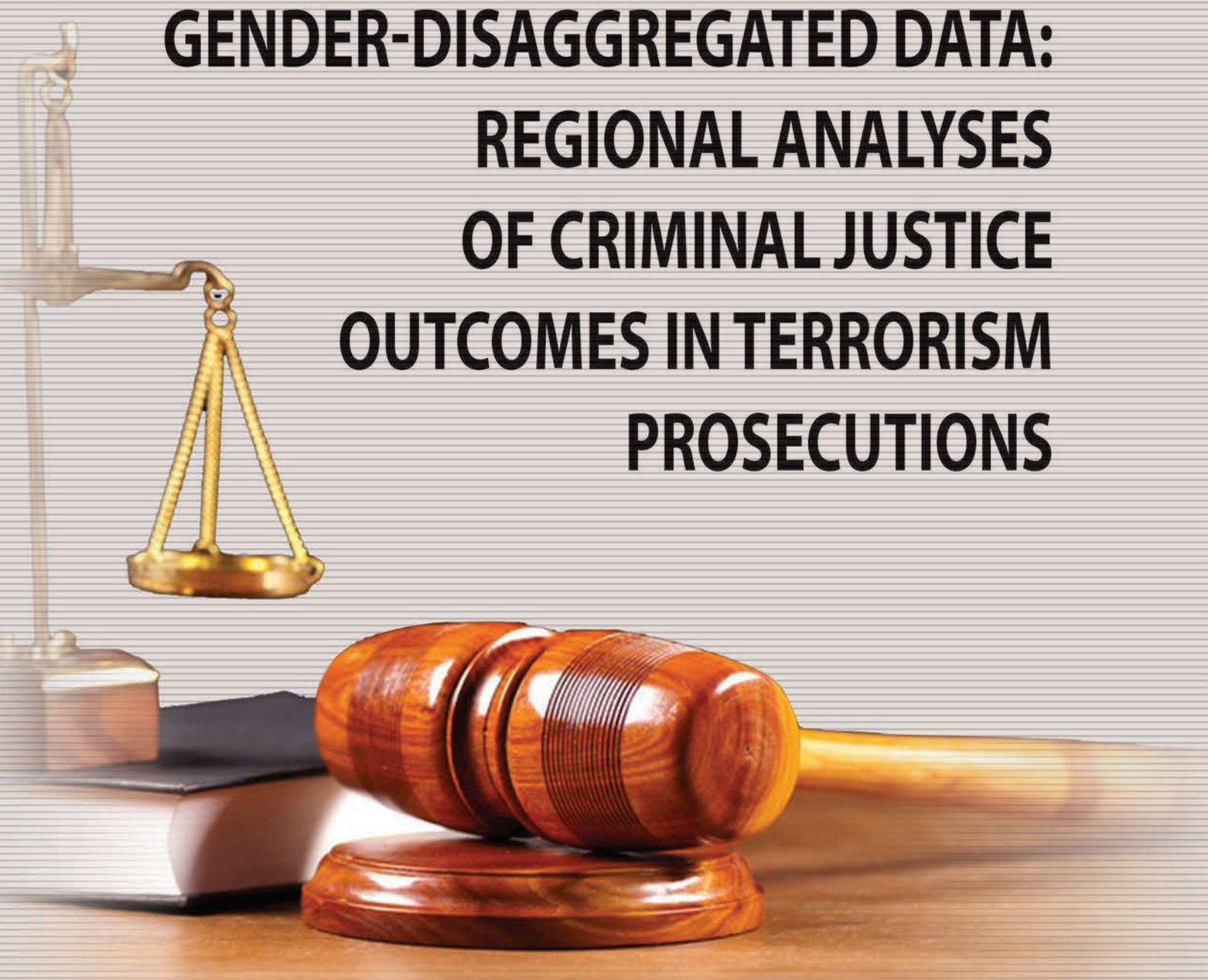




CENTRE OF EXCELLENCE
DEFENCE AGAINST TERRORISM

A golden scale of justice and a wooden gavel resting on a book. The scale is on the left, and the gavel is on the right, resting on a wooden block. The background is a light, neutral color.

GENDER-DISAGGREGATED DATA: REGIONAL ANALYSES OF CRIMINAL JUSTICE OUTCOMES IN TERRORISM PROSECUTIONS

NATO Centre of Excellence Defence Against Terrorism



GENDER-DISAGGREGATED DATA:

*Regional Analyses of Criminal Justice
Outcomes in Terrorism Prosecutions*

Edited by Omi Hodwitz

NATO Centre of Excellence Defence Against Terrorism

GENDER-DISAGGREGATED DATA: REGIONAL ANALYSES OF CRIMINAL JUSTICE OUTCOMES IN TERRORISM PROSECUTIONS

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Preface

In recent years, terrorism has emerged as one of the major global threats facing nation states. Today, terrorist organizations in every corner of the world use technical breakthroughs in the most efficient ways to carry out attacks on a worldwide scale. As a global issue, terrorism has gained strategic advantages from lax security, creating a climate of fear and panic.

While women have always been involved in terrorism and political violence, few people today associate terrorism with women. We *must* overcome gender stereotypes and scrutinize the root causes and impacts of terrorism executed by women. Female terrorists have often proven to be as bloodthirsty as their male counterparts, but their paths to radicalization may differ. As you will read in this publication, they are also often held to differing standards of accountability by the justice systems of their home nation. The more we study, the more we see that “terrorism” is not a monolithic entity; its appeal is as diverse as it is perverse, with complex hooks that include everything from anger, grief, and a desire for revenge, to nationalistic or religious fervor. Understanding both sides of this complex contextual equation – the motivations of individuals and the expectations of the societies in which those individuals live – is key to understanding terrorism as a whole. This small study is an important first step in that direction.

If we are going to study terrorism as it relates to gender, the first thing we need to ask ourselves is: what *exactly* do we mean by “gender”? Gender is a sociological phenomenon shaped by culture, society, and the behaviors that community expects of its members. In this approach, children, men, and women all represent distinct types of gender. It can be scientifically useful to study gender groupings in comparison with each other, as it provides a careful researcher clues about both the members of a particular society and the society itself. With this aim – to build a more complete understanding of terrorism in general - COE-DAT embarked on a cooperative effort with Dr. Omi Hodwitz to study the way four unique criminal justice systems differ in their treatment of adult male and female terrorists. The pages in your hands are the outcome of her and her co-authors’ tireless effort.

It is evident that data is a foundational tool for a scholar; using it to provide a descriptive view to all stakeholders is a pivotal goal. Before beginning this project, our intention was to study data from a large number of different parts of the world in order to generalize the key findings. While available data sets were fewer than we originally hoped, I believe this project’s findings are significant and the beginning of something important to future research.

Gender, like culture, is of primary relevance to terrorism. With this foundational belief, COE-DAT executed our fourth annual workshop on Gender in Terrorism and Counterterrorism from 13 to 15 September 2022 in Ankara, Türkiye. In every workshop, we examined different contextual perspectives. With every workshop, we have learned more in detail about the phenomenon of terrorism. We are confident our endeavors will join those of others in our community of interest to aid academics and policy makers alike.

COE-DAT believes that this book will be of inspiration and will lead to more data collecting on gender in terrorism to support the conceptual and operational aspects of counterterrorism in the coming years.

A little about COE-DAT

COE-DAT provides key decision-makers with a comprehensive understanding to terrorism and CT challenges, in order to transform NATO and Nations of interest to meet future security challenges. This transformation is embedded into NATO's three declared core tasks of Collective Defence, Crisis Management, and Cooperative Security.

As a strategic-level think tank dedicated to the development of NATO DAT activities sitting outside the NATO Command Structure, COE-DAT supports NATO's Long-Term Military Transformation by anticipating and preparing for the ambiguous, complex, and rapidly changing future security environment. COE-DAT is able to interact with universities, other think tanks, researchers, international organizations, and global partners with academic freedom to provide critical thought on the inherently sensitive topic of CT. COE-DAT strives to increase information sharing within NATO and with NATO's partners to ensure the retention and application of acquired experience and knowledge.

Oğuzhan PEHLİVAN (PhD)
Colonel (TÜR A)
Director COE-DAT

Acknowledgements

The Center of Excellence – Defence Against Terrorism (COE-DAT) is proud to complete our study, *Gender-Disaggregated Data: Regional Analyses of Criminal Justice Outcomes in Terrorism Prosecutions*. This project is a cooperative venture, conceived in 2021 to address nascent debates regarding the myriad issues of gender in terrorism and counterterrorism.

This publication would not have been possible without the efforts of the contributing authors and the staff of COE-DAT.

First and foremost, I would like to express our deep and sincere gratitude to the authors whose work graces the pages of this volume: Our Project Manager, Dr. Omi HODWITZ, as well as co-contributors Dr. Kathleen KNOLL-FREY and Ms. Sofia KOLLER. The academic knowledge and practical insights that these women – all at the forefront of their fields – brought to the table made this study something truly valuable to our community of interest. We believe their research has created a trailhead for others to explore further, and I am beyond grateful for their expertise.

As the Project Director for this effort, I owe a special thanks to my predecessor, Col Daniel W. STONE, our Assistant Project Director, Ms. Demet UZUNOĞLU, and our Project Assistant, Ms. Aslihan AKYOL KEMER. Dan and Demet began with a vision four years ago, deciding to dedicate Centre resources to gendered issues in terrorism; that vision ultimately created one of our most successful annual workshop series and this very publication. The work of these talented COE-DAT staffers deserves recognition.

Last but not least, we are highly indebted to all the members of COE-DAT, especially Col. Marcel ARAMA, Col. Tamas KENDER, Col. Atakan SARAC, LTC. Uwe BERGER, and Maj. Bert VENEMA. Their patient, critical reviews and passion for the Centre's mission provided inspiration at every turn. As always, massive thanks goes to Ms. Selvi KAHRAMAN and her seemingly inexhaustible IT excellence...without her here to virtually link all the members of this project in a web of interactive perspective sharing that stretched over the entire effort, this project would still just be someone's good idea.

Shawn V. YOUNG
Colonel (USAF)
Deputy Director, COE-DAT

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INTRODUCTION

Omi Hodwitz, Ph.D.

This book project is the result of the intersection of several key factors, including the visionary support of the NATO Centre of Excellence for the Defence Against Terrorism (COE-DAT), a group of skilled and motivated scholars, and an important and underexplored research topic, specifically the role of gender in criminal justice responses to extremism. After a year of consultation and data-driven analysis, the project has produced results that are both informative and revealing. All chapters, despite diversity in geopolitical region and analytical approach, point to similar conclusions, thus providing definitive direction on the intersection between gender, extremism, and the criminal justice system. As a means of introduction to these findings, this chapter provides the reader with the necessary context and factors that facilitated these empirical efforts, addresses the question of relevance for diverse audiences, and concludes with a brief overview of each study included in this volume.

Context and Background of the Volume

8 Counterterrorism scholars have produced an impressive and diverse array of research assessing the viability and effectiveness of both proactive and reactive strategies in reducing extremism. Although proactive and reactive strategies can be jointly found in multiple models of counterterrorism, the former is typically reserved for military approaches while the latter is more traditional in the criminal justice system. In addition to diverging strategies, the criminal and military models also vary in respect to their goals, with the military prioritizing prevention while the criminal justice system pursues retribution. They do overlap, however, in one key aspect: both models aim to incapacitate and reform active extremists and, as such, each have created institutional procedures and practices that attempt to achieve this goal. Therefore, when assessing the success of each set of strategies, research may engage in a comparison of the military model and the criminal justice model at this point of intersection: examining model effectiveness regarding reengagement. The literature in this area offers clear conclusions: extremists processed through the criminal justice model have significantly lower rates of recidivism than those processed by the military model.¹ This finding persists even when these two groups are matched on key factors, such as demographics and characteristics of extremism. The literature suggests that is likely due, at least in part, to the perceived legitimacy of criminal justice proceedings (e.g., definitive and clear court proceedings, structured and transparent sentencing practices) and the presence of rehabilitative programming.

Therefore, the findings from the research point to the supposition that, when appropriate, extremists should be filtered through the criminal justice system. There is one notable deficit in the literature, however, that tempers this conclusion. Although the research thus far is clear on the effectiveness of the criminal justice system, the focus has been placed on male extremists. Due to a variety of factors, including both the availability and robustness of data, females have been absent from these analyses. Thus, it is not clear whether female extremists have the same positive outcomes as their male counterparts.

¹ Hodwitz, *Special Courts and Prosecution*. Also see, for example, studies carried out by Boucek; Carmel and colleagues; Ganor and Falk, Renard; and Van der Heide and Schuurman

Although the literature on female extremists in the criminal justice system is sparse, the literature on *apolitical* male and female samples offers some direction on this topic.² Specifically, the research that examines conventional apolitical offenders points to clear gender-based disparities in criminal justice proceedings. Apolitical females are often treated more leniently than their male counterparts and this can manifest at all stages of criminal justice proceedings.³ In addition, this leniency is neither benign nor inconsequential. Inconsistencies in criminal justice proceedings can compromise the legitimacy of the process and interrupt access to programming and services, thus compromising the rehabilitative potential of the process.⁴ It can endanger the community by failing to remove active offenders from the general population, thus allowing them to continue their activities. Lastly, it can send the message that female-instigated deviance will not be punished, thus failing to deter criminally motivated populations. In summary, gender disparities can have negative long-term consequences, to the detriment of the active offender and the community from which they come.

Given that gender-based disparities may influence apolitical female long-term success, it is important to address the current gap in the literature by examining political or extremist females and their experiences with the criminal justice system. Doing so requires a two-stage process: 1) assessing whether gender-based disparities exist in criminal justice processing of extremist individuals and 2) if such disparities are located, determining the long-term repercussions of such disparities for female extremists. The chapters included in this volume focus on the first question: assessing the possible presence of differential treatment. The second question is reserved for future analyses.

Relevance of the Volume

Some readers of this volume may pose an important question when considering its relevance. Specifically, what significance does this series of studies have for a military audience? How might our understanding of criminal justice proceedings better inform our military practices and policies? These are excellent queries to which we would like to offer a preemptive response, one that will hopefully offer some clarity and resolution. Our response is based on three considerations: continued research on effective practices, the blurring of lines between military and criminal justice models, and the long-term consequences of criminal justice responses on domestic and foreign extremism.

Regarding the first consideration, the series of studies included in this volume is part of an ongoing endeavor, carried out individually and collectively by members of the research team. The research agenda will continue; next steps (elaborated upon in the concluding chapter of this volume) involve examining and comparing the effects of the military model and the criminal justice model on short- and long-term consequences. This continued agenda will allow for the creation of a set of effective practices and policy implications that can be considered and selectively incorporated by either model if or when appropriate. For example, if the criminal justice model is more effective at responding to extremists and this is due, in part, to rehabilitative programming, this information can be used by military detention facilities to better prepare for incoming extremists. Along similar lines, if the criminal justice system appears more effective with male extremists and less effective with female extremists, research can determine if this trend is replicated in military systems, thus providing direction on how each system may maximize their response to female extremism.

² *Apolitical offenders* refers to individuals who engage in crime for personal gain. These individuals are not ideologically motivated.

³ See, for example, Walklate, *Gender, Crime, and Criminal Justice*, 1; Belknap, *The Invisible Woman*, 1.

⁴ McCann, *Indefinite Detention in the War on Terror*, 130; Roberts and Plesnicar, *Sentencing, Legitimacy, and Public Opinion*, 35-38; Butler, *Indefinite Detention*, 15-24; Latessa and Lowenkamp, *What Works in Reducing Recidivism*, 1; Noricks, *Disengagement and DeradicalizationI*, 1.

The second consideration revolves around the sometimes-arbitrary designation of “military” and “criminal justice” system. In select regions, this delineation may be in name only, as military systems may serve criminal justice functions and criminal justice systems may serve military functions. Although less commonplace, these mixed model regions may find immediate relevance in research examining either military or criminal justice models. Thus, examining gender disparities in criminal justice proceedings will have a direct impact on policy recommendations for these regions, regardless of how they may choose to label their systematic response to terrorism.

Lastly, identifying and addressing deficiencies in either the military or the criminal justice processing of extremists has both short- and long-term consequences for both models. Inefficiencies in either system can result in a failure on several fronts, including to prevent extremism before it begins, to remove dangerous individuals from the community after terrorism has occurred, to keep active extremists from reoffending, and to reform those that have already offended. Given that the failure to effectively respond to terrorism will have a ripple effect to which both models will have to respond, representatives of the military and criminal justice systems would benefit from attending to the efficiencies and effectiveness of the sister system of counterterrorism.

Overview of the Volume

This project is a tribute to the visionary capacity of COE-DAT and its many representatives. Originally proposed by Colonel Daniel Stone and managed by Colonel Shawn Young, the project was also supported by researchers from the University of Idaho, the Counter Extremism Project, and John Carrol University. Guided by COE-DAT, the research team spent a year locating existing datasets or building databases from the ground up, discussing and executing analytical strategies, and comparing results and conclusions. Their individual and collective contributions are captured in the chapters of this volume, a diverse array of studies examining the intersection between gender, extremism, and the criminal justice system in select regions.

Before delving into each chapter, it is important to highlight the intentional diversity found in the following studies. Each chapter addresses a different geopolitical region, thus increasing the generalizability of collective findings. In addition, the studies examine different stages of criminal justice proceedings, including indictment and arrest practices, conviction decisions, and sentencing outcomes, thus providing the reader with a more comprehensive assessment of potential points of gender-based differential treatment. Lastly, each chapter employs a different analytical strategy, including qualitative archival research, comparative analysis, content analysis, and descriptive analysis, as well as quantitative descriptive and inferential analysis. The diversity in analytical approach allows for both exploration and explanation, as well as increasing confidence in overall empirical conclusions. Therefore, the inherent diversity of the studies included in this volume suggests that similar outcomes shared across studies are persuasively reliable. A brief overview of the studies included here will illustrate this point.

Chapter one, titled *The Invisible Defendant: Female Extremists in the Balkan Peninsula*, is written by Kathleen Knoll-Frey and Omi Hodwitz.⁵ These authors use the Terrorism and Foreign Fighter database (TFF), built by the Balkan Investigative Reporting Network, to explore gender-defined

⁵ Knoll-Frey is a criminologist and Assistant Professor from John Carrol University and Hodwitz is a criminologist and Associate Professor from the University of Idaho.

arrest practices in the Western Balkan region.⁶ The TFF, which consists of individuals prosecuted for domestic and foreign extremism, reveals an interesting and unexplained anomaly: although there are more than one hundred individuals included in the database, there is notable lack of female representation. The chapter focuses on three potential explanations for this unique characteristic, including the possibility that: 1) females do not engage in extremism, 2) they engage in terrorism but are not prosecuted, or 3) they engage in terrorism, are prosecuted, but data collection efforts are androcentric, focusing on male defendants only. To assess the first two explanations, the authors employ archival research of court documents, media reports, and state press releases, looking for evidence of female engagement in terrorism and subsequent arrests and prosecutions. To evaluate the last explanation, the authors compare the TFF with other databases, each of which uses a different unit of analysis, but records terrorism attacks or terrorism-related arrests perpetrated by Western Balkanites. Database comparison of this kind can be used to ascertain if an anomaly located in one source is representative of a bias in data collection or reflects a legitimate variance. Results indicate that females from the Western Balkans do engage in terrorism, particularly as foreign fighters, but no database reports evidence of prosecution, regardless of the source, suggesting that the absence of female representation in the TFF reflects a legitimate phenomenon: females are not arrested and prosecuted for extremism in the region. Court transcripts and media documents confirm this finding, providing a contextual narrative for this trend that indicates prosecutors view female fighters as having reduced agency and accountability and, therefore, prosecution is likely to fail.

The second chapter, written by Sofia Koller and titled *Gendered Differences in the Prosecution of Daesh Returnees in Germany*, focuses on criminal justice proceedings in Germany. Specifically, this chapter examines potential disparities in the decision to indict returning IS/Daesh fighters and, when indicted, the type of offenses they face.⁷ For this analysis, Koller generated her own data, the Counter Extremism Project Convicted Daesh Returnees Dataset, which she created through the collection and analysis of government, court, and media documents. Noting a shift in state narratives surrounding female returnees in 2018 that granted them more agency and, thus, accountability, Koller assesses arrest practices in the years leading up to and following the shift. She finds that, prior to 2018, female returnees are less likely than their male counterparts to be arrested and, when arrested, there is a delay in proceedings. However, following 2018, these trends shift, reflecting a more punitive stance directed towards women. In addition, Koller observes a significant discrepancy in the type of offenses for which male and female returnees are charged. Whereas there is a great deal of variability in male offenses, female returnees tend to be charged with “private sphere” offenses, or crimes that reflect the stereotypical assumption that women fill domestic roles as foreign fighters, thus subject to charges relating to crimes against children or Yazidi slaves. Koller concludes that female returnees do face leniency by officials of the German criminal justice system, but this leniency is dependent on the political narrative active of the time. Following 2018, the narrative shifts, resulting in a more punitive approach.

Omi Hodwitz focuses on potential disparities in convictions and sentencing in Canada in the third chapter, titled *The Intersection between Gender, Extremism, and Criminal Justice Response in the Canadian Context*. This chapter relies on data from the Canadian Recidivism Study (CRS), a subset of the Terrorism Recidivism Study (TRS), a larger data project managed by Hodwitz and her team at the University of Idaho. Consisting of more than seventy individuals, the CRS tracks individuals accused of engaging in terrorism-related activities following 9/11 through to present day.

⁶ This region includes Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia. Koller is a Senior Research Analyst at the Counter Extremism Project.

Using simple comparative analysis, Hodwitz identifies notable disparities in conviction rates and sentencing outcomes, suggesting that females receive lenient treatment by criminal justice officials. After establishing a disparity, the chapter then uses qualitative content analysis to examine the reasons underlying the discrepancy. Focusing on four sets of male/female partnered extremists who are matched on legal and extralegal characteristics, Hodwitz examines court and media documents, comparing descriptors and narratives surrounding each member of the partnership. Results indicate that comments relating to the accused extremists' families, their psychological health and well-being, their accountability, and their personal history and character are prominent, providing a base upon which to compare social and political perceptions of male and female extremists. These comparisons were revealing, indicating that male extremists, even when they engage in the same actions as their female counterparts and share the same demographic characteristics, are presented in a negative light, designed to elicit judgment. Females, on the other hand, are presented as socially desirable, possessing positive characteristics, having reduced accountability and, thus, worthy of sympathy or empathy. Hodwitz concludes that, in Canada, there are gendered disparities in conviction and sentencing practices, and this is driven by a narrative that presents female extremists as desperate, without agency, and deserving of leniency.

Chapter four, titled *Gendered Disparities in Sentencing in the United States*, shares some similarities with chapter three, but shifts the focus to the United States. In this chapter, Omi Hodwitz examines potential disparities in sentencing practices using descriptive and inferential statistics. The study relies on data provided by the TRS (referenced in the previous paragraph), consisting of more than seven hundred people convicted for terrorism-related offenses in the United States between 2001 and present day. Beginning with simple comparison, Hodwitz identifies notable disparities in sentencing practices. Similar to the previous chapters, this chapter reports leniency in sentencing type and length for convicted female extremists. Unlike previous chapters, however, the sample size is large enough to take additional analytical measures to eliminate competing explanations for disparities.⁸ Using inferential statistics, the author determines that other factors (such as organizational affiliation and prior criminal record) do contribute to differences in sentencing, but gender remains a significant point of disparity. In one last set of analyses, Hodwitz tests a theoretically based assumption that females that violate gender norms will receive more punitive measures while those that comply with gender expectations will receive leniency. By comparing outcomes for females convicted of violent and nonviolent offenses, the author illustrates that leniency is reserved for gender-conforming women while nonconforming women face more severe sentencing, suggesting that disparities are driven by a desire to protect women who fit a specific expectation or stereotype.

In the fifth and last chapter of the book, *Concluding Thoughts*, Omi Hodwitz presents an overview of the collective findings of the previous four chapters. These findings are critically assessed within the context of the criminal justice system with an emphasis on projected short- and long-term consequences of gender disparities among extremist populations. As mentioned previously, the military model aims to prevent but the criminal justice model has its own set of goals, including to incapacitate, deter, and rehabilitate. This last chapter expounds on these goals and explores how leniency may compromise or hinder the ability of the criminal justice system to fulfill its objectives to protect, reform, and dissuade.

⁸ A competing explanation for female leniency might include, for example, that males are more likely to have prior criminal histories, to be affiliated with a known terrorist organization, or to engage in violent extremism. These considerations could provide a legitimate legal rationale for any observed gender-based differences in sentencing.

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CHAPTER I
THE INVISIBLE DEFENDANT:
FEMALE EXTREMISTS IN THE BALKAN PENINSULA

Kathleen Knoll-Frey, Ph.D.

Omi Hodwitz, Ph.D.

Introduction

The Western Balkans, similar to other geopolitical regions, is involved in terrorism on two fronts: it experiences domestic attacks and its residents contribute to international or transnational terrorism. On the domestic front, the Western Balkans has experienced a notable decline in extremist activity in recent years, although incidents do occur with some regularity. On the international front, the residents of the Balkan Peninsula have engaged as foreign fighters in conflicts in Iraq, Ukraine, and Syria. Information on the participants of both domestic and foreign extremism is limited; however, there are some data sources that provide identification and demographic characteristics of this unique group of offenders. The Terrorism and Foreign Fighter Database (TFF) is one of these data sources. According to the TFF, 111 individuals were convicted of extremist-related offenses in select Balkan countries between 2010 and 2020. Although these numbers are informative, the demographics are particularly intriguing. Specifically, the pool of convicted extremists varies on key characteristics (e.g., age and location of residence); however, they are homogenous on one particular trait: gender. Of the 111 cases reported in the TFF, every single individual is male.

The uniformity in gender in the TFF data raises an interesting question: why are there no documented incidents of female extremist convictions? This paper seeks to address this question. We identify three possible hypotheses and, through the examination of government reports, prior research, news media, and data sources, explore which one (if any) may provide a ready answer to the question. Specifically, do the data reflect a) a legitimate lack of female participation in extremism in the Balkan Peninsula or, perhaps, b) a reticence on the part of the criminal justice system to prosecute female extremists? Or, as a third option, c) are the data flawed, demonstrating an androcentric approach to data collection, one which prioritizes male defendants over female ones?

To better address these questions, we will begin with a review of the social and political culture of the Western Balkans, with an emphasis on historical and contemporary gender dynamics. The chapter will also provide a brief overview of the criminal justice system in select Balkan countries included in the TFF data, as well as a summary of domestic extremism and Balkan participation in foreign fighter movements. Once the reader has been informed of relevant historical and contemporary contexts that may influence the relationship between gender, extremism, and the criminal justice system, we will examine each of the three questions raised previously: whether the absence of female fighters in the TFF reflects a deficit in female participation in extremism, an absence in prosecutorial proceedings focused on female extremists, or the omission of female extremists from data collection efforts.

Balkan Peninsula

The Balkan Peninsula consists of a number of countries bound together by geographical characteristics (peninsula formation) and cultural and political similarities. The Balkans, located in southeastern Europe, consists of the following countries: Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, Albania, North Macedonia, Greece, Bulgaria, and Romania¹. Prior to the fall of communism, several of these nations (Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia) were bound together as the Socialist Federal Republic of Yugoslavia (SFRY). As communism lost influence and popularity, however, nationalistic sentiments peaked and tensions increased. This eventually led to the Yugoslav Wars, resulting in the dissolution of the SFRY and state independence for its former members.

The Western Balkan countries share a number of unique characteristics that set them apart from their other European neighbors, including their social and political approach to gendered relations, particularly around issues of equality, rights, and freedoms. Historically, Western Balkan countries embraced a gendered perspective regarding position and power, placing women in a domestic role in the private sphere (assigned to the household) with limited autonomy and agency in the public sphere. During the height of the communist regime, however, expectations around female participation in society shifted and it became the norm for women to engage in the workforce, although they were still expected to remain in a domestic role in the private sphere. With the fall of communism, some countries underwent a “domestication” or additional shifts in the expected role of women in the world; female access to social, political, and economic realms were further curtailed.² By the late 1990s, few women were employed, particularly in positions with higher income or more prestige, and very few held political positions of power.³ Croatia, Slovenia, and Serbia provide a ready example of gender dynamics at the start of the millennium; all three denounced feminist movements and advocated for a return to more traditional gendered roles in both the private and the public sphere.⁴

In summary, the Western Balkan nations, more so than many of its European neighbors, embraces a gendered perspective on power and privilege, placing females in roles that have limited agency and influence in the world. This perspective informs political, cultural, and social institutions and is present in both the private and the public sphere. At the risk of reducing the Balkan identity to one informed exclusively by gender, we find value in further expounding upon this perspective by examining the relationship between gender, violence, and legal protections. This provides a necessary context for understanding Balkan culture and practice, as well as for later discussions regarding gender, extremism, and criminal justice response.

Women, Violence, and the Law

Contemporary disempowerment of women is evident in all facets of Balkan society but is perhaps best illustrated by examining the prevalence of, and response to, violence against women (VAW). VAW is common in Balkan nations, although many women do not report violence to the police. In a series of studies focused on the wellbeing of women, the Organization for Security and Co-operation

¹ It is important to note that the current study will only focus on the Western Balkans, specifically Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, Albania, and North Macedonia, therefore all subsequent discussions are focused on these countries.

² Brunnbauer, *From Equality Without Democracy To Democracy Without Equality? Women And Transition In Southeast Europe*, 154.

³ While the number of women in politics and other positions of power has increased over time, the numbers are still disproportionate. Many women face discrimination, perceived as less capable than their male counterparts. Several countries have quotas designating a percentage of positions that must be filled by female employees, but women in these roles are often excluded from decision-making processes and other important duties. (<https://kvinnatillkvinna.org/wp-content/uploads/2018/11/WRWB2018.pdf>).

⁴ Brunnbauer, 160.

in Europe (OCSE) determined that thirty to eighty percent of female respondents had been subject to intimate partner violence in the previous year. This baseline rose to fifty percent when women were asked about incidents occurring after the age of fifteen years old.⁵

Given the prevalence of VAW, many Balkan countries have taken measure to protect women. According to Article 2 of the Law on Gender Equality passed in 2003 in Bosnia and Herzegovina, for example, “Sexes shall be equal. Full gender equality shall be guaranteed in all spheres of society, particularly in the fields of: economy, education, employment and labor, social and health care, public life and media, irrespective of marital and family status. Discrimination based on sex and sexual orientation is hereby prohibited.”⁶This same law explicitly prohibits violence against women, facilitating the creation of a criminal code directed at perpetrators engaged in intimate partner violence. Serbia, North Macedonia, Albania, Montenegro, and more recently Kosovo, have also enacted similar protections for women.⁷

Despite these protections, VAW continues to be an issue in these countries. At least partially due to the gendered perceptions of position and power in Balkan societies, many women do not report incidents of violence to the police, allowing male perpetrators to continue engaging in violence unchecked. When questioned about the lack of reporting, women have offered a number of explanations: the violence was not severe enough, they did not want to shame their families, they expected to bear a burden of blame themselves, they were afraid their spouses would leave them, and violence was a normal and expected part of life.⁸ In addition to victim hesitancy to report, many of the legal protections are not actively enforced. In addition, courts are reluctant to file charges and pursue prosecution. Therefore, although the Balkan identity is multi-faceted, the VAW example illustrates that the role of gender, rights, and equality are of central importance. Women are disempowered in Balkan societies in both the public and the private sphere, and this is expressed in their social relationships as well as in institutional practices.

16

Criminal Justice

While the Balkan Peninsula varies in state-specific composition and practices, it is relatively uniform in criminal justice proceedings. Each Balkan country has an independent criminal justice system, but these systems share more similarities than differences. Western Balkan countries, for example, require an active prosecutor who is present at each hearing to ensure procedural fairness in the trial process. In addition, the defendant has the right to counsel, and that counsel is required to present the case and argue on behalf of the accused. Finally, the outcome of each proceeding, including the determination of guilt or innocence, is overseen by a panel of individuals.

As a point of difference, several countries have shifted from an inquisitorial system towards an adversarial one. Albania, for example, underwent a large transition, creating special prosecution offices and new rules to reduce corruption among criminal justice agents.⁹ Similarly, Bosnia and Herzegovina have also reformed their criminal justice system to reflect an adversarial process,

⁵ Approximately 48% of women in Montenegro, 82% in of women in Albania, 34% of women in Bosnia and Herzegovina, 31% of women in North Macedonia, 27% of women in Kosovo, and 34% of women in Serbia have experienced intimate partner violence in the last year. Similarly, survey results revealed that since the age of 15, 67% of women in Albania, 48% of women in Bosnia and Herzegovina, 54% of women in North Macedonia, 58% of women in Kosovo, and 64% of women in Serbia experienced intimate partner violence. OCSE, *Survey on the Well-Being and Safety of Women*.

⁶ B&H Constitution, *Law on Gender Equality in Bosnia and Herzegovina*, 1.

⁷ European Parliament. *Women's Rights in Western Balkans.*; Council of Europe, *Reinforcing The Fight Against Violence Against Women And Domestic Violence In Kosovo* (Phase III)*, 11.

⁸ Stiftung, *Women in the Western Balkans: Rights and Fights*, 3.

⁹ Balliu, *The Reform of Justice in Albania*, 713.

expanding the prosecutor's office to ensure a fair and just legal trial.¹⁰ Therefore, although the Balkan countries have several uniform criminal justice components, they continue to evolve over time, potentially introducing elements that differ from their peninsula neighbors.

Given the focus of this chapter is on the intersection between gender, extremism, and criminal justice, it is important to not only provide an overview of the criminal justice system, but also of the role of women within the system, as both employees and as clients. Regarding the former, the number of females employed by the criminal justice system has increased in several Western Balkan nations. For example, in 2015, Albania created an initiative to increase female presence within police departments.¹¹ In 2019, Bosnia and Herzegovina announced the appointment of Gordana Tadic to the role of Chief State Prosecutor, a powerful position in the criminal justice system; Tadic was the first female to be appointed to the position.¹² Therefore, women are being granted more presence and power within the criminal justice systems in the Western Balkans.

Regarding women as clients, they have a minimal presence in criminal justice proceedings. According to the World Prison Report, women constitute approximately two to four percent of prison populations in Western Balkan nations, depending on the country of interest.¹³ As a point of reference, these percentages are smaller than many other European countries, thus indicating that Balkan women may be treated differently by the criminal justice system than their female counterparts in other European nations. The point at which differential treatment is evident is undetermined; however, according to data from the United Nations Office on Drugs and Crime¹⁴, this may be during trial proceedings. Although women are present in court proceedings, they are less likely to be found guilty or, when found guilty, to be sentenced to incarceration. As Professor Jelena Subotic stated when commenting on female participation in the Yugoslav Wars, "There is a deep patriarchal assumption that, as a woman, she couldn't have really been in charge, and therefore responsible, and she especially couldn't have been in charge of putting in place policies that led to genocide".¹⁵ Thus, as emphasized in previous sections of this chapter, a gendered perspective permeates both society and the criminal justice system, providing differential treatment of women in the role of victims and offenders.

17

Terrorism

The Balkan Peninsula has a long history of violent political activity.¹⁶ In the 1800s, the Balkan nations chafed under the domination of the Ottoman Empire, providing the impetus for the formation of national liberation movements that used extremist violence to further their goals.¹⁷ In addition,

¹⁰ Maljević & Muratbegović, *Mapping the Criminological Landscape of the Balkans*, 107.

¹¹ Although 84 women were invited to enroll in the program, only eight chose to join the training and five completed the certification. One of the five provided interesting insight in women in law enforcement; she was concerned that, if she erred in some way, it would be viewed by her male counterparts as a negative consequence of hiring women in general, rather than individual failure on her part specifically. Mejdini & Mejdini, *Women Rise to the Top in Albania Police*.

¹² Unfortunately, only two years after being appointed to this position, Tadic was dismissed due to negligence, although her defense denied the accusations. Radio Free Europe, *Bosnia's Chief Prosecutor Dismissed For 'Negligence.'* Rovcanin, *Bosnia Appoints First Female State Prosecutor*

¹³ Approximately 1.9% (n=110) of the prison population in Albania (2016) were female. These numbers did not vary considerably across other Balkan countries. For example, the report indicated female representation in prison populations was as follows: 2.3% (n=20) in Bosnia and Herzegovina Federation (2012) and 2.3% in the Republic of Srpska (2016); 3.2% (n=59) of Kosovo (2014); 3.2% (n=102) in North Macedonia (2016); and 3.6% (n=266) in Serbia. World Prison Brief, *World Female Imprisonment List*, 9.

¹⁴ United Nations Office on Drugs and Crime, Justice and home affairs statistics systems in the Western Balkans.

¹⁵ Prusina, *Female War Criminals: Untold Story of the Balkan Conflicts*.

¹⁶ While the previous sections included an explicit discussion of gender, this section on terrorism will focus only on the behavioral expression of political ideology (independent of gender). The reasons for this are two-fold: the history and execution of Balkans-related terrorism is diverse and varied and space restrictions require a focused summary and, more importantly, the remainder of the chapter will expound on the intersection between gender and terrorism and, therefore, for the sake of avoiding redundancy, it will not be central at this early point.

¹⁷ Gibas-Krzak, *Contemporary Terrorism in The Balkans: A Real Threat To Security In Europe*, 204.

select nations sought to seize control of neighboring territories, leading to escalating national-ethnic strife. The tensions between conquerors, residents, and ethnic communities continued unabated for several generations, resulting in both state-sponsored and non-state terrorism, a number of high-profile attempted or successful assassinations, innumerable casualties, and waves of arrests and trials.

Domestic extremism remained prominent until the end of Yugoslav wars in the early 2000s. The Global Terrorism Database reports nearly 600 attempted and/or successful domestic attacks occurred in the Balkan Peninsula between 1991 and 2018; however, the vast majority of these occurred in the 1990s, petering out to single digit annual attacks following 2001.¹⁸ Of the reported incidents, most were clustered in Kosovo, Bosnia-Herzegovina, and Macedonia, each reporting more than a hundred attacks over seventeen years, followed by Albania and Kosovo with more than fifty attacks over the same time span. The majority of these incidents remain unclaimed or have been attributed simply to regional extremists (without a specific identifier); however, there are a handful of groups that appear particularly active. The National Liberation Army (NLA) and the Kosovo Liberation Army (KLA) are notably prominent, reflecting the nationalist liberation narrative that is deeply entrenched in the region. National liberation is not, however, the only ideological theme that has taken root in the Balkans in recent years.

In the 1990s, extremism in the Peninsula began to embrace a new ideology, specifically one rooted in religiously motivated ideals.¹⁹ With the end of the Cold War, religious organizations and movements began to expand in the Peninsula as a number of stakeholders, including fundamentalist nations, sought to strengthen the role of Islam in the post-Communist region. Members of extremist organizations were among the new arrivals, often supported by Saudi or Iranian authorities. As the political and social narratives in the region shifted and evolved, fundamentalist culture became regionally rooted and radical groups flourished. Members of these groups began joining the ranks of the Islamic State (IS)/Daesh, traveling to the Middle East for training and engaging in conflicts on foreign soil, particularly in Iraq, Syria, and Ukraine.

Many of these foreign fighters originate in Albania, Bosnia, and Kosovo. Although estimates vary, research suggests that, between 2012 and 2015, as many as 500 male fighters traveled to Iraq and Syria from Albania alone.²⁰ Bosnia reports nearly 200 male foreign fighters during the same time period, while Kosovo reports more than 300 (it should be noted that Kosovo estimates include women and children).²¹ These numbers, although telling, are likely underinflated given the subversive nature of foreign fighters and the difficulty inherent in documenting their presence and activities. Despite the elusive nature of the foreign fighters, estimates suggest that religious extremism, although underrepresented in domestic terrorism, is an area of serious concern in the Balkan Peninsula.

The Current Study

Given the prevalence of terrorism originating in the Balkan Peninsula, both domestic and foreign, there is pressing need to investigate the causes and consequences of extremist behavior in the region. Who engages in terrorism and how does the state respond? When tasked with this question, a seasoned researcher will begin with a search for data, the ever-elusive golden grail of the scholarly community. What information already exists, is it reliable, and can it provide a framework within which to address

¹⁸ Global Terrorism Database. National Consortium for the Study of Terrorism and Responses to Terrorism (START), University of Maryland.

¹⁹ Tziampiris, *Assessing Islamic Terrorism in The Western Balkans: The State of The Debate*, 1.

²⁰ Shtuni, *Dynamics of Radicalization And Violent Extremism In Kosovo*, 2.

²¹ Azinović & Jusić, *The New Lure of the Syrian War: The Foreign Fighters Bosnian Contingent*, 19.

these questions? Unfortunately, data relating to Balkans-originating terrorism are scarce. There are no publicly available state-sourced records, no comprehensive database of attacks or perpetrators, and no open access exhaustive listing of Balkan-based foreign fighters. It is a discouraging state of affairs and one that is replicated in other countries and regions around the world.

Careful digging, however, will lead the researcher to the Terrorism and Foreign Fighter database (TFF), built by the Balkan Investigative Reporting Network.²² The TFF is an individual-specific database; it provides detailed reports on Balkan-based individuals convicted of domestic terrorism and/or accused of engaging in foreign fighting in Iraq and Ukraine. Although restricted in geopolitical focus (it only covers Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia), the TFF provides detailed information on individual characteristics and court proceedings and outcomes. Covering the years between 2010 and 2020, the TFF includes information on 111 cases, 30 of which faced domestic charges. The remaining 81 individuals are alleged foreign fighters, distributed across Ukraine and Syria.

At this point, the researcher may consider finding the TFF a victory, a welcome and unexpected parcel of data on an otherwise empty landscape. However, close inspection of the data reveals an interesting anomaly. Every individual included in the TFF is male. At this point, the researcher, if versed in extremist activity, would be forced to pause and take stock. Although females are underrepresented in extremist samples, they are rarely, if ever, completely absent. Is this an intentional omission on the part of the data collectors? A cultural phenomenon? A legalistic one?

This leads us to a more nuanced research question about terrorism in the Balkan Peninsula, guided by the observation that, according to the TFF, terrorism is a male-only phenomenon in the region. Specifically, why are women absent from the data? This question, although overlapping with questions of causes and consequences of terrorism, provides a narrower emphasis on a surprising and potentially telling phenomenon. In response to the question, we identify three possible hypotheses.

Our first hypothesis relies on the assumption that the data are reporting terrorism that originates in the Balkans and nothing else. Specifically, we hypothesize that women are absent from the data because they are simply not engaged in extremist activity, either domestically or on foreign soil. In this interpretation, the data accurately reports terrorism as it is: a male-oriented phenomenon. Our summary of Balkan culture provided above suggests this may be a viable assumption.

Our second hypothesis assumes that the data are reporting legal proceedings related to Balkan-oriented extremism. Specifically, we hypothesize that women are absent because, although they engage in terrorism, they are not prosecuted for it. In other words, terrorism is not gender-specific, but legal proceedings are gender-informed; they are a male-oriented phenomenon. Our earlier discussion of criminal justice proceedings indicate that this may be a valid explanation.

Our third hypothesis assumes that the data are flawed in relation to female extremism and legal proceedings. This assumption leads to the following hypothesis: data collection techniques are gender-exclusive or androcentric, prioritizing male activities over female activities. In this case, the absence of female extremists is not due to their lack of terrorist activities or to a gendered legal response but, instead, to a failure on the part of the data collection efforts to prioritize female offenders. Once again, our previous discussion concerning gendered perspectives ingrained in political and social institutions suggests this is a logical possibility.

²² BIRN, *The Regional Terrorism and Foreign Fighter Database*.

The observation that women are absent from Balkans data and the three hypotheses that originate from this anomaly shape the remainder of this essay. Through examination of case studies, media reports, international databases, and court proceedings, we will examine each of these explanations, weighing the evidence and determining which hypothesis is supported by the research. We will conclude our analysis with clear prescriptions for the research and practitioner communities.

Hypothesis One: Women do not Engage in Terrorist Activity

As stated previously, the TFF reports exclusively on male extremists, both domestically and internationally. Thus, the question at hand is whether women based in the Western Balkans do, in fact, participate in extremism. There are, in fact, a number of reasons to expect this outcome, including both push-and-pull factors. Specifically, women may engage due to gender dynamics, spousal expectations, and limited opportunities.

Regarding gender dynamics and spousal expectations in the Balkan peninsula, Balkan women may have reduced agency due to cultural expectations and pressures. They are viewed as subservient to their male spouses and are required to meet their every request in both the public and private sphere.²³ As the TFF illustrates, men do engage in extremism and, therefore, they may request that their female spouses support their involvement in domestic and international conflicts. Although married women may not actively engage in violence themselves, they can potentially serve a supportive role, providing domestic care for their extremist-involved spouses.²⁴ As for unmarried women, they may be recruited to become fighter wives, required to provide sexual and domestic care as well.²⁵

20 Aside from spousal responsibilities, there are other factors that may drive or push women to participate in extremist activity. Many Balkan women face unemployment and a subsequent lack of legitimate opportunity for social and economic advancement. As a result, women may question their identity, seek adventure and freedoms, harbor a need for belonging, and desire economic growth or stability.²⁶ These priorities can serve as a nexus, ultimately pushing women towards extremist organizations that give the illusion of freedom, adventure, and economic and social autonomy. This situation has been exploited by extremist organizations in their recruitment efforts. Radical organizations, including religious institutions, have romanticized combat, suggesting that participating in conflict and supporting male spouses as fighters is a gesture of female empowerment. The female recruits, bearing the same message, then go on to recruit other women.²⁷

Thus, there are a number of factors that push females in the direction of extremist activity in the Balkan nations. However, the hypothesis being addressed here is not whether there are reasons for participation but, instead, whether there is actual participation. Fortunately, there is evidence that gives us an answer, a clear indication that women participate and engage in extremist activity throughout the Western Balkans. In 2016, *The Balkan Insight*²⁸ reported on Kosovar women who were also members of terrorist organizations. In total, the report recorded 42 cases of female participation, many for the reasons cited above (e.g., seeking a husband). Although isolated to one individual, there

²³ Although we do not assume all spousal relationships in the Balkans are heteronormative, we are restricting our discussion of spousal dynamics to male-female partnerships.

²⁴ Kelmendi, *Not Just Victims: Women in Terrorism from the Western Balkans*, 23.

²⁵ Azinović & Jusić, 56.

²⁶ Mietz, *What About The Women?: Understanding and Addressing the Problem of ISIS Female Recruitment in the Western Balkans*, 6.

²⁷ Ristic, *Balkans Failing to Counter ISIS's Appeal to Women*.

²⁸ Xharra, *Few But Fanatical- The Kosovo Women Who Go Over to ISIS*.

was also a report of female-led extremist violence. Qamile Tahiri married a terrorist fighter and later went on to commit acts of violence, before being shot and killed by a sniper in March of 2019.²⁹

Other sources also point to female involvement in extremism. Estimates from the British Council's Western Balkans Extremism Research Forum show that between 2012 and 2014, 63 women from Bosnia and Herzegovina, 48 women from Kosovo, 14 women from Macedonia, 5 women from Montenegro, 12 women from Serbia, and 13 women from Albania travelled to Syria and Iraq. On a broader scale, it is estimated 10-15% of IS/Daesh recruits were women.³⁰ Although this last source is not specific to the Western Balkans, when paired with the other sources, we are left with two overarching conclusions. First, women in the Western Balkans have a number of factors that may push them towards extremism, including factors that are informed by gendered perspectives inherent in the region. Second, multiple sources provide evidence of female participation, both domestically and as foreign fighters. Therefore, the first hypothesis is not supported: the absence of female representation in the TFF data is not explained by a lack of female participation in extremism. It is possible the TFF data is better explained by examining the criminal justice response to female extremists.

Hypothesis Two: Women are not Prosecuted for Extremist Activities

Within the Western Balkans, several countries have focused on criminalizing "recruitment, participation, incitement, or material support of foreign paramilitary groups by their citizens".³¹ Between 2014 and 2015, Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia all passed laws that, when violated, would lead to lengthy incarceration. Despite taking legalistic measures to deter and punish extremism, there is little indication that Balkan nations are eager to apply these measures to females.

As cited previously, there is evidence that women willingly join organizations that engage in extremism. However, a good portion of female participation is due to the influence of their spouse and, thus, Balkan states tend to define them as *non-combatants*. Non-combatants generally refer to individuals who are present during conflicts but who do not actively engage in the fighting. With this designation, women are categorized in a manner similar to children: they are subject to the demands of their male spouse and, thus, have limited agency. As domestic caretakers only, they are deemed non-threatening.³²

Although most women are viewed as a homogenous non-combatant group by criminal justice practitioners, there are some isolated incidents of justice-involved female extremism. Sena Hamzabegovic, for example, is a Bosnian-Herzegovian native charged with financing terrorist operations after she delivered funds to her spouse who was fighting in Syria. Despite the charges, the case did not go far. Hamzabegovic was acquitted after she denied having knowledge that the funds were earmarked for extremist activities.³³ A similar case arose in 2019 in Kosovo when two female defendants pled guilty to participating in a terrorist organization. The defendants received suspended sentences, contingent on good behavior and mandatory therapeutic counseling.³⁴ This is in sharp contrast to male defendants in similar situations that typically receive prison sentences.

²⁹ Haxhiaj, *Kosovo Faces Challenge in Reintegrating Families of ISIS Fighters*.

³⁰ Mietz, 4.

³¹ Mietz, 13.

³² Shtuni, 2. Azinović & Jusić., 25.

³³ Rovcanin, *Bosnian Woman Acquitted of Financing Terrorism in Syria and Iraq*.

³⁴ Bureau of Counterterrorism, *Country Reports on Terrorism 2019*.

As illustrated above, there are a handful of examples of female-oriented prosecution for extremism in Balkan countries; however, these either do not result in convictions or involve countries excluded from the TFF data. In addition, these are the outlier cases; the exception rather than the rule of criminal justice response to female extremism.³⁵ Therefore, they do not negate the hypothesis that women are excluded from criminal justice proceedings. As for additional evidence that may undermine the supposition that women are treated differently in criminal justice proceedings, the results are limited. There does not appear to be any data indicating that female extremists have a presence in the criminal justice system in select Balkan countries, nor media reports of female-involved criminal proceedings.

The scholarly community supports this (lack of) finding, also reporting a deficit in female prosecution. Vrugtman, for example, examined female returnees from Syria and Iraq, concluding that very few women are prosecuted for their involvement.³⁶ According to this scholar, the Balkan nations appear ready to assign the non-combatant moniker and female returnees appear eager to adopt a narrative of non-accountability.³⁷ Vrugtman concludes that, due to gendered assumptions of autonomy and power, prosecutors have a difficult time building cases against female defendants, thus providing a ready explanation for their lack of presence in the criminal justice system. Thus, not only are the female extremists not present in the data and media reports surrounding criminal justice prosecutions, but there are also indications that this omission is culturally-bound, due to a reluctance on the part of the criminal justice system to prosecute female extremists. It appears that, to some extent, the hypothesis that female extremists are not prosecuted by Balkan courts is supported.³⁸

Hypothesis Three: Data Collection Efforts are Androcentric

As summarized above, there is evidence that women in the Balkan Peninsula engage in extremist activity but are less likely to be prosecuted compared to their male counterparts. Women are denied agency, assigned the role of wife and mother, thus negating their legal accountability. This reality could explain the lack of female representation in extremist datasets, simply reflecting a cultural anomaly that will plague any attempts to build a comprehensive picture of extremism and gender in the Balkans. However, although this offers a convincing explanation for the lack of gender diversity in the TFF dataset (and other datasets that may exist in or out of the public domain), there is still the possibility that the data are androcentric, or female-exclusive. Cultural assumptions about female agency may influence data collection methods, causing researchers to limit efforts to identify the elusive female extremist, focusing instead on the more robust male population. The TFF provides an ideal source with which to test this hypothesis. The creators of the TFF claim that their database includes “all convictions for domestic terrorism in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia, as well as verdicts from trials of people accused of going to fight in the conflicts in Syria and Ukraine”, thus suggesting that the entire population of Balkan justice-involved extremists are male.³⁹ If we take the TFF creators at their word, an exhaustive search of other international databases and media sources should leave us empty-handed, unable to locate female extremists in the Balkans that would warrant inclusion in the TFF.

³⁵ GCERF, *Rehabilitation and Reintegration of Returning Foreign Terrorist Fighters (RFTFs) and Their Families in the Western Balkans*, 13.

³⁶ Vrugtman, *The Challenge of Female ISIS Returnees in the Balkans*.

³⁷ GCERF, 5.

³⁸ Given that female extremists avoid prosecution, women who return to the Balkans are not given the appropriate help necessary to successfully reintegrate. These women may find themselves ostracized by family and discriminated against by their communities (Kelmendi, 2019). Female returnees may experience diminished mental health due to their time abroad, including post-traumatic stress disorder, anxiety, panic attacks, depression, and sleep deprivation. Without help, female returnees facing these challenges may continue to harbor radical ideals (Mietz, 2016).

³⁹ BIRN.

As mentioned previously, the TFF is the only publicly available database focused on extremists in the Balkan region. However, there are other terrorism-orientated databases that record a variety of metrics that can be used to assess possible female extremism. The Global Terrorism Database (GTD), for example, offers a convenient and accessible means by which to identify possible female terrorists.⁴⁰ Created by the National Consortium for the Study of Terrorism and Responses to Terrorism, the GTD records incidents of terrorist activities around the world between 1970 and 2018. While the TFF focuses on individuals, the GTD focuses on attacks; however, when the perpetrator is known, the GTD will include information on that individual. As such, although many of the GTD reported incidents do not aid us in determining if the TFF has overlooked female extremism, some of them do, specifically the ones that report offenders. A close look at the data, however, is not particularly revealing. Although the TFF begins in 2010, we expanded our search to 2007 to create a healthy buffer of three years between when extremist incidents occurred and when legal proceedings were initiated. There are 74 cases included in the GTD for the specific Balkan countries included in the TFF. Of those cases, approximately one third reported perpetrator information. Of these cases, many provided names and gender but, for those that did not, they provided enough information that allowed for a more directed search of media and government files to confirm gender. All the perpetrator-linked cases were carried out by males, thus failing to lend support for an androcentric data collection process.

The Counter Extremism Project (CEP) is another reliable source on extremist individuals and attacks.⁴¹ The CEP is an international non-governmental organization that focuses on understanding and assessing counter extremism policies and practices. Unfortunately, the project does not include information on all Balkan countries, but it does offer substantial information on extremist arrests in Bosnia and Albania. Similar to the GTD, if the CEP lists a female-specific arrest during the years of the TFF collection, this suggests the data suffer from gender-exclusive data collection practices. The hypothesis, however, is not borne out in the data. Beginning in 2007 in Bosnia, the CEP reported eleven waves of arrest (some of which involved more than one individual) and, of those arrests, only one involved a woman, Sena Hamzabegovic (as described in a previous section). Hamzabegovic's arrest, however, occurred in 2021 and, thus, would not have been included in the TFF data since it fell outside the dataset's period of study. As for Albania, the CEP provided a long laundry list of more than a hundred domestic and foreign fighters arrested within country, including recruiters, plotters, and fighters. However, similar to Bosnia, all of the listed arrests were male-specific.

As one final measure, we reviewed the International Crimes Database (ICD), a database that intersects with the TFF, although the overlap is minimal.⁴² The ICD is a publicly available database, provided by the Asser Instituut (T.M.C. Asser Instituut), that reports on a variety of international crimes arbitrated in national and international courts. The database is sparse in reporting Balkan-oriented terrorism-related offenses but does include a section on Bosnia. This section lists only four individuals and, similar to the TFF, GTD, and CEP, this list only consists of male extremists.

In summary, comparing different databases illustrates the same finding: consistency in gender identity among known extremists in the Balkan region. The TFF's anomalous finding that only males are prosecuted for extremist offenses in the Balkans is supported by several databases, including the Global Terrorism Database, the Counter Extremism Project, and the International Crimes Database. In addition, each of these databases is diverse, originating in a different country (the United States, the Hague, multinational) and using a different unit of analysis (terrorist attacks, domestic prosecutions,

⁴⁰ START. "National Consortium for the Study of Terrorism and Responses to Terrorism".

⁴¹ Counter Extremism Project, <https://www.counterextremism.com/about>

⁴² International Crimes Database, <https://www.internationalcrimesdatabase.org/Home>.

international crimes). Therefore, although we will tactfully avoid making overly definitive statements, we will posit that the data on Balkan extremists are not androcentric.

Although this negates the validity of our third hypothesis, it does provide additional support for our first two hypotheses. Women do engage in extremist related behaviors, both domestically and on foreign soil, but their lack of presence in data collection efforts reflects a failure to prosecute, rather than androcentric data methods of case identification and inclusion. This is not to say that women completely escape legal culpability; there are a very few incidents of female prosecutions in the Balkans. However, these incidents are outside the TFF period of study or geopolitical regional focus and, therefore, their exclusion is not an indicator of the quality of the data.⁴³

Conclusion

We began this study with the intention of exploring gender differences in criminal justice proceedings of extremist defendants; however, the lack of female representation in the data required us to expand our focus to assess extremist participation and data collection efforts. After establishing that a lack of female representation in prosecution data was not due to a lack of participation in extremist movements or a male-centric approach to data collection, we can return to our original research focus. Specifically, evidence suggests that females are regarded differently than their male counterparts by criminal justice system representatives in the Balkan Peninsula. They are recast as lacking agency and, thus, accountability. They are not treated with leniency, per se, but instead are excused entirely from criminal justice proceedings, bearing no more legal liability than children. The implications for society and the criminal justice system are noteworthy.

The criminal justice system is designed to serve several purposes, including deterrence, social defense, and rehabilitation. Regarding deterrence, this is only achieved if an individual is punished directly or sees others of a like nature being punished. If women are not prosecuted for their crimes, it undermines the potential deterrent effects of criminal justice proceedings. Those that engage in or consider engaging in extremism have little reason to veer from this path.

Regarding social defense, the purpose is to incapacitate individuals who may cause additional harm to society, thus protecting the community from such risk. A failure to do so potentially places the citizenry in further jeopardy. Our results indicate that, while Balkan males are sentenced to prison for extremist actions, women are not incapacitated in the same manner. Instead, females can continue their actions unabated by a criminal justice response, thus increasing the risk of further extremist actions directed toward the community both domestically and on foreign soil.

A final and deeply fundamental aspect of criminal justice response is rooted in a philosophy of rehabilitation or the expectation that justice institutions can reform individuals and aid them in returning to the community as contributing citizens. Unfortunately, a failure to prosecute eliminates any option of structured rehabilitation of this kind. This becomes particularly salient for foreign fighters returning home who face psychological and social consequences. They may struggle with acceptance, identity, and lack of opportunity. For females denied justice-oriented rehabilitation, this can exacerbate their ideologically oriented sense of dissatisfaction and unrest.

⁴³ As mentioned previously, Sena Hamzabegovic provides a rare example of female prosecution, but her case was considered in 2021, one year after the TFF stopped collecting data. Meanwhile, Edona Haliti was convicted of terrorism-related offenses in 2019, but her case was prosecuted in the Kosovo, which was not one of the Balkan countries included in the TFF sample.

In summary, the criminal justice system serves diverse purposes, but each are focused on the goal of preventing and reducing crime. However, these objectives cannot be achieved if individuals are excluded from criminal justice proceedings. Although Balkan women engage in terrorism, the region adopts a paternalistic attitude towards their behaviors, labeling them as non-combatants, reducing their agency, and excluding them from legal liability. This may very well facilitate future female offending, through a lack of deterrence, social defense, and rehabilitation. Therefore, the Balkan region would benefit from examining the consequences of current criminal justice practices, particularly in relation to female extremism. Researchers in this region may very well find that their current practices serve to aggravate rather than alleviate extremist behaviors.

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CHAPTER II

GENDERED DIFFERENCES IN THE PROSECUTION OF DAESH RETURNEES IN GERMANY

Sofia Koller

Introduction

Since 2011, more than 1,150 persons have left Germany to travel to Syria and Iraq, mostly to join terrorist organizations such as the so-called Islamic State (IS, also known as Daesh), including around 25 percent women.¹ Around one-third of these German foreign terrorist fighters (FTFs) have since lost their lives or their location is not known to authorities; several dozen men, women, and minors are also still detained in Northeast Syria or imprisoned in Iraq and Türkiye.² According to the German government, around 37 percent of the FTFs from Germany had returned as of September 2021;³ German authorities also repatriated 80 minors, 27 adult women, and one young man from Northeast Syria between 2019 and 2022, which means that at least 95 adult women have returned to Germany as of November 2022.⁴

The prosecution, rehabilitation, and reintegration of these returnees is one of the key challenges for governmental and non-governmental actors working in counter terrorism and countering violent extremism in Germany. However, little evidence-based and publicly accessible analysis of these challenges exists. Hence, this chapter aims to contribute to a gendered analysis of the criminal justice approach to returning FTFs. Using a data set of 50 female and male returnees convicted in Germany for Daesh membership or support collected by the author, it provides one of the first evidence-based insights into gendered differences in the prosecution of Daesh returnees in Germany.

The chapter will begin by reviewing the role of women with Daesh, gender dimensions of criminal justice responses as well as criminal justice responses to FTFs in Germany. Then, it will introduce the data set and present three distinct hypothesis that help provide insights into gendered differences when prosecuting Daesh returnees as well as the limitations of such findings. The chapter will conclude by pointing to future research needs to improve understanding of gendered differences in the prosecution of FTFs both in Germany and in other countries.

Roles of Women with Daesh

Substantive research has been conducted on FTFs who travelled to conflict zones to join terrorist organizations such as Al Qaeda or Daesh and returned.⁵ However, female affiliates and members of terrorist organizations have received far less attention. This changed from 2014 and 2015, as a substantive part of those foreigners who had traveled to Syria and Iraq as well as those who have been returning to their home countries are women. In 2018, Cook and Vale for example find that up to 13 percent of foreigners from 80 countries who joined Daesh were female.⁶

¹ Bundesministerium des Innern und für Heimat, 2022, Spiegel 2021, Koller, 2022b.

² Koller, 2022b.

³ Bundestag, 2021a,b; Foreign Office, 2022.

⁴ Koller, Sallach & Schiele 2022, p.3.

⁵ See, for example, Hegghammer, 2013; Malet, 2017; Rekawek et al, 2018; Renard & Coolsaet, 2018 or Micheron, 2020.

⁶ Cook & Vale, 2019.

Once in Daesh territory, foreign women were holding various roles that would also change over time, depending on the organization's needs.⁷ Overall, four major role-complexes can be distinguished: First, foreign women were expected to marry, often another foreigner and high-ranking Daesh fighter. In this role, they should fulfill household duties as well as have children. Both children taken to and children born in the caliphate had to be educated and indoctrinated according to Daesh ideology, providing a future generation to the organization. This could also mean that women would integrate their child as a "cub of the caliphate" into specific training programs, including for weapons training. Supporting their husbands and preparing the next generation were propagated as important tasks within IS. Another role was that of recruiting and facilitating the travel of (young) women to Syria.⁸ After the military defeat of Daesh and during their time in camps in Northeast Syria, female Daesh members also increasingly started their own online campaigns, calling for support and raising funds via crowdfunding.⁹ A third role emerged when, especially in the context of the organization's territorial consolidation, women were taking on administrative roles, including as doctors, nurses, teachers, and administrators. Finally, some women were also involved in security roles. In the Khatiba Nusaybah, a women-only combat unit of Daesh, women were for example trained to handle weapons, such as assault rifles. As members of the all-female policing unit al Khansā' Brigade, women were allowed to drive, earn a wage, and patrol the streets without male guardian. In the context of military losses, from the end of 2017, Daesh would allow and even call for female participation in Jihad.

Being aware of different profiles, levels of agency, and roles of women with Daesh is crucial, since only a nuanced understanding will enable the development of adequate responses and policies, including the risk assessment and prosecution of female Daesh members.¹⁰ The four broad profiles listed above allow for example to deduce that female returnees can have experience with handling weapons, including Kalashnikovs or suicide belts, producing and disseminating propaganda for a distinct target group of women or girls, including raising funds as well as having experience with the radicalization, indoctrination, and (covert) recruitment.¹¹

In the past decade, a growing body of research has also analyzed for example women's pathways into and out of extremism, their profiles and roles within terrorist organization as well as the role of gender in radicalization and deradicalization or disengagement in general.¹² While the UN has recognized that there has been an increase in prominent female members of terrorist organizations – including female FTFs –, they point out that women are still more likely to be involuntarily recruited into terrorist groups than men.¹³ In retrospective, it would hence not always be possible to clearly distinguish between voluntary and coerced recruitment. On the other hand, there has also been a tendency of "vilification" of women in terrorism, where they are portrayed as "monsters", risking for example the wellbeing of their children and hence breaking with gendered expectations of motherhood.¹⁴ More and more researchers are thus calling for more nuance and for example to stop the "flip flop between these conversations" but instead accept that women – and men – can be victims and perpetrators at the same time.¹⁵

⁷ Vale, 2019.

⁸ See also UNDOC, 2019, p30.

⁹ Vale, 2019.

¹⁰ Sotalan, 2021.

¹¹ Koller, 2022b, p.8.

¹² See, for example, Praxl-Tabuchi 2021; Cook & Vale 2018; Pearson & Winterbotham 2017; or Saltman & Smith 2015.

¹³ UNODC, 2019, p.30.

¹⁴ Morgan, 2021.

¹⁵ White, 2022.

Gender Dimensions of Criminal Justice Responses

If the role and importance of gender in terrorism and counterterrorism has only in the past few years received increased attention by researchers, security agencies and policymakers, there is still little analysis of the intersection of gender, terrorism and criminal justice.¹⁶ It can build, however, on existing analysis of gender in the criminal justice system. One prominent theory is the chivalry or paternalistic theory: women are profiting from a chivalrous treatment, which means that the criminal justice system treats women differently and to their advantage, from men.¹⁷ There are of course important nuances to this, including the intersectionality of identities. Feinman for example finds that “differential treatment that could be called chivalry is traditionally reserved for white middle and upper-class women by victims of crimes, by law enforcement officers, and by judges”.¹⁸ Goulette et al also argue for more nuance in the debate on the treatment of female defendants, as “scholars now recognize the need to assess cumulative disadvantage across the entire court system”.¹⁹ Finally, the growing interest in the involvement of women in terrorism and extremism has added another layer of complexity to the debate on how gender impacts criminal justice. While the “active participation of women in terrorist groups is of course not a new phenomenon”, the analysis of gender when prosecuting terrorism offenses has only received more attention in the past years.²⁰ Alexander and Turkington for example find that “terrorism-related offenders who are women are less likely to be arrested, less likely to be convicted, and receive more lenient sentences compared to men”.²¹

One of the explications is that as laws that are used for the prosecution of terrorist crimes “have been written based on assumptions about the way men participate in terrorism, they may not have the required level of clarity and predictability when applied to forms of women’s participation that are dictated by gender stereotypes”²². But if, as mounting evidence suggests, women engaged in terrorism and extremism are treated more leniently by the criminal justice system than men, this has also important implications for areas such as risk assessment and rehabilitation, but also the prevention and countering of violent extremism.

There is already increasing willingness and ability by researchers and practitioners to recognize the role of gender in extremism and terrorism and what this means for political, legal or social responses. This development has been complemented with efforts of international organizations, like General Assembly resolution 72/194 in 2017 which encouraged UNODC to support Member States to “mainstreaming gender perspectives into criminal justice responses to terrorism” as well as the 2019 UNODC Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism.²³ However, various challenges persist. One example is the criminalization of support roles in terrorist organizations. While laws should be gender-neutral, they “may make implicit assumptions about the levels of agency and autonomy with which a suspect has engaged in the proscribed conduct”.²⁴ However, women may in some contexts not have the same access to information to understand the full scope of the consequences of their support actions or may not be able to refuse. Hence, as the criminalization of support roles seem to disproportionately impacts women, the importance of this

¹⁶ Jackson, Ratcliff & Gruenewald, 2021.

¹⁷ Feinman, 1994, p.33.

¹⁸ *ibid*, p.36.

¹⁹ Goulette et al, 2015.

²⁰ UNODC, 2019; Jackson, Racliff & Gruenewald 2021.

²¹ Alexander & Turkington, 2018, p.24.

²² UNODC, 2019, p.40.

²³ *Ibidem*, p.1.

²⁴ *ibid*, p.41.

“mens rea tests” – if the defendant was aware of the implications of his or her support and possessed enough information to be aware – becomes evident.

Finally, the cumulative prosecution of FTFs for both terrorism-related offenses as well as core international crimes, such as war crimes or crimes against humanity, have been increasingly used in European countries.²⁵ German public prosecutors are actually on the forefront of this development, as showcased by several verdicts handed down to male and female Daesh members for core international crimes and support of or membership in a foreign terrorist organization.²⁶

The next part will provide an explanation to this situation by introducing the main logic behind the criminal justice response to male and female returnees in Germany.

Criminal justice responses to FTFs in Germany

In Germany, the prosecution of returning FTFs is based on two main offenses. One is “membership in a foreign terrorist organization” according to §§ 129a, 129b of the German criminal code (Strafgesetzbuch or StGB).²⁷ The prosecution of membership in a specific organization is only possible once the Federal Ministry of Justice and Customer Protection has authorized it.²⁸ For example, potential offenses committed for Daesh were only able to be prosecuted according to §§ 129a, b StGB once the relevant authorization was issued in January 2014. The offense includes both the membership in a terrorist organization abroad as well as providing support. Membership is established if the person provides enduring participation to the organization, submits to its intentions and performs a supporting task within the group. §129a,b is punishable with a prison sentence of up to ten years.²⁹ The other main offense that is used to prosecute returning FTFs in Germany is the “preparation of a serious act of violent subversion” according to § 89a StGB. However, this offense is more difficult to prove. For example, at least 12 of the 50 convicted Daesh members of the dataset used for this chapter were charged with the preparation of a terrorist attack according to § 89a StGB, but only one of them was convicted in the end. In addition, traveling to Syria to join a terrorist organization is an offense in Germany since 2015. Amidst rising numbers of FTFs and UN resolution 2178 in 2014, several countries adapted their legal arsenal to close liability gaps regarding the prosecution of FTFs. Hence, in Germany, even if the membership in a terrorist organization cannot be proven, returning FTFs can be charged with traveling to join Daesh. While German security agencies and prosecutors are already investigating FTFs, an individual cannot be tried in absentia but has to be present in court during the trial. This means that the prosecution of FTFs can only start once they have returned to Germany.

Due to Germany’s federal and hence decentralized structure, the responsibility for almost all terrorism investigations and prosecutions falls within the jurisdiction of the 16 federal states.³⁰ Only the prosecution of offenses according to §§ 129a, b StGB remains within the jurisdiction of the Federal Public Prosecutor General (Generalbundesanwalt or GBA). However, while returnee cases would hence usually be prosecuted by the GBA, the high number of cases has led to the GBA delegating many of them to the chief public prosecutors of the federal states (Generalstaatsanwaltschaften or GenStA). For example, most returnee cases have been dealt with by the public prosecutors in the higher regional courts of Düsseldorf and Frankfurt (Oberlandesgericht or OLG).

²⁵ Eurojust, 2020.

²⁶ Koller, 2022b.

²⁷ Wittendorp et al, 2017.

²⁸ Moldenhauer, 2016.

²⁹ Koller, 2022b, p.13.

³⁰ Koller & Schiele 2021.

Similar to other countries like France, Belgium or the Netherlands, the prosecution of women returning from Syria and Iraq started late, compared to male returnees.³¹ One of the factors that contributed to this delay are, as mentioned above, stereotypical concepts of the role of women in (political) violence, considering female returnees as naïve, passive or victims of their partner's choices. There also seems to exist, as mentioned above, an insecurity regarding which concrete offenses can be used for female returnees, who were not involved in combat or planning of terrorist attacks like the “regular”, hence male FTF. Another challenge continues to be the scarcity of evidence: beside the general difficulty to access evidence from a conflict zone and without consular access to Syria, women have also been much less visible in the official propaganda of Daesh or are often not being identifiable as they wear a face-covering veil. This lack of evidence makes criminal investigations for female returnees more challenging.

Already in 2017, Germany's federal prosecutor Dr. Peter Frank had stated that “[the federal prosecutors] think that the membership in a foreign terrorist organization can also be confirmed when it comes to these women, since these women have strengthened the internal structures of the so-called Islamic State [Daesh].”³² However, when public prosecutors first filed charges for membership in a terrorist organization for a female returnee – Sibel H. – in 2018, the German Federal Court of Justice (BGH) decided that her presence in Daesh territory alone was not enough to constitute membership in a terrorist organization. German prosecutors have since then developed a distinct approach to charge and convict female returnees of membership in or support of a foreign terrorist organization.³³ Within this approach, one option is to argue that otherwise legal activities could be considered membership if the broader context is considered. For example, marrying an Daesh member and being a housewife was considered as supporting Daesh by enabling the husband's activities as an Daesh fighter; having children in the caliphate was considered as adhering to Daesh ideology by securing the next generation. Prosecutors have successfully argued that women who supported Daesh with these activities were hence also to be considered Daesh members, even if they did not participate in combat. Another option, which also led to higher sentences, has been to use statutes under national and international law. Women could be charged as Daesh members since they carried weapons given to them by Daesh, lived in houses provided by Daesh and committed crimes against Yazidi women and children, enslaved by Daesh.

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Despite positive developments in the understanding of gender dimensions of criminal justice responses to terrorism in general and to FTFs in particular, there is still an important lack of data that would allow evidence-based analysis. The next part will thus introduce the data set used for this chapter as well as the methodology.

The current study: Data Collection and Methodology

There is still an important lack of publicly accessible datasets for extremism and terrorism that would allow for gendered analysis, including a lack of an overview of charges, convictions, and sentences of returnees in Germany.³⁴ Partly due to the federal system, public prosecutors and higher regional courts release separate press releases in each of the 16 federal states, if they provide them at all. Hence, the first step in the production of this chapter was to produce a data set of 50 cases of convicted returnees (25 male and 25 female) from open sources such as press releases and media

³¹ Koller, 2022a.

³² NDR/Das Erste, 2017.

³³ Koller & Schiele, 2021.

³⁴ Koller & Schiele, 2021.

reports. The criteria for an individual to be included in the data set were that 1) he or she holds at least the German nationality, 2) had been affiliated with Daesh in Syria and Iraq and stayed in its territory, 3) returned to Germany and 4) was convicted at least in the first instance for membership in or support of a terrorist organization according to §§129a,b StGB between 2014 and 2022.³⁵ A case would include details such as name, age, nationality, charges, convictions, sentences, duration of stay in Syria, date or month of return and date of arrest.

The dataset was set up to, inter alia, verify the hypothesis that female returnees are treated more leniently than male returnees in the criminal justice system in Germany as discussed above. However, partly due to the (perceived) gendered roles within Daesh and the implication for prosecution strategies, a direct comparison between male and female court cases did not seem feasible: in the dataset, there was no single case where a male and female returnee had been charged and convicted for an offense committed in similar circumstances. Hence, the following three sub-hypotheses were developed to nevertheless provide insight into gendered differences. First, as discussed above, there is evidence that a systematic prosecution of female returnees in Germany only started in 2018.³⁶ Advice counselors supporting the disengagement of returnees have also shared their observation that between two very similar cases, it would depend on the year of return whether a woman had been charged or not. This would mean that, unlike male returnees, the date of return plays a role whether a female returnee is charged of terrorism offenses upon return (H_1). It would also mean that, unlike men, women were treated differently upon their arrival in Germany, for example that they were not directly arrested at the airport (H_2). Finally, if men and women are charged for different offenses, it can be assumed that female returnees are more often charged with offenses in the “private sphere”, for example crimes against their children, than male returnees (H_3). The following part will present the findings, limitations and preliminary conclusion for each of these hypotheses.

Number of indictments per year (H_1)

To test the first hypothesis – H_1 : *The date of return plays a role whether a female returnee is charged of terrorism offenses* –, the number of indictments per year were compared according to gender and visualized (Figure 1). Several findings stand out. First, the data clearly shows that between 2014 up to and including 2018, 21 out of 24 charged returnees were male. While most male returnees are charged in 2015 and 2016 (with seven indictments each year), and after an overall decrease in 2016, no new charges have been pressed against male Daesh returnees since 2019. Overall, only three female Daesh returnees were charged between 2014 and 2018 inclusive. Indeed, before 2018, only one female returnee - Karolina R. – was charged in 2015 for preparation of a serious act of subversion according to 89a and support of a foreign terrorist organization according to 129a, b StGB. Karolina R. was the first woman to be convicted for support of a foreign terrorist organization, she was sentenced to three years and nine months in prison in June 2015.³⁷ The data then shows a clear turning point in and after 2018: from 2019, 22 out of 26 charged returnees were female.

Of course, there are various limitations that need to be considered in this context. First, it is possible that more women were subject to criminal investigations before 2018 and more men investigated after 2019 but were not charged and convicted yet. However, while in Germany an investigation can be started if there is initial suspicion of a crime, pressing charges as well as convicting someone for

³⁵ The dataset is not exhaustive as it is possible that more cases exist that would technically also fit these criteria. As of August 2022, there are several ongoing investigations and court cases and hence potentially more convictions that would need to be considered in future analysis.

³⁶ Koller & Schiele, 2021.

³⁷ Oberlandesgericht Düsseldorf, 2015.

a crime requires a rather high threshold of evidence. The date of indictment is thus used to measure whether there is indeed sufficient suspicion of an offense. In addition, it is difficult to compare the prosecution of male and female FTFs after the military defeat of the Daesh caliphate in 2019: after having been arrested by the SDF and placed in camps and prisons in Northeastern Syria, only adult women and minors were repatriated to Germany or deported from Türkiye, but men remained in detention in Northeast Syria. Since Germany is not holding trials in absentia, this means that prosecutors might have gathered enough evidence during their investigations, but would have to wait for a male FTF to return to Germany before being able to press charges against him. Finally, the dataset does not include returnees who were not charged and convicted. This means that no statement can be made on the percentage of returned FTFs who were charged after their return.

Nevertheless, comparing the years of indictment of male and female returnees, the data clearly supports H_1 : almost all female returnees were charged after 2018, while all male returnees were charged before 2020. Hence, the date of return indeed plays a role whether a female returnee is charged of terrorism offenses in Germany.

Time period between date of return and date of arrest (H_2)

To test the second hypothesis – H_2 : *women were not directly arrested by security agencies upon return* – the average time period between the date of return to Germany and the date of arrest by security agencies in Germany per year was compared according to gender. The objective was to verify whether the period between the date of return and the date of arrest was longer for women than for men and whether a change occurred after 2018. The findings indicate that there is indeed a difference in the average time lapse between return date and date of arrest (Figure 2).³⁸

While the eight convicted male FTFs who returned in 2013 and 2014 would on average spend a bit more than 12 months before being arrested, the seven convicted male FTFs who returned in 2015 and 2016 were directly arrested upon return. The one convicted male FTF who returned in 2017 was arrested after a bit more than five months after return. In turn, between the two female FTFs who returned in 2013, one was not arrested at all and the other was arrested after four months. None of the female FTFs who potentially returned in 2014 or 2015 were later convicted and hence do not appear in the dataset. The two female returnees who returned in 2016 spend on average a bit more than over 33 months living in Germany before being arrested. From 2018, the period between return and arrest was reduced significantly. Women returning in 2020 and 2021 were arrested upon return. Interestingly, the overall average time between date of return and date of arrest lies at a bit more than six months for both male and female returnees.

There are a number of factors that need to be taken into account when interpreting these findings. Most importantly, the publicly available resources do not always provide exact dates or even months of return. For example, for eleven cases of male FTFs it was not possible to determine at least the month of arrival and/or arrest. Second, considering the relatively high threshold for arrest in Germany, it is indeed possible that security agencies were aware of the FTFs' return but did not have enough evidence for an arrest warrant. Also, it is possible that a FTF was arrested at the airport but not placed in pre-trial detention but able to await a potential trial in liberty. Finally, the majority of women returning from the end of 2018 and 2019 were either deported from Türkiye or repatriated by

³⁸ The exact date of return as well as date of arrest are not always mentioned in the press releases or media articles. To enable at least approximative comparison, June 1 was for example used if the FTF returned "in June"; June 15 if he or she returned "mid-June" and June 30 if the return was "end of June". The returnee case was not included in the statistical calculation of not even the month of return was able to be determined.

the German authorities from Syria, meaning that the German authorities were aware of their arrival, usually at Frankfurt airport. For the reasons mentioned above, the last male FTFs in the dataset returned in 2018, which makes a proper gendered comparison after that year challenging.

Offenses committed in the “private sphere” (H_3)

Finally, to test the third hypothesis – H_3 : *female returnees are more often charged with offenses committed in the “private sphere”* –, the dataset was first screened for offenses that were committed in the “private sphere”, for example against the women’s own children or against Yazidi “slaves” in the defendant’s house as opposed to offenses committed in public. The underlying assumption for this selection was that stereotypically, law enforcement actors would often perceive women within Daesh primarily as housewives and mothers, confined to their own house (considered the “private sphere” as opposed to public places) and would hence focus the prosecution on these roles and places. Indeed, a first analysis of the prosecution of female returnees in Germany finds that prosecutors used offenses that happened in the “private sphere” to support their argument of women’s membership in a foreign terrorist organization.³⁹ As offenses committed in the “private sphere” were included war crimes against property (“looting”) according to §9 VStGB,⁴⁰ crimes against humanity according to §7 VStGB⁴¹, war crimes against persons according to §8 VStGB,⁴² genocide according to §6 VStGB⁴³ as well as failure to fulfill their duty of care and education according to §171 StGB⁴⁴ and abduction of minors according to §235 StGB.⁴⁵ While 15 female returnees – not only Daesh members – were also convicted for breaches of the War Weapons Control Act, for example for having had access to a Kalashnikov, these offenses were not included as they do not directly or exclusively relate to the “private sphere”.⁴⁶ However, the objective is not to find out whether the focus on the “private sphere” is justified or not; especially since the majority of female Daesh members might indeed be largely confined to their house, as they usually could not go out without a male guardian. Instead, the objective is to find out whether offenses committed in the “private sphere” were also considered in the prosecution of male Daesh members.

Hence, in a second step, the dataset was screened as to whether male returnees were also charged with the same offenses committed in the “private sphere”. The assumption was that while women were never or almost never present in training camps or on the battlefield, men were indeed also present in their family’s homes and could, at least theoretically, be charged with similar offenses. For example, a male Daesh member might have brought his child with him to Syria and exposed it to various dangers in a war zone, which would lead to charges on abduction of minors and/or war crimes against persons. While women were prosecuted for having lived in houses that were given to them by Daesh, it was usually men who did the actual work of expelling the local population and taking their property and could be charged with war crimes against property or “looting”. Finally, as demonstrated from existing court cases, both male and female Daesh members were involved in crimes against members of the Yazidi communities (crimes against humanity, war crimes against persons, genocide). Once the offenses were selected in this way, they were compared according to gender (Figure 3).

³⁹ Koller & Schiele 2021; Koller, 2022b.

⁴⁰ *Kriegsverbrechen gegen das Eigentum*

⁴¹ *Verbrechen gegen die Menschlichkeit*

⁴² *Kriegsverbrechen gegen Personen*

⁴³ *Völkermord*

⁴⁴ *Failure to fulfill their duty of care*

⁴⁵ *Entziehung Minderjähriger*

⁴⁶ Koller & Schiele 2021; Koller, 2022b.

The findings indicate that offenses in the “private sphere” were predominantly used to charge (and convict) female returnees. For example, the four most common offenses (war crimes against property, failure to fulfill their duty of care, crimes against humanity and abduction of minors) were only used to charge women. Four women and two men were charged with war crimes against persons. However, both male cases were not related to crimes against Yazidi “slaves” in their house but about abuse of prisoners of Daesh. For example, Nils D. had, together with other Daesh members, regularly tortured prisoners in an Daesh prison in Manbij, Syria, which led to the death of at least three individuals.⁴⁷ D. was convicted for war crimes against persons twice and sentenced to ten years in prison in total.

Again, there are important limitations to consider when interpreting these findings. First, as mentioned before, mostly women returned to Germany from 2018 and 2019. Male Daesh members that might have been charged and convicted for these crimes in the “private sphere”, especially those committed against Yazidis, are most probably either dead, missing, or still detained in Northeast Syria. Another consideration is that male returnees have often been involved in combat or received weapons training, which enables charges for membership in a terrorist organization. It is possible that other offenses have not been considered due to a lack of capacity and evidence by prosecutors. Same holds true for war crimes against property: this offense was primarily used by prosecutors from 2018 to support the argument that female returnees were also members of Daesh since they were living in houses that had been provided by Daesh after expelling original inhabitants.⁴⁸ Finally, while so far, only women were charged with child abduction, there is for example at least one case of a male FTF from Germany who is said to have taken his son to Daesh in Syria against the will of the mother.⁴⁹ A proper, qualitative analysis would be needed to determine for example whether investigations had also considered potential offenses in the “private sphere” when prosecuting male FTFs.

Having in mind these limitations, the findings however support H_3 : analyzing the dataset of 50 convicted Daesh returnees, female returnees have been almost exclusively charged with offenses committed in the “private sphere”, such as failure to fulfill their duty of care or war crimes against property. Even if both men and women were charged with war crimes against persons, male cases did not refer to offenses committed against children or Yazidi “slaves”, but prisoners of Daesh.

Conclusion

More than 1,150 persons have left Germany to travel to Syria and Iraq, mostly to join Daesh since 2011. As of September 2021, around 37 percent have returned, including at least 95 adult women as of November 2022. This chapter had the objective to analyze whether male and female returnees were treated differently in the criminal justice system in Germany. The analysis is based on a dataset of 50 convicted returned Daesh returnees, collected by the author. Testing three different hypotheses, the findings support the original assumption that there are indeed important gendered differences in the prosecution of Daesh returnees in Germany. From the results, three key aspects can be highlighted. First, the analysis has allowed the provision of much needed evidence that before 2018, female returnees were usually not arrested upon return but often only several months or even years after their arrival in Germany. Similarly, while female returnees returning before 2018 were usually not charged, the data shows a clear turning point from 2018, once prosecutors developed a new argument for recognizing female membership within Daesh. Second, those charges against female returnees

⁴⁷ Gopalakrishnan, 2016.

⁴⁸ Koller & Schiele 2021; Koller, 2022b.

⁴⁹ Benkhelouf & Schmickler, 2016.

in relation to their activities in Syria, often relate to the “private sphere”. Women were convicted for taking their children to a war zone, living in looted houses or abusing Yazidi “slaves”. This is not surprising, since prosecutors have used these and other offenses to support the argument that women were also Daesh members even if they did not participate in combat or planning terrorist attacks. However, while male returnees could theoretically also be charged with similar offenses – as for example their implication in the abuse of Yazidi “slaves” or living in looted houses is well known –, none of the convictions included these offenses of the “private sphere”. Third, the data not only clearly shows how the prosecution of female returnees for potential members or supports of a foreign terrorist organization – Daesh – only started in 2018. It also demonstrates how the lack of repatriation of male FTFs has prevented their prosecution, especially for crimes committed against Yazidi “slaves”.

Further research is now needed to analyze the profiles and complete court cases of male returnees as well as stories of those FTFs who have died or are still detained abroad. However, the findings presented in this chapter serve as a reminder that the ongoing prosecution of returning FTFs has to consider all potential offenses.

The findings from this preliminary analysis also raise further research needs. As mentioned before, as almost only female FTFs have returned to Germany in the past year, the charges and convictions as of September 2022 can only provide an incomplete picture. In addition, the dataset has been built on publicly accessible data. As the author is currently collecting complete verdicts of returnees, future qualitative and quantitative analysis will bring in much more nuance to the findings presented in this chapter. There have also been very positive developments in the prosecution of offenses against members of the Yazidi community in Germany, with important verdicts for crimes against humanity or aiding and abetting genocide being delivered in the first instance against female returnees in 2021 and 2022. However, the prosecution of crimes against Yazidi men, women, and children has just begun. Beside obvious security and humanitarian concerns, the repatriation of FTFs from Northeast Syria to their countries of origin is crucial for their prosecution and to bring both male and female Daesh members to justice. Lastly, the impact of gender on criminal justice when it comes to terrorism offenses is not sufficiently understood and researched. For example, few research has looked into the impact of gender stereotypes in prosecutorial strategies, for example when prosecuting crimes against humanity of persecution on intersecting religious and gender grounds.⁵⁰

This chapter aimed to provide a modest contribution to the much-needed evidence-based analysis of the intersection between gender, criminal justice and terrorism. The analysis has clearly demonstrated the various limitations, including the small quantity of cases preventing the formulation of more general statements as well as the complexity of returnee cases and the lack of evidence, making the prosecution of returning FTFs and its analysis a difficult endeavor. Yet, however challenging, an analysis of the gendered differences of criminal justice approaches to FTFs is crucial to inform gender-sensitive prevention of violent extremism, risk assessment, prosecution, rehabilitation, disengagement and reintegration into society. Finally, the victims of Daesh deserve that perpetrators are held accountable – regardless of gender.

⁵⁰ Kather, Sankhvi & Sallach, 2021.

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CHAPTER III

THE INTERSECTION BETWEEN GENDER, EXTREMISM, AND CRIMINAL JUSTICE RESPONSE IN THE CANADIAN CONTEXT

Omi Hodwitz, Ph.D.

Overview

The relationship among gender, extremism, and criminal justice response is complex, informed in part by political, cultural, and social expectations and narratives surrounding the role of female participation in gender-atypical behaviors, such as terrorism. Although the factors that influence the relationship are varied and nuanced, the chapters included in this volume point to a simple conclusion: there are gendered disparities in the criminal justice response to terrorist-related activities. However, no outcome in social science research is definitive, requiring replication in different cultures and contexts. Therefore, this chapter adds an additional layer of analysis examining the relationship between extremism, gender, and legal response in a country that differs in many respects from the other case studies included in this volume. Specifically, this chapter examines Canada, a country with a unique history of domestic terrorism, a hybrid criminal justice system, and a perspective on gender relations that is purported to be equality-driven. Using the Canadian Recidivism Study (CRS), this chapter explores gender-driven disparities in legal proceedings applying both a quantitative and a qualitative analytical approach.

The chapter begins with a brief introduction to the Canadian context, with a specific focus on its legal systems, social and political values (particularly relating to issues of equality and expression), and history of extremism. The reader is then introduced to the theoretical framework that provides an impetus for the study described in the remaining sections of the chapter. The study begins with a quantitative analysis of sentencing disparities before concluding with a qualitative analysis of narratives surrounding gender-diverse alleged extremists. Results suggest that Canadian extremists do experience gender-based disparities in criminal sentencing and this may be driven in part by paternalistic stereotypes of female offenders.

The Canadian Context

Canada is a relatively young country formed through colonial practices and policies. Canadian culture and identity have historical roots in a mix of European and indigenous traditions and, more recently, large migrant populations.¹ These diverse influences have created a cultural mosaic, one that is unique to Canada. The justice system is a reflection of these various cultural threads, incorporating a rare combination of both common law and civil law (handed down from European influences) as well as embracing a restorative approach over a retributive one (incorporating indigenous practices).² Legal proceedings follow the rule of law with a specific focus on constitutionally protected rights and freedoms, including equality and expression. Canadian polls illustrate public priorities that

¹ See, for example, Beavon et al., *Hidden in Plain Sight*, 4-13.

² Roach, *Changing Punishment at the Turn of the Century*, 249.

place human rights, respect for the law, and gender equality above all else.³ In the words of one former prime minister, “Canada...(is) a society where all people are equal and where they share some fundamental values based upon freedom, and that all Canadians could identify with the values of liberty and equality.”⁴

Unlike many other western countries, Canadian extremism is, in large part, a domestic phenomenon rooted in local issues. Historically, extremist ideology focused primarily on human and environmental rights, including issues of indigeneity and sovereign rights, Francophone independence, and environmental destruction.⁵ However, recent years have witnessed an ideological shift towards religious freedoms, perhaps reflecting tensions due to migrant-oriented religious diversity.⁶ As for frequency, terrorist incidents are few in number, clustering in time and space around hot-spot issues as they arise. Annual metrics suggest less than five incidents per year, a stark contrast to the United States, Canada’s neighbor to the south, which reports approximately ten times that amount per year.⁷ Thus, Canada is unique in culture, justice, and extremism, providing an interesting case study with which to examine the intersection between gender, terrorism, and state response.

Theoretical Framework

The relationship between gender, crime, and criminal justice response is a long-studied phenomenon in the criminological community. These empirical endeavors have been guided, for the most part, by two key theoretical frameworks, each of which predict a different form of criminal justice outcome: the *chivalry* hypothesis and the *conflict* perspective.⁸ Following in the footsteps of previous research, the study presented in this chapter will also rely on these theoretical frameworks, referring to them as a source of guidance in forming hypotheses and testing potential relationships between gender, extremism, and state response.

The chivalry hypothesis suggests that females will be treated with greater leniency by representatives of the criminal justice system, resulting in reduced or softened sentences.⁹ These tempered measures are driven by the assumption that female offenders are *desperate* or *fallen*. The desperate woman is recast as a powerless or helpless victim of circumstance and coercion, while the fallen woman is projected to be errant and suffering a loss of innocence yet also still capable of being saved. Representatives of this perspective posit that females will receive a *paternalistic* response from the criminal justice system, resulting in reduced sentences when compared to their male counterparts.

Proponents of the conflict perspective suggest that political and social institutions are structured in a manner designed to support a hierarchical status quo.¹⁰ Females who conform to gender-typical behaviors will benefit from leniency but, when gendered norms are challenged, women will be treated with greater severity. Gendered norms may be challenged when *bad* women engage in crimes that are typically male-dominated (e.g., violence) or when they engage in behavior that is considered

³ Government of Canada, *Canadian Identity*.

⁴ Trudeau, *Memoirs*, 323.

⁵ Leman-Langois and Brodeur, *Terrorism Old and New*, 121. Charters, *The (Un)Peaceable Kingdom*, 14.

⁶ McCoy and Knight, *Homegrown Terrorism in Canada*, 253.

⁷ See, for example, the metrics available through use of the *Global Terrorism Database*; Jones et al., *The Escalating Terrorism Problem*, 1. It is important to note that these are total incidents per year; when these are adjusted to reflect incidents were 100,000 population, the United States is only slightly higher than Canada in annual reported attacks.

⁸ See the chapter on gender, extremism, and criminal justice response for a more thorough description of each theory.

⁹ See, for example, Franklin and Fearn, *Gender, Race, and Formal Court Decision-Making Outcomes*, 279; Nagle and Hagan, *Gender and Crime*, 91.

¹⁰ Franklin and Fearn, 279.

unfeminine or unruly (e.g., riotous behaviors). According to the conflict perspective, women who violate gender norms will receive a *punitive response* or sentencing that is comparable to or more severe than their male counterparts.

While the theories provide the framework, the research supports the theories. Empirical evidence has consistently demonstrated gendered disparities in institutional responses to crime, including evidence of both a paternalistic and a punitive approach, a *desperate* or *fallen* narrative and a *bad* narrative.¹¹ There is, however, one notable deficit in both the theoretical pondering and subsequent empirical plundering: the literature has exhaustively explored the experience of the apolitical woman but not the political one. Criminologists have focused primarily on female offenders who engage in crime for personal or conventional reasons, overlooking or excluding females who engage in deviance for political gain.¹² Despite this oversight, terrorism scholars have historically taken liberties and applied apolitical theories and empirical findings to political populations, extrapolating that political women are subject to the same differential response from criminal justice agents and attributing the same theoretical underpinnings as apolitical female offenders.¹³ This, unfortunately, introduces potential error into our understanding of the intersection between gender, extremism, and state response. Rather than assume that female extremists experience disparities in criminal justice proceedings and these disparities reflect a chivalrous- or conflict-oriented outcome, it is the responsibility of the research community to test these relationships. Are female extremists treated differently than their male counterparts? If so, do they receive leniency or severity? Is there evidence that state responses are informed by perceptions of the *desperate*, the *fallen*, or the *bad* woman? These are the questions that guide the remainder of this chapter, applied within the Canadian context.

The Current Study

This chapter has two primary goals or purposes. The first is to examine gender disparities in criminal proceedings and sentencing of terrorist-related offenders in Canada following the implementation of the Anti-Terrorism Act in 2001 through to present day.¹⁴ The chapter examines the influence of gender on court rulings, findings of guilt, and sentence type and length. As described above, criminological theories suggest that females will be treated with greater leniency in most cases, with the possible exception of when they engage in egregiously gender-atypical offences (*paternalistic* versus *punitive*), thus it is hypothesized that this relationship will be maintained in the Canadian context.¹⁵

As a second purpose, the chapter also examines how gender-diverse offenders are portrayed by criminal justice sources. Once again, as summarized previously, theories suggest that female extremists will be viewed differently when compared to male extremists, particularly around issues related to free will and autonomy, rationality, and legal responsibility (the *desperate*, the *fallen*, and the *bad*) and this difference may be captured through the assessment of defendant-related narratives presented by public sources.¹⁶ Thus, this chapter will also examine the hypothesis that criminal justice sources engage in gendered narratives when addressing defendants.

¹¹ See, for example, Walklate, *Gender, Crime, and Criminal Justice*, 1; Belknap, *The Invisible Woman*, 1.

¹² There are only a handful of studies that examine the relationship between gender, extremism, and criminal justice response. These are outliers, rather than the norm. See, for example, Jackson et al., *Gender and Criminal Justice Response*, 1; Alexander and Turkington, *Treatment of Terrorists*, 24.

¹³ See, for example, Strommen, *Jihadi Brides or Female Foreign Fighters*, 1.

¹⁴ The Anti-Terrorism Act is a policy that was enacted in the months immediately following the events of 9/11. It borrows heavily from British law, expanding the reach of the government in matters relating to surveillance, security, detention, and trials. The Act has been criticized for challenging the Canadian Charter of Rights and Freedoms around issues of freedom of expression and religion. Roach, *Counter-Terrorism In and Outside Canada*, 243.

¹⁵ Paternoster and Bachman, *Explaining Criminals and Crime*, 253.

¹⁶ See, for example, Crew, *Sex Differences in Criminal Sentencing*, 59; Gathings and Parrotta, *The Use of Gendered Narratives in the Courtroom*, 668.

The chapter presents both quantitative and qualitative analyses of the two proposed hypotheses; quantitative analysis is used to examine criminal justice outcomes while qualitative analysis focuses on criminal justice narratives. The quantitative analysis includes descriptive components, including who carries out extremist activities in Canada, the kind of activities they engage in, and the typical response of the criminal justice system. It also includes a preliminary comparative component (examining how males and females differ in charges, convictions, and sentencing). This allows us to examine how the criminal justice system responds to female extremists; whether it adopts a *paternalistic* approach or a *punitive* approach. These two layers of analysis provide a rounded descriptive quantitative examination of state response in Canada.

As for the qualitative component, the chapter includes content analysis of media and court reports describing terrorist-related female defendants. Do, for example, media sources describe female extremists as *bad women*, *fallen women*, or *desperate women*?¹⁷ The findings from the female-oriented content analysis will be compared to a similar male-oriented sample. This will minimize the possibility that any findings from the qualitative analysis of female-specific narratives are simply typical of all narratives, regardless of gender.

Quantitative Assessment of Sentencing Outcomes

The first stage of the analysis conducted for this study is quantitative in nature. The goal is to examine Canadian terrorism as an aggregate phenomenon while also directly addressing the question of who engages in terrorism and how the state responds to these activities. In order to examine this relationship, the study relies on the Canadian Recidivism Study (CRS) as a source of data. The CRS is a subset of a larger project (the Terrorism Recidivism Study or TRS) that collects data on terrorist convictions and subsequent recidivism in Western nations around the world.¹⁸ The CRS records information on individuals prosecuted for terrorism-related offenses in Canada between September of 2001 and December of 2020. The dataset consists of 75 individuals, of which 66 are male and nine are female, and provides information focused on four areas of interest, including demographic characteristics, offense characteristics, criminal justice response, and recidivism following prosecution.¹⁹ For the most part, court documents provide case identification while media sources verify cases and provide additional information on each individual.

Table 1 provides an overview of the demographic and offense characteristics of the typical defendant included in the CRS. Although similar in age (mid- to late-20s), the two gender-diverse samples differ on a number of key characteristics. The average male is a person of color (Asian, Black, or Middle Eastern), prosecuted for a violent offense, and affiliated with an extremist group.²⁰ In contrast, the average female is Middle Eastern or White, prosecuted for both non-violent and violent offenses, and less likely to be affiliated with a terrorist organization than her male counterpart. It is important to note that legal characteristics, such as group affiliation and the severity of the offense, should influence sentencing outcomes and, therefore, the diversity in these characteristics is of importance for the next set of analyses.

¹⁷ Vito and Maahs, *Criminology*, 212.

¹⁸ Hodwitz, *The Terrorism Recidivism Study*, 27.

¹⁹ Given the infrequency of terrorist activity in Canada, the dataset reports a limited number of cases of which only a small percentage involve female defendants. Therefore, it should be noted that the small sample size presents some challenges for quantitative purposes, so results should be interpreted with caution.

²⁰ For the purposes of capturing regional differences, individuals of Asian descent were separated into two groups: those with lineage that traced back to the Middle East (the “Middle Eastern” category) and those with lineage that traced back to the remaining Asian countries (the “Asian” category).

Table 1. Demographic and Legalistic Characteristics of a Typical Defendant.

	Males	Females
Asian	23%	0%
Black	18%	0%
European white	12%	33%
Middle Eastern	17%	33%
Latinx or Hispanic	0%	0%
Unknown Race	30%	33%
Average age (at conviction)	27.13 years	25.5 years
Violent offenses	71%	44%
Non-violent financial offenses	20%	56%
Non-violent non-financial offenses	5%	0%
Affiliated with a terrorist organization	84%	45%

44 Table 2 summarizes the varying judicial decisions for the two gender-diverse samples.²¹ There are stark difference evident in the analysis across all metrics, with males outpacing females on most measures. Males, for example, were more likely to be convicted than females. Of the 53 males included in the sample, approximately 69 percent were convicted of their crimes, while only 55 percent of females received the same outcome, despite the fact that many of the women were tried for the same offenses as their male counterparts (they were “partners in crime”). Once convicted, approximately 97 percent of male defendants received incarceration compared to only 50 percent of females. Length of incarceration was also notable; males received prison sentences that were approximately three times longer than females (13.77 years and 4.75 years, respectively).

Table 2. Judicial Decisions by Gender.

	Males	Females
Determination of Guilt		
Conviction	69%	55%
Sentencing Outcome		
Imprisoned	97%	50%
Length of Imprisonment	13.77 years	4.75 years
Life Imprisonment	20%	0%
Supervised Release	48%	60%
Length of supervised release	2.07 years	2.6 years
Fine	8%	0%
Total Amount of Fine	\$242,000 (\$4,840 average)	\$0

²¹ Thirteen male cases were removed as outcomes were still pending, resulting in an overall sample size of 62 individuals and a male sample size of 53 individuals.

In contrast to judicial rulings regarding incarceration, females were more likely to receive supervised release than male defendants, although the contrast was not as stark as other sentencing outcomes (60 percent and 48 percent, respectively). Length of supervised release differs as well, although the comparison was moderate at best (2.07 years for males and 2.6 years for females). The unequal distribution of supervised release is not particularly surprising; supervised release is often used in place of incarceration (as a softer alternative) and, given that males are more likely to receive the latter, it stands to reason that females would be more likely to receive the former.

Lastly, fines appear to be very rare in the Canadian context. Only three individuals received a fine or requirement of restitution, but all three individuals were male (approximately eight percent of the convicted male sample). The aggregate total of levied fines equaled \$242,000 or an average of approximately \$6,540 for the convicted male sample. Court rulings indicate that females did not receive financial restitution of any kind.

These results from this preliminary comparison suggests that females are treated more leniently by the criminal justice system.²² Whereas males are more likely to receive incarceration, arguably the most severe sentence in the Canadian context, females are more likely to receive supervised release, generally accepted as the lighter of the two sentences. While the length of supervised release is generally comparable between males and females, males receive prison sentences that are almost three times as long as females. Finally, although used sparingly, financial repercussions appear reserved exclusively for males. These results should be interpreted with caution due to the factors noted previously (small sample size and the diversity in legal characteristics between the two samples); however, the results of this simple comparison of gender-specific averages suggests that female extremists in the Canadian context receive deferential treatment. This supports the supposition of a *paternalistic* criminal justice system; one that adopts a protective, rather than a punitive, approach to female offenders, despite their affiliation with extremism.

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The next question to address is the “why” question. Why might the criminal justice system adopt a paternalistic approach to female extremists? As mentioned previously, theories around gendered treatment by a justice system tend to revolve around three interpretations of female offenders; they are *bad women* (there is something inherently wrong with them), *fallen women* (they have lost their innocence but can be saved), or *desperate women* (they are desperate and lack agency). The *bad women* narrative is often paired with a *punitive* criminal justice outcome and, therefore unlikely to be influencing the Canadian context. However, the *fallen* and *desperate* narratives are possible explanations for a paternalistic criminal justice approach. Although there are a number of methods of assessing these narratives, the qualitative approach, particularly content analysis, is well suited for the task at hand.

Qualitative Assessment of Social and Legalistic Narratives

To better understand the gender-based discrepancy in sentencing outcomes, we can now turn to qualitative means to explore possible explanations. Specifically, a careful examination of narratives surrounding gender-diverse extremists may illuminate social and legalistic factors or opinions that

²² Ideally, this study would include one more set of analyses, one that controlled for the various legalistic factors that may influence sentencing outcomes. For example, males are more likely to be charged with violent offenses which may result in longer sentences; therefore, it is important to analyze sentencing outcomes while also holding the influence of type of offense (violent versus non-violent) constant. However, given the small sample size, this kind of inferential analysis would be unreliable and potentially misleading and, therefore, was excluded from this study. Due to the lack of this more sophisticated form of analysis, quantitative results reported in this chapter are suggestive only.

would influence criminal justice response. This section will introduce and apply one qualitative method, content analysis, which is particularly fitting for this stage.

Content analysis involves examining qualitative data with the goal of identifying key words and/or themes.²³ It is used liberally by researchers engaged in exploratory analysis or focused on uncovering potential explanations; this is in contrast the explanatory approach, which involves testing the presence or veracity of previously identified explanations. Often these two approaches go hand-in-hand; researchers will uncover potential themes through the exploratory method and will test the validity of those themes through the explanatory approach.

Content analysis can take many forms but the underlying assumption for all applications is that there are patterns in communication that are systematically replicated in a manner that has meaning. This assumption underlies the research presented in this section; through the analysis of narratives surrounding extremists and their court proceedings, we can potentially isolate gendered sentiments that inform sentencing disparities. Accomplishing this goal is a multi-step process, each informed by the previous step. In short form, the process begins with the identification of a sample: for the purposes of this study, this includes both a sample of gender-diverse extremists and the sample of written artifacts for use in content analysis. Once samples are identified, the next step is to collect the materials necessary for analysis (in this case, media and court reports for each individual). Careful scrutiny of these written artifacts then allows for the identification of key words or statements that are suggestive of social or legalistic sentiments that would influence sentencing outcomes. These words can be grouped into gender-specific thematic clusters which then can be compared to determine themes that may impact sentencing outcomes. Each of these steps will be elaborated upon below, within the context of this specific study.

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When working with a dataset that has the characteristics of the CRS (demographically diverse yet small), there are two ways to identify gender-specific comparative samples. The first is to pair strangers on demographic and legalistic similarities. For this approach, the researcher identifies key factors that are believed to be influential on social and political narratives (e.g., race and ethnicity, offense type, and organizational affiliation) and attempts to match male and female participants on these characteristics so that, for the purposes of content analysis, identified themes can be attributed to gender rather than racial differences, offense severity, or similar legal and extralegal characteristics. A second approach involves finding individuals that are already paired; in this case, male/female partners who engaged in extremism together. This method allows for diversity on extralegal characteristics (e.g., race and ethnicity) but can ensure legalistic uniformity. This study employs a combination of both approaches; a sample of individuals that engaged in extremism together were selected, thus matching the sample on legal characteristics. In addition, partners that shared uniformity in key extralegal characteristics, such as age and racial and ethnic composition, were prioritized. Employing this approach led to four natural gender-diverse pairs; of the nine females included in the CRS, four were arrested alongside male companions and each of these pairs were, for the most part, similar in legal and extralegal characteristics.²⁴ Table 3 summarizes each pairing's legal and extralegal characteristics.

²³ Stemler, *An Overview of Content Analysis*, 17.

²⁴ Although four pairings is not a large sample, given the exploratory nature of content analysis, this is an appropriate sample size to use for the identification of potential themes or narratives underlying sentencing decisions.

Table 3. Legal and Extralegal Characteristics.

	Age	Race and Ethnicity	Province	Arresting Charge	Organizational Affiliation
Pair 1 Female	21	Middle Eastern/ Arabic	Quebec	Participating in a terrorist group	Yes
Pair 1 Male	20	Middle Eastern/ Arabic	Quebec	Participating in a terrorist group	Yes
Pair 2 Female	23	Middle Eastern/ Arabic	Ontario	Participating in a terrorist group	Yes
Pair 2 Male	24	Middle Eastern/ Arabic	Ontario	Participating in a terrorist group	Yes
Pair 3 Female	22	White	Quebec	Perpetrating a terrorist hoax	No
Pair 3 Male	25	White	Quebec	Perpetrating a terrorist hoax	No
Pair 4 Female	35	White	British Columbia	Commission of offence for a terrorist group	No
Pair 4 Male	44	White	British Columbia	Commission of offence for a terrorist group	No

Once the sample of extremists was identified, the next step involved assembling a diverse and extensive collection of written artifacts. For the purposes of this study, this involved media and court documents. Given that the goal was to examine narratives that influenced sentencing outcomes, written artifacts were restricted to the period preceding the court's final sentencing decision, thus covering the defendants' arrests and trials. Sources were identified through internet research, using each defendant's name as the search term. Priority was placed on sources that were mainstream and diverse, spanned the duration of the legal proceedings, lengthy and detailed, with both public and legal origins. Source collection was capped at twenty articles per defendant or forty articles per gendered pair.

Once collected, sources were reviewed for the purpose of identifying key words or descriptors that suggest a subjective narrative (e.g., describing an individual as *deplorable* or *troubled*). Priority was placed on identifying terms that were used to describe the defendant rather than the action; this allowed for a cleaner comparison between each individual within a partnership since most subjective comments regarding their behaviors were applied to both partners. Once each article within a pairing had been reviewed and key terms were identified, these key terms were separated by gender and clustered into thematic groupings based on shared similarities. Themes that were similar across genders were noted but not included in the final analysis. Table 4 provides a summary of key words and themes originating from this process.

Table 4. Content Analysis Results.

Key Themes	Gender	Example of Descriptors	Tone and Subtext
Family	Female	<ul style="list-style-type: none"> • Strained parental relationship • Protective sister • Well-respected family 	Family is central and is presented in a positive light, as caring and supportive, but struggling to connect with the defendant
	Male	<ul style="list-style-type: none"> • Lucky to have caring mother 	Family is rarely mentioned and, when referenced, is peripheral but presented as bearing the burden of the defendant
Psychological References	Female	<ul style="list-style-type: none"> • Troubled life • Searching for identity • Struggling to fit in • Socially estranged • Looking for meaning 	Mental and emotional state is central, presented in a manner that may elicit sympathy
	Male	<ul style="list-style-type: none"> • Emotionless • Angry • Significantly less intelligent • Henchman mentality 	Mental and emotional state is central and presented in a manner that may elicit judgement
Accountability	Female	<ul style="list-style-type: none"> • Victim of circumstance • People who blame her are pathetic 	Reference to accountability is moderate and focuses on reduced agency
	Male	<ul style="list-style-type: none"> • ISIS fanboy • Warrior in jihad 	Reference to accountability is moderate and focuses on committed group membership
Personal History and Character	Female	<ul style="list-style-type: none"> • Excellent student • Model for women • Bright and artistic • Kind and generous 	Personal history is central and focuses on desirable characteristics
	Male	<ul style="list-style-type: none"> • Crude tattoos • Drug addict • Previous criminal record 	Personal history is moderate and focuses on undesirable characteristics

A number of key themes defined by gender were evident in content analysis results. *Family* quickly became an apparent theme for female defendants but less so for males. When family was mentioned in relation to females, this concept was described as a caring and supportive aspect of the defendant's social life, but one that was marked by strain as families struggled to support their errant offspring or sibling. One defendant, for example, was saved due to her *protective sister*, while another experienced a *strained relationship* with her loving parents as they struggled to establish

ways to support her. Male defendants' families, on the other hand, were rarely referenced in public and legalistic narratives and, when they were, the implication centered on the burdensome nature of the defendant on the family. One judge, for example, stated that the defendant was *lucky* to have a caring mother that would post bail for him.

Both media and legal authorities were liberal in reflecting on the *psychological characteristics* of both male and female defendants, although the tone and subtext between the two gendered groups was notably different. Females tended to be presented in a manner that appeared designed to elicit sympathy. They were described as struggling to find an *identity*, to *fit in*, and to find *meaning*. They were perceived as *socially estranged* and leading a *troubled life*. Male defendants, on the other hand, were described in a manner that would likely elicit judgement. They were *emotionless* in court or, when they did express emotion, it was inconsistent (e.g., *laughing, then tense*). In their personal lives, they were cast as *angry*, harboring a *henchman mentality*, and *significantly less intelligent* than their female counterparts.

Although not prevalent in many sources, social narratives (although not legalistic ones) did occasionally offer sentiments that reflected on perceived *accountability*. Female defendants were generally presented as having reduced agency and/or accountability, while male defendants were described as holding active and enthusiastic sentiments towards an extremist organization or ideology, thus suggesting accountability. Females, for example, were *victims of circumstance*, thus relieved of responsibility for their behaviors. The public reflected that anyone placing blame on specific female defendants were *pathetic* and simply wrong. Males, on the other hand, were *ISIS fanboys* or *warriors in jihad*, fully embracing extremism without a hint of reduced accountability.

Reflections on *personal history and character* were also prevalent, particularly for women. Once again, female defendants were cast in a positive light, described as possessing a commendable set of attributes. They were *excellent students*, *models for other women*, *bright and artistic*, and *kind and generous*. These descriptions were presented in the past tense, usually without reference or comparison to their current characteristics. Thus, the audience was left inferring that these same characteristics were still present. As for the males, the narrative was notably different, once again focusing on negative attributes. Males were *drug addicts*, they had *previous criminal records*, and sported *crude tattoos*. Unlike their female counterparts, these descriptors were explicitly used to define who they were and who they continued to be (these descriptors were often tied to present psychological characteristics, such as noting a connection between a drug history and reduced intelligence).

Overall, the results from the content analysis point to several overarching trends. First, females are generally presented in a more positive light than males. Whether it is in relation to their family dynamic, their psychological makeup, or their personal history, females are cast as more socially appealing, as possessing more positive personal traits, and easier with which to sympathize or empathize. As characters in a social or legalistic narrative, they have the potential to be a protagonist, someone that the audience identifies with and potentially forgives for any trespasses. Males, on the other hand, are generally presented in a more negative light, bearing undesirable characteristics and history, leaving the audience averse to sympathy or empathy. Within the narrative context, they are more likely to be cast as the antagonist, someone that is destined to suffer an unseemly outcome.

A second trend that is closely aligned with the first is the allusion of differential accountability. Female defendants are described in such a manner as to potentially facilitate expectations of reduced agency and accountability. The collection of their family dynamics and their psychological characteristics suggest that they are caught in a storm of overwhelming circumstances, leaving them with little choice but to succumb to the temptations of powerful ideologies and group membership. Males are, once again, presented in a different light. They are in control of their destiny; their psychological and social characteristics are but a means and extremism but an end. They are not babes in the woods but, instead, are avid players in the world of extremism.

In amongst these various trends, there were also some notable absences. Although male and female defendants were presented differently, there was very little explicit comparison between the two of them. Media and legalistic sources did not seem particularly interested in drawing parallels between the different gendered pairs included in the sample. In addition, there was very little (if any) attribution of blame from one member of a pair to the other. In other words, social and legalistic narratives tended not to blame one partner for the actions of the other. Given the tendency to cast females in a positive light and males in a negative one, this lack of comparison and blame was unexpected and unexplained.

With these caveats in mind, we can return to the overarching question presented at the end of the quantitative section: is Canadian paternalism potentially driven by a *fallen* narrative or a *desperate* narrative. Based on the publicly sourced materials used for qualitative analysis, it appears that the *desperate* narrative is most prominent; females are presented as in desperate straits and lacking full agency. In interesting contrast, although the *bad* narrative summarized above was originally couched with females in mind, this appears most prominent among the male defendants included in the qualitative analysis, suggesting a narrative that might drive their more severe sentencing outcomes.

Conclusion

The study summarized above offers a number of tentative conclusions. A quantitative assessment of criminal justice proceedings suggests that males are treated more punitively, subject to more severe and lengthier sentences. Females, in contrast, are treated with greater leniency, resulting in softer and shorter sentences. A qualitative assessment of public and legal narratives suggests that this disparity may be due, at least in part, to differences in perceptions of gender-specific groups. Males are perceived as lacking familial support, psychologically flawed or undesirable, possessing negative personal characteristics and responsible or accountable for their actions. Females, on the other hand, are presented as suffering strained familial ties, psychologically lost or in need of support, possessing positive personal characteristics, and subject to reduced accountability. Although this may not be the only driver of sentencing disparities, these social and legalistic narratives offer a persuasive explanation for differences in criminal justice responses.

The findings described in this chapter point to several key recommendations focused on shifting narratives, increasing legalistic legitimacy, and correcting sentencing disparities. Regarding shifting narratives, researchers have long recognized the power of narrative in shaping public and political opinion.²⁵ Although forming subjective narratives is a natural human characteristic, it is the responsibility of those who adopt authoritative positions in society to recognize the power of

²⁵ De Graff et al., *Shaping Societies for War*, 3.

narrative and to curb their perspectives accordingly, particularly if their role is to inform the public and/or dictate the meaning of norms and mores. Those in positions of authority are responsible for providing fact-based assessments, rather than ones rooted in stereotypes and biased expectations.²⁶ A failure to do so can have negative consequences, such as a loss of legitimacy for the office, ensuring the persistence of bias, and the continuance of practiced disparities.

Regarding a loss of legitimacy, social order is dependent on perceived fairness and impartiality in key institutional roles, including the criminal justice system.²⁷ Order is maintained, in part, due to the expectation that all citizens are subject to the same laws, procedures, and outcomes, and that no person is either exempt from or more severely subjected to criminal justice proceedings. Indications of inequalities or elements of unjust practices compromises community faith in justice institutions, weakening the foundation of social order.²⁸ Citizens are less likely to be deterred from offending and punishment and rehabilitation is less likely to be effective if the perceived legitimacy of the criminal justice system is compromised.

How to best counter the possible loss of legitimacy? In addition to changing narratives, it is also imperative that criminal justice practitioners change practices. The empirical literature, including this chapter, point to disparities in criminal justice proceedings. Armed with this knowledge, it is the responsibility of those in positions of legalistic authority to amend their ways in a manner designed to eliminate disparities. In the case of female extremists, for example, this can take the form of sentences that reflect the actions for which the individual is responsible and thus accountable, rather than on notions relating to feminine vulnerabilities and weaknesses.

As is mentioned in other chapters in this volume but bears repeating here, appropriate criminal justice response need not be rooted in punitive intentions. Eliminating gender disparities may result in more justice responses directed towards female extremists, but this also offers the opportunity for programming, institutional support, and rehabilitative measures. Canada, for example, has several deradicalization programs that are in their infancy but offer positive outcomes.²⁹ Rather than practicing paternalistic leniency or punitive severity, perhaps a better alternative would be to recognize female accountability and create access to evidence-based programs that serve to counter violent ideologies and ensure successful reentry.

²⁶ Robertson, *Judicial Impartiality*, 739.

²⁷ Levasseur, *Legitimacy of Judges*, 43.

²⁸ Duff, *Blame, Moral Standing, and the Legitimacy of the Criminal Trial*, 123.

²⁹ Jacoby, *How the War was 'One'*, 272.

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CHAPTER IV

GENDERED DISPARITIES IN THE UNITED STATES

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Overview

Historically, select populations have received differential treatment in criminal justice proceedings. These disparities are particularly evident among populations defined by race, class, and gender. For the most part, however, research in this area has been restricted to apolitical offenders (offenders who break the law for personal or conventional gain). Despite this limited focus, scholars have assumed that observed disparities found in apolitical populations are also present in political offenders (offenders who break the law for political gain). This assumption, although commonplace, has not been rigorously assessed. This essay begins to address this oversight with a particular focus on gender. Specifically, the chapter examines whether gendered disparities in sentencing that are typically found in an apolitical population are replicated in an extremist sample of offenders in the United States.

54 The chapter begins with an introduction to two key gender-based criminological theories, the *chivalry/paternalism approach* and *gender conflict theory*, that guide much of the research examining the role of gender in criminal justice proceedings. The chapter then explores the existing literature, identifying and summarizing a number of empirical studies carried out with apolitical populations that examine gender-based disparities in criminal justice proceedings. The collective findings from these studies indicate apolitical women, when compared to their male counterparts, do receive differential treatment, thus providing grounds to hypothesize that political women may also receive the same treatment. This hypothesis is tested using a database that includes male and female extremist offenders in the United States. The chapter concludes with a summary of the findings and a discussion of their relevance for academics and practitioners.

Gender Disparities in Criminal Justice Response: Theories and Findings

Are women treated differently than their male counterparts by different elements of the criminal justice system? If so, are they likely to face more or less severe consequences? These questions are relatively new to the criminological discipline but have become more commonplace as the discipline grows. In response to these queries, theories have arisen that suggest the presence of gender disparities, particularly in select circumstances. These theories have shaped the research agenda on gender and criminal justice proceedings, prompting a wave of empirical research designed to explore the presence and nature of differential criminal justice treatment.

The chivalry/paternalism approach is the first of two key theories that have shaped gender-based discussions around criminal justice outcomes.¹ This theory suggests that representatives of the criminal justice system, ranging from police officers through to the judiciary and prison officials, will treat fe-

¹ Paternoster and Bachman, *Explaining Criminals and Crime*, 253.

male offenders with greater leniency than their male counterparts.² This disparity, according to the approach, is based in the assumption that female offenders commit their acts as a measure of desperation or an expression of powerlessness. Within this theoretical framework, criminal justice representatives assume that *desperate women* are coerced by their partners, are in dire straits, or have no options available to them other than deviance.³ Women have limited agency and are thus more likely to succumb to criminal temptations when they find themselves in a difficult situation. In addition, some officials may view female offenders as *fallen women* that require salvation, preferring to protect them from the dangers of incapacitation. Whether due to desperation or a loss of innocence, the end result, according to the chivalry/paternalism hypothesis, is criminal justice leniency for female offenders.

The gender conflict theory offers a different perspective on criminal justice responses to women. According to this theory, the criminal justice system is a tool in the hands of the powerful and is used to retain the status quo, often at the expense of the powerless.⁴ Therefore, groups who challenge entrenched power relations will be subject to harsh responses as a method of suppression. Conflict theorists posit that gender is a key dimension separating the powerful from the powerless and women are subordinate to their male counterparts. Within this context, the criminal justice system may be used in one of two ways. It may be applied leniently to women who retain the status quo by engaging in gender typical offenses or it may be applied punitively to women who challenge gendered norms. Female offenders who engage in gender-atypical behaviors are *bad women*, a fly in the ointment so to speak, contradicting expectations of what is appropriate and acceptable in a gendered society.⁵ Therefore, women who break the law in ways that defy conventions of femininity will face punitive consequences. The end result, according to gender conflict theory, is a more severe criminal justice response for female offenders that engage in crimes that are typically male dominated when compared to their gender-conforming female counterparts.

Each of these theories suggest disparities in the prosecution and sentencing of female offenders. Women who engage in gender-normative crimes and, thus, do not activate or trigger the image of the unfeminine and unruly woman, will receive greater leniency (chivalry/paternalism). These types of offenses, although not strictly limited to these categories, may include financial (survival) crimes or other non-violent offenses. On the other hand, women that violate gender norms will receive more severe criminal justice responses (gender conflict theory), including more convictions and longer sentences. Violations that prompt harsh response will most likely cluster around violent crimes.

These theories have provided the foundation for a growing wave of research on criminal justice response to female offenders, resulting in a collective of empirical results that test the veracity of assumptions of gender disparities. The results are telling. In the United States, for example, Doerner and Demuth examined federal sentencing procedures. They identified a gender gap in sentencing outcomes that could not be wholly attributed to legitimate legal characteristics, suggesting a disparity.⁶ Goulette and colleagues conducted a similar study that examined a variety of criminal justice responses to female offenders, also in the United States. Their findings indicated that women experienced differential treatment at multiple points in the criminal justice process.⁷

² See, for example, Franklin and Fearn, *Gender, Race, and Formal Court Decision-Making Outcomes*, 279.

³ Vito and Maahs, *Criminology*, 212.

⁴ See, for example, Bontrager et al., *Gender and Sentencing*, 349.

⁵ Vito and Maahs, 215.

⁶ Doerner and Demuth, *Gender and Sentencing in the Federal Courts*, 242.

⁷ Goulette et al., *From Initial Appearance to Sentencing*, 406.

Research from other regions of the world support findings from the United States. In the United Kingdom, Bindler and Hjalmarsson examined two centuries of London legal proceedings, noting a significant relationship between convictions and the gender of the defendant.⁸ Pina-Sanchez and Harris also identified gender disparities among a British sample of assault, burglary, and drug offenders.⁹ In other parts of Europe, Phillippe identified gender disparities in sentencing severity in France, as did Chatsverykova in Russia.¹⁰ Although much of the research has focused on the North American and European context, these results are not limited to the Western world. Using qualitative methods, Aborisade and Adedayo replicated Western findings, concluding that gender-based extralegal characteristics influenced federal sentencing outcomes in Nigeria.¹¹

The studies summarized above represent only a small portion of the existing literature, but they are indicative of the findings of the greater collective. They present uniform outcomes that suggest clear conclusions regarding the relationship between the criminal justice system and gender. Specifically, the literature supports the chivalry/paternalism supposition that female offenders are treated more leniently than males. In addition, these findings are robust; they are evident at various stages of the criminal justice system and across a variety of offense types. In addition, in keeping with gender conflict suppositions, leniency is muted when women engage in gender atypical behaviors, such as violent offenses.¹²

How relevant are the chivalry/paternalism and gender conflict assumptions for female extremists? This is a two-part question: first, is the *desperate, fallen, or bad woman* narrative extended to women who engage in politically motivated crimes and, second, does that result in differential treatment? Regarding the first part, the chivalry and conflict suppositions are evident in the social narratives that accompany descriptions of female extremists. Women in this group are granted less agency, they are believed to have been led astray, and are cast as naïve and blinded by romance. If there are no available means by which their accountability can be mitigated (for example, they are not romantically partnered with a male extremist and there is no evidence of a distressed background), then they may be presented as an aberration that fails gendered expectations. This is expounded upon in another chapter in this volume (the chapter examining narratives in Canada) but is captured well simply by looking at the misnomers applied to female extremists; they are dubbed *lipstick martyrs, Nazi brides, Jihadi brides, cheerleaders for the Jihad, and Black Widows*.¹³

As for the second part of the question, the answer is less certain. This is due to a number of factors. First, the empirical research exploring gender disparities within extremist samples is very limited. There are only a handful of peer-reviewed studies that examine this relationship. Second, some scholars have adopted the position that gender disparities evident in apolitical proceedings can be applied to political groups. Strommen, for example, examined the return of Islamic State foreign fighters. She accepted the supposition that female fighters would face differential punitive treatment and, rather than testing this assumption through comparison with male returnees, drew conclusions from a female-only sample.¹⁴ Thirdly, those studies that do explore potential gender gaps may be subject to empirical shortcomings. Galica, for example, used narrative analysis to examine elements of chi-

⁸ Bindler and Hjalmarsson, *The Persistence of the Criminal Justice Gender Gap*, 297.

⁹ Pina Sanchez and Harris, *Sentencing Gender*, 3.

¹⁰ Phillippe, *Gender Disparities in Sentencing*, 1037; Chatsverykova, *Severity and Leniency in Criminal Sentencing in Russia*, 185.

¹¹ Aborisade and Adedayo, *Gender and Sentencing in the Nigerian Justice System*, 15581.

¹² See, for example, Pina Sanchez and Harris, 3; Weimann and Fishman, *Attribution of Responsibility*, 415.

¹³ Nacos, *The Portrayal of Female Terrorists in the Media*, 435; Max, *Demystifying the Palestinian Female Suicide Bomber*, 1; Krulisova, *The "Black Widow" Media Discourse*, 30.

¹⁴ Strommen, *Jihadi Brides or Female Foreign Fighters*, 1.

valry in criminal justice proceedings. Although she sought to confirm a gender gap in the sample before conducting her analysis, the small sample size would not allow for generalizable conclusions.¹⁵

To summarize, the chivalry/paternalism and gender conflict theories are supported in the empirical literature examining apolitical samples; findings indicate that women receive differential treatment in criminal justice proceedings. However, it is unclear if this same relationship extends to female extremists. Although female extremists may be cast as naïve, lacking agency, or aberrant, there is limited research that explores how this may influence criminal justice proceedings. The research that does exist consists in large part of qualitative case studies or interviews that do not confirm the presence or absence of disparities. While these studies are informative and revealing, they lack robustness and scope and thus undermine the ability to draw definitive conclusions.

The Current Study

This chapter provides the results of a study designed to address a two-fold research question: namely, do female extremists receive differential treatment in the criminal justice system and, if they do, what is the nature of the disparity? The analysis reported here seeks to overcome some of the issues inherent in other scholarly attempts to examine female extremists by relying on a large, gender-diverse, quantitative dataset. Including both males and females ensures the study explores the possibility of disparity (rather than taking disparity as a certainty) and employing a large quantitative sample permits generalizations to a larger population. It also allows for the inclusion of additional factors that may influence the relationship between gender and sentencing outcome.

The analysis relied on the Terrorism Recidivism Study (TRS) as the primary source of data. The TRS database records and reports individuals convicted of terrorism-related offenses in the United States over a twenty-year span, beginning with the events of 9/11 (in 2001) through to the end of 2020. In total, the TRS reports information on 731 individuals, including details on demographics, offense characteristics, criminal justice response, and recidivism during incarceration and following release.¹⁶ The study begins by describing the demographic and offense characteristics of the two gender-defined samples, noting similarities and differences that can be observed in the raw numbers. The reader is then introduced to a simple descriptive comparison of sentencing outcomes, followed by a more rigorous inferential statistical comparison.

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Descriptive Analysis

Of the 731 extremists included in the TRS, 58 are female and 673 are male. As reported in Table 1, the two gender-defined groups look similar in many respects. The average extremist male is in his mid-30s, convicted of a non-violent financial offense, and is affiliated with a specific terrorist organization (as opposed to acting on his own). The typical female also shares these same characteristics, although the exact distribution varies between females and males. Where the two groups differ is race; the average male is Middle Eastern, followed by African American while the average female is European White followed by Middle Eastern.¹⁷

¹⁵ Galica, *Lifting the Veil*, 114.

¹⁶ Hodwitz, *The Terrorism Recidivism Study (TRS)*, 27.

¹⁷ Although *Middle Eastern* is not a racial category, per se, it was included as a subset to the Asian racial category as means to further define demographic characteristics informed by location and culture.

Table 1. The Typical Offender.

	MALES	FEMALES
Asian	20%	10%
Black	25%	20%
European White	15%	30%
Middle Eastern	35%	25%
Latinx or Hispanic	5%	15%
Average age (at conviction)	33.3 years	35.5 years
Violent offenses	32%	15%
Non-violent financial offenses	38%	52%
Non-violent non-financial offenses	30%	32%
Affiliated with a terrorist organization	80%	82%

Although the two groups are similar in composition, they appear to differ on sentencing outcomes. As summarized in Table 2, males are more likely to be imprisoned than females. Once incarcerated, males are subject to sentence lengths more than fifty percent longer than females. Although both are comparably subject to additional supervised release (probation and parole), the males once again experience longer period of supervision. Along similar lines, although both males and females are at near-to-equal risk of receiving a fine, the average fine for a male is approximately four times larger than females. These results are telling, suggesting sentencing disparities. Although these results are suggestive, they are not conclusive. The male and female samples are not equitable on several legitimate legal factors that can influence results. For example, violent offenses are more prevalent among the male sample. In addition, the TRS males had more prior convictions and were more likely to receive multiple convictions than the TRS females. These factors could (and arguably should) influence punitive criminal justice responses and, therefore, gender disparities may be rooted in legitimate legal considerations.

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Table 2. Descriptive Sentencing Disparities.

	MALES	FEMALES
Imprisoned	87%	74%
Length of imprisonment	11.7 years	7.2 years
Supervised release	74%	72%
Length of supervised release	7.2 years	4.9 years
Fine	20%	22%
Total amount of fine	\$574,000	\$136,000

Inferential Analysis

Given the potential influence of legal factors, the next step of the analysis entails running a set of regression models which will assess the role of gender on sentencing outcomes while controlling for the influence of legal and extralegal factors. The former includes number of offenses and offense type, affiliation with a terrorist organization, prior criminal history, disposition (guilty plea versus trial), and year of arrest; in a well-functioning justice system, it would be reasonable to expect these factors would have a legitimate effect on outcomes. Extralegal characteristics, including race and age, should not influence outcomes but research suggests that they do and, therefore, they should also be taken into account.¹⁸ Depending on the nature of the dependent variable (discrete versus continuous outcomes), the study employed either logit regression or Ordinary Least Squares (OLS) models.¹⁹

As reported in Table 3, the variables were included in a stepwise fashion; blocks of similar variables were added to the model to examine their collective influence on the role of gender on sentencing outcomes. Sentencing outcomes included whether an individual was sentenced to a period of incarceration and/or supervised release and the length of those sentences. Although it would have been ideal to also include fines, only a small percentage of the TRS individuals were given a fine and, thus, this outcome was poorly fitted for analysis.

Table 3: Stepwise Results.

	PRISON (Y/N) (ODDS RATIO)	LENGTH (BETA COEFFICIENT)	SUPERVISED RELEASE (Y/N) (ODDS RATIO)	LENGTH (BETA COEFFICIENT)
Model 1				
Gender (female)	0.43 (0.14)**	-4.77 (1.53)**	0.91 (0.27)	-1.86 (1.15)
Model 2				
Gender (female)	0.38 (0.12)**	-5.10 (1.53)***	0.97 (0.30)	-1.78 (1.15)
Age	1.03 (0.01)***	0.06 (0.03)*	0.98 (0.01)**	-0.08 (0.02)***
Race (person of color)	0.94 (0.26)	-1.71 (1.07)	1.26 (0.27)	-1.28 (0.80)
Model 3				
Gender (female)	0.53 (0.20)†	-2.32 (1.23)†	0.92 (0.30)	-1.77 (1.11)
Number of offenses	3.40 (0.90)***	2.92 (0.32)***	0.94 (0.08)	0.17 (0.29)
Offense type (violent)	3.45 (1.32)***	7.49 (0.86)***	1.02 (0.24)	1.99 (0.77)**
Offense type (non-violent non-financial)	3.12 (0.90)***	0.32 (0.85)	1.42 (0.35)	2.24 (0.77)**
Organizational affiliation	9.41 (3.00)***	4.59 (0.89)***	1.03 (0.27)	1.89 (0.80)*
Prior convictions	3.15 (2.45)	0.46 (1.53)	3.52 (1.93)*	2.51 (1.38) †
Year of arrest	0.87 (0.02)***	0.16 (0.07)*	0.89 (0.02)***	0.31 (0.06)***
Disposition (pleaded)	2.20 (0.64)**	-3.74 (0.80)***	2.19 (0.45)***	0.73 (0.72)

¹⁸ See, for example, Doerner and Demuth, *The Independent and Joint Effects of Race/Ethnicity, Gender, and Age*, 1.

¹⁹ Walsh, *Teaching Understanding and Interpretation of Logit Regression*, 178.

The results, for the most part, replicate the descriptive findings reported in Table 2. Model 1 reports on the relationship between gender and sentencing outcome only (there are no additional variables added to the model). It indicates that females are significantly less likely to receive a prison sentence and, when they do, it is notably shorter. Differences in supervised release, however, are not apparent. Model 2 examines the relationship between gender, race, age and sentencing outcome, suggesting that, although race is not significant, gender and age are both influential on prison outcomes and age is influential for supervised release determinations.²⁰ Model 3 assesses the role of gender and legal factors on sentencing outcomes. As expected, a number of legitimate justice considerations demonstrate significance, although interestingly enough, gender becomes only marginally significant, suggesting that the results evident in Model 1 may be due to gender-specific legal characteristics (e.g., males having more prior convictions and engaging in more violent crime). Overall, Table 3 suggests that different legal and extralegal variables have a significant influence on sentencing outcome, suggesting a complexity that is not captured in a simple descriptive analysis of averages (Table 2).

Although thematic blocks of variables appear influential, it is important to look at all of the variables at once, controlling for legal and extralegal characteristics in a single model so that the relationship between gender and sentencing is evident. Table 4 reports a full model that includes demographics and offense characteristics. The key takeaways from the model are multifold. First, legal characteristics, for the most part, have an expected and significant influence on sentencing outcomes. As for extralegal characteristics, age remains significant for sentencing, except for the length of the prison sentence. Gender remains significant, either marginally or fully, for prison-related outcomes but not for supervised release.

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Table 4. Full Model Results.

	PRISON (Y/N) (ODDS RATIO)	LENGTH (BETA COEFFICIENT)	SUPERVISED RELEASE (Y/N) (ODDS RATIO)	LENGTH (BETA COEFFICIENT)
Gender (female)	0.50 (0.19) ^T	-2.41 (1.24) [*]	1.03 (0.35)	-1.59 (1.12)
Age	1.03 (0.01) ^{**}	0.02 (0.03)	0.97 (0.01) ^{***}	-0.07 (0.02) ^{**}
Race (POC)	0.87 (0.28)	-0.37 (0.89)	1.04 (0.24)	0.03 (0.80)
Number of offenses	3.18 (0.83) ^{***}	2.88 (0.33) ^{***}	0.99 (0.09)	0.32 (0.30)
Offense type (violent)	4.03 (1.56) ^{***}	7.62 (0.89) ^{***}	0.82 (0.20)	1.46 (0.79) ^T
Offense type (non-vi- olent non-financial)	3.59 (1.07) ^{***}	0.44 (0.88)	1.17 (0.29)	1.81 (0.78) [*]
Organizational affiliation	8.82 (2.84) ^{***}	4.52 (0.91) ^{***}	1.15 (0.31)	2.24 (0.81) ^{**}
Prior convictions	2.35 (1.84)	0.29 (1.55)	4.40 (2.47) ^{**}	2.97 (1.39) [*]
Year of arrest	0.87 (0.02) ^{***}	0.16 (0.07) [*]	0.88 (0.02) ^{***}	0.30 (0.06) ^{***}
Disposition (pleaded guilty)	2.32 (0.69) ^{**}	-3.73 (0.81) ^{***}	2.07 (0.43) ^{***}	0.53 (0.73)

²⁰ The quantitatively-oriented reader may wonder about interaction effects. These variables were added to the model but did not significantly alter outcomes so were omitted for the sake of simplicity.

The results reported in Table 4 lend support for the chivalry/paternalism hypothesis. Women are treated more leniently in some sentencing decisions, specifically relating to prison. When other legal and extralegal factors are taken into account, women are half as likely to be sentenced to prison as their male counterparts. When female extremists do receive a prison sentence, they are sentenced to approximately two and a half fewer years than males who share similar legal and extralegal characteristics. However, although gender is influential, it is not as significant as other factors, particularly legal factors, such as the number of convictions, involvement in violent offenses, and affiliation with a terrorist organization.

Although the chivalry/paternalism approach is supported by the data, Table 4 does not directly address the gender conflict hypothesis. An appropriate test of this approach would require examining sentencing differences between males and females for violent offenses (male-typical crimes) and non-violent offenses (gender-neutral crimes). If the gender conflict assumptions are applicable to extremist populations, results should indicate that women receive leniency for non-violent offenses but this leniency is tempered or lessened for violent offenses.²¹ As reported in Table 5, these expectations are borne out, even while controlling for other legal and extralegal characteristics. Gender-based sentencing disparities remain for non-violent offenses but disappear for violent offenses, suggesting that, as females engage in violence, the chivalrous stance towards them fades and is replaced with a more punitive approach, one that is comparable to what is applied to their male counterparts. Specifically, for non-violent offenses, women are less than half as likely to receive incarceration and, when they are incarcerated, their sentence is typically three years less than their male counterparts. For violent offenses, however, women receive comparable sentences to males on all prison and supervised release metrics.

Table 5. Gender Typical/Atypical Offenses.

	PRISON (Y/N) (ODDS RATIO)	LENGTH (BETA COEFFICIENT)	SUPERVISED RELEASE (Y/N) (ODDS RATIO)	LENGTH (BETA COEFFICIENT)
Violent Offenses Only				
Gender (female)	0.20 (0.36)	-1.01 (3.94)	1.01 (0.82)	-3.77 (3.46)
Non-Violent Offenses Only				
Gender (female)	0.44 (0.17)*	-2.90 (1.14)**	1.11 (0.42)	-0.90 (1.06)

The findings in Table 5 are telling in and of themselves, but they also offer greater clarity on the findings reported in previous tables. Specifically, models 3 and 4 both reported that gender was insignificant for prison-related determinations. However, this was likely a misleading outcome given that both violent and non-violent women were included in the same sample. The differential treatment evident for non-violent female extremists was likely masked by the non-differential treatment of violent women, a watering-down of effects, so to speak.

²¹ It is important to note that conflict theorists hypothesize that gender-typical female offenders will enjoy leniency while gender-atypical female offenders will no longer warrant that leniency. This may be confirmed by comparing two female groups or comparing a female group with a male group. The latter option is preferred when testing both conflict and chivalry assumptions.

Conclusion

As noted previously, the purpose of the current study was two-fold. The first goal was to assess the possibility that female extremists received differential treatment by the criminal justice system, particularly in the sentencing stage. If differential treatment was evident, the second goal was to determine how that disparity presented itself in various measures of sentencing outcomes. Criminological theory and supporting empirical results with apolitical populations provided grounds to hypothesize that female extremists would receive differential treatment, although this would be most evident when they engaged on gender-typical crimes, such as non-violent crimes.

The results reported here indicate support for these hypothesized outcomes. Gender appears to be influential in sentencing outcomes for extremist offenders. This relationship is driven in part by the type of offense the individual engages in. Females accused of violent offenses are not penalized in a manner that differs from their male counterparts, but women who stick to gender-typical non-violent offenses are treated with greater leniency. This finding holds even when other factors are taken into account, including traditional legal characteristics such as a history of prior convictions, group affiliation, and number of current convictions, as well as extralegal characteristics such as race and age. The results are also restricted to type of sentence. While gender appears significant for decisions relating to incarceration, it is not influential for the presence or length of supervised release. As for fines, simple descriptive comparisons indicate there is a notable gender-defined difference in presence and amount; however, these repercussions are infrequent and, thus, cannot be included in more sophisticated analysis and must be taken as suggestive only.

62 Although revealing, the findings reported here are tempered by a couple of key considerations. First, the analyses only focus on sentencing procedures. The criminal justice process is a lengthy multi-stage process, consisting of a number of decisions, including the laying of charges, the type and number of charges to allege, and offering of plea deals. All of these factors will influence who appears in court and the type of defense presented. At any point in this process, gender may influence outcomes. Therefore, although the results here indicate a gendered response to extremist behavior, this is only one of many criminal justice steps where this relationship may be evident.

A second consideration is the generalizability of the findings. To the best of this author's knowledge, the study reported here is the largest data-driven analysis of gender, extremism, and the criminal justice system to date. Therefore, it provides a healthy starting point for quantitative assessment of this relationship and other researchers are encouraged to test its findings using diverse samples. However, the current study relied on sentencing procedures in the United States only and may represent a phenomenon unique to that country. Generalizing these results to other nations is tenable and should be done with caution.

Despite these caveats, the results offer some guidance for criminal justice practitioners. Extralegal leniency or punitiveness compromises the integrity and legitimacy of the criminal justice system.²² If select populations are treated differently for reasons that do not relate to their specific offences, the criminal justice system can be perceived as unreliable, unfair, and biased.²³ If cast this way, the criminal justice system's ability to meet its primary goals, such as deterrence and social protection, is tempered, leading to a potential increase in deviance, including extremism.²⁴

²² See, for example, Tyler, *Legitimacy and Criminal Justice*, 1.

²³ Duff, *Blame, Moral Standing, and the Legitimacy of the Criminal Trial*, 123.

²⁴ A cautionary tale about decreased legitimacy would be particularly powerful if paired with data illustrating that female extremists granted leniency

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are more likely to recidivate. However, the recidivism rates reported in the TRS are so low that sophisticated analysis is impossible. Of the 731 individuals included in the TRS, only 23 recidivated while still incarcerated or post-release (approximately three percent of the whole sample) and only two of these were women. This is good news in the sense that extremists, once convicted, are unlikely to commit additional offenses. This is unfortunate, however, in the sense that any data-informed conclusions regarding the potential costs of differential sentencing among the extremist population are extremely tentative. Bearing that caveat in mind, concerns about the consequences of compromised legitimacy of the criminal justice system are suggestive, not definitive. However, any indication of bias or unjust proceedings are cause for concern, even if the data are not available to confirm the costs of disparate justice outcomes and, therefore, should not be taken lightly.

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CONCLUDING THOUGHTS

Omi Hodwitz, Ph.D.

The studies included in this volume provide a clear and definitive assessment of the role of gender in criminal justice responses to extremism. This last chapter provides the reader with an overview of these findings, identifying similarities and providing a collective assessment of their shared meaning and significance. It also explores the short- and long-term implications of these outcomes for female extremists, the communities surrounding them, and the whole of society. Lastly, the chapter concludes with a discussion of next steps, including a recognition of data deficiencies, the need for collaboration, and the continued pursuit of unanswered questions.

Collective Results

The collective outcome of the empirical efforts reported here are clear: male and female extremists are treated differently by the criminal justice system at all stages of processing, from arrest through to sentencing. This finding holds regardless of several key factors, including diversity in region or country; cultural, social, or political differences; ideological orientation; or analytical strategy. A snapshot summary of each of the key findings illustrates this point.

In the Western Balkans, the data report that all extremists arrested and prosecuted for domestic and foreign forms of terrorism are male. Using qualitative analysis, Knoll-Frey and Hodwitz confirm this finding is not due to a lack of female participation in terrorism activity, nor is it due to flaws in the data. Instead, it appears that prosecutors are reluctant to indict female offenders, believing that a conviction is unlikely. Meanwhile, Koller examines IS/Daesh returnees in Germany. Her qualitative and quantitative findings indicate that the frequency and expediency of the arrest of female returnees are disproportionate to their male counterparts, shifting as the political narrative shifts. In addition, women are more likely to be charged with “private sphere” offenses, while males face a more diverse array of charges. Hodwitz explores conviction and sentencing practices in Canada. Quantitative outcomes indicate that females are treated with greater leniency than males, and the former faces lower rates of conviction, incarceration, length of incarceration, and fines. Hodwitz replicates this analysis in the United States, producing similar findings. Males are more likely to be sentenced to prison, to face longer periods of incarceration, and to be penalized financially. These findings hold even when other explanatory factors are included in the analysis, such as prior criminal history, group affiliation, and the use of violence.

The robustness of the collective outcomes of the empirical research requires some careful consideration. It begs the question of why female extremists are granted leniency by the criminal justice system while males face a punitive response. The answer may be found in two key criminological theories, specifically the chivalry and conflict orientations, both of which are presented in previous chapters of this volume. The former suggests that women will be perceived by criminal justice officials as desperate or fallen, forced, or coerced into deviance by their male counterparts or by circumstances beyond their control. Chivalry theorists posit that criminal justice officials will perceive women as possessing reduced agency and accountability and, therefore deserving of protection, leniency, and/

or salvation. The conflict perspective also embraces this assumption but adds one additional piece: women who engage in gender-typical behaviors will warrant a softer touch while those who engage in atypical behaviors will require a more punitive approach, as they are challenging gender norms and no longer fit the mold of a submissive recipient of coercion or circumstance.

The chivalry and conflict perspectives, therefore, suggest that females face leniency because the criminal justice system adopts a paternalistic perspective towards them, except when they engage in gender nonconforming behavior. The empirical studies included in this volume provide support for this supposition. Returning to the Western Balkans, over the last few decades, females have played a prominent role as foreign fighters, particularly in Syria, Ukraine, and Iraq. However, upon their return, unlike their male counterparts, they are labeled non-combatants by the state. This designation is the same term applied to children and assumes that, although females were present during conflicts, they did not take an active role. Instead, they are believed to have been coerced into the role by their spouses or male partners.

Germany offers different but equally validating evidence of a paternalistic system. Originally, the state was reticent to indict female returnees, and such actions were rare and delayed. The reasons for this reluctance were rooted, at least in part, in assumptions about agency and accountability, as well as uncertainty about offenses that may be appropriate for women. However, following UN calls for gender-neutrality in responses to terrorism, Germany shifted its practices, adopting a more punitive approach towards women, thus increasing the frequency and timing of indictments. Despite these changes, prosecutors still opted for domestic-sphere offenses that confirm expectations of the servile role of female extremists.

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The Canadian study addressed the chivalry hypothesis head on, engaging in content analysis of court and public documents surrounding criminal justice proceedings. The purpose of this analysis was to determine whether judicial decisions about female accountability were driven by a paternalistic narrative. The results pointed clearly to a criminal justice system that embraced a chivalrous perspective. There were stark differences in how the court and the public portrayed males and females who shared the same characteristics and engaged in the same crimes. Males were presented socially isolated, angry and of limited intelligence, chronically deviant and accountable. Females, on the other hand, were presented as socially supported, struggling and searching for meaning, victims of circumstances, and full of promise and potential. Males, in other words, were described in a manner that elicited judgement while females were presented in a manner that prompted sympathy. This narrative foretold judicial leniency in both the finding of guilt and sentencing outcomes for female defendants.

The examination of gender-based disparities in the United States confirmed that women were treated with leniency, thus supporting the basic premise of the chivalry hypothesis. However, unlike the studies summarized above, this one looked more closely at the role of the conflict orientation than the chivalry perspective. Specifically, although women were treated with greater leniency overall, this seemed to be reserved for women that engaged in gender-conforming behaviors. Women who engaged in non-conforming behaviors, such as violent extremism, were treated more punitively, receiving sentences that were comparable to their male counterparts. In simple terms, as long as women did not defy gendered expectations, the criminal justice system adopted a paternalistic perspective, but this was cast aside when women challenged gendered conventions.

The collective results of this research project, therefore, suggest that the reasons underlying gender disparities are rooted in perceptions of female agency and accountability, as well as gender-compliant behavior. It is interesting to note that these perceptions persist regardless of the cultural or religious expectations of the region of study. Regarding the culture of gender equality, as noted in chapter two, the Balkan region lags behind its sister nations and, thus, a gendered narrative is perhaps more likely to arise or persist regionally. Meanwhile, Germany, Canada, and the United States all purport to embrace gender equality, yet the data in these regions suggest they adopt the same narrative as the Western Balkan nations. The role of religion is also worth noting. The data used in Western Balkans and German studies indicate that religion is a central theme in extremist behaviors. Meanwhile, the data from the United States and Canada is more diverse, including more single-issue and right-wing ideologues than religious ones. Despite these differences, narratives are comparable between the North American and European contingents. Therefore, the criminal justice response to women appears to supersede cultural expectations and religious ideologies.

Implications of Gender Disparities

As mentioned in the introduction to the volume, the analysis of gender disparities is a two-part question: 1) do gender disparities exist and, if they do, 2) what are the consequences? This volume addresses the first part of the question, offering a definitive answer in the affirmative; gender disparities do exist. As for the second part of the question, it is yet to be explored, reserved for future analysis. However, there are grounds to expect that the consequences of gender disparities in criminal justice responses to extremism will be long reaching and troubling. These expectations are rooted in the goals that guide criminal justice systems and an understanding of how a paternalistic response to female extremists may compromise these goals.

Historically, criminal justice systems have oscillated in their overall purpose, sometimes prioritizing deterrence, other times incapacitation or social defense, and occasionally focusing on rehabilitation. Despite the temporal flexibility, the criminal justice systems that are in place today place a premium on all three; their policies and practices are designed to protect the community through incapacitation, to deter former and future offenders from engaging in new offenses, and to rehabilitate those who have already violated the law. Over the centuries, it has become clear that a failure on any of these fronts compromises the integrity and effectiveness of the criminal justice system, leading to a decrease in community safety and an increase in crime.

All goals are compromised when the criminal justice system treats a class of offenders, including female extremists, with leniency. Regarding social defense or incapacitation, this goal can only be met if an individual becomes engaged in criminal justice proceedings and, once they do, they are accurately identified as a potential threat and isolated from the community. In the case of female extremists, this process is severely curtailed. The Western Balkans and German data indicate that women are often not arrested or prosecuted, thus eliminating any opportunity to determine risk and, if necessary, incapacitate. The data from Canada and the United States indicates that, if female extremists are arrested and prosecuted, they are less likely to be found guilty of their offenses and, if they are found guilty are more likely than their male counterparts to be returned to the community, avoiding incapacitation altogether or, if incarcerated, receiving shorter sentences. The collective impact of these measures ensures that female extremists who pose a risk are more likely to be returned to the community than male extremists.

The deterrent function of the criminal justice system is also reduced by paternalistic approaches to female extremists. Deterrence relies on swift, certain, and severe consequences; if all three of these factors are in place, the criminal justice system can effectively deter those who have already engaged in terrorism and those that are contemplating terrorism. Neither of these characteristics, however, appear to be evident in the data. The German and Western Balkans failure to prosecute is neither certain nor severe and the German data offers evidence of a delay in proceedings as well. In addition, the leniency evident in the North American courts undermines both the certainty and severity of punitive sanctions. Therefore, the uncertainties and clemency demonstrated by the criminal justice system sends a counterproductive message: female extremists face minimal justice-oriented costs if they choose to engage in ideologically motivated crimes.

Lastly comes the centerpiece of many Western justice systems, rehabilitation, which cannot occur without the active enforcement of the criminal justice system. Rehabilitation relies on the identification, prosecution, and institutionalization of extremists. Designating female fighters as non-combatants, failing to pursue criminal charges, alleviating responsibility, mitigating findings of guilt, and reducing sentencing, all are measures that ensure that female extremists are not given the opportunity to engage in structured programming that can help aid disengagement and deradicalization. This lack of access affects their well-being and potential to reenter in a productive manner, but also ensures that they remain a danger to society, thus compromising community safety.

In summary, the representatives of the criminal justice system may view their paternalistic response to female extremists as supportive and defensible, but this assumes that ideologically motivated women have no agency, do not pose a risk to themselves or others, will not continue in their extremist activities, and are not in need of rehabilitation. If any of these assumptions are incorrect, the potential consequences are troubling, pointing towards an increased risk of continued extremism and community harm.

Next Steps in Data-Driven Analysis of Gender Disparities

As the title suggests, this volume is focused on data-driven analysis. In other words, every chapter relies on data as its primary source of information. Data in the Western Balkans, for example, illustrated a lack of female prosecution, while data in Germany uncovered gender-based variability in indictment practices. Along similar lines, data from Canada and the United States revealed conviction and sentencing discrepancies between male and female extremists. Although these four studies are informative and revealing, they do not offer a complete picture of potential gender disparities around the world. There is a notable lack of representation from several culturally and politically significant regions, such as would be found in Asian or African nations. This absence does not reflect an oversight on the part of the research team but instead, a lack of publicly accessible and/or quality data.

Herein lies the first of several steps that are necessary if the goal to produce a complete understanding of the intersection between gender, extremism, and state response is to be achieved. There is a pressing need for quality data that record criminal justice and military responses to extremists in diverse regions of the world. Therefore, the next step involves the creation or identification of additional datasets that report this information from these underexplored regions. Completing this step may entail building partnerships with organizations and agencies who have such data on hand, working with existing public data to improve quality or scope, or creating datasets that address regions that are deficient in data.

The lack of data points to another important step in understanding the role of gender in state response to extremism: the need for collaboration between multiple parties, including state agencies, international organizations, and the research community. This research project provides an excellent example of the value of collaboration: COE-DAT's partnership with academic researchers and their institutions allowed for an innovative and revealing series of analyses that fill a necessary and important gap in the literature. Further collaboration and partnership can only bolster this outcome through the increased exchange of ideas, data sources, and skill sets.

Lastly, there remains the unanswered part of the two-part question posed in the introductory chapter and reiterated earlier in this chapter. Specifically, given that there are gender disparities in criminal justice response to extremists' gender, what are the consequences of these discrepancies? The previous section suggested several disheartening outcomes, but although these speculations are informed by historical trends of apolitical offending, they are hypotheses nonetheless, and as such are not yet supported by data. Therefore, the last step involves the continued analysis of the intersection between gender, extremism, and the criminal justice system, with an emphasis on the short- and long-term consequences of gender disparities in arrests, prosecutions, findings of guilt, and sentencing outcomes. Exploring these consequences will better equip all relevant communities, including the military and criminal justice communities, as well as the national and international communities, to respond more effectively to ideologically motivated offenders of all genders.

ANNEX A

BIOGRAPHIES OF THE AUTHORS (in order of appearance)

OMI HODWITZ

Dr. Omi Hodwitz is a criminologist and Associate Professor in the Department of Culture, Society, and Justice at the University of Idaho. Prior to becoming a professor, Dr. Hodwitz was a researcher at the National Consortium for the Study of Terrorism and Responses to Terrorism (START) Center at the University of Maryland. This is also where she received her Ph.D. after completing dissertation work examining the intersection between civil society and terrorist organizations.



Dr. Hodwitz specializes in quantitative research examining the influence of policies and practices on violent and extremist behavior. She is the director of the Terrorism Recidivism Study (TRS), a large-scale data project that tracks and reports incidents of terrorist recidivism in the United States and abroad. She also directs the Aviation Attack Database (AAD), which records all violent attacks directed towards the global aviation industry.

Dr. Hodwitz has delivered guest lectures and trainings on data collection, analysis, and policy assessment to academic, practitioner, and military audiences in North America, Europe, MENA, and Asia. She has published an assortment of journal articles, chapters, and research reports on violence and extremism, as well as instructive guides for the counterterrorism community on conducting high quality and ethically sound research.

KATHLEEN KNOLL-FREY

Dr. Kathleen Knoll-Frey is an Assistant Professor at John Carroll University in the department of Sociology and Criminology. Her research focuses on the differences between prisons and jails, treating the facilities as different entities. She also conducts research on improving outcomes for those incarcerated and improving communities to reduce those entering the criminal justice system.



SOFIA KOLLER

Sofia Koller is a Senior Research Analyst at the Counter Extremism Project (CEP) in Berlin, where she currently focuses on the prosecution, rehabilitation, and reintegration of returnees from Syria and Iraq. She also supports the Radicalisation Awareness Network (RAN) of the European Commission as an external consultant. From 2018 to 2021, Sofia was a Research Fellow at the German Council on Foreign Relations (DGAP), where she led the International Forum for Expert Exchange on Countering Islamist Extremism (InFoEx). Previously, Sofia worked as a project coordinator and consultant in Lebanon and France. Sofia Koller holds a Master's degree in International Conflict Studies from King's College London.



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