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## Delinquenza femminile in Spagna e modalità di trattamento

### La délinquance féminine en Espagne et son traitement

### Female delinquency in Spain and its treatment

*Nuria Fernández Fernández\**

#### **Riassunto**

La delinquenza femminile registrata dalle statistiche in Spagna rappresenta una percentuale inferiore al 10% del totale, come in altri paesi europei; tuttavia, le donne continuano ad essere maggiormente studiate nel loro ruolo di vittima piuttosto che in quello di criminale. L'obiettivo dell'articolo è quello di delineare un quadro generale del fenomeno della delinquenza femminile in Spagna nel corso dell'ultimo decennio, mettendo in evidenza le caratteristiche, la diffusione, i profili e il trattamento di una popolazione che costituisce un gruppo minoritario all'interno delle istituzioni penitenziarie. A tal fine, viene utilizzata una metodologia integrata basata sulle statistiche ufficiali e sui dati relativi al fenomeno nonché sulle risultanze di precedenti studi. Inoltre, i dati relativi alla popolazione penitenziaria femminile vengono comparati a quelli riguardanti la popolazione maschile, evidenziando similarità e differenze sia dal punto di vista quantitativo che qualitativo. Nelle conclusioni si riflette sul fatto che il trattamento delle donne delinquenti continua ad essere caratterizzato da pregiudizi sessisti e non tiene conto della dimensione di genere.

#### **Résumé**

La délinquance féminine officielle en Espagne est inférieure à 10%, comme dans d'autres pays européens ; cependant, les femmes sont davantage étudiées en tant que victimes qu'en tant que délinquantes. L'objectif de cet article est de donner un aperçu du phénomène de la délinquance féminine en Espagne au cours de la dernière décennie, en montrant les caractéristiques, la prévalence, les profils et le traitement en prison d'une population qui représente une minorité au sein des institutions pénitentiaires. Pour ce faire, une méthodologie mixte est utilisée, s'appuyant sur les statistiques officielles et les données relatives au phénomène présenté, ainsi que sur des études précédentes. De même, la population carcérale féminine est comparée aux données relatives à la population masculine, en soulignant les similitudes et les différences tant sur le plan quantitatif que qualitatif. Les principales conclusions montrent que le traitement des femmes délinquantes continue de présenter des préjugés sexistes et ne tient pas compte de la dimension de genre.

#### **Abstract**

Recorded female crime is less than 10% in Spain, as is the case in other European countries, however, women continue to be studied more as victims than as perpetrators. The purpose of this article is to show a general view of the phenomenon of female delinquency in Spain in the last decade, showing its characteristics, prevalence, profiles, and the treatment in prison of a population that represents a minority within penitentiary institutions. To do this, a mixed methodology is used, resorting to official statistics and data regarding the phenomenon presented, but also to studies that analyse this subject. In the same way, female prison population is compared with the data concerning the male population, pointing out similarities and differences both quantitatively and qualitatively. As main conclusions, it can be highlighted how the treatment of female offenders continues to present marked sexist biases and lacks a gender perspective in its treatment.

**Key words:** female delinquency; Spain; prison population; gender perspective; treatment.

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## 1. Introduction

Female delinquency is a phenomenon that, until recent times, has been shortly studied by Criminology (Pedrosa, 2018). Its study dates to the early works of Lombroso, who described women as more primitive than man. The reality is that the study of women as criminals has been influenced by machismo and sexism and based on the marked gender roles that dictate the social attitudes expected for each of the sexes. Despite these being factors that continue to exist today, and it is much more striking to study women as victims, there are more and more studies that analyse women as criminals, far from criminological androcentrism (Yagüe, 2005,2007; Maqueda, 2014; Acale; 2017; Almeda, 2017; Flores, 2019; Pasculli, 2022).

Until the Second Spanish Republic, female crime was understood more as a transgression of the female role and more like a sin rather than a crime. Therefore, prison treatment was often based on prayer and penance. During Franco's dictatorship, women were subject to greater social control, both formal and informal, and under marked traditional gender roles. With the arrival of democracy, women acquired more rights and autonomy, however, the order of things has changed little (Cervelló, 2021). The reality of imprisoned women is precarious, since it is not profitable for the State to dedicate resources to only 7.2% of the female prison population.

The aim of the present study is merely descriptive. Thus, it wants to report on the reality of female crime in Spain and what female criminals are like and their treatment. The objective of this study is to provide information and show the big picture for other researchers interested in the subject and thus promote the study of female offenders in the rest of the world, offering data that can be comparable.

## 2. Methods

To carry out the following study, a mixed methodology has been followed. Firstly, documentary sources have been used to compile information and studies regarding female offenders in Spain, whether profiles, prevalence, or characteristics, as well as studies based on interviews with imprisoned women. Secondly, official statistical sources have been used to obtain the latest data regarding known facts, clarified facts, people detained and investigated, convictions, prison sentences and prison population. Finally, both sources of information have been put together to offer a general image of the characteristics of female crime.

## 3. Criminological approach to the female offender

It is striking how, knowing the quantitative and qualitative differences between male and female delinquency, in studies by numerous specialists (Farrington and Loeber, 2013; Farrington, Loeber, and Ttofi, 2012; Albretch and Grundies, 2009; Kazamian, Farrington, and Le Blanc, 2009; Paciello, Frida, and Tramontano, et al, 2008; Piquero and Brame, 2008; Stouthamer-Loeber, Loeber, Stallings, et al., 2008; Caprara, Paciello, Gerbino et al., 2007) about the predictors of antisocial behaviour the first point is «being male» but, when consulting the section on protective factors, «being female» is nowhere to be found.

All this is simply the result of the lack of attention to gender (or sex or both) in the formulation of criminological theories. If 90% of crime is committed by men, it is logical that the subject of study should be men. Case error, instead of putting the focus on explaining such a heterogeneous delinquency or deviant behaviour, for reasons of

economy, it is better to focus efforts on explaining why women do not commit crimes as often as men (Maqueda, 2014).

If we look to biological theories, testosterone has always been resorted to as an (exculpatory) record of criminality, because of its relationship with aggressiveness (Pacheco de la Cruz, 2017; Delgado et al. 2020). However, studies such as those by Eisenegger, Haushofer and Fehr (2011) and Gray, Straftis, Bird, McHale and Zilioli, (2020) argue that testosterone is not so much related to aggressiveness, but to competitiveness and to dominance among individuals and status maintenance. This could explain why certain offenders in prison environments produce high levels of this hormone as occurs in sports competitions (Sanchez, 2003).

On the other hand, sexual desire seems (culturally) to be a male attribute or interest, perhaps due to the belief that testosterone is related to increased sexual desire and drive, although this is disproved (Monteaguado Peña et al., 2016). Both sexes may have the same sexual desire, however, this is socially modulated (Noa, Creagh, Soto, & Wilson, 2014). Thus, an increase in sexual aggression by women who are in their ovulatory period could be logical. The reality is quite different, suggesting that it is not so much the sexual impulse as their ability to control it.

Because of this, spurious explanations appear in the cases of sexual aggressors (especially juvenile ones) that try to look for biological causes at all costs even though they have not had any conclusive result and certainly no explanatory capacity that can cope with those that are shuffled from the more environmentalist perspectives. As Ana de Miguel (2021) exposes in *Ética para Celia*, there must be something when the first impulse of a woman who

finds a man with a high ethyl alcohol content is to give him medical assistance and, otherwise, the man considers that it is a propitious situation to maintain consensual, consensual and/or desired sexual relations.

On the contrary, psychological theories have appealed to the different feminine nature and to the inclination of this one towards the good, being the woman endowed with a better moral than the man. Thus, female offenders were considered less feminine, having masculine traits. Thus, the dichotomy good woman, bad man was created. These theories were based on determinism, so this was believed to be a natural trait (Lima Malvido, 1991: 94). No one asked whether different socialization had anything to do with it.

As it seemed that the biological and psychological approaches fell short, theories that focused on society and its structures gained strength from the U.S.A.: anomie and subcultures (Larrauri, 1991: 2). As was pointed out at the time, these theories reproduced the values of North American society, so their application outside of it was very limited. Today it can be added that, not only did it represent North American values, but it also represented masculine values and passed them off as universal.

In Naffine's (1987: 39-42) analysis of Sutherland's differential association, the author points out that, although the theory is also applicable to women, since according to the studies cited in her work by Smart (1976), Giordano (1978) and Simons et al. (1980) young women with delinquent peers become involved in crime just like their peers, the lower female frequency is explained by the strict formal and informal controls to which women are subjected, especially the younger ones.

Another strong thesis in the field of Criminology was the ecological approach of the Chicago School.

However, as Luna (2019) exposes, the theory of social disorganization and the Chicago School reproduced the sexist values of their time and *«do not question the social assignments to men and women, on the contrary, they pave the way for such attributes to continue to be reproduced in criminological explanations»*. Outside the criminological field, several studies, including one conducted by the World Bank Group (2020), establish that cities have been planned and designed by and for men. They tend to reflect traditional gender roles and the gender division of labour.

When the labelling approach theory emerged in the 1960s, it represented a paradigm shift. Thus, deviance was defined by who had the power to define a behaviour as deviant and that deviant person was the one who had suffered the labelling process, which worsened in penitentiary institutions. From this logic, the increase in criminality was linked to an increase in the persecution of different behaviours. Thus, the behaviour that is considered criminal or not is defined by the control institutions and is reinforced by informal controls (Larrauri, 1991: 28-38). Thus, for women, the label of delinquent has an enormous weight, which implies a double deviation: as a delinquent woman and as an unnatural woman for abandoning her feminine role (Ariza, 2017: 739; Maqueda, 2014: 53). The fear of losing her «good girl» label, which she must be continuously demonstrating, holds her back from committing crimes. Thus, women lack the same freedom as men (Naffine, 1987: 81).

From the approach of crime as a rational choice, when Cohen and Felson (1979) developed their theory of routine activities, they were probably not thinking of women. Logically, if women's lives were confined to the domestic sphere, it would be unlikely that they would be involved in criminal activities beyond petty theft in stores or

supermarkets where they shopped (Naffine, 1987: 36). While it is true that these women who committed petty shoplifting were diagnosed as kleptomaniacs, a woman who committed petty shoplifting was diagnosed with kleptomania. Thus, the woman who committed this act motivated by a criminal design would be labelled as mentally ill, thus taking away her free will or rational choice.

As Maqueda (2014: 46-47) explains, it is curious how all criminological theories that have tried to explain female criminality have ended up explaining her non-criminality due to her conformity. This is evidence of nothing more than the success of differentiated socialization that assigns different roles according to sex.

In the study by Mathiesen, Castro, Merino, Mora, and Navarro (2013) on differences in cognitive and socioemotional development, it is established that, despite the anatomical brain differences, women, due to their socialization from the earliest stages of development in childhood, for example, through toys and games, have greater self-control and better management of emotions. Abilities that, according to brain anatomy, should be presumed to be better in men, as these structures are larger in men than in women.

Therefore, we can establish that the differential socialization of men and women based on sex mediates the future behaviour of both. In this sense and from the field of critical criminology, Larrauri (1994: 11-13) already expressed himself when speaking of the different informal control imposed on women, where men have moulded values and an allocation of spaces for them.

#### 4. The female offender in Spain

##### 4.1 Official statistics: crime recorder, condemned and prison population.

In Spain there are different sources of data related to crime: on the one hand, we have the statistics provided by the Ministry of the Interior through the Crime Statistical Portal, which collects data from the National Police and Civil Guard, the Ertzaintza and the Mossos d'Esquadra (since 2016 for the Basque one and since 2020 for the Catalan one) and the Local Police (since 2013). On the other hand, we have the statistics provided by the General Council of the Judiciary regarding convicted persons and the prison population.

Regarding the data from the Crime Statistical Portal, these are police statistics referring to known facts, clarified facts and arrests and investigations. We only found data segregated by sex in arrests and investigations, so we can only speculate the weight of female crime in this sphere. The convicted and prison population are differentiated by sex, so it can be inferred the participation of the female population in the criminal phenomenon, which is between 10 and 18%.

The Ministry of the Interior also offers data on victimizations, differentiating by sex, however, it does not provide information on who the victim would be. Even so, it offers a reference on the percentage of victimization suffered by each sex. In 2022, of a total of 1,737,210 victimizations, 814,927 were women, with 112,446 referring to crimes of gender violence.

However, it is not possible to ignore the impact that the black figure can have on crime accounting and the crime rate. According to self-report survey data, the reporting rate for sexual crimes is 45% (Serrano, 2017). Furthermore, there is a great difference

between the known facts, those clarified, the complaints and arrests and the population that is finally convicted. Regarding the statistics of convictions, they do not provide good information about the crimes committed in the year since they may be causes that have been waiting to be prosecuted for years.

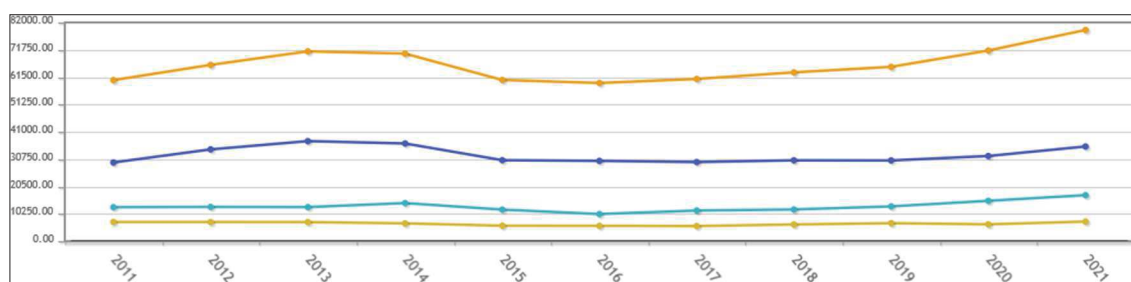
If we analyse crime in Spain, of the known facts (2,323,075), 75.2% is represented by crimes against property, while crimes against people are 16.2%. Furthermore, if we resort to the data offered by the General Council of the Judiciary, almost 90% of the sentences involve penalties of 2 years or less, which informs about the degree of crime and the commission of serious crimes in Spain.

Next, we proceed to analyse the data regarding arrests and investigations, sentences, and the prison population of women.

According to data on arrests and investigations in 2022, of the total of 508,419 people, 89,861 are women, representing 17.7%. Since 2016, an increase has been observed, which could be justified by the inclusion of data from the autonomous police forces. If this data is taken as a reference, being the only police statistic that differentiates by sex, the female crime rate is 16.71 per 100,000 inhabitants, this data coincides with that offered by Eurostat. Thus, Spanish female crime is above the European average, where Hungary has the highest rate (28.22 per 100,000 inhabitants) and Albania the lowest (4.44 per 100,000 inhabitants). Italy, for its part, has a rate of 7.55 per 100,000 inhabitants. If the types of crimes are analysed (Graph 1), almost half refer to crimes against property (blue), followed by crimes against people (light blue). Almost with equal proportion, against freedom and against collective security (yellow).



**Graph 1. Arrests and investigations by criminal typology, period, and sex.**



*Source: Portal Estadístico de Criminalidad.*

For convictions, of the 426,416 total, 74,658 were for women, being 20,989 prison sentences, compared to 351,758 for men. Almost half are convictions for crimes against property, followed by crimes against people and against collective security.

Coinciding with the data on investigations and arrests. Table 1 has compiled the data regarding investigations and arrests and sentences for the year 2022 for women.

**Table 1. Compilation of data regarding criminal offenses, women investigated and detained, and women convicted.**

Crimes	Women investigated / arrested	Women condemned
Intentional homicides/murders	134	123
Injuries	9.067	11.952
Against freedom	9.190	4.158
Sexual freedom	633	103
Family relationships	537	588
Heritage	42.091	35.451
Thefts	24.029	22.571
Robberies with force on things	2.269	1.034
Robbery with violence or intimidation	1.849	724
Collective Security	8.005	13.775
Drug traffic	3.489	1.712
Falsehoods	1.986	1.550
Admon. Public	86	203
Admon. Justice	2.423	2.225
Public order	3.822	2.820
Other criminal offenses	1.145	1.115
<b>Total criminal offenses</b>	<b>89.861</b>	<b>74.658</b>

*Source: Portal Estadístico de Criminalidad and Instituto Nacional de Estadística.*

As of December 2022, the Spanish prison population amounted to 45,562 convicted inmates, of which only 3,283 were women, representing 7.2% of the total. In fact, a number much lower than that of foreigners, who represent 30.1% of the total inmates. Thus, women are configured as a minority within prison. Nine out of ten inmates are

men. Of these, 1 in 10 is convicted of a crime of gender violence (10.7% of the total) and 8.9% is convicted of a crime against sexual freedom. Thus, crimes against women account for 19.5% of the total, surpassing crimes against public health (15.9%).

For women, almost half are in prison serving a sentence related to crimes against property, followed by crimes against public health (presumably for drug trafficking). Regarding the length of the sentences, 34% serve sentences of

between 3 months to 3 years; 44% between 3 years to 8 years. Thus, 78% serve sentences that do not exceed 8 years, 9 percentage points more than men. Finally, 18% of women serve sentences of more than 8 to more than 20 years.

**Table 2. Sentenced for crime and sex in 2022.**

	Men	Women	Total	Percentages	
				Men	Women
<b>Homicide and its forms</b>	3.033	302	3.335	91%	9%
<b>Injuries</b>	1.858	151	2.009	92%	8%
<b>Against Freedom</b>	550	38	588	94%	6%
<b>Against Sexual Freedom</b>	3.964	59	4.023	99%	1%
<b>Gender Violence</b>	4.782	0	4.782	100%	0%
<b>Against Family Relations</b>	151	7	158	96%	4%
<b>Against property and the socioeconomic order</b>	15.984	1.414	17.398	92%	8%
<b>Against Public Health</b>	6.673	806	7.479	89%	11%
<b>Against Traffic Safety</b>	1.328	32	1.360	98%	2%
<b>Falsehoods</b>	372	59	431	86%	14%
<b>Against the Administration and Public Finance</b>	278	39	317	88%	12%
<b>Against the Administration of Justice</b>	787	139	926	85%	15%
<b>Against Public Order</b>	1.381	111	1.492	93%	7%
<b>Rest of Crimes</b>	916	108	1.024	89%	11%
<b>For Fouls (erased in 2015)</b>	13	4	17	76%	24%
<b>No Crime Recorded</b>	121	5	126	96%	4%
<b>Totals</b>	<b>42.191</b>	<b>3.274</b>	<b>45.465</b>	<b>92,8%</b>	<b>7,2%</b>

*Source: Consejo General del Poder Judicial.*

With the data presented above, it can be confirmed that women are victims in 48% of crimes and perpetrators in 17.5% of cases (according to arrests and investigations). On the other hand, of the total sentences, women represent 13.2% of prison sentences. Percentage that reduces to 7.2% in women inmates in a penitentiary centre. This is explained because 95.6% of prison sentences for women involve sentences of less than 2 years, so the vast majority will see their sentence suspended. Thus, with the statistical data, we can say that female crime is not violent.

#### 4.2 Profile of the female offender.

Female crime is characterized by being functional, that is, crime is used to achieve an end, in this case, economic. Although the main crime for which women were convicted was drug trafficking (despite not being consumers, therefore, the offender is not to finance their consumption), it has now been surpassed by crimes against property, but they pursue the same goal of obtaining monetary means. The female offender is not violent, and violence is not generally observed in the commission of her crimes. The third crime for which they are most

convicted is homicide, but very far from the figures for the first two. If the sentences are reviewed, the vast majority are for reckless homicides, therefore, there was no violence involved either.

It is interesting to comment on the study that Maqueda Abreu (2014) carried out on jurisprudence with convicted women based on the classification between status crimes and role reversal crimes. Status crimes are those related to their traditional gender roles: family and child abandonment, child abuse, infanticide and abortion, domestic homicide, and non-coercive pimping. In these crimes, the woman always appears as the author or co-author, often mediated by her position as guarantor, and is considered the author in commission by omission. He found moral reproaches in the sentences related to these crimes, but also how the extreme economic and social marginality in which they lived was highlighted. The file of the woman's lesser imputability due to psychological anomalies, dysfunctional personality traits or even a low intellectual level is also used. Finally, she observed an inertia in classifying every death committed by a woman as assassination, whether due to the death of a minor or due to surprising treachery to compensate for the physical difference.

On the other hand, role reversal crimes are those in which men are overrepresented and that involve violence, which represents a break with the traditional role and the assumption of socially masculine values: rape, robbery with violence, murder, human trafficking, drug trafficking and terrorism. The first thing that can be confirmed is that rape is not a female crime, except in isolated cases, they normally appear as accomplices or accessories. Regarding robbery with violence and murder, their level of involvement is much lower compared to men. Men are more violent but very

often the women support or participate. However, courts usually apply mitigating circumstances to women in relation to drug addiction or psychological disturbance. For trafficking in human beings, they usually play a leading role and receive the same treatment by the courts as if the crime had been committed by a man. Regarding drug trafficking, their role is usually secondary or instrumental. Finally, for terrorism, their representation is not high, but they tend to get involved in violent acts, as is the case of the extinct terrorist group ETA.

What is extracted from this jurisprudential analysis is corroborated in the penitentiary reality. According to various studies (Yagüe, 2007; Yugueros, 2016; Almeda, 2017; Acale, 2017; Jiménez & Yagüe, 2017; Fernández, 2017; Picado et al., 2018; Vasilescu, 2019) there are certain vulnerability factors that push women to crime. Its delinquency is due to structural factors, which is why it has this marked functional character. Most of those women are in the central years of their lives (30-50 years) and are mothers, almost entirely supporting the care of the children and the family, in many cases being a single-parent family and their children being under 18 years. According to data from the Women's Institute (2016), 93% of permits and leaves of absence to care for children are requested by women.

What is corroborated in a general way and maintained over time is the victimization that conditions the criminality of imprisoned women. And the fact is that imprisoned women are more likely to be or have been victims of abuse by family members or partners or ex-partners and to suffer or have suffered sexual abuse or assault between 88.4-57%. As Navarro points out: «more than 80% of imprisoned women have suffered physical, sexual,

and psychological violence before committing criminal acts» (Navarro, 2018: 123-124). In fact, their rate of abuse is four times higher than in the general population (Fontanil, Alcedo, Fernández & Ezama, 2013) and the presence of physical and/or sexual abuse in childhood is related to the commission of sexual crimes and aggression. as a couple (Loinaz, 2016). Thus, victimization is a risk factor in female crime, since the majority of imprisoned women have a history of physical and sexual violence, drug addiction, and poor contexts (Flores Zúñiga, 2019).

If we refer to the field of health, and specifically mental health, female prisoners have worse mental health than the general population and the male prison population. Around 40% present substance abuse, 16.5% overmedication and 26% suffer psychological problems (Yagüe Olmos, 2007), which worsen and reach close to 80% in the population addicted and ex-addicted to drugs (Turbi Pinazo and Llopis Llácer, 2017). In general, they have a deficit in social skills and low self-esteem, sometimes presenting dependence on the male figure and lack of autonomy (Pascual Gil, 2015).

Another point to highlight is that around 35% of the imprisoned women are foreigners and 16% are of gypsy ethnicity, so they are more sensitive to structural discrimination and this variable is added to that of sex.

#### 4.3 Treatment for women in prisons.

In Spain there are currently 96 penitentiary centres and only 4 exclusively for women, with only 3 units for mothers [1] in the entire national territory. Of these, 21 have only one module for women, 9 with two and three. Being such a small population and spread throughout the national territory, they are a minority in penitentiary centres, occupying a small space in an environment made by and for men.

Therefore, fewer resources are allocated to them, and others cannot be guaranteed. In 2021, the General Secretariat of Penitentiary Institutions of the Ministry of the Interior carried out a study to evaluate the reality of women in prison: «*The situation of women deprived of liberty in the Penitentiary Institutions*». From this report, the following conclusions are drawn:

Firstly, the jobs they can do in prison are stereotyped, taking charge of cleaning, laundry or cooking tasks, which is why they are discriminated against compared to their male counterparts, who do the rest of the jobs in prison. It is the same scenario for the highly stereotyped training activities: cooking, hairdressing and cutting and sewing for women; masonry, baking, maintenance, electricity, plumbing, gardening and more for men. Bobbin lace courses are also given for women to improve their psychomotor skills in their hands (Yagüe Olmos, 2007). Women cannot escape gender in prison.

Secondly, for the centre's activities, two thirds of the female inmates consider that there are not enough leisure activities and seven out of ten consider that they are monotonous or very monotonous and that they are carried out very occasionally. Furthermore, more than half believe that they are not for everyone. Another common complaint is the lack of physical activities. Regarding instruction, more than half go to school and a quarter attend some training course, although their attendance is higher in women's centres than in mixed ones. For almost seventy percent of the inmates, the courses are insufficient, and they are rated worse in women's centres, with almost the same percentage believing that the courses are repetitive and exclusive.

Finally, another aspect biased by gender stereotypes are treatment programs. Due to sociodemographic characteristics, the most taught program is «To be a woman», for the prevention of gender violence. As developed in the 2021 Penitentiary Institutions report, the program, of a therapeutic nature, works on health education and social, cognitive, and emotional skills. This training seeks to provide the prisoners with tools so that they can identify and respect their emotions, encourages self-care and self-knowledge, and helps them discover their capabilities and learn strategies to face life, achieving good emotional balance and personal well-being. The program was implemented more than a decade ago in collaboration with the Women's Institute.

The rest of the programs that women can join depend on the number of inmates and, furthermore, they are programs based on male experience and for men, with a few adaptations made for women. This is the case of programs for sexual offenders or violent criminals. As the data indicates, female recidivism is very low, so, together with the low sample, it is impossible to carry out evaluations on the effectiveness of the treatments (Loïnaz, 2016).

It is curious how imprisoned women do not know if they are taking a treatment program, thus, according to the data collected from the Ministry's study, seven out of ten women claim not to participate in any treatment program. Furthermore, where they participate the least is in women's centres (20%), participating eight percentage points more in mixed ones. Perhaps, knowing this, it is better explained why women prefer to be in mixed centres rather than in exclusive centres.

Finally, it is worth highlighting article Art. 82. 2. of the prison regulations, which allows domestic work to be considered as paid work abroad for women in the third degree of prison. This circumstance is only

for women, which reflects the androcentrism and obligation to be for each sex of the penitentiary law:

*«For the purposes of the previous section, in the case of women sentenced to the third degree, when it is proven that there is an impossibility of carrying out paid work abroad, but it is established, after a report from the corresponding social services, that they will actually carry out Domestic work in your family home, these tasks will be considered work abroad».*

Although it is true that the administration of justice cannot and should not ignore the role of caregivers that women play in society since, as various experts point out, treatment for women is more effective when it is less structured and more flexible, considering their characteristics and obligations and, despite being *empowering* programs (Vasilescu, 2019), measures such as the one in the aforementioned article do nothing but perpetuate gender roles. As Eichler (1991) and Facio (1992) point out, these are typical measures with a sexist bias calls insensitivity to gender [2].

#### 4.4 Differences between female and male offenders.

If we analyse the statistical data and, as the Statistical Yearbook of the Ministry of the Interior points out, 20% of the crimes committed by men are related to violence against women: crimes of gender violence and crimes against freedom sexual. It is important to point out this dichotomy, since the first ones, by Spanish legislation, require that the active subject be a man and the passive subject a woman and the others are crimes that 98% are committed by men on women.

If we segregate the victimization data, in the domestic sphere, there were 19,458 victimizations of men compared to 116,562 of women, with 98,230 serious cases of gender violence. For crimes against sexual freedom, there were a total of 2,340 male victims compared to 14,608 women and if we

focus on sexual assaults, the data is 228 for men and 2,079 women. These data reflect a clear social reality and are the result of a social structure, patriarchy, which involves the subjugation of women by men.

Authors such as Maqueda (2014), Acale (2017) or Pasculli (2022), among others, have pointed out the androcentric bias in criminological research. Many criminological theories explain male crime, not female crime. This has been pointed out as anomalous or various theories have been adapted to explain it. Adler (1975) pointed out that female crime was going to increase due to the inclusion of women in the private space, a prophecy that was not fulfilled and that, as authors such as Naffine (1996) point out, means believing that men represent normality and the desirable behaviour and, on the other hand, assume that what are protective factors for men are risk factors for women (access to employment, for example).

While male delinquency is explained by a variety of theories of different types, with a wide range of risk factors, it seems that in the case of women, their delinquency is rather the result of a cycle of violence: their victimization suggests a relationship directly between this and female crime (Pasculli, 2022). Other authors defended that prostitution is a «cure» or substitute for female crime, a reasoning that fails to see women more as victims than as criminals, since it criminalizes women in contexts of prostitution and eliminates the guilt of men. As Restrepo Fontalvo (2018) points out, crime could be better explained by the differential assignment of roles and, as its title suggests, perhaps men should be feminized to prevent crime.

## 5. Conclusions

As mentioned at the beginning, the objective of this article is merely descriptive and seeks to enlighten

the researcher interested in the topic of the criminal and penitentiary reality of Spanish women. As conclusions, it can be extracted that:

1. Female crime is inferior to male crime both quantitatively and qualitatively.
2. The female prison population is much smaller than the male prison population and they serve shorter sentences. In addition, there is a greater proportional number of foreign population and female gypsy ethnic group.
3. Female criminality is marked by victimization. They are four times more victims of gender and sexual violence than the general population. This fact motivates the existence of therapeutic treatment focused on victims of gender violence.
4. Activities in prison, whether leisure, training, or treatment, are stereotyped and difficult to access for women. Penitentiary treatment reproduces the gender roles of society and seeks to re-educate women in their role as women rather than empower them.
5. 20% of men in prison are serving a sentence related to violence against women, whether gender violence or sexual violence. Five percentage points above drug trafficking.
6. A big number of studies, treatments and training activities are focused on criminal men, so the needs and characteristics of women are being ignored.

Finally, I would like to end with a personal reflection. To this day, there is no plausible explanation for why women are less involved in crime than men. For me, it is obvious that this follows a gender logic and is explained by the

distribution of roles in society. From the data regarding the profile of the female offender, it is understood that the role of the woman implies that of the victim, so society creates the role of the victim and puts the face of a woman on it, creating on the other hand the role of the aggressor. Perhaps it is time to reflect if, rather than finding an explanatory theory of crime, it is not more reasonable and economical to focus on why women do not commit crimes with equal frequency and if perhaps the solution lies in socializing men as women, not in their role of victims, but in their role of respect for justice and society.

## Notes.

(1). The mothers' units are penitentiary centres where the creation of an adequate space for the children under 3 years of the inmates is promoted. Exceptionally, the period of stay can be increased up to 6 years of age. The centres have non-invasive surveillance and are focused on the needs of minors and mothers. These centres can only be accessed by women qualified in the second degree of prison and whose crimes are not serious or violent.

(2). To better understand it, I will give an example: when rights are granted to women such as maternity leave or the possibility of being able to request a reduced day at work for parenting, we think about helping women, but when it is counted as absence from work is reduced and the incentives are lost, this right has meant a reduction in their contribution and, therefore, implies a decrease in the amount of the pension. These types of policies suffer from insensitivity to gender, because, even seeing part of the problem, they still do not consider the entire map.

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