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Justice statistics in the public service. Courts efficiency and public criminology¹

ABSTRAKT

Czy statystyki wymiaru sprawiedliwości to statystyki kryminologiczne? Na ile przydatne mogą być dane statystyczne dotyczące efektywności sądów? W jaki sposób mogą być one wykorzystane przez administrację publiczną, opinię publiczną i/lub kryminologię publiczną? Artykuł koncentruje się na problemie gromadzenia, przetwarzania i prezentacji danych statystycznych dotyczących wymiaru sprawiedliwości dla celów samego systemu, a także dla kryminologii. Omawia on pokrótce pięć kwestii: nurt kryminologii publicznej i tak zwane standardowe statystyki kryminologiczne, dotyczące m.in. zarejestrowanych przestępstw, podejrzanych, skazanych, kar, więźniów, itp., statystyki Ministerstwa Sprawiedliwości oraz wybrane wyniki najnowszych badań Sekcji Analiz Ekonomicznych Wymiaru Sprawiedliwości Instytutu Wymiaru Sprawiedliwości. Szczególnym przedmiotem zainteresowania pozostają możliwości i sposoby wykorzystania statystyk sądowych w kryminologii i polityce kryminalnej oraz debacie publicznej i mediach.

Introduction

Inspiration to this paper was my study on the topic of public criminology² and my work in Polish Institute of Justice at different data concerning polish courts and justice system, especially one recent project focused on trends in numbers of court cases. It was interesting to me how official statistics concerning courts efficiency are used and maybe abused in public debates, in criminology, criminal policy, and public media.

I want to focus here on five issues. Main theoretical perspective is a (1) public criminology. I will not write much about so called (2) standard criminological statistic (such as recorded crime, suspect, convicted, penalties, penal measures, prisoners etc.) but will focus on (3) Polish Ministry of Justice statistics, if they are criminological or not or which of them could be interesting for criminologist. Then I will shortly present some results of (4) current research of Economic Analysis of Justice Unit in Polish Institute of Justice and (5) finally summarize.

¹ Article is a modified version of a paper under the same title delivered during the 18th annual conference of the European Society of Criminology "Crimes Against Humans and Crimes Against Humanity. Implications for Modern Criminology", which took place on August 29 - September 1, 2018, in Sarajevo (Bosnia and Herzegovina).

² Compare: P. Ostaszewski, *Kryminologia publiczna*, (w:) *Wybrane nowe kierunki współczesnej kryminologii*, E. Drzazga, M. Grzyb (red.). Warszawa 2018 (w druku).

Public criminology and public statistics

Public criminology is one of relatively new, intensively developing, but also intensely criticized currents of contemporary criminology³. It calls for such criminological research and criminological education that engage the public sphere and are engaged in the public sphere, rather than just speaking and writing to other criminologists. This call comes from the observation that, despite the fact that the number of criminologists, criminological research and publications is increasing, it seems that the role of criminology in shaping the policy, for example criminal policy and public opinion for example about crime, and justice system is decreasing.

Edwin Sutherland, in one of the classic definitions of the criminology research area, wrote that criminology is about “the making a laws, breaking the laws and the society reaction to the breaking of laws”⁴. Therefore, crime is not just a private matter between the perpetrator and the victim. The public sphere, understood as political, social and criminal-policy processes of creating and reacting to crime, should be an equally important object of reflection and research as criminals, victims and the crime itself. Or differently, the subject of criminological consideration and research should be the point of contact of crimes, offenders, victims, politics, criminal policy, practices of crime prevention and reactions to crime (together with law enforcement agencies and the judiciary), public opinion (including institutions and processes that shape it), such as the media, social moods, etc.

This is also the point of view of public criminology. But, as it stem from so-called “So what criminology?” it also question some of the theses considered to be certain and undisputed and asking to resubmitted some basic questions. Questions that can and should be asked, are for example: What is behind criminological and judicial statistics? Who does it? How? Who do they serve and for what? How useful they are and could be?

Public statistics, such as crime statistics or courts efficiency data, are part of the state management system, an element of state power, politics and a direct result of the work often focused on limiting, controlling and counteracting or just managing phenomena that are counted and presented in these statistics. That’s why there can be real interests in presenting specific values, data, indicators and not presenting others, etc. Police and courts can show in statistics how good work they do – that is their efficiency or preventive effect. But also they can show how many additional funds or new employees they need, that is for example how crime or number of incoming court cases rise.

All these issues cause reasonable doubts as to the reliability of statistical data. Such doubts of course may also be extended to data developed not only by strictly public services, but also by researchers – for example as part of research directly or indirectly financed from the budget of various public agencies.

³ Compare: I. Loader, R. Sparks, *Public Criminology?*, Routledge 2010.

⁴ T. Newburn, *Introduction*, (w:) *Key Readings in Criminology*, T. Newburn (red.), William Publishing 2009.

Polish Ministry of Justice statistics

Even the very name of the department of Polish Ministry of Justice responsible for collecting, processing and presenting statistical data on justice system is very symbolic and not so easy to translate – it is “Department of management statistics”, or better “Department of statistics that manage”. So it is first clue – they primary purpose is not to inform, but to manage.

There are several main types of data prepared by this department, such as those from different courts departments (eg. Department of Civil Law, of Criminal Law, of Family Law, and etc.) and different courts support institutions (eg. probation officers, notaries, consultative teams of court expert) which concern numbers of incoming and resolved cases in particular matters (eg. divorce), disposition time, types of judgments and many other detailed issues. It is of course important in management for example in human resources management to know such things to better adjust resources. But of course It is also very interesting to different researchers. In short, these are very extensive tables of this type.

Figure 1. Example of annual statistical report of the Ministry of Justice

MS-SSR 18.01.2018

Dział 1.2.2. Liczba odbytych sesji i załatwionych spraw																	
SPRAWY według repertoriów i wykazów	Lp.	Liczba odbytych sesji (rozprawy i wyroki)	Liczba dni w których odbyły się sesje wyroki	Załatwienie ogółem (kol. 4, 15)	Załatwienie zapani (kol. 5, 6, 14)	Sprawy z wyjątkiem odroczenia wyroku (kol. 10, 11)	Sprawy funkcyjnych (kol. 10, 11)	Liczba załatwionych spraw na rozprawie, dotyczy:									
								prezesa	wiceprezesa	przewodniczącego wydziału	zastępcę przewodniczącego wydziału	innych sędziów	innych sędziów funkcyjnych	innych sędziów funkcyjnych	inni		
0	1	2	3	4	5	6	7	8	9	10	11	12	13	14			
Ogółem sprawy funkcyjne i wyroki		317 048	110 410	2 063 998	206 323	137 491	68 151	8 931	6 600	24 178	20 323	5 527	848	1 744	681		
K				355 795	155 336	103 377	51 546	7 142	5 341	18 246	15 350	3 646	720	1 101	413		
z tego				121 074	25 054	16 913	8 095	1 204	819	3 021	2 121	691	121	208	46		
z tego				4 976	3 432	2 355	1 040	104	95	318	363	105	30	25	37		
z tego				1 765	18	14	4	1	1	1	1	1					
z tego				40 211	21 366	14 401	6 905	978	748	2 424	2 093	500	88	94	40		
z tego				6 655	589	419	170	24	16	56	48	21	3	2			
z tego				3 586	178	118	60	10	11	15	17	6		1			
z tego				404	4	3	1			1							
z tego				1 356	43	25	18			2	7	9					
z tego																	
z tego				16	5	3	2	1			1						
z tego				788	62	43	18			3	7	6	2		1		
z tego																	
z tego				470	10	9	1				1						
z tego				19	6	3	3				1	2					
z tego																	
z tego				4 603													
z tego																	
z tego																	
z tego				340	11	8	3			3							
z tego				9	1		1				1						
z tego				2 955	39	27	12		1	3	3	3	2				
z tego				176	9	7	2				1	1					
z tego				5 949	407	265	142		21	11	53	40	16		1		
Kp				207 840	130	80	50		3	4	27	10	2		4		
Ko – ogółem (w. 27 = 28+29)				984 575	95	45	50		19	2	21	5	3				
z tego				574 567	59	38	31		10	1	8	1	1				
z tego				410 008	36	7	29		9	1	13	4	2				
W.				495 344	50 752	33 960	16 504		1 767	1 252	5 884	4 958	1 876	128	639	268	
Kop.				19 344	10	9	1			1							

1) Liczba w wierszu ogółem powinna być zgodna z liczbą wykazaną w dz. 1.1. w 27 kol. 3

Other typical court data that are in interest of criminologist are information of convicted persons by type of crime, type of penalty imposed, age, gender, etc., like those from Polish National Criminal Register. But it is also important to emphasize that data in this register are not collected for criminologist but again for state management purpose, for example to prevent certain convicts from taking specific positions and that there are defined regulation what is in such register and what is not (eg. cases of convicts with mental illness or which died before sentence).

Since the Polish political transformation in 1989, the statistical reporting system of the Ministry of Justice has expanded enormously. There are 28 different statistical reports prepared quarterly. The basic statistical report in civil cases, which initially had only one page, currently has 40 pages with data and 12 pages of explanations and is prepared four times a year instead one time a year. Despite the huge expenditure on computerization in recent years, the process of collecting statistical information is still very labor-intensive – it takes about 150.000 hours to prepare only main types of these reports. This mean that nearly 100 person from about 33 thousand clerks in all Polish courts work only on preparing statistics, not doing anything else. At the same time, there are serious doubts if the collected data is effectively used to diagnose the problems of the judiciary and formulate rational reforms⁵. For example to this day, there was not a single attempt to prepare a summary of all comparable data from subsequent years. Only comparison were done for 2 consecutive years.

Institute of Justice Research in 2018

And here appears Economic Analysis of Justice Unit in Polish Institute of Justice that received the order from Ministry of Justice to forecast number of incoming cases in Polish courts in the following years. It is not a purely criminological work, it situates rather in the analysis of justice system area but form me as criminologist it is interesting to look for criminology even in such non-criminological topics. First and natural step in such analysis is of course making time trends base and prepare statistical analysis and forecasting. What was our surprise when we found out that Ministry of Justice never even made the slightest attempt to create such database with time trends of numbers of court cases in particular categories. After 8 month of work we know why nobody tried it. There were thousands of changes in particular reports and statistical categories, way of counting, names, hundreds of changes in the law affecting flow of cases, etc. It can be of course interesting problem for the management science what Ministry want to know, (eg. with what kind of cases courts have to deal with) but can't count it, not for criminology. But for me it was interesting if any changes in courts case flow can say something about society, crime or criminal policy.

There are typical criminal policy data such as number conviction or number of convicted on different sanctions and measures. Take, for example, number of person convicted on unsuspended and suspended imprisonment in Poland.

⁵ K. Joński, *Efektywność sądownictwa powszechnego – podstawowe problemy*, Warszawa 2016. https://iws.gov.pl/wp-content/uploads/2018/08/IWS_Jo%C5%84ski-K._Efektywno%C5%9B%C4%87-s%C4%85downictwa-powszechnego1.pdf, p. 47.

Table 1. Number of person convicted on unsuspended and suspended imprisonment in Poland (2001-2017)

Year	Convicted	Unsuspended imprisonment	Conditionally suspended imprisonment
2001	343 471	46 239	194 454
2002	378 473	44 233	216 334
2003	447 513	44 545	243 486
2004	514 717	48 571	276 034
2005	526 870	46 952	300 600
2006	487 119	45 977	282 971
2007	467 159	45 648	278 352
2008	424 496	39 586	250 602
2009	425 176	41 553	245 885
2010	430 776	40 995	245 780
2011	435 295	44 309	241 545
2012	416 592	44 005	223 958
2013	368 272	41 937	194 034
2014	318 926	40 121	173 787
2015	290 018	40 420	140 510
2016	280 586	45 672	72 657
2017	264 374	50 076	57 857

We see first rising and then falling trend in number of person convicted (compatible with general crime drop), very similar trend in conditionally suspended imprisonment and rather stable and rational number of prison sentences. There are of course other important changes in polish criminal policy such as rise of community service and fines but what is very characteristic to Polish criminal policy is dealing with changes in crime and number of person brought before criminal court by suspended sanctions. Most of standard analysis of criminological statistics stops here, but more detailed justice statics of different kinds of cases can show us what happens next with these suspended penalties.

Table 2. Execution of conditionally suspended imprisonment in Poland (2006-2017)

Year	Convicted unsuspended imprisonment	Convicted conditionally suspended imprisonment	Execution of conditionally suspended imprisonment
2006	45 977	282 971	101 299
2007	45 648	278 352	118 469
2008	39 586	250 602	114 435

2009	41 553	245 885	120 177
2010	40 995	245 780	118 605
2011	44 309	241 545	116 491
2012	44 005	223 958	118 816
2013	41 937	194 034	114 245
2014	40 121	173 787	97 986
2015	40 420	140 510	86 363
2016	45 672	72 657	73 467
2017	50 076	57 857	52 998

And most of convicted on that penalty (because of re-conviction) end up in prison and often with much longer sentences than in the case of unsuspended imprisonment. What is very interesting is that most of Polish prisoners are not those who received unsuspended prison sentence but those who received suspended sanction⁶.

There are of course other interesting examples of changes in justice system, like numbers of hearings of a child witness, or even number of cases concerning civil enforcement orders.

Summary Research results

Currently in Poland there is a great discussion on the reform of the judiciary forced by the ruling party. It is mainly a dispute about values – like democracy, the rule of law and who should be and become judges... Courts efficiency data are almost absent in this discussion but everyone tell that their solutions will improve the efficiency, speed up the process and reduce the backlogs. In the last three years after the last political election and in the course of ongoing reform nearly all efficiency indicators of polish justice system are constantly falling. Paradoxically, for me this is a confirmation of the reliability of this data and that it can be effectively used in criminological analysis.

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⁶ See also: K. Mycka, T. Kozłowski, *Paradoksy polskiej polityki karnej, czyli jak zapełniamy więzienia nadużywając środków probacji*, Probacja 2013 v. II.

ABSTRACT

Statystyki sądowe w służbie publicznej. Efektywność sądów i kryminologia publiczna

How criminological are statistics of justice? How useful are courts efficiency data? How the public and public administration uses abuses this data? Paper is focused on the problems of collecting, processing and presenting statistical data on justice system for the purposes of the system itself, as well as for criminology. It considers five issues: public criminology and public statistics, so called standard criminological statistics, such as recorded crime, suspect, convicted, penalties, penal measures, prisoners etc., Polish Ministry of Justice statistics (if they are criminological or not or which of them could be interesting for criminologists) and results of current research of Economic Analysis of Justice Unit in Polish Institute of Justice. It was interesting how official statistics concerning courts efficiency are used and maybe abused in public debates, in criminology, criminal policy, and public media.

Słowa kluczowe: kryminologia publiczna, statystyki kryminologiczne, statystyki sądowe

Key words: public criminology, criminological statistics, court statistics