within existing policy are highlighted and critiqued. The dichotomous categories of victim and traffickers are ineffective at capturing the complexity of experiences of those people, particularly women, prosecuted for this activity. Despite legal developments aimed at protecting trafficked victims from prosecution, detailed above, there continues to be an over-representation of women in convictions for these offences in a cycle of victimization leading to
prosecution. Knowledge and understanding of this activity has improved, and there is a more robust context for policy making than two decades ago. However, there remains a lack of understanding of offending pathways into trafficking. Mechanisms of victim support are crucial to provide assistance to those in need. But approaching this problem from the perspective of those making the decision to exploit others can illuminate different ways of understanding and responding to these ‘vile and violent’ acts. A more responsive approach to trafficking would take seriously the pre-histories of offenders who commit these offenders, taking into account their migration journeys, the nature of their intimate relationships and their multiple experiences of exploitation.

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