

Gender Disparity in Nigerian Criminal Justice System: An Exploratory Study of Olukuta Correctional Centre, Akure, Ondo State, Nigeria

Justina Olufunke ARUNA¹, Olamide Marvellous ADENEGAN²

¹Department of Sociology, Adekunle Ajasin University, Akungba Akoko, Ondo State, Nigeria

²Department of Criminology and Security Studies, Adekunle Ajasin University, Akungba Akoko, Ondo State, Nigeria

Correspondence: justinaaruna@yahoo.com¹

ABSTRACT

Disparity in sentencing has long been a topic of discussion. Though most research is aimed at disparity in social class, few studies utilize gender as a focal point. The focus of this study is to explore the impact of gender on sentence period, controlling for characteristics derived from the “evil woman hypothesis”, to discuss the potential paternalism within Nigerian’s criminal justice system (CJS) with Olokuta Correctional Centre, Akure, as the case study. In the research process, some research-questions were assumed as necessary premises. A total of forty (40) respondents were selected, using the non-probability convenience sampling-technique. Data for the study were generated with the sole use of a structured-questionnaire schedule while the data generated are presented in Tables and duly analyzed in the simple percentage-method. The findings indicate that women always receive less terms of sentence than male offenders, regardless of crime-type and criminal record. As a result, differences in sentencing outcomes between men and women are simply a reflection—not a bias—of real, gender-related features. These inequalities are apparent because of things that are specific to women, not because of their gender.

Keywords: Disparity, Sentence, Gender, Criminal Justice System.

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Introduction

Indeed, there is still much discussion around the world about how gender affects how harsh a sentence is. This is a result of extensive general study on the inequality in offender treatment within the CJS that has been conducted over the past thirty years. As several analysts have noted (Doerner and Demuth, 2012; Shatz, 2012), studies on arrest, pre-trial, prosecution, and sentencing outcomes appear to focus on patterns of criminality derived from studying male offenders. In contrast, theories of criminal behaviour have been at the margins of the CJS (Nagel and Johnson, 1994; Stacey and Sphon, 2006; Doerner and Demuth, 2012). This is not due to a lack of concern in female offenders; rather, actual data from several nations (such as the United States, Canada, the United Kingdom, and Australia) has shown that male offenders make up the large majority of criminal offenders, particularly those who commit violent crimes (Nagel and Johnson, 1994; Deering and Mellor 2009; Sentencing Advisory Council 2010; Cahill 2012; Doerner and Demuth 2012).

Over the past few decades, significant efforts have been undertaken in Nigeria to guarantee that all citizens receive equal treatment under the law. However, pertinent concerns regarding the effect of gender on the treatment of criminals have been raised in one crucial area of criminal justice. Although the country's criminal laws appear to be fair, they are allegedly applied in a way that is profoundly and pervasively skewed towards those of lower socioeconomic classes (Opara, 2014; Dada *et al.*, 2015; Osasona, 2016). There appears to be a paucity of literature on the gender-dimension of disparate treatments of offenders by the Federal Courts in the nation, despite the fact that a sizable body of contradictory research-evidence has developed over time regarding the differential treatment of offenders along the lines of social classes. The long-standing disregard for female criminality and indifference to female prisoners' sentence outcomes within Nigeria's CJS are reflected in the apparent absence of scholarly interest in the effect of gender in sentencing.

Consequential on these reasons, it is apparent that there is a relatively under-developed body of research that addresses gender-differences in sentences within Nigeria CJS. This lacuna motivated this study to look at gender-dimension in sentences pronounced by the Courts and the serving prison-terms in a selected Correctional Centre in Nigeria. The study also aims to investigate additional elements outside the legal justifications that seem to fully explain any gender differences in sentence outcomes that may exist. Therefore, it is assumed in this study that there are inequalities between men and women in terms of legal and extra-legal issues.

Research-evidence has indicated that, though women may profit from the clemency afforded them within the CJS; this has eventually been utilized as a means to maintain disparity from men. According to certain studies, a paternalistic culture can turn the seeming love and affection shown to women into victimisation (Chesney-Lind and Pasko, 2004). Few studies use gender or sex as the primary tool of inquiry since most studies on gender inequality account for gender to examine potential disparity. Additionally, most studies ignore the variety of crime-types in favour of concentrating on certain crimes like robbery or theft (Daly and Tonry, 1997; Chesney Lind and Pasko, 2004; Spohn, 2009; Aborisade and Adedayo, 2020). To determine whether the prevalent paternalism belief has been established into the CJS, it may be important to examine potential discrepancies through the lenses of numerous crime types rather than focusing on just one or two. This exploratory study therefore, incorporates meta-analytic techniques to answer two fundamental research-questions. First, why is gender treated differently by the CJS? And, second, which gender does the existing disparities in the CJS favour? Therefore, the focus of this study is to explore the impact of gender on sentence period, controlling for characteristics derived from the “evil woman hypothesis”, to discuss the potential paternalism within Nigerian’s criminal justice system

Literature Review

Numerous scholars have examined the influence of gender on sentencing policy or discretion (Steffensmeier *et al.*, 1998; Crawford, 2000; Johnson, 2003; Rodriguez *et al.*, 2006; Doerner and Demuth, 2010), albeit mixed findings have been made. Due of the CJS's historically paternalistic and chivalrous values, gender is a significant subject to research in regard to punishment (Rodriguez *et al.*, 2006). The legal system frequently views female offenders as less accountable for their conduct, and as a result, they should be protected rather than punished (Mustard, 2001; Rodriguez *et al.*, 2006). As a result, female offenders often receive different treatment than male offenders in the legal system. The majority of research-evidence on gender and sentencing has found that females are sentenced more leniently than males, even when the two offenders have committed the same offence and have similar criminal records, despite some studies finding no significant difference in the sentencing of male and female offenders (Kruttschnitt and Green, 1984; Nagel and Johnson, 1994).

In earlier studies, judges have confirmed that female criminals are given preferential treatment by the courts (e.g., Nagel and Johnson, 1994; Johnson, 2003; Simon & Ahn-Redding, 2005). A judge may treat a female offender differently than a male offender for a variety of reasons, like as pregnancy, being a single mother, or having previously been victimised (Nagel and Johnson, 1994; Aborisade and Adedayo, 2020).

The sort of sentencing given to an offender has also been linked to the offender's gender (Steffensmeier, et.al., 1998). In their analysis, Steffensmeier and his colleagues made the assumption that male offenders would be sentenced to prison more frequently and would have lengthier sentences than female offenders. According to their findings, female offenders have a 50% lower chance of being imprisoned than male offenders. However, when they do obtain prison or jail terms, they are frequently 6.5 months shorter for women than for men. It is crucial to emphasise that the impacts of gender on sentence were more significant than those of ethnicity and age, according to the researchers (Steffensmeier, Ulmer, and Kramer, 1998). Rodriguez, et al. (2006) also discovered that women received preferential treatment because they were 12 to 23% less likely than men to get prison terms, and that cultural preconceptions like paternalism may be to blame for the result. The researchers also discovered that females received prison terms that were, on average, 3 years less than those given to males, and that males were 2.1 times more likely to get prison sentences than females (Rodriguez, et al., 2006).

Theoretical Framework

Differential sentencing outcomes for women have witnessed the development of several theoretical explanations in the literature, each attempting to explain why women seems to receive shorter sentences than men for same crime-types. A 'behavioural' explanation of the effects of gender on sentencing contends that women in contemporary society are, in fact, far less criminal than men are (Walklate, 2004; Cahill, 2012). When women eventually commit crimes, the types of crime committed are usually of less serious impact in nature as compared to that of men (Harris, 2000; Belknap, 2007; Bowie, 2007). However, a number of ideas contend that women are either more or less likely to face severe penalties for crimes they commit. Each relates in some way to how men or jurors perceive women. Often, court discretion is important in determining how long of a sentence to give convicts. This hurts CJS's justice and equality as well as criminals who might receive harsher penalty than another offender in a comparable situation (Spohn, 2009). Many people assume there is prejudice against men since women frequently receive lighter sentences than men, although this may just be a difference in sentence severity that favours women (Spohn, 2009). Others disagree with those who believe that sentencing inequality and prejudice are interchangeable concepts that frequently arise by accident. According to Spohn (2009), there is a distinct difference between the two. According to Spohn (2009), discrepancy is an unconscious bias that frequently goes unnoticed, such as the need to protect a girl due to the widespread perception that women are physically subpar to men. As a result, a male judge can feel compelled to defend a female defendant solely because doing so makes him think of his own daughter. Discrimination is systematic differential treatment based on another factor, such as race or economic status, as opposed to disparity (Spohn, 2009). Therefore, discrimination pertains to the claim that the CJS is biased since judges frequently sentence racial and ethnic minorities harsher than Europeans (Steffensmeier, *et al.*, 1998). To accurately describe these biases, the Evil Women Hypothesis will be discussed. Though this 'theory' may not fully explain why females are often given different sentences than men in law-courts nationwide, it can, at least explain how the Nigeria's CJS tends to view women differently than men when apportioning punishments.

Evil Women Hypothesis

The Evil Women Hypothesis can be traced to the chivalry hypothesis. The ideology behind the chivalry hypothesis is that a truly paternalistic society would show leniency to all women regardless of their crime-types. However, many studies show this to be false (Daly and Tonry, 1997). Punishment between male and female offenders is often balanced, though in certain cases women are even punished harsher than men; to wit when a woman commits a crime not normative for the sex (Daly and Tonry, 1997; Nagel and Hagen, 1983). If women are sometimes punished harsher than men for crimes, this may mean that a chivalrous and paternalistic view-point is not held by the CJS. However, opposed to the chivalry hypothesis, the evil woman hypothesis, also known as selective chivalry, extends the ideology behind the paternalism of the CJS beyond that of the chivalry hypothesis, in a manner which describes the harsh

punishment of women as something that is inherently paternalistic, which is the antithesis to the chivalry hypothesis (Embry and Lyons, 2012).

Chivalry is denoted as something that should be given to women because they are seen as someone who is weaker and needs to be protected. However, that notion can only be true if they remain in the aforementioned role of the “weaker sex”. During the 1990s, “the female prison-population increased by 110 percent” and, often, women were found to receive harsher sentences than in previous years (Simon and Ahn-Redding, 2005). The increase in criminality rates by women may have found its place within the women’s rights movements of the mid-1900s (Chesney-Lind and Pasko, 2004). Lombroso noted in his *The Female Offender*, that women who committed crimes acted in a manner only befitting a man and were an abnormality, whereas the notion of a good woman aligned more with the feminine model of women (Lily *et al.*, 2002). Furthermore, the thought that women were inferior to men was popularized by the reputable psychologist Sigmund Freud who believed that due to a woman’s anatomy she is inferior to men (Crites, 1976). Dorie Klein’s etiology of female-crime asserts that women who are deviant are attempting to be men. Because the deviant woman is rebelling against the passive nature of womanhood, she effectively desires to act and be treated as a man (Klein, 1973).

In terms of a paternalistic culture, if a woman deviates from what is defined as “womanhood”, should she still be treated as a woman? That thought-process is exactly what highlights the “evil women hypothesis”. The “evil woman” is one who commits crimes that, naturally, would be viewed as more masculine. When comparing crimes between women, studies have found that though women are often treated preferentially in comparison to men that preferential treatment does not go far. When the sentences and crimes of women are weighed side by side, with men, women who commit crimes that deviate from what is termed feminine, receive heavier sentences than women who stick to feminine crime-types. (Nagel and Hagen, 1983). The notion of the evil woman hypothesis is that chivalry is only given to women who are charged with crimes that are female in nature, such as forgery, larceny, or other non-violent offences. When women commit crimes that are deemed more masculine, often violent in nature, such as robbery or murder, the notion of chivalry is not accorded them (Spohn and Spears, 1997). In terms of legality, the CJS should mete out equal punishments but, that is not necessarily the case. Chesney-Lind and Pasko, (2004) believes it is not necessarily the CJS itself that is paternalistic, rather Judges that conform to sex-role biases which, more often than not, manifest in different sentencing-decisions (Spohn and Spears, 1997). However, if Judges are the ones formulating sentences, this would make the system inadvertently and unintentionally paternalistic.

Methods of Social Research

Description of the Study Area

Data for this study were obtained from inmate respondents at the Olokuta Correctional Centre, Medium Security, Ondo State. The Centre is one of the three (3) Centers in Ondo State. It is located in Olokuta- a scenic sleepy suburb of Akure, the capital city of Ondo State. The main gate of the Centre is heavily fortified, as military zone, militarized look that is more emphasized by the cold, menacing look and a single steel door leading into the facility. The facility was built in the mid-eighties for inmates, but, it now accommodates eight hundred and forty eight (848) inmates. The Centre is the metropolitan prison of the State. It is the major Correctional Centre in the State housing inmates across the State and the country.

Data Collection Methods

The choice of the Centre is purposive because it is the State’s major penal institution with the largest number of inmates and personnel of the Nigeria Correctional Service (NCS). The study used a non-probability convenience sampling methodology as its sampling strategy. In a non-probability sampling procedure, participants are chosen from a sample that is both available and willing to participate in the study. The data pool consisted of forty (40) respondents who are officers and administrative staff of the Centre selected using convenience sampling-technique. A structured Questionnaire (QS) is used as the

sole method of data collection and data were analyzed using the simple- percentage method and tabulation.

Data Analysis and Results

Table I: *Reasons for differential treatment of each gender in the criminal justice system*

S/N	STATEMENT	SA	A	D	SD
a.	The female gender is perceived to be treated with care even if they commit a crime.	3(7.5%)	3(7.5%)	18(45.0%)	16(40%)
b.	Women are valuable to homes and to be given lesser sentences.	1(2.5%)	4(10.0%)	15(37.5%)	20(50.0%)
c.	Women get lesser sentences because of perceived lower probability of future-crime.	14(35.0%)	13(32.5%)	9(22.5%)	4(10.0%)
d.	There are laws that specifically provide different sentences for both genders in certain crimes.	1(2.5%)	1(2.5%)	18(45.0%)	20(50.0%)
e.	Pregnant or nursing suspects are handled with leniency before, during, and post-sentencing.	17(42.5%)	18(45.0)	4(10.0%)	1(2.5%)
f.	Social class plays a key role in the handling of female suspects under Nigeria's CJS.	16(40.0%)	19(47.5%)	4(10.0%)	1(2.5%)
g.	The belief that crimes committed by females are often less serious and less violent in nature influences sentencing.	10(25.0%)	14(35.0%)	6(15.0%)	10(25.0%)
h.	Women who have less criminal records are likely to receive fewer sentences.	18(45.0%)	9(22.5%)	6(15.0%)	7 (17.5%)
I	The Judge/Magistrate gender is likely to influence his/her judgment at times.	10(25.0%)	11(27.5%)	6 (15%)	13(32.5%)

In Table I(a) above, the majority 85% of the respondents agreed that the females are perceived to be treated with care even if they commit crimes while 15% disagreed. Thus, in Nigeria, cultural beliefs are quite significant in the administration of criminal justice.

Table I(b) majority 87.5% agreed that women are perceived valuable to homes. Hence, they are more likely to receive lesser sentences while 12.5% of the respondents disagreed. In table I(c) the majority 67.5% of the respondents agreed that, because females are less likely to be recidivistic, they get milder sentences compared to their male counterparts while 32.5% of the respondents disagreed.

In table I (d), a staggering majority 95% of the respondents disagreed that there are disparate laws in the Criminal Code providing lesser punishments for women while 5% were of a contrary opinion. In table I (e), 87.5% the majority of the respondents agreed that pregnant and nursing suspects are handled or treated with leniency due to their varying conditions in all stages of criminal procedure while 12.5% of the respondents disagreed. Inmates' health challenges are still a hard nut to crack for the prison management than for more cases to compound the situation.

In table I (f), the majority 87.5% of the respondents agreed that social class plays a key role in the handling of female suspects under CJS, while 12.5% disagreed.

In table I (g), the majority 60% of the respondents agreed that crimes committed by the females are often less serious or violent in nature than for their male-counterparts while 40% disagreed.

In table I (h), the majority 67.5% of the respondents agreed that women who have less criminal records are more likely to receive lesser sentences while 32.5% disagreed.

In table I (i) the majority 52.5% of the respondents agreed to the widespread opinion that the gender of the Judge/Magistrate can influence sentencing while 47.5% disagreed.

Table II: *Which gender is more favoured by the prevailing disparities in the CJS?*

S/N	STATEMENT	SA	A	D	SD
(a).	Female offenders are often treated more harshly for offences deemed masculine; e.g., armed robbery, kidnapping, etc.	16(40.0%)	9(22.5%)	7(17.5%)	8(20.0%)
(b).	Correctional facilities for females are in better and livable conditions than for males.	2(5.0%)	4(10%)	13(32.5%)	21(52.5%)
(c).	Sentencing of females differs significantly from males.	1(2.5%)	6(15.0%)	27(67.5%)	6(15.0%)
(d).	Bail conditions for females are exceptionally lesser than for males.	7(17.5%)	14(35.0%)	9(22.5%)	10(25.0%)

In table II (a) above, the majority 62.5% of the respondents agreed that female offenders are often treated more harshly for offences deemed masculine such as armed robbery, kidnapping and a host of other organized crimes while 37.5% disagreed. This maybe consequent to the popular cultural belief that, violent women are ‘amazons’-a special breed of women who are hardened or terribly wicked.

In table II (b), the majority 85% of the respondents disagreed with the notion that correctional facilities for female-inmates are in better and livable shapes than for their male-counterparts while a mere 15% agreed to the notion.

In table II (c), also the majority 82.5% of the respondents disagreed with the idea that sentencing for females differ significantly from males while 17.5% agreed to the idea.

In table II (d), the majority 52.5% of the respondents agreed that bail conditions for females are exceptionally lesser than for males, while 47.5% disagreed. This may, invariably, be a reflection of the society’s economic structure and its patent inequality with women very much short-changed.

Discussion of Findings

There are laws that specifically dictate differing sentences for both genders in certain offences.

Given that Nigeria upholds the Sharia penal code, women who are brought before courts that do so frequently get severe punishments for relatively minor offences. Amina Lawal, a Nigerian woman convicted of adultery and executed by stoning in 2003, is an example of a typical case. Amina Lawal would have been killed by stones had the international community not stepped in. Another incidence includes an unmarried girl who got pregnant and was given a penalty of 100 lashes (which was later upped to 180 lashes because the guys she claimed to have been raped were found not to have enough evidence against them (Ebeniro, 2011).

From the first research-question, these conclusions are reached: that the female gender should not be treated leniently even if they commit a crime; the Nigeria’s Criminal Justice System does not operate in such manner; also, the majority of the respondents agreed that pregnant or nursing suspects/defendants are treated leniently before, during and after sentencing. This finding is in line with Nagel and Johnson (1994) submission.

Furthermore, the respondents agreed that crimes committed by females are often less serious or violent. Hence, this influences sentencing in females’ favour which aligns with Johnson, (2006) who claimed that females are typically less violent than males. In fact, different amounts of violence or hurt may have been employed by a female and a male perpetrator who committed the same crime. Violence, rather than the criminals’ gender, may have had a greater impact on the decision to sentence them (Johnson, 2006). In addition, majority of the respondents agreed that women have less extensive criminal record than men, such that this impact on sentencing in favour of females, and this confirms of Mustard, (2001) findings.

However, 87.5% of the respondents disagreed with the idea that women are valuable to homes; hence, they received lesser sentences. This finding negates the findings by Koons-Witt (2002) who found that mothers were sentenced more leniently than females without children and men with children.

Finally, this study's second research-question looks at which of the genders do the existing disparities favour. From the findings polled above, it is fair to say that the disparities do not largely but partly favour females in the Nigeria's Criminal Justice System. Females may be treated leniently for other offences but certainly not when the offence is deemed masculine; that is to say crimes that are stereotyped as males such as armed robbery, murder, kidnapping etc. These crimes when committed by the females there is often no talk of leniency or niceties. Also, anyone thinking that Correctional Centres for the females are in better conditions than those for males can be shocked that major finding dispels the thought, as 52.5% of the respondents strongly disagreed.

This is nonetheless, tangential to previous position that females do not get the better of the C.J.S. Also, the study shows that the sentencing of female does not differ in any large extent, to that of males. Significantly, this proves that the disparities prevailing in Nigeria's Criminal Justice System are not as pronounced as people think. Women are not often treated differently from men though some gender-stereotyped offences may indicate otherwise. Notwithstanding, 52.5% as against 47.5% of the respondents, 7(17.5%) strongly agreed that bail-conditions for females are lesser than for males. This may be termed disparity itself but further research has to, necessarily, tease out the reasons for this.

Conclusion and Recommendations

Though the literature on the research-problem may not have been extensively reviewed herein, the overarching message is mirrored in the research-proposition; to wit, there is a discrepancy in sentence-lengths among female and male offenders who commit the same offences and have similar backgrounds. On average, women are less likely to be sentenced to prison terms than comparatively males. When women are sentenced, on average, they receive shorter sentence-length than comparatively males.

Furthermore, when the offence is perceived masculine in nature and both offenders have prior records, women receive the more discount in sentence-lengths. These results lend more credibility to the fact those women fair better than men under Nigeria's Criminal Justice System. Support for paternalism, within the Nigeria's CJS is borne out by the study's analysis which shows that women are treated better than men, not just when they are defendants, but when they are offenders as well.

Women are treated differently for several reasons that find support within the focal concerns of theory. Gender variations in offending behaviour and individual women's histories, which show that a greater number of women come to the courts with a constellation of features that produce acceptable mitigating circumstances, are thus two independent ways that gender has an impact on sentence.

Shorter sentences for men and women might legitimately lead to differences in sentencing results in the criminal justice system (CJS), disparities that appear justified but are not immediately indicative of any persistent "bias" on the part of the officials making criminal justice decisions. As a result, discrepancies between males and women's sentencing results are not the result of bias but rather of real, though gender-related, characteristics: these variances are present because of things that have to do with being a woman rather than because of gender itself.

Therefore, the study recommends that, for generalization, this study has to be replicated; the first step would be to replicate this study in its entirety in another State, if not every State of the Federal Republic of Nigeria (FRN) especially States where Sharia Law operates.

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ORCID iDs

Justina Olufunke ARUNA¹  <https://orcid.org/0000-0003-0544-2134>

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