



## LATIN AMERICA'S FEMALE PRISONER PROBLEM: HOW THE WAR ON DRUGS, FEMINIZATION OF POVERTY, AND FEMALE LIBERATION CONTRIBUTE TO MASS INCARCERATION OF WOMEN<sup>‡</sup>

---

*Gretchen Cloutier*

### **Abstract**

According to the International Centre for Prison Studies, the number of women in prisons in Latin America has almost doubled since the 1990s. Most women in prison are incarcerated for drug-related crimes, and although women are still a minority within the prison population, the number of women behind bars is growing disproportionately in comparison to men. Simultaneously, Latin American states are implementing harsh drug criminalization policies in accordance with the global War on Drugs. Scholars have theorized that women commit crimes due to both societal liberation and out of economic necessity. Economic need can be observed empirically by the feminization of poverty, whereby women are becoming increasingly poorer and economically marginalized relative to men. In a quantitative analysis of seventeen Latin American countries, this paper tests the hypotheses that an increase in poverty rates among women and the implementation of harsh drug criminalization laws lead to an increase in the incarceration rates of women. This paper is novel in offering a holistic analysis of how liberation, economic marginalization, and criminalization uniquely influence women and thus explain the increase in female incarceration rates in Latin America. The results of this study may be used as a tool to help inform the policy debate surrounding the War on Drugs and the problem of poverty among women in Latin America.

---

GRETCHEN CLOUTIER is a student of International Studies and Economics.

She graduates in May of 2017.

School of International Service (SIS) and College of Arts & Sciences (CAS), American University

Email: [gc2710a@student.american.edu](mailto:gc2710a@student.american.edu)

---

<sup>‡</sup> I thank Dr. Eugene Walton at American University for his statistical expertise and assistance with the quantitative analysis for this study.

*Clocks & Clouds*: Journal of National and Global Affairs, 2016, 7 (1): 102-122

<<http://www.american.edu/clocksandclouds/>>

HBP Publishing <<http://www.hbp.com/>>

## Introduction

Latin America has seen a dramatic increase in the number of incarcerated women over the last twenty-five years. This figure nearly doubled from under 40,000 female inmates in the early 2000s to over 74,000 female inmates in the region by 2011 (Giacomello 2013, 9). While women are still a minority in prisons, accounting for only about six percent of Latin America's incarcerated population, the number of women behind bars is growing disproportionately compared to men (Ibid, 8). Furthermore, the majority of these women are incarcerated for drug-related crimes. Although the rates among countries vary, upwards of eighty percent of incarcerated women in Ecuador, Venezuela, Nicaragua, Panama, and Argentina are in prison on drug-related charges (Ibid). For other Latin American countries, rates of women imprisoned on drug-related charges hover somewhere between thirty and sixty percent of the total female inmate population (Ibid).

Most of these women are incarcerated not for large-scale trafficking or violent charges, but rather non-violent crimes related to micro-trafficking and small-scale possession of illicit substances (Insula 2013, 59). While there are some exceptions, women often enter the drug trade as low-level mules, with little upward mobility in terms of economic earning and decision-making power. This limited mobility exacerbates social and economic marginalization, trapping women in a cycle of poverty and crime.

Regardless of a woman's reason for entering the drug-trade, she is often subject to dangerous and victimizing roles. Transportation of drugs often involves women strapping drugs to their body, swallowing plastic capsules filled with drugs, or inserting these capsules into the vagina. This can become lethal if the drug-filled capsules burst while inside the body. Women may also be subject to rape, violence, drug addiction, and forced prostitution while participating in drug-related activities within the organized-crime structure (Ibid, 10-14). The compensation for doing this type of work is often extremely low; one woman who smuggled drugs into prisons reported earning just 500 Mexican pesos (about \$37 USD) for each trip (Giacomello 2013, 6). Frequently, the women who work as mules are misled about the quantities they will be carrying or about the legal and criminal repercussions they may face if they get caught. Due to harsh drug laws in Latin America, women who work as low-level drug mules may be subject to maximum criminal sentences.

Using a large-n quantitative approach, this study will test how varying degrees of drug laws in seventeen Latin American countries, combined with the vulnerable economic and social status of women, can be used explain

increased female incarceration rates. This paper will begin with a review of the literature on the feminization of poverty and the War on Drugs, as well as two important theories of female offending: liberation and economic marginalization. These four concepts will help piece together the unique circumstance of women in Latin America and provide guidance in uncovering why this increase in female incarceration is occurring. This paper argues that liberation makes women more likely to be economically marginalized, as can be observed by the feminization of poverty. Combining the propensity to commit economically motivated crimes, such as drug offenses, with aggressive War on Drugs criminalization practices explains the increased incarceration rates of women relative to men. These hypotheses will be tested using an original dataset of female incarceration in Latin American countries.

This research contributes to the rather limited scope of literature regarding female offending and incarceration. Furthermore, it contributes to the policy debate regarding the War on Drugs, and explores ways in which circumstances surrounding female criminal behavior differ from male criminal behavior. Latin America faces a crisis with an over-populated prison system, and this increase in female incarceration will only exacerbate the problem. By studying female incarceration in relation to legal, economic, and societal mechanisms, this paper provides statistical evidence to invoke discussion around practical reforms in Latin America.

## **Review of the Literature**

There has been a lack of research on female criminality, since most studies focus on male criminality, or simply do not distinguish between genders. Although the emerging field of female criminology has begun to address this issue, there is still much to be studied in relation to women and crime. Scholars have highlighted a gender gap in studying crime because traditionally it has been perceived that men more frequently commit crime (Murdoch et al. 2012, 412). Due to this observation, most of the scholarship regarding criminality only focuses on men and is written from a male perspective (Chesney-Lind and Pasko 2004, 2). Furthermore, many scholars simply assume that female-perpetrated offenses, when they do occur, are motivated by and carried out for the same reasons as offenses committed by men (Barberet 2014, 18). However, more recent research on the theories below has demonstrated evidence that female offending does exist more frequently than previously thought, and, furthermore, it occurs for different reasons than male offending. There are two main schools of thought regarding female offending considered in this paper: liberation theory and economic marginalization theory.

Economic marginalization can be observed via the feminization of poverty in Latin America. Additionally, the War on Drugs, with its promotion of zero-tolerance drug possession policies, will be examined as a causal mechanism contributing to the increased incarceration of women.

### *Liberation*

Liberation theory posits that criminal activity is more empowering than victimizing for women. The basic tenet of this theory states that as women achieve more equality and opportunities for participation in society, their participation extends to illegitimate parts of society as well. This means that as women gain more opportunities to enter professional jobs, there is also an increased opportunity to enter the criminal sector. Campbell notes, "Recent improvements in Mexican women's access to education and medical services and their expanding opportunities in politics and social life [...] for better or worse include openings in the drug world" (2008, 26). As society progresses, women exercise greater freedom to make their own decisions, whether that be in a legitimate or criminal capacity. Liberation theory is not concerned with judging the outcomes of increased freedom, for example by condemning (or condoning) an increased propensity for criminal activity. Rather, it is simply observing a societal trend.

Similarly, Ray and Kortweg also argue that increased urbanization, industrialization, and education contribute to increased economic and social mobility among women, which may extend into the criminal sector (1999, 52). Liberation theory contends that if more women are independent and actively involved in society, the crime rates for women will increase (Giordano 1978, 127). Again, this is not to say that women should not be equal or included in society, and it is unlikely that anyone would argue for the deliberate oppression of women in order to keep female crime rates down. Conversely, it is important to understand that increased female offending is one outcome of liberation.

However, Giordano also argues that "it is a mistake and an oversimplification to suggest such a direct link between the liberation of females and increased involvement in crimes" (Ibid). Despite this critique, the academic consensus among liberation scholars is ultimately that female offending is a byproduct of empowerment; however, other considerations further examined in this paper, including societal, cultural, and economic factors, may also contribute to increased female criminality.

### *Economic Marginalization*

The economic marginalization theory proposes that if women are unable to take advantage of economic opportunities, “they are relegated to the economic periphery of society where monetary disadvantages are associated with higher crime rates” (Hunnicut and Broidy 2004, 131). Barberet demonstrates that women in developing countries are generally poorer than their male peers and they rely more heavily on social welfare, such as cash transfer programs and food assistance. These types of social safety nets are often highly restricted in the neo-liberal economies of developing countries, such as those in Latin America (Barberet 2014, 18). Essentially, women become poor with no support or means to solve their financial problems. In order to regain some form of economic autonomy and sustainability, women may turn to criminal activities to earn money. Hunnicutt and Broidy contend that female crime, especially non-violent offenses such as drug crimes, “can be characterized as fundamentally economic in nature (2004, 131).” Reynolds agrees that “poverty is the motivation behind women’s drug smuggling” (2008, 79). Even more staggering, Reckdenwald and Parker found that “a standard deviation of one in the increase in economic marginalization index is associated with a 46 percent increase in female drug sales” (2008, 216). Women who are economically marginalized, especially in countries with little welfare support, are more likely to commit non-violent crimes with the aim of earning money for financial stability.

Liberation theory is connected to economic marginalization theory because the greater freedoms women experience due to liberation mean that they also have more economic responsibility. Societal expectations have shifted in that women are now seen as autonomous figures with distinct rights and capabilities, as well as earning power for themselves and their families. While this is an overall positive shift, the actual situation that women face in their day-to-day lives may not provide them with good options to fulfill this role. Women may not have the means to earn a legitimate income, due to a variety of reasons such as domestic responsibility in the home or a depressed job market. Therefore, due to the lack of legitimate earning power, women may commit crime to earn money and fulfill these economic obligations (Campbell 2008, 241).

### *Feminization of Poverty*

Economic marginalization can be empirically observed by the feminization of poverty in Latin America. The feminization of poverty is a process by which women are becoming increasingly poorer in comparison to men. According to Chant, there are three major tenants of the feminization of poverty: (1) women are the majority share of the world’s poor; (2) a disproportionate share of poverty among women is rising relative to men; and (3) the feminization of poverty is linked

to the feminization of household heads (Chant 2007, 1). In considering this theory, it is important to make the distinction between an absolute worsening of poverty and a feminization of poverty. Absolute increases in poverty—whereby everyone becomes poorer—may be viewed as a gender-neutral relationship of poverty, because both women and men are worse off in the aggregate. A true feminization of poverty, therefore, is a women-to-men comparison where the ratios of poverty matter more than the absolute numbers (Medeiros and Costa 2007, 116). Furthermore, although poverty as a whole may decrease, this does not mean a feminization of poverty is not possible. The number of women in poverty may fall in absolute terms, but if the ratio of women in poverty increases relative to men, this is still a feminization of poverty.

Several previous studies have found “no evidence of a systematic over-representation of women [in poverty] around the world (Ibid, 117).” However, official country reports and international documents continuously point to an empirical feminization of poverty in Latin America. For example, in a CEPAL data set that measures male to female poverty ratios (with a ratio of over 100 meaning more women than men are in poverty, and a ratio of under 100 meaning more men than women are in poverty), in the early 2000s Costa Rica, Panama, Venezuela, and Bolivia had ratios of 122.9, 111.1, 111.3, and 103.6, respectively. While these numbers already mean that more women than men were living in poverty, by the year 2010, these ratios had reached 130.4, 122.9, 122, and 110.8 for Costa Rica, Panama, Venezuela, and Bolivia, respectively. The trend is similar for the other Latin American countries, thus demonstrating a feminization of poverty (CEPAL).

Studies have also shown a “feminization of responsibility and obligation” whereby more women are—on top of their domestic duties—tasked with working outside the home, usually earning wages far below a male’s average income (Chant 2007, 333). This social and economic strain on women can contribute to the feminization of poverty, especially when women become the heads of households. It is necessary to recognize that the female-headed household is not a determinant of poverty, but rather these households are at greater risk of being impoverished (Ibid, 336). Scholars have not come to a consensus on whether or not the feminization of poverty exists on a global scale, although it is clear that “gender gaps in poverty have remained stubborn” (Ibid, 285). However, in viewing this trend through the narrow lens of Latin America, it becomes clear that a feminization of poverty is occurring.

### *War on Drugs*

The United States has played a major role in promoting international anti-drug legislation, essentially exporting the War on Drugs to Latin America and pushing for harsh policies to criminalize drugs. The U.S. especially targets Latin America because U.S. citizens' demand for drugs such as cocaine and heroin are often produced by and trafficked via Latin American countries. The policies for which the U.S. advocates include mandatory minimum sentences and little codified distinction between low-level dealing and large-scale trafficking. Because these laws carry mandatory minimum sentences based on class and weight of the drug, low-level female drug mules, who are often unaware of exact regulations, are severely punished when apprehended (Barberet 2014, 145).

Especially in Latin America, women may also commit drug offenses as a result of gang influence or involvement (Umana and Rikkers 2012, 11). Gang leaders order women to commit various crimes such as extortion of money, arms trafficking, and drug trafficking on behalf of the gang (Ibid). This may be because a woman's physical attractiveness and perceived innocence makes her less likely to arouse suspicion from law enforcement than a heavily tattooed male gang member would (Ibid). Although gangs do not commit all drug crimes, some form of organized crime group facilitates most operations, with the large-scale traffickers and dealers at the top, and the low-level mules, who are more likely to suffer consequences, at the bottom.

Scholars who have studied the U.S. War on Drugs in relation to female offending agree that women are disproportionately affected by these policies (See: Barberet 2014; Campbell 2008; Reynolds 2008). The penalties go far beyond the obligation of any UN Convention, and are disproportionately harsh when considering the penalties for violent crimes such as homicide. For example, in Ecuador the maximum penalty for homicide is 16 years in prison, while the penalty for non-violent drug trafficking may range from 12 to 25 years (Metaal and Youngers 2011, 5). Laws and policies implanted during the War on Drugs era target low-level, non-violent offenders while remaining virtually ineffective at preventing large-scale trafficking or reducing drug crime (Barberet 2014).

In examining the two theories of female offending, liberation theory and economic marginalization theory, as well as two concurrent phenomena, the feminization of poverty and the globalization of the U.S. War on Drugs, Latin America occupies a unique intersection of all four factors. This paper argues that liberation makes women more likely to be economically marginalized, as can be observed by the feminization of poverty. Combining the propensity to commit economically motivated crimes, such as drug offenses, with aggressive War on Drugs criminalization practices explains the increased incarceration rates of women relative to men.

## Method

This paper uses a quantitative, fixed effects regression analysis in order to study the causal mechanisms contributing to the increased incarceration of women in the region of Latin America. Seventeen cases (countries) were evaluated and analyzed based on the intensity of their drug laws, the incarceration rates of women, the rates of feminization of poverty, and additional variables to control for other socio-economic factors. Since the phenomenon of increased incarceration rates of women is occurring across almost every country in Latin America, employing a quantitative approach allows for a holistic analysis of the problem.

### *Case Selection*

The seventeen Latin American countries to be examined in this paper are: Argentina, Belize, Bolivia, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. The Caribbean islands, Brazil, and Francophone Latin American states have been excluded in order to strengthen the basis for a most similar case comparison by maintaining cultural, language, and social homogeneity as much as possible. The unit of analysis is the country-year in panel set data.

This study examines female drug offenders' incarceration between the years 2000 and 2010. This period of time allows for the trend of increased incarceration of women to be fully observed, as it is when most of the selected countries had already codified harsh drug laws for at least a few years, allowing for the judiciary systems to implement these standards and for the incarceration rates to adequately reflect the punishments in accordance with these laws.

Finally, the sample is restricted to women since the increased incarceration of women is the core concern of this study. This spike in incarceration is only attributed to women, not to men, thus there is no need to include men in order to show a specific gendered relationship; rather, it is inherently gendered.

### *Data Availability*

The largest obstacle for the study of female incarceration related to drug offenses is data availability. Reports on Latin American prison populations are highly inconsistent both from year to year and country to country, and are rarely gender-disaggregated. Due to the gender-specific



nature of this research, it was necessary to sacrifice some of the completeness of data sets in order to use data specific to females. This lack of complete data highlights the need to consistently collect gender-segregated data on a countrywide level. Using the limited available data, an original time-series cross-section dataset was constructed by compiling female prison population rates from various reports by the International Centre for Prison Studies and Washington Office on Latin America (Walmsley 2012; Metaal and Youngers 2011, 2-98).

The observations are for seventeen Latin American countries, from 2000 to 2010, but a complete record for all countries in each year is unavailable which results in both unbalanced panels and a large number of missing observations. Approximately half of the missing values were replaced using interpolation. It was also nearly impossible to locate substantial data for crime-specific breakdowns of prison populations. Therefore, the reported data in this paper is the number of females in prison for committing any crime, not just drug offenses. Although using the entire prison population as a proxy for an increase in drug-related incarceration is not a perfect measurement, the use of this sample should bias the results against my theory and by including incarceration rates for all crimes, the relationship between the variables will be diluted. Therefore, if a trend was able to be detected, it is quite likely that such a pattern truly exists.

### *Index of Drug Law Intensity*

Among the scholarly contributions this paper makes is the development of an ordering system for the intensity of drug criminalization laws in all seventeen Latin American countries between 2000 and 2010.<sup>1</sup> The laws were judged on three key aspects: criminalized personal use, maximum penalty, and threshold limits. Criminalized personal use refers to a criminal penalty for possession of an amount of a substance that would be considered a reasonable amount for one person to possess with the purpose of consuming immediately or in the near future. Usually this is below 2 grams of a controlled substance. Additionally, maximum penalty is the longest prison sentence that a person could receive for possession of an illegal substance. Finally, threshold limits refer to the amount of a substance a person is permitted to carry before the offense is considered a higher degree offense (i.e. the difference between personal possession and illegal possession; or between

<sup>1</sup> Information on specific drug laws can be found at: Transnational Institute. 2015. "Drug Law Reform in Latin America," Amsterdam: Transnational Institute; Steve Rolles and Niamh Eastwood, "Drug Decriminalisation in Practice: A Global Summary," International Harm Reduction Association, ch. 3.4: 157-165; Ari Rosmarin and Niamh Eastwood. 2012. *A Quiet Revolution: Drug Decriminalization Policies in Practice Across the Globe*. New York: Open Society Foundations: 1-42; Metaal and Youngers, "Systems Overload," 2-98; P. Smith, 2012. "Belize Ponders Marijuana Decriminalization," *Stop the Drug War*, July 2012; "Nicaragua," U.S. Department of State – Bureau of Consular Affairs: U.S. Passports and International Travel, August 2014; "Information Sheet for U.S. Citizens Arrested in Paraguay," Embassy of the United States: Asuncion, Paraguay.

illegal possession and trafficking). Maximum penalty was then broken down into three categories: personal possession, illegal possession, and trafficking. Thus, there are five sections in total for which each law was judged. Numerical values were assigned to each category as follows:

**Criminalized Personal Use**

No (0)

Yes (1)

**Maximum Penalty**

1-3 years prison (1)

4-7 years prison (2)

7-10 years prison (3)

10-20 years prison (4)

20+ years prison (5)

**Threshold Limits**

Judge Determined (0)

>2 grams (1)

<2 grams (2)

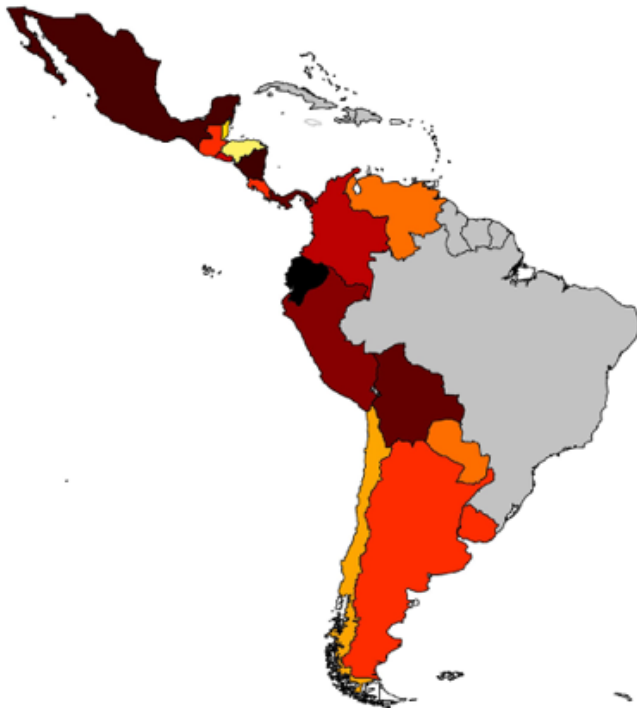
Each country was evaluated for the years in which their respective laws were in place. The indicators were added together and then scaled so that the least harsh laws are a one (1) and the harshest laws are an eight (8). On the map in figure A, the countries with more intense drug laws are represented with darker coloring.

**Table A: Index of Drug Law Intensity**

Country	Years	Index
Mexico	2000-2008	7
Mexico	2009-2010	2
Belize	2000-2010	1
Guatemala	2000-2010	4
Honduras	2000-2010	1
El Salvador	2000-2002	5
El Salvador	2003-2010	4
Nicaragua	2000-2010	7
Costa Rica	2000-2010	4

Panama	2000-2010	6
Venezuela	2000-2010	3
Peru	2000-2002	3
Peru	2003-2010	5
Ecuador	2000-2010	8
Bolivia	2000-2010	6
Colombia	2000-2008	4
Colombia	2009-2010	5
Chile	2000-2010	2
Argentina	2000-2010	4
Uruguay	2000-2010	4
Paraguay	2000-2010	3

**Figure A: Map of Latin America by Drug Law Intensity**



## *Variables*

The dependent variable is the incarceration of women, operationalized by the number of women in prison.

The first main independent variable is intensity of drug laws, operationalized on an ordinal scale by the index previously established (See Table A). The second main independent variable is the feminization of poverty, operationalized by the ratio of women in poverty compared to men. A number greater than 100 in the dataset means there are more women in poverty than men, representing a feminization of poverty (See Table B).

Control variables are factors attributed to female liberation. The variable of female unemployment, operationalized by the share of the female labor force that does not have a job but is available and willing to work, is used to demonstrate more traditional societies where women do not work. Female labor force participation, operationalized by the proportion of the female population aged 15-64 that is economically active, is used to demonstrate the liberation theory idea that more women will work in progressive society. Female lower secondary education completion rate is used to demonstrate the liberation theory idea that more women will attend school and complete their education in a progressive society. This variable is operationalized by the gross intake ratio to the last grade of lower secondary education, calculated as the number of new female entrants in the last grade of lower secondary education, regardless of age, divided by the female population at the entrance age for the last grade of lower secondary education. The final control variable is female population in a country, which is used to measure the female incarceration rate against the number of women that could possibly be incarcerated.

## *Hypotheses*

(1)  $H_A$ : If there are more intense drug laws in a country, then there will be higher rates of female incarceration in a country.

(1)  $H_o$ : There is no relationship between intense drug laws and female incarceration.

(2)  $H_A$ : If there are higher rates of feminized poverty in a country, then there will be higher rates of female incarceration in a country.

2)  $H_o$ : There is no relationship between feminized poverty and female incarceration.

(3)  $H_A$ : Factors of female liberation will significantly affect the rate of

female incarceration in a country.

(3)  $H_0$ : Factors of female liberation will not significantly affect the rate of female incarceration in a country.

## Results

The results of this study are based on a total of 176 country-year observations. A fixed-effects regression test was used to show a causal relationship between the independent and dependent variables (intensity of drug laws and female incarceration, respectively), which can be modeled as (See Table C):

$$(inc) = fempol\ penpol\ lowpol\ femploy\ labfor + e$$

**Table B: Descriptive Statistics**

Variable	Mean	Std. Dev.	Min.	Max.
Fem. of Poverty	109.976	2.653	104.46	113.671
Legal Penalty	3.948	.2214	3.333	4.142
Secondary Educ.	68.489	8.884	50.523	78.527
Female Unemployment	9.216	4.819	1.8	22.2
Female Pop.	101.e+07	1.37e+07	115499	6.16e+07
Labor Participation	51.464	7.480	38.4	68.8
Incarceration	2564.837	1570.636	819.75	5617

**Table C: Fixed Effects Regression**

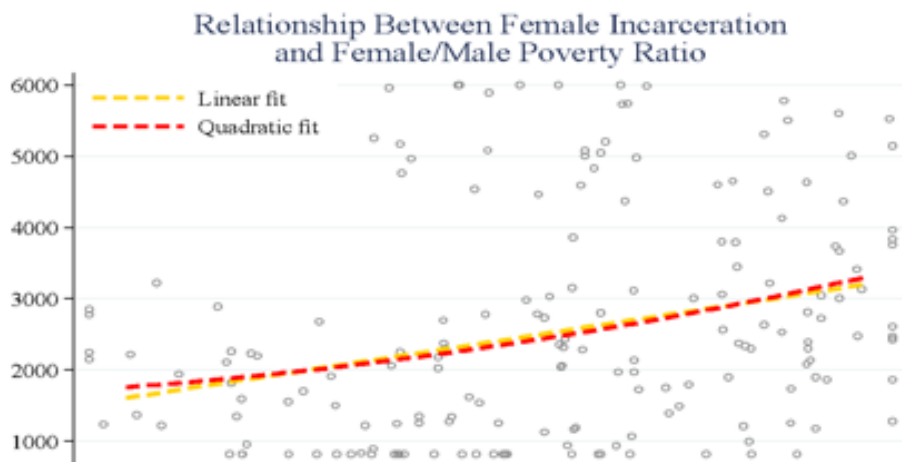
Coefficient	Incarceration
Fem. of Poverty	36.8 (18.45)
Legal Penalty	6,161 (271)
Secondary Educ.	133.4 (6.4)
Female Employ	-78.32 (35.2)
Female Population	.000 (.000)
Labor Participation	61.59 (34.87)
N	176
R2 (within variance)	.2664

With a threshold of  $p < .05$  (the cut-off for statistical significance at the 95 percent level) the results show a number of significant factors related to the

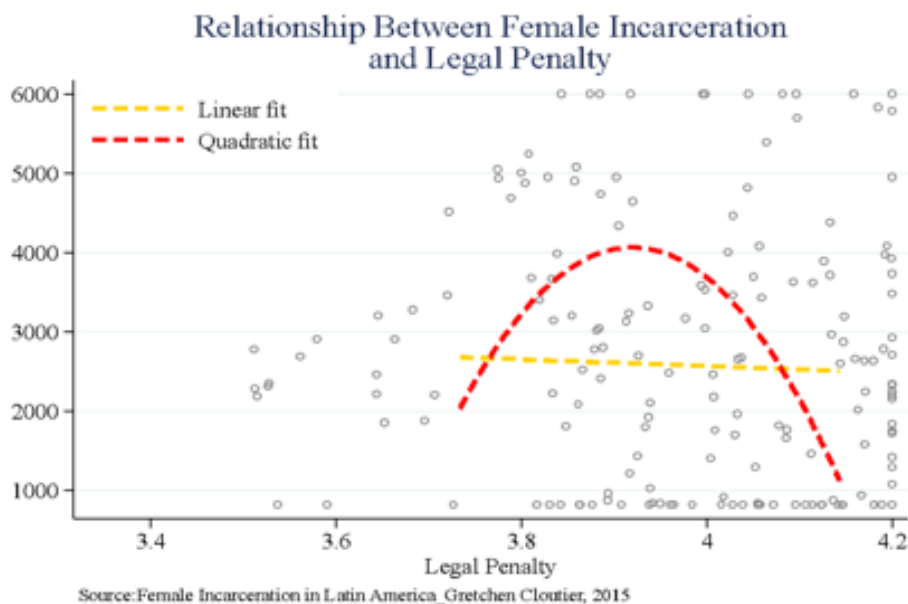
incarceration rates of women in Latin American countries. The R squared value is .2664, meaning that the independent variables account for about 26 percent of the variance in the dependent variable, incarceration of women. Although the feminization of poverty does not meet the 95 percent significance level ( $p = 0.065$ ), it can be used to partially explain the increase in incarceration rates of women because a correlation is likely as it does meet the 90 percent level of significance—a generally accepted threshold, though admittedly not as strong at the 95 percent level. According to this model, a one-unit increase in the feminization of poverty, as measured by a ratio of women to men living in poverty, is associated with a 36.77213 unit increase in the incarceration rate of women. Because women are the unit of measurement in this case, statistically about 36 more women will be incarcerated for every unit increase in the feminization of poverty. As seen in Figure B, there is a positive trend indicated by the correlation between the feminization of poverty and female incarceration.

The second main independent variable, intense drug laws, is significantly related ( $p = 0.00$ ) to the increase in incarceration rates of women. The average index rating for the intensity of drug laws for Latin American countries in this study is approximately 4. A one unit increase in the intensity of drug laws is associated with a 6161.68 unit increase in incarceration rates. This means that approximately 6,161 more women will be incarcerated for each one-step increase in the drug law intensity index. Due to this finding, we accept the hypothesis ( $H_{A1}$ ); if there are more intense drug laws in a country, then there will be higher rates of female incarceration in a country. The intensity of drug laws arguably criminalizes women disproportionately to the severity of the crime committed.

**Figure B: Relationship Between Female Incarceration and Female/Male Poverty Ratio**



**Figure C: Relationship Between Female Incarceration and Legal Penalty**



Other factors not considered as main independent variables, those that are related to the liberation theory of female offending, were also found to be statistically significant in considering the incarceration rates of women. There is a positive relationship between lower secondary education completion rate for women and incarceration rates of women ( $p = 0.00$ ). According to the model,

a one-unit increase in lower secondary education completion is associated with approximately 133 more women incarcerated. Furthermore, the female unemployment rate is a statistically significant factor ( $p = 0.042$ ) in determining women's incarceration rate. The relationship is negative, demonstrating that a one unit increase in the unemployment rate among women is associated with approximately 78 fewer women incarcerated. Due to these results, the null hypothesis ( $H_{03}$ ) that factors of female liberation do not significantly affect rates of female incarceration, can be rejected, and the hypothesis ( $H_{A3}$ ) that factors of female liberation will significantly affect female incarceration rates can be accepted. Neither female population ( $p = .092$ ) or female labor force participation ( $p = .098$ ) were statistically significant.

### **Discussion of Results**

The results of this model demonstrate that the most significant factors associated with female incarceration rates are intensity of drug laws and the rate of women that complete secondary education. The female unemployment rate is also statistically significant, and the rate of women in poverty compared to men (the feminization of poverty) is correlated, although not statistically significant at the 95 percent level.

It may seem surprising that there is a positive relationship between the number of women who complete secondary education and the number of women incarcerated; however, this correlation is demonstrative of the liberation theory of female offending. The fact that more women complete secondary education is an outcome of increased overall inclusion of women in society. Women's liberation and greater participation in society is not only limited to legitimate sectors, but rather opens opportunities to women throughout the underground and criminal parts as well.

Similarly, the negative relationship between female unemployment and female incarceration rates may seem counter-intuitive. While this result is slightly harder to understand, it can be understood in the context of economic marginalization theory. Traditionally, women in Latin America have not been employed in the formal job sector and only recently have they begun to seek employment outside the home. While employment outside the home can be empowering and a source of independence for women, it is also often a result of increased financial pressures on the family. Instead of working domestically and caring for children and the elderly, women are tasked with both earning income through formal employment for the families as well as caring for them in the home. This financial stress can drive women to commit economically motivated crimes, as described by the economic marginalization theory.



Therefore, a higher unemployment rate may mean that women are not facing the burden of being both breadwinners and care takers for their family, as they are only working informally in their households. They do not have the dual obligations of both caring for their family and working outside the home to make ends meet. Without this pressure, fewer women will be motivated to commit economic crimes such as drug offenses, leading to fewer women incarcerated.

It is important to recognize that economic marginalization theory and liberation theory are not mutually exclusive, but rather that as women become increasingly integrated into society, they are becoming so under desperately unequal economic conditions. Thus they may be dually motivated by liberation and economic marginalization to commit drug-related crimes.

The feminization of poverty variable does not reach traditional levels of significance; however, the modest positive relationship apparent in the scatter plot and the fact that it does meet the somewhat less stringent 90 percent significance threshold does suggest that the trend may in fact exist and could become statistically apparent if the quality of the data improves. Recall that the data suffer from two distinct problems. First, the strength of the variable could be diluted by the fact that the data include non-drug related incarcerations. Second, the panels are unbalanced with a large number of missing values. While interpolation was able to replace approximately half those values, it cannot calculate values for observations that are surrounded by additional missing values nor can it calculate values for the first missing value in a panel. If these problems can be addressed, the mild trend which has been displayed in this study may become more clearly manifest in the data. Therefore, it is entirely possible that the feminization of poverty is indeed important for understanding how the unique economic vulnerability of women contributes to incarceration rates. In further studies, more specific and complete data for both the ratio of women to men in poverty and female incarceration rates may demonstrate that the feminization of poverty is indeed statistically significant at the 95 percent level or higher. Due to the imperfect nature of the data sets used in this paper, the results are close enough to this threshold to consider more deeply. Accepting the feminization of poverty as a contributing factor to incarceration rates of women highlights the need to reform social welfare policies so that they directly target economically vulnerable women, and, in turn, address the root causes of gender-based economic inequality.

Not surprisingly, the intensity of a country's drug laws has a positive relationship with the number of women incarcerated. Harsh laws that carry long sentences for drug crimes such as simple possession target low-level mules and street dealers, who are often poor women. Long sentences also exacerbate the problem, with more women becoming incarcerated but few being released. A one

step increase in the intensity index of a country's drug laws is associated with over 6,000 more women being incarcerated, showing the extreme societal consequences of these War on Drugs policies.

By reforming non-violent criminal codes and at least decriminalizing possession of reasonable amounts of drugs for personal use, Latin American countries could reduce their female incarceration rates by the thousands. Treating drug use and dependency as a public health issue instead of criminalizing addiction restructures the paradigm of how these infractions and the people who commit them are treated by society. Instead of sentencing a woman to years in prison for simple possession, outpatient treatment programs and counseling should be utilized. This not only helps the woman and any dependents she has, but also benefits society as a whole in terms of social cohesion and contributions from productive members of society. Moreover, possession for small-scale trafficking may indicate dire economic need rather than malicious criminal intent. These cases highlight the need for better social safety nets and improved welfare policy, not the criminalization of impoverished, non-violent offenders.

## **Conclusion**

This paper began with an examination of two relevant theories of female offending: liberation and economic marginalization. The feminization of poverty was used as an empirical demonstration of the economic marginalization of women in Latin America. A quantitative approach used the feminization of poverty, the incarceration rates of women, and intensity of drug laws, along with variables to control for female liberation in a fixed effects regression test across seventeen Latin American countries. The results found that drug law intensity, female lower secondary education completion rate, and female unemployment rate significantly contribute to female incarceration rates. The feminization of poverty, taking into account complications with the data, may also be a contributing factor. The results support the liberation theory of female offending and the economic marginalization theory, showing that the two theories are not mutually exclusive. As society further engages women, it does so under increasingly marginalizing economic circumstances. Furthermore, the results demonstrate the adverse effects of the globalized War on Drugs, which significantly increases female incarceration rates throughout Latin America. Policy considerations as an outcome of this study could include improving social safety nets to target vulnerable population of women, and reforming criminal codes to treat low-level, non-violent drug crimes as a



public health issue rather than felonies. As the decriminalization movement gains momentum across the Americas, this change may become a reality, and help to lower the number of women behind bars.

## Works Cited

- Barberet, Rosemary. *Women Crime and Criminal Justice: A Global Enquiry*, 1st edition. New York: Routledge, 2014.
- Campbell, Howard. 2008. "Female Drug Smugglers on the U.S.-Mexico Border: Gender, Crime, and Empowerment." *Social Thought & Commentary* 81 (1): 233-267.
- CEPALSTAT. 2014. "Feminine Poverty Ratio." CEPAL.
- Chant, Sylvia. *Gender, Generation, and Poverty: Exploring the 'Feminisation of Poverty' in Africa, Asia, and Latin America*. Northampton: Edward Elgar Publishing, 2007.
- Chesney-Lind, Meda and Lisa Pasko. *The Female Offender: Girls, Women and Crime*, 2nd edition. Thousand Oaks: Sage Publications, 2004.
- Giacomello, Corina. 2013. "Women, drug offenses and penitentiary systems in Latin America." International Drug Policy Consortium, October, 2013.
- Giordano, Peggy C. 1978. "Girls, Guys and Gangs: The Changing Social Context of Female Delinquency." *Journal of Criminal Law and Criminology* 69 (1): 126-132.
- Hunnicut, Gwen and Lisa M. Broidy. 2004. "Liberation and Economic Marginalization: A Reformulation and Test of (Formerly?) Competing Models." *Journal of Research in Crime and Delinquency* 41 (2): 130-155.
- "Information Sheet for U.S. Citizens Arrested in Paraguay." Embassy of the United States: Asuncion, Paraguay.
- Insula, Jose, et. al. 2013. *The Drug Problem in the Americas*. Washington: Organization of American States.
- International Centre for Prison Studies. 2014. "World Prison Brief." London: International Centre for Prison Studies.
- Medeiros, Marcelo and Joana Costa. 2007. "Is There a Feminization of Poverty in Latin America?" *World Development* 36 (1): 115-127.
- Metaal, Pien et al. 2011. *Systems Overload: Drug Laws and Prisons in Latin America*. Washington: Washington Office on Latin America and Transnational Institute.
- Murdoch, Sharlene, et al. 2012. "A Descriptive Model of Female Violent Offenders." *Psychiatry, Psychology and Law* 19 (3): 412-426.
- "Nicaragua." 2014. U.S. Department of State – Bureau of Consular Affairs: U.S. Passports and International Travel, August, 2014.
- Ray, R. and A.C. Kortewg. 1999. "Women's Movements in the Third World: Identity, Mobilization, and Autonomy." *Annual Review of Sociology* 25 (1): 47-71.
- Reckdenwald, Amy and Karen Parker. 2008. "The Influence of Gender Inequality and Marginalization on Types of Female Offending." *Homicide Studies* 12 (2): 208-226.
- Reynolds, Marylee. 2008. "The War on Drugs, Prison Building, and Globalization: Catalysts for the Global Incarceration of Women." *NWSA Journal* 20 (2): 72-95.
- Rolles, Steve and Niamh Eastwood. "Drug Decriminalisation in Practice: A Global Summary."



- International Harm Reduction Association, ch. 3-4.
- Rosmarin, Ari and Niamh Eastwood. 2012. *A Quiet Revolution: Drug Decriminalization Policies in Practice Across the Globe*. New York: Open Society Foundations.
- Smith, P. 2012. "Belize Ponders Marijuana Decriminalization." *Stop the Drug War*, July, 2012.
- Transnational Institute. 2015. "Drug Law Reform in Latin America." Amsterdam: Transnational Institute.
- Umana, Isabel Augilar and Rikkers, Jeanne. 2012. "Violent Women and Violence against Women: Gender Relations in the Maras and Other Streets Gangs of Central America's Northern Triangle Region." *Interpeace*, 2012.
- Walmsley, Roy. 2012. *World Female Imprisonment List*, 2nd edition. Essex: International Centre for Prison Studies.
- World Bank Group. 2014a. "Female Population." World Bank.
- World Bank Group. 2014b. "Female Unemployment." World Bank and International Labour Organization.
- World Bank Group. 2014c. "Labor Force Participation." World Bank and International Labour Organization.
- World Bank Group. 2014d. "Lower Secondary Completion Rate." World Bank and UNESCO.