

This is an ACCEPTED VERSION of the following published document:

Rodríguez-López, S. (2022). Getting to Know Women Convicted of Human Trafficking in Spain: Personal Profiles and Involvement in Crime. *Women & Criminal Justice*, 32(3), 242–256.
<https://doi.org/10.1080/08974454.2020.1835791>

Link to published version: <https://doi.org/10.1080/08974454.2020.1835791>

TITLE PAGE

Title: Getting to Know Women Convicted of Human Trafficking in Spain: Personal Profiles and Involvement in Crime

Abstract:

This paper contributes to existing global knowledge on female traffickers by providing data about 43 women punished for human trafficking in Spain between 2015 and 2018. Several factors related to the women's profiles, methods and roles performed in the criminal enterprise are analysed, based on information obtained from 39 court judgments. The results highlight the similarity between victims' and perpetrators' personal circumstances, and show that women's involvement in trafficking can vary substantially, illustrating the complex dynamics behind this crime. Overall, the paper underlines the need to develop gender-appropriate policies to prevent human trafficking and guarantee proportionality in criminal justice responses.

Keywords:

Human trafficking; sexual exploitation; female traffickers; feminist criminology

Final Word Count (including references): 8279

Author details

Full name: Silvia Rodríguez-López

Affiliation: University of A Coruna (Spain), Department of Criminal Law

ORCID: <https://orcid.org/0000-0003-1542-0182>

Contact details:

Faculty of Law, Campus de Elvina, s/n

15071, A Coruna (Spain)

Tel. (+34) 981 167000 Ext. 1609

Fax. (+34) 981 167175

Email: s.rodriquezl@udc.es; srl90@hotmail.com

Funding details:

This work was supported by the Spanish Ministry of Education under Grant FPU15/02242; and the Regional Government of Galicia under Grant XUNTAC19-GR.COMPETITIVAED431C2019/18.

Getting to Know Women Convicted of Human Trafficking in Spain: Personal Profiles and Involvement in Crime

Abstract

Human trafficking has stereotypically been depicted as a crime committed exclusively by violent men, operating in organised criminal groups, who enslave vulnerable and naïve women. Although this construction serves to explain some cases, the rates of women convicted of trafficking in the world are remarkably high and deserve closer attention. This paper contributes to existing global knowledge on female traffickers by providing empirical data about 43 women punished for human trafficking in Spain between 2015 and 2018. To do so, several factors related to the women's profiles, methods and roles performed in the criminal enterprise are analysed, based on information obtained from 39 court judgments. The results highlight the similarity between victims' and perpetrators' personal circumstances, and show that women's involvement in trafficking networks can vary substantially, illustrating the complex dynamics behind human trafficking. Overall, the paper draws attention to the need to develop gender-appropriate policies to prevent human trafficking and guarantee proportionality in criminal justice responses to female traffickers.

Keywords

Human trafficking; sexual exploitation; female traffickers; feminist criminology

1. Introduction. Ideal Victims and Evil Perpetrators

Social perceptions and criminal justice policies concerning human trafficking have historically been influenced by stereotypical misconceptions about masculinity and femininity (Berman, 2003; Lobasz, 2009; Baker, 2013; Jones, 2014; Burman and Gelsthorpe, 2017). Trafficking discourses have often rested upon gendered prejudices, according to which men are migrant workers who actively decide to leave their countries, while women want to passively stay at home, unless they are kidnapped or tricked into migrating by men (Lobasz, 2009). According to this oversimplified construction, human trafficking constitutes an activity committed almost exclusively by strong and very violent men, completely unknown to the victim, who operate through complex organised crime networks to enslave young, innocent and powerless women, who did not by any means want to migrate or be prostituted (Surtees, 2014; Jones, 2014; Broad, 2015; Viuhko, 2018). This tale of ideal victims and evil perpetrators has been present in the media, awareness campaigns and criminal policies against human trafficking, hampering authorities' ability to identify both victims and perpetrators and moving the focus away from structural factors causing trafficking and exploitation (Barberet, 2014; Jones and Kingshott, 2016; Viuhko, 2018).

Thus, within this simplistic framework, women can never be perpetrators, except if "they are somehow aberrant as women" or if they are forced by male accomplices (Jones, 2014; Barberet, 2014; Broad, 2015: 1059). Consequently, the role of women who commit human trafficking has been traditionally overlooked. As is the case with female offenders in general, there is relatively little literature published that directly

examines female traffickers (Zywiec, 2012; Jones, 2014; Wijkman and Kleemans, 2019), in spite of the fact that the percentage of women convicted of trafficking worldwide (38%) is higher than the overall percentage of women punished for all offences (UNODC, 2018). With the exception of a few countries, very little is known about these women's personal circumstances and patterns of offending, which would be crucial for contextualising and understanding the high conviction rates.

This article aims to offer the first in-depth analysis of women convicted of human trafficking in Spain. The study of 39 convictions between 2015 and 2018 provides detailed data about 43 female traffickers' personal profiles, methods and roles performed in the criminal enterprise. The results highlight the diversity of their patterns of offending and the similarity between victims' and perpetrators' personal circumstances, usually marked by profound gender inequalities. This information contributes to the ongoing international debate that aims to explain the high levels of female participation in this crime. Overall, the paper underlines the need to further study female traffickers in order to develop gender-appropriate measures to prevent the crime and guarantee proportionality in criminal justice responses, both in Spain and internationally.

2. Why are there so Many (Convicted) Female Traffickers?

According to the most recent Global Report on Trafficking in Persons published by the United Nations Office on Drugs and Crime (UNODC, 2018), the percentage of women convicted of human trafficking in the world amounts to 38%, while men represent 62% of all convictions. This percentage becomes especially remarkable when compared to the proportion of women in the prison population, which amounted to 6.9% in 2017, according to the World Female Imprisonment List. Faced with this disparity, several theories have been offered to explain the high percentage of women convicted of human trafficking.

Firstly, it has been argued that conviction statistics show more women here because they always occupy low-ranking positions within the trafficking network and carry out tasks that are more exposed to law-enforcement authorities (UNODC, 2012; Kangasputa, 2015; Shen, 2016). Thus, the high percentage of women convicted of trafficking would not necessarily mean that the levels of female participation in the crime are higher, but rather that women are more likely to be convicted than their male counterparts. However, this theory has been questioned by studies that disclose the diversity of female traffickers' patterns of offending, demonstrating that women do not always occupy low-ranking positions. An analysis of court files regarding women convicted of human trafficking in the Netherlands between 1993 and 2004 showed that their roles and tasks can vary considerably (Siegel and De Blank, 2010). While some women were supporters who acted in subordination to other traffickers, some were partners-in-crime who cooperated in apparent equality, and others were madams who led criminal organisations and coordinated trafficking operations. Subsequent studies have also acknowledged the existence of women with a leading

role in trafficking (Jones, 2014; Rsovka and Allum, 2014; Maqueda-Abreu, 2014; Campana, 2016; Wijkman et al., 2019).

A second explanation, closely related to the previous one, argues that the high percentage of women convicted of trafficking has to do with the fact that most of them are or were trafficking victims themselves. Especially in sex trafficking, it is common for former victims to decide to “climb the ladder” and gradually “move towards the organization side of trafficking”, as a way to avoid further victimisation (Siegel and De Blank, 2010; Siegel, 2011; Zywiec, 2012; Kienast et al., 2014: 8). Women are offered the possibility of quitting prostitution or improving their conditions if they are able to recruit more women (Lo Iacono, 2014; Broad, 2015). According to this view, the phenomenon of female traffickers can be explained as an “individual survival strategy” based on the “better her than me” approach (Kienast et al., 2014: 9).

This theory poses one of the biggest challenges for the criminal justice response to the phenomenon of female traffickers. Several studies have shown that, even if women manage to move towards higher positions in trafficking networks, they may still be oppressed and exploited by higher-ranking members (UNODC, 2012; Kienast et al., 2014; Lo Iacono, 2014; Mancuso, 2014). A study of court and police files concerning 54 female traffickers convicted in several European countries showed that in some cases they had been or still were victims of trafficking themselves as they were being forced to recruit other women (Rijken et al., 2015). In those cases, as foreseen by several supranational legal instruments such as Directive 2011/36/EU (Art. 8) and the Warsaw Convention (Art. 26), authorities should have the option not to prosecute or impose penalties on victims of human trafficking for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to trafficking. Nevertheless, identifying the point at which women cross the blurred line between offending behaviour committed as a result of victimisation and full engagement with trafficking is an extremely complex task for criminal justice operators (Broad, 2015; Viuhko, 2018). For instance, Brode’s (2015) analysis of 23 convictions of women for trafficking in the UK between 2004 and 2008 shows that victimisation experiences are acknowledged, but become secondary in the discourses of perpetration and deviance. In fact, there is evidence of the presence of trafficking victims in prison in the UK and Spain (Hales and Gelsthorpe, 2012; Villacampa and Torres, 2015).

Although this second theory certainly contributes to explaining this object of analysis, it is not sufficient on its own to explain the whole phenomenon of female traffickers. Firstly, this theory presupposes that all traffickers (or at least most of them) are or were subject to forced prostitution, something that has been questioned by recent studies. For instance, an analysis of 150 women convicted of human trafficking in the Netherlands, shows that only 7.5% of them were victims of sexual exploitation before they became perpetrators (Wijkman et al., 2019). Similarly, Shen’s (2016) study of women convicted of internal child trafficking in China showed that most of them were farmers, coming from remote mountainous regions, who had lived in poverty and had

received little formal education. Secondly, in light of the criticism received by the first theory, this argument fails to recognise “the multi-dimensional profile of women involved in sex trafficking” (Kienast et al., 2014: 21). A comparative study published in 2014 identified similarities in the methods employed by women to recruit and exploit victims in the countries of study (Nigeria, Eastern European countries and Thailand), but they also identified important differences, which need to be understood by taking into account the existence of diverse social and cultural backgrounds (Kienast et al., 2014). It has been argued that this diversity reflects different levels of socioeconomic development in the position of women in origin countries and their possibilities of making money in the destination country (Siegel and De Blank, 2010). Thus, cultural, social and economic contexts need to be examined carefully to get a better idea of female involvement in trafficking (Arsovska and Begum, 2014).

Finally, a third theory focusses on criminal justice responses to female traffickers to find an explanation for the high conviction rates. Some studies have drawn attention to the double deviance (Lloyd, 1995) existent within criminal justice responses to trafficking: “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” (Broad, 2015, p. 1069). There seems to be a risk that female traffickers, particularly those with a leading role, can be punished twice: for trafficking and for challenging gender roles, receiving, as a consequence, harsher penalties than their male counterparts (Maqueda-Abreu, 2014; Broad, 2015; Shen, 2016). This double deviance would not only affect penalties, but also the likelihood of being convicted of trafficking. At the global level, the share of women convicted of trafficking (38%) is slightly higher than those investigated or arrested by the police (31%) and those who are prosecuted (35%) (UNODC, 2018). This slight variation suggests that women tend to be less targeted than men when policing human trafficking, perhaps due to the prevalence of stereotypical images of traffickers. However, this gender gap decreases when it comes to convicting them. A study carried out in the US showed that female suspects are 16% less likely to be arrested for human trafficking, 16% less likely to be prosecuted, but 11% more likely to be found guilty (Kienast et al., 2014).

Overall, the review of existing literature seems to indicate large geographical and cultural variations in women’s level of participation and profiles, which have very little in common with the stereotypical idea of a trafficker. However, there is no agreed explanation for the high percentage of women convicted of human trafficking. For this reason, further research is needed, especially case studies by country, to better understand women’s prior history and pathways into crime, avoiding distorted images caused by a lack of accurate information. Thus, the following sections aim to contribute to these international debates by offering empirical data about female traffickers in Spain, a country situated in a region, southern Europe, where this topic has hardly been studied, despite its key geographical position in migration flows nowadays.

3. Sources and Methodology

For this study, three different case-law databases (Centre for Judicial Documentation (CENDOJ), Westlaw (Thomsons & Aranzadi), and Tirant lo Blanch) were used to compile all available judgments in which the defendant(s) were convicted of human trafficking in Spain between 2015 and 2018. All cases were dealt with by Provincial Courts and, when there was an appeal, the Supreme Court. A judgment by the National Court has also been included¹. Judgments in which the charges were dropped or the defendant(s) were acquitted have been excluded, whether this happened in the first instance or on appeal. This study has also taken into account the fact that some of the sentences issued by Provincial Courts were subsequently overturned by the Supreme Court, and thereby data was modified accordingly. The result was a sample of 39 judgments in which 105 people were convicted of human trafficking between 2015-2018.

The 2015-2018 time range was chosen because it reflects the practical effects of the most recent legislative improvements in order to adapt the definition of human trafficking foreseen in the Spanish Criminal Code to the requirements of international and European legislation. It was not until 2010 that Spain criminalised human trafficking as an independent offence. Organic Law 5/2010 introduced Article 177bis, which provides a definition of trafficking almost identical to that included in the Palermo Protocol, Warsaw Convention and Directive 2011/36/EU. Before this date, trafficking was conceived as a form of human smuggling, aggravated for having been committed for the purposes of sexual exploitation (De León-Villalba, 2010). In 2015, Article 177 was modified again to include forced marriage and the commission of criminal activities among the purposes of exploitation (Villacampa, 2015). As a consequence of this historical evolution, the number of convictions before 2015 is very low (1 in 2011, 2 in 2012, 6 in 2013 and 8 in 2014) (GRETA, 2017) and, therefore, insufficient for offering a clear overview of criminal justice responses to trafficking in Spain.

So as to focus on female perpetrators, all cases in which at least one woman was convicted have been selected for further analysis. This resulted in 27 cases (69.2% of the initial sample), in which 43 women were convicted of human trafficking. Next, the study centred on collecting all the information available in the judgments about these 43 women's personal circumstances and their involvement in trafficking. In particular, data collection focussed on the following eight aspects:

1. Type of exploitation to which the victims were submitted
2. Age at the time of conviction
3. Country of origin
4. Relation to victims
5. Relation to other perpetrators
6. Tasks performed

¹ The National Court deals with particularly serious offences that go beyond the borders of several Provincial Courts.

7. Means used
8. Role performed

Criminal justice data, such as court judgments, constitute a very useful source of information for better understanding the high rates of women convicted of human trafficking. Such data have been heavily criticised because they only provide the official picture of crime, that is to say, what judges perceive and define as human trafficking, which, given the hidden nature of trafficking and the difficulties in identifying it, probably constitutes just a fraction of all cases (Maguire, 2007; Farrell and Bright, 2016; Viuhko, 2019). Being perfectly aware of this limitation, this study does not aim to offer a full description of the trafficking phenomenon, for which court data would need to be complemented by many other sources, but rather concentrates on the available empirical data about those who were convicted. In this sense, criminal justice records can be very exhaustive and offer information that interviewees may not be able to remember when questioned by researchers (Yingling, 2016). Court judgments, as compiled by the abovementioned databases, provide accurate and anonymised information about the characteristics of the perpetrator (date and place of birth, residence, as well as social and family information), a chronological timeline and detailed descriptions of the proven facts and who was involved in them, including police investigations and testimonies of witnesses and victims, and the legal basis upon which judges handed down a conviction. Furthermore, limiting the scope of the study to only one country has important advantages in comparison to macro-level studies. The use of limited parameters provides more reliable numbers and richer descriptions of traffickers' experiences, which can contribute to the adoption of evidence-based policies against trafficking at the global level (Weitzer, 2014).

4. Findings

The initial sample consisted of a total of 39 cases in which at least one defendant was convicted of human trafficking in Spain between 2015 and 2018. In 27 out of these 39 cases, at least 1 woman was convicted of human trafficking. This means that 69.2% of human trafficking cases in Spain involve women perpetrators.

According to the information analysed in this paper, 105 people were convicted of human trafficking offences in Spain between 2015 and 2018. Out of those 105 people, 43 were women, representing 40.95% of all traffickers convicted in Spain in the period of study. This percentage is higher than the share of female traffickers in the world (38%, according to the UNODC, 2018) and in other countries in Europe: UK, 32%; Netherlands, 18%; Portugal, 23%; and France, 32% (Broad, 2013). The fact that 40.95% of convicted traffickers in Spain are female is particularly notable when compared to the share of women convicted of all crimes, which according to the Spanish National Institute for Statistics (INE) was 19.05% between 2015 and 2018.

In line with comparative studies, women seem to be more likely to be convicted than investigated or arrested for human trafficking. The latest data available show that, in 2017, 210 women (36.8%) and 360 men (63.2%) were investigated for human

trafficking in Spain (FGE, 2017). This data suggest that women could be less targeted than men by the police, but more likely to be found guilty when judges are faced with evidence of their involvement in trafficking. Further studies would be necessary to confirm this tendency.

4.1. Type of exploitation to which the victims were submitted

In most cases ($N=37$) women were convicted of trafficking for the purposes of sexual exploitation. There are only two exceptions: one case in which women trafficked children for begging, and another that involves the trafficking of a girl for forced marriage. Practically all women (97.4%) trafficked other women or girls.

4.2. Age and Nationality of Female Traffickers

Age at the time of conviction is only disclosed in relation to 31 female perpetrators. Their ages range from 21 to 68 years-old, the average age being 37.45. Consistent with data from other countries (Siegel and De Blank, 2010; Broad, 2015), here the analysed data show that most of them (51.6%) were in their 30s.

	N	%
20-29	5	16.1
30-39	16	51.6
40-49	8	25.8
50-59	0	0
60-69	2	6.5

All of the women who were convicted of human trafficking in Spain came originally from a foreign country. This contrasts with results in other countries such as the Netherlands, where Dutch women were also convicted (Siegel and De Blank, 2010; Wijkman et al., 2019). Nigerian and Romanian are by far the most common nationalities of female traffickers convicted in Spain. In the case of Nigeria, it is remarkable that at least 5 women came from the same city: Benin City. This tendency has also been identified in other countries like Italy (Lo Iacono, 2014).

	N	%
Nigerian	19	44.2
Romanian	16	37.2
Russian	4	9.3
Ukrainian	2	4.7
Chinese	1	2.3
Paraguayan	1	2.3

4.3. Relation to victims

Female traffickers mostly (86%) victimise women from the same country of origin. Even in those cases in which nationalities do not coincide, victims and perpetrators

were originally from neighbouring countries within the same region (Eastern Europe ($N=4$) and Sub-Saharan Africa ($N=1$)). Very often (41.9%) the judgments specify that traffickers and victims came from the same town. Particularly remarkable here, again, is the case of Benin City, since at least ten women from this place were convicted of trafficking countrywomen.

	N	%
Same country	37	86
Same town	18	41.9
Previous friendship or connections	7	16.2
Family	6	13.9

In 30.1% of cases ($N=13$) the judgments expressly indicate that victims and perpetrators had a relationship that preceded trafficking. Sometimes there was a family link between them. For instance, there are three cases of women convicted of having trafficked their daughters. In addition, the courts occasionally state openly that victims and perpetrators were neighbours, classmates, workmates, or acquaintances in the country of origin. In the remaining 69.9% of cases, although the judgments only say explicitly that victims and perpetrators come from the same country or town, without expressly mentioning any relationship, a qualitative analysis of the proven facts also suggests the existence of previous personal bonds between them.

Thus, these results concerning female perpetrators' age, nationality and personal ties with victims have important implications. First, as shown in comparative studies (Viuhko, 2019), they question the stereotypical idea according to which all perpetrators are complete strangers to the victims. Instead, they confirm that traffickers usually take advantage of personal bonds and the trust that victims have in them to facilitate recruitment and control (Kienast et al., 2014). In fact, the judgments usually indicate that perpetrators have "access to victim's family" in the country of origin, which adds credibility to the threats used to coerce trafficked people during the exploitation stage. Besides, victims can become so emotionally attached to female traffickers that they look at them with admiration and respect, becoming incapable of freeing themselves from exploitation (Jones, 2014; Lo Iacono, 2014). Finally, these results show that victims and perpetrators usually present very similar personal profiles. Although the judgments only offer limited information about traffickers' personal circumstances, the information disclosed suggests that they come from the same towns or neighbourhoods as the victims: places characterised by poverty, a lack of opportunities and deep inequalities that especially affect women.

4.4. Relation to other perpetrators

Women involved in trafficking are usually convicted together with co-offenders. There are only four cases (9.3%) with just one female trafficker. As with the victims, perpetrators tend to have close personal links between them that precede the crime. According to the analysed data, 15 female traffickers acted together with their male partners and 11 with family members (usually their sisters and sons). In five cases,

both the woman's partner and relatives were involved in the criminal enterprise. Participation together with intimate partners has been reported to be frequent in other countries too (Broad, 2015).

	N	%
Sentimental Partner	15	34.9
Relatives	11	25.6
Both partner and relatives	5	11.6
Boss	1	2.3
Same country of origin	7	16.2
Perpetrators were convicted alone	4	9.3

Sometimes the courts do not mention any link among co-offenders other than having the same country of origin. However, it can be inferred from the descriptions of the facts that they were friends and sometimes also flatmates. Thus, these results align with studies showing that traffickers tend to operate in ethnic and family-based networks, based on close personal contacts in both origin and destination countries, rather than complex criminal organisations (Vermeulen et al., 2010; Siegel and De Blank, 2010; Mancuso, 2014; Viuhko, 2018).

Concerning the existence of a double deviance in criminal justice responses to trafficking, in the majority of cases (59.3%), when women are convicted together with male counterparts, both of them are punished as trafficking perpetrators and receive the same punishment. Sometimes the men receive higher penalties for trafficking due to circumstances that do not affect women in these cases, such as recidivism ($N=1$) or leading a criminal organisation ($N=2$). Although equality in punishment is the general pattern, there are judgments in which women involved in recruitment and transportation are considered traffickers, while their male partners, who participate in the exploitation phase, are convicted of other crimes that foresee less harsh punishments, such as forced prostitution, forgery of identity documents or crimes against the workers' rights. This is the paradoxical result of the way in which human trafficking has been interpreted in Spain: as a process towards exploitation. In practice, this means that those involved in the actual economic exploitation of other people are less punished than those involved in previous stages of the crime, usually related to the facilitation of migration.

4.5. Tasks performed

In line with the results found in other countries (Kienst et al., 2014; Wijkman et al., 2019), the judgments analysed here confirm that female traffickers can carry out a wide range of tasks. Although the involvement of women is more prominent in some tasks like recruitment, transport and harbouring, their actions are not necessarily more exposed to criminal investigations.

	N	%
--	----------	----------

Recruitment	29	67.4
Transport	31	72
Receipt and harbouring	34	79
Retention of identity documents or provision with fake ones	5	11.6
Instruction in prostitution	11	25.6
Surveillance and control	21	48.8
Collecting money	17	39.5

a. Recruitment

29 women were involved in the recruitment of trafficking victims. In most cases, recruitment was directly and personally carried out by the woman in the country of origin or by telephone from the destination country. Nevertheless, in 4 cases traffickers recruited other women by means of intermediaries (relatives or people paid to do so), who had direct access to the victims or their families in the country of origin. This high percentage (67.4%) would confirm in Spain the thesis sustained by international literature: female traffickers are typically involved in recruitment because they have easier access to other women (UNODC, 2012; Kienast et al., 2014) and because, due to stereotypical perceptions of trafficking as a crime committed exclusively by men, potential victims are more likely to trust female offenders (Jones, 2014; Kienast et al., 2014).

b. Transport

31 women were involved in the transport of trafficking victims from the country of origin to Spain. Sometimes the convicted women travelled all or part of the distance with the victims. However, it is more common for traffickers to organise the transport from the destination country, either buying the flights and getting visas, or arranging a journey on a small boat (patera). This way of organising transport reduces the likelihood of being caught if the victims are identified by the police while travelling, which would question the theory according to which women always carry out tasks that are more exposed to criminal investigations.

c. Receipt and harbouring

Receipt and harbouring are the most common actions carried out by convicted female traffickers. 34 women (79%) performed these tasks. Traffickers usually received women at the airport, bus station or even Migrant Detention Centres (CIES). Then, all of them hosted women in their homes, usually together with other perpetrators. This reinforces the pre-existent personal relationship with the victims and helps to ensure direct monitoring over them (Campana, 2016).

d. Retention of identity documents or provision with fake ones

Only five women were involved in tasks related to personal identity documents: 3 of them withheld victims' passports and two of them provided them with fake documents. In the judgments analysed here, this task was often performed by male co-offenders.

e. Instruction in prostitution

The judgments indicate that at least 11 traffickers were in charge of informing women that they would have to work as prostitutes and explaining the conditions of this activity. Sometimes they provided them with the clothes they would have to wear, taught them words and tricks to use with clients, and arranged appointments with clients and brothel owners.

f. Surveillance and control

According to the files studied, 21 women were involved in surveillance and control of sexually exploited victims. They made sure, by various means, that victims did not leave the places where they had to prostitute themselves, and they also imposed working conditions. Women performing these tasks were usually themselves prostitutes or the owners or managers of the brothels where the exploitation took place. This would be a manifestation of the so-called vertical mobility theory (Siegel, 2011), according to which, some traffickers are or were prostitutes themselves who engage in trafficking other women to improve their own situation.

g. Collecting money

17 women collected the money obtained by trafficked people. In two cases, the judgments specify that they had to give that money to somebody else (a sister or a partner also convicted of trafficking), which would support the idea that they occupy subordinated positions in the criminal network. However, several women received direct bank transfers from the victims and had detailed accountancy books, showing that, at least some of them, directly obtained benefits from victims' sexual exploitation.

4.6. Means used

The analysis of all references to the means used by women convicted of trafficking also illustrates their variety, although subtle mechanisms to control victims are more frequently used.

	N	%
Threats and intimidation	30	69.8
Use of force	8	18.6
Abduction	0	0
Fraud or deception	14	32.6
Abuse of power or of a position of vulnerability	25	58.1
The giving or receiving of payments or benefits to achieve the consent of a person having control over another person	1	2.3

The most common means were threats and intimidation (69.8%). Victims were usually threatened with violence towards them and/or their relatives. The most frequent threatening mechanism is voodoo, used by 14 women, all of them from Nigeria, who

trafficked women from the same country. Voodoo rituals are used as a type of contract by means of which women swear on their lives that they will pay back the costs of their journey and accommodation in Spain. Threats can also involve telling trafficked women’s relatives that they are working as prostitutes, because of the social stigma that this may cause for the whole family in the country of origin.

The abuse of power or of a position of vulnerability of the victim is also widely used by female traffickers (58.1%). This particular means, understood by judges as taking advantage of victims’ economic difficulties, irregular migration status and complete isolation in the country of destination, seems to work as a kind of “subsidiary means”, used in practically all cases to reinforce the credibility of other means. For example, it is not uncommon to see expressions like “there was deception or threat *because* the victim was vulnerable”.

Contrary to stereotypical conceptions, violence and kidnapping are not present in the recruitment stage. However, there are 8 explicit references to the use of force by women (all of them from Nigeria) to assert control over the victims during the exploitation phase. It is remarkable that some cases clarify that female perpetrators did not use violence, which was only used by their male counterparts, reflecting the culturally driven Western belief that women are intrinsically nonviolent (Jones, 2014). Nevertheless, it seems more likely that the recourse to violence is less common because the existence of an emotional link between perpetrators and victims reduces the need for it (Kienast et al., 2014; Campana, 2016).

Instead of force, 14 female perpetrators used deception to convince victims to leave their countries. They promised women who were already willing to migrate jobs as hairdressers (Nigeria), waitresses (Romania), household assistants/maids (Paraguay) and babysitters (Romania). Some victims were aware that they would be prostitutes, but they were deceived about the conditions of the activity. Finally, there is just one female trafficker who resorted to the buying and selling of women to obtain control over them. This is the case of a woman from Russia, the owner of a brothel, who was found guilty of buying Russian women who had previously been trafficked to Spain to be sexually exploited.

4.7. Female traffickers’ roles in the criminal network

The last aspect analysed in this study is the role of female traffickers in the criminal network. To do so, the judgments were scrutinised in search of expressions concerning the women’s independence and decision-making capacity in the criminal enterprise. Then each trafficker was classified into one of three categories that broadly correspond to those identified by Siegel and De Blank (2010): supporters, partners-in-crime and leaders. In some judgments women were convicted alone and there is no information about any counterparts.

Table 7. Female traffickers’ roles in the criminal network (N=40)		
	N	%
Supporters	11	25.6
Partners-in-crime	17	39.5

Leaders	12	27.9
---------	----	------

a. Supporters

11 women can be classified as supporters, that is to say, they acted in subordination to other perpetrators. Their participation in the criminal enterprise was limited to helping or supporting their co-offenders, without any or with very limited capacity to make decisions. Two broad profiles of women acting as supporters can be identified. On the one hand, there are women who became involved in crime together with their partner or relatives, who had a leading role in trafficking. They had outlined, led and carried out a criminal plan, in which women were mere collaborators, dependant on said partner or relatives. The second type of supporters appeared when human trafficking was committed by criminal organisations with a hierarchical structure. These female traffickers were said to be in a “second level of power”, carrying out tasks of supervision and control of prostitutes, always subordinated to those in the top-ranking positions, who were mainly men.

It is in this category that the distinction between victims and perpetrators becomes more blurred. Some victims are forced by higher-ranking members of the criminal organisation to supervise and control other prostitutes. It is remarkable that two cases explicitly mention the possibility that female perpetrators might have been trafficked themselves. One judgment states: "Rosana's participation was not as relevant as that of Pedro Jesus² (not prosecuted in this case) in such events, and there is no evidence of her having performed particularly serious intimidating acts or having especially profited [from the crime], being also a person from the same culture as the victims and possibly a victim of human trafficking herself". Nevertheless, regardless of recognising this possibility, women were ultimately convicted. In the previous case, for instance, Rosana was the only defendant punished for trafficking and she was sentenced to more than 6 years of imprisonment.

b. Partners-in-crime

17 women were described in the judgments as partners-in-crime. They had engaged in the criminal enterprise together with other perpetrators, “acting in concert”, “following a joint plan” in which each perpetrator had been assigned particular tasks. Depending on the case, these functions were performed with different levels of independence. In some cases, female perpetrators’ independence was quite limited. For example, they had acted following the instructions given by other perpetrators and they had to give them all the money collected from victims’ exploitation. However, on other occasions, female perpetrators had more autonomy. Some judgments make reference to the “independence” or the “particular input” of women’s participation in trafficking. It is worth mentioning a case in which the husband of one of the convicted women said in a phone call: “my wife brings girls [to Spain]”, suggesting that trafficking was an activity carried out mainly by her.

² References to victims and perpetrators have been anonymised by case-law databases.

c. Leaders

12 women were depicted by the courts as leaders. In these cases, judgments explicitly include expressions that qualify women as the heads of the criminal enterprise: “she was one of the bosses”; “she is the real boss of the brothels”; “[she has been] identified by the victims as “boss” or “madam””; “[she] has a primary role in the preparation of her journey and introduction in national territory”; or “[women had] an intervention of greater importance [than men]”.

Two broad profiles of female perpetrators with a leading role can be identified. The first one corresponds to women in charge of the brothels where sexual exploitation took place, either as owners or managers. Coming primarily from Eastern Europe (Ukraine and Russia), these people acted as businesswomen who trafficked, purchased people and meticulously supervised their work. For this purpose, they frequently kept rigorous accounting records of their activities. Although sometimes they worked with other people integrated in organised criminal groups, who acted as “suppliers of women”, once the victims were under the strict control of these female traffickers, they seem to have had total independence to run their own businesses. In fact, they had employees working for them, who contributed to the exploitation of women under their orders. In line with these results, Kienast et al. (2014) explain how Russian women used to be partners-in-crime, but they have progressively developed negotiation skills that have given them success as independent entrepreneurs.

Another common profile of leaders are Nigerian women, the so-called ‘madams’, who have control over every stage of the trafficking chain: from recruitment to exploitation. They seem to have achieved a position of power in both the country of origin and destination, possibly due to the relative success of their migration projects, from which they were able to fund and organise compatriots’ journeys. In one case, the judgments explain how the madam was responsible for her husband’s, her brother’s, and her sister-in-law’s irregular entry into Spain, all of whom subsequently helped her to control victims in Spain. This position allowed them to hire people to work for them in Nigeria, who could recruit and transport victims, as well as threaten their families to perpetuate their exploitation. For example, one of the victims testified that her sister had been kidnapped in Benin City by people working “on behalf of” the madam. Previous studies have pointed out that Nigerian madams are usually “looked-up model figures”, “representing a Western-associated way of achieving career, success and luxury”, constituting “the perfect advertisement for sex work in Europe” (Siegel and De Blank, 2010; Siegel, 2011: 261; Kienast et al., 2014: 32).

5. Discussion

The data about female traffickers convicted in Spain directly contradicts the stereotypical vision according to which all traffickers are men, strangers to the victim, very violent and members of dangerous organised criminal groups. Instead, 40.95% of convicted traffickers in Spain were actually women, predominantly young migrants, who trafficked other women (often relatives, friends or neighbours) for the purposes of sexual exploitation, taking advantage of the trust that had been put in them. They usually operated together with their intimate partners and/or relatives in both origin

and destination countries, forming networks based on mutual loyalty and personal contact, closer to complex migration chains than to organised criminal groups. Thus, without denying the involvement of organised crime in human trafficking, its presence has been overestimated in anti-trafficking discourses.

The results offered here contribute to the ongoing international debate that tries to explain the high rates of women convicted of human trafficking. One argument in this debate is that, since women tend to occupy low-ranking positions in trafficking networks and perform tasks that are more exposed to criminal investigations, they are convicted at higher rates. This argument serves to explain some convictions in Spain, for instance, traffickers travelling with victims or controlling them on the street. However, in line with similar studies carried out in other countries, this current piece of research shows that some women perform all kinds of actions and employ a wide range of means in the trafficking process, and not only those that increase the likelihood of being caught. Moreover, women's independence and decision-making capacity in the criminal enterprise is also highly variable. It ranges from women who were mere supporters with a very limited capacity to make decisions, acting in subordination to other perpetrators, and who may have been forced to offend, to others who played a leading role in the criminal enterprise and were in control of the whole trafficking process, for whom trafficking happened to be a way of empowering themselves.

Previous literature has also related the high percentage of women involved in trafficking with the fact that some female traffickers were former prostitutes who decided or were forced to resort to trafficking to improve their own situation. This theory certainly explains some cases in Spain. It can be inferred from the expressions used in the judgments that some women in charge of surveillance and control of trafficking victims were prostitutes or the owners or managers of the places where exploitation took place. Moreover, some judgments explicitly mention the possibility that convicted traffickers had been trafficking victims themselves. However, cases generally lack an in-depth analysis of this circumstance, even though it is crucial for the application of the non-punishment clause.

Finally, a third possible explanation focuses on criminal justice responses rather than on the behaviour of the perpetrators. In this sense, the results do not confirm the existence of a double deviance when punishing women, since they generally receive the same punishment as male traffickers for the same acts. However, the way in which human trafficking is interpreted in Spain, that is, as a process or movement of people towards exploitation, can result in harsher punishments for women. Women involved in the recruitment, transport or receipt of women for the purposes of sexual exploitation, all of which are tasks related to the facilitation of migration, are convicted of trafficking with higher penalties than those who actually exploit them. Instead, these people are convicted of other crimes such as forced prostitution, which foresee less harsh sanctions.

While the analysis of the personal characteristics of female traffickers convicted in Spain not only partially confirms previous theories, it also points to another possible

explanation that has been overlooked so far. The judgments show that victims and perpetrators have a very similar personal profile. All of them are migrant women coming from similar environments, which, according to the judgments themselves, are characterised by situations of vulnerability and deep gender inequalities. Thus, it seems plausible to relate women's involvement in human trafficking to those inequalities that push women towards crime. Discriminatory gender practices, such as the lack of investment in girls' education, result in difficulties to access legitimate opportunities and unfair choices in the labour market, which ultimately produce profound social, political and economic disadvantages for women (Kienast et al., 2014; Lo Iacono, 2014; Barberet, 2014; Jones et al., 2016). In this context of the feminisation of migration and poverty, women are more likely to seek out criminal opportunities or be recruited by others to commit crime (Barberet, 2014). Human trafficking generates high profits without requiring substantial investments in comparison to other businesses. Thus, it constitutes an opportunity for women to improve their precarious economic situation, resist victimisation and achieve economic independence and social recognition (Siegel, 2011; Barberet, 2014; Kienast et al., 2014; Lo Iacono, 2014). It is not a question of annulling women's decision-making capacity behind experiences of marginalisation and victimisation, but a way of explaining and contextualising diverse female participation in this crime (Carrington and Death, 2014). In order to recognise this diversity, women's involvement in trafficking needs to be understood by taking into consideration the way in which gender intersects with other factors contributing to structural inequalities such as race, age, nationality, social class, ethnicity, culture, education... (Renzetti, 2013; Creek and Dunn, 2014; Maqueda-Abreu, 2014; Viuhko, 2019).

Overall, given the high percentage of women convicted of this crime, getting to know their personal circumstances and patterns of offending behaviour is crucial for improving anti-trafficking policies. First, it is necessary to guarantee that women who are being forced to traffic other people are not punished for these acts. As the results have shown, although their existence is recognised in judgments, they are ultimately convicted anyway. Second, it is necessary that law enforcement authorities do not target and punish women with a leading role more harshly for having transgressed gender stereotypes. Finally, and more importantly, future research should deeply analyse diverse traffickers' motives and pathways of offending in order to contextualise trafficking socially and be able to design effective gender-sensitive preventive strategies.

References

Arsovska J and Begum P (2014) From West Africa to the Balkans: Exploring Women's Roles in Transnational Organized Crime. *Trends in Organized Crime* 17(1-2): 89-109.

Baker CN (2013) Moving Beyond "Slaves, Sinners, and Saviors": An Intersectional Feminist Analysis of US Sex-Trafficking Discourses, Law and Policy. Study of Women and Gender: Faculty Publications, Smith College, Northampton.

Barberet R (2014) *Women, Crime and Criminal Justice: A Global Enquiry*. London: Routledge.

Berman J (2003) (Un)Popular Strangers and Crises (Un)Bounded: Discourses of Sex-Trafficking, the European Political Community and the Panicked State of the Modern State. *European Journal of International Relations* 9(1): 37-86.

Broad R (2013) *Stuck in Traffic. A Study of Individuals Convicted for Human Trafficking Offences through the UK Criminal Justice System: Characteristics, Relationships and Criminal Justice Perspectives*. PhD Thesis, University of Manchester, UK.

Broad R (2015) 'A Vile and Violent Thing': Female Traffickers and the Criminal Justice Response. *British Journal of Criminology* 55(6): 1058-1075.

Burman M and Gelsthorpe L (2017) Feminist Criminology: Inequalities, Powerlessness, and Justice. In: Liebling A, Maruna S and McArar L (eds) *The Oxford Handbook of Criminology*. Oxford: Oxford University Press, pp. 213-238.

Campana P (2016) The structure of human trafficking: Lifting the bonnet on a Nigerian transnational network. *British Journal of Criminology* 56(1): 68-86.

Carrington K and Death J (2014) Feminist Criminologies' Contribution to Understanding of Sex, Gender, and Crime. In: Gartner R and McCarthy B (eds) *The Oxford Handbook of Gender, Sex, and Crime*. New York: Oxford University Press, pp. 99-117.

Creek SJ and Dunn J (2014) Intersectionality and the Study of Sex, Gender, and Crime. In: Gartner R and McCarthy B (eds) *The Oxford Handbook of Gender, Sex, and Crime*. New York: Oxford University Press, pp. 41-58.

De León-Villalba FJ (2010) Spanish legislation against trafficking in human beings: punitive excess and poor victims' assistance. *Crime Law and Social Change* 54 (5): 381-409.

Farrell A and Bright K (2016) Human Trafficking. In: Huebner B and Bynum T (eds) *The Handbook of Measurement Issues in Criminology and Criminal Justice*. New York: John Wiley & Sons, pp. 111- 130

FGE (Fiscalía General del Estado). (2017). Diligencias de seguimiento del delito de trata de seres humanos.

GRETA (2017) *Reply from Spain to the Questionnaire for the Evaluation of the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties*. Report no. GRETA (2017) 10, 24 February. Strasbourg.

Hales L and Gelsthorpe L (2012) *The Criminalisation of Migrant Women*. University of Cambridge: Institute of Criminology.

Jones SV (2014) The Invisible Women: Have Conceptions About Femininity Led to the Global Dominance of the Female Human Trafficker? *Albany Government Law Review* 7: 143-165.

Jones TR and Kingshott BF (2016) A Feminist Analysis of the American Criminal Justice System's Response to Human Trafficking. *Criminal Justice Studies* 29(3): 272-287.

Kangasputa K (2015) Was Trafficking in Persons Really Criminalised? *Anti-trafficking Review* 4: 80-97.

Kienast J, Lakner M and Neulet A (2014) *The Role of Female Offenders in Sex Trafficking Organizations*. Report for the Regional Academy on the United Nations, 20 December.

Lloyd A (1995) *Doubly Deviant, Doubly Damned: Society's Treatment of Violent Women*. New York: Penguin Books.

Lobasz JK (2009) Beyond Border Security: Feminist Approaches to Human Trafficking, *Security Studies*, 18(2): 319-344.

Lo Iacono E (2014) Victims, Sex Workers and Perpetrators: Gray Areas in the Trafficking of Nigerian Women. *Trends Organized Crime* 17(1-2): 110-128.

Maguire M (2007) Criminal Statistics and the Construction of Crime. In Maguire M, Morgan R and Reiner R (eds) *The Oxford Handbook of Criminology*. Oxford: Oxford University Press, pp. 206-244.

Mancuso M (2014) Not All Madams Have a Central Role: Analysis of a Nigerian Sex Trafficking Network. *Trends in Organized Crime* 17(1-2): 66-88.

Maqueda-Abreu ML (2014) *Razones y Sinrazones para una Criminología Feminista*. Madrid: Dykinson.

Renzetti CM (2013) *Feminist Criminology*. London: Routledge.

Rijken C, Muraszkievicz J and Van de Ven P (2015) Report on the features and incentives of traffickers and on the social interactions among them. Deliverable D3.1 for TRACE, 30 June.

Rsovka A and Allum F (2014) Women and Transnational Organized Crime. *Trends in Organized Crime*, 17 (1-2): 1-15.

Shen A (2016) Female Perpetrators in Internal Child Trafficking in China: An Empirical Study. *Journal of Human Trafficking*, 2(1): 63-77.

Siegel D (2011) Mobility of Sex Workers in European Cities. *European Journal on Criminal Policy and Research* 18(3): 255-268.

Siegel D and De Blank (2010) Women who Traffic Women: The Role of Women in Human Trafficking Networks - Dutch Cases. *Global Crime* 11(4): 426-447.

Surtees R (2014) *Traffickers and Trafficking. Challenges in Researching Human Traffickers and Trafficking Operations*. Report for the International Organization for Migration (IOM) and Nexus Institute. Geneva.

UNODC (2018) Global Report on Trafficking in Persons, New York-Vienna.

UNODC (2012) Global Report on Trafficking in Persons, New York-Vienna.

Villacampa C (2015) La trata de seres humanos tras la reforma del Código Penal de 2015. *Diario La Ley*, 8554.

Villacampa C and Torres N (2015) Trafficked Women in Prison: The Problem of Double Victimization. *European Journal on Criminal Policy and Research* 21(1): 99–115.

Vermeulen G, Van Damme Y and De Bondt W (2010) Perceived Involvement of 'Organised Crime' in Human Trafficking and Smuggling. *Revue Internationale de Droit Penal* 81(1-2): 247-273.

Viuhko M (2018) Hardened Professional Criminals, or Just Friends and Relatives? The Diversity of Offenders in Human Trafficking. *International Journal of Comparative and Applied Criminal Justice*, 42(2-3): 177-193.

Viuhko M (2019) Just Trust Me and You'll Make a Fortune- Relationships between Offenders and Victims of Human Trafficking. *Nordic Journal of Criminology*, <https://doi.org/10.1080/2578983X.2019.1591036>.

Weitzer R (2014) New Directions in Research on Human Trafficking. *The ANNALS of the American Academy of Political and Social Science* 653 (May): 6-24.

Wijkman M and Kleemans E (2019) Female Offenders of Human Trafficking and Sexual Exploitation. *Crime, Law and Social Change* 72: 53-71.

Yingling J (2016) Gendered Pathways to Crime. In: Huebner B and Bynum T (eds) *The Handbook of Measurement Issues in Criminology and Criminal Justice*. New York: John Wiley & Sons, pp. 181- 201.

Zywiec DM (2012) Women Trafficking Women and Children. An Exploratory Study of Women Sex Traffickers. PhD Thesis, Southern Illinois University Carbondale, US.