

Repressive or Non-repressive?

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When viewed against the backdrop of European standards, Poland's criminal justice system (regardless of the political conditions and the degree of criminality in the country) has remained highly punitive – although this trait has at times abated somewhat, chiefly as a consequence of the stance adopted by the scholarly legal community

The “punitiveness” of the criminal justice system, one of the aspects used to characterize the practice of law enforcement, represents a tendency towards choosing to impose harsher sentences within the range of possible penalties provided for in acts of criminal law. The concept is customarily associated with repressiveness and severity of penal policy. Punitiveness is chiefly measured using data on the size of the prison population per 100,000 inhabitants, a ratio called the “incarceration rate.”

Comparative historical analysis of punitiveness in the Polish criminal justice system (looking at the period from when the country regained its independence in 1918 until the start of the 21st century) shows that Polish penal policy has indeed been highly repressive, regardless of the degree of criminality.

The interwar years

During the interwar period (1918–1939), Poland's prison population at first remained relatively level for years, with the incarceration rate staying within the range of 81–118 individuals per 100,000 inhabitants; certain temporary dips in prison population growth were caused by numerous amnesties. In the 1930s, however, prison population figures changed fundamentally. The number of prisoners stood at 30,000 in 1930, yet increased very rapidly beginning in 1934, to reach its highest level, 70,000, in 1939 – representing more than twofold growth over only several years. In view of the overpopulation of the prisons, the justice minister ordered that the enforcement

of short-term sentences be suspended, and subsequently, under a planned amnesty, he issued a ban on incarcerating those sentenced to short-term prison terms. Yet although the enforcement of more than 121,000 sentences was stayed, the prison population continued to grow, with the incarceration rate reaching as high as 201 in 1939.

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In recent years the incarceration rate in Poland has reached a level more than 2.5 times higher than the average for the countries of Western Europe

This figure made Poland one of the leaders in the late 1930s, compared to many countries of Western Europe. The incarceration rate was much lower in most countries of the region, i.e. 19 in Ireland, 30 in England and Wales, 39 in Sweden, 52 in the Netherlands, 56 in France, and 61 in Belgium. While in other countries it was not as low, i.e. 105 in Austria, 126 in Italy, 157 in Germany, and 165 in Switzerland, it was nevertheless only Finland (at 232) that showed a figure higher than Poland's.

It should be stressed that fluctuations in justice system punitiveness were not directly correlated with changes in the intensity of overt crime. While crime was burgeoning in the years 1924–1934, the intensity of penal repression remained stable. In subsequent years, in turn, intensification in penal policy coincided with stability in crime figures and a subsequent reduction in crime.

The Communist era

Throughout the Communist era in Poland, penal policy was exceptionally repressive. Only during periods which saw a certain liberalization and democratization (in 1956, in 1981, and in the years 1988–1989), sometimes marked by harsh social conflict, was there a certain reduction in the severity of penal repression.

Compared to the countries of Western Europe, Poland's justice system was the most highly punitive, as is evident in its very high prison populations. Here it should be stressed that differences in the incarceration rate were so extensive that they cannot be rationally put down to the growth seen in crime figures during those years, which was usually 2–4 times lower in Poland than in European countries. In 1984, for example, the crime rate per 100,000 inhabitants came to some 1450 in Poland, against 6755 in West Germany, 6714 in France, 5185 in Austria, 5134 in Switzerland, and 3564 in Greece.

Nonetheless, the incarceration rate in Poland fluctuated within the range of 250–300 on average, which in absolute figures represented some 90,000–100,000 individuals in prison. Short-term dips in prison population growth were caused by the amnesties that occurred with a certain regularity, or sometimes – as in 1981 – by a change in early-release practices.

In the overwhelming majority of Western European countries, on the other hand, the incarceration rate did not exceed 100 during these years. For example, in 1983 the prison population per 100,000 inhabitants stood at 51 in Norway, 53 in Portugal, 58 in Switzerland, 60 in Spain, 65 in Italy, 68 in France, 87 in England and Wales, 103 in West Germany, and 114 in Austria. The average value in the countries of the region stood at

58.2 in 1983, which was nearly 4 times lower than the rate seen in Poland, then at 232.4.

After the transformation of 1989

In the wake of Poland's political transformation, changes in penal policy led the degree of punitiveness to drop. In 1989–1997, the number of individuals in prison fell to 50,000–60,000, despite the escalating scope and intensity of crime. The incarceration rate, which fell to the level of 130–160, nevertheless continued to exceed the corresponding figures in Western European countries. It must also be borne in mind that overt crime in Poland still continued to be of lesser significance than in many Western European countries. And so, despite the reduction in the severity of penal

Comparative historical analysis of punitiveness shows that Polish penal policy has indeed been highly repressive

repression, Poland remained a leading position in Europe in terms of the number of prisoners per 100,000 crimes. In 1997 this figure stood at 5786 in Poland, while in other countries it was significantly lower, e.g. 2057 in Italy, 1558 in France, 1476 in Greece, 1350 in England and Wales, 890 in Germany, and 796 in Finland. Of all European countries, only Russia saw a higher figure, at 40,056.

In recent years (since 2000), there has been a very evident trend towards harsher penal policy in Poland. The number of individuals in prison rose from 56,765 in 1999 to 80,467 at the end of 2002. Such a significant increase in prisoner numbers has led penitentiary facilities to become overpopulated. At the same time, in 2002 some 24,000 convicted individuals were waiting for the enforcement of their prison sentences. The incarceration rate in Poland (208) reached a level more than 2.5 times higher than the average for the countries of Western Europe, which stood at 82.2.

As it turns out, the Polish criminal justice system is these days still highly repressive as compared to those of Western European countries, yet this considerable severity of penal repression does not stem from considerations of a criminal policy nature. One may conclude that the current shift towards harsher penal policy is a consequence of the politicization of penal policy issues and the fight against crime. ■

Further reading:

- Melezini M. (2003). Punitiveness in the Polish Criminal Justice System in the 20th Century. [in Polish] Temida 2, Białystok.
Szymanowski T. (2004). Penal and Penitentiary Policy in Poland during the Transformation of Penal Law [in Polish]. WUW, Warszawa.