

# Criminology versus criminal law - selected theoretical and practical aspect

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**Abstract—** Criminology and criminal law are two separate scientific disciplines which are mutually helpful for each other. Criminology is a practical discipline whose most important scientific method is empirical method relying solely on the statement of facts which makes it neutral from judgements and assessments. Criminal law, in turn, belongs to the category of normative sciences where the fundamental method is the legal-dogmatic method. The law is based assessment because the values adopted by law are the foundations on which moral and public order are built. As criminology and criminal law possess common research areas, criminology can serve as an auxiliary discipline for criminal law and was treated as such already at the dawn of its existence in the 19<sup>th</sup> century when it was believed that empirical sciences were to reform and improve social reality. Criminology derives from criminal law legal definitions pertaining to types of crimes and referring to their legal shape, whereas the legislation of criminal law which is grounded in reality and evolution judicature both require knowledge of criminology. Outcomes of criminological research are used for the purposes of criminal law which creates a bond between these two disciplines and this bond which supports their mutual co-existence

**Index Terms—** criminology, criminal law, criminological research, recidivism

## I. INTRODUCTION

Law derives from culture and from pursuit for social order and moral values. These factors characterised by high dynamics impact the shape of legal norms. Criminal law as a set of logically organised norms which regulate social life has come a long way of evolution. Evolution from objectivity to subjectivity, from responsibility for the consequence to fault-based liability, from collective guilt to the guilt of an individual. The process was impacted by the development of social life organisations and development of spiritual culture of humankind which awoke interest in subjective layer of the perpetrator's personality and not like it was believed earlier of the mere objective statement of the fact that the act was committed (Świtka, 1989, s. 5). Criminal law started to benefit

from achievements of other scientific disciplines which became indispensable for conducting a fair trial. The leading role was performed by psychology which explained issues pertinent to the aspects of process of undertaking an act by an individual which is 'emanation of psyche which remains in dialectic dependence with a series of social, environmental and situational conditioning' (Świtka, 1989, p. 5-7). It was then that people started to understand that treating an act as a combination of intellect and willpower calls for new understanding of the dimension of punishment and execution of punishment. Criminal law began to concentrate on the perpetrator, on the dimensions of his personality and on his environment which, as it was believed, pre-conditioned of the committed act. The new aim of criminal law was proper determination of accountability and selection of a perfectly weighed punishment. Efficiency of criminal law whose task is to regulate widely understood social co-existence started to depend on the reception of achievements of other scientific disciplines which go beyond logical and juridical notions used by the law itself. With time the fundamental disciplines became criminal biology and criminal psychology which were also referred to as criminology (Tyszkiewicz, 1986, pp. 11-12).

## II. CRIMINOLOGY VERSUS CRIMINAL LAW

The simplest criterion which distinguishes criminology from penal law disciplines is the division into empirical and normative sciences. In other words, division between sciences studying the sphere of existence of what is (sein) and what ought to be (sollen) (Tyszkiewicz, 1986, p. 50). Criminology answers the question 'what is' and engages into phenomena such as perpetrator, crime, victim, reaction to crime, reasons for crime, counteracting crime. Criminology uses the empirical method as well as analysis and synthesis. Criminal law, on the other hand, is concerned with 'how it ought to be'. A scientific method applied by criminal law is the legal-dogmatic method allowing to design rules of criminalisation and criminal liability, determination of ways of interpretation of legal regulations and ways of applying these rules and regulations to



specific cases, analysis and interpretation of a legal text (Tyszkiewicz, 1986, p. 50). Criminology is supposed to meet the positivist criteria of scientific approach operating only on facts and avoiding judgements and evaluation of results leading to the presentation of knowledge which is objective and neutral towards values (see more: Gaberle, 1993). Contrary to criminal law which concentrates on normative and legal considerations with heavy emphasis on assessments and judgements (Borucka-Arctowa, 1968, s. 429).

As criminology and criminal law possess common research areas, criminology can play an auxiliary role for criminal law (Wronkowska, Ziemiński, 2001, 1986, s. 16-24). This auxiliary role of criminology was already recognized back in the 19th century when it was believed that empirical sciences are supposed to reform and improve social reality (Błachut, Gaberle, Krajewski, 2007, s. 38). Criminology is the oldest and best developed sector of social pathology science. The scope of interest of social pathology are any deviant occurrences, whereas criminology is focused solely on crime (Tyszkiewicz, 1991, s. 13). From etymological point of view the term criminology is a compound of a Latin word *crimen* meaning 'crime' and a Greek word *logos* which means 'science'. Criminology in its literal meaning is a 'science of crime' although adoption of its understanding is 'a very vague conceptualization and to a large extent insufficient' (Tyszkiewicz, 1986, s. 11). According to definitions formulated by renowned Polish criminologists, criminology is a social science which examines and gathers holistic knowledge on the crime as a certain manifestation of a deviant behaviour, crime as a social phenomenon, the person of the perpetrator, the victim of a crime as well as institutions and control mechanisms created by societies in order to prevent and counteract crime (Błachut, Gaberle, Krajewski, 2007, s. 19). Following professor L. Tyszkiewicz, it can be concluded, that criminology studies crime comprehensively taking into account crime in general, the perpetrator of the crime and ways of counteracting crime. Zajmuje ją etiologia as a study of reasons and phenomenology as an examination of manifestations of the described phenomena, pragmatism and axiology ((Tyszkiewicz, 1986, s. 12; Tyszkiewicz, 1991, s. 12-13). The term 'crime' contained in the definition of criminology is of wider meaning than the one adopted by criminal law (Tyszkiewicz, 1991, s. 15-16). In criminology crime is not only a socially dangerous, unlawful act with statutory features which is culpable and punishable but also acts arising through no fault committed by minors or persons who lack criminal responsibility as a result of their mental state but the acts committed by them are still unlawful and pose a threat to society (Tyszkiewicz, 1986, s. 16). Additionally, portfolio of crime from the point of view of criminology includes also forbidden acts called offences which constitute a vital problem for public order.

### III. CRIMINOLOGY AS A SCIENTIFIC DISCIPLINE

According to classification of sciences, criminology should be treated as a multi-disciplinary science, empirical, social and natural with emphasis on the social element (Such, 1969, s. 40).

Criminology as a scientific discipline combines the so called general criminology which is of theoretical character and shows features of sciences which formulate scientific laws, descriptive and typological, with an aim to determine 'patterns which govern the phenomenon of crime' and the so called clinical criminology through which it also becomes a practical science (Tyszkiewicz, 1986, s. 47). At one point of development of criminology as a science it was even advocated to split criminology into basic criminology and applied criminology (Dessaur, 1971, s. 8). Criminology as an interdisciplinary science combines elements of various elementary scientific disciplines which study human beings using methods developed specifically for them. Criminology borrows scientific methods from other scientific disciplines such as anthropology, biology, medicine, psychiatry, psychology, sociology, statistics, economics, history, pedagogy and forensics (Kuć, 2015, s. 6-11). As observed by professor D. Szabo 'social facts should be assessed using methods derived from natural sciences' (Szabo, 1987, s. 29). This interdisciplinarity becomes not only a necessity in the strict sense of this word but also a research method in itself (Świtka, 1989, p. 15). Criminology is sometimes referred to as 'a scientific discipline of interdisciplinary character' (Błachut, Gaberle, Krajewski, 2007, p. 23). The scientific truth which is pursued by criminology requires drawing from the achievements of other disciplines. Relying on just one scientific discipline in case of criminology would be a methodological error leading to incomplete recognition of phenomena which stay in the core of its interests (Świtka, 1989, p. 15).

Criminology has developed various mainstreams called paradigms. A paradigm is understood here as a reference to intellectual tradition of analysis and interpretation of social reality, in other words a general pattern of research work based on clearly conceptual, methodological and metaphysical assumptions (Szabo, 1987, p. 30; Błachut, Gaberle, Krajewski, 2007, p. 41). Basic mainstreams of criminology are: classical criminology, positivist criminology, anti-naturalistic (humanistic) and neoclassical criminology (Błachut, Gaberle, Krajewski, 2007, pp. 40-56). Criminology is still in its multi-paradigmatic state as any of the paradigms has not yet achieved a status of a proper paradigm which would mean it was accepted for scientific theory and practice by the scientific community (Tyszkiewicz, 1991, p. 27). Criminology is constantly evolving and new paradigms are still popping up with the intention to replace the ones (Falandysz, 1986, s. 195).

### IV. AXIOLOGICAL ISSUES

In the current state of criminological research it is vital to refer to the humanistic stream which was put forward in detail by professor L. Tyszkiewicz. This stream assumes that a human being is in control of his or her life, society is potentially pluralistic, and the premise for this vision is moderate indeterminism i.e. recognition of will of a human being, which however may become subject to certain internal or external limitations. Within humanistic criminology one can distinguish a number of sub-branches such as behavioural criminology,

victimology, organisational criminology and axiological criminology which among other things studies the degree to which the legislator recognizes and applies axiology to criminal law (Tyszkiewicz, 1991, pp. 110-111).

Axiology is a study of values and values are acclaimed, desirable and everybody aspires to them, or, at the very least, should aspire (Tyszkiewicz, 1991, p.13). The system of values adopted by a given society offers a support for criminal law and to all that criminal law recognizes as crime or offence. Assigning responsibility for acts also committed with reference to a specific system of values (Krajewski, 1994, p. 92). It is all because criminal law is supposed to express 'fundamental values which are foundations for moral and social order' (Błachut, Gaberle, Krajewski, 2007, p. 37). The question of axiology is in fact a question about the purpose of criminal law (Kulik, 1997, p. 85). Determination of which acts constitute a crime and which do not is based on values which underlie a given legal system. When these values are coherent with the values adopted by the society, the legal norms are treated as a social and moral value. This value lies in the authenticity of goodness which is accumulated in the norms and not in the mere obligation to respect them (Świtka, 1989, p. 90).

Values are a source of obligation. Citizens who respect the values on which a legal norm is constructed, recognize the truthfulness of the norm, agree with it and internalise it in the sense that they accept it and obey it. When the citizens are convinced about the validity of a norm they feel obliged because acceptance of a norm equals the unconditional obligation to respect it (Świtka, 1989, p. 90). If punishable acts evoke social condemnation, legal regulations pertinent to these acts are respected. Efficiency of criminal law may be foreseen by criminological research. A good example here can be the research conducted on the degree of condemnation a society has for particular punishable acts (see more: Podgórecki, Kurczewski, Kwaśniewski, Łoś, 1971). The results of this research allow to single out crimes with higher or lower coherence of condemnation by law and the society. It should be remembered that internal approval expressed by the recognition of validity of norm is the basic premise of legal culture (Świtka, 1989, p. 91).

#### V. USEFULNESS OF CRIMINOLOGY

Inherently, criminology is supposed to abstain from judgements and only focus on facts so in what way is fact-related criminological knowledge useful for making criminal law judgements? Can criminology be used to make such judgements? Can it be translated into the language of judgements? (Błachut, Gaberle, Krajewski, 2007, s. 37). Among opinions regarding the bond between criminal law and criminology one can frequently encounter views which even stress a harmful effect of empirical sciences on the theory and practice of the actions of judicature which can even lead to dismantling of the system of values which underlies criminal law (Lange, 1969, s. 556-571). This particular view represents reluctant approach of a certain group of specialists in criminal law to criminologists, however, there is also another widely

shared opinion that without empirical data it is impossible to develop a rational criminal policy which would efficiently control the phenomenon of crime.

However, the results of criminological examination are very useful for criminal law. The outcomes of inquest into perpetrators of crime are taken into account in the process of individualization of punishment and execution of this punishment, so that punishments could be as efficient as possible; The outcomes of studies on crime are used in the legislative process which may lead to criminalisation or decriminalisation. Etiological and criminal research can help to determine the scope of impact of a given punishment on the perpetrator of the crime. Results of studies on the relationship between penitentiary isolation and recurring crime help to develop the criminological and social forecast for a perpetrator. Studies on the conditions of serving isolation sentences with respect to factors leading to crime, help to implement preventive measures. Results of studies on efficiency of serving a sentence give directions for criminal policy. Results of all kinds of criminological research are vital as regards the holistic development of criminal policy (Kuć, 2015, pp. 5-6).

#### VI. CRIMINAL POLICY

Criminal policy which is the point of contact for criminal law and criminology offers space for cooperation and reciprocal benefits for both disciplines. Criminal policy combines dedication of lawyers and criminologists and this dedication interpenetrates. Prof. L. Tyszkiewicz claims that 'as far as lawyers are concerned, criminal policy is all about implementation of rules set by the legislator in the criminal code; whereas for criminologists it also embraces the descriptive part which refers to scientific research of repression and prevention mechanisms and evaluative part whose focus is on efficiency with respect to the norms stipulated by law'. The cooperation between the two disciplines comes down to the respect practitioners in law have for empirical data and that they take the data into account in the legislative process of decision taking also such decision which are taken in the court rooms, without compromising the reference to axiology which is the foundation for criminal law (Tyszkiewicz, 1996, pp. 368-376).

Criminal policy is an element of a wider system called social policy. In order to achieve specific and measurable social goals, the policy should rely on the concept of purpose oriented punishment (Błachut, Gaberle, Krajewski, 2007, p. 37). Criminal policy treated scientifically was regarded by prof. J. Bafia as practical criminology, whereas, by prof. L. Lernell as a practical discipline of law separate from criminology. Colloquially speaking, criminal policy is treated as a generalised practice of organs of the judiciary, but in scientific sense as a discipline which is focused on the diagnosis of the phenomenon of crime, counteracting and fighting crime and formulating directives concerning the fight against crime, what boils down to differentiation between theoretical and practical criminal policy (Świda, 1977, p. 86). Criminal policy embraces both criminal law and criminology and can be broken into criminalization policy (impacts the determination of punishable

acts) and penalization policy (determines reaction towards punishable acts).

In the early phases of its development as a scientific discipline, criminology did not have a considerable influence on criminal policy but with time it started to change. Contemporary criminologists make a considerable contribution into criminal policy with their research on social reaction in such a form in which it is manifested in law, criminal procedure and the practice of institutions of judicature (Szabo, 1991, p. 109). Criminology defines reasons behind crime and how to prevent it, describes and prescribes means of social prevention. In order to arrive at social changes triggered by adjusting the judicature to the requirements of modern criminology whose research has an impact on shaping the concept of the judicature it is necessary to bring together the efforts of criminologists, public administration officials and politicians (Szabo, 1991, p. 162).

#### VII. COUNTERACTING CRIME

Counteracting crime is the objective of criminal policy which is understood as 'solely preventive activities of social and state institutions in social, economic, ideological and educational sphere' (Krukowski, 1991, p. 17). Here it is important to bring the attention of the reader to such functions of criminal policy which are directed towards reduction of costs which are generated by crime. The list of functions was formulated by A. Blumstein and includes: reduction of the need and desire to commit a crime, prevention and rehabilitation; increasing the risk related to committing the crime, increasing the difficulty to commit a crime, supervision over crime rate; reduction of costs related to operations of the judicature system in criminal cases as well as aid programmes and research support (see more: Blumstein, 1972).

Counteracting crime is effective when it is possible to remove the reasons that give rise to criminal behaviour, which in turn is only possible when these reasons are known and recognized. The knowledge of ethiology of crime becomes the starting point and this is when criminological research becomes indispensable (Krukowski, 1991, p. 17). Criminological research leads to recognition of factors leading to crime which are present on different levels of personality of an individual and on different levels of social life (Krukowski, 1991, p. 18). There are three main functions such as prevention, rehabilitation of a perpetrator and supervision over: the crime rate, the judicial system, the Police forces and the correction system (Szabo, 1987, s. 169).

#### VIII. ETHIOLOGICAL AND CRIMINAL CONCEPTS

During its development criminological thought has been subject to dynamic changes. The criminal and ethiological concepts pointed to dynamics of factors which give rise to crime and put forward various reasons why certain individual abandon the socialization process and enter the path of crime. There are two main streams of thought in this matter:

individual-criminal and social-criminal. The father of the positive school of thought is an Italian psychiatrist and prison physician Cesare Lombroso who as the reason on trespassing norms saw only the exogenous factors such as physical anomalies, mental anomalies which are the consequence of physical anomalies and disorders in moral sphere. This anthropologic unilateralism of thinking was based on numerous studies of anatomy of prisoners which helped to determine typical physical anomalies manifested by prisoners. Out of 383 examined prisoners as many as 223 shared similar anomalies. Detailed analysis of skulls showed that criminals frequently display the following anatomic features: somatization, asymmetry of skull, receding forehead, strongly developed eyebrow arches, oxycephaly or asymmetry of face (Lombroso, 1891, p. 141). Some other features commonly found among criminals are: emotional coldness, sharp eyesight, sharp sense of smell, blunt sense of taste, harsh voice and mental retardation. C. Lombroso discovered that criminals often show moral anomalies such as callousness, absence of the feeling of guilt and remorse, vindictiveness, excessive pride, malice, cruelty, dishonesty, infidelity, strong desires, tendency to satisfy low need and lack of intramental control (Świtka, 1989, pp. 19-20). The supporters of the individual-criminal stream developed by Lombroso were inclined towards a thesis that a man is born a criminal and his inborn characteristics determine breaking the law. In this way they assumed determinism and fatalism which soon were to be superseded by a new way of thinking called social-criminal. Advocates of this theoretical orientation searched for reasons behind crime predominantly in the background and living conditions. They analysed the family situation of a perpetrator, the organization of neighbourhood life, customs, social and economic relations, even current political situation. Within this reasoning there are two approaches: first recognizes as the reason behind crime only external factors (exogenous) and the other which recognizes both exogenous and endogenous factors. The supporter of the latter approach was an Austrian lawyer Franz Liszt. He pointed out to the fact that crime is conditioned by personality of the perpetrator and the social conditions that surround him (see more: von Liszt, 1899). Liszt thought that the best form of criminal policy is proper social policy (von Liszt, 1905, p. 146). The social-criminal trend called for more focus on prevention rather than punishment whereas the individual-criminal approach for the first time shifted the attention from the crime as an act to the perpetrator i.e. the criminal (Świtka, 1989, p. 20). This was the beginning of the school of criminal law centered on the perpetrator which replaced the old school of the criminal law focused on a criminal act where the punishment played the justice role as a reaction towards evil committed without regard to the perpetrator as a person. The perpetrator-centered school was an entirely different approach. According to the thought of Franz Liszt, the purpose of punishment was rehabilitation of the perpetrator, dissuasion or preclusion of a crime (von Liszt, 1905, pp. 126 and next). Liszt presented his arguments in the Marburg University during his keynote lecture upon his appointment as the head of chair gaining in this way a lot of followers for his line of thought (Naucke, 2000, p. 223).

Currently there is a research under way to establish what exogenous and endogenous factors impact the crime rate. Also in Poland there was a study which showed crime is strongly tied to some social characteristics such as: urbanization, density, percentage of one-person- households or the crime rate in neighbouring communities (Kądziołka, 2016, p. 77). Other studies clearly point to the connection between social and economic situation of an individual and the decision to step on the path of crime. For instance, in 2010 in Poland the most numerous group of people suspected of committing an unlawful act were the unemployed and not searching for work (Szymanowski 2012, p. 93).

#### IX. PREDICTION OF RISK VERSUS CRIMINAL POLICY

Predicting the commitment of a crime which is possible thanks to criminological research is a vital support for criminal policy and an important aspect on the way to reducing the scope of crime. Estimation and control of the risk should lead to the prevention of criminal acts, especially if we consider ensuring the safety of citizens as one of the main goals of the justice system (Kemshall, 2001, p. 11). For example, the analysis which leads to the classification of offenders enables the estimation of the risk of recidivism, and thus it makes it possible to take preventive measures in advance (See: Tyszkiewicz, 1975). It boils down to risk assessment, i.e. determining the probability of the offense being repeated and risk management, i.e. reducing this probability (Kemshall, 2001, p. 11). Moreover, it allows to estimate the possibility of controlling the indicated risk. Currently, criminologists have various technological measures at their disposal that allow to distinguish perpetrators with a low and high risk of recidivism. (Campbell, French, Gendreau, 2007, p. 11). These prognostic tools include: Risk Need Responsivity (RNR) (Bonta, Andrews, 200, pp. 3-7), Level of Service Inventory (LSI) (Vose, Cullen, Smith, 2008, pp. 22-34), Youth Level of Service/Case Management Inventory (YLS/CMI) (Gendreau, Goggin, Law, 1997, pp. 414-431), Level of Service Inventory Revised (LSI-R), Assessment Case Management (ACE) (Raynor, Kynch, Roberts, Merrington, 2000), Offender Assessment System (OASys) (Howard, Dixon, 2012, pp. 287-307) and Structured Assessment of Violence Risk in Youth (SAVRY) (Singh, Grann, Fazel, 2011, pp. 499-513). The results of research carried out with the use of the indicated diagnostic tools have a significant impact on the type and the scope of criminal sanctions imposed on offenders (Hannah-Moffat, 2013, p. 130). In addition, they are used in making decisions on ordering pre-trial detention or issuing court decisions in a criminal trial. They also allow to determine the level of the risk of recidivism, which gives grounds for taking action to prevent it.

#### X. REDUCTION OF THE RISK OF RECIDIVISM IN CRIMINOLOGICAL STUDIES

Article 40 of The Executive Penal Code provides the Prime Minister with the power to appoint Central Council for Social

Re-adaptation and Assistance to Convicts and local councils by voivods (Journal of Laws 1997, no 90, position 557 with later amendments). On August 21, 1998, the Prime Minister issued an ordinance which sets out detailed rules and procedures of appointing and operation of the Central Council for Social Re-adaptation and Assistance to Convicts, as well as local councils (Journal of Laws 1998 position 113, no 723). The Central Council and local councils for Social Re-adaptation and Assistance to Convicts, among their various tasks, were appointed to initiate and support scientific research (§ 8, section 7). Thus, the importance of research in reducing the risk of recidivism was recognized.

Research in the area of repeat offenses indicates individual criminogenic factors of perpetrators and allows to determine their level of recidivism risk. It allows to take steps towards the elimination of criminogenic factors and the introduction of factors that support the re-adaptation of the convict, with the earlier selection of people who have a low or moderate risk of recidivism in order to focus corrective actions on them. Effective re-adaptation of a convict is conditioned by both endogenous factors (concerning the convict) and exogenous factors (concerning the convict's environment) (Ehrhardt, 1958, pp. 41-70; See: Bauer, 1957). The research results indicate that the endogenous factors contributing to successful social re-adaptation include the lack of interest in the criminal subculture, the desire to improve, good health, professional qualifications, no criminal record during adolescence, intellectual fitness and crystalized life plans. Factors hindering the process of social re-adaptation include a long criminal career, lack of self-confidence, low mental level, lack of self-criticism, lack of guilt, disregard for moral norms, inability to form emotional relationships and alcohol addiction (Szymanowska, 2006, pp. 183-195). Regarding alcohol abuse, research in the group of recidivists convicted for offenses against property showed that 40% of them had abused alcohol at the time of the first offense, and 5% consumed alcohol every day. At the time when the second offense was committed, the percentage of alcohol abuse has risen to 48%, for the third offense to 57% and for the fifth offense to 88%. (Konieczny, 1977, pp 242-243). The upward trend indicates the simultaneous development of alcohol addiction and a criminal career.

Moreover, the same research showed that 78% of respondents had committed their first crime before the age of 25, and 44% had already been convicted for the third time. Entering a criminal path at a young age results in greater likelihood to return to committing crimes. People who committed their first offense before the age of 25 most often become multi-recidivists (Konieczny, 1977, pp. 242-330). The earlier the age of the first offense is, the more often it results in further conflict with the law, as none of the respondents who committed their first offense after the age of 25, reached five convictions. (Konieczny, 1977, pp 76-78). Research results indicate that taking care of citizens at a young age can contribute to a reduction in crime rate. It is worth pointing out that the coexistence of endogenous and exogenous factors also has its consequences, as 43% of prisoners who were in a poor

financial situation in their childhood abused alcohol (Konieczny, 1977, p. 247).

Exogenous factors of crime include: difficulties in finding a paid job or inability to start a job, insufficient material conditions to provide a living, conflict with the family, lack of housing, social exclusion and remaining beyond any social control (Machel, 2003, p. 298). Recidivists who grew up in poor financial conditions in childhood, committed the first offense at an early age (17-20 years) much more often than others, as it concerned 71% of them (Konieczny, 1977, pp. 76-78). Moreover, the first crime committed by all respondents was the crime against property (Konieczny, 1977, p. 306). The respondents, who had good or average financial conditions in their childhood, committed further offenses less frequently (Konieczny, 1977, p. 326). Therefore, improving living conditions could reduce the crime among young people, and thus the number of recidivists.

It should be added that external factors supporting social re-adaptation and preventing recidivism also include grassroots and voluntary activity of civil society, that could indicate new ways of solving difficult social issues, by replacing stigmatizing social attitudes with attitudes of tolerance, compliant care, subsidiarity and rational support (Ambroziak, 2007, p. 195). Current Executive Penal Code indicates two levels of public participation during custodial sentence. Article 38 § 2 allows rehabilitation, cultural, educational, sports and religious activities in prisons, and in accordance with Art. 41 § 1, in order to facilitate social re-adaptation, and to counteract the return to crime, convicts and their families should be provided with the necessary assistance, especially material and medical, in finding work and accommodation, as well as legal advice.

The results of criminological research clearly indicate what the orientation of custodial sentence should be. Its aim should be to change the attitudes of convicts and supporting their return to society, which will reduce the risk of recidivism and, consequently, the crime rate. The knowledge of factors supporting and hindering social re-adaptation should become the basis for corrective actions for convicts. In addition, the results of the research show the importance of social attitudes and activities towards convicts. Today's Western societies are characterized by an increasing openness to this type of positive attitudes and may "the primal instinct, which pushed societies to vengefully eradicate criminals, be overthrown by the rational principle of care for the convict" (Korenfeld, 1888, p. 672). In addition, research indicates that Polish society has a certain intuition as to taking into account the perpetrator's characteristics and the circumstances of the event when punishing. When asked about the scope of punishment for murder or robbery, respondents usually choose severe punishments, but when they are presented with the detailed circumstances of the incident, characteristics or the perpetrator's motivation, they become much less tough (See: Kury, 1998). Therefore, when meting out justice, taking into account the above-mentioned issues concerning the personality of the perpetrator and the circumstances of the offense committed by him, exists in the consciousness of Polish society.

#### XI. CORRECTIVE INTERVENTIONS TOWARDS CONVICTS

The results of research on the risk of recidivism make it possible to undertake individualized corrective actions towards convicts. These actions are useful in enforcement proceedings to assess changes and progress of corrective interventions applied to the convicts and the possibility of their modification. Estimating the criminogenic needs of the perpetrator is important as they generate crimes, and under the influence of appropriate actions of e.g. social services, they may change and contribute to the reduction of criminal activities by the perpetrator (Wójcik, 2013, p. 63). The corrective program for the convict is established taking into account his specific reactivity, i.e. learning style, strength, motivation to change, personality and bio-social factors characteristic to him. Corrective actions include pro-social modeling, proper use of reinforcement or disapproval, help in solving problems (Wójcik, 2013, p. 67).

In the Polish penitentiary model, various methods of influencing convicts are used in order to transform their personality that will enable proper functioning in society after leaving the prison. "No recidivism" is a rule assumed as the minimum goal that proves the effectiveness of rehabilitation in the prison. The maximum goal additionally includes the development of the personality and the change of the convict's identity (Jaworska, 2008, p. 93). Among the many different kinds of interactions, one should mention methods based on behavioral therapy, dynamic convention, and humanistic orientation; actions based on punishments and rewards; methods based on personal influence (counseling, persuasion, conversation); methods based on social support (temporary release from prison, pastoral care in prison, compensation, cultural activity in society, help for the disabled); methods based on culture (education, professional activation, artistic creativity, recreation and sport, running a magazine for prisoners, radio, television; methods based on ecological activism, relaxation and corrective methods); interpersonal-corrective methods (compensating for educational deficits, group psychotherapy, interpersonal training - social skills training, assertiveness training) (Jaworska, 2008, pp 100-150). It is worth noting that the importance of psychotherapy for convicts was referred to by V. Frankl, who wrote that defining a goal in a prisoner's life counteracts psychopathological symptoms (Frankl, 1962, p. 82). Thus, he confirmed that the sense of meaning in life is of great importance for mental health.

#### XII. LABOUR AS A MEAN OF SOCIAL RE-ADAPTATION

Satisfaction with life, a sense of being needed, a sense of meaning, desire to deepen one's ambitions, motivation to expand knowledge, respect for the work of others and a sense of duty all emerge when a person takes up a job. Lack of work, on the other hand, contributes to anti-social behavior (Brückner, 1958, p. 3). Unemployment implies a large amount of free time that is often not properly used. An unemployed person comes into contact with other unemployed people, which in turn increases probability of falling into addictions that could disrupt

family and neighborhood life (Konieczny, 1977, p. 211). The very attitude to work may indicate future criminal activity (See: Schiedt, 1936; Lernell, 1973). The results of the research on the group of recidivists that were committing crimes against property showed that 95% of them were not working at the time of the first offense (Konieczny, 1977, p. 214). Moreover, they were more likely to become a multi-recidivist (Konieczny, 1977, p. 329).

Taking up work is a mean of social re-adaptation, so it is important to provide prisoners with training and vocational courses to help them enter the labour market. The effectiveness of this type of courses is confirmed by the results of studies of convicts' social and professional situation after leaving prison that participated in training and vocational courses under the "Nowa Droga" project and the control group, i.e. convicts who did not participate in courses. Among the convicts participating in the project, 76% took up a job after leaving prison, and 24% were looking for a job, so the entire group had an active attitude towards employment. Among the convicts from the control group, 35.3% took up a job, 24% were looking for a job, and 14.7% did not look for a job at all. Visible disproportions indicate the effectiveness of vocational courses, which was additionally confirmed by the attitude of the program participants, as 46% of them planned additional education or already participated in another course, and 31% saw the need for further development (Report from the "Nowa Droga" project, 2007, p.44).

### XIII. CONCLUSIONS

The results of criminological research are used for the purposes of criminal law, which means that there is a beneficial reciprocity between criminology and criminal law, which supports their coexistence (Kuć, 2015, p. 26). Proper, criminal law legislation which relates to reality and the improvements in the field of justice system require criminological knowledge (Tyszkiewicz, 1986, p. 51; Kuć, 2015, p. 5). Evolution of lawyers' and criminologists' views has led from the law of retaliation to the need to meet justice, but also to rehabilitate. Polish criminal law represents the model of justice and social re-adaptation (Tyszkiewicz, 1991, p. 133). Criminology serves the purpose of fighting crime, it "helps in legislative work, provides grounds for undertaking certain measures concerning the application of criminal law, and helps in dealing with individual criminal cases" (Tyszkiewicz, 1986, p. 18). "Many institutions of modern criminal law, especially in the field of punishment, have been shaped under the direct influence and pressure of criminology and criminologists" (Błachut, Gaberle, Krajewski, 2007, p. 39). Lawyers are no longer the only ones influencing the creation and application of criminal law, which sometimes makes them resist out of fear of departing from the traditional understanding of criminal law and criminal responsibility (Błachut, Gaberle, Krajewski, 2007, p. 39). Based on its research, criminology presents recommendations that can rationalize the law-making process (Świda, 1970, p. 19). Determining individual criminogenic factors, factors facilitating return to society and influencing the return to criminal activity as well as the level of recidivism risk is

possible thanks to criminological research. The results of these studies are helpful in shaping young people, the social space and reality of convicts towards reducing crime rate, i.e. achieving the goal of criminal policy. So far, criminology has had a lasting impact on criminal law, and criminologists rightly see their activities as focused not only on the field of achieving scientific research results, but also on using these results to influence reality by implementing scientific concepts (Błachut, Gaberle, Krajewski, 2007, pp- 38-39).

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