

## **Female perpetrators of rape with particular cruelty**

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### **Summary**

The primary objective of the study was an attempt to develop and present the characteristics of women committing rape with particular cruelty, taking into account the manner in which the female perpetrators have committed the acts, their motivations, as well as the circumstances of the crime. The objective of the study was also to provide information on who the aggrieved persons are and what the accountability of women before the court looks like (in particular, whether there are any differences in the reactions of the system to the acts committed by men and women). The first part sets out a brief note about criminality of women (including sexual criminality), whereas the second part presents the results of my research concerning cases of rape with particular cruelty committed by women. The research was conducted on the basis of the empirical data from criminal cases in which the conviction was based on Article 197 § 4 of the Criminal Code and in which women were the perpetrators or co-perpetrators. Due to the particular nature of the offences, the research material included court files of cases which ended in a final and binding judgment. The analysis covered criminal cases in which a final and binding judgment was issued in the years 2005–2012. In the analyzed cases, women took an active, aggressive and oftentimes dominating role in both planning and execution of the act. All acts were committed jointly with men, and the women were under the influence of alcohol during the commission of the offence. The presented results of the study portray a “typical” female perpetrator of rape in a different light than previous studies did, however, it should be stressed that the results of the analysis should be further examined and extended by including cases not only of rape with particular cruelty, but other offences as well.

**Key words:** rape with particular cruelty, criminality of women, sexual offenders

## Introduction

Crime among women is not a new phenomenon; every year, the official police and court records show that it constitutes 10% of all criminal acts<sup>1</sup>. For many years, both media and academic literature on this subject have been focusing on the changes occurring not only in the dynamics, but also in the quality of crimes committed by women.

This article is an analysis of selected aspects of criminal acts committed by women, which are the offence of rape with particular cruelty. It is composed of two parts: the first one is a brief historical note of criminal activity of women, whereas the second part presents the results of the study of court files concerning the cases of rape with particular cruelty committed by women.

### Criminal activity of women

The issues relating to criminal activity of women have been of interest to researchers for a long time. Along with the studies aimed to increase the knowledge about criminality of men, the researchers were simultaneously striving to discover the reasons for criminal activity of women. Depending on the leading research trend, the researchers were looking for the sources of this phenomenon in the physical or psychosocial features. From the historical point of view, the following theories expounding the criminal activity of women can be distinguished:

- anthropological concepts;
- biochemical concepts;
- genetic concepts;
- psychological theories;
- sociological theories;
- multi-factorial theories.

Each of the above concepts recognizes different factors as the reasons for criminal behavior of women. According to anthropological concepts, which were the token of Cesare Lombroso, the tendency to break the law is genetic, and a born criminal can be recognized by certain traits of physical appearance [1]. Two categories of female offenders have been defined in this trend: the first category is the so-called born criminals, who, by acting in a certain manner, want to become more like men, which makes them “semi-man” [1]. Born criminals have been marked, among other things, by reluctance to be a mother, increased sexual desire, tendency to be promiscuous, preference for outfits, activities and addictions which are typical for men [2, p. 29]. Furthermore, it was believed that born criminals have such physical attributes as: “large jaws, hard eyes, prominent cheekbones, thin lips, male-like physiognomy, vellus hair on the face” [1, p. 216–217]. The second category of female offenders was described

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<sup>1</sup> <http://statystyka.policja.pl/st/wybrane-statystyki/przestepczosc-kobiet/50869,Przestepczosc-kobiet.html> (retrieved: March 2019)

as “occasional criminals” [1]. According to Lombroso, most women committing crimes are occasional criminals because, as weak and submissive creatures, they engage in criminal activities when encouraged by men. Crimes against property are an exception, as it was believed that women committing theft had a disturbed understanding of ownership (understanding of ownership “at the level of a young child”) [2, p. 28–29].

Although the theory was widely criticized [3], it later formed the foundation for a range of concepts explaining biological predetermination of female criminality. One piece of this foundation were the views advanced by William Isaac Thomas [4], who indicated in his works that the reason for criminality of women was their dissatisfaction with their sex roles. On the other hand, Otto Pollak [5] argued that physiological cycles can cause disturbance of psychophysical balance of women and, thus, foster criminal activity. He believed that women commit crimes just as much as men, although it is revealed much less frequently. Furthermore, he considered the traditional model of female gender roles and the so-called male notions of chivalry towards women to be the reasons why crimes committed by women are not revealed. He thought that men wanted to protect women and treat them in a caring manner, which was supposed to be reflected in the lenient reactions of the justice system to offences committed by women.

Another explanation for engagement in criminal activity by women were the biochemical concepts, which focused on the influence of periodic hormonal changes in the female body on their increased criminal activity [2, p. 35]. This line of research was inspired by Pollak’s works. Over the time, these ideas developed to cover not only the menstrual period, but also pregnancy, postpartum and climacteric periods. On the basis of the research conducted at that time, the so-called premenstrual syndrome (PMS) was identified. It became a key part of works for many researchers. One of them was Katharina Dalton, who advanced the thesis according to which women suffering from PMS are more likely to engage in criminal activity [6, 7]. Another stage of a woman’s life which some researchers believe to be a time of “raging hormones” is pregnancy and childbirth [2, p. 39]. According to the concept based on the thesis that hormones affect criminal activity, some women at that stage of their lives might show a tendency to steal things and abuse children [8]. Another issue that was stressed was the link between the killing of a newborn by the mother during the birth. These views, until this very day, are reflected in the Polish Criminal Code, which provides for infanticide as a type of privileged killing. Biochemical concepts of why women engage in criminal activity give a lot of attention to the time of climacteric and ageing. Some researchers stress that it is, indeed, between 40 and 50 years of age when the criminal activity of women goes up [8, 9]. It is important to note that the theses adopted by the supporters of biochemical concepts have never been unambiguously confirmed, on the other hand, there have been no analyses that would definitely contradict such conclusions, neither [10].

The development of genetic testing lead to the search for links between the heredity of traits and criminal conduct. It was assumed that since the sequence of DNA contains information about human behavior, then some group of genes must be responsible for the tendency to break the law [2]. In the beginning, the studies were based on biographical analyses, but later they were extended to include adoption studies and twin

studies. As a result of the studies aimed at establishing compliance of certain traits or behavior among monozygotic or dizygotic twins, it was found that both adolescent men and women show the highest level of compliance in terms of criminal activity [2, 11–13]. There was a 100% compliance in terms of engagement in criminal activity among monozygotic twins, and a 50% compliance among dizygotic twins, which the researchers believed to be a proof that criminal activity is predetermined genetically. This concept was widely criticized. At this point, it is worth quoting Stanisław Batawia, who stressed that “deviations and criminal offences are a consequence of a dynamic and cumulated impact of both genetics and environmental influences” [12, p. 74].

In the context of criminal activity of women, subsequent genetic concepts considered its source to be the development of the model of male and female personality. It was assumed that criminal activity was associated with the Y chromosome and its abnormalities, which can be found in male criminals more frequently. Female perpetrators of crime, according to these assumptions, were supposed to manifest male features and anomalies in the structure of female chromosomes [14]. The results of the study were inconclusive. In his research, Louis J. Kaplan [2] discovered the link between the chromosome anomalies in women and their criminal activity. In the population of convicted women, 1% of the group had three female chromosomes in the chromosome structure, 1% of the convicted women did not have the second female chromosome, whereas in the control group there were less women like this – 0.12% and 0.48% respectively. On the other hand, Lee Ellis postulated that, irrespectively of chromosomes and hormones, there were also other genetic factors affecting the criminality of women. He listed such factors as, among other things, smoking cigarettes during pregnancy, serotonin levels, speed of brain waves, epilepsy, and diabetes [14].

A different picture of predispositions to engage in criminal activity by women is provided by psychological theories. The first researcher who dealt with this topic was William I. Thomas. He rejected his previous theory of a “plant-like” nature of women and advanced it in the direction of a further search for psychological and social factors. According to Thomas, women with a tendency to engage in criminal activity expect the society to make them worthy and necessary for other people and the society [2, 16]. The most influential psychological theory explaining female criminality is the psychoanalytical theory. The structure of human personality proposed by Sigmund Freud and stages of its development were the foundation for interpretation of various deviations in behavior, including criminal activity. This concept outlines three parts of personality which work together and are dependent on each other, and these are: *id* (the unconscious part of the psyche), *ego* (conscious part of the psyche) and *superego* (structure in the psyche where the internalized norms of behavior are located). A conflict between any of these areas can lead to psychopathological occurrences [2, 11]. Similarly, disturbance of one of the stages of sexual development (oral, anal, phallic) can cause a fixation or complex. Freud believed that women, being unable to deal with their gender roles, show their discontent through their aggressive, rebellious behavior or other forms of immature neurotic behavior [2]. Female criminals were believed to be unfit for community life in a society due to the failure to fulfill their female gender roles. Other researchers who developed psychoanalytical theories and whose

works were concerning aggressive behavior of women, at least in some part, were: Adler, Jung, Erikson, Aichhorn, Fromm. Adler focused not on the sexual energy, but on the self-esteem. He believed that people strived to control others by winning an advantage over them. He thought it is the low self-esteem that is driving and motivating human behavior, so crimes committed by women may be a form of revenge for discrimination or they can be driven by the desire to improve one's position in a social group. Jung's works, in turn, introduced the term of archetype, which is a creation of experiences collected by the humankind. He believed that there is a female aspect of a male personality and a male aspect of a female personality. He called the feminine archetype in a man – *anima*, and the masculine archetype in a woman – *animus* [2]. The archetypes, according to Jung, could be conflicting with each other, they could cause misunderstandings and, as a consequence, cause domination of the masculine side over the feminine side. Such women not only take over the masculine lifestyle or life values, but also the tendency to be violent and commit crimes. Erikson, in turn, focused on the crises that every person goes through from early childhood until the old age. The manner one deals with particular crises influences the general functioning of a human, in particular, his or her personality profile. As a result of the experienced crises, the personality structure is recreated, hence, the system of values and approaches has to be reconstructed from scratch. According to this theory, criminal activity may result from a crisis that has not been dealt with completely or from a change in the hierarchy of one's values. Aichhorn believed that some men and women are predisposed to commit crimes. These predispositions are characterized by impulsive behavior, egocentric attitude toward the world or no feeling of guilt. He indicated that criminal activity is a far-reaching consequence of childhood experiences and it is rooted in the disturbed parent-child relationship. Fromm highlighted that human aggression can take two forms: benign aggression (biologically-based, instinctive adjustment to environment) and malignant aggression (socially-based, derivative of one's character). Fromm identified pseudoaggression in both men and women; this is a type of behavior that could be hurtful to someone, although it is not targeting that person directly.

As mentioned, above, the key role in the search for sources of female criminality was played also by sociological theories. Depending on the social determinants which play the key part in a given concept, we can distinguish between socio-economic theories, gender role theories, emancipation of women theories, control theories, strain theories, and feminist theories. According to the socio-economic approach, expounding criminal activity of women requires looking into the social and economic backgrounds [17]. Gender role theory stresses that the smaller participation of women going down the criminal path is caused by a different socialization processes of women and men, i.e., other patterns that boys and girls are being inculcated with from a very young age on. The concept of emancipation of women, however, devotes a lot of attention to the increased professional activity of women and the increased crime opportunities that it entails [8]. Adler believed that categorizing between typically male and typically female offences is artificial since the “emancipated female perpetrator of today is capable of committing any «male» crime, although in a different manner and using a different technique than a man would [2, p. 68].

At first, female criminality was associated with such offences as termination of pregnancy, infanticide, child abandonment, fraud, theft, handling of stolen property, reckless burning, defamation, giving false testimony [2, p. 28]. Manslaughter and robbery with violence were considered to be typically male crimes. If a woman committed manslaughter, it was likely to be a killing in the heat of passion (usually of a partner) or infanticide.

The literature on that subject is abundant in analyses concerning female victims of crimes [18]. There have been also attempts to characterize women as perpetrators of sexual abuse of children [19], manslaughter [20] and infanticide [21]. However, no comprehensive studies concerning female perpetrators of rape can be found. These topics have been discussed extensively from the perspective of perpetration by men [22].

### **Research objective**

The primary objective of the study was an attempt to develop and present the characteristics of women committing rape with particular cruelty, taking into account the manner in which the female perpetrators have committed the acts, their motivations, as well as the circumstances of the crime. The objective of the study was also to provide information on who the aggrieved persons are and what the accountability of women before the court looks like; in particular, whether there are any differences in the reactions of the system to the acts committed by men and women.

### **Method**

The research was conducted on the basis of the empirical data from criminal cases in which the conviction was based on Article 197 § 4 of the Criminal Code and in which women were the perpetrators or co-perpetrators. The research material included court files of cases which ended in a final and binding judgment. The analysis covered criminal cases in which a final and binding judgment was issued in the years 2005–2012. It was a fully intentional move to disregard the cases in which the classification of the act was changed, as the purpose of the study is not to analyze whether the court was right to apply the particular cruelty classification – it was, as mentioned above, to show the background motives of the female perpetrators' conduct and their psychosocial traits. To present a broader picture of the phenomenon, the obtained data and characteristics were presented from various research perspectives (psychological, legal and sociological one).

### **Results**

The obtained results will be presented in the qualitative manner with reference to the number of cases.

### Characteristics of subjects

The analyzed research material included court files of criminal cases from seven regional courts. In 31 cases qualified under Article 197 § 4 of the Criminal Code, there were 49 perpetrators, including 15 women, thus, 1/3 of the perpetrators were women.

### The offence and circumstances of commission

Most of the analyzed offences committed by women were actual rapes; only two cases were classified as attempted rape. The rape was unsuccessful due to the strong resistance of the victim and a third-party intervention.

In a vast majority of cases, the offences occurred in the female perpetrator's apartment (8 cases), in two cases it was the victim's apartment, and in two further cases – a third-party apartment, including a summerhouse. Four incidents occurred in random places, such as a park or forest.

In the majority of the cases, the non-sexual motivation of the act was a characteristic feature of the rapes committed by women. In the analyzed group of cases, the majority of women (9 out of 15) were motivated by revenge on the aggrieved person. The sexual activities were supposed to humiliate the aggrieved person and cause suffering for the inflicted harm; sexual satisfaction was not the goal. It should be stressed that the harm which was the motive for commission of rape had various origins: unpaid debts, infidelity, gossip. Less frequently (in 4 out of 15 cases), rapes committed by women occurred in social meetings, where all participants of the event – perpetrators and the aggrieved person – were under the influence of alcohol. The sexual motivation appeared during participation in a game where the women were usually co-perpetrators of the rape, acting jointly with men. The least numerous group of cases (two) were the rapes where the women took advantage of the aggrieved person's vulnerability – in the analyzed cases, it was mostly the victim's young age. The following presents the selected cases together with the background of motivations for each offence.

#### Motive for rape – revenge

“The aggrieved person is a woman aged 28. The incident took place in the boyfriend's apartment in the afternoon hours (1–2 p.m.) The boyfriend, accompanied by his friend, had gone to a shop nearby. That was when three persons entered the apartment (two men and one woman). They pushed the aggrieved person down onto the bed. They tried to force her to sexual intercourse by threatening her to kill her and beating her up with their fists. The aggrieved person was not familiar with those people. The motive for their actions was the unpaid debt owed by the victim's boyfriend to one of the perpetrators. Raping the debtor's girlfriend was supposed to be a punishment for a delay in repayment of the debt”.

“The aggrieved person is a woman aged 21. The incident occurred in the apartment of one of the perpetrators. The woman knew all of the perpetrators very well. Under the pretext of having a conversation, she was lured into the apartment, where

two other people had been waiting. The perpetrators were one man and two women. At the moment of committing the offence, all of the perpetrators were under the influence of alcohol. They held the aggrieved person in the apartment for several hours, where she was repeatedly forced into having sexual intercourse with the man, as well as performing other sexual actions. Simultaneously, she was being beaten up brutally and abused verbally. The motive for the perpetrators' conduct was revenge. The husband of one of the perpetrators admitted to having sexual contacts with the aggrieved person".

#### Motive for rape – amusement

"The aggrieved person is a girl aged 13. The aggrieved person was at a barbecue party at her friends', where they were all drinking alcohol together. The perpetrators are a woman and a man (intimate partners), aged 33 and 25. At some point, the perpetrators pushed the aggrieved person down onto the bed and, by using force and threatening her to kill her, they forced her to sexual intercourse".

"The aggrieved person is a woman aged 30. She knew the perpetrators very well; she had met them on multiple occasions before. The perpetrators are a woman and a man (married couple). The incident occurred in the evening hours. The perpetrators and the aggrieved person were drinking alcohol together; the aggrieved person's partner left the party early due to the late hour. The aggrieved person was supposed to stay for the night at her friends'. While drinking alcohol together, the married couple suggested having a sexual intercourse all together. When the woman refused, the perpetrators tried to force her to sexual intercourse by pushing and pulling her and holding her down. Due to the aggrieved person's resistance, the attempted rape was unsuccessful and she managed to escape the apartment and call for help".

It should be stressed that all acts (rape with particular cruelty) were committed by women jointly with other perpetrators (in 5 cases there were two co-perpetrators, in 7 cases there were three co-perpetrators, in 2 cases there were five co-perpetrators, and in 1 case there were six co-perpetrators). The analysis of the relationships between perpetrators indicates that in six cases women committed the offences jointly with other men (male friends). One in four offences was committed by a woman jointly with her current partner (husband, boyfriend, intimate partner), and one in three offences – with a relative (brother, sister-in-law, brother-in-law).

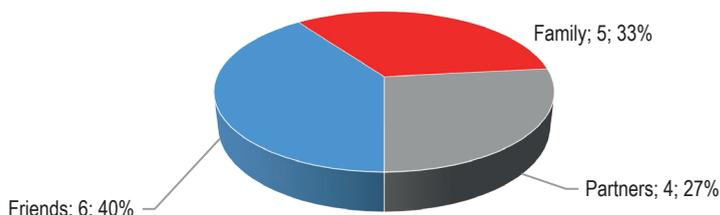


Figure 1. Relationships between perpetrators of rape

An important element in assessing the degree of the co-perpetrator's fault is the fact of premeditation of the offence. In the cases where the women were perpetrators of rape with particular cruelty, vast majority of the acts (12 out of 15 cases) was premeditated and precisely planned. What the plan included was, among other things, how to lure the aggrieved person to a certain location and what tools can be used during the rape.

"The aggrieved person is a woman aged 21. The incident took place in the forest. The woman was engaged in prostitution. The perpetrators were a woman and a man (a married couple). Under the pretext of a sexual service, the victim was lured by the man into the car and driven to the forest. The woman (the man's partner) was hiding under the blankets at the back seats of the car at that time. The victim was forced to have sexual intercourse with the man in the presence of his wife and was being beaten up and verbally abused by the wife. After the sexual intercourse with the man, the female perpetrator raped the woman multiple times using a vibrator. The motive of the act was revenge. The man had used sexual services of the victim many times before. When his partner found out about this, she accused him of wasting their money and she accused the woman of theft. As a revenge, she planned the commission of rape".

"The aggrieved person is a woman aged 27. Unmarried woman with intellectual disability (diagnosed with mild intellectual disability – according to the expert witness opinion) and alcohol addiction. She knew the perpetrators very well. She consumed alcohol with them on multiple occasions. The perpetrators were two women and one man. The perpetrators were drinking alcohol with the aggrieved person and forbid her to leave the apartment, where they were staying, without their permission. During that time, they raped her multiple times and they abused her physically and mentally. They forced her to have sexual intercourse in the presence of other people, using such tools as a bottle to imitate sexual intercourse. As a result of the applied force, the aggrieved party suffered serious bodily harm (disturbance of health for more than 7 days, according to the expert's opinion)".

In reference to the proportion of all cases in which women committed rape, in most cases (8 out of 15), during the commission of rape, women used various objects to imitate sexual intercourse (rod, stick, bottle, vibrator).

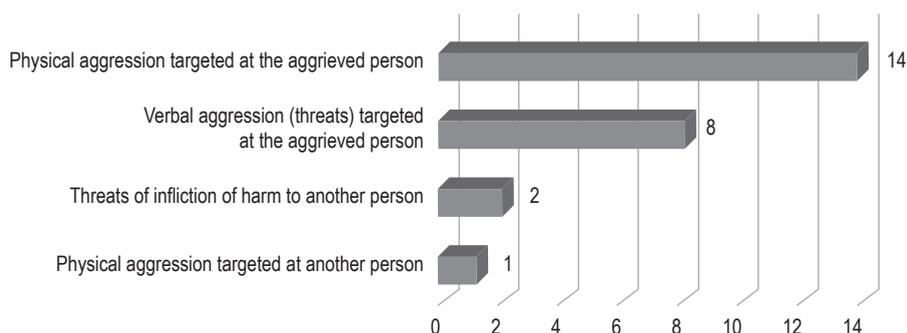


Figure 2. Manner in which female perpetrators commit rape (absolute figures)

The conduct of female perpetrators of sexual offences was not, at all, pure facilitation. In all cases which were the basis of the empirical data for this study, women played the leading part. In 14 out of 15 cases, women used various forms of direct physical aggression against the victim, and these were, for example, hitting with fists, kicking, pushing and pulling, holding down. In the vast majority of cases, physical aggression was accompanied by verbal aggression, verbal abuse, insulting. In individual cases, in order to force their victims to subordination, the women used threats or even physical violence towards other people who were in a close relationship with the victim.

### Psychosocial characteristics of female sexual offenders

The analysis of the age of female perpetrators of rape with particular cruelty shows that in the vast majority of cases, those were women up to 40 years of age (86%), and half of them were below the age of 30. Only in two cases were the female perpetrators above 40 years of age (53 and 69 respectively). The youngest woman convicted for rape was 17 years old. The average age of the female perpetrators was 34 years.

Data on the marital status of female perpetrators of rape indicate that most of them (8) were in a relationship at that time; the rest of them (7) were single (unmarried – 5, divorced – 1 or widowed – 1, respectively).

In terms of education, most of the women had a low level of education – half of them had only primary or lower education. A quarter of them graduated from a basic vocational school, two women had a secondary education, and one woman had a higher education.

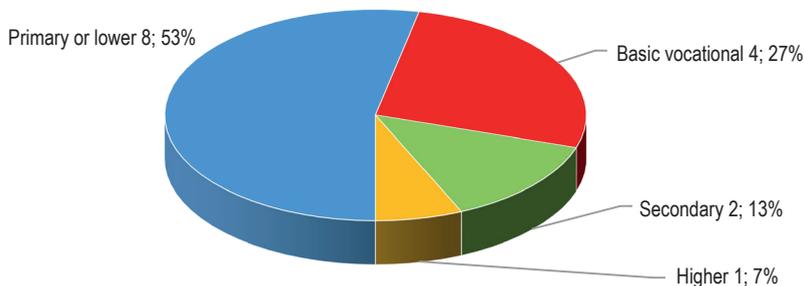


Figure 3. Education of female perpetrators of rape

Among criminogenic factors accompanying commission of crimes, consumption of alcohol plays the key part. Among the women who committed rape, most of them were under the influence of alcohol during the incident (in one of the cases the perpetrator was sober, whereas in two cases it was impossible to establish whether she was or was not). Based on the analysis of the documentation contained in the case files in terms of addictions, it can be said that most women were found to be addicted to alcohol or to be abusing alcohol (in 5 and 6 cases, respectively).

Due to the type of the committed act (rape with particular cruelty), the female perpetrators were submitted to psychological or psychiatric assessments or other examinations. With regard to women who were submitted to detailed examinations, the most frequent evaluation was the psychiatric assessment (one-time or an observation if the experts were unable to develop a comprehensive opinion after a single session). Four women were submitted to psychological assessment, and three women took

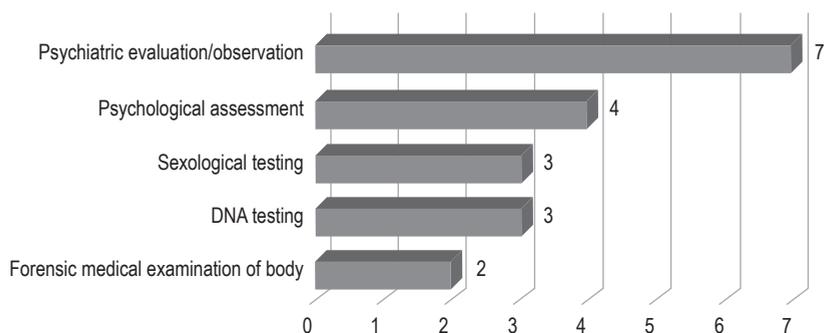


Figure 4. Types of examinations carried out on female perpetrators (absolute figures)

sexological consultations. DNA testing was applied with regard to two women, and two women had a forensic medical examination.

All of the examined persons assessed their own health to be good (self-assessment of the subjects). Based on the analysis of court psychological, sexological and psychiatric evaluations, the most frequent personality disorders of female perpetrators of rape have been established. It should be stressed that the data on the mental functioning were established with regard to 12 women. Comprehensive diagnostics were applied to only two of them, which means that they were submitted to psychological, psychiatric and sexological assessments.

Seven out of the 12 diagnosed women were found to have personality disorders (of various kinds). All of them were diagnosed with psychopathic personality, including three women with the epileptic type. The court psychological opinions drew the attention to other co-existing disorders, such as adjustment disorders, “checked infantilism”, “hysterical feature”.

Tests aimed at assessment of intellectual functioning were carried out with regard to six women. Two women were diagnosed with intellectual disability (moderate and mild, respectively). In both cases the level was at the bottom of the threshold. The question of sanity was assessed with regard to four women, and those were the women diagnosed with mental retardation or a low intellectual ability<sup>2</sup>. Limited sanity

<sup>2</sup> With regard to intellectually disabled persons, it is mandatory to assess their sanity (legal basis: Article 31 of the Criminal Code).

was established with regard to three of the examined women (two of them with considerably diminished capacity, and one – mildly diminished). In the remaining cases (1 subject where insanity was excluded), it was found that the female perpetrators were of completely sane mind at the time of the offence.

Examination of the court files concerning women convicted for rape with particular cruelty included analyzing the data pertaining to the manner of social functioning of the women, as well as analyzing their previous criminal records. It turned out that among all of those women, three of them had had previous experience with crime. One of them was charged with rape, which is a similar offence. The remaining cases were robbery with violence and taking part in a brawl or a beating.

### Characteristics of the aggrieved persons

The offence of rape can be committed by multiple acts, which means that in addition to the very rape, the perpetrator's actions may also qualify as other offences, such as robbery with violence, causing disturbance of health, theft, etc. Also, there can be multiple perpetrators or multiple victims. The analysis of empirical data on aggrieved persons in cases of rape where a woman was one of the perpetrators indicates that these are mainly acts targeting one person. There were only two cases with two victims of rape and, in both cases, the victims were both a man and a woman (in both cases, a couple). In the majority of cases, the aggrieved persons were women (9 cases). Men constituted slightly more than  $\frac{1}{4}$  of the aggrieved persons (4 cases).

Analysis of data pertaining to the age of the aggrieved persons (as of the time of the incident) indicates that in the vast majority of cases (67 %) those were young persons of less than 30 years of age, with a third of them being below 15. Five of the aggrieved persons were more than 30 years old at the time of the incident (two persons were 48, one person – 49, two persons – 62, respectively). Most of the aggrieved persons were unmarried (9 cases), which is not surprising due to their young age.

The literature on that subject highlights the fact of the victim's earlier acquaintance with the perpetrator. Looking at the female sexual offenders, in the vast majority of cases, the women knew the aggrieved person. In only two cases (out of 15), the aggrieved person was a stranger to the female perpetrator. However, it should be stressed that the acts were committed by women jointly with other persons (men), and the victim was in some sort of relationship (acquaintance) with the other perpetrator. Detailed analysis of the empirical data concerning the relationships of the aggrieved person and the female perpetrator of the offence indicates that, in most cases (7), it was a friendly association – fellowship. In two cases, the perpetrator and victim were related (daughter, step-daughter). Also, in other two cases, the aggrieved person was living in close vicinity, and in two following cases – he or she knew the perpetrator by sight.

Particulars of the aggrieved persons were also gathered for the purposes of this study. The case files did not always contain all information that was relevant from the research point of view. However, I managed to establish certain characteristic traits of the aggrieved persons. In terms of education, information relating to six people has been established. All of them had a primary or lower education, three of them were

during the primary education, two other persons never graduated from high school. One person was diagnosed with mild intellectual disability and three were found to be addicted to alcohol. Two persons had the negative reputation of being “promiscuous” (one of them was a prostitute).

It seems relevant from the court’s perspective whether the aggrieved person was under the influence of alcohol or other substances during the incident. The reason why this issue is raised is not to stigmatize the aggrieved person or shift the responsibility for the crime from the perpetrator onto the victim; it is, in fact, to show how the perpetrator takes advantage of the alcohol intoxication or even deliberately causes such intoxication. In the examined population, most of the aggrieved persons (9) were under the influence of alcohol during the offence. One in four of the victims was held by the perpetrators for many hours and was sexually abused multiple times. In one of the cases it took as long as three days.

Nearly all of the aggrieved persons, in their testimonies as well as during the proceedings before court, pointed out to the moral aspect of the harm that had been inflicted to them. Only one person (the one engaged in prostitution) said that she suffered physically, but not morally. Also, one of the aggrieved persons did not suffer any physical injuries but highlighted the aspect of mental damage. In the remaining cases, the victims did suffer physical injuries. Six of them were inflicted minor injuries (bruises, abrasions, scratches), four of them – moderate injuries (classified as injuries causing disturbance of health for up to seven days), and four persons suffered serious injuries (causing disturbance of health for more than seven days) – two of those died.

### Characteristics of proceedings

During the proceedings, in three cases there were events where the female perpetrators of rape tried to intimidate, bribe or persuade the aggrieved persons to change their testimonies. Preventative measures were used against the female perpetrators who were found in the above-mentioned situation, as much as the other ones. Preventative measures were not applied only with regard to one woman; 13 women were taken into custody for preventive detention; police surveillance and financial guarantee were applied to one of the women.

One in three women confessed to committing the act of which she was accused. Most of them, however, during the proceedings tried to present themselves in a more favorable light and diminish their role in the committed crime. The vast majority of women (11), during the proceedings, presented an attitude of shifting the responsibility onto the aggrieved person and discrediting him or her as an addicted person leading an “obscene” lifestyle.

Other issues that were analyzed, in addition to aspects relating to female perpetrators’ conduct, characteristics of the offence and psychosocial features of aggrieved persons, were the selected pieces of information concerning the proceedings before court and the penalties imposed on the women. The breakdown of data indicates clearly that in most cases (12), the women were convicted for rape and sentenced to immediate deprivation of liberty. In only one of the cases the penalty was conditionally suspended deprivation of liberty, and in two cases there was a different penalty.

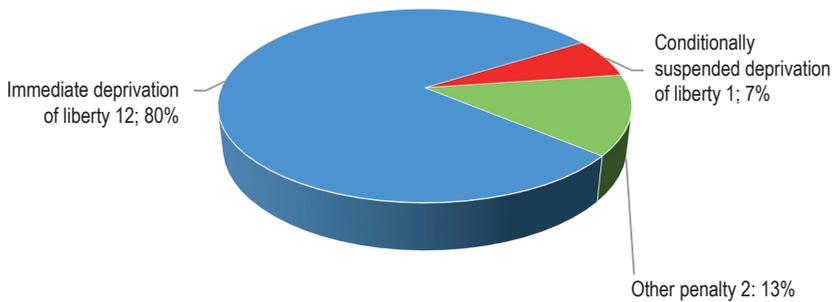


Figure 5. Types of penalties imposed on female perpetrators of rape – 1st instance

The penalty of immediate deprivation of liberty imposed by the courts on female perpetrators of rape ranged from 3 to 5 years<sup>3</sup>, which is the bottom of the threshold provided in the statute for this type of crime. Only in two cases was the penalty higher, and it was 6 and 12 years respectively. Three women were imposed the conditionally suspended penalty of deprivation of liberty for two years and were placed under probation with a probation period of 4 years. Detailed breakdown is presented in Table 1.

Table 1. Measure of penalty of immediate deprivation of liberty

Measure of penalty imposed	Number of convictions
3 years	3
Between 3 and 4 years	4
Between 4 and 5 years	3
More than 5 years	2
Other penalty	3

From the research perspective, it was important, on the one hand, to present the characteristics of the female perpetrators of rape and to grasp the peculiarity of the offences committed by women, but also to capture any potential differences in the treatment of female offenders by the justice system. For this reason, I analyzed the statements of grounds of the issued judgments with a special focus on arguments raised by the judges as factors mitigating or aggravating the type and measure of the penalty imposed.

The argument that was most frequently put forward by the court in favor of “mitigation of the penalty” was the fact that the convicted women had had no previous criminal records (this argument was raised in one third of the cases – in 5 cases). In two cases, the court took into consideration the fact that the convicted women had

<sup>3</sup> Following the amendment of the Criminal Code in 2010, the minimum measure of penalty for the crime of rape with particular cruelty was changed from 3 years to not less than 5 years of deprivation of liberty (Dz. U. (Journal of Laws) of 2009 No. 206, item 1589, Article 1)

had a good reputation, and in the following five cases – the manner of commission of rape (no physical injuries inflicted to the aggrieved person, “no «severe» violence on the part of the female perpetrator, no sexual contact, no rape – only attempted rape”). The court found no mitigating circumstances for three of the convicted women.

As mentioned above, the statements of grounds of the judgments were analyzed also in terms of arguments in favor of aggravation of the penalty imposed. The argument that was used the most frequently was the commission of the crime under the influence of alcohol (6). In addition, attention was given to other features of the crime, such as: social harmfulness of the act (4); intentional crime committed with high brutality (2); and the traits of the convicted women, such as: previous criminal records (2 women), bad reputation in their environment (2 women), not showing remorse (2 women). It was also relevant for the court to look at the aggrieved person himself/herself, as the aspect of the victim’s strong psychological trauma was taken into account (2 women).

The aggrieved persons are instructed about their right to be notified about the convict being released from the penal institution when the term of the immediate deprivation of liberty ends or in the event of an early release. In the majority of cases, the aggrieved persons were duly instructed about this right. The procedure was not followed in only one of the cases. None of the aggrieved persons filed a motion for a notification about the perpetrator’s release from the penal institution.

Furthermore, the judgments were appealed against in the majority of the analyzed criminal cases (13). In all cases, the parties lodging the appeal were the female perpetrators of rape and their attorneys. In six cases, the appealed judgment issued in the first instance was fully upheld by the court. In one case, the judgment was revoked and the case was referred back for reconsideration. In three cases, the court changed the judgment, and in two cases the legal classification of the offence was changed.

The changes of the legal classification consisted in classifying the act as group rape instead of rape with particular cruelty. In terms of the change of the judgment, in one of the cases the length of the penalty imposed on the perpetrator was reduced, and in two cases the same measure of penalty was upheld and, in addition, deprivation of public rights was imposed.

### **Discussion and conclusions**

The gathered empirical data made it possible to present the issues relating to sexual violence of women. Although the research was concerning 15 criminal cases in which women were charged with rape with particular cruelty (Art. 197 § 4 of the Criminal Code), it should be stressed that those were all the cases from 2005–2012 in which such offence was committed. As the data analysis shows, the participation of women in all convictions for rape with particular cruelty was a significant percentage, as one in three offences had a female perpetrator.

What seems to be typical for female perpetrators of rape with particular cruelty was the non-sexual motivation. In few cases did the women, jointly with their partners (husband, intimate partner) induce or attempt to induce the aggrieved person to have sexual intercourse, where the act was motivated sexually, and the consumption of

alcohol affected the perpetrators' ability to control their urges. The motive that came up the most frequently was revenge. The rapes were committed as a revenge, either on the aggrieved person himself/herself, or on a person with whom the aggrieved person was in a close relationship. The acts motivated by revenge could be found also among male perpetrators, however, that is in a significantly lower percentage – it does not exceed 10% of all offences under that Article [23].

The common denominator for crimes committed by women (rape with particular cruelty) was the manner in which the act was performed. All of the offences were committed in a group, jointly with other men. The vast majority of women used various objects to perform the rape, that is, to imitate sexual intercourse. It should be signalized at this point that offences committed by men also involved application of dangerous objects (70%) [23, p. 177], however, in most of these cases, the items were not used to imitate sexual intercourse (penetration of the body), but to overcome the resistance of the aggrieved person.

The characteristics of the relationships between the perpetrators and the victim appear to be similar in the case of male and female perpetrators. Most of the aggrieved persons knew the perpetrators of rape. The female criminal activity was slightly different in terms of the location where the offence was committed. Due to the sexual motivation of the act in the male group of offenders, besides the perpetrator's or the victim's apartment, the places where the rape was committed included also random locations, such as the park, forest, street. In the case of women, the prevalent location was the apartment of one of the perpetrators. Random places (park, forest) occurred very rarely and if so, the offences were motivated by revenge and they were planned in great detail, so, in fact, the locations were not selected randomly.

Another interesting discovery is the result of the study in relation to certain aspects of the preliminary proceedings, court trial and the penalties imposed. Rape with particular cruelty is a very serious crime, which is reflected in the measure of penalty envisaged in the Criminal Code for this type of offence. To emphasize this fact, in 2010 the legislator decided to increase the minimum term of imprisonment from 3 years to no less than 5 years. On the basis of the obtained results I can say that the penalty of deprivation of liberty imposed on women for rape with particular cruelty was between 3 and 5 years, and this measure was at the bottom of the threshold of punishment applicable in 2005–2012. On the other hand, the average penalty imposed on men for a similar offence was between 5 and 6 years [23]. There are certain differences which can be seen in terms of specialized examinations of the convicts. The analysis of the case files indicates that female perpetrators of rape with particular cruelty are less frequently submitted to specialized psychological, sexological or psychiatric assessments aimed at verification of potential disorders. In-depth diagnostics were performed only with regard to the intellectually disabled women, and the examination was aimed at assessment of sanity as provided for in Article 31 of the Criminal Code. It could be assumed that the differences do not result from the very inclinations concerning the perpetrator's gender, but from other factors characteristic to the female perpetrator's actions. The fact is that the women were being sentenced for the very first time, and those who had had criminal records, had not been involved in offences against sexual

freedom. What can be seen in male perpetrators, in turn, is repeatability of similar offences, which can indicate disorders in some areas, such as sexual preferences. It should be noted that almost all acts were committed by women under the influence of alcohol and this factor was almost completely disregarded in the proceedings. This issue is significant from the perspective of serving the penalty of immediate deprivation of liberty. Although the applicable law provides that every person convicted for sexual offences must serve the penalty of deprivation of liberty in conformity with the rehabilitation program, performing relevant diagnostics could definitely make it easier and faster to apply appropriate procedures towards the convicts in the penal institutions.

To sum up, it should be stressed that the results of analyses of cases of rape with particular cruelty committed by women and men indicate certain differential characteristics. Criminal activity of men is distinguished by a more diverse nature of acts in terms of the aggrieved persons (their age, gender, education, status) and circumstances of commission of the rape (revenge or sexual motive). Criminal activity of women, in turn, is more homogeneous in terms of the nature of acts (place of commission, personal features of the aggrieved persons, personal features of the female perpetrator), and is distinguished by a similar mode of action (usually revenge). Therefore, it should be stressed that it seems to be a myth that women usually take a passive role of a helper or observer in the commission of sexual offences. In the analyzed cases, women took an active, aggressive and often-times dominating role in both planning and execution of the act. Also, the analysis has indicated that the penalty of immediate deprivation of liberty was a bit shorter for women as opposed to men.

The presented results of the study portray a female perpetrator of rape in a different light than previous studies did, however, it should be stressed that the analysis results should be further examined and extended by including cases not only of rape with particular cruelty, but other offences as well. It would be unquestionably beneficial to compare these results with data concerning similar criminal activity of men [24].

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