Female criminality and crime against women – a criminological-penitentiary view

Abstract: Female criminality in Poland, that is the violation of legal standards by women, threatened by penalty, is not great. The number of sentenced women in prison has maintained at the same level 7%-10% of the general sentenced population for a long time. Research shows that gender does not have a great impact on criminality. However, there have been some findings physiological states such as pregnancy or breast feeding predispose women to commit crimes. It has also been noted that more women than men commit crimes where cleverness is required. The smaller number of women’s crimes is explained by factors like family upbringing, where mothers present a greater traditional lifestyle. Women are also victims of crimes such as: domestic violence, sexual harassment, human trafficking, crimes associated with prostitution. Sentenced to imprisonment, they reside in separate penitentiary units, where they can give birth to their children and stay with them in prison Homes for Mothers and Children until the child turns 3 or exceptionally 4 years old. Imprisoned women, due to specific personality are treated more softly than men, but are subject to the same rigors as men, depending on the type of prison they are in. They are being prepared to perform the roles of mothers, wives or for an independent life in the free world. Key words: criminality, intersexual differences, Mother and Child prison houses.

The concept of crime and criminality in Polish law

For the record, I shall remind what crime and criminality is. Crime is an act prohibited by law and threatened by punishment. It is human behaviour that violates
legal standards specified at a given time, which should result in punishment. In criminal law there are two categories of crimes: felonies and misdemeanours. According to the current legal status (the Polish Penal Code of 1997), a felony is a prohibited act, threatened by the penalty of imprisonment for a time of not less than three years or longer. A misdemeanour is a prohibited act, threatened by the penalty of a fine of more than 30 daily rates, restriction of freedom or penalty of imprisonment for more than a month. Such behaviour usually also violates moral and social standards. As it is known, intersexual differences do not protect people from criminal behaviour, therefore, perpetrators of crimes are both men and women. The penalty of imprisonment is ruled to both men and women.

As A. Campbell writes in her book *Jej niezależny umysł* (A Mind of Her Own), in the past 30 years there have been 110 thousand scientific publications released on the issue of gender, i.e. socio-cultural sex, as well as intersexual differences. Some of them concerned female criminality. It contains psychological, sociological, educational and psychiatric, and mixed analyses. Various researchers, including Polish and particularly from the West, have searched for the causes of female criminality. They established their types, social impact, at the same time trying to indicate the relationship between the behaviour of women criminals with prostitution, alcoholism and drug addiction. Criminality brings social harm: moral, material and to health and life. That is why society should be protected against this unfavourable phenomenon and its effects. One of the main responses to crime is ruling imprisonment for perpetrators of crimes. Intersexual differences have no meaning here. Problems arising from intersexuality appear only at the time of its execution.

**Does sex have an impact on crime?**

The answer to this question requires reference to intersexual differences arising from the nature of women and men. Expanding the issue goes beyond the framework of this paper. It has been broadly developed in literature, also Polish literature (e.g. Blum, Wojciszke). Therefore, I shall limit myself to the area of criminality. In this text I will discuss only certain aspects of the issue. According to B. Hołyst, gender difference has a great impact on the type, frequency and nature of the crimes committed. The author draws attention to the fact

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that female criminality has only relatively recently become the interest of researchers. Indeed, the number of crimes committed by men all over the world is definitely greater than the number of crimes committed by women. This is confirmed by international criminal statistics, e.g. International Crime Statistic, International Criminal Police Organization (Interpol). Hołyst\(^4\) believes that “the contemporary woman not only aims to equality before the law and in profession, but actually wants to liberate herself from the dominance of man and even fights for her social right. Such a course of events has a very large impact on the changes occurring in the nature of female criminality”. In reference to German literature, he stands with the opinion that the relatively low number of women’s crimes can be explained by other factors of social character, specific to women. These include: the lives of girls and women generally (as a custom) in conservative family structures, where traditional values and behaviour patterns dominate; they remain under greater control of the parents and husbands – although in recent years this control has been reducing, as well as children, and their functioning is strongly associated with the performance of a specific social role, which significantly reduces or eliminates their direct access to patterns of behaviour deviant towards existing standards. While growing up, girls are more oriented at the patterns of behaviour exhibited by their mothers than by their fathers. However, there are specific factors observed in women, which according to some authors, e.g. J. Schneider\(^5\), may facilitate the emergence of delinquent behaviour: breastfeeding, menstruation, pregnancy. An analysis of the causes of criminality indicates that women commit a variety of crimes: ranging from crimes against property to crimes against health and life. Therefore, they also commit violent crimes, and even rapes, which is pointed out by A. Siemaszko et al when discussing the criminality of female Poles\(^6\).

By undertaking the issue of female criminality, Campbell identified three elements. Firstly, the extent of male criminality is significantly greater than in female criminality, as I have already mentioned. The author, in referring to research of many people, writes that intersexual differences are most visible in the area of violent crimes, and least in the area of small crimes, especially against someone else’s property\(^7\). She cites American statistics, providing data on the number of arrests of women offenders of crimes, which show that this number in individual types of crime is relatively lower than the number of arrests of men. Women are less frequently arrested for: armed crimes (8.2%), robberies (9.8%), burglaries (11.9%), murder (10.3%). A smaller number of arrests concerns so-called “ordin-

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\(^7\) Ibidem, p. 336.
nary” (21%) and “more serious” assaults (18.8%). One can only guess what an “ordinary” assault or a “serious” assault means, especially that assaults have already been mentioned (precisely robberies). It is interesting that in light of these statistics, women obtained relatively high rates in committing crimes that require cleverness. However, they were lower than the indicators for the same crimes in men. They can include ordinary theft, forgery, embezzlement and fraud. In analyzing the statistics of female criminality in many countries, the author came to the conclusion that the described model, both of arrests (issue of proportion), and the types of women’s crimes is of a universal character. Therefore, with minor deviations, it occurs in most countries of the world.

Secondly, criminality among men and women is increasing. The author also noted regularity: an increase in criminality among men causes parallel development of criminality among women. Because this fact is not, as it can be seen, gender-related, it should be clarified by referring to the sociological theories of criminality, well known in criminology. The author concluded that the relationship between the increase in male criminality and female criminality is very strong. She calculated the correlation between crime rates of men and women. Separately for property offenses and violent crimes.

Thirdly, among women, like in men, crimes against property and violent crimes decrease and increase in parallel. Many criminological studies confirm this regularity. These relationships occur in many countries.

Of the three facts presented above, Campbell concluded the following, at the same time recognizing that the data presented by her can “help us provide guidelines as to what the theory of female criminality should look like”:

1. The universality of the described relations taking place in the phenomenon of female criminality (apply to most countries) could allow to derive the conclusion that the explanations concerning intersexual differences in the scope of criminality, and that the violation of someone else’s property and the use of violence co-occur with one another, reflect certain basic rules, which do not depend on the cultural circle or historical period.
2. The clear difference in indicators of men and women allows to believe that the sexes differ in readiness to engage in criminal activity. There is a significantly lower readiness that occurs in women.
3. Determinants of male and female criminality are similar and are a feature of social environment.
4. The relationship between environmental conditions and theft is similar to the relationship between such conditions and the use of violence. Violence, in all probability, serves the same as theft.

In referring to the criminological theory of social control, its creator, T. Hirschi found that in the adopted intersexual differences in criminality, one must abo-

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8 A. Campbell, op. cit., p. 338.
lute note the higher level of socialization of girls and the higher level of their integration with family and school. These findings to some extent explain the lower crime rates among women compared with the higher crime rates among men. Naturally, it’s not hard to notice the common links between female criminality and prostitution, criminality and alcoholism, criminality and drugs. As we know, the two latter relations also apply to men. I have not found data on the subject of criminal behaviour of prostituting homosexual young men, like J. Kurzępa who is interested in these issues.

The perpetrators of crimes – men and women – may be characterized by a variety of mental defects, which make it easier for them to learn delinquent behaviour and hinder the rehabilitation process. Very often the symptom occurring in both women and men is psychopathy.

Women as victims of crimes

Women are also victims of crimes. The perpetrators can be both men and other women. According to literature, media and statistics, also Polish, the most common crimes that women fall victims of include:
— crimes against sexual freedom (particularly rape),
— abuse of a family member,
— prostitution-related offenses (pimping, facilitating prostitution),
— human trafficking.

These offenses are often accompanied by unlawful threats, etc. Rape may be group and individual. Criminologists estimate that many of these types of crimes are powered by the so-called “dark number”. Pospiszyl, in referring to western authors and studying the perpetrators of rape serving in prison in Poland, distinguished as many as 9 categories of rape, in which he exhausted all the circumstances of these crimes:
— occasional with high social competence,
— openly sadistic,
— occasional with low social competence (non-ceremonial),
— sadistic in a covert way,
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— occasional with low social competence (non-ceremonial),
— sadistic in a covert way,
— non-sadistic with high social competence,
— with openly displayed anger,
— vengeful with high social competence,
— vengeful with low social competence.

Rape victims are young and underage girls, while the offenders are underage, juvenile and adult males.

Crimes of family abuse occur in many countries of the world regardless of the existing culture there\(^{13}\). Abuse of a life-partner by her partner is characteristic. The effect of this is, which is most often a woman’s self-defence mechanism, his murder and as a consequence conviction to long-term imprisonment. As it can be seen, the victims of violence, moral and physical abuse of family members, are children, but mostly women – wives, concubines, life-partners of the perpetrators of this type of crime. These “male” crimes are most often undisclosed for a long period of time for a variety of reasons. Mothers, wives, concubines are usually ashamed of their situation. They are also often blackmailed by their tormentors and they are afraid of further negative consequences for themselves and for their family, because the legal systems (including Polish) usually do not provide them with adequate security. The German legal system does this in a more effective way, which says that a mother with children stays in the house, and the man must leave. The man – the perpetrator of abuse – is prohibited to approach this place for a certain number of kilometres\(^14\). On the basis of criminal statistics, textbooks on criminology and social pathology, as well as therapy on the subject of victims of violence in the family, this offense can definitely be defined as one causing terror in the family, and then leading to its dissolution\(^{15}\). In 2005, in Polish prisons there were 2309 such female prisoners, representing 2.87% of the entire population. For comparison, according to M. Marczak\(^{16}\), in the years 2002–2003 this indicator amounted to: in Germany – 4.8%, in England and Wales – 5.9%, in the Czech Republic – 4.3%, in Spain – 8%, in Russia – 5.8%, in France – 3.9%. Generally, female criminality in Poland, like in other countries, is not high and usually remains at the level of 7–10%.

When analyzing female criminality it is worth noting two extremely negative social crimes:
— child abandonment,
— fatal child abandonment.


\(^{15}\) J. Błachut et al., op. cit., p. 331.

It's worth pointing out at the end that there is, as far as we know, a different way of women feeling prison isolation, on which a few words below.

**Prostitution-related offenses:**
*procuring, facilitating prostitution and pimping*

According to the Polish criminal code (art. 203 c.c. of 1997) procuring consists in driving to prostitution through violence, unlawful threat, deceiving or using interdependence or a critical situation. From the ethical point of view, this is particularly a heinous crime. It is simply forcing the provision of prostitution against the will of the victim. Facilitating prostitution and pimping consists in urging a person to engage in prostitution or facilitating it in order to attain financial benefits (art. 204 c.c.). Among prostitution-related crimes there can be robbing prostitutes of their earnings by pimps or forcing them to work in sadistic contracts.

Women trafficking – is a particularly dangerous crime. It is qualified in Polish criminal law as human trafficking (art. 253 c.c. of 1997) The technique of this crime involves deceptive luring of attractive, young women to go to another country under the guise of good work or work in general. They are often promised work a waitresses, barmaids, models, stripteasers, babysitters, caregiver for the elderly, etc. On the national border, the organizers of the trip take away their passports or other identification documents and do not give them back, therefore, generally not knowing the language, these women are completely dependent on them. They are hidden from the authorities and physically abused by “their” owners. Sometimes, they are sold to other “owners”, which makes it significantly more difficult to be freed. The return of these women to a normal life, as well as raped women, is incredibly difficult. They require immediate and specialized psychotherapy, without which they hardly adapt to a normal life.

**Polish women in prison**
*– selected penitentiary aspects. General comments*

Women, criminal offenders, serve punishment of imprisonment in separate prisons. This requirement has been stressed by UN Minimum Rules of 1955, which provide that: “Women serve their punishment of imprisonment separately from men”. This rule was adopted by the Polish executive criminal code of 1997 in art. 87 § 1. Currently, according to our legislation, women have the right, like convicted men, to a surface area of 3 m² in a cell. The performance of their imprisonment is carried out according to the same code principles, with small deviations due to the diversity of women’s personality, during pregnancy or breast-feeding, fulfilling maternal functions, etc. Art. 87 § 2 stipulates that “A convicted woman serves
her punishment in a semi-open prison, unless the degree of demoralization or security considerations militate in favour of serving the punishment in a prison of a different type”. This means that they generally use all rights, including passes, which a semi-open and open prison gives. Their prison life is regulated by the order of a closed prison only in some cases. According to Maria Gordon\textsuperscript{17} the woman matter in prison has always been a secondary problem due to the relatively small number of women. However, the prison rules contain special provisions concerning women, especially pregnant women and mothers of young children. The Guidelines of the Director of CZZK of 1975 recommended, among others, to permit visiting children in their own clothes and to allow to treat to sweets and fruit, as well as give children gifts. They also provided the possibility of providing women visits with loved ones outside the prison and permitted temporary leave of the penal institution for a period up to 5 days. Over time, there were more concessions, which was grounded in family relationships of women and their slightly different social situation. Many authors touching on the issue of women in prison note, which I already have above, their diversity in comparison with men. They are gentler, more sensitive, more needing of love and motherly love. In addition to the aforementioned Maria Gordon, this is noted by M. Bramska\textsuperscript{18} and J. Niedworok\textsuperscript{19} Their relationship with family, the husband, children or other loved ones is usually very powerful and very emotional. Women endure prison isolation far worse than men. The sense of loneliness, hopelessness and insecurity appears in them much more often. Women most often continuously suffer from stress caused by the punishment of imprisonment, and particularly strongly feel it in the last period before release. This results, among others, from the uncertainty of whether or not the husband or concubine will leave, the uncertainty about the fate of the children, and the prospect of what awaits them after release. This is why it is believed that frequent contacts with loved ones are very important. Like M.D. Pełka-Sługocka\textsuperscript{20} writes, despite the fact that women also represent a varied level of demoralization, then it is usually considered that the role of wife and mother is dominant. Their isolation causes constant anxiety about breaking up the family, fear of an adversely changed life situation. Finally, women due to their biological distinction, require less harsh, more “feminine” sanitary-living conditions\textsuperscript{21}. According to L. Olejnik,

experienced in rehabilitation work with female prisoners and citing various studies “...a woman’s stay in isolation does not have a decisive significance for preventing criminality”. In her opinion, this measure is caused only the break-up of family, loss of a home, and finally, the escalation of demoralization. She writes further: “Returning to the environment of free people turns out to be more difficult than the convicted women suspect while in prison. Society’s reaction is not sympathetic to prisoners and, in particular, women who are tainted by the brand of a “demoralized mother”. This is certainly a problem that requires more accurate research.

Rehabilitation proceedings towards women are similar to those towards men. Where necessary, they undertake professional education. Sometimes they are employed, possibly for remuneration, both inside and outside the penitentiary. Various forms of cultural and educational work are applied, sports activities and other forms of meaningful free time management, e.g. educating through art, theatre, as well as author psychocorrectional programmes preparing women-prisoners for freedom. Therapeutic measures are applied towards people who require it. For example, in Prison No. 1 in Grudziądz, there are two therapeutic wards for convicted women: for women addicted to alcohol and for women with all sorts of non-psychotic personality defects, as well as for women with a low level of intelligence. The directors of these branches are psychologists, while personnel consists of qualified educators and therapists. To this category of prisoners, as well as to others, and especially to prisoner-mothers, including mothers participating in raising their children at a Mother and Child Home, which operates on the premises of the prison (a similar one operates in the Prison in Krzywaniec) particularly stressed is concern about contact with immediate family and maintaining the best possible family ties. It is worth noting that the sociological studies concerning women’s work in Poland, and not only in our society, indicate that they face greater difficulties with obtaining employment than men. Meanwhile, getting a job after release from prison is one of the important factors that protect former convicts, including women, against criminal recidivism. Given the sometimes very difficult life situation experienced by mothers in connection with the sudden deprivation of their freedom as very traumatic, it’s not hard to notice in them reactions indicating the emergence of an emotional crisis that requires crisis intervention as an element of the widely understood rehabilitation proceeding towards them. This is the effect of a negative lifestyle, which led them to crime and to prison, as well as separated them from their loved ones, including children, who they were with every day. In the article I will not deal with the issue of emotional crisis, which may occur in both male and female prisoners, when they

22 Ibidem, p. 98.
suddenly become victims of pathological behaviour of other prisoners (e.g. homosexual rape, forcing lesbian practices, etc.) Emotional crisis and emergence from it have been widely described in the book edited by Dorota Kubacka-Jasiecka and Krzysztof Mudyń24. M. Kuleta and J. Trzópek25 believe, like others, that emotional crisis is triggered by external factors and most often is due to a faulty lifestyle. Its change through crisis intervention can improve the social situation of persons remaining in crisis. This can include changes in the choice of behaviour, reasonable assessment of one’s own situation and respect for the standards in force. The authors believe that the process of changing one’s lifestyle using crisis intervention consists of six stages, called phases: pre-reflexive phase, reflexive phase, determination phase, action phase, sustaining phase and resignation phase. By analyzing them one can observe in them elements of the theory of learning. Therefore, as it seems, which I have mentioned above, crisis intervention, described by M. Kuleta and J. Trzópek, may be an effective method of rehabilitation for some people. J. Cegielska26 reported that a number of women undergoing imprisonment for murder are people, who from became criminals from victims of domestic violence (in self-defence, out of desperation, in affect). According to Marzec-Holka27 infanticide is also characteristic for a certain number of women. The categories of crimes listed here require specific psychocorrectional proceedings, because many of these offenders blame themselves, that they weren’t able to remedy this evil.

**Homes for Mother and Child**

In Poland, there are two Homes for Mother and Child that operate: in the prison in Grudziądz and the prison in Krzywaniec. They are specific care and educational facilities. Helena Reczek28, deputy director of the Home for Mother and Child in Grudziądz, gave a detailed description and evaluation of it. In Grudziądz, there is also a OB-GYN prison ward (the only one in Poland), where women who are serving in prison and women arrested from all over the country give birth to their children. At the Home for Mother and Child mother-prisoners stay with children until they turn 3 years old, in some special cases up to the age of 4. They can

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also be occupied by children of prisoners who are undergoing punishment, who were “free” thus far, if they fall within the age limits, and if the fathers, who have parental guardianship, agree to this. These fathers must also agree to placing the child after birth in the prison House for Mother and Child. According to H. Reczek, “after birth of the child, the mother’s request indicating the form of care she has decided on is sent to the competent District Court of the Family and Juvenile Department” for approval. The mother can apply to place the child in a non-prison orphanage, to place in foster care, to place in the care of her husband or life partner or up for adoption. In the prison House for Mother and Child there are no prison cells. In separate room, three mother-prisoners live with their children, who have complete care of their children. Those who are not able, learn to do this. They are supervised by specialist rehabilitation services. Some mothers, under the influence of newborn children change positively, some do not. Working at a Home for Mother and Child is difficult. The women who reside there are first-time offenders, recidivists and juveniles. One can also encounter child murderers. Some women get pregnant during passes. The mothers have varying levels of education. Some have completed special schools and others university studies (e.g. English graduate, mathematician, paediatrician – vide H. Reczek). There are also alcoholics, drug users, carriers of the HIV virus, women having being treated for venereal diseases, etc. In Grudziądz Home for Mother and Child, there are sometimes prisoners of different nationalities, e.g. Belarusian, Russian, Sudan (!), Ukrainian or Bulgarian. Full medical care is provided, including paediatric and nursing. For mothers, there is a specially developed original rehabilitation programme, to prepare them for the difficult situation they shall encounter once released. In the process of the difficult socialization of children, they are contact with peer groups in preschools outside of the prisons, they are taught normal behaviour in everyday life, exposed to e.g. street language and rules of moving around, associating among other people, etc.

### Literature


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Ibidem, p. 228.