

Female offenders: court sentences



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Female Offenders Receive Harsher Sentences in the Courts than do their Male Counterparts

Most research implies that there is a significant difference in the way women and men were treated by the criminal system and that these differences are mainly due to the operation of gender stereotypes. Research studies have hypothesised that gender does affect sentence in a number of ways. The effect is not necessarily explicit and it may or may not be to the woman offender's apparent advantage. This implies that it may be harsher or more lenient as compared to that of the male offenders. It has also been suggested that the fact that men and women enter the criminal justice system in ways that are different and the fact that they also have different characteristics might have an effect on the way they are treated by the system. Based on this, this paper seeks to discuss whether female offenders receive harsher sentences in courts than do their male counterparts based on their gender status. In discussing whether female offenders are treated differently from their male counterparts by the criminal justice system, this paper will also review the various theoretical frameworks from early feminists and classical theorists. It will also include explanations on the historical background of the issue and on some features of the maleness of law. Pollak (1961) argues males in the criminal justice system are captivated by women offenders causing them to treat them leniently. This thesis is however criticised by Heidensohn (1985), one of the known feminists who argues that Pollak's theory is based on female biology making it unsociological, ahistorical and ideological. He goes on to suggest that apart from committing the crime, female offenders are also tried for their femininity hence face double jeopardy. As such, they receive harsher

sentence and crime as compared to the male offenders. Female offenders are also usually punished for their sexual misbehaviour, in the event it exists, which is not the case with the male counterparts. Based on this argument, the courts apply a double standard for female offenders. This paper will therefore look at cases in which women offenders buy into the gender contract and other cases in which women receive harsh treatment as well as sentences by the criminal justice system. The paper will discuss at how the law views females and how this is connected to the way in which women offenders are treated differently (either harshly or more lenient) from men. The question of whether female offenders are treated less harshly by the criminal justice system is also inherently related to the debate of why there has been an increase in female offenders. Simon (1975) and Adler (1975) argue that due to the women's liberation movement, a theory referred to as the liberation thesis, women have over the years become more men-like. Simon & Landis (1991), explain that feminist calls for equality has caused a decline in chivalry within courts in the way they treat female offenders. Based on these arguments and theories, this paper will discuss how the courts, one of the agencies of the criminal justice networks treats women offenders during passing of sentences.

In discussing this question, it is worth to note that historically and even presently, women commit less crime than males. According to the British criminal statistics, there are various differences between male and female offenders. According to the Home Office (2003), women constituted only 19 percent of the known offenders. The statistics also show that women commit also commit crimes that are violent such as theft, fraud and robbery. 75

percent of crime committed by women is theft and handling according to these statistics. It is however worth to note that women commit less violent crimes as compared to their male counterparts (Lise, 2009). They however participate in all types of criminal activities (Lise, 2009).

Statistics also imply that female offenders are more likely to be cautioned for crimes and offenses that are indictable than men. Figures show that the cautioning rate for women was 44 percent as compared to 27 percent for men. Research also showed that women were less likely to be charged after being arrested for offenses than men. 52 percent of women arrested were charged as compared to 60 percent of men arrested (Lise, 2009).

According to Lambrose & Ferrero (1995), there are less criminals among females than there are among males and that female criminals have more anomalies than the normal women. According to these theorists, female offenders do not act in accordance with the standards pre-defined and are regarded to be pathological hence require to be removed from the society or undergo treatment to make them normal. Courts therefore tend to punish female offenders for their offenses and for not complying with the pre-defined standards. This implies that they receive double punishment which is not so with the male counterparts. As such, female offenders receive harsher sentences than males by courts.

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