THE VICTIMIZATION OF CRIMINALIZED WOMEN AND TRAUMA TRAILS: PATHWAYS TO CRIMINALIZATION AND THE DICHOTOMY OF THE VICTIM OFFENDER CONTINUUM

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Abstract

This paper explores the victimization/criminalization dichotomy as women who are criminalized are often marginalized and have extensive histories of trauma; they have often experienced victimization through abuse, colonialism, familial instability, poverty, addiction, and mental health struggles. The trauma women experience further informs their life courses, and in many instances results in further victimization. The ways in which the criminal justice system and correctional institutions contribute to the victimization of women is addressed. There is no catch-all solution to the issues that contribute to the criminalization of marginalized women—many of the challenges that they face are multifaceted and systemic. Despite this, criminalized women cannot only be considered victims of circumstance, and their voices are necessary to improving the system that perpetuates their marginalization.

Keywords: criminalization, trauma, victims,
It is not surprising that criminalized women have often experienced significant adversity in their lives before, during, and after incarceration. The ongoing trauma from violence, neglect, and sexual abuse beginning early in life is correlated with criminality later in life: cycles of abuse indicate that women who experience violence, neglect, and physical or sexual abuse during their childhood are at an increased likelihood to continue to experience it and/or perpetuate it against others into adulthood (Minh, 2013, p.5475). It is commonly accepted that those who were exposed to violence and aggression at the hands of their family members and caregivers are more likely to mistreat others; however, that is an overly simplistic explanation of why women may commit violent crimes—

Efforts to construct meaning and love as adults sometimes reproduced the pain of their childhoods, as they became victims of abuse and perpetrators of crimes. They did not, however, simply model violence or victimization, but confronted the same problems that their parents struggled to overcome: loneliness, overwork, bad relationships, poverty, addictions, illness and death of loved ones.” (Ferraro, 2006, p.113)

Research tends to focus on the cycle-of-violence conception as a predictor of how those who have been abused in childhood will go on to abuse their peers, partners, and children. Violence that occurs during the transition into adulthood can have devastating consequences for the victim as it is a critical time wherein various forms of experiences, behaviors, and skills are developed (Macmillan, 2001, p. 6). During adolescence, one is expected to learn fundamental life skills and forge relationships. Important developmental and educational milestones can be severely derailed when violence and abuse is prevalent in the home. With significant continuities in psychological well-being over the life course, it is not surprising that violence has long-term consequences on mental health… considerable research indicates that early experiences of violence influence long-term trajectories of psychological well-being. Research on violent victimization among children indicates considerable psychological distress. Research on abused and neglected children and research on female victims of rape indicate both short-term consequences and continued evidence of distress in later life, while retrospective analyses, particularly those involving female rape victims and victims of other serious violence, show significant long-term consequences. Overall, violent victimization in early life seems an important precursor to long-term or recurring psychological distress over the life course (Macmillan, 2001, p.7).

The long-lasting effects of abuse on a victim go beyond violence as being merely a distraction or interruption from a “normal” life; trauma informs the life course due to the ongoing emotional turmoil inflicted that alter one’s ability to cope with their situation. Women who experience violence and abuse need adequate support to heal and cope with the psychological fall-out; however, abuse is often experienced by those who are marginalized and lack the resources to get the help that they need. As such, victims of abuse often cope in other ways such as adapting to the violence inflicted upon them: i.e. becoming violent as a way of asserting themselves, fleeing their home when ill-equipped in search of safety, or substance abuse as a way of dulling the memories and experiences. In turn, these behaviors contribute to the criminalization of
women who have extensive histories of victimization as their coping methods tend to result in run-ins with the law.

Ongoing violence and abuse into adulthood appears to be a relatively common factor in the lives of criminalized women. “Battered women,” or women who have experienced violence at the hands of their intimate partners, can find themselves criminalized as a result of being in an abusive relationship. Abusive relationships are not only classified by physical abuse, but by emotional abuse, coercion, and manipulation as well. As a result, women may become involved with the law at the behest of their abusive partner:

Theorists of the social bonding and control perspectives on crime and delinquency have not considered how women’s high levels of integration into their family and strong bonds to abusers may shape their perceptions of crime. Although none of the women here [in the study] were immersed in street crime, their relationships with violent men affected their views of the law. None believed that killing, robbing, hurting others was acceptable behavior. But their eventual participation in these crimes was influenced by their perceptions of their partner’s authority and the consequences they would face for disobedience. (Ferraro, 2006, p. 214)

Some women may find themselves criminalized when they fight back against their abusive partners, when they escape their abusive partners, or may be coerced into criminal behavior as accomplices to crimes instigated by their partners: “the survival strategies women select either by choice or necessity to deal with such abuse seems to facilitate their criminalization, effectively transforming them from victims to offenders… Thus, criminality seemed to serve as both a survival strategy and as a means of resistance” (Moe, 2004, p. 124). Violence and abuse may appear to be a normative occurrence in the lives of criminalized women, but the trauma from these experiences have far-reaching effects, and the responses to these effects can put women in contact with the criminal justice system. The ways in which women cope with abuse—fighting back, drug and alcohol use, and so on—are deemed criminal despite these methods being employed as a result of victimization. Physical and sexual abuse can be a precursor to poverty, unemployment, homelessness, and so on as women who leave abusive relationships or homes often find themselves in a poor financial situation (Cho, 2004, p. 141). Although the experience of being violated or abused cannot be an all-encompassing explanation for women’s criminality, it would be irresponsible not to consider the ways in which these experiences have traumatized women, and how that trauma contributes to criminalization.

Substance abuse and addiction is another prominent issue wherein women become intertwined with the law, and often find themselves using alcohol and illicit drugs as a maladaptive coping method for the trauma they have experienced. Beyond drug possession and trafficking, criminal offenses that carry hefty minimum sentences, women with substance abuse problems often find illicit ways to support their addictions—thief, robbery, mischief, sex work, and other forms of law-breaking (Moe, 2004, p. 127). Alcohol and drugs may help alleviate some of the effects caused by trauma; however, addiction tends to open women up to significant risk of criminalization.
Women’s drug use may be tied directly to their experiences of interpersonal violence (Anderson, 2008; Bloom et al., 2003b). Some suggest that women are more likely to use drugs to cope with internalized feelings of shame (due to prior abuse)...Drug use rarely occurs within a vacuum; that is, it is often a mediating factor to crime which extends from overlapping issues within women’s lives, such as victimization. (Smith, 2017, p. 116-117)

Understandably, abuse and trauma are not the only reasons that women may become addicted to drugs or alcohol. There is no single explanation, but there are recurring themes involving trauma. Once one has become established in addiction, affording to continue purchasing drugs or alcohol becomes increasingly challenging through legitimate means. As such, women may become involved in the highly gendered field of prostitution as a means of earning money to pay for drugs or alcohol and working the streets is notoriously dangerous. This is not to suggest that trauma is a precursor to women entering the sex trade, but that the ramifications of trauma and substance abuse can contribute to a poor financial position that makes prostitution a readily available option for survival. Street-level sex-workers have limited ability and resources to properly vet clients and very little recourse is available when one is sexually assaulted, robbed, or beaten: “Once individuals are engaged in sex exchange, sex workers may use drugs in order to cope with the stress and degradation associated with their work. Sex workers report very high levels of violent victimization (e.g., rape, assault) … The links between sex work, victimization, and drug use are consistent in women, albeit complicated by issues of temporal order” (Verona, Murphy, & Javdani, 2015, p. 4). Ultimately, women who end up participating in sex work as a way of purchasing drugs or alcohol are very vulnerable to physical violence and abuse, and often begin abusing substances as a result of the trauma they have experienced in the first place. Additionally, women with addictions issues may commit other crimes such as theft, fraud, or robbery to obtain drugs and alcohol.

One of the most important issues is that women’s drug use appears to be a defining factor in their participation in crime in that the severity of women’s drug use is more closely related to their criminality than it is for men. There is also compelling evidence that women’s drug use is strongly associated with involvement in the illicit drug economy, prostitution and property crime (Rushforth & Willis, 2003, p. 5).

As a result of addiction issues, some women become acquainted or reacquainted with the criminal justice system. Substance abuse problems, which sometimes develop as a method of coping with past and present trauma, can also contribute to the further victimization of women.

The connection between crime and poverty has been long understood in criminology, but it is especially relevant concerning gendered crime. For those living in poverty, it can be a day-to-day struggle to meet the basic necessities of life. Substandard housing, poor nutrition, and all the other stresses that accompany living in economic hardship are added barriers in completing and excelling in the educational setting. As such, the strain of poverty and the toll it takes on educational attainment is a contributory reason that women may be more at risk of becoming criminalized. Those who experience trauma in adolescence may have a difficult time finishing their education or obtaining valuable credentials, and as such, they often remain in a poor socioeconomic position:
“Among female inmates in the reporting provincial institutions, 50% did not complete secondary school, whereas 43% had a high school diploma and 12% had completed some post-secondary education” (Mahony, 2017, p. 33). According to Lance Lochner’s 2004 study, those with higher levels of educational attainment tend to have higher levels of human capital and earning potential. As such, engaging in crime carries considerable risk to damaging one’s human capital in the “legitimate” labor market; however, if one does not have substantial human capital in the way of credentials or economic opportunity, crime may be more appealing as it can provide a means of economic opportunity that would otherwise be unavailable or difficult to access (p. 840). One’s human capital is largely determined by their educational attainment and skills; as such, those who do not obtain a high school diploma or do not advance to post-secondary or vocational training tend to possess less human capital and may not have easy access to legitimate employment. Experiences of trauma in adolescence can put a significant strain on students and negatively impact performance in the classroom—as a result, they are at an increased risk of disengagement and are more likely to drop out of school prematurely:

The connection between trauma, school engagement, and dropout is clear. The cognitive, psychological, social, and behavioral challenges that can occur as a result of trauma are closely related to commonly identified factors that negatively impact school engagement and high school completion (Rumsey & Milsom, 2017). Individual responses to trauma vary, but students who experience significant levels of subsequent psychological distress may be at greater risk of experiencing more severe problems in the school environment and ultimately dropping out of school (Porche et al., 2011). Further, with insufficient or inadequate support, students with learning challenges, low academic achievement, emotional disturbances, and/or truancy (all potential symptoms of trauma) are more likely to disengage and/or dropout of school. (Rumsey & Milsom, 2018, p. 3)

The lack of formal education and vocational training leaves women with little opportunity to earn a living through legitimate means, and marginalized women may view crime as one of the few avenues available to them to earn an income. When one’s parent(s) and/or caregiver(s) are undereducated and underemployed, one is far more likely to also go on to be undereducated and underemployed; at the same time, when one’s parents are privileged, there is often an intergenerational transfer of advantage that benefits the children of those who are well-educated and meaningfully employed (Harper & Moore, 2003, p. 544). Intergenerational transmission of aspirations and attainment is also an important concept in regard to the low levels of educational attainment as seen by the majority of criminalized women, and likely contributes to the cycle of poverty experienced by many marginalized women who are sole caregivers to their children:

Children and young people witnessing or experiencing conflict or violence can be severely traumatized with long-term implications for their own behavior. Long-term conflict can constrain children’s overall development and education and destroy social relationships. Parents traumatized by war [or residential schools] may find it difficult to care adequately for their children, or to generate a living, and children may be left injured and/or orphaned, with serious
implications for their survival, protection and development (Harper & Moore, 2003, p. 542).

In communities devastated by poverty, and with little opportunity to climb out of it, marginalized women can easily become criminalized in trying to merely survive. The feminization of poverty—the phenomenon where women are more likely to experience poverty than men—is an especially relevant theory to consider regarding the increasing criminalization of women. Many women are sole caregivers to children and need an income to properly care for them; however, there may considerable barriers in finding employment when one is undereducated and under-skilled. There are also practical concerns regarding issues such as childcare and barriers to its affordability and availability. At the same time, children who grow up in poverty with an absentee parent who has been criminalized and subsequently incarcerated face considerable disadvantage in losing their provider. Poverty puts people, and especially women and children, at a considerable disadvantage and increases the likelihood of traumatic experiences and subsequent risk of criminalization.

The ongoing effect of colonization and intergenerational trauma is another factor to consider when studying the victimization of criminalized women. Indigenous women are severely overrepresented in correctional institutions (approximately 43% of admissions to custody), making them one of the most at-risk groups to experience criminalization (Statistics Canada, 2018). This overrepresentation is indicative of broader social problems, such as poverty, racialization, violence, that are endured by Indigenous people as a result of colonialism (Kaiser-Derrick, 2019, p. 6). Intergenerational trauma, the ongoing fall-out of the now defunct residential school system, continues to impact Indigenous people today who have been subjected to the cycles of abuse, addiction problems, and poverty: this historical trauma is not merely in the past. The ways in which Indigenous women come into contact with the criminal justice system at such alarming rates can be understood as the outcome of increased rates of trauma and marginalization in colonial society. The social problems stemming from colonial trauma have become rampant in some communities with little resources to improve their situations, and as such, Indigenous women are more vulnerable to victimization.

Aboriginal women are, nevertheless, being increasingly criminalized and imprisoned regardless of the conditions of endangerment that tragically define their lives. There is a complicated relationship between the prevalence of gendered violence in Aboriginal communities and violence committed by Aboriginal women (Smith & Ross, 2004). In this sense, a victimization–criminalization continuum appears, but one that is situated in historical, cultural, economic, and political practices that deny Aboriginal women their dignity and respect, autonomy, and self-determination, thereby contributing to their endangerment…most marginalized women must resort to defensive violence, only to then be criminalized and eventually coercively punished (Balfour, 2008, p. 104-105).

The interpersonal violence and systemic racism experienced by Indigenous peoples can be linked to colonization that is still ongoing today. Beyond the residential school system, it is important to consider how the reserve system, child welfare practices, and criminal justice system all contribute to a legacy of ongoing colonization.
that further marginalize Indigenous people, and put Indigenous women at a very high risk of criminalization (Comack, 2018, p. 64). These systems continue to perpetuate trauma onto Indigenous families and communities, albeit less blatant than their predecessor, both directly and indirectly. In regard to the issues of family violence, addiction, and poverty as discussed in this paper, it is imperative to acknowledge how Indigenous people are disproportionately impacted by these social problems as a result of colonization.

In Canada, Indigenous peoples experience multiple forms of disadvantage and marginalization, including disproportionately high rates of victimization and pervasive systemic racism...Indigenous women are three times more likely than non-Indigenous women to experience family violence (Statistics Canada 2011), and four times more likely to be murdered or go missing (Royal Mounted Canadian Police 2014). The ongoing legacy of abuse in residential schools, and in foster and adoptive care, also contributes to intergenerational violence (McKenzie et al. 2016) and is an example of how systems of colonization have perpetuated violence against Indigenous peoples (Ponic, Varcoe, & Smutylo, 2016).

Canada has a long history of ongoing colonialism: the marginalization of Indigenous people is often ignored, diminished, or even justified today thus allowing the tradition of colonial subjugation to continue. In an attempt to combat the systemic bias and discrimination experienced by Indigenous peoples, Gladue reports were introduced following the landmark R v. Gladue decision in 1999. According to the Department of Justice (2017), they function as a specialized pre-sentence report with the goal of mitigating the disproportionate criminalization rates of Indigenous peoples (p.13-14). In analyzing an offender’s Gladue factors, a judge is better informed of the unique ways in which an Indigenous person has come into contact with the criminal justice system—this often includes a detailed personal history wherein an offender has been significantly disadvantaged as a result of ongoing colonialism (Hebert, 2017, p. 157). These measures allow for the courts to sentence offenders with consideration given to the issues faced by Indigenous people that contribute to high rates of criminalization: low income, high unemployment, substance abuse issues, intergenerational trauma, child services intervention, and systemic racism.

As stated by Balfour,

The Supreme Court of Canada has held that sentencing judges are to direct defense counsel to make representation of the offender’s Aboriginal status and a conditional sentence can be granted for any offense except where a mandatory minimum sentence applies. Thus, offenders convicted of sexual assault and manslaughter can receive a conditional sentence, providing that the public is not placed at risk and denunciation can be achieved via strict conditions. These decisions of the Supreme Court of Canada indicate the importance of sentencing principles that call for least restrictive measures and, wherever possible, alternatives to incarceration, especially in the sentencing of Aboriginal offenders. Thus, principles of restorative rather than retributive justice can and should be applied by lower provincial courts. (Balfour, 2008, p. 108)

Gladue factors allow judges to tailor the sentence of an Indigenous offender to be more conducive with restorative justice principles so long as an offender is willing to accept
responsibility for the offence(s) and expresses a
desire to address any underlying factors that
contributed to their criminalization (Department of
Justice, 2017, p. 21). Despite this, there is debate
over the efficacy of the reports; overrepresentation
and overincarceration have in fact increased since
Gladue reports became standard practice in the
sentencing of Indigenous offenders (Department
of Justice, 2017, p. 20). There are also judicially
imposed limitations to the reports as offences with
mandatory minimum sentences cannot be
circumvented by even the most compelling Gladue
factors (Department of Justice, 2017, p. 25). There
are many further reasons that the reports have not
been overwhelmingly successful in curbing
Indigenous overrepresentation in the Canadian
criminal justice system: inadequate alternative
measures programming, resistance from offenders
to disclose their personal history, difficulty in
having a report ordered by the court, and so on
(Hebert, 2017, p. 170). Unsurprisingly, there is
also considerable public and professional
disproval of Gladue reports with many perceiving
it as providing an unfair “advantage” to Indigenous
offenders, or as detracting from traditional
sentencing principles which are largely based on
precedent (Department of Justice, 2017, p. 22). It
is apparent that the application of Gladue reports
does not always make a significant difference in
the sentencing of Indigenous offenders, but
arguably its implementation is a step in the right
direction in rectifying the issues of
overrepresentation and overincarceration.

The pathways that lead to women becoming
criminalized and subsequently incarcerated have
been discussed thus far in this paper; however,
there is also consideration to be given to how
correctional institutions can both be places of
healing, as well as further sources of trauma. In
some circumstances, the correctional institution
can be a refuge for women, for many others it
contributes further to their marginalization. Issues
of poverty, addiction, and abuse can be alleviated
due to the nature of programming in correctional
institutions: availability of basic healthcare, meals,
and counselling can be very helpful for women
who have struggled in their lives to access these
fundamental necessities that many people take for
granted. Women who have been abused may also
find refuge within the walls of the institution;
however, for many women, the experience of
incarceration is less than positive.

As the prison-industrial complex expands
and the incarceration rates rise, prisons are
increasingly filled with women (and men) who
have experienced abuse, poverty, addictions, and
mental health issues. With fewer community
resources available and a shrinking welfare state,
marginalized women are being locked up in
greater and greater numbers. Prisons become the
default response to social inequalities and
marginalization. Yet imprisonment exacerbates
social exclusion by removing people from their
communities and families and by diverting
community resources into prison systems (Pollack,
2009, p. 125).

Budgetary constraints, strict rules, long
waiting lists, apathetic and even vindictive
correctional officers, lack of contact with family
and friends, are just some of the ways in which
incarceration can be retraumatizing for women
who end up with a custodial sentence. Contact with
loved ones is limited to the occasional phone call
or rare brief visit. If an inmate cannot afford
outgoing phone calls, that contact may be cut off
entirely for the duration of one’s sentence. Often,
time spent incarcerated is not necessarily time well
spent as there is insufficient programing and
resources for women to properly rehabilitate upon release: “While going to jail may seem a viable option given the women’s troubles on the outside, their experience of imprisonment is very much conditioned by the particular space inside the facility where they are housed” (Comack, 2018, p. 180). It appears that the majority of women’s institutions often have inadequate programming to help rehabilitate women and deal with their trauma—instead, incarcerated women are often plagued by boredom, lack of productivity, and disconnection from their relationships on the outside. The correctional environment is sterile, inflexible, and there is often very little recourse for women who experience abuse or neglect within the walls of the institution. Prisons are supposed to be rehabilitative structures but tend to function more as sites of punishment. For criminalized women who have been traumatized throughout their lives, the correctional institution seldom offers much assistance, and appears to contribute to the further victimization of women at times.

The pathways theory supports the concept that criminalized women’s violence is not pathological, but rather sociological in the sense that the violence and criminal offending is most often a response to trauma and ongoing victimization. The women who come into contact with the criminal justice system are often marginalized both socially and economically and have histories of trauma; they have experienced victimization, colonialism, instability, poverty, addiction, and mental health problems. Furthermore, women who become incarcerated may also be subjected to victimization in the carceral institution. This is not to say that all women who have been victimized are powerless victims without agency, but it is an acknowledgement that the trauma they have experienced has altered their pathways and limited their autonomy and opportunities. The individual experiences of women must be evaluated through an intersectional lens to properly understand the ways in which trauma has contributed to victimization and subsequent criminalization. The lived experiences of criminalized women are necessary to the sociological analysis of trauma and women’s offending patterns as it informs our understanding of the ways in which broader social systems function as oppressive barriers. The social conditions—or social problems—that have inflicted trauma upon criminalized women must be acknowledged as problems requiring collective action rather than personal shortcomings before they can be remedied.

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