MARIA PLUCIŃSKA
Doktor nauk socjologicznych
Politechnika Łódzka
ORCID: 0000-0002-7437-4481
e-mail: maria.plucinska@p.lodz.pl
DOI: 10.5281/zenodo.20961110

PUBLIC SECURITY MANAGEMENT: THE TREATMENT OF ADULT OFFENDERS IN ENGLAND FROM THE MIDDLE AGES TO THE END OF THE 19TH CENTURY

Zarządzanie Bezpieczeństwem Publicznym: Postępowanie wobec dorosłych sprawców przestępstw w Anglii od Średniowiecza do końca XIX wieku

Abstract

The aim of this article is to present the history of the treatment of adult offenders in England from the time of the Norman Conquest to the end of the nineteenth century. The transformations are discussed both in terms of perceptions of who is seen as a criminal, the definition of crime itself and broader social changes influencing the subject under analysis. The article also presents the development of philosophical thought concerning how individuals who commit crimes should be treated, who should be punished and how. The purpose of the article is to demonstrate how the past has shaped contemporary approaches.

Keywords: crime, England, prison system, penitentiary history

Abstrakt

Artykuł ma na celu przedstawienie historii postępowania wobec dorosłych sprawców przestępstw w Anglii od czasów podboju normandzkiego do końca XIX wieku. Opisane zostały przemiany zarówno w kontekście postrzegania kto jest przestępcą, definicji samego przestępstwa, jak i zmiany ogólnospołeczne mające wpływ na opisywany temat. Artykuł przedstawia również rozwój myśli filozoficznej nad tym, jak powinno się postępować wobec osób dopuszczających się przestępstw, kto powinien być karany i w jaki sposób. Celem artykułu jest ukazanie jak przeszłość ukształtowała nasze dzisiejsze podejście.

Słowa klucze: przestępczość, Anglia, więziennictwo, historia penitencjarna

1. Introduction

This article is an attempt to present the issue of the treatment of adult offenders from a historical perspective. The author believes that historical knowledge in this area is essential

for a full understanding of contemporary solutions, legal regulations, and applied methods and therefore is convinced that it is impossible to act in isolation from the past and that it is necessary to understand how offenders were treated previously and how this has influenced the present situation. The aim of the article is therefore to examine contemporary resocialization and penitentiary systems through the lens of history.

The article focuses on the treatment of adult offenders because for a long time no distinction was made between the treatment of juveniles and adults. Establishing who should be regarded as a juvenile would also be problematic (as the age threshold varied across historical periods). Therefore, until the point at which minors began to be treated separately, the author discusses the treatment of offenders in general; once the separate treatment of juveniles was introduced, she limits her analysis to adult offenders to maintain continuity.

Social constructionism, particularly labelling theory, appears to provide a natural theoretical framework for this analysis. According to key representatives of this perspective, especially Kai Erikson[1] and Howard Becker[2], deviance is not an inherent quality of an act but rather the outcome of social interaction through which society defines and designates certain individuals or behaviours as deviant. This approach assumes that no objective or fixed normative status exists since norms are inherently relative and subject to interpretation. Consequently, what interest scholars working within this tradition is not the violation of norms itself, but rather the processes through which norms are established, enforced, and legitimized, as well as the actors who possess the power to do so.

In this article, the author aims to reconstruct how the label of the "criminal" has been socially constructed and how societal approaches to crime have evolved in response to changing social values and broader social transformations. Therefore, the primary analytical perspective adopted here is contextual constructionism, which acknowledges the existence of a reality external to social construction; one that, to some extent, shapes how particular phenomena are perceived and interpreted[3]. This position stands in contrast to radical constructionism, which rejects the notion that any reality exists beyond social construction.

The country selected for analysis is England. There is no single reason for this choice. It represents a combination of personal academic interests and the specific nature of the country itself (a legal system distinct from continental systems). The article is based on a historical analysis of source materials and a review of existing academic literature on the subject. This historical perspective can be very helpful to examine how the construct of "crime" and "criminal" developed and changed over time; and what is the most important, that, indeed "crime" and "criminal" is a social construct as Erickson and Becker argued.

The article was developed based on my bachelor's thesis entitled "Dealing with adult perpetrators of crimes in England throughout the centuries", written under the supervision of Dr hab. Piotr Kwiatkowski and defended in 2014 at the University of Wrocław.

[1] K. Erikson, *Notes On The Sociology Of Deviance. Social Problems*, 1962. [accessed: 26.12.2016]: http://www.romolocapuano.com/wpcontent/uploads/2014/08/EriksonNotesSociologyDeviance.pdf 292
[2] H. Becker, *Outsiderzy: studia z socjologii dewiacji*, trans. E. Zakrzewska Manterys, Warszawa 2009.
[3] J. Best, ‚*But Seriously Folks: The Limitations of the Strict Constructionist Interpretation of Social Problems* [in:] *Constructionist Controversies. Issues in Social Problems Theory*, eds. G. Miller, J. Holstein. London 1993.

2. Norman Conquest and the Formation of the English Legal System

The beginnings of the English legal system can be dated to 1066, when William of Normandy invaded the island and unified it under his rule[4]. Prior to this, England was divided into duchies and kingdoms, each with its own legal and judicial system. With the assumption of power, William strengthened the feudal system, consolidated central authority and initiated the development of a national judiciary.[5] One of the first initiatives of the new king was the construction of castles, including the Tower of London, one of the most famous English prisons.[6] This structure served both defensive purposes and as a place of confinement for the ruler's enemies (thus it might be described as a "political prison"). It was built on a rectangular plan with its most important point at the centre: the tower (known as the keep or donjon). It contained chambers, servants' quarters, and gaols (contrary to popular belief, these were initially located at higher levels). It had its own water source and very thick walls. This was a prison for the upper classes; offenders from lower social strata were held in the Clink or Newgate.[7]

The reign of William was associated with the strengthening of feudalism, but feudalism distinct from continental models. Unlike other countries, England operated under the principle that "the vassal of my vassal is my vassal." Consequently, this resulted in a legal system specific to England, in which feudal lords indeed exercised jurisdiction over their vassals, but all remained subordinate to the king and thus subject to the royal courts to which appeals could be made. Although royal courts initially lacked jurisdiction over peasants, this did not apply to matters concerning life and health; and therefore, a feudal lord could not kill a peasant without consequences[8]. The courts of the lord (so-called manorial courts) were established through a privilege known as the *"*ban*."* This allowed the summoning of people to war, the collection of taxes, and the administration of justice. These courts operated according to local customary law. As Paul Zumthor[9] indicates, such courts also functioned as a cultural element of the community.

It should be noted that these courts were not concerned with establishing actual guilt, but rather with punishing the suspect. This is evidenced by two important factors. First, unlike in modern times, it was the accused who had to clear themselves of the charges, not the accusers who had to prove guilt (as Zumthor argued a formal trial was not necessary to reach a verdict[10]). Secondly, verdicts were based on trial by ordeal.

The most common trial by ordeal was the water ordeal. It was reserved for members of lower social strata. It involved slowly lowering a bound individual into water. If the person began to sink, this indicated innocence and they were to be rescued as quickly as possible. If they floated, this signified guilt. This ordeal was prohibited at the Fourth Lateran Council in

[4] L. Jason-Lloyd, *The Legal Framework of the English Courts*, Huntington 1992, p. 1.
[5] P.W.D. Redmond, P. Shears, *General Principles of English Law. Seventh Edition*, London 1993, p. 5.
[6] J.Z. Kędzierski, *Dzieje Anglii do roku 1485*, Wrocław-Warszawa-Kraków 1966, p. 192.
[7] S. Christianson, *Więzienia świata. Spojrzenie na najsłynniejsze zakłady penitencjarne*, trans. B. Gutowska – Nowak, Warszawa 2005, pp. 32-34.
[8] J.Z. Kędzierski, *op.cit.*, pp. 161-167.
[9] P. Zumthor, *Wilhelm Zdobywca*, trans. E. Bąkowska, Warszawa 1994, p. 42.
[10] *Ibidem*.

1215[11]. Another form was the ordeal of fire (iron or boiling water). The accused had to walk several steps holding a red-hot iron in their hand (preceded by a strictly defined procedure); after three days, the injuries were examined: if they were mild, the accused was considered innocent. Another ordeal, the ordeal of the book, involved hanging a psalter on a pole, held at both ends by two opponents. A priest recited a prayer and observed the movement of the book. If it turned toward the sun, the accused was declared innocent.[12] A form of ordeal specific to the Normans was a trial by combat[13]. If the accused won the duel before the first star appeared in the sky, they were declared innocent. Women could hire substitutes to fight on their behalf[14].

Apart from royal and manorial courts, there also operated the courts of "hundreds" and "shires". These were commissions created by barons. Within them, the institution of the jury developed. At that time, however, it was weak, and a judge could fine or even imprison the jury if its verdict differed from what the judge desired[15].

Hundreds were administrative units established as early as the Anglo-Saxon period (during the reign of King Edmund). They convened every three weeks in civil matters and twice a year in criminal cases. They functioned until 1867. Shires on the other hand were established by William based on the Domesday Book (a register of the entire population of England). There were far fewer shires than hundreds (32 compared to 900). The shire courts, known as the County Court, convened twice a year in both civil and criminal matters. Like the hundreds, they were abolished in the nineteenth century[16].

Another thing worth to mention is that William the Conqueror authored a law that was revolutionary for its time: abolishing the death penalty. This law applied only to free people. The death penalty was replaced with castration. The next attempt to abolish capital punishment in England took place 700 years later[17].

3. The Middle Ages

Another ruler who contributed significantly to the development of English legislation was Henry I. Before describing the reforms, he implemented, it is necessary to briefly outline the common law system.

Common law is defined as a national British product, which absorbed only a few elements of Roman law and is today applied in most Commonwealth countries as well as in the United States. It consists of common law in the narrower sense and the principles of equity.[18] Some authors also include statute law, enacted law, within this system.[19] In its narrower sense, common law is a set of principles based on ancient customs and precedents.[20] In criminal matters, these were judgments of the Court of King's Bench[21]. Equity refers to a body of laws

[11] A. Barrett, C. Harrison, *Crime and Punishment in England. A sourcebook*, London 1999, pp. 3-5.
[12] P. Zumthor, *op.cit.*, p. 43.
[13] A. Barrett, C. Harrison, *op. cit.*, p. 5.
[14] P. Zumthor, *op.cit.*, pp. 42-43.
[15] J.Z. Kędzierski, *op. cit.,* pp. 173-174.
[16] J. Canon (ed.), *The Oxford companion to British History*, New York 1997, pp. 252-254; 497.
[17] J.Z. Kędzierski, *op. cit.*, p. 209.
[18] P.W.D. Redmond, P. Shears, *op. cit*., p. 4.
[19] K. Sójka-Zielińska, *Historia prawa*, Warszawa 1997, p. 76.
[20] P.W.D. Redmond, P. Shears, *op. cit*., p. 4.
[21] K. Sójka-Zielińska, *op. cit*., p. 73.

issued by the Chancery prior to 1873, intended to supplement and make common law more flexible[22]. Common law developed from itinerant courts composed mainly of noble-born and high-ranking clerics. They travelled throughout the country and later convened in Westminster to debate which local customs and traditions were most suitable, creating uniform law for the entire country[23].

The reign of Henry I marked a period during which the judiciary in England was organized through Leges Henrici Primi[24]. Jurisdiction was divided into three types: patrimonial, royal, and ecclesiastical (the last one will not be discussed in this article). Patrimonial jurisdiction belonged to every feudal lord and concerned matters such as disobedience, conflicts among peasants and negligence. It also covered theft with penalties usually consisting of fines. However, the lord could not impose the death penalty on a vassal; if he did, he was required to pay wergild (a form of monetary compensation) to the victim's relatives. Jurisdiction over free vassals was exercised by a feudal court composed of peers (pares), presided over by the feudal lord[25].

The position of manorial courts declined during the reign of Edward I. In 1278, he issued Quo Warranto, a document requiring feudal lords to prove their right to jurisdiction (previously mentioned *"*ban*"*). Due to resistance, it was ultimately accepted that this right applied to all who could prove its existence since 1189 (the reign of Richard the Lionheart). Additionally, one article of Quo Warranto stated that cases punishable by less than 40 shillings should not be heard by royal courts. Officials, however, concluded that this meant all cases involving sums of 40 shillings or more should be adjudicated by royal courts[26].

The second type of courts, particularly relevant to criminal matters were the royal courts. During the reign of Henry I, the King's Council (Curia Regis) emerged[27]. These courts handled the most significant cases, including criminal matters such as causing the death or bodily harm of a royal servant, treason against the sovereign, banditry, theft, murder, counterfeiting, arson, burglary, ambush, premeditated assault, robbery, piracy, rape, violation or falsification of royal law, as well as providing shelter to outlaws, excommunicated individuals, or those declared *outlawed*. In the latter case, churches constituted an exception[28].

It was a custom that offenders seek refuge in churches, although they were required to obtain food from their families. Failure to do so could result in death by starvation or surrender to justice. In the latter case, they emerged from sanctuary dressed in white robes and holding a cross, proceeding to a port; the sheriff would not arrest them in exchange for a promise to leave the country. Each day they failed to depart, they were required to enter the water and pretend they departure[29].

Penalties imposed by the Curia Regis included mutilation (depending on the offense: amputation of a foot, hand, arm, tongue, nose, or ears; for example, cutting out the tongue was applied in cases of giving false testimony), castration (for rape), blinding with hot iron for

[22] P.W.D. Redmond, P. Shears, *op. cit*., p. 4.
[23] L. Jason-Lloyd, *op. cit*., p. 1.
[24] Z.J. Kędzierski, *op. cit*., p. 205-206.
[25] *Ibidem*.
[26] *Ibidem*.
[27] L. Jason-Lloyd, *op. cit*., p. 1.
[28] J.Z. Kędzierski, *op. cit*., p. 207-209.
[29] *Ibidem*.

treason, beating to death with flails, quartering, burning (for arson) or banishment. Henry I restored the death penalty for free men, which had previously been abolished by William the Conqueror. At the same time, he introduced the principle that no one could be sentenced to death solely based on witness testimony; in every such case, a trial by ordeal was also required. When the outcome of the ordeal was unfavourable to the accused, the death penalty was carried out. However, even when the result of the ordeal was favourable, if the charges were serious and confirmed by witnesses, the accused would still not avoid punishment, although instead of death, they would be sentenced to banishment. It may be noted that such banished individuals formed bands of outlaws like those described in *"*Robin Hood*",* a figure who was in fact a semi-historical character living in early fourteenth-century Yorkshire[30].

Another ruler who made a significant contribution to English law was Henry II. In 1166 he issued the Assize of Clarendon, which introduced an investigative and judicial procedure for criminal cases. Under this system, twelve representatives from each hundred, selected by the sheriff, were required to testify under oath before a royal judge, accusing individuals within their hundred of theft, murder, robbery, harbouring thieves, arson or counterfeiting. These individuals were known as the jury of presentment and served a role similar to that of a jury. As previously, they were subject to fines or imprisonment if they named individuals other than those expected by the judge; in such cases, the sheriff would select a new jury[31]. Courts established under this system were known as the Courts of Assize. They travelled throughout the country with various commissions. The most important of these included: Oyer and terminer (literally "to hear and decide"), which examined witnesses and issued judgments in serious criminal cases; general gaol delivery*,* which dealt with individuals awaiting trial; and Trail Baston*,* which handled cases of judicial abuse[32]. Trials by ordeal continued, differentiated by gender. Men were subjected to the water ordeal or trial by combat (which became increasingly common), whereas women were assigned the ordeal of iron or combat through hired representatives known as champions. Punishments were also gender-specific: men were hanged, women burned. The property of those convicted was confiscated by the sheriff or judge for the benefit of the Crown.[33]. The Assize of Clarendon also provided for the right to enter feudal estates to arrest offenders, the construction of county prisons used mainly for detention and the transfer of jurisdiction over lesser crimes and misdamour to shire and hundred courts.

In the twelfth century (during the reign of Richard I the Lionheart), the institution of Justices of the Peace was established. These were specially selected knights responsible for administering an oath of loyalty to the king to every male over the age of fifteen. Over time, they acquired judicial powers as well. A statute issued by Edward II defined their duties as follows:

> to restrain the Offenders, Rioters, and all other Barators, and to pursue, arrest, take, and chastise them according their Trespass or Offence; and to cause them to be imprisoned and duly punished according to the Law and Customs of the Realm, and according to that which to them shall seem best to do by their Discretions and good Advisement; and to take and arrest all those that they may find by Indictment, or by Suspicion, and to put them in Prison; and to take of all them that be not of good Fame, where they shall be found, sufficient Surety and Mainprise of their good Behaviour towards the King and his People, and the other duly to punish; to the Intent that

[30] *Ibidem*.
[31] *Ibidem*, p. 250.
[32] P.W.D. Redmond, P. Shears, *op. cit*., p. 8-9.
[33] J.Z. Kędzierski, *op. cit*., p. 251.

the People be not by such Rioters or Rebels troubled nor endamaged, nor the Peace blemished, nor Merchants nor other passing by the Highways of the Realm disturbed, nor put in the Peril which may happen of such Offenders[34].

This statute remains in force to this day. Each county employed between four and five Justices of the Peace. In 1362, court sessions were set at four times a year: one week after Epiphany, midway through Lent, between Pentecost and Saint John the Baptist's Day, and one week after Saint Michael's Day. The duties of Justices of the Peace included conducting investigations, securing recognizances from accused people and presenting defendants to a jury. If the jury returned a guilty verdict and the accused did not confess, a second jury was convened. Six years later, an additional reform was introduced: no one could be tried without first having their case presented to a jury. In 1390, Justices of the Peace were granted remuneration: four shillings per day, payable for three days. Richard II increased their number to eight and introduced income restrictions: only individuals with an annual income of twenty pounds were eligible. In later years, the institution weakened as Justices were assigned numerous additional responsibilities, such as protecting young salmon (1393) or regulating tile, slab, and roof-tile production (1477)[35].

The last ruler of the Middle Ages who should be mentioned is Edward III. During his reign, in 1352, treason was defined for the first time as the highest crime. Treason was understood as an act leading to the death of the king, queen or their eldest son; the rape of the queen, the king's eldest unmarried daughter or the wife of the eldest son; it also included waging war against the king, allying with his enemies domestically or abroad, falsifying the Great Seal of the Realm or the king's seal, and the murder of the chancellor, the treasurer, or a judge while in office[36].

The medieval period is commonly perceived as an age of "darkness." Largely, however, this is a myth. To conclude this subsection, it is worth citing several facts that present the Middle Ages as a more humane era than is often believed. First, the death penalty was abolished (even though temporarily). Second, there are records of proceedings initiated against sheriffs who imprisoned individuals without justification[37].

It was also recognized that causing death in self-defence should not be punished and those responsible for such acts were released by special royal pardon. Every accused person also had the right to a defence and no one could be hanged without confessing to guilt. Today these principles seem obvious, but it is worth remembering when they first emerged and that they were not universally accepted at the time. It should also be added that the importance of trials by ordeal gradually diminished, although still practiced, they did not necessarily determine a verdict. This is particularly striking given the fact that trials by ordeal were still used in Ukraine during the First World War[38].

On the other hand, Kazimierz Baran[39] argues that medieval trials were far removed from any modern understanding of justice. Justices of the peace had little incentive to conduct

[34] Justices of the Peace Act 1361.
[35] J.Z. Kędzierski, *op. cit*., pp. 587-589.
[36] *Ibidem*, p. 494.
[37] A. Barrett, C. Harrison, *op. cit*., pp. 12-19.
[38] E. Kaczyńska, *Ludzie ukarani. Więzienia i system kar w Królestwie Polskim 1815-1914*, Warszawa 1989, p. 293.
[39] K. Baran, *Z dziejów procesów o zbrodnię stanu. Sprawa Throckmortona (1554 r.) w Anglii epoki Tudorów*, Studia z Dziejów Państwa i Prawa Polskiego 5/2000, p. 85-98.

proceedings thoroughly, as the collection of evidence was often regarded as pointless. There were cases in which individuals were found guilty solely based on circumstantial evidence, while in other situations people against whom there was strong evidence were acquitted. The decisive factor was the presence of direct, first-hand witnesses, as this was considered the only form of evidence that truly mattered. Moreover, there existed a practice by which a person who had committed a crime could enter the clergy in order to avoid secular punishment. After the trial, such an individual could be condemned and stripped of clerical orders, meaning that if this person committed another offense in the future, the privilege of clerical immunity could be invoked once again.

4. Changes in Early Modern Period

In the Middle Ages, the typical image of a criminal resembled that of Robin Hood, though without the noble principles attributed to him. Criminals were largely members of bands raiding villages. In the sixteenth century, this image transformed rapidly. From that point on (and to some extent this stereotype persists to this day), criminality became associated with vagrancy. The term *vagabond* was used to denote a criminal, while the word "criminal" entered use as late as in 1626, and "crime" - in the early nineteenth century[40].

Previously, categories included misdamour*,* felony and treason. The category addressed in greatest detail here is felony, and to some extent also treason. During the Tudor period, however, obsession with treason was so intense that each individual case would merit a separate, extensive study. Tudor England, according to the distinguished playwright Ben Jonson[41], suffered from "a pestilence, it doth infect the houses of the brain till not a thought, or motion, in the mind, be free from the black poison of suspect". As Micińska[42] describes renaissance London was full of representations of treason including sermons, proclamations, cheap pamphlets, chronicles, theatrical performances, public trials, dismembered body parts displayed for public view and executions.

The analysis of Early Modern Period crime should begin with examining how the number of crimes changed during the reign of Queen Elizabeth I (1558–1603). During the forty-year reign of the last Tudor monarch, the number of crimes rose sharply, increasing nearly fourfold: from 88 cases in 1559 to 302 in 1602[43]. In this period, small thefts clearly dominated over burglaries and robberies (which had been more characteristic of medieval criminality), suggesting that the association of criminals with vagabonds may indeed have had some basis.

Why, then, did crime rise so dramatically during this period, often referred to as the Golden Age? There are at least six reasons that can be identified.

First, the population increased. In 1520 England had approximately 2.25 million inhabitants, while by the end of the century this number had risen to 4.11 million[44]. It may be tempting to conclude that as the population increases, crime naturally increases as well.

[40] J. Briggs et al., *Crime and Punishment in England. An introductory history*, London 1996, p. 16.
[41] P. Jonson, *Historia Anglików*, trans. J. Mikos, Gdańsk 1995.
[42] M. Micińska, *Zdrada córka nocy. Pojęcie zdrady narodowej w świadomości Polaków w latach 1861-1914*, Warszawa 1998, p. 27.
[43] J. Briggs et al., *op. cit*., pp. 24-25.
[44] *Ibidem*.

However, the numbers do not align perfectly: while the population doubled over eighty years, the number of crimes quadrupled within forty.

The second explanation concerns declining prosperity, particularly rising food prices[45]. This also explains why criminals increasingly came to be associated with vagabonds. A major contributing factor was the enclosure movement, which led to land consolidation in the hands of large landowners (gentry) while dispossessing poorer social groups. These individuals migrated to cities, becoming vagabonds and beggars[46]. The most significant increase occurred in the 1580s, during England's numerous wars with Spain and in the Netherlands. Although England emerged victorious, the country's finances were severely strained, and even the gold seized by Francis Drake failed to alleviate the situation. It is worth noting that many vagabonds were war veterans who had not been paid their wages. As Grzybowski[47] wrote: "Elizabeth disbanded her army… The victors of the Great Armada were left to die of hunger and disease"[48].

The third reason (concerning all Tudor rulers, not only Elizabeth I) was religious reforms[49]. Under Henry VII, heresy was considered a crime (though, compared with later periods, there was something resembling religious freedom). Henry VIII declared himself head of the Church of England and anyone who placed allegiance to the Pope above loyalty to the king (Catholics) committed treason. At the same time, heresy in its basic sense remained a criminal offense. Under Edward VI, Calvinists enjoyed relative peace. Under Mary I ("Bloody Mary"), Catholicism was restored and a wave of trials followed against those professing other faiths. Elizabeth I maintained an appearance of moderation: instead of punishing heresy directly, she punished treason, which was most often religiously motivated. As Stanisław Grzybowski[50] notes, toward the end of her reign Elizabeth developed an outright obsession with religious matters: the guilty were not thieves, bandits or corrupt officials, "the guilty were always Catholics and Puritans". Regardless of the ruler, heresy remained the second most common crime in England[51].

The fourth reason was associated with the development of parliamentarianism. Parliament functioned within a framework constrained by the strong position of the monarch, but it met regularly and enacted new laws. An increasing number of these laws concerned the classification of behaviours and acts that had not previously been punishable as criminal offenses. The actual situation did not change; statistically, however, the number of crimes increased. This process became even more apparent later, when the roughly fifty crimes punishable by death at the end of the sixteenth century expanded to over two hundred by the mid-eighteenth century. Among these were the theft of a shilling (it is worth recalling that in the Middle Ages theft involving less than forty shillings did not even fall under royal jurisdiction), arson of a haystack, destruction of Westminster Bridge (and it should be noted that destroying Westminster Bridge was not the same as destroying Fulham Bridge), or the uprooting hops from plantations.

[45] *Ibidem*, pp. 14-15.
[46] H. Zins, *Historia Anglii*, Wrocław 2009, p. 123.
[47] See more: S. Grzybowski, *Elżbieta Wielka*, Wrocław 2009, p. 204.
[48] *Elżbieta rozpuściła swą armię… Zwycięzcy Wielkiej Armady marli z głodu i chorób*.
[49] J. Briggs et al., *op. cit*., p. 14-15.
[50] S. Grzybowski, *op. cit*., p. 244.
[51] J. Briggs et al., *op. cit*., p. 20.

The fifth reason was uprisings classified as acts of treason[52]. Alongside vagrancy and heresy, treason constituted the third most common offense. It is difficult to specify precisely what the term "treason" encompassed, as it was a vague category and the king possessed nearly arbitrary authority in deciding what fell under it. On this basis, anyone could be convicted, regardless of actual guilt. There was also an informal practice of "intimidation" meaning that the Crown put pressure on juries in order to secure favourable verdicts. For example, during the Tudor period, only two individuals accused of treason were acquitted: Lord Dacre during the reign of Henry VIII and Sir Nicholas Throckmorton during the reign of Queen Mary. In both cases, the defendants were exceptionally skilled speakers who were able to influence the jury's perception, focusing not on proving their innocence but on undermining the legitimacy of the trial itself. It is also worth noting that the jurors in Throckmorton's trial were subsequently imprisoned for several months as a form of punishment for their verdict[53].

The final reason was urbanization. The enclosure process previously mentioned led to the migration of rural populations to cities, particularly London. England, unlike most continental countries (apart from the Netherlands), transitioned relatively early from feudal to capitalist relations[54].

5. Towards the Act for the Relief of the Poor

The problem of vagrancy persisted throughout the sixteenth century, prompting preventive measures. During the reign of Edward VI, Bridewell, a "more humane prison" for the poor, was established. Initially, it functioned effectively, but over time it lost its humanitarian character and became an ordinary prison. The primary reason for this failure was the lack of employment for inmates. Although the aim of Bridewell was to provide beggars and vagabonds with humane living conditions and the opportunity to support themselves, in 1609 only 130 out of 1700 inmates were sent to work. Nevertheless, Bridewell played an important role as the first manifestation of viewing offenders as people and recognizing that poverty should not be punished but alleviated. Prior to this, beggars and vagabonds had been placed in special prisons and locked in stocks[55].

Even before Bridewell was built, in 1530, Thomas Cromwell drafted a bill requiring parishes to maintain and support the homeless. This bill never came into force, primarily because poverty was still perceived as a result of laziness rather than misfortune. Similar regulations were introduced a year before Bridewell opened, in 1552. Begging was completely prohibited and organized collections for those in need were mandated. In 1556, further regulations required that unemployed people were ought to be provided with materials such as flax or wool so that they could create goods and sell them to earn a living[56].

In 1563, an act concerning Justices of the Peace was enacted, assigning them responsibility for registering the poor and providing the financial assistance. It also defined who should be considered poor and divided them into three groups: those willing to work but unable

[52] *Ibidem*, p. 60.
[53] K. Baran, *op.cit*.
[54] T. Scott, *Gospodarka* [in:] *Szesnasty wiek*, E. Cameron [ed.], trans. M. Szubert, Warszawa 2011, pp. 56-67.
[55] J. Briggs et al., *op. cit.*, p. 18.
[56] G.J. Meyer, *Tudorowie. Prawdziwa historia niesławnej dynastii*, trans. E. Stępkowska, Kraków 2012, pp. 526-527.

to find employment (to be assisted), those able to work but unwilling (to be punished), and those whose age or health prevented work[57]. Subsequent regulations were introduced in 1572 (Sunday alms collections were to be allocated to the poor), 1576 (those able to work were required to work in return for assistance), 1597 (establishment of the office of Overseer of the Poor) and finally in 1601 the Act for the Relief of the Poor was enacted, incorporating all earlier reforms[58].

6. Criminal world in Early Modern Period

The criminal world, however, was more diverse and did not consist solely of theft motivated by hunger, vagrancy and begging. In 1566, Thomas Carman described the criminal underworld for the first time in his work "Caveat for common cursitors". At the very top stood the uprightman, a figure perhaps most easily compared to Jeremiah Peachum from "The Three Penny Opera". Below him were the yeomen who possessed specific skills (for example specializing in horse theft). At the very bottom were beggars and sex-workers. These groups also used a specific slang, some terms of which are still in use today. The sixteenth century also marked the beginning of specialization in particular types of crime[59].

Most crimes were associated with urban life and occurred in London, but this does not mean that rural areas were entirely peaceful. Crimes committed in the countryside related to a lifestyle dominated by drinking, gambling and punishable sexual behaviours. In theory, sexual crimes during this period fall outside the scope of this article, as they were subject to ecclesiastical jurisdiction under canon law rather than English secular law. Over the course of the sixteenth century, however, such crimes gradually became the responsibility of secular courts[60]. Punishable acts included adultery, incest and rape.

Considering the forms of punishment imposed for crimes, one might quote the Queen of Hearts from *"*Alice in Wonderland"*:* "Off with their heads!!" Hanging was the most common method of execution, but Tudor officials displayed considerable creativity in devising new methods of execution. An ironic example involved a man named John Forest, who was burned using a sacred Welsh figure, Darvel Gadarn, about which legends foretold that a forest would someday be burned by its power[61].

Methods of execution were often dependent on the type of crime. Poisoners (men) were boiled in oil, while women were burned; pirates were hanged over water at low tide and left until the tide came in. Treason was punished by hanging, after which the condemned was cut down while still alive, disembowelled and beheaded. Vagabonds were treated somewhat more leniently: upon first capture they lost their right ear (burned with hot iron), upon second capture the left ear; only upon a third offense they were sentenced to death[62].

Women convicted of capital crimes had one potential means of avoiding execution: pregnancy. In such cases, the execution was postponed until after childbirth in order not to kill

[57] *Ibidem*.
[58] M. Garbat, *Pauperyzacja i powstanie polityki społecznej na przykładzie Anglii w epoce elżbietańskiej*, accesed: www.ur.edu.pl/file/53200/02.pdf [access: 31.05.2014].
[59] J. Briggs et al., *op. cit*., p. 17.
[60] *Ibidem*, p. 62.
[61] G.J. Meyer, *op. cit*., p. 307.
[62] J. Briggs et al., *op. cit*., p. 20.

the child. Most often (provided the woman did not die during childbirth), this allowed her to escape execution altogether. This legal provision was known as benefit of belly[63].

Relatively mild punishments were imposed for vandalism (unless Westminster Bridge was involved), commercial fraud and sexual offenses. These penalties were associated more with public shame than physical pain and were carried out at the pillory[64].

The seventeenth century and most of the eighteenth century brought no major changes in the approach to dealing with offenders. A notable development, however, accompanied the establishment of English colonies: a new punishment became available: transportation to penal colonies overseas. Initially, such colonies were created in India and America and later in Australia. Between 1788 and 1867, more than 150,000 people were transported to Australia alone.[65] These penal colonies are not discussed here as the focus of the article is England itself, excluding its colonies and other territories of Great Britain such as Scotland.

Another important change during this period was the abolition of public exposure punishments and the formal prohibition of extracting confessions by means of pain. However, as Danny Friedman[66] points out, torture had always been illegal in England, and its use constituted an abuse of power rather than a lawful practice.

It was only in the second half of the eighteenth century that significant transformations occurred in the perception and treatment of offenders. These were primarily connected with the activities of two key figures: Jeremy Bentham and John Howard.

7. Jeremy Bentham

To understand the reasons behind Bentham's ideas on prison reform, it is necessary to examine his views more broadly, particularly those concerning human nature. These were presented in his work "Introduction to the Principles of Morals and Legislation". According to Bentham[67], human behaviour is governed by two motivations: the pursuit of pleasure and the avoidance of pain: "They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it".

For this reason, Bentham argued that law should be formulated in such a way that individuals, acting in their own interest (seeking pleasure and avoiding pain) would obey it, while simultaneously contributing to the happiness of society. He referred to this as the principle of utility[68]. Thus, the most important element of Bentham's thought may be considered the human tendency to pursue pleasure, which, in his view, is dependent on the individual. "Prejudice apart, the game of push-pin is of equal value with the arts and sciences of music and poetry" - he wrote[69].

Law, therefore, should be shaped so that in the calculation of gains and losses, the potential gain from a forbidden act would be lower than the anticipated loss. An important aspect of this reasoning concerns the very nature of crime. Bentham believed that a crime is an

[63] *Ibidem*, p. 63.
[64] *Ibidem*, p. 21.
[65] E. Kaczyńska, *op. cit*., p. 289.
[66] D. Friedman, *Torture and the Common Law*, "European Human Rights Law Review" 2006, no 2, pp. 180-199.
[67] J. Bentham, *The Introduction to the Principles of Morals and Legislation*, Kitchener 2000, p. 14.
[68] T. Tulejski, *Osiemnastowieczna koncepcja reformy więziennictwa Jeremy'ego Benthama"*, „Przegląd Więziennictwa Polskiego" 2005, no 49, p. 175-177.
[69] J. Bentham, *op. cit.*

act that infringes upon the happiness of an individual or the community. Such an event constitutes a serious tragedy and should primarily be prevented from recurring, while the victim should be compensated. Consequently, the purpose of punishment is not revenge but prevention. Punishment is a necessary evil: Bentham argues that punishment is never deserved in a moral sense; rather, he likens it to surgical intervention: intrinsically harmful, yet sometimes necessary because it holds the potential to cure or reform[70].

This striking analogy illustrates the fundamental shift in attitudes toward offenders. They were no longer perceived solely as threats to social order, but as human beings, no different from others, and, importantly, as individuals capable of change. By the end of the eighteenth century, it was therefore possible to speak of the beginnings of resocialization. Proposals to abolish the death penalty also emerged during this period[71]. Bentham further believed that crime would decline with the spread of education and increased prosperity[72].

During his journey to Russia, Bentham wrote a series of letters later published under the title "Panopticon or Inspection House". This was a proposal for constructing a modern prison in which control would not be exerted through walls, but through constant surveillance. The prison was to be built on a circular plan with the tower at its centre, from which all prisoners could be observed (and overheard). The tower was to serve as the residence of the prison governor and his family and was also intended to be open to visitors. The prison's architectural plan was prepared by Bentham's brother, Samuel.

The essence of the Panopticon was permanent supervision - not only of prisoners, but also of guards (whose number was to be reduced), as well as a private administrator, who would be monitored through visitor oversight and financial reporting. Another key principle was the isolation of prisoners: they would be unable to communicate with one another, which was intended to prevent the escapes[73].

Some of Bentham's ideas were implemented in the construction of Millbank Prison between 1812 and 1816, as well as prisons in Lancashire built in the 1820s. However, by the 1840s the circular model was replaced by a radial layout. Even this solution proved only partially functional as the technological limitations of the time made it impossible to safely heat all cells, which were both small and cold[74].

8. Eighteenth Century Changes in Approaches to Offenders

Before discussing the activity of John Howard, it is worth outlining the condition of prisons at the beginning of the eighteenth century. They were typically located in basements and dungeons: wet, deprived of light and fresh air and often full of rats. There was no separation between male and female prisoners, nor access to clean water, medical care, heating, or even the beds. In Newgate Prison, for example, some inmates slept in coffins[75].

One in four prisoners did not survive even a year of incarceration, dying from starvation or disease, particularly typhus. Shops operated within prisons, where alcohol could be

[70] Ibidem.
[71] E. Kaczyńska, *op. cit*., p. 23.
[72] T. Tulejski, *op. cit.*
[73] *Ibidem*, p. 179-182.
[74] J. Briggs et al., *op. cit*., p. 142.
[75] P. Ackroyd, *Londyn. Biografia*, trans. T. Biedroń, Poznań 2011, p. 267.

purchased freely. Every prisoner was required to pay both an "entry fee" and an "exit fee." If unable to do so, their possessions were confiscated and exchanged for alcohol at prison shops. Prisoners were also expected to support themselves during incarceration and cover court costs[76].

Correctional institutions were largely semi-private enterprises: prisons were run by lessees who employed wardens, but these wardens received no salaries and were expected to generate income for themselves and for the lessees. This led to systemic abuses, beyond the existence of monopolistic prison shops, including the possibility for wealthier inmates to secure better living conditions (such as a bed). For most prisoners, particularly debtors, this was entirely unattainable[77].

The first individual to draw attention to prison conditions was Thomas Bray, who as early as 1730 criticized the greed and corruption of prison staff, the uncontrolled sale of alcohol, the neglect of religious practices, the tolerance of gambling and the fact that new prisoners often became more depraved than they had been prior to incarceration. He advocated for separate cells for men and women, prisoner employment, prohibition of alcohol sales, rewards for good behaviour and regular inspections. His proposals, however, failed to reach policymakers, who were powerless at the time[78].

Further voices on the subject emerged over thirty years later. In 1765, William Blackstone called for reform of criminal law in his "Commentaries on the Laws of England" and in 1771 William Eden, in "Principles of Penal Law", invoked the ideas of Beccaria, arguing that punishment should be proportionate to the offense.

Blackstone's work provides valuable insight into how key concepts were understood at the time. One of the most significant was the definition of crime, which he described as "an act committed or omitted in violation of a Public Law either forbidding or commanding it "[79]. He emphasized that the difference between "crime" and "misdemeanour" lay not in definition but in severity.

Blackstone further argued that punishment must be proportionate to the offense and declared that he was neither opposed to the death penalty nor to imprisonment, provided the individual truly deserved such punishment. He also insisted that not all individuals should be punished, or at least not to the same extent. Notably, he was among the first to distinguish juvenile offenders as a separate category. He argued that young people should first be informed that their actions were unlawful before punishment was imposed, criticizing the fact that juveniles were treated as the adult criminals[80].

Blackstone distinguished four age groups below the age of twenty-five: under seven years, between seven and ten and a half, between ten and a half and fourteen, and from fourteen to twenty-five. In his view, the first two groups should never be punished; the third should be punished lightly or not at all depending on the offense; while the fourth should be treated as adults[81]. Historical records indicate that even in the nineteenth century, juveniles were still

[76] *Ibidem*.
[77] *Ibidem*.
[78] E. Hansen, *John Howard, a współczesna problematyka penitencjarna*, Warszawa 2002, p. 25.
[79] W. Blackstone, *Commenaries of the laws of England,* 1765, http://www.lonang.com/exlibris/blackstone/ accessed: 1.06.2014.
[80] *Ibidem*.
[81] *Ibidem*.

sentenced to death, for example, in 1808 a seven-year-old boy and his eleven-year-old sister were hanged and in 1831 a nine-year-old was executed[82].

Other groups identified by Blackstone as deserving more lenient treatment included people who suffered from mental illnesses, individuals addicted to alcohol (who should be placed in treatment facilities rather than prisons), those who committed offenses unintentionally, those acting in error, and those with no alternative: such as individuals who stole food due to starvation. By the mid-eighteenth century, Blackstone had thus articulated principles that continue to function today in modified forms[83].

Equally interesting views were presented by William Eden[84] in the already mentioned *"*Principles of Penal Law". He addressed, for example, the issue of the death penalty, stating that there is nothing other than absolute necessity that can justify the killing of one human being by another. He argued for limiting capital punishment, which at the time applied to over two hundred types of offenses, including fifty different kinds of theft.

According to Eden, the death penalty should be imposed only on individuals whose continued existence in society constituted a threat to that society. He also maintained that executions should be carried out as humanely as possible, without torture or creative methods of killing. Eden was also opposed to imprisonment, writing that "it annihilates the offender as a member of the community; it destroys a useful being, and burthens society with the loss"[85].

9. John Howard and reform of prisons

During these early attempts to reform the English legal system, John Howard was appointed the sheriff of Bedford. After only four years in office, in 1777, he submitted a memorandum to Parliament entitled *"*The State of the Prisons". Howard began his report by criticizing courts that failed to fulfil their duties and prisons that held individuals who were innocent, convicted on insufficient evidence or not convicted at all[86].

He went on to describe further observations concerning the prison conditions already outlined earlier in this article. Howard advocated the introduction of fixed salaries for prison staff, the regulation and standardization of court fees, the employment and education of prisoners and regular inspections of correctional institutions - inspections that he himself conducted repeatedly, including in prisons across Europe. He also distributed legal acts to prison administrators so that they would be aware of existing regulations[87].

These proposals did not yield immediate results in England, but they resonated strongly in the United States. England had to wait another sixty years for reforms inspired by Howard's ideas[88]. Howard's greatest contribution lies in the fact that the principles he formulated later became the foundation of the United Nations Standard Minimum Rules for the Treatment of Prisoners adopted in 1984.

---

[82] W. Lipoński, *Dzieje kultury brytyjskiej*, Warszawa 2003, p. 344.
[83] W. Blackstone, *op. cit.*
[84] W. Eden, *Principles of Penal Law*, London 1771, p. 20. [reprint]
[85] *Ibidem*, p. 44.
[86] J. Howard, *The state of the Prisons*, London 1777, p. 1. [reprint]
[87] E. Hansen, *op. cit.,* p. 38.
[88] *Ibidem*.

The work initiated by John Howard was continued by Elizabeth Fry. She established a committee at Newgate Prison aimed at ensuring dignified living conditions for female prisoners through both material support (decent clothing) and moral and intellectual support (instruction in orderliness, sobriety and discipline of mind). She also founded a school for the children of women incarcerated at Newgate. Fry sought to guarantee all female prisoners access to employment and to limit alcohol consumption within prisons[89]. Her guiding principle was that the aim of punishment is not revenge, but to reduce crime and reform the offender[90].

10. Crime and Punishment in the 19th Century

Although Bentham's concept did not withstand the test of time, it contained a feature characteristic of the turn of the eighteenth and nineteenth centuries, namely, a highly developed institution of social control ("policeman without boots"). It was precisely this mechanism that served as the primary factor limiting crime in the nineteenth century. Particularly during the reign of Queen Victoria, one often heard the phrase: "So live that your mother need never be ashamed of you"[91].

Another perceived mechanism of social control was… football. It was believed that this sport would gain popularity among the working class, encouraging them to spend their limited free time on physical activity rather than on fighting or drinking alcohol. This was arguably the first attempt to apply prevention rather than punishment and, notably, prevention not based on harsh lawmaking but on activating the most vulnerable social groups. It should be added that the structure of crime in cities and rural areas remained unchanged from the sixteenth century, apart from the intensified urbanization[92].

The structure of crime itself remained largely unchanged from the sixteenth century. London continued to be the most criminogenic area along with other large cities that developed during the nineteenth century, such as Manchester[93]. The increase in crime remained linked to population growth and precarious social positioning, which explains the renewed interest in preventive measures aimed at the working class, whose wages were often so low that a single piece of bread had to suffice for an entire family's weekly nourishment[94].

At the same time, the growth of manufacturing resulted in increased production, and consequently, more opportunities for theft. Human needs also expanded. Crime in this period was further stimulated by the invention of the mechanical loom and the steam engine, which displaced human labour and contributed to the emergence of the Luddites, who were likewise classified as criminals[95].

In the nineteenth century, over a period of less than thirty years (between 1830 and 1858), crime increased fourfold. What had been perceived as a dramatic increase to 302 crimes per year in the sixteenth century appears insignificant when contrasted with the 40,000 crimes recorded in 1858. It should be noted that this surge occurred primarily in the nineteenth century;

[89] J. Briggs et al., *op. cit*., p. 137.
[90] The Clink Prison London Bridge 1144-1780, p. 16.
[91] *Ibidem*, p. 88.
[92] C. Emsley, *Crime, Police and Penal Policy. European Experiences 1750-1940*, Oxford-New York 2007, p. 135.
[93] *Ibidem*.
[94] E. Hansen, *op. cit.,* p. 23.
[95] H. Roberts, *British Rebels and Reformers*, London 1942, pp. 29-30.

during Howard's lifetime, crime levels did not exceed 5,000. Moreover, these statistics are incomplete, as they exclude data on abortion (and infanticide) and domestic violence[96]. In a certain sense, domestic violence had already become a criminal offense in the sixteenth century, when a law was enacted prohibiting the beating of wives after 9 p.m., initially out of concern for nighttime noise[97].

Crime in Victorian England was studied by contemporary observers, providing valuable insight into how crime and criminals were perceived at the time as well as offering access to statistical data. Thomas Plint[98], for instance, asked how industrialization influenced crime patterns. To answer this question, he compiled detailed statistics on crimes committed in different parts of England during the first half of the nineteenth century. What stands out is not only the steady increase in crime over time, but also the fact that regions experiencing the fastest growth in crime, particularly Worcester, were those undergoing the most rapid industrialization.

A distinct category of prisoners in the nineteenth century consisted of debtors. They were incarcerated in prisons such as Marshalsea (near Fleet Street) or Queen's Bench Prison, where family visits were permitted. Upon repayment of their debts, they automatically regained their freedom. In 1827, this law was liberalized for the first time by introducing a threshold: debtors could be imprisoned only if their debt exceeded 20 pounds. In 1869, imprisonment for debt was abolished (Debtor's Act), but a year later another law allowed the arrest of debtors attempting to flee abroad (Absconding Act). Ten years later, in 1880, imprisonment for debt was completely abolished[99].

Paradoxically, the rise in crime during this period was partially driven by the creation of the police as we know it today. First, more crimes were detected; second, the establishment of policing led to the criminalization of additional behaviours, such as obstructing an investigation. Moreover, the police were endowed with broad powers, the Habitual Criminals Act of 1869 authorized the imprisonment of individuals for up to one year merely based on suspicious behaviour. Generally, as law developed, an increasing number of actions were classified as crimes. For example, parents who failed to send their children to school were considered criminals under nineteenth century standards[100]. The emergence of a professional police force can be dated to 1814, when unrest in Ireland prompted the creation of the Royal Irish Constabulary (RIC). Following Robert Peel's recommendations, a similar institution was established in London in 1829, the Metropolitan Police, headquartered at Scotland Yard, from which its popular name derives. Similar institutions were subsequently formed across England and by 1856 policing had become universal[101].

Tools to enhance police effectiveness were provided by Francis Galton. Initially, he proposed photographing prisoners, but when it became apparent that individuals could significantly alter their appearance by shaving beards or growing hair, he developed a new method: fingerprinting. As a statistician, Galton sought to apply statistical methods across various domains. He demonstrated that the probability of two identical fingerprints occurring

[96] C. Emsley, *op. cit.*, pp. 130-131.
[97] K. Hart, *Żony i kochanki Henryka VIII*, trans. J. Józefowicz-Pacuła, Warszawa 2010, p. 275.
[98] T. Plint, *Crime in England. Its relation, character and extend*, London 1851, p. 10. [reprint]
[99] W. Lipoński, *op. cit*., p. 515.
[100] J. Briggs et al., *op. cit*., p. 103.
[101] W. Lipoński, *op. cit*., p. 512.

was so improbable that fingerprints could serve as reliable identifiers for offenders. One year after his discovery, in 1893, the Home Office commissioned the Metropolitan Police to collect fingerprints. However, the method proved complex and it was not until the early twentieth century (1901) that Edward Henry, returning from India, where fingerprints had been used for signing contracts, trained police officers in their collection and analysis[102].

11. Approaches to Crime and Offenders in XIX century England

The causes of criminal behaviour during this period were classified in the first half of the twentieth century by the historian George Rudé into three categories:

1. Greed and the desire to appropriate someone else's property;
2. The need for survival;
3. As an expression of dissent or protest[103].

Prior to Rudé, it was commonly assumed that crimes were committed solely for reasons corresponding to the first category.

In the nineteenth century, not only did the number of crimes change, but so did attitudes toward them. One of the most significant developments was the division of crimes into offenses against property (further subdivided into those involving violence and those that did not) and crimes against people. This led in 1861 to a reduction in the number of offenses punishable by death: from over two hundred to just four: murder, arson, piracy and treason[104].

The nature of capital punishment also changed. Its purpose shifted from deterring others to protecting society from those perceived as the most dangerous. Executions were no longer public and were carried out privately. The last public execution took place in 1868 at Newgate Prison. The punishment of transportation to overseas territories was also abolished, the final deportation occurred in 1875. Meanwhile, imprisonment as a form of punishment (rather than mere detention) began to function formally in 1815 under the Gaol Fees Abolition Act[105].

Another innovation was the possibility for courts to declare an offender mentally ill and commit them to a psychiatric institution instead of prison. Courts, however, were reluctant to issue such rulings, as "madness" was not readily accepted as a cause of criminal behaviour. In the 1850s, for the first time, a distinction was formally introduced between adult and juvenile offenders; from that moment, procedures applied to each group began to differ[106].

With the development of the prison system, the inspections, postulated earlier by Howard, were finally introduced. The first national prison inspection took place in 1835 and involved five inspectors. Public debate also intensified regarding the proper role and organization of prisons. At Pentonville Prison, established in 1835, it was determined that the system should be maintained and prisoners were forbidden to communicate with one another. Emphasis was placed on complete isolation: inmates were to be held in single cells, attend religious services in separate "boxes" and wear masks while moving through the prison to ensure anonymity. The only person with whom inmates were allowed contact was a clergyman.

[102] C. Emsley, *op. cit*., pp. 186-187.
[103] J. Briggs et al., *op. cit*., p. 103.
[104] *Ibidem*, pp. 133-135.
[105] *Ibidem*, p. 143.
[106] *Ibidem*, p. 145.

In 1842, Pentonville Prison, organized according to these principles, was officially opened. Six years later, fifty-four additional prisons were built operating under the same model[107].

The prevailing belief was that prisons existed to punish offenders rather than rehabilitate them. Not all observers agreed with this perspective. William Crawford studied two different prison systems in the United States: the Philadelphia and the Auburn systems and concluded that the Auburn system, in which prisoners worked collectively, was far superior to the Philadelphia system based on total isolation[108].

The opposite of Pentonville was Durham Prison, where inmates were assigned productive labour such as textile manufacturing. These goods were sold for profit, allowing prisoners to sustain themselves and ensuring humane living conditions without burdening society with prison maintenance costs. This marked a turning point: for the first time a group of prisoners did not regard imprisonment as punishment but as an opportunity for a new and better life. Some inmates were reluctant to leave prison because their prospects outside were worse. They often stated that in prison they at least had a bed and enough food - things they had never experienced before[109].

This illustrates the scale of poverty in the nineteenth century and supports the argument that crime was largely driven by necessity rather than choice. Prisoners also had access to education and training unavailable to ordinary labourers as well as medical care. At this time, the problem emerged that some crimes were committed deliberately to be imprisoned, particularly offenses leading to short sentences, often committed to survive winter months. This led to overcrowding in prisons and high mortality rates when food rations were reduced.[110]
Another major challenge for the nineteenth century prisons was maintaining discipline.

A distinct prison hierarchy emerged: those at the bottom were required to serve those higher up. Lower positions were frequently occupied by members of national, ethnic, or other minorities, while those at the top often had access to tobacco and opium and engaged in illegal prison trade. As a result, punishment within prisons became commonplace and routine.[111]

Another significant change in the nineteenth century was the introduction of conditional release in 1837, inspired by the ideas of Maconochie. Regulations were also introduced specifying the minimum portion of a sentence that must be served: for sentences of up to three years - five-sixths; four to five years - four-fifths; six to twelve years - three-quarters; fifteen years - two-thirds; and in the case of life imprisonment - a minimum of twelve years, unless the prisoner agreed to emigrate to a colony, in which case the period was reduced to eight years.[112] Prisoners were also divided into classes based on behaviour. Those demonstrating the greatest improvement were transferred to so-called “intermediate prisons” with improved conditions and reduced restrictions. This resulted in a decrease in prison populations, while simultaneously improving employment opportunities for inmates and enabling better supervision.

The nineteenth century also marked the decline of traditional prisons and execution sites. For centuries, Newgate had inspired terror and symbolized a place of execution. This

[107] H. Machel, *Więzienie jako instytucja karna i resocjalizacyjna*, Gdańsk 2002, p. 14.
[108] *Ibidem*.
[109] *Ibidem*.
[110] J. Briggs et al., *op. cit*., pp. 142-143.
[111] *Ibidem*.
[112] E. Hansen, *op. cit*., pp. 74-76.

changed in 1859, when a cellular system was introduced and the prison was transformed into a museum. It was open to visitors on Wednesdays and Thursdays from 12 p.m. to 3 p.m. Exhibits included casts of criminals' heads, chains and shackles of the famous escapee Sheppard, a replica death cell and a pillory. On 15 August 1902, Newgate was demolished. Half a year later the memorabilia from the prison were sold at auction[113]. Other ancient London prisons were also demolished, including the prison near Fleet Street. This also marked the end of Tyburn, the execution site. At its height, Tyburn could accommodate up to 50,000 spectators. On 23 June 1649, as many as 23 people were hanged there simultaneously. The final public executions occurred in the late eighteenth century, in 1783, and again in 1789 during the publicized trial of Christian Murphy, sentenced for robbery[114]. It should be noted that this change occurred almost abruptly, as late as 1752 legislation permitted anatomical research on the bodies of executed criminals, a policy that enjoyed significant support within scientific circles and contributed to harsher sentencing, while simultaneously encouraging body-snatching and the illicit trade in corpses.

12. Conclusion

As stated in the introduction, the aim of this article is to demonstrate how the past has shaped the contemporary penitentiary system, how much of it has been preserved, and how much has been abandoned in favour of new values. The article also seeks to identify the historical moment at which key ideas shaping the modern world first emerged.

At the beginning of the period under analysis, there were no words "crime" or "criminal," nor was there a distinction between juveniles and adults. Relatively few acts were considered worthy of punishment and these were mostly connected with brutality. Trials themselves were fundamentally different from those known today. In the Middle Ages, religious values played a central role, and people believed in "God's verdicts," which explains the importance of ordeals. Over time, changes in social conditions, belief systems and religious thought influenced new approaches to wrongdoing and punishment.

The early modern period, characterized by the emergence of capitalism, increasing urbanization, and the Reformation, brought a completely new perspective. From that point on, the social construction of the criminal changed significantly and became associated mainly with vagabonds: people who migrated to cities but were unable to find work or housing, and with the lowest social classes. In some respects, this perception persists today: poorer areas of cities are often regarded as more dangerous, police officers tend to scrutinize individuals from lower social classes more frequently, whereas white-collar crime often remains unnoticed.[115] At the same time, communities frequently oppose the establishment of social care institutions in their neighbourhoods.[116]

These changes also led to the creation of the first social welfare regulations, culminating in the early seventeenth century with the Act for the Relief of the Poor. These measures represented not only legal rules but also a redefinition of poverty itself. Earlier, poverty was

[113] P. Ackroyd, *op. cit.*, pp. 275-280.
[114] W. Lipoński, *op. cit*., pp. 344-346.
[115] See more: E. Sutherland et al., *White Collar Crime: The Uncut Version.* Yale University Press 1983.
[116] D. Szrejder, *Pomoc społeczna (nie)mile widziana. Kilka słów o NIMBY dla pracowników socjalnych*, „Praca Socjalna" 2018, nr 33(6): 91-107.

commonly attributed to laziness; over time, however, it came to be recognized that individuals might be willing to work but unable to find employment and therefore in need of assistance. Moreover, it was increasingly acknowledged that some people were unable to work due to illness or disability. This new approach continued to develop, resulting in the gradual expansion of social welfare measures. Today, social care systems, although imperfect, and a move toward the welfare state are considered the norm in most Western countries.

The Enlightenment proved to be a particularly crucial period for the theory of crime, marked by numerous proposals for reforming the criminal justice system and introducing more humane solutions. Most fundamentally, the very concepts of "crime" and "criminal" finally emerged during this period.

It is within Enlightenment proposals that the foundations of contemporary approaches can be identified. First, the purpose of punishment was redefined. Previously, punishment served primarily to deter others, demonstrate the consequences of rule-breaking and exact revenge on the offender. Thinkers such as Bentham, Howard, Eden and Blackstone introduced a new perspective arguing that punishment could serve the purpose of resocialization or, at the very least, the protection of society. This shift led to questioning the death penalty and to demands for improved prison conditions. Second, eighteenth-century authors debated whether all individuals should be punished in the same way. They argued that numerous factors, such as age, mental health, and economic status, should be taken into account. These principles remain present today in the differentiated treatment of juveniles and adults, the possibility of ordering treatment instead of traditional punishment and doctrines such as the exclusion of criminal responsibility.

What further deserves attention is the influence of the development of parliamentarianism and institutions of social control on the creation of new crimes and, consequently, on the apparent "increase" in criminality. This serves as a historical example of phenomena described by labelling theorists such as Kai Erikson[117][118] and Howard Becker[119]. According to representatives of this perspective, deviance is the result of social interaction in which society defines who is deviant. This approach assumes that no objective normative status exists, as norms are inherently relative. What interests these scholars is who establishes and enforces norms, and for what reasons. Within the historical narrative presented here, it is evident that norms changed over time: an act considered a minor offense in the Middle Ages could be treated as a capital crime in the early modern period, only to become the subject of calls for leniency during the Enlightenment. This illustrates the fundamentally cultural nature of many norms.

In conclusion, contemporary experiences are the result of centuries of transformation, redefinition and the emergence of new ideas. What is considered normative today may once have been revolutionary and what appears revolutionary today may become the norm in the future.

[117] K. Erikson, *op. cit.*
[118] See more: K. Erikson, *Wayward Puritans: A Study in the Sociology of Deviance*. New York 1966.
[119] H. Becker, *op. cit.*

Bibliography

Legal acts:
Criminal Justice Act 2003.
Europejskie Reguły Więzienne.
Justices of the Peace Act 1361: https://www.legislation.gov.uk/aep/Edw3/34/1/data.html

Literature:
Ackroyd P., *Londyn. Biografia*, trans. T. Biedroń, Poznań 2011.
Baran K., Z *dziejów procesów o zbrodnię stanu. Sprawa Throckmortona (1554 r.) w Anglii epoki Tudorów*, „Studia z Dziejów Państwa i Prawa Polskiego" 2000, t. 5, s. 86-98.
Barrett A., Harrison C., *Crime and Punishment in England. A sourcebook*, London 1999.
Becker H., *Outsiderzy: studia z socjologii dewiacji*, trans. E. Zakrzewska Manterys. Warszawa 2009.
Bentham J., *The Introduction to the Principles of Morals and Legislation*, Kitchener 2000.
Best, J. *But Seriously Folks: The Limitations of the Strict Constructionist Interpretation of Social Problems* [in:] Constructionist Controversies. Issues in Social Problems Theory, eds. G. Miller, J. Holstein. London 1993.
Blackstone W., *Commenaries of the laws of England*, accessed: http://www.lonang.com/exlibris/blackstone/ 1.06.2014.
Briggs J., Harrison C., McInnes A., Vincent D., *Crime and Punishment in England. An introductory history*, London 1996.
Canon J. [ed.], *The Oxford companion to British History*, New York 1997.
Christianson S., *Więzienia świata. Spojrzenie na najsłynniejsze zakłady penitencjarne*, trans. B. Gutowska – Nowak, Warszawa 2005.
Eden W., *Principles of Penal Law*, London 1771.
Emsley C., *Crime, Police and Penal Policy. European Experiences 1750-1940*, Oxford-New York 2007.
Erikson K. *Notes On The Sociology Of Deviance. Social Problems*, 1962 [accessed: 26.12.2016]:
http://www.romolocapuano.com/wpcontent/uploads/2014/08/EriksonNotesSociologyDeviance.pdf 292
Erikson, K. *Wayward Puritans: A Study in the Sociology of Deviance*. New York 1966.
Friedman D., *Torture and the Common Law*, "European Human Rights Law Review" 2006, no 2.
Garbat M., *Pauperyzacja i powstanie polityki społecznej na przykładzie Anglii w epoce elżbietańskiej*, accesed: www.ur.edu.pl/file/53200/02.pdf 31.05.2014.
Grzybowski S., *Elżbieta Wielka*, Wrocław 2009.
Hansen E., *John Howard, a współczesna problematyka penitencjarna*, Warszawa 2002.
Hart K., *Żony i kochanki Henryka VIII*, trans. J. Józefowicz-Pacuła, Warszawa 2010.
Howard J., *The state of the Prisons*, London 1777.
Jason-Lloyd L., *The Legal Framework of the English Courts*, Huntington 1992.
Johnson P., *Historia Anglików*, trans. J. Mikos, Gdańsk 1995.
Kaczyńska E., *Ludzie ukarani. Więzienia i system kar w Królestwie Polskim 1815-1914*, Warszawa 1989.
Kędzierski J.Z., *Dzieje Anglii do roku 1485*, Wrocław-Warszawa-Kraków 1966.
Lipoński W., *Dzieje kultury brytyjskiej*, Warszawa 2003.
Machel H., *Więzienie jako instytucja karna i resocjalizacyjna*, Gdańsk 2002.
Meyer G.J., *Tudorowie. Prawdziwa historia niesławnej dynastii*, trans. E. Stępkowska, Kraków 2012.

Micińska M., *Zdrada córka nocy. Pojęcie zdrady narodowej w świadomości Polaków w latach 1861-1914*, Warszawa 1998.
Plint T., *Crime in England. Its relation, character and extend*, London 1851.
Redmond P.W.D., Shears P., *General Principles of English Law*. *Seventh Edition*, London 1993.
Roberts H., *British Rebels and Reformers*, London 1942.
Scott T., *Gospodarka* [in:] *Szesnasty wiek*, E. Cameron [ed.], trans. M. Szubert, Warszawa 2011.
Sójka-Zielińska K., *Historia prawa*, Warszawa 1997.
Sutherland, E., et al., *White Collar Crime: The Uncut Version,* Yale University Press 1983.
Szrejder D., *Pomoc społeczna (nie)mile widziana. Kilka słów o NIMBY dla pracowników socjalnych*, „Praca Socjalna" 2018, nr 33(6): 91-107.
Tulejski T., *Osiemnastowieczna koncepcja reformy więziennictwa Jeremy'ego Benthama*, „Przegląd Więziennictwa Polskiego" 2005, nr 49, s. 173-182.
Zins H., *Historia Anglii*, Wrocław 2009.
Zumthor P., *Wilhelm Zdobywca*, trans. E. Bąkowska, Warszawa 1994.