Assessing Convicted Traffickers: Negotiating Migration, Employment and Opportunity through Restricted Networks

ROSE BROAD
Lecturer in Criminology, Centre for Criminology and Criminal Justice, University of Manchester

Abstract: This article presents a rare insight into convicted ‘traffickers’ and draws on research undertaken using risk assessment data from criminal justice sources relating to those convicted for trafficking offences in the UK between 2004 and 2008. Analysis of these data identified conflicts between the dominant understanding of trafficking and the group of people ultimately convicted for this activity. It is argued that there is a need to contextualise the response to this group with knowledge of their backgrounds often including the structural barriers experienced through migration. Developing an awareness of these offending pathways is important in understanding the nexus between the movement and exploitation of victims and the structures that control access to employment and income as well as for developing effective interventions for those involved in these offences.

Keywords: criminal justice; human trafficking; migration; modern slavery

The lack of knowledge and understanding of those held responsible for human trafficking offences has contributed to a particular construction of the problem which has been termed the ‘dominant discourse’ (Doezema 2005, 2010) through which traffickers are held: responsible for everything from illegal immigration to moral chaos, a dangerous ‘law unto themselves’, infecting ‘our’ community with violence and disease. They strike at the institutions of the state and the market . . . with their immoral sexuality and rampant criminality. (Berman 2003, pp.54–5)

This article explores themes emerging from criminal justice constructions of traffickers drawing on quantitative risk assessments, pre-sentence reports and interviews with criminal justice professionals. These themes are situated in frameworks of offender management and the potential operation of parallel systems of justice (Aas 2014). By analysing the assessment

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outcomes of this group, it is argued that the drivers of these crimes require a distinct understanding and specific intervention including consideration of the significance of barriers faced during, and as a result of, some people’s migration journeys. The article concludes by considering that in responding to this group of offenders, although it is necessary to develop effective, needs-based tailored interventions it is also necessary to ask questions about the wider context of facilitative conditions and inequalities that provide the opportunities for these activities.

Since the renewed focus on human trafficking in the 1990s, commentators have acknowledged the lack of information and research focused on traffickers (Anti-Trafficking Monitoring Group 2013; Broad 2015; Choi-Fitzpatrick 2016; Home Office 2014; Salt 2000; Surtees 2008). Building a clearer picture of those involved in trafficking is crucial for developing more effective response strategies (Parmentier 2010) and for understanding how to manage convicted traffickers (Gotch 2016). Research on perpetrators has often been reliant on victim perspectives (Surtees 2008) and these perspectives are important in building systems of adequate support and understanding how better to respond to victims’ needs. However, commentators have concluded that victims’ accounts are limited in terms of understanding traffickers (Goodey 2008; Surtees 2008) by virtue of the way in which traffickers operate, particularly those perpetrators who have little direct contact with victims.

The Modern Slavery Act 2015 was introduced in the UK following criticism made of the legislative structure preceding this legislation which had prosecuted trafficking for sexual exploitation under the Sexual Offences Act 2003 and trafficking for labour exploitation under the Asylum and Immigration Act 2004 (see Anti-Trafficking Monitoring Group 2013). The term ‘modern slavery’ has largely replaced human trafficking in UK policy discourse and has been criticised for bringing conceptually diverse activities under the umbrella of slavery, such as forced labour (see Balch 2015). For the purposes of this article the term ‘human trafficking’ will be used as the prosecutions were made prior to the Modern Slavery Act 2015, referring to people convicted under the Sexual Offences Act 2003 and the Asylum and Immigration Act 2004.

Despite the shift in terminology and legislation from human trafficking to modern slavery in the UK, the dominant discourse continues to obscure the complex circumstances which can contribute to decisions to exploit others: ‘the moral complexity of the different actors is similarly expunged. New abolitionist stories do not feature “traffickers” who are themselves poor women, or victims who aspire to become “traffickers”’ (O’Connell Davidson 2015, p.205). However, these discourses are essentially lacking empirical evidence, leaving criminologists and services charged with the management of these people presented with various representations of the ‘trafficker’ but lacking a clear evidence base to understand them (Choi-Fitzpatrick 2016).

That human trafficking is an exploitative, inhumane and degrading activity resulting in multiple harms for victims is not disputed. However, those responsible for such offences are easily interpreted as ‘other’ (particularly
when cases convicted and reported often involve migrant perpetrators) which impacts on understanding any inequalities and exploitation that have affected their decision-making processes. Migrants have long provided a convenient criminal scapegoat which can limit their opportunities, increase dependency on limited social structures, and affect cultural identities (for example, see Bosworth and Guild 2008). This also conveniently excludes British society from taking responsibility for these maladies which, through the assumptions of the dominant discourse, become the business of transnational organised crime groups (Berman 2003). Through this discourse, borders and migrants have become the normative focus for human trafficking and migrant traffickers become the embodiment of all that is evil, negating any need to further understand their criminality. In the context of such increased political and media attention on human trafficking and discourses of deterrence, discomfort and hostility relating to migration (Lewis and Waite 2017), it can be easier to denounce such activity than to consider the ways in which criminal justice professionals and criminologists can better understand and respond to those responsible (Broad 2015). Without beginning to understand the factors that contribute to involvement in trafficking and considering how interventions can begin to be tailored to these offenders’ needs, trafficking debates are, at best, reliant on the existing small body of research focused specifically on perpetrators of trafficking, and, at worst, on unsubstantiated myths.

**Existing Research on Convicted Traffickers**

The stereotypical representation of trafficking has created a default offender and victim in an over-simplistic dualism, consisting of ‘dark, haunting criminals; hundreds of thousands of young, innocent, white girls/victims; sovereign borders transgressed under cover of night’ (Berman 2004, p.41). Counter representations suggest alternative frames for considering many cases of trafficking as migration projects in which decisions are made in increasingly restrictive spaces, using existing networks to facilitate movement and employment that ultimately result in exploitation (Berman 2004; Doezema 2010; O’Connell Davidson 2015). This perspective has been reflected elsewhere to argue that in some circumstances, the experiences of perpetrators and victims of trafficking are better understood as the assimilation of two failed migration journeys (Mai 2010). These approaches afford migrants more agency, while not suggesting that these women (and male victims in similar situations) are responsible for their exploitation (Agustin 2008). Similarly, the stereotypical construction suggests a default relationship between victims and traffickers which is, in many cases, likely to be more complex and based on a process of negotiation.

Official reporting on perpetrators, particularly focusing on traffickers convicted in the UK, has been sparse, although this is beginning to improve. The most recent United Nations Office on Drugs and Crime (UNODC) (2014) report presented some characteristics of convicted traffickers globally, including gender and citizenship, identifying significant involvement of women in trafficking offences when compared with other
offending and a high incidence of victims and perpetrators deriving from the same country of origin. It has been highlighted that failing to analyse the available data not only neglects a valuable and rarely-accessed data source but can also be dangerous in failing to correct stereotypes in relation to gender and ethnicity (Broad 2015; Gilbert and Moore 2010; Walby et al. 2016). The Trafficking As Criminal Enterprise (TRACE) project has begun to identify some emerging themes from its analysis of case files and interviews with convicted traffickers across mainland Europe and has identified low levels of education and employment, strong family ties, and experiences of exclusion which created recourse to alternative ways to make a living.

Direct research access to people convicted for these offences in the UK is difficult and fraught with ethical issues (Troshynski and Blank 2008) with a few notable exceptions as follows. Home Office research (Webb and Burrows 2009) based on interviews with those convicted for ‘organised immigration crime’ (combining trafficking and smuggling) indicated that some traffickers viewed their participation as facilitative and beneficial to the eventual victims of their offences, suggesting an interaction similar to perspectives arising in some victim-focused research (Agustin 2008; Mai 2010). However, this is problematic in conflating trafficking and smuggling: concepts that have been used interchangeably although the former can be distinguished, at least in theory, by incorporating an element of exploitation. Looking beyond the dominant trafficking paradigm, Mai (2010, p.2) engaged with the ‘life histories of the migrant men working as [sex work] agents’, viewing them in relation to their wider socio-economic and cultural context. These life histories revealed that transformations in post-communist states and exposure to western cultural values resulted in ‘a proliferation of young men and women which found themselves in a situation of heightened socio-economic and cultural vulnerability and fluidity’ (Mai 2010, p.11). Through this process, individuals in post-communist countries developed their identities in an image of western consumption and making money became a key discourse. Therefore, engagement in sex work can be seen as a social, economic, and cultural option in which men and women both challenged and reproduced gender roles while simultaneously improving their economic situation.

The use of risk and other assessment data gathered in the course of criminal justice processing has been used to contribute to the evidence base for working with offenders in the USA (Gotch 2016). Gotch (2016) identified that ‘primary areas of risk/need for male perpetrators of domestic trafficking for sexual exploitation appear to be related to personality, environmental/subcultural influences, general criminality, and values related to the use of interpersonal violence resulting in the utilization of extreme forms of power and control tactics to manipulate and control their victims’ (p.107), reflecting some of the themes identified from interview research, outlined above. Although the data in the current research are a product of the early implementation of anti-trafficking strategy in the UK, this type of analysis has not previously been carried out with similar UK data and
therefore provides a unique cross section of the outcomes of first phase legislation in the UK.

Given the absence of research into what might constitute an effective way to work with people convicted for human trafficking, and now modern slavery offences, there is not a specific, established theoretical framework in which to situate this analysis. However, existing theoretical frameworks of offender management in addition to commentary on the difficulties of working with convicted migrants can illuminate some of the tensions in working with this population and provide a basis for the discussion of the findings. Therefore, analysis of the data is situated primarily in a framework of ‘bordered penality’ (Aas 2014).

Risk is widely recognised as a central component in approaches to offender management (for example, see Feeley and Simon 1992; Hannah-Moffat 2005; Hannah-Moffat and Maurutto 2010; Robinson 2016), surviving changes brought through the Transforming Rehabilitation agenda with risk reduction representing the primary element of good quality supervision (Robinson et al. 2014). In these ‘silos of risk’ (Robinson 2016, p.46) people are classified and managed accordingly, including and excluding people on the basis of the assessed risk and producing resultant different types of justice. More current forms of risk assessment represent a departure from the ‘pessimistic theoretical accounts of risk in criminal justice’ and are instead ‘capable of supporting a range of penal strategies’ (Hannah-Moffat 2005, p.29) by combining risk-based approaches with more rehabilitative and restorative strategies. However, while there is capability within these new frameworks of risk/need assessment, the diminishing resources available have resulted in groups competing for the limited resources in new risk assessment frameworks. Through these ‘fourth generation’ risk assessment frameworks, ‘offenders are encouraged to take responsibility for their offending’ and ‘broader structural relations are either ignored or constructed as individual inadequacies. The State is de-responsibilized for ongoing social problems . . . the difficulties that emerge for vulnerable and marginalised correctional populations are obvious’ (Hannah-Moffat 2005, p.16). Thus, where an offender is awaiting deportation, it is unlikely that they will be afforded priority and the State does not peer beyond the borders into the social problems embedded in the country of origin.

In this context of risk/need assessment the challenges of working with convicted migrants are amplified, often perceived as a ‘risky’ group in themselves (particularly through the dominant trafficking discourse). Convicted migrants are frequently subject to deportation under the Borders Act 2007. The focus on deportation has been found to limit projects of inclusion (Bosworth 2011) and the prioritisation of immigration procedures obscures understanding of both the contexts in which people make decisions to offend and ways in which to effectively address people’s needs in terms of rehabilitation and desistance (Canton and Hammond 2012; Turnbull and Hasselberg 2016). This has resulted in a ‘bordered penalty’ in which two parallel systems of justice operate; one for citizens, based on inclusion and reintegration and another, for non-citizens which is ‘bordered, deeply globalised and geared towards exclusion from the national
social body’ (Aas 2014, p.521). As an often cross-border crime, human trafficking draws upon structural, global inequalities and market vulnerabilities that create opportunities for exploitation. However, the role of migration has largely been neglected in research on those responsible (Denton 2016). This leaves a gap in knowledge regarding how to respond to people who are often excluded from systems of justice and returned to the countries, networks, and circumstances, which led to their engagement with the activity with little or no attempt to address other issues in their lives.

Data and Methods

The aim of this analysis was to explore the way in which people convicted for human trafficking offences were constructed through criminal justice processes and to begin to identify characteristics of this group through the assessment process. The quantitative dataset comprised Offender Assessment System (OASys) scores for all offenders convicted for human trafficking offences between 2004 and 2008 in the UK (n = 71). Analysis of this is supplemented with findings from three qualitative datasets: (i) eleven semi-structured interviews with police officers and prosecutors in 2010; (ii) ten pre-sentence reports (PSRs); and (iii) nine full risk assessments using the OASys referring to human trafficking cases. Each dataset was analysed using thematic analysis (Braun and Clarke 2006) with mixed methods integrating the data in the phase of analysis enabling an inductive lead to the analysis, preserving the qualitative inquiry, but incorporating the specificity of the quantitative data (Moran-Ellis et al. 2006). Given the potential but also the limitations of each dataset presented below, the process of mixed methods allowed for an additional layer of rigour in triangulating the results, confirming the presence of themes from multiple data sources.

OASys was introduced in 2002 with the aim of providing consistency and ongoing information gathering within the offender risk assessment process. All individuals convicted for an offence in UK courts are assessed using OASys which is based on a range of static and dynamic risk factors used to inform assessment of the likelihood of reoffending and includes summaries regarding offenders’ backgrounds, characteristics and details of the index offence. As officially produced, the data are limited to the extent that they are a product of criminal justice processing of offenders and the interpretation of questions asked to offenders by probation officers. On this basis, there are potential issues regarding inter-rater reliability (although most sections have been found to be at least moderately reliable (Morton 2009)). However, OASys has also been found to provide comprehensive, comparable data regarding offender characteristics linked to the index offence (Mair, Burke and Taylor 2006) and ecological fallacy of OASys can be mitigated with the use of supplementary data (Fitzgibbon 2007).

PSRs currently represent the key document in providing the court with information regarding a defendant’s background and character. According to UK National Standards, the report should include information that situates the offence within the offender’s background, the factors leading to the offence and the attitude of the offender towards the offence with a
view to the viability of a community sentence (Field and Tata 2010; Tata et al. 2008). Despite their limits as official documents produced in the processing of court cases, PSRs have been found useful in classifying offenders due to the consistency and standardisation (Danni and Hampe 2000; Hudson and Bramhall 2005). However, concerns have been raised regarding the framing of diverse subjects in criminal justice processes (for example, see Hannah-Moffat and Maurutto 2010; Hudson and Bramhall 2005). Little attention is paid to ethnicity in risk assessments, which raises concerns when tools developed with white males in western countries are used with diverse populations (Maurutto and Hannah-Moffat 2006, p.444). The increasingly narrow focus of PSRs in focusing on factors that an individual has in common with an aggregate population rather than on the individual’s history and background means that cultural and ethnic backgrounds of offenders can be neglected (for example, see Hannah-Moffat and Maurutto 2010). Although this created a limit on the data, a gap in discussion relating to diversity in the narrative data sources had potential to be as revealing as its presence.

Considering the validity and reliability of expert interviews, Dorussen, Lenx and Blavoukos (2005) found that the validity of data gained during expert interviews crucially depends on the quality of the experts. All interviewees had worked with human trafficking cases for at least five years and had dealt with several cases. Despite the number of cases that professionals had dealt with being small (in some cases less than ten), in relation to the overall number of cases at the time, it represented a notable proportion and significant comparable experience. Although only eleven interviews were conducted, the pool of people from which these interviewees were drawn was limited. The low number of cases nationally meant that there was only a handful of dedicated trafficking units at the time of the research. In addition, as the legislation was new and the cases infrequent, the Crown Prosecution Service (CPS) had few prosecutors that routinely worked on these cases. These factors served to narrow the bank of criminal justice experts able to comment on human trafficking and therefore the potential pool of interviewees. The interviews were analysed with other data sources which mediated the limitations of conducting a small number of interviews and through analysis, the strength is built through the consideration of the data in the analytic framework rather than the number of interviews (Baker and Edwards 2012).

Demographics

The quantitative dataset was a comprehensive sample consisting of all offenders convicted during the period of study. The dataset consisted of 48 (68%) men and 23 (32%) women; the relatively high level of women’s involvement in trafficking reflecting trends identified elsewhere (United Nations Office on Drugs and Crime 2014; see also Broad 2015). The median age was 29 years with an inter-quartile range of 25–42 years reflecting general themes identified elsewhere regarding the age of those convicted for ‘organised crime’ offences (see Home Office 2013). OASys also includes
a proxy measure for the age at which offenders were first convicted: onset of offending. Although this is limited in that it relates only to recorded convictions, it can provide some insight into criminal backgrounds or potential lack thereof. The mean age of onset was also 29 years reflecting later offending onset for initial involvement in offences defined as ‘organised crime’ (Home Office 2013; Kleemans and de Poot 2008). The PSRs included an outline of the defendant’s criminal history. Half of the offenders in this dataset had no previous convictions. The other half had convictions for a range of offences although all had only one or two convictions variously: possession of drugs, fraud, shoplifting and immigration-related offending. The lack of offending backgrounds was commented on by interviewees suggesting that convicted traffickers did not appear to be the wealthy, organised criminals they have been portrayed as in the dominant discourse with phrases such as ‘nothing serious’ and ‘nothing major’ in the quotes below:

... and there’s nothing striking, you know, sometimes no criminal involvement prior to the trafficking offence and sometimes some other low level things, maybe shoplifting or something but nothing unusual and nothing serious really. (male police officer 1)

He’d been involved in a few bits locally ... selling stuff in pubs, fights, public order, low level stuff, nothing major and not making loads of money or anything. (female police officer 1)

The primary ethnic category for the population was white (59.2%). The data were limited as the categories for ethnicity were not further disaggregated. Notably there were no offenders recorded as black. The dataset also had no recorded information relating to the country of origin of these individuals which would have provided a greater degree of detail for the purposes of analysis although 63 individuals were recorded as foreign nationals.7 Although it is not possible to be certain regarding the accuracy of the information for people from outside the UK, the receipt of such information was discussed during interview with several participants who commented that the sharing of information, particularly for assessment purposes, was effective. For example, one prosecutor commented:

it tends to be easy now to get [the information] because they’re treated in exactly the same way as they would be in this country, you know, they’re admissible in court and they count towards sentencing. (female crown prosecutor 1)

The remainder of the OASys assessment uses information about areas of offenders’ lives established in evidence to be correlates of (re)offending to produce scores reflecting whether each area represents what is termed a ‘criminogenic need’8 and also contributing to risk scores. Analysis of these data indicated three key areas in which this group of offenders were assessed as having significant needs: education and employment, accommodation, and lifestyle and associates, which are detailed in turn below followed by a consideration of the overall assessed risk.
Education and Employment

Of the 71 cases in the quantitative dataset, 57 were recorded as unemployed at the time of assessment and unemployment was identified as a need for 54% of the cases. However, 30 of these cases were in custody; therefore 27 of the 41 cases in the community were unemployed. Of those cases in the community, 13 reported working full time and one part time. Having the necessary skills for, or positive attitudes towards, employment were not considered to be significant problems for most of the group, implying that there were other reasons for being unable to access employment. Relatedly, an additional section explored questions around financial management: 57 cases were assessed as having a problem with illegal income. Therefore, the need may be related more to the legitimacy of the employment than the lack thereof, suggesting a complex relationship between employment, migration and pathways into offending discussed further below.

In describing offenders’ experiences during migration journeys to the UK, the PSRs frequently reported a lack of employment opportunities in countries of origin as motivating migration and an inability to access legitimate employment in the UK. One described a male defendant who moved to the UK on the promise of employment but, when no work transpired, contacted his ex-partner who was working as a sex worker in their country of origin. She willingly travelled but was later exploited when the defendant withheld her earnings (PSR6). Another man migrated for employment; his family struggling financially in their country of origin. He was, again, described as unable to access legitimate employment and instead assisted his co-defendant in the sexual exploitation of an acquaintance (PSR8). As well as explicating the decision making of the men in these cases, these examples also illustrate the complexity of the relationships and processes of negotiation between perpetrators and victims. Eight PSRs related to non-European Union nationals, therefore without recourse to legitimate employment opportunities or support. Five PSRs referred to evidence that offenders had made remittances to their families (both young and elderly dependants) in countries of origin, suggesting a financial and familial motivation for the migratory journey.

Criminal justice professionals frequently commented on the structural disadvantage that they perceived had contributed to both motivations to migrate and involvement in trafficking along with a structured opportunity taken to exploit those ‘beneath’:

[Traffickers have] either not got the money or they’ve not got the social skills . . . it’s like if they’re sort of not well educated themselves, they’re just picking on the next ones down in the pecking order that they can exploit. You’ve not got much options. (male police officer 1)

They’ve not got many options. They’re migrating to our country and they’ve got no source of income, no trade and they need to survive basically, so their fall-back position is petty criminality and ultimately prostitute members of their own family which then support a group of people . . . extended family. (male police officer 2)
I’ve never seen a trafficker from this country [the UK], I don’t know why that is. The pound goes a long way you know. If you make some money here and then send it home, it’s worth a lot of money but that wouldn’t work the other way round. I think that must be the case. (male crown prosecutor 4)

The first two quotes above illustrate the perception of limited options for, in these cases, migrants living in the UK and the subsequent decision-making process to exploit someone within their limited networks. Contrary to the dominant discourse, these examples also demonstrate the complexity of the relationships between victims and their exploiters. The third quote underlines the structural inequality between the UK and countries of origin although it remains to be seen how this may shift with the decreasing strength of the pound at the time of writing.

Although lacking high levels of education, the data indicated a history of employment in countries of origin, often tied to the migration journey and representing the intricacy of the relationship between migration and employment such as in the following example:

One case had left his country of origin to work in another country. When this did not work out, he left to travel to the UK on the promise of work which only lasted for six weeks after which he returned home, only to revisit the UK on another promise of work the following year. Each move by this case was made on the basis of employment in conjunction with his family. (OASys2)

Most offenders had at least some level of qualification (63%); the problems with employment were sometimes described as being exacerbated by restrictions experienced through migration. This then led some offenders to consider other options, including recourse to exploitation for financial gain, often of an acquaintance. The problems experienced with unemployment along with networks to which offenders had access led to a precarious financial situation and availability of illegitimate sources of income. All data sources highlighted elements of financial hardship and a lack of basic amenities throughout the migration journey which presents some incongruities with the dominant construction and the lucrative aspect of trafficking often emphasised in dominant narratives (Campana 2016; Feingold 2005).

Data suggested that the experiences of this group were similar to experiences of migrants in the UK and present ways to contextualise their offending behaviour. Structural aspects of society can create barriers for migrants’ access to employment, the ability to integrate into the community and the perpetuation of stereotypes of migrants as ‘scroungers’ (see Hickman, Crowley and Mai 2008). The operation of these barriers was reflected in the data through offenders’ difficulty in accessing legitimate employment opportunities. In tackling these barriers, some of this group then used their limited networks to seek alternative financial gain, often by exploiting those within their networks:

He was not able to find work or claim benefits in the UK so on his first trip depended on . . . his sister. (OASys2)
He stated that he hoped to get employment in construction or agriculture but he could not get legitimate employment. (PSR9)

. . . had been working legally in a food factory. After his asylum claim had been considered and was not successful, he would enlist the support of friends who would offer him employment in their restaurants. (PSR7)

As the quotes above illustrate, several accounts of the migration journeys of these offenders were founded on unfulfilled promises of employment or changing employment circumstances depicting narrowing opportunities based on the situation in the country of origin, migration status and the use of networks to maximise the options available. Many victims of trafficking are subject to restrictions on the basis of their backgrounds and experiences. Faced with limited options, those who are ultimately victimised often turn to illegitimate channels in order to circumvent migration limitations or to access employment in restricted circumstances (O’Connell Davidson 2015). These findings suggest that one pathway into perpetration can begin in a similar way. However, the ways in which perpetrators respond to their predicaments is markedly different, choosing predatory solutions and exploiting others as a solution to their problems.

Accommodation

Accommodation was identified as a need for almost half the population (48%). Out of the 41 cases assessed in the community, 25 had significant problems regarding the suitability of accommodation, 13 as having some problems and only three having no problems. The most common living arrangement was with a partner. Offending with an intimate partner was a significant feature for 74% of this group (see Broad 2015). It follows that if offenders were living with their intimate partners, then their accommodation would be problematised. This also emphasises the reliance on close-knit ties; many case summaries described intimate relationships and/or familial ties between co-defendants. Over half of the cases assessed in the community were recorded as of no fixed abode, potentially indicating an inability to access housing through statutory channels. Analysis of the interview and PSR data suggested that some were undocumented migrants accounting for their inability to locate suitable accommodation and difficulties for law enforcement approaches; the following quote illustrated the latter in relation to locating trafficking suspects and their occupation of space outside the structures of society:

[traffickers] can be very difficult to pin down. They’ve been mostly . . . here illegally and so if they want to disappear then it’s quite easy to do that. (male police officer 1)

Lifestyle and Associates

The lifestyle and associates section of the session was the section most likely to be identified as a need. This section ‘deals with aspects of the offender’s current lifestyle, which could place them at risk of re-offending’ (Home Office 2002, p.77) and aims to measure the likelihood of
reconviction based on the presence of (non)criminal associates and participation in (non)criminal activities. Measures of community integration and participation in activities (drawing on the concept of positive social bonds in the community) are viewed as protective factors that can assist with desistance. Sixty-seven per cent (n = 48) of cases were identified as having some or significant problems in relation to community integration and 60% had problems relating to their participation in non-criminal activities. The proportion of cases co-offending with intimate partners, high proportion of migrants and consequent reliance on limited networks can account for the assessment outcomes in relation to participation in non-criminal activities and difficulties in achieving community integration. Interview data also reflected problems integrating into society and the ability to access appropriate support, and highlighted the role of structural factors, such as access to benefits, in pathways to offending behaviour:

They’ve assumed the same things apply in our country as theirs and proceed accordingly to get by. Perhaps if they had different avenues of support for themselves, i.e. social services within our country, they might have gone through other avenues to get [it]. (male police officer 1)

The ‘manipulative lifestyle’ section is designed to assess ‘whether the offender’s lifestyle exploits others . . . by being deliberately misleading and untruthful, exploiting weaknesses through bribery, or threatening to reveal information’ (Home Office 2002, p.81). It is evident from the description of this section that offenders would score highly as the language is similar to that of the index offences; 77% (n = 55) were assessed as having problems with manipulative lifestyles. In addition, this section takes into account the victimisation of a friend/acquaintance: 63% of cases had a non-stranger relationship with the victim, explicating this score:

It was her family, her uncle who had brought her here, not physically brought her but sent for her. He was with his son here. (female police officer 1)

This exemplified the close-knit nature of many of the networks involving the victims and perpetrators in convicted cases where co-defendants are close relatives with each other and with the victim and again highlighted the dependency on limited networks.

The two women represented in the PSR data migrated on the basis of their partners’ decisions to migrate; partners who ultimately became co-defendants. Broad (2015) highlighted the need to develop an understanding of the experiences that contributed to women’s participation in trafficking, particularly in the context of relationships with co-defendants and prior victimisation. However, the familial ties between co-defendants along with the incidence of partner offending in these cases was also relevant to understanding men’s involvement. The closeness of ties will create difficulties for targeting recidivism in the context of ongoing association with co-defendants and victims as well as for law enforcement in infiltrating trafficking networks.
Risk

The data provided two measures of risk reported here: risk of harm and risk of reconviction. The risk of serious harm is defined as ‘a risk which is life-threatening and/or traumatic, and from which recovery, whether physical or psychological, can be expected to be difficult or impossible’ (Home Office 2002, p.128). Most of the cases were assessed as medium risk (n = 47; 66%) with the remainder fairly evenly distributed between low and high. All offenders assessed as posing a high risk of harm were males and the majority of the medium-risk offenders were male (n = 32; 68% (within category)). Females represented 62% of those assessed as low risk (n = 8).

Human trafficking has been constructed through policy as a serious activity, for example, inclusion in the Serious and Organised Crime Strategy (Home Office 2014). However, those convicted for trafficking offences during the first legislative phase were predominantly assessed as low/medium risk of harm and reconviction. The notion of a low/medium risk of harm contrasts strongly with the dominant discourse’s portrayal of traffickers. The victims’ experiences are undoubtedly harrowing and traumatic; the purpose of this discussion is not to negate or underestimate these experiences. However, underlining this paradox contrasts the presentation of a highly-organised, exploitative, and dangerous network of individuals by virtue of dominant discourses and the data presented here representing a group of offenders with few resources and a background involving negotiation of often difficult circumstances.

Risk of reconviction is calculated by OASys using a combination of offending information, past and current, and the range of assessment outcomes identified above. None of this group was assessed as having a high likelihood of reconviction. Fifty-nine per cent (n = 42) were assessed as medium risk with a majority of males within this category and the risk of reconviction is either low or medium for all of this group. This, again, contrasts sharply with the dominant discourse and links made to organised crime. Individuals connected with organised crime can be assumed to have continued links to illegitimate sources of income/illegal activity and therefore the likelihood that they will be involved in an ongoing enterprise would be high (Albanese 2000). However, what these data suggest is not a continuous activity, even at a disorganised level but a smaller, opportunistic structure (for example, see Campana 2016; Paoli 2002) which according to assessed likelihood of reconviction, is unlikely to be repeated.

Discussion

This research provides a rare insight into the profile, and assessed outcomes, of people convicted for trafficking offences. All data sources identified a lack of previous convictions, particularly for other activity commonly defined as organised crime. The demographic profile of those convicted running contrary to the dominant narratives around organised crime and ‘rampant’ criminality. This, combined with a later age of onset, suggested
that those convicted for these offences required a reconsideration of their pathways into trafficking. The assessed outcomes identified through the data were focused on education and employment, accommodation, lifestyle and relationships, which, combined with the status as migrants suggested that migratory experiences can contribute to decisions to offend. This also necessitates a consideration of the meaning of risk for this group and how this must be situated in the context of global inequalities. Restricted opportunity, whether to employment or the ability to develop social networks through community integration, leaves some people open to participation in exploitative behaviours and provides a platform from which to work with these offenders. This discussion first considers the role of migratory experiences in pathways into trafficking activity, followed by a discussion of traffickers’ assessments and how this can inform effective ways of tailoring interventions for this group. However, this must also be understood within a wider context of the markets, structural inequalities, and vulnerabilities that create opportunities for traffickers to exploit others.

**Migration and Trafficking**

These findings indicated that this group had a set of assessed characteristics which restricted their social integration. These people were excluded from local communities in addition, through the processes of bordered penality, to being excluded from criminal justice processes. The tendency to neglect offenders’ broader backgrounds is a feature of new penal landscapes in contrast to ‘policies premised on this [the old penology] perspective addressed problems of reintegration, including the mismatch among individual motivation, normative orientation, and social opportunity structures’ (Feeley and Simon 1992, p.466). Despite the ‘hybridization’ of risk/need assessment process, as outlined above, those most marginalised can be less likely to receive scarce resources (Hannah-Moffat 2005). In combination with the ‘otherness’ attributed to traffickers, the reliance on, and assumptions of, the dominant construction contribute to a blindness to the contexts that lead to trafficking.

Some convicted offenders’ involvement can thus be understood through a closer consideration of migration journeys which are closely linked to employment pathways, opportunities and the decline of opportunity. This point is exemplified in the following case example:

He and others travelled to the UK on the promise of some work and a roof over their heads. The victim also travelled with them to work. When he arrived in the UK from Romania, the work did not materialise. He then used the victim to earn cash by facilitating her to act as a prostitute. (OASys6)

The use of the term ‘victim’ here would not have been applicable at this earlier stage of the journey; she was travelling with others, for the purposes of employment. The pathways into trafficking and the decision to exploit their companion have been influenced by the actions of others who exploited a less-advantaged position combined with a lack of legitimate opportunity. Structural inequalities apparent in this data and the need to
make remittances highlighted employment and financial gain as a motivation for migration. This group, although not highly qualified, were not characterised as having problems with skill sets necessary to secure employment. Problems transpired either through the lack of ability to access legitimate income sources or in recourse to illicit markets. Preventative approaches need to seek to consider the opportunities and restrictions faced by migrants in the UK in addition to exploring ways of targeting the opportunities in illicit markets. The development of policy which creates further barriers to inclusion and the continued use of anti-trafficking measures which inadvertently marginalise and lead to the deportation of migrant workers can potentially increase the opportunities for traffickers. Enabling access to legitimate work, access to services and encouraging integration into communities may support those exiting the criminal justice process and their ongoing desistance.

The findings discussed here suggest that experiences of migration will impact on the overall shape of the experience of women and men as victims and traffickers to a variety of extents and ends. Clearly this is not the case for all traffickers. However, for those with restrictions on their access to social institutions and those with limited opportunity, this provides an important way in which to understand their engagement with trafficking.

These findings have a wider utility for criminology in advancing the understanding of trafficking which has been slow to incorporate the issues and impact of globalisation (Bosworth, Hoyle and Madden Dempsey 2011). It is necessary to understand the local nature of the networks involved in these offences and the position of these networks within a global context. The emphasis on transnational crime as ‘global’ has led to the focus on assessing the risk and threat posed by the ‘alien other’. However, an understanding of the local and cultural context is necessary to understand the mechanisms of these crime markets. This research illustrates that convicted cases involve a range of facets which relate to local and global cultural factors; restricted networks and dependence on offending with an intimate partner, the economic and structural context behind the formation of these groups of co-defendants and the decision-making process which leads to the exploitation of victims who are initially in similar circumstances to the perpetrators.

**Risk and Trafficking**

This group’s homelessness, lack of legitimate income sources, employment and limited social networks all contributed to their categorisation as socially restricted. The criminal justice representation of this group constructs them as operating outside the boundaries of ‘normal’ society. The social restriction is then compounded by the effects of exclusion from reintegrative systems of justice – a bordered penalty. Rehabilitation and reintegration become less important in sentence planning for offender management within the UK as any community supervision will be managed by other countries; countries in which the offenders had often experienced problems which contributed to their decision to migrate. The
individual is subject to punishment through the criminal law for the substantive offence(s) but also for their infringement of immigration law; they are deported for reasons of immigration in addition to the risk that they pose (Aas 2014), despite the assessed risk in most of these cases not being high. In the case of human trafficking, risk is framed as considerable as constructed through the dominant narrative, despite the assessed risk of the individual being low or medium.

The seriousness of the activity and nature of risk outlined in the dominant discourses was inconsistent with the nature of risk evident through risk assessment of these offenders. However, risk remains a significant theme which emerges from a review of the literature and policy in this area. So, if it is not the risk of an offender, the risk of harm, risk of reconviction that this risk relates to, then the question remains regarding what this risk represents. Given that the group of convicted offenders consists almost entirely of migrants, the risk may relate to the risk presented by the migrant ‘other’. The profile of these individuals as socially disadvantaged and the ‘migrant other’ reflects the operation of this policy on a crime/security basis. The targets, or the eventual group of convicted offenders to which this legislation applies on the basis of these data are low level, unsophisticated and disorganised: some, perhaps, socially restricted. Expulsion through the operation of justice is an expression of punitive attitudes, a way of keeping out the ‘other’ but also a way of protecting resources within societies and reinforcing identity and belonging (Aas 2014). Understanding pathways into offending is crucial to understanding the activity at an individual level but also for understanding the operation of structural inequalities underlying these activities. Managing the ‘risk’ posed by this group is therefore associated with a consideration of other policy responses: with the management of borders, reflecting the policy overlap with security and migration in addition to the impact of restrictive immigration and employment policies.

Conclusions

Integrating migration into an understanding of the pathways into trafficking is a difficult process during which a balance must be struck between understanding the operation of migration and culture in the pathways to criminality and exploitation while also avoiding the adoption of moral judgments on the basis of anxieties about ‘others’. In this research, partially through the focus of early anti-trafficking approaches, many of the offenders convicted for these offences were migrants. This does not suggest that UK nationals are not involved in trafficking and exploitation; the findings are limited in that they represent a population resulting from the criminal justice processing of these cases. However, along with assessments of needs around education and employment, accommodation, social integration and relationships, the significance of migration experiences emerging from this research adds a further perspective to understand their criminality. It is only possible to effectively recognise both the diversity and the shared issues of some traffickers outwith the dominant
narrative, acknowledging both the criminality but also the needs of these offenders.

There remains a need to question the simplistic view of the trafficked victims and perpetrators presented through the dominant construction (O’Connell Davidson 2015). However, in addition to the offender and victim, an opportunity must also be present; in the case of human trafficking, this opportunity is provided in the form of vulnerabilities in licit and illicit markets. An alternative approach to the decisions made by some convicted traffickers must appreciate the migration journeys and how these journeys intersect with the vulnerabilities in (il)licit markets that facilitate exploitation. The opportunities can be accessed through the limited social networks, as indicated in these data and in other explorations of pathways into organised crime activity through social and employment networks (Kleemans and de Poot 2008). The vulnerabilities in markets, whether in the illicit markets such as the sex industry or regulated markets such as food processing or garment manufacture, provide the opening for exploitative behaviours. There is a need, criminologically, to analyse the markets in which human trafficking occurs and identify how weaknesses can be addressed and to consider how this can be reconciled, pragmatically with risk-focused frameworks of offender management.¹⁰

Notes

1 For a comprehensive consideration of the policy change from human trafficking to modern slavery in the UK, see Broad and Turnbull (forthcoming).
2 TRafficking as A Criminal Enterprise (TRACE) is a two-year EU funded project aiming to assess and consolidate information regarding perpetrators and the wider trafficking enterprise (for further information, see http://www.trace-project.eu/published-reports/ (accessed 9 November 2017)) (TRafficking as A Criminal Enterprise 2015).
3 For a discussion of the overlap between these concepts, see, for example, Aronowitz (2001).
4 Offences comprised trafficking offences under the Sexual Offences Act 2003 and trafficking for prostitution and trafficking within the UK for the purposes of exploitation under the Asylum and Immigration Act 2004. The dataset 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.
5 All data were accessed through the then National Probation Service (NPS) which was able to provide all quantitative OASys assessments and a sample of the other qualitative data types which were cases that were included in the larger dataset.
6 The Offender Group Reconviction Score (OGRS) is embedded in OASys, the system uses a number of variables to produce an OGRS which reflects the likelihood of future offending: the higher the OGRS, the higher the likelihood of reconviction.
7 This was the term used in the dataset.
8 ‘Criminogenic needs’ refer to dynamic risk factors that are linked to criminal behaviour and are used as the basis for many approaches to offender management including that in the UK OASys (see, for example, Bonta and Andrews 2007).
9 This relates to legitimate employment, those recorded as unemployed were also recorded as earning money although this was not through employment recordable under this section and was, instead, recorded in the financial management section.
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