Preface

The book contains the results of research on criminal punishment conducted in a systematic manner since 1997.[1] The range of the study and the approach to general penology refer to the previously presented interdisciplinary theory of punishment developed as part of culturally integrated studies.[2] This approach is also associated with a new classification of the theory and criticism of punishment.[3] This classification systematizes various research perspectives. I refer to contemporary

[1] Systematic research on criminal punishment was initially inspired by didactic needs, the preparation of materials for the lectures entitled 'Punishment in science and culture' conducted by me for 60 hours continuously from 1998 to 2008 at the University of Warsaw's Institute of Social Prevention and Resocialisation (later the lecture became the basis for the development of compulsory classes in the field of social prevention and the resocialisation of the subject 'The theory of punishment' and of 'the lecture on penology' as well as of the subject 'History of penal cultures'). The theory of punishment is currently also the subject of a lecture on criminology at the Institute of Social Prevention and Resocialisation.

[2] Cf. Jarosław Utrat-Milecki, *Podstawy penologii. Teoria kary*, Wydawnictwa Uniwersytetu Warszawskiego, Warszawa 2006 (for the first time an outline of the culturally integrated approach in penology was presented at the meeting of the Scientific Society of Criminal Law in 2002, chaired by Prof. dr hab. Genowefa Rejman. The first presentation of this approach in the literature on the subject, cf. Jarosław Utrat-Milecki, *Kontekst kulturowy koncepcji penologicznych*, in: *System penitencjarny i postpenitencjarny w Polsce*, ed. Teodor Bulenda, Ryszard Musidłowski, Instytut Spraw Publicznych, Warszawa 2003.

[3] Cf. Jarosław Utrat-Milecki, *Kara. Teoria i kultura penalna: perspektywa integralnokulturowa*, Wydawnictwa Uniwersytetu Warszawskiego, Warszawa 2010.

research and concepts with particular emphasis on the scholarly literature of the Anglo-Saxon cultural circle. In the work I take into account the Polish tradition of penology studies, in particular in the approach of Juliusz Makarewicz (1872–1955), Bronisław Wróblewski (1888–1941), Leszek Lernell (1906–1981), and their continuators.

It should be emphasized after Leszek Lernell[4], but also after Barbara Hudson[5], that in penology, as a rule, we mainly deal with criminal punishment, i.e. punishment for a crime. The concept of punishment occurs also in the context of other branches of the law, but also in particular in education, religion, and activities of informal groups.[6]

In this study, I treat the concept of the penal sciences as a collective term for the disciplines related to the broadly understood issues of criminal law.[7] The Polish term "penal science" refers to a long tradition associated in particular with the activity of Franz von Liszt (1851–1919) and the concept of "comprehensive study of criminal law" used by him (*gesamte Strafrechtswissenschaft*).[8]

The first volume indicates in particular the importance of distinguishing the subject of research, discourse, and exposition referred to as penology. I adopt a broad interdisciplinary understanding of penology in relation to the research achievements of the European Centre for Penological Studies named after Prof. G. Rejman at the Institute

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[4] Leszek Lernell, *Podstawowe zagadnienia penologii*, Wydawnictwo Prawnicze, Warszawa 1977, p. 11.

[5] Barbara Hudson, *Understanding Justice. An Introduction to ideas, perspectives and controversies in modern penal theory*, Open University Press, Buckingham–Philadelphia 2003, p. 2.

[6] Cf. *Kara w nauce i kulturze*, ed. Jarosław Utrat-Milecki, Wydawnictwa Uniwersytetu Warszawskiego, Warszawa 2009.

[7] Therefore, in general penology, I use the notion of penal science in the sense that was also adopted by the editors of the two-volume publication in honour of Prof. Marian Filar, cf. *Nauki penalne wobec szybkich przemian socjokulturowych: księga jubileuszowa Profesora Mariana Filara*, vol. 1, eds Andrzej Adamski, Janusz Bojarski, Piotr Chrzczonowicz, Michał Leciak, published by Adam Marszałek, Toruń 2012, 'Słowo wstępne', p. 11.

[8] Cf. Krzysztof Krajewski, *Czy prawo karne potrzebuje kryminologii a kryminologia prawa karnego*, in: *Prawo karne jutra – między pragmatyzmem a dogmatyzmem*, ed. Wojciech Zalewski, C.H. Beck, Warszawa 2018, p. 8.

of Social Prevention and Resocialisation at the University of Warsaw. This centre promotes culturally integrated research on the criminal justice system.[9]

The adopted perspective makes it possible to outline further fields of study in the area of penology, and may constitute the basis for the development of an appropriate handbook in the future. Until such a handbook is developed, the author intends this work to be helpful in teaching penology and criminal policy.

In the adopted approach, penology is a specialized interdisciplinary area of research and lectures, primarily on criminal punishment and other legal and social reactions to acts prohibited under criminal penalty. Penological research may concern the practice of applying the law in force, i.e. penal and penitentiary policy, as well as the theoretical and practical foundations of de *lege ferenda*, and thus the foundations of an appropriate legislative policy. The range of its interests is therefore broader than that of criminal policy *sensu stricto* (which focuses on the application of the applicable criminal law provisions).[10] The relationship between penology and criminal policy will be analysed in particular in the second volume of *General penology*.

From the perspective of sociology, criminal punishment, i.e. punishment imposed by a criminal court on the basis of criminal law for a crime,[11] can be considered one of the elements of the social control system.[12] As a whole, the specific system of social control, which is considered to be crime prevention, is mainly discussed in criminology.[13] Thus, criminology deals with the issue of crime control referred to as

[9] Cf. Jarosław Utrat-Milecki, Jadwiga Królikowska, *Badania integralnokulturowe*, in: *Europejski Ośrodek Studiów Penologicznych. Uniwersytet Warszawski. Wydział Stosowanych Nauk Społecznych i Resocjalizacji. Instytut Profilaktyki Społecznej i Resocjalizacji. Zakład Prawnych i Społecznych Badań Integralnokulturowych,* eds Jarosław Utrat-Milecki, Jadwiga Królikowska, IPSiR UW, Warszawa 2010. Centre website: penology.org.

[10] Barbara Stańdo-Kawecka, *Polityka karna i penitencjarna między punitywizmem i menedżeryzmem*, Wolters Kluwer, Warszawa 2020, pp. 11–12.

[11] Cf. Leszek Lernell, *Podstawowe zagadnienia penologii*, op.cit., p. 11.

[12] Cf. Jacek Kurczewski, *Kontrola społeczna*, in: *Encyklopedia socjologii*, vol. 2, ed. Władysław Kwaśniewicz et al., Oficyna Naukowa, Warszawa 1999.

[13] Cf. Krzysztof Krajewski, *Kryminologiczne podstawy prawa karnego*, in: *System prawa karnego*, vol. 1: *Zagadnienia ogólne*, ed. Andrzej Marek, C.H. Beck, Warszawa 2010, p. 100.

criminal policy *sensu lato*, which also includes studies of pre-emptive and anti-crime prevention programmes.[14]

From the point of view of theory and research, penology deals with the punishment process including the assessment and determination of a penalty as well as the execution by competent authorities and public institutions of awarded penalties or other legal consequences of a conviction or indication of the perpetrator of an act prohibited by a criminal court. In its analyses, penology also adequately takes into account the activities of social organisations, in particular those dealing with the social readaptation of people to live in freedom after serving a sentence of imprisonment.

Thus, penology presents the investigated issues of the criminal law response in a procedural manner. In penology the means of criminal law reaction are treated as a human action, the patterns of which are defined in legal provisions, so they always refer to interdisciplinary studies of criminal law reaction in action, and not to the dogmatic analysis of the institution of law itself.

An important issue is to distinguish the penologically understood criminal punishment from the dogmatic concept of the penal sanction itself. In a criminal trial, the court not only imposes a penalty, but also the criminal penalty is shaped in the judgment of the court and in the course of the criminal trial, primarily in the enforcement proceedings with the use of other legal institutions that are not dogmatically defined as a criminal sanction. In the penological sense, not all measures applied by the criminal court are of a penal nature, but also their actual nature is determined by the penological analysis of their features and role in shaping penal repression, and not the code classification itself. This is one of the more difficult theoretical issues that will be subject to detailed analysis in both volumes.

Criminal law and criminal policy are aimed at protecting legal goods against actions prohibited under a criminal penalty, strictly defined in law, and causing direct damage or exposing legal goods to an unacceptable risk of harm.

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[14] Cf. Wojciech Zalewski, *O pojęciu polityki kryminalnej*, in: *Problemy wymiaru sprawiedliwości karnej. Księga Jubileuszowa Jana Skupińskiego*, ed. Jolanta Jakubowska-Hara et al., Wolters Kluwer, Warszawa 2013, pp. 11041–1157.

Penology is interested in reactions to this kind of harmful behaviour because it has been criminalized *de lege lata* or is as such considered *de lege ferenda*, that is, as qualified lawlessness. There is no offence as long as the act described in the Act is not under threat of criminal penalty in virtue of that Act. Obviously, the relationship between crime and punishment, which made it possible for Leszek Lernell to talk about crime as an external structure of punishment[15], has the character of a legal syllogism. Edmund Krzymuski (1852–1928), the most prominent representative of the classical school of criminal law in Poland, wrote about this relationship: "crime and punishment, as well as the legal relationship to take place between them – this is the subject, the regulation of which is the content of the criminal law".[16] A similar position was taken by the supporter of the sociological school of criminal law, Wacław Makowski (1880–1942), who recognized crime and punishment on two sides of a legal relationship.[17] Franz von Liszt, considered to be the most outstanding representative of the sociological school of criminal law, regardless of "defining the essence of crime from a formal standpoint [...], defined it as a factual state with which the legal order links the penalty as a juridical effect".[18] In the social reality, however, we are dealing with a vast phenomenon of the dark number of crimes studied in criminology. Many acts that are under threat of criminal punishment are not brought to trial.[19]

For penology, therefore, essential are the studies on the material foundations of the external structure of punishment, on the process of criminalisation and penalisation, and on the recognition of certain

[15] Leszek Lernell, *Podstawowe zagadnienia penologii*, op.cit., pp. 20–21.

[16] Edmund Krzymuski, *System prawa karnego ze stanowiska nauki i trzech kodeksów, obowiązujących w Polsce. Część ogólna*, Nakład Krakowskiej Spółki Wydawniczej, drukarnia Uniwersytetu Jagiellońskiego, Kraków 1921, p. 1.

[17] Cf. Wacław Makowski, *Podstawy filozofii prawa karnego*, vol. 1, Skład Główny E. Wende (z zapomogi Kasy pomocy dla osób pracujących na polu naukowem, im. D-ra I. Mianowskiego), Warszawa 1917, pp. 426–431.

[18] Cf. Bronisław Wróblewski, *Wstęp do polityki kryminalnej*, wydane częściowo z zasiłku b. Departamentu Oświaty w Wilnie, Skład Główny Księgarnia Stowarzyszenia Nauczycieli Polskich, Wilno 1922, p. 116.

[19] Cf. Janina Błachut, *Problemy związane z pomiarem przestępczości*, Wolters Kluwer, Warszawa 2007.

behaviours threatened by punishment as crimes.[20] It is crucial to establish when society may use the threat of punishment against an individual, the threat of using extraordinary coercion in order to deprive the individual of essential goods. As Alan Brudner wrote:

> Much of the criminal law derived from the Common Law of Great Britain consists of the answer to the question: when would the state be allowed to do to an individual what is labelled punishment, and what would normally be classified as a criminal assault, theft, forced isolation, or homicide? [...] because the idea of punishment is not explicitly investigated by lawyers, the criteria established by positive law for distinguishing persons subjected to punishment from victims of violence are rarely clear and unambiguous.[21]

The area of interest in penology is therefore determined not only by the criminalisation carried out, but also by discussions on the extent of criminalisation (or decriminalisation) and penalisation conducted *de lege ferenda*. Penology as a science is not absolutely bound by normative solutions, either with regard to the extent of criminalisation, or the form of penalisation, types of penalties and penal measures *sensu lato*, or the degree of punitiveness. Undoubtedly, however, it is the currently binding normative solutions that constitute an important starting point for penological analysis.

On the other hand, beyond the immediate area of penological research, there is the dogmatic science of crime and of the principles of criminal liability, which is fundamental to substantive criminal law.

Penological research and theories refer to the relationship between the official objectives of criminal law and the principles and directives of the punishment to the functions that, in fact, according to sociologists and anthropologists, criminal punishment plays in society.[22] Penology

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[20] Cf. a wider analysis of this issue, Jarosław Utrat-Milecki, *Penologia a zagadnienie kryminalizacji*, in: *Prawo karne jutra...*, op.cit., Warszawa 2018, pp. 67–91.

[21] Alan Brudner, *Punishment and Freedom. A Liberal Theory of Penal Justice*, Oxford University Press, Oxford–New York 2009, p. 1. Quotations are in the translation of the author of the book, unless otherwise noted.

[22] Bronisław Wróblewski, the precursor of modern penology, wrote about the importance of such research in Polish literature, cf. *Wstęp do polityki kryminalnej*, op.cit., p. 146 et seq.

also examines how, in the light of criminological research, the actual effects of criminal policy resulting from the use of responses to a crime provided for in criminal law are related to these purposes, principles, and directives of punishment.[23] In penal policy, we sometimes deal with the phenomenon of voluntarism, i.e. presenting the goals of action assumed by the legislator or the executive as the functions of criminal punishment and, more broadly, criminal law, which are actually implemented by the criminal policy.[24] Penology is to contribute to limiting the influence of such voluntarism.

This issue was particularly carefully researched in the newer literature by Gary Kleck and Brion Sever using the example of the United States. The authors analysed extensive material from the research on the effectiveness of criminal punishment conducted in the United States in the period from 1967 to 2015. They pointed to the assumption (unfounded in most cases in the light of the results of empirical research) about the positive impact of the aggravation of penalties on their effectiveness.[25] Their research confirms the thesis of Nils Christie (1928–2015) that, on the basis of the unquestioned statement about the influence of penalties on behaviour, it is often unjustified to assume that stricter penalties may deter people from committing crimes. As Christie notes, there are actually many reasons why penalties do not actually deter potential perpetrators, including the lack of immediacy, certainty, and inevitability of penalties.[26]

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[23] Cf. on the conceptual differentiation of the content, goals, effects, and functions of a criminal penalty, Jarosław Warylewski, *Kara. Podstawy historyczne i filozoficzne*, Wydawnictwo Uniwersytetu Gdańskiego, Gdańsk 2007, pp. 21–22.

[24] Regardless of the critical approach to the assumptions of the actual criminal policy, the literature also encounters further criticism of an ideological ("philosophical") nature of the rationality of penal policy as such. Such criticism concerns, in general, the legitimacy of referring to the results of criminological research, equating such references with an ideological option in favour of an instrumental vision of punishment. Cf. Filip Ciepły, *Sprawiedliwościowa racjonalizacja wymiaru kary kryminalnej wobec współczesnych tendencji polityki karnej w Polsce*, Wydawnictwo KUL, Warszawa 2017, pp. 342–359 et seq.

[25] Cf. Gary Kleck, Brion Sever, *Punishment and Crime. The Limits of Punitive Crime Control*, Routledge, New York–London 2018, passim, and in particular pp. 316–318 and 324.

[26] Cf. Nils Christie, *Granice cierpienia*, translated by Lech Falandysz, Wiedza Powszechna, Warszawa 1991, pp. 35–38.

However, there are sometimes works and studies suggesting that stricter penalties beyond the standard of proportionate severity adopted in a given system may effectively reduce crime in the future. James Q. Wilson (1931–2012), observing the effects of American criminal policy largely implementing his own proposals, stated: "the more we learn about the causes of crime, the more opportunities we have to draw different conclusions regarding the administration of justice".[27] This statement by Wilson is equivalent to the critical position on scientific research known in the theory of knowledge, formulated by Thomas Kuhn described as *everything goes*.[28] Previously, a similar position was attributed in Greek philosophy to the sophists, i.e. people who, thanks to appropriate skills, could prove any legal or philosophical thesis favourable to their client. Penology would have had the ambition to limit the scale of this phenomenon in criminal policy.

Penology is intended to contribute to a critical analysis of the relationship between the assumed objectives of the criminal law and the principles and directives of the judicial imposition of punishment, the principles of its execution, and the means used to achieve them. Penology examines the relationship between the recognised general functions of the criminal law and the specific, empirically verifiable, effects of the implemented penal policy.

Public opinion on criminal punishment may also be of significant importance for criminal policy. However, public opinion on this subject is itself subject to penological analysis. The voice of public opinion is not a simple confirmation of the fact that a given punishment for a given type of crime under certain social conditions actually works as an effective means of social control in a democratic state ruled by law[29].

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[27] Cf. James Q. Wilson, Joan Petersilia, *Introduction*, in: *Crime and Public Policy*, eds James Q. Wilson, Joan Petersilia, Oxford University Press, Oxford–New York 2011, p. 4. The work particularly important for the development of the so-called "conservative revolution" in American criminal policy is considered an earlier study by James Q. Wilson, *Thinking about Crime*, Basic Books, New York 1975.

[28] Thomas S. Kuhn, *The Structure of Scientific Revolutions*, University of Chicago Press, Chicago 2012.

[29] Jarosław Utrat-Milecki, *Zarys penologii integralnokulturowej*, in: *Kara w nauce i kulturze*, op.cit., pp. 229–266.

The science of criminal law expresses the view that criminal law and criminal policy implemented on its basis constitute a subsidiary way of protecting legal goods.[30] The reactions to a prohibited act under the threat of a criminal penalty, applied on the basis of criminal law, consisting in depriving a person of goods, including to a various extent of freedom, should also constitute a last resort (the principle of *ultima ratio*). The criminal law is applied and penalties are imposed on its basis when other methods of social control serving the protection of society and individuals are deemed insufficient.

Therefore, we distinguish a separate principle of applying punishment as *ultima ratio* from the principle of the subsidiarity of criminal law. The principle of punishment as *ultima ratio* refers to the application of formalised criminal sanctions under the criminal law. In accordance with the principle of criminal punishment as *ultima ratio* where, for reasons other than the mere commission of a crime, the imposition of a formal criminal sanction or its execution is not necessary, the criminal justice system should seek other, less invasive forms of response to the crime. These can be compensatory measures, probation measures, or even measures taken irrespective of criminal liability (*diversion*).

In addition, the principle of criminal punishment as *ultima ratio* is often understood primarily as a rule referring to the choice of the organizational form of a criminal punishment. A more intrusive form of criminal punishment should be administered, which interferes with human rights and freedoms, only when it is necessary for the implementation of the basic tasks of the criminal law as regards the ensuring of order, justice, and security.

The principle of criminal punishment as *ultima ratio* understood in this way in Europe, including in the Polish legal order, concerns in particular the imposition of absolute deprivation of liberty in the case of petty and medium offences.

Penology also talks about the ritualism and liminality of criminal law in an anthropological sense, as it sets certain elementary standards of behaviour, the violation of which is particularly negatively

[30] Cf. Włodzimierz Wróbel, Andrzej Zoll, *Polskie prawo karne. Część ogólna*, Znak, Kraków 2010, p. 25.

assessed.[31] Correspondingly, in the science of the criminal law it is sometimes said that committing a crime is a so-called qualified lawlessness.[32] This approach corresponds to the idea of subsidiarity of the criminal law. Violation of the law is crossing the boundary of socially acceptable behaviour, while committing a crime is something more. It is crossing a specific red line defining the boundaries of the recognised social world, hence its liminality. Therefore, only a violation of the criminal law leads to a particularly negative formalized assessment of this fact on the part of the criminal court acting on behalf of the society (of the Republic of Poland). Hence, so dangerous are the dysfunctions of the justice system in criminal cases. The development of tolerance for criminal lawlessness, leads to a feeling of impunity, which threatens the foundations of the social world and may lead to anomie.[33]

Today criminal law and penal policy do not assume that a penalty should be imposed for every act punishable by a criminal penalty. On the other hand, they assume that social control measures in penal policy are applied in connection with the justified conviction of committing earlier (in a certain gradual and phenomenal form)[34] an unlawful act punishable by a criminal penalty. It is the potential threat of the perpetrator of a prohibited act with a criminal penalty that determines the boundaries within which the criminal policy is implemented. This is true regardless of whether the criminal policy in practice applies to the perpetrator measures that, in the statutory or even theoretical sense, can be defined as a criminal penalty or other criminal law reactions.

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[31] Cf. Łukasz Ostrowski, *Kara jako rytuał*, „Prace Instytutu Profilaktyki Społecznej i Resocjalizacji" 2009, vol. 17, pp. 7–24.

[32] Edmund Krzymuski, *System prawa karnego...*, op.cit., p. 319.

[33] More on this subject, cf. Jadwiga Królikowska, *Sędziowie o karze, karaniu i bezkarności. Socjologiczna analiza sędziowskiego wymiaru kary*, Wydawnictwa Uniwersytetu Warszawskiego, Warszawa 2020.

[34] From the point of view of the science of criminal law, there are punishable stages of in crime commission: attempt (Art. 13 of the Penal Code) and commission, and where provided for by the Act, also preparation (Art. 16 of the Penal Code), as well as forms of liability, such as complicity, directing the commission of a prohibited act, etc. (cf. Art. 18 of the Penal Code). In practice, therefore, for the range of criminalisation, it will be important to understand these gradual and phenomenal forms of crime on the basis of a specific doctrine and jurisprudence, and there may be significant differences here in terms of comparative law.

Criminal policy measures include all forms of criminal law reaction to a committed crime: penal sanctions, probation measures, punitive measures, compensatory measures, or variously defined practices in the field of the so-called restorative justice. In other words, the threatening of a given behaviour with a penalty does not determine whether a criminal penalty will be applied to the perpetrators of a specific criminal act. However, it is a condition *sine qua non* for accusing them of committing a crime or, in the case of precautionary measures, at least ascribing to them the commission of an act prohibited by law. Only a court finding that a prohibited act has been committed may lead to the application of measures provided for in the general and specific parts of the Penal Code (or another act specifying an offence) on the basis of a final court judgment. These measures may, to a varying degree, have the nature (hallmarks) of the institution of a criminal punishment.[35]

The field of investigation of penology understood in this way is determined primarily by a set of types of behaviour threatened with a criminal penalty and the principles of criminal liability related to it (including the determination of the gradual and phenomenal forms of a crime and of justification). Within these boundaries of criminal policy, we analyse its foundations. It is worth noting that in the textbooks of substantive criminal law, the concepts of punishment presented there, often not going beyond the end of the 19th century, are not later related to the analyses of individual organizational forms of criminal punishment or the principles (including directives) of the judicial imposition of punishment.[36] It is similar in the case of executive criminal law.

Meanwhile, in a penological study, we will naturally be primarily interested in the theoretical foundations of penal policy and, more broadly, criminal policy *sensu stricto* in the context of contemporary

[35] For more cf. Jarosław Utrat-Milecki, *Procesualność instytucji kary kryminalnej. Uwagi penologiczne na temat relacji między interpretacją sankcji karnej w prawie karnym materialnym a prawem karnym wykonawczym i o jej znaczeniu dla polityki karnej*, in: *Współczesne przekształcenia sankcji karnych – zagadnienia teorii, wykładni i praktyki stosowania*, eds Piotr Góralski, Anna Muszyńska, Euro Prawo, Warszawa 2018, pp. 23–61.

[36] More on this subject, cf. Jarosław Utrat-Milecki, *Istota penologicznego opisu kary kryminalnej*, in: *Istota i zasady procesu karnego 25 lat później*, eds Maria Rogacka Rzewnicka, Hanna Gajewska-Kraczkowska, Wolters Kluwer, Warszawa 2020, pp. 469–488.

regulations and practice. The research problem formulated in this way does not fit into the traditional research field of substantive, procedural, and executive criminal law, nor into the area of mainstream criminological investigations. Therefore, we will refer to these investigations as penological. We assume, in line with the Polish tradition, following Bronisław Wróblewski and Leszek Lernell, that "penology may constitute one of the theoretical foundations of criminal policy and its practical assumptions".[37]

In the presented study, the issues of penal policy and its practical assumptions are examined primarily from the theoretical, and not descriptive, point of view. For this reason, the study is limited only to the necessary minimum analyses of a comparative legal nature, both diachronic and synchronous, as well as a presentation of the current state of penal policy, which are given only to illustrate the course of theoretical analysis. The theoretical approach developed, on the other hand, may in future allow for a more comprehensive presentation of penal policy issues from a culturally integrated perspective, including from a comparative law perspective.

Penology has developed, not only owing to the logic of research and cognitive curiosity. It is also motivated by the diagnosis of the current state of criminal law in Poland. Violetta Konarska-Wrzosek stated that in her opinion, "In the current legal situation, we are dealing with a disrupted, inconsistent, and irrational system of sanctions that does not meet the requirement of specificity of the threatened penalties".[38] The development of penology can also be seen as a response to similar critical remarks from science. It can also be taken as a starting point in defining the field of research and exposition in penology after David Scott that "Penology tries to understand the complex, difficult, emotional issues that arise when we think of [criminal] punishment".[39]

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[37] Leszek Lernell, *Podstawowe zagadnienia penologii*, op.cit., p. 15.

[38] Violetta Konarska-Wrzosek, *Racjonalna sankcja karna na czyny zabronione w systemie prawa – próba systemowej odpowiedzi*, in: *Racjonalna sankcja karna w systemie prawa*, eds Anna Muszyńska, Piotr Góralski, Euro Prawo, Warszawa 2019, p. 107.

[39] David Scott, *Penology*, Sage, London–Los Angeles 2008, p. 7.