Academic Journal of Management and Social Sciences
ISSN: 2958-4396 | Vol. 15, No. 2, 2026

A Study on Legislative Improvements for the Protection of Victims in the Crime of Trafficking Women and Children

-- Based on the Dual Dimensions of Criminal Economics and Social Psychology

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Abstract: This study examines whether the scope of protection for trafficking crimes should be extended to include adult males, drawing on dual perspectives from criminal economics and social psychology. Traditional criminal legislation in China has prioritized special protections for women and children. However, as society evolves and gender equality principles gain traction, instances of male victims of trafficking have emerged. Yet relevant legislation continues to exclude males from core criminal offenses, resulting in imbalanced legal protection and gaps in human rights safeguards. By integrating Becker's criminal decision-making model with criminological psychology analysis, this study systematically demonstrates the necessity and feasibility of including men within the scope of protection. Findings reveal that the current "gender-specific" protection framework not only creates substantive gaps in legal interest protection but also undermines overall deterrence due to the lack of male perpetrators under this offense, necessitating sentencing under alternative charges. The conclusions provide theoretical and empirical support for refining Article 240 of the Criminal Law and advancing a legislative shift from "women and children" to "population" protection. They also offer academic reference for deepening the implementation of the National Anti-Trafficking Action Plan.

Keywords: Trafficking in Women and Children; Legal Interest Balance; Social Psychology; Criminal Economics.

1. Introduction

1.1. Research Background

Human trafficking, as a severe global human rights crisis, has long been a subject of widespread concern within the international community. China's Criminal Law, centered on Article 240, establishes "trafficking in women and children" as an independent criminal offense, reflecting a policy of prioritized protection for this vulnerable group. However, this legislative framework has revealed limitations in judicial practice due to its narrow scope of protection—systematically excluding adult males from coverage under this offense. Consequently, when adult males fall victim to trafficking, they face a legal vacuum where no applicable laws exist to address their plight, creating a significant gap in legal safeguards.

Judicial data underscores the tension between legislation and practice. According to statistics from the Work Report of the Supreme People's Procuratorate (2022), between 2000 and 2021, the number of individuals prosecuted by procuratorial organs for crimes involving the trafficking of women and children decreased from 14,458 to 1,135, representing an average annual decline of 11.4% [1]. The number of individuals prosecuted for purchasing trafficked women and children rose from 155 to 328 [2].The former reflects the phased achievements in anti-trafficking efforts, while the latter demonstrates a strict punishment approach targeting both buyers and sellers. At the national level, the implementation of the China Action Plan Against Trafficking in Persons (2021–2030) continues, reaffirming a high-pressure crackdown stance. However, the gender limitations in current legislation objectively weaken the deterrent effect against trafficking crimes.

Compared with international legislative trends, the lag in China's legislation is even more pronounced. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (hereinafter referred to as the Protocol) defines human trafficking as follows: for the purpose of exploitation, where exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude[3]. The definition of "trafficking in persons" essentially adopts a gender-neutral stance, extending protection to victims of all genders and ages. This Protocol provides an authoritative fundamental definition of trafficking as a typified criminal offense, clarifying the scope and boundaries of persons involved. It establishes that the criminal purpose of trafficking lies in the exploitation of human rights[4].As a State Party, China faces practical challenges in protecting legal interests due to gaps between domestic legislation and international standards. Furthermore, the emergence of male victims in new forms of crime such as forced labor and sexual exploitation raises questions about the comprehensiveness of current legislation. Zhao Hang and Wang Hongyu (2022) note that current penalties for purchasing services suffer from "insufficient elasticity," resulting in inadequate legal deterrence. Extending protection to male victims not only addresses legislative gaps but may also enhance marginal deterrence through increased penalties, thereby improving the overall effectiveness of human trafficking governance from a crime economics perspective.

1.2. Research Review

Domestic academic research on human trafficking crimes has long focused on women and children, forming a highly specialized "single-gender protection paradigm." At the legislative research level, scholars have debated how to strengthen protections for women and children through interpretive and legislative approaches, yet none have transcended the gender framework established by Article 240 of the current Criminal Law. The 2022 debate between Che Hao and Luo Xiang on whether to increase penalties for purchasing trafficked women and children implicitly assumed female victims as both theoretical premise and research subject. This reveals the attempts and limitations of seeking solutions within the existing legal framework. Empirically, quantitative analysis based on judicial judgments exposes a critical contradiction: The probation rate for purchasing trafficked women reached 65.1%, while the concurrent sentencing rate for related offenses remained below 10%. This confirms significant "gender asymmetry" in protective efficacy at the judicial endpoint. At the policy level, while the 2021 China Action Plan Against Trafficking in Persons (2021-2030) includes language acknowledging male victims, the absence of supporting judicial interpretations and sentencing standards renders this provision difficult to implement in judicial practice. This creates a disconnect where "policy leads, but legislation and judicial practice lag behind."

Within the framework of human rights law, the 2000 United Nations Palermo Protocol defines "trafficking in persons" as encompassing all genders. Based on this, the European Union enacted Directive 2011/36/EU in 2011, explicitly requiring member states to enact legislation protecting victims of all genders, particularly covering scenarios where male victims are highly prevalent, such as forced labor. The annual Global Report on Trafficking in Persons published by the United Nations Office on Drugs and Crime provides detailed analysis of actual trafficking cases across different regions worldwide. This includes the forms of exploitation of trafficked persons' rights and dignity, as well as the actual victimization experienced by trafficked individuals [5]. Among globally identified victims, males accounted for 35%, an increase of 17 percentage points since 2010. In Southeast Asia, male victims constituted over 60% of forced labor cases. In 2022, the number of identified trafficking victims worldwide increased by 25% compared to pre-pandemic levels in 2019. Between 2019 and 2022, the number of identified victims of trafficking for forced labor surged by 47% globally [6].Since its 2003 revision, the U.S. Trafficking Victims Protection Act (TVPA) has adopted gender-neutral legislation. Data from the U.S. Department of Justice (DOJ, 2015) indicates that after expanding the scope of legal protection, overall case reporting rates increased by 28%. This demonstrates that gender-neutral legislation plays a significant positive role in encouraging victims to seek redress and enhancing the ability to uncover hidden crime statistics. China should fully consider its national conditions, absorb beneficial foreign experiences and thereby suppress crime rates [7].

2. Governing Trafficking Crimes from an Economic Perspective: The Economic Logic of Rational Choice, Cost Structure, and Expanding the Scope of Protection

The emergence of criminal economics has revealed the underlying economic logic behind the law, enabling people to transcend traditional grand narratives of justice and fairness and re-examine the operational mechanisms of legal systems. Within the framework of criminal economics, punishment and crime are interpreted as a stable deterrence relationship, whose core assumption rests on the "rational actor" premise—that criminals seek to maximize benefits and weigh costs against gains in their behavioral decisions. American economist Gary Becker noted that when an individual anticipates deriving greater utility from criminal activity than from investing equivalent resources in lawful pursuits, they will choose to commit crime [8]. Therefore, individuals become criminals not because their fundamental motivations differ from those of ordinary people, but because their calculations of costs and benefits diverge: when the anticipated gains from crime exceed the anticipated costs, crime becomes a possibility. Criminal gains can be categorized into material and psychological benefits, serving as the driving force behind criminal behavior. Criminal costs, however, constitute the ultimate constraint on decision-making, encompassing both actual and anticipated costs. Actual costs refer to the resources—such as time and money—invested by the offender, which can be further divided into direct material inputs and time opportunity costs (i.e., foregone legitimate income). Since actual costs are often lower than criminal gains, their deterrent effect on criminal behavior is limited. Expected costs represent potential future burdens for offenders, primarily comprising anticipated punitive costs and anticipated opportunity costs. The former depends on the severity of penalties and conviction probability, while the latter stems from employment restrictions or social marginalization resulting from criminal records [9].

For specific crimes, the relative stability of their profits and the social opportunity costs over a certain period makes the expected penalty cost a key variable influencing criminal decision-making. Consequently, increasing the expected cost of committing a crime is an effective means of deterring crime, with the most direct approach being to raise the expected penalty cost.

As the founder of American human capital theory, Gary·Bcker categorized on-the-job training into general training and specific training. He proposed that firms achieve equilibrium in employment decisions when the marginal rate of return equals the marginal cost of training, expressed as follows:

$$\sum_{t=}^{n} \frac{R_t}{1^{(1+i)}} t = \sum_{t=1}^{n} \frac{E_t}{(1+t)^t} \tag{1}$$

Rt represents labor costs incurred in period t, Et denotes factory revenue (marginal product) in period t, and i is the market discount rate[10].

In real life, seeking benefits and avoiding harm is human nature. Therefore, rational individuals engage in social activities with a profit-seeking orientation, and extreme profit-seeking is one of the essential attributes of criminal activity[11]. Therefore, regarding the causes of crime, American economist Gary·Becker posits that individuals engage in illegal activities when the expected utility of such behavior exceeds the utility derived from alternative uses of time and resources. Thus, some people become criminals not because their fundamental motivations differ, but because their cost-benefit calculations diverge [12]. Simply put, whether a rational criminal will commit a crime depends on their assessment of the benefits gained from the crime versus the costs incurred.

Drawing on prior research, they constructed a model based on Becker's perspective.

That is: NG denotes the net criminal profit; G represents the total profit pursued by the criminal (including material and non-material gains); OC signifies the opportunity cost of crime, i.e., the cost incurred when the criminal invests resources (time, effort) in criminal activities while forgoing the use of those same resources in other activities (legal or illegal); EC indicates the expected penalty cost, determined by two factors: the probability of conviction (denoted by P) and the severity of punishment (denoted by F). The quantitative relationship is expressed by the formula:

$$EC=P\cdot F \tag{2}$$

If a rational criminal chooses to commit a crime, then NG must be greater than zero. This can be expressed as a formula:

$$NG=G-OC-EC>0 \tag{3}$$

Microeconomic theory posits that (G-OC) precisely represents the economic profit of crime. If an individual, after weighing the expected punishment costs, concludes that the economic profit outweighs the penalty costs incurred, they will choose to commit the crime [13].

According to Article 61 of the Criminal Law of the People's Republic of China, the facts of the crime form the basis for sentencing, determining the nature and severity of the offense. The nature of the crime—whether intentional or negligent, premeditated or impulsive—reflects the offender's subjective malice and significantly influences sentencing. Circumstances and the Degree of Harm to Society encompass specific details such as the time, location, method, and target of the crime, as well as the actual harm or potential threat it poses to society. The principle of proportionality in criminal law requires that the protection afforded to different legal interests by criminal legislation be commensurate with the value of those interests and the degree to which they are threatened. From an economic perspective on crime, this principle can be understood as requiring legislators to pursue the minimization of total social welfare or total crime costs when allocating limited penal resources. Providing preferential protection to specific groups, such as women and children, may be justified during certain periods based on their historically higher victimization risks and weaker self-protection capabilities. However, when societal conditions and crime patterns evolve—such as when men face significant trafficking risks like forced labor or sexual exploitation in specific contexts—maintaining a single-gender protection framework leads to “market failure” in legal interest protection. On one hand, the personal liberty and dignity of males—a crucial legal interest—remain inadequately protected by criminal law, representing “underprotection.” On the other hand, existing penal resources may experience “diminishing marginal returns” in traditional protection domains due to shifting crime patterns. At this juncture, a “Pareto improvement” expansion of protection scope—incorporating males—can optimize resource allocation between the legal interests of victims of different genders, as demonstrated by cost-benefit analysis. This expansion not only directly broadens the scope of protected legal interests but, more significantly, may systematically enhance deterrence across the entire criminal market by altering offenders' cost expectations. This achieves a transition from “local equilibrium” to a “superior general equilibrium,” aligning closely with criminal economics' goal of minimizing total social costs.

3. Social Psychological Interpretation: The Social Cognitive Construction and Concealment Mechanisms of Male Victimization

3.1. Stigmatization Effects and Mechanisms of Male Victim Silence

Stigmatization is a powerful sociopsychological process that devalues individuals or groups by attaching derogatory labels, marking them as “abnormal” deviants from social norms. This leads to diminished social worth, discrimination, and marginalization. In the context of human trafficking crimes, victims often endure dual stigmatization: first, the vulnerability and passivity associated with being labeled a “victim,” which may conflict with traditional gender role expectations of strength and autonomy. For male victims, the stigma they face is particularly distinct and burdensome. Deep-rooted gender role stereotypes construct men as powerful, dominant, and invulnerable protectors. When men become victims of trafficking, this experience directly challenges established gender scripts, potentially triggering intense shame, self-doubt, and crises of gender identity. They may fear being perceived as “weak,” “inept,” or “unmanly,” leading them to conceal their experiences and avoid seeking help. At the societal level, the public, law enforcement, and even judicial personnel may unconsciously be influenced by these stereotypes, resulting in skepticism, dismissal, or misunderstanding of male victims' narratives. This socially conditioned cognitive bias, rooted in stigma, systematically suppresses the expression and recognition of male victimization experiences. It constitutes a key psychological driver behind low reporting rates and the difficulty of cases entering judicial processes. Due to long-standing legislative focus, media coverage, and social advocacy primarily centered on women and children in trafficking cases, the cognitive schema of the “typical trafficking victim” in the minds of the public and law enforcement/judicial personnel remains firmly anchored to images of women and children. This availability heuristic leads to cases that deviate from the schema—such as adult males being lured and controlled for forced labor—being easily overlooked or misjudged during identification. People tend to focus on risks consistent with existing impressions while underestimating or filtering out unexpected risk signals. Consequently, male victimization cases may not be perceived as “trafficking” but instead categorized as ordinary labor disputes, illegal detention, or economic fraud.

3.2. Gender Role Expectations and Victim Narrative Exclusion

From a social psychological perspective, stigma is not merely a simple projection of individual psychological traits, but rather a deeply embedded process of meaning construction within social structures. In his seminal work, Goffman defined stigma as a “characteristic-trust relationship that profoundly tarnishes an individual's reputation,” emphasizing that its operation relies on society's categorization of ‘normals’ and “abnormals” and the power dynamics governing these distinctions [citation: Goffman, 1963]. When this theoretical lens focuses on male victims of trafficking crimes, a long-obscured question emerges: Why do adult men, despite enduring the same human trafficking experiences, struggle to be recognized as “legitimate victims” by the public, law enforcement, and even themselves?

The answer lies deeply embedded within the normative system of gender role expectations. Traditional gender order constructs men as “protectors,” “providers,” and “dominants,” anchoring their core traits in autonomy, strength, and emotional restraint. In contrast, victimhood inherently carries semantic connotations of “vulnerability,” “passivity,” and “dependence”—qualities diametrically opposed to masculinity. When adult males become victims of trafficking crimes, their experiences constitute a dual transgression of gender scripts: on one hand, as “commodities to be trafficked,” their human dignity is utterly objectified; on the other, as “men unable to protect themselves,” their gender role identity faces fundamental questioning. This role conflict triggers intense cognitive dissonance and shame, becoming a core obstacle to male victims' self-identity.

Empirical research from other jurisdictions provides robust data support. Vail et al.'s survey of 289 male victims of intimate partner violence (IPV) revealed that only 14.2% of men affirmed experiencing an abusive relationship when directly asked; yet objective screening using the Conflict Tactics Scale-Revised (CTS2) revealed that 23.9%, 69.6%, and 20.4% of respondents reported experiencing sexual, psychological, or physical violence, respectively. The vast disparity between these two sets of data clearly demonstrates that male victims' failure to self-identify their experiences stems not from the absence of abuse, but from the coercive filtering of the “victim” category by gendered beliefs. Further analysis revealed that LGBTQ+ men demonstrated significantly higher rates of self-identification as victims. This contrast underscores that individuals deviating further from traditional masculine norms experience relatively less stigmatization pressure, leading to correspondingly weaker self-identity barriers.

4. Result and Conclusion

4.1. Result

This study centers on the core question of whether the scope of protection for the crime of trafficking in women and children should be extended to include adult males. By integrating theoretical perspectives and analytical methods from criminal economics and social psychology, it yields the following four key findings:

First, current legislation has historically narrowed the scope of trafficking crime regulation from “population” to “women and children,” systematically excluding adult males from core criminal protections. This creates a structural gap in legal safeguards, forcing male victim cases to be diverted to related offenses and subjecting them to judicial challenges such as misclassification and reduced sentencing.

Second, criminal economics analysis indicates that under current legislation, the expected punitive costs for crimes against males are significantly lower than those for crimes against females. This creates a “dual-track system of punishment pricing” and a “market substitution effect” for criminal demand, demonstrating clear cost-benefit justification for expanding the scope of protection.

Third, social psychological interpretations reveal that the systematic concealment of male victimization is a complex outcome mutually constructed by stigmatization effects, social cognitive biases, and institutional supply deficiencies. Expanding legislative coverage must be advanced concurrently with cognitive interventions to achieve the intended deterrent effect.

4.2. Conclusion

Advancing the shift in research paradigms on human trafficking from “single-gender protection” to “gender-neutral legal interest equilibrium.” Existing domestic research has been highly focused on female and child victims, forming an academic discourse system with pronounced path dependence. This study systematically argues for the necessity and feasibility of including adult males as protected subjects, confronting the gender blind spots in current legislation and research, and filling the gap in criminal law doctrine regarding gender-neutral protection against human trafficking crimes. The study not only reveals the historical rationality of prioritizing protection for specific groups but also demonstrates that maintaining a single-gender protection framework amid evolving social conditions and criminal patterns leads to “market failure” in legal interest protection. This provides a new analytical approach for applying the principle of equal protection under criminal law within specific criminal domains. Future research could conduct more detailed measurements of the stigmatization effect using larger samples and further examine the actual effectiveness of cognitive interventions in judicial practice.

References

[1] Zhang, J. (2022) Work Report of the Supreme People's Procuratorate. In: Fifth Session of the 13th National People's Congress. Beijing.

[2] Zheng, H. & Xiang F.J. (2023). Holistic Governance of Trafficking Crimes Against Women and Children in Rural Areas. Juvenile Delinquency, (03), 128-142.

[3] Li, S.y. (2024). Governance Challenges and Solutions for the Crime of Purchasing Trafficked Women (Master's Thesis, East China University of Political Science and Law). Master's https: //kns.cnki.net/kcms2/article/abstract.

[4] Sun,L. (2020). A Study on Cooperation Between Laos and Thailand in Preventing and Combating Human Trafficking (Master's Thesis, Central China Normal University). Master's https://doi.org/10.27159/d.cnki.ghzsu.2020.000986.

[5] Hu, B.Q. (2024). Investigation Research on Cases of Trafficking Women and Children (Master's Thesis, China People's Public Security University). Master's. https://doi.org/ 10.27634/d.cnki.gzrgu.2024.000008.

[6] Geng, J.F. (2025). Multiple Dimensions of Establishing a Centralized Investigation System for Crimes Against National (Border) Management. Journal of China University of Political Science and Law, (02), 206-218.

[7] Wang, J.M., Yu, W.J., Li, Y. (2018). Improving China's Legal System for Protecting the Rights and Interests of Youth in the New Era. Youth Development Forum, 28(03), 31-40.

[8] Chen, J. (2024). An Analysis of Security Issues in International Migration. National Security Research, (04), 62-87+158.

[9] Qin, N.L., Zhang, X.C. (2022). An Analysis of the Application of Criminal Penalties for the Crime of Illegal Absorption of Public Deposits from a Law and Economics Perspective. Public Security Education, (02), 45-49.

[10] Zhou, Y.H. 2016-02-20. Reflections on the Becker Model. https://www.doc88.com/p-0052323393668.html.

[11] Wang, F.Z. (2012) Urban Crime Spaces. Southeast University Press. Nanjing.

[12] Gary B. Translated by Wang, Y.Y.,Chen, Q. (2015) Economic Analysis of Human Behavior. Shanghai People's Publishing House, Shanghai.

[13] Zhao, H., Wang, H.Y. (2022). A Study on the Punishment for the Crime of Acquiring Trafficked Women in China: An Economic Perspective on Crime. Gansu Journal of Theory, (05), 99-104.