



FEMALE CRIME AND PRISON TREATMENT

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Abstract

Female crime and incarceration have only relatively recently become the subject of study and research. Modern societies have been-and still are-the natural space for social and normative change in favor of freedoms and, above all, the emancipation of women: controlled procreation, the decriminalization of abortion, divorce and the repeal of the crime of female adultery represent only a few examples of the achievements already made. Despite the increased visibility of "gender" issues, we have not equally witnessed, in the prison sphere, the achievement of as many appreciable changes: the male sex still remains the protagonist of the reality and the prison and crime scene. In other words, crime, and thus the prison, are still male domains and where women are an exception. The presence of women in correctional institutions is, therefore, usually analyzed in comparison with the preponderant male component. The fact that there are fewer women prisoners than men tends to suggest that the male condition is considered the norm, reproducing women's social subalternity in life and family. Perhaps also due to the small percentage of women prisoners, there is an obvious difficulty in devising organizational arrangements and rehabilitative offerings suitable for capturing and enhancing the specificity of the female prisoner population and related issues, such as that of "children in tow." It follows that many of the specific problems, which are related to women's detention, have been, probably poorly observed and evaluated.

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1.1 The first studies on female crime

The last century saw the beginning of the first studies on female delinquency—a new, unexplored field that had been deliberately overlooked, as having little or no bearing on crime statistics, and for a long time. Lombroso and Ferrero's treatise (1923) titled "The Female Delinquent, the Prostitute and the Normal Woman," opens a new theoretical debate about the biological and physiological constitution of woman (female) compared to man (male), with obvious repercussions on the criminal potential of illegal actions and conduct. Although the two theorists, based on previous studies on the subject of "atavism," are determined in arguing that all antisocial or criminal elements in a society represent the result of biological regressions to an earlier evolutionary stage of human development and that the signs of degeneration and atavism are purely physical, (the shape and size of the skull), assert that the female criminals considered do not turn out to respond to the theoretical model of atavism and that very few women correspond to the criminal type that the two scholars identified as criminal-born (who must exhibit four or more signs of degeneration). This helps to explain first of all why true criminals are rarely found among the female population and to reinforce the theoretical model of the lesser "human-female" evolution in terms of deviant behavior. This theoretical model is linked to the belief, therefore, that women, having departed less from their "primitive origins," exhibit a low

Also of interest:

- a) the analysis on female criminogenesis, which originates from feelings of revenge and cruelty, characteristics rarely found in the male delinquent;
- b) the lack of passionate purpose: women are rarely driven by raptus or act under the influence of violent suggestions. Women prepare and premeditate the crime and transfer components such as coldness, calculation, and reflection into the action;
- c) the complication of the crime plan: in men, the crime represents a goal with a clear criteriological matrix; in women, scrupulous analysis seems to stand out more;
- d) simulation and dissimulation: these are a necessary consequence of the slavery and oppression to which women have been condemned for centuries. This condition has determined in the field of delinquency a particular simulant psychology on the part of women (Ferri (1928) . In an attempt to classify female delinquency, the types identified by Lombroso and Ferrero are: the criminals-born, the offenders of opportunity, the prostitutes, and the passion offenders, in which prostitutes constitute the true delinquents, comparable to male criminals. Lombroso points out that prostitution is configured as the highest form of female degeneracy and that women who are born criminals represent the exception of the female gender. The cause of prostitution: "is not to be found in her lust, but in her moral insanity" (Lombroso and Ferrero, 1923) and in more specific causes such as subjection to stronger subjects, the disadvantaged family environment, the high education that society begins to grant women, but which, in a bizarre contradiction, does not then allow them to employ in the professions or offices, to earn a living (Lombroso and Ferrero, 1923) . According to Smart (1981), the adoption of determinism, both



biological and psychological, has literally put the possibility of self-determination out of play, scientifically legitimizing both material restrictions and the introduction of new technologies of social control, generating "the possibility of exercising more efficient control over any deviant behavior" from a predetermined set of norms at the expense of real change in existential conditions. This gives rise to the "pathological" labeling of those who commit crimes or deviance, deeming them recipients of care and treatment. Rubin (1974) defines the male-female relationship system as a sex-gender system, that is, a system in which the biological datum asymmetrically defines that the male dimension ranks higher than the female dimension.

1.2. The "criminal woman" in the post-Lombrosian vision

With Thomas's (1923) work, "The unadjusted girl," there is a radical change in the view of the "delinquent woman," who in the Author's theoretical vision becomes such because concrete social problems exist and it is necessary, likewise, to identify new methodologies of treatment and cure. Biological abnormality of Lombrosian origin - in Thomas's vision - now seems to give way to what the Author defines as "socially induced pathology." According to this approach, deviance and criminality are the result of a failure or partial socialization of such individuals, who display a maladjustment to the values of society and its associates (nonconformity), a sign of disease rather than congenital badness. Thomas' (1923) analysis, while not totally abandoning the biological strand, focuses, therefore, on the importance of psycho-social relations. Female deviance in the author's view is sexual in nature, and sex represents the primary "factor" for the fulfillment of "recognition and security" components. Again, in Thomas' (1923) view, the woman is considered biologically, socially and psychologically "less evolved" and always seeking recognition, especially social recognition. The prostitute, in his vision, is a woman in search of love who, however, uses socially unacceptable means. Thomas (1923) concludes his analysis of female criminality by arguing that the latter is the result of changing cultural values, emancipation, the possibility of contracting marriage outside the ethnic group to which one belongs, and physical placement in subordinate strata of society where anti-legal and anti-social cultures lurk. Pollak's (1977) study "The criminality of women" reveals the influence of sociology, psychology and psychoanalysis on criminology and has the merit of introducing the problem of social representation of female criminality. In the study in question, the author points out that women's criminality has been a neglected area of research and still oriented mainly to its quantitative dimension and the apparent lack of

proportion between male and female offenders. Most have focused on the analysis of statistical data, on official crime statistics, from which emerges a significant numerical difference to which different interpretations have been given: some argue that there is a difference with respect to "conformity-deviance" related to sex, implicitly stating that women who commit crimes somehow betray their femininity, entering, therefore, a purely masculine. With Cowie et al's (1968) study "Delinquency in girls," the positivist tradition that considers female criminality as an expression of pathology, which can be eliminated by referring to causes, is, on the one hand, renewed; on the other hand, a new phase of research is begun to identify indicators and variables aimed at distinguishing between normal and delinquent girls. For Cowie et al (1968) these are constitutional elements predisposing to delinquency, but they do not take into account the social processes that can produce characteristics such as these among members of specific social groups: for example, poorer segments of the population may be inadequately fed, have poor medical care, or experience a deprived childhood characterized by the lack of parental presence. Socio-environmental factors in this study play an insignificant role compared to physiological and psychological criteria. Although they claim to have uncovered disruptive socio-environmental factors in at least half of the biographies of the girls examined, they do not believe that such factors had much importance in the predisposition of those girls to become delinquents. The biological difference between the sexes is the most significant cause of the difference in the nature and frequency of crimes committed by the two sexes. Girls, therefore, become delinquents when they are biologically abnormal or when minor physical abnormality is combined with exceptionally stressful environmental factors. Konopka (1966) in the essay "The adolescent girl in conflict," the result of the author's study and analysis of private and personal conversations with young delinquents interned in institutions and numerous reports by social workers, describes the miseries and loneliness of girls. The girls' transgression, including, likewise, sexual promiscuity, is the result of a lack of individual integration, marked, above all, by neglect by the family environment, which translates into a real need for love: loneliness, fear, distrust of adults, and low self-esteem are the factors that lead to a sense of isolation and despair, without which it is difficult for a woman to delinquent.

1.3. Sociological approaches to the phenomenon of "female crime"

The pivotal concept in sociological approaches to the study of female deviance is that of gender roles, i.e., those patterns that include behaviors duties, responsibilities and expectations related to female and male status, the object of social expectations and strongly conditioned by the absolutization of biological differences. Central becomes the concept of "socialization," as it is fundamental in the acquisition of gender roles and in the etiological explanations related to deviance, interpreted as a defect of socialization, especially familial (Parsons, 1973) , as masculinization of female conduct for proponents of role theory since the 1970s, as adaptation (Cohen, 1955) or still in the analysis of social control. Gijjs (2006) argues that dominant pedagogical models have taught girls to



consider the roles of wife and mother as natural, and educational models characterized by greater restriction of freedom and the transmission of values such as marriage and motherhood, effectively distancing women from risky situations. Added to these is a socialization model based on the control and protection of girls, seen as individuals who must be protected and safeguarded first of all by the family of origin and then by the husband: "the socialization and social control model sanctions the subaltern role of woman, confirms the ideology on the passivity by setting the limits of her freedom." Bishop (1931) in "Women and Crime" highlights the link between emancipation and female crime at a time when English society was being shaken by profound changes including the right to vote for all women of age. The increase in crimes committed by women in England is seen as a direct consequence of the spread of the women's emancipation movement, which promoted not only the right to vote but also women's work (previously precluded), active presence in society and the choice to prostitute themselves. For Parsons (1973), deviance is the manifestation of poor socialization to social roles and manifests itself differently in males and females. For males, deviance is often generated in the transition from the family environment to the social environment, a time when different cultural patterns clash: while in the family environment the maternal role prevails, in the social environment typically masculine behaviors and roles are demanded. However, the cultural and psychological conflict that is generated is crucial in preventing identification with the female figure, and juvenile delinquency can be considered a form of "male protest." In contrast, in adolescent girls, the social environment requires identification with the female figure, and antisociality consists of not adhering to the socially accepted ideal of femininity, such as through prostitution. Sutherland, Cressey and Luckenbill (1992), in their work "Principles of criminology," attempt to explain the reduced incidence of female criminality on the basis of the social status of women: the latter, excluded from social life, work and other social contacts, would not, according to this theoretical approach, be subjected to external influences as, on the other hand, regularly happens in men. Similarly, Hoffman Bustamante (1973) stresses in the essay titled "The nature of female criminality" the role of the different socialization of boys and girls, in view of the fact that girls are labeled as passive, homely, more controlled and recipients of more rigid discipline, while their peers enjoy greater freedom, are encouraged to be aggressive, ambitious and eager to succeed, and are pushed to conform to the rules, but are also often rewarded if they step outside the conventional canons. The latest sociological approach to deviance that focuses on socialization is the

one developed, in the wake of Merton's (1966) theories, by Cohen (1987). Building on Durkheim's (1893) concept of anomie, Merton (1966) analyzes the impact on crime of structural inequalities related to social class of membership. As is well known, in American culture, it is the culturally defined goals (wealth and success) and the legitimate means of achieving them (work or study) in their interactions that potentially generate the conditions of conformity but also of anomie, of breaking rules and laws. Merton (1966) acknowledges the existence of social classes and inequality among them, but does not consider structural inequalities related to gender. In fact, success is declined differently for men and women, and the appropriate means to achieve it are very different. While for men success is basically to be understood as economic, for women it is rather understood as achieving a good social position by acquiring, through marriage, that of the husband. On the other hand, as some have pointed out recently, aspiring to success in the macho sense involves women experiencing a conflict between their aspirations and social expectations. Fear of being judged unfeminine, of being rejected by men, and of creating conflict between work and family has often led to what Morris (1987) calls fear of success, as fear of success because of the consequences it entails, including the abandonment of one's aspirations and adjustment to goals that are easily attainable through the means at one's disposal. Cohen (1955) approaches the problem of juvenile delinquency in 1950s American society from the belief that every society differs within itself into numerous subgroups, each with its own typical way of thinking and acting, its own culture. The culture of a group is acquired only by interaction with those who already share and embody in thought and action that particular cultural pattern. So it is with the delinquent subculture, delinquency is not an expression or explication of one personality type; on the contrary, it can be imposed on any type if circumstances favor an intimate association with delinquent patterns (Cohen, 1955). Stealing and other property crimes, vandalism, and causing serious disturbances are generally male performances; moreover, the group or gang, that is, the vehicle of the delinquent subculture is one of its markers that best lends itself to statistical elaboration, is "a gang of boys" (Cohen, 1981). Being part of a gang offers little opportunity for girls, "if, however, delinquent girls also have their own subculture, it is different from the one we have described." The author, first of all, makes a difference between male and female deviance: in the former he glimpses versatile profiles, in the latter, on the other hand, a specialized profile of a sexual nature prevails, which often results in situations easily liable to degenerate into "overt sexuality" (Cohen, 1981). Women's deviance is linked, in its theoretical conception, with the factor of "social change" and "role theory," which lose the connotation of staticity and become the subject of modifications and changes; from this perspective, women's roles in which new opportunities, including criminal ones, prevail have also changed. Moreover, the quantitative increase in female crime is likely to be accompanied by a significant number of crimes committed by women and girls, which are increasingly masculine and violent. Adler (1975) in his study "Sisters in crime" points out an important correlation between the growth of female crime and emancipation leading to substantial equality between men



and women, resulting in a masculinization of women and the overcoming of the concept of female passivity. According to Morris (1987) the women's movement produced changes more than in women's crime in the perception of women in women themselves: "Women are certainly more involved in crime...I believe the explanation for this lies not with the women's movement, but with the challenges to the social order which it was seen to represent."(Morris,1987) . Marotta (1987) , rejecting the common approach of evaluating the phenomenon only in terms of statistical comparison with crime, asks: a) whether the condition of women has achieved actual or only apparent improvements; b) whether these changes have affected women's crime or its manifestations. The answer lies in the distinction between role and social position, and argues that while the former has remained essentially unchanged (the culture of our society recognizes in women's roles her specific function in the family sphere and with regard to the opposite sex), the social position of women, her status, consists of the set of freedoms and prerogatives that have been granted to her and that place her in the social and labor spheres in the same, or nearly the same, position as men. Naffine, (1997) analyzes Becker's theory, who on the subject of deviant behavior argues in his study of cannabis-smoking jazz musicians that there is nothing deviant or criminal in their behavior and, siding with these outsiders, develops his theory of labeling. Chesney-Lynd (2004) proposes an interesting study of adolescent girls' deviant behavior, identifying violent behavior and participation in gangs as a response to poverty and social marginalization. The gang as a group generates security and a sense of belonging for adolescent girls, it often becomes the site for their exploitation and increased involvement in violence and crime. In addition to poverty, it is the physical and sexual abuse they suffered in childhood and their victimization that is the starting point for survival strategies (running away from home, substance use, prostitution) that are defined as crimes, often by their own family members or those who acted violence on them, and bring them closer to paths of institutionalization of crime; girls are often victims of multiple marginalization of gender, race, class that positions them on the economic periphery of society, and the labeling functions as an indicator and reinforcement of patriarchal society as survival strategies are labeled as crimes and/or sexualized and girls are criminalized. Balloni (1977) states that women's thinking still moves between claiming equality and valuing differences, and that many theories, even on emancipation, assume that the male model is the one to which one must conform anyway, even if it turns out to be possible to study female criminality and deviance outside the comparison between the male and female sexes.

1.4. Social control and female criminality

The term social control appears in the late 1800s as a synonym for social defense, understood as the right of society to defend itself against criminals. Several lines of interpretation then developed. In a first declination of this concept, social control encompasses all phenomena and processes that help regulate human behavior by establishing relationships between multiple subjects with a view to maintaining the social order, which includes: morality, law, education, and so on, that is, all the elements that define culture and contribute to social interaction. In a second definition, social control includes all the ways and means by which people influence each other from the direct influence of one group on its members or one subject on another. Finally, a third definition considers the essence of social control in the reaction to deviant behavior. In this meaning, social control exists insofar as there is a deviant act and includes "the set of formal and informal, coercive and persuasive reactions that are envisaged and/or enacted against individual and collective behavior that is deemed deviant and directed toward establishing and maintaining social order in that unit" (Cesareo, 1974). Female specificity from the perspective of social control is not distinguished from socialization, so much so that in the case of women, socialization and social control are often considered two indistinguishable processes (Ambroset, 1984). Parsons (1965) defined socialization as the set of mechanisms by which agent subjects acquire the orientations necessary for the performance of their roles in the social system, while the mechanisms of social control are involved in the balance between the generation of motivations opposed to the reestablishment of the stabilized process of interaction.

According to Ambroset (1984), in the case of women there is always a role considered natural, which is that of mother. Inevitably, the process of socialization ends up coinciding with a process of social control. The author basically identifies two stages: a) the first is closely related to the definition of social control, which is, however, unrelated to women's deviant behavior, and this is because of the social definitions; b) the labeling stage in the process of social control, which is initiated both in the case of the infraction of a legal norm and a custom or social norm. At this stage the role of women deviating emerges, as a prerogative, in daily life and social control is made explicit not only in identifying the behavior and defining it as such, but also in identifying the possible reaction. We can distinguish four types of reaction: 1) evaluative, consisting of what the members of the group believe should happen to those who perform a certain act. In this case women have always been more rigid and severe especially if the deviance is implemented by other women; 2) legal, operated through the enforcement of laws by those officially vested with this responsibility and in this area women have long been excluded; 3) expectant, which concerns popular beliefs regarding what will really happen; and 4) implementation of the identified measure by the formal and informal agencies deputized to do so: for women, the main measure was institutionalization with a rehabilitative perspective, viewing them not as culprits but as sick, and who, if subjected to appropriate treatment, will be led to



recovery. Smart (1981), argues that in most women's correctional institutions, the methods applied end up reinforcing the traditional and stereotypical roles of women in our culture. Female inmates have the opportunity to learn to sew, cook and perform other household chores with the goal of reducing recidivism. In this way, criminological theories of female deviance can serve to legitimize the guidelines of the criminal justice system by providing scientific justifications for the treatment of deviant women as individual cases of illness, as irrational, irresponsible and largely unintentional behavior, resulting in a kind of individual maladjustment in an orderly consensus society. The second measure was the process of medicalization of female deviance, in keeping with all the theories that see the female delinquent as less conscious than the male in delinquent behavior. Social control and female specificity had already been the focus of studies on adolescent girls since the 1960s in which they highlighted how most female inmates were incarcerated for "the big five: running away from home, incorrigibility, sexual offenses, probation violation and truancy" (Vedder & Sommerville, 1973) .

1.5 The characters of women's imprisonment

The type of crimes committed by women is usually the result of a course of social and family marginality that affects, often, the reiteration of anti-legal conduct and opens the prison doors wide for short and repeated stays . Narcotics violations and property crimes are often the reason for sentencing for the vast majority of female inmates. The tasks of "reeducation" of inmates are delegated to the complex activities of treatment, which, according to the Ordinance, must be individualized and must respond to the particular needs of each subject's personality (Art. 13). For the treatment phase it is stipulated that: "an expert in observation and treatment shall conduct an interview with the prisoner or interne upon his or her entry into the Institute, to ascertain whether he or she can cope adequately with the state of restriction." The result of this assessment shall be communicated to the practitioners in charge of appropriate interventions for individual cases and to the group of observation and treatment practitioners referred to in Article 29. In the case of a drug addict, a report is sent to the Drug Addiction Service operating in the Institute. It should be pointed out, however, that women's incarceration is usually marked by short sentences, unless one is in the presence of convictions for mafia-type criminal association or very serious crimes . Statistics also show, as well, that there are generally objective difficulties in employing female inmates in jobs that do not involve the performance of tasks within the institution (cleaning, cooking, or other activities), and this

is due to the lack of space within the facilities where laboratories can be built for the organization of work. Fortunately, over the years, the idleness and inactivity of women prisoners has been filled in many women's prisons with the performance of workshop activities in crafts, cosmetics, theater, school training courses, which allow women prisoners to "overcome" the prison experience, through the stimulation of personal resources, (empowerment). Recent research shows a positive relationship between access to work and attendance at preparatory courses, which are much higher for final female prisoners than for those still awaiting trial. Of course, the prison, in addition to having a restrictive character of personal freedom, centers contacts with the outside world (Art. 15 of the Penitentiary Ordinance), both with regard to contacts with members of one's own family and with people outside the family, taking into account that interviews with people other than relatives and cohabitants are authorized only when specific or reasonable grounds exist. With regard to the granting of premium leave for the purpose of cultivating "affective, cultural or work interests," reference is made to regular intra-muratory conduct within the correctional institution, together with the declaration of the absence of social dangerousness. Statistics show that the rate of granting and relative enjoyment of furloughs is linked to a long period of detention, while concrete difficulties emerge in obtaining furloughs from female prisoners who have been serving their sentences for at least three years. Alternative measures to detention, such as probation to the social service (Art. 47 ord. pen.) or semi-freedom (Art. 48 ord. pen.) are granted in the presence of clear and precise guarantees and security about the existence of a family ready to receive the inmate. The main condition for obtaining semi-freedom (granted to give the possibility of participating in work, educational or otherwise useful activities for social reintegration) concerns the real possibility of working outside prison walls. In addition, for drug-addicted female inmates there is the possibility of obtaining therapeutic foster care, for no more than two times. Among the types of crimes that lead women to cross the threshold of prison, the entry "prostitution" also emerges, which, although the status of prostitute is not indictable, concerns satellite crimes related to this condition, such as injury, outrage, resistance to a public official, violation of the traffic ticket, fights, obscene acts, and so on; these crimes are generally attributed to African or Eastern European female immigrants. Roma women, on the other hand, are often convicted of vagrancy offenses. Although the condition of marginalization experienced in society is a common feature of the majority of both the male and female detainee population, the lack of both the "violence" and "social dangerousness" elements emerges for women. The female inmate population is usually sentenced to less than 3 years of imprisonment, which would confirm the belief that the prison is considered "a purely male institution," taking into account, also, that female inmates have always represented a small percentage compared to the entire inmate population (about 4 percent). In fact, women, especially in the past, have often been interned in Institutions of various kinds such as convents, reformatories, psychiatric hospitals and, more frequently than men, for improper "anti-legal conduct". Despite a gradual secularization of women's prisons, the treatment of women prisoners still suffers



from the influence of gender stereotypes, and re-education risks being translated into an adaptation to social and behavioral models recognized as inherent to the female role. This type of female prisoner is subject overall to a lower offer of work, education, training, as well as a total disregard for what is inherent in women's lives, and in particular: health, affectivity, sexuality, motherhood. Women's detention remains, therefore, a marginal issue, not only for those involved in studying prison dynamics, but also for governments and prison administrations in Italy and the rest of Europe. Even in Italy, despite intervening laws, particularly Finocchiaro Law No. 40/2001 and most recently Law No. 62/2011, the requirements for access to alternative measures are complex, resulting in the presence of children imprisoned together with their mothers. Women in prison suffer not only from the deprivation of freedom but primarily from the deprivation of affection, as do families on the outside and especially minor children. The findings from studies on women's imprisonment should serve as a basis for lawmakers to create a system that is, if not "woman centered," at least "child centered" . Recent research has shown that during detention women exhibit particular psychological pictures related to their personalities, the experience they are going through, and their sensitivities; they suffer from separation from their families, loss of affectivity, and distance from their children; they experience increased guilt toward society and deep frustration (especially for long sentences) should their children be adopted by other families . Altra categoria di donne recluse riguarda le “tossicodipendenti”, che sono la maggior parte delle detenute; queste scontano pene detentive abbastanza brevi e nella maggior parte dei casi sono recidive. La presenza di poche Sezioni femminili nelle carceri, costringe il trasferimento delle detenute (soprattutto straniere) in luoghi ben più lontani con evidenti difficoltà di incontro per la famiglia di origine. La “detenuta tossicodipendente”, specialmente con figli al seguito, presenta maggiori problematiche ai fini dell’accesso ad una Comunità di recupero e ciò in ragione dell’accudimento dei figli . Per le “detenute straniere”, si riscontra comunemente il problema della lingua, della emarginazione e della povertà ante-carcere, la presenza in casa di molti figli, e, nonostante la presenza di una famiglia numerosa, risulta quasi impossibile fruire di colloqui perché i parenti sono quasi sempre molto lontani. Si tratta, pertanto, rispetto alle detenute autoctone, di una ulteriore penalizzazione in termini di contatti e di scivolamento verso la solitudine. Il problema della conoscenza della lingua, impedisce alle detenute straniere di effettuare chiamate dal carcere, in quanto l’Istituzione non è in grado di controllare le conversazioni. A tale problema si è cercato, ma solo di recente, di ovviare impiegando interpreti per le lingue ufficiali, mentre per i dialetti il

problema è destinato a rimanere irrisolto. Le donne straniere hanno, inoltre, molte più difficoltà ad accedere al lavoro all'esterno rispetto alle donne italiane e, quindi, meno possibilità di avere una occupazione futura . Per quanto riguarda le nomadi, emergono ulteriori problematiche: per ragioni culturali, infatti, queste donne appaiono poco inclini ad accettare aiuti che potrebbero, sia pure in minima parte, modificare il loro approccio culturale ai sistemi di educazione adottati. Le donne che entrano in carcere, siano queste madri o meno, subiscono numerosi fattori di stress che influiscono sulle loro percezioni e sensazioni . La “spersonalizzazione” è una delle conseguenze che deriva da tali fattori.

L'ingresso in carcere delle donne produce quasi sempre la sensazione della “violazione del proprio corpo”, cui si aggiunge sia l'abbandono graduale della femminilità che la percezione di dipendere totalmente dalla Istituzione Penitenziaria. Il fattore “tempo” e “l'attesa”, soprattutto quando questi ineriscono la concessione di permessi premio o la concessione delle misure alternative alla detenzione, provoca un senso di smarrimento, oppressione, stress, minorazione individuale.

1.6. The condition of the incarcerated mother with "children in tow"

Fatherhood, motherhood and the relationship with offspring represent the founding system of societies of all times; added to this is the right, especially for children, to maintain strong parental ties that are fundamental to their development . The debate on the preservation of parental bonding in confinement is, even today, a battleground. Parenting should be exercised even in the status of imprisonment, yet this does not happen because in our social culture having parents (either or both) in prison represents a prejudice, a stigma from which children must be preserved. Prison notoriously breaks the family and weakens its structure, causes discomfort, embarrassment, shame for the children, and this is often because of the type of crimes attributed to one's parent . Modern psychology indicates that the detention of the father, for example, compared to that of the mother, creates less family instability and the primary task for women (wives of detainees), is to preserve family unity as much as possible through visits and interviews with the detained spouse while also bringing the children. Quite different appears to be the situation in the family after the incarceration of a mother with serious repercussions on the family environment, both because in our culture the woman is the cornerstone of all family activities, and in terms of what pertains to the non-socially accepted image of the female offender: a very common stereotype is, in fact, the equality that is established between "criminal woman" and "bad mother." Thus, the detention of mothers is often accompanied by a strong sense of guilt and shame for abandoning their children, and the greatest need felt concerns the fact that both the maternal role and the crime are disentangled; one who has committed a crime, is not necessarily a bad parent and the parental rights of the detainee are not in any way disempowered .

The detention of "a mother" and the goal of maintaining this status even in prison clashes with the reality of the rules of intra-custodial restriction. Children, rather than a concrete



goal for reintegration, represent a psychological stimulus in prison. The thought of a child can be a motive for rehabilitation, and women tend not to commit violations or engage in violent behavior, furthering the possibility of being able to take advantage of premium leave or sentence discounts for early release . The Prison Ordinance provides in Article 11 that women in detention may keep their children with them in prison until the child is three years old. As seen from court statistics, despite the fact that the current legislation provides that women with young children can be housed in sheltered Family Homes or other facilities to serve their sentences, the presence of minors living with their mothers in Italian prisons is still highly visible. After all, the UN Convention on the Rights of the Child also states: "A child whose parents, or either of them, are in detention shall be allowed to maintain appropriate contact with them." It is clear that the rule does not respond to educational principles and protection of the parent-child relationship. Although the relationship between the mother and her young child is assured, the rule does not seem to take into consideration the distorting effects of the Prison environment and the consequences on the relational level . According to The Prison Ordinance, imprisoned mothers can decide to experience motherhood in prison, but the environment has not been changed in view of this provision, therefore, the times and ways of childcare are those that the prison imposes on women. The need for the imprisoned mother to care for her children in an environmental situation that is not conducive to the children's development is not related only to social and/or affective dimensions . Other personological and psychological variables come into play (the need to develop an affective relationship with the child), or, objective ones such as the impossibility of fostering with others on the outside. The incarcerated woman with children in tow experiences the constant dread associated with the day "of detachment" that will result in the loss of the bond built and the onset of feelings of guilt and fear . Interesting research has shown that children who live inside correctional institutions exhibit patterns of regression or developmental delay due to the deprivation of relational experiences, taking into account that the only figures with whom these children come into contact are female inmates and prison police personnel. The relationship established between the detained mother and the accompanying child is always symbiotic, overprotective, but de-socializing . During their mother's detention, the children spend many hours between the cell and the yard without having the opportunity to have new experiences or learn about anything else: they represent the category of "innocent inmates."

Conclusions

Prison institutes/female wards are populated mainly by young female mothers with accompanying children, drug addicts, unemployed women and foreigners, who represent the weakest sectors of the citizenry, both economically and socially. Taking note of this reality, does not mean placing oneself in a position of justificationism or do-goodism, but results in understanding the phenomenon in order to deal with it in the right way. The arrival in prison, as is well known, is the final stage of a journey that began some time ago, and the return to prison (the recidivism rate is very high) is symptomatic of not having interrupted the previous "modus vivendi," of having returned to the same environment, and above all, it is symptomatic of the fact that the sentence, for these people, has not performed any re-educational and re-socializing function, except great suffering. In this sense, many theorists agree on the need to strengthen the personalization of treatment, which also means understanding the extent to which the female prison population is made up of different categories, including lately foreigners and drug addicts, bearers of an extreme complexity of personal and social problems. The mixture of crime and victimization in foreign female inmates is very high, and this dramatic situation requires targeted and specific interventions for the moment that are too sporadic and sometimes left, as is the case with many issues, to voluntary work. For the category of drug addicts, it is now a well-established conviction that prison is not the appropriate place for an attempt at recovery and does not sour on them any urge not to commit again a crime that is closely linked to the psychological and physical condition of addiction. It turns out, therefore, to be essential to invest to a greater extent in the establishment of so-called "attenuated custody" regimes, in particular, for the various categories of subjects (including female prisoners with accompanying children) and drug addicts, which, while maintaining a residual containment and custodial function, are geared primarily toward the treatment, rehabilitation and secondary prevention of drug and alcohol addiction states and related deviant conduct. Although the punitive function can be considered a constant in the history of Western legal civilization, changed essentially in the methods used to "supervise and punish," the history of criminal law is marked by a slow process of humanization of punishment, which has occurred through the gradual abandonment of the cruellest forms of repression.



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