

Foreign National Women Arrested for Drug Trafficking: A Dynamic Socio-Penal Portrait

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Abstract

Women's imprisonment in Portugal was marked in the first decade of this century by the increasing proportion of foreign nationals. This circumstance had implications not only for official crime statistics, contributing to a greater preponderance of drug trafficking, but also for the dynamics of women's prisons and the social discourses that associate immigration and crime. The present study is part of a research project on the life pathways of foreign national prisoners in Portugal, and aims to analyze the social demographic, criminal and penal dimensions of female foreign nationals arrested in the country for drug trafficking. To this end, we collected and statistically analyzed data from 148 individual case-files of foreign women prisoners. Results show the existence of at least two different scenarios for foreign national women arrested for drug trafficking in Portuguese prisons: on the one hand, women who come from European or South American countries, who were not living in Portugal, and are held for international trafficking ("drug couriers"); on the other hand, women from African countries living in Portugal, and arrested for drug trafficking practised mainly in the country. These results allow us to deconstruct the idea that the high proportion of foreign national women in our prisons is unequivocally related to the phenomenon of immigration. Furthermore, results validate the importance of understanding, through qualitative research, these women's pathways to imprisonment in a foreign country.

Key-words: women prisoners, foreign nationals, drug trafficking.

Introduction

In the history of criminology, studies on women who commit crimes have been fewer than studies on male offenders (Matos & Machado, 2012; Matos, 2015; Matos, 2008). It is noticeable that the former studies are not only comparatively fewer, but are also biased as they take for granted and reinforce stereotyped social discourses about women (Smart, 1977; Matos & Machado, 2012). Attempts to understand the female imprisonment experience are also scarce, representing, according to Covington (1998), one of the most neglected topics from the perspective of knowledge building and in terms of political action. In the past, studies on women's prisons were based on a permanent comparison to the world of men's prisons, the topics and issues of which were taken as the main reference (Carlen, 2002; Almeda, 2003; Azaola, 07; Cunha, 1994, 2007). A shift occurs with the emergence and consolidation of feminist perspectives on criminology, which propose studies that take the gender variable into consideration and which set a milestone in criminology from a methodological point of view, trying to *give voice* to the women's experiences (Matos & Machado, 2012). On the international scene, several works on female criminality (e.g., Chesney-Lind, 1997; Heidenhson, 1985; Carlen, 1988) and female imprisonment (e.g., Almeda, 2003; Azaola, 2007; Carlen, 2002) stand out. In Portugal, a few approaches to female criminality are also emerging (e.g., Cunha 2005, 2009; Leal, 2007; Matos, 2008), specifically addressing women's imprisonment. The most prominent ones are from Carmo and Fráguas (1982, 1999), Manuela Ivone Cunha (1994, 2002) and Teresa Beleza (1990), all addressing women's experience in prison or the way the criminal system treats women. In addition, a large number of studies are currently under development in Portugal in order to gain a clearer understanding of this field of research (e.g., Gonçalves & Lopes, 2004; Cunha & Granja 2014; Granja, 2016; Matos, 2015; Matos, 2016).

Drug trafficking within the contexts of criminality and women's imprisonment in Portugal

Towards the end of the 20th century, Portugal ranked first for drug offenses and female imprisonment rates amongst European countries (Cunha, 2005). Given the centrality of drug-related offenses in the women's convictions¹, both in Portugal and

¹ Official statistical data released by the General Directorate of Rehabilitation and Prison Services (DGRSP) in 2015 shows that from a total of 653 women serving time in jail, 257 (39,4%) are convicted of drug trafficking.

worldwide, the rates of imprisoned women tend to be analyzed considering the fluctuations in the arrests related to these types of offenses. In fact, it is persistently stated that drug trafficking is the most common offense amongst women prisoners, both at a national level (e.g., Cunha, 2002; Matos, 2015; Matos, 2016), and at an international level (e.g., Almeda, 2003). A deeper analysis of drug trafficking is thus justified. To begin with, it is important to distinguish the retail market from the wholesale market; this distinction involves differences in the turnover, but not in the dimension or structure of the organization in charge: contrary to popular belief, both levels are operated by small and poorly structured organizations, as well as by larger and most structured organizations (Cunha, 2001, 2005). It is also important to distinguish the organization modes around trafficking, in particular the freelance model, where cooperation, though accepted, is not long-lasting; and the business model, where the trafficking agents are tightly organized under close supervision and control, obeying a strict hierarchy (Johnson et. al, 1992, cit. in Cunha, 2001).

Throughout the nineties the American and European retail narco-markets went through change, evolving from a freelance model into an entrepreneurial model (Cunha, 2002, 2005). As far as the Portuguese case is concerned, the mutation occurred in the opposite direction; today the freelance model still prevails in Portuguese retail trafficking (Cunha, 2002, 2005). Looking at the evolution in women prisoners in Portugal and its relation to drug trafficking, we realize that, while during the eighties women arrested for drug trafficking were mainly “drug couriers”, in the nineties they were more frequently domestic trafficking agents. According to Manuela Ivone Cunha, “*transit* trafficking”, embodied by the “*drug courier*” arrested at airports, seems to have been replaced by domestic trafficking as a cause of women’s imprisonment” (2002). There was a changing pattern in this scenario with the increasing proportion of foreign national women among female prisoners in Portugal during the first decade of the 21st century² (Matos, 2016). However, the extent of this change was not due to the increase in imprisonment of foreign nationals in itself, nor to the offenses perpetrated by foreign nationals – in other words, to changes related to foreign national women prisoners; rather, it was due to an overall decrease in the female prison population (from around 10% towards the end of the 90s to less than 6% at the end of this century’s first decade). Given the stronger impact on the national, rather than the foreign, imprisoned population -- as the former is the majority --

² This proportion rose from 18% in 2002 to 30% in 2008 (Matos, 2016).

such a decrease will cause the proportion of foreigners to stand out again, even though the overall population does not change.³

Retail trafficking in Portugal has been depicted as significantly less violent than in other countries, hence representing fewer physical risks for the actors who gravitate around this activity (Cunha, 2005). This characteristic of the drug market in Portugal, combined with a greater autonomy to decide where, when and how to sell drugs, in accordance with a freelance model, seems to favor women's participation in drug trafficking (e.g., Jacobs & Miller, 1998; Morgan & Joe, 1997, cit. in Cunha, 2009). The transition from a business model to a freelance model in Portuguese narco-markets seems to have increased the opportunities for women in trafficking. Women could get started on their own, dealing as free-lancers, obtaining drugs on a loan or consignment basis through neighborhood networks. The accomplishment of this type of business represents a way for women to access financial resources in socially unfavorable contexts, frequently to support their family (Cunha, 2002; Torres & Gomes, 2002; Almeda, 2003; Azaola, 2007). These women start developing their activity connected to trafficking from family and friendship relationships, making use of close solidarity among the existing social networks (Cunha, 2002, 2005). Portugal appears to present an association between the high number of women prisoners arrested for trafficking and the social context they come from; in the face of poor schooling and professional qualifications, these women perceive drug trafficking as one of the few ways available to access financial resources (Cunha, 2000; Torres & Gomes, 2002). This argument explains the situation of adult women better, but it applies to the younger ones as well (Matos, 2015). There are empirical data showing that some young women face trafficking as a business opportunity, while others associate trafficking with drug addiction or marital violence forcing them into trafficking (Matos, 2015).

When researchers consider the international scene, women seem to be involved in small-scale trafficking, assuming quite often the role of "drug courier" (Miranda & Palomo, 2007). In this role, often under the supervision of male figures, women become more vulnerable to detention through the formal control mechanisms and, as a consequence, to harsher sentences inherent in the policies of drug control (Almeda, 2003;

³This hypothesis when we look at the numbers of female prisoners in absolute terms: in 2000 there were 138 female prisoners among a total of 1206 women imprisoned in Portugal; in 2010, the foreign women were 183 out of a total of 623 female prisoners (cf. Justice Statistics).

González, 2007; Miranda & Palomo 2007). To a certain extent, this explains the significant number of foreign women arrested for international drug trafficking when compared to male prisoners (Miranda & Palomo, 2007). In fact, as previously mentioned, today's scenario of imprisoned women in Portugal shows a growing proportion of foreign women, arrested mostly for the drug trafficking. International trafficking, the most common offense among this group of women, is highlighted again. Foreigners once again constitute a relevant segment of the female prison population convicted of trafficking. According to the DGRSP statistics reported to the end of 2015, among the women convicted of drug trafficking, 37% were foreigners. Despite the apparent higher incidence of international trafficking, there is no evidence of an increase in the absolute numbers of women in prison in Portugal for international trafficking. Domestic trafficking may appear proportionally less represented, because of the general decline in the numbers of women in prison, which tends to be more significantly reflected in the national female prison population.

Drug trafficking in the context of foreign nationals in prison

Prison statistics reveal that, in the first decade of this century, the proportion of foreign women prisoners increased significantly, in line with European trends (Matos, 2016; Hostettler & Achermann, 2008). Data also show the number of the foreign female prison population is proportionally higher than the foreign male prison population (Cunha 2010; Seabra & Santos, 2006; Torres & Gomes, 2002). The increase in the imprisonment rates of foreign women (Hostettler & Achermann, 2008) follows their greater involvement in drug trafficking, which prevails as the top offense committed by foreign citizens arrested in Portugal (Rocha, 2001). Drug trafficking seems to highlight the number of foreign women in European prisons, and Portugal is no exception. Official data indicates that by the end of 2015, from the 139 female convicted foreign nationals in prison, 94 (67,6%) committed this type of offense. As far as the male foreign nationals are concerned, from a total of 1688 only 524 (30,1%) were convicted of drug trafficking. Consequently, women seem to contribute more to the prevalence of trafficking among the offenses motivating the imprisonment of foreign citizens in Portugal⁴.

⁴ Cf. statistical 2015 data from the DGRSP.

Several studies have been carried out with the purpose of characterizing the imprisonment of foreign citizens in Portugal (e.g, Cunha 2010, Guia 2008, Gomes 2014; Rocha, 2001; Santos, 2010, Seabra & Santos, 2005, 2006; Matos, 2016). Based on these studies' findings, together with official data from the DGRSP, it is possible to make a brief description of the foreign nationals in Portuguese prisons, both in sociodemographic and penal terms. As far as age is concerned, most foreign citizens in custody in Portugal range from 30 to 39 years old⁵. Regarding nationality, data collected between 1994 and 2003 reveals that most foreigners held in Portuguese prisons come from Portuguese-speaking African countries (PALOP) and Brazil; however, in 2006 the nationalities represented the most are Brazil, Ukraine and Spain (Seabra & Santos, 2006). Recent data from 2015⁶ indicate that the majority of foreign prisoners (53,1%) come from African countries (in particular Cape Verde), followed by European countries (26,1%), in particular Romania and Spain, and South American countries (18,3%) (Especially Brazil). Concerning school qualifications, 2015 data show that, when compared to Portuguese prisoners, a higher number of foreign nationals attended basic education and higher education. Available data also show that a higher proportion of foreign women attended university or completed a university degree, compared to Portuguese women prisoners. Generally speaking, the foreign female prisoners also show a higher level of school qualifications when compared to what is depicted in the literature for the majority of incarcerated women (Matos, 2008; Matos & Barbosa, 2015).

From a penal point of view, it is noticeable that both pre-trial detention and prison sentences are applied more frequently to foreign citizens than to Portuguese citizens (Seabra & Santos, 2006). The explanation for this trend is threefold. To begin with, it is a fact that the Code of Criminal Procedure establishes as compulsory pre-trial detention in the case of crime suspects found illegally in the country. The second reason relates to the fact that foreign nationals usually commit offenses that are the object of prison sentences exceeding three years (for instance drug trafficking), and in that situation it is also compulsory to apply pre-trial detention. Lastly, it is considered that these citizens are more likely to escape (Seabra & Santos, 2005 and 2006; Trombik, 2007).

A few empirical studies addressing specifically foreign women under arrest in Portugal show that most women are in prison due to drug trafficking (e.g., Santos, 2010).

⁵ Cf. statistical 2015 data from the DGRSP.

⁶ Cf. statistical 2015 data from the DGRSP.

A study carried out with a sample of 56 foreign national women in the North of the country shows that 47 were arrested for drug trafficking; the most common is the drug courier across countries (Santos, 2010). Despite the presentation and discussion of empirical data and the continuous improvement of official statistics from the Portuguese justice system, the need to carry out a current and more exhaustive characterization is acknowledged. It is necessary to explore the characteristics of foreign women arrested in Portugal, where they come from, what connects them to the country of destination and what life and crime paths they have followed until imprisonment in a Portuguese prison.

Female foreign nationals arrested for drug trafficking: Sociodemographic and criminal trends

The study we hereby present is part of a larger research project on the life paths of foreign women prisoners in Portugal (Matos & Barbosa, 2015).

The sample encompasses 148 female foreign prisoners arrested in Portuguese prisons, aged 21 to 66 years old. The majority come from African countries (56; 37,8%), European countries (47; 31,8%), and Central and South American countries (37; 27,6%).

Concerning the instrument and the procedures for data collection, we analyzed the individual files of foreign national women using a sociodemographic and legal-criminal examination script (Matos, 2015), assuring the prisoners' anonymity and the confidentiality of the data collected with this methodology⁷. The script was split into two sections, the first one dedicated to sociodemographic data and the second one focused on criminal and legal data. The data collection took place in the first semester of 2010, in two Portuguese prisons. Data were statistically analyzed using SPSS software.

Findings: sociocriminal profiles and trafficking trends

The female prisoners are aged 21 to 66 years old, the age average is 36,49 and 30 years old is the most common age. We observed that the age range represented the most is 21 to 30 years old (70; 37,8%), confirming the higher representation of foreign national

⁷ The methodology used for data collection, the analysis of female prisoners' individual files, contains certain limitations. Namely, the fact that the majority of these women (66,9%) did not live in Portugal prior to the detention, and for that reason it was difficult to have access to their eventual former legal and criminal record. Other difficulties relate to the divergences found between the Portuguese system and the system in force in their home countries, educational or labor divergences, for instance.

women of younger age ranges when compared to Portuguese nationals (cf. DGRSP statistics). An explanation may be related to the characteristics of retail trafficking in Portugal. The characteristics of end-of-line trafficking, in the consumer interface, are different from mobility trafficking, i.e. drug transport and distribution, even at the “drug courier” small scale level. In the Portuguese context, retail trafficking is an activity that is easy to combine with the domestic domain as well as with older ages (Cunha 2002, 2005). It is likely, then, to register a higher proportion of older women and that the age range within the overall participants in retail domestic trafficking is wider than the age range of those taking part in small scale international trafficking. Regarding nationality, as Chart 1 clearly shows, a higher number of female prisoners come from African countries (56; 37,80%) and European countries (47; 31,80%), followed by women from Central and South America (37; 27,6%)⁸. When compared to the existing literature, this data reveals Europe’s significant proportion. This is a recent trend, initiated in the last decade, as previously foreign nationals came mostly from Portuguese-speaking African countries (PALOP), and from Brazil (Seabra & Santos, 2006).

- INSERT CHART 1-

As far as school qualifications are concerned, there seem to be two different scenarios. On the one hand, the number of female prisoners (36; 24,32%) who completed secondary education or attended university (11; 7,4%) is significant. On the other hand, the number of women who only completed primary school is also remarkable (33; 22,29%), as well as the number of illiterate or semi-illiterate women who did not complete primary school. (14; 9,4%). If we consider nationality alone, we realize the first scenario receives contributions mostly from women from African countries and South American countries; for the scenario of higher school qualifications, the contribution comes from above all, female prisoners from European countries, together with a few South American women. It is noticeable that we do not find such medium or high education levels in the Portuguese female prison population (e.g., Cunha, 2002; Matos, 2015); the proportion of foreign female inmates with secondary education is higher than registered for Portuguese

⁸ There is a record of female prisoners with dual nationality, for instance, one of the African prisoners also has Portuguese nationality, two women from Central and South America are also Portuguese and another has Spanish nationality as well. The dual nationality situations reveal, on the one hand, these women’s birth place (Africa or America) and, on the other hand, their place of residence (Europe).

prisons⁹. We do realize this is not an exclusive reality, as it is possible to find in Portuguese prisons women convicted of drug trafficking who come from abroad and have low school qualifications.

Prior to detention, the most common occupations of the women in our sample were related to trade (43; 29%), in particular street vendors, and to domestic work (22; 14,9%). Both these job occupations are represented the most, regardless of the place where the women lived prior to detention - in Portugal, in their home country or in any given country.

Most female prisoners were not living in Portugal at the time they were arrested (99; 66,9% (cf. Chart 4). From the 49 (33,1%) female prisoners who did live in Portugal prior to detention, the residence time varied from 5 to 20 years, though the range from 5 to 10 years is slightly superior (36,6% vs. 29,3%) to the range from 10 to 20 years. A combined analysis of residence and nationality (cf. Chart 3) shows most African-born prisoners live in Portugal (39; 70,9%), while the prisoners from Central and South America and Europe are mostly non-residents (91,9% and 93,6%, respectively). The analysis of this data clearly shows the diversity in the chances to contact or connect to Portugal. Many women had no contact whatsoever with the country prior to detention, others were actually living in Portugal, though not for long; and another group had been living in Portugal for over 10 years (in some cases over 20 years, actually), though keeping their foreign nationality.

- INSERT CHART 2 -

The airport emerges as the place where most women are caught (105; 77,2%), followed by public thoroughfare and in-house arrest (cf. Chart 3). By crossing the variables of the detention spot with the place of residence prior to the arrest, we can again take into consideration two different scenarios that characterize foreign nationals: -on the one hand, women who did not live in Portugal and were caught being “drug couriers” in drug trades; on the other hand, women who did live in Portugal and were arrested in some other places (public thoroughfare, house, hotel/inn). In this last scenario, different types

⁹ Official statistical data from the DGRSP shows the percentage of Portuguese female prisoners who completed higher education was just 2,1%, in 2015.

of trafficking are considered, given the fact that the detention spot does not exclude at once “domestic” trafficking or international trafficking.

- INSERT CHART 3 -

The legal situation shows that most female prisoners are convicted (124; 83,8%) and the remaining are pre-trial detainees (24; 16,20%). Considering all of the 124 women already convicted, most of them awaited for trial in prison (114; 77%). From a penal perspective, we conclude that pre-trial detention as a legal measure of constraint is very often applied to foreigners owing to the deemed risk of escape (Seabra & Santos, 2005 and 2006; Trombik, 2007) and to the fact that they commit offenses that receive prison sentences exceeding three years. Both circumstances apply to the participants in our study, who, given their nationality and their trafficking offense, are most likely to undergo pre-trial detention.

An analysis of the prison sentences shows the average sentence is 3,09 years ($SD=0,477$), ranging from 1 to 12 years. Chart 4 reveals the most common sentences range from 3 to 6 years (101;81,5%). Lower percentages refer to sentences ranging from 6 to 9 years (14; 11,3%). We confirmed that 42 women prisoners (28,4%) were also charged with deportation as a supplementary penalty.

- INSERT CHART 4 -

The severity of the sentences cannot be discussed while ignoring the nature of the offense these women were arrested for. It is acknowledged that justice systems are particularly intolerant when it comes to drug trafficking. They register a higher number of detentions and choose not to apply lighter sentences for these types of offences, both in Portugal and in other countries (e.g., Almeda, 2003; Cunha, 2002). However, our study reveals a smaller proportion of more severe sentences, when compared to the female prisoners as a whole. The most severe sentences are related to different types of offenses, intentionally not represented in our study and which tend to be less frequent among

foreign prisoners when compared to Portuguese ones, in particular offenses against people and offenses against property¹⁰.

Finally, as this study focuses on drug-related offenses, we have tried to characterize drug use prior to the detention. We noticed that most women (118; 84,9%) were not identified as drug users in their personal files. Among the 21 (15,1%) women prisoners who did use drugs before getting to prison, only 1 (5,3%) consumed the so called “soft” drugs (cannabis). All the other women consumed “hard” drugs (e.g. cocaine, heroin) or consumed multiple drugs. In former studies on criminality perpetrated by women in Portugal, drug trafficking did not emerge as inevitably related to drug use, especially when compared to the male prison population (e.g., Cunha, 2002, Matos, 2008). So drug trafficking has been associated with the opportunities these women find in their social contexts, rather than with problematic drug use, providing them with a better economic situation (Cunha, 2002, 2005; Torres & Gomes, 2002; Almeda, 2003; Azaola, 2007; Matos, 2008). Despite our sample’s specificities, this argument may be important in the analysis of our findings.

Final remarks

A preliminary approach to the findings indicates the existence of two different scenarios regarding the imprisonment of foreign national women for drug trafficking in Portugal. On the one hand, there are women who did not live in Portugal prior to the detention, most of them from European or South American countries. It seems that these women are in Portugal merely owing to the fact that they were arrested in this territory, having no connection to the country where they “happen” to be in jail. On the other hand, some women prisoners maintain a more or less continuous or consolidated connection to the country, expectedly because they live in Portugal, or as a consequence of this fact. These are Africa-born women mostly, quite often living in Portugal for over 10 years. In these cases, the detentions took place in public thoroughfares more frequently, so the “domestic”, freelance type of trafficking was very likely (Cunha, 2005), though the possibility that these women are international trafficking agents cannot be set aside.

Several opportunities to participate in the narco-trafficking market became apparent: women who accepted to be “drug couriers”, arrested in a country different from

¹⁰ Cf. DGRSP official statistics

their own; and women living in Portugal, also “drug couriers”, or joining a freelance type of trafficking, possibly having access to borrowed drugs through neighborhood networks, and preparing the product themselves to resell or helping male partners in one or another transaction (Cunha, 2005).

This study does not shed light on whether these women play a submissive role in the drug trafficking business, under supervision from male figures (Miranda & Palomo, 2007). Considering the description we were able to make based on the available data, we anticipate that these women may have played more vulnerable roles, thus becoming exposed to detention in a foreign country.

To sum up, we make two final remarks. The first one is related to the common narrative associating immigration and crime. In common social representations, the foreigner, or the immigrant more specifically, is considered as more willing to join criminal activity, so it is common to hear that foreign nationality is related to criminality (Lages et. al, 2006; Seabra & Santos, 2006). However, empirical studies show that non-national citizens do not have a greater involvement in criminality, particularly if only country residents are taken into account (Guia, 2008). Certain discrepancies in crime involvement rates reflect only the biasing effect caused by the disparity of the corresponding demographic structures. When age, gender and labor integration are taken into consideration between both populations, the discrepancy between national and foreign residents disappears and crime rates actually reveal themselves as identical (Seabra & Santos, 2005).

If we consider the fact that Portuguese prisons register a high rate of foreign women, it is important to point out that our analysis shows that such a rate is not related to recent immigration movements. As previously mentioned, the foreign category does not match the immigrant category. Indeed, we found women who had no connection to the country and others who had lived here for quite a long time; the latter seem to come close to Portuguese prisoners in terms of demographic, legal and criminal characteristics (e.g., Cunha, 2002; Matos, 2008).

Despite the relevance of these findings, it is important to go beyond the superficial and limited data under analysis, which only make it possible to glimpse, frame and distinguish in general terms the profiles of women arrested for drug trafficking.

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Funding

This work was financed by national funds through the Portuguese Foundation for Science and Technology, in the scope of the project «UID/CED/04872/2016».

Charts

Chart 1: Nationality (per Continent)

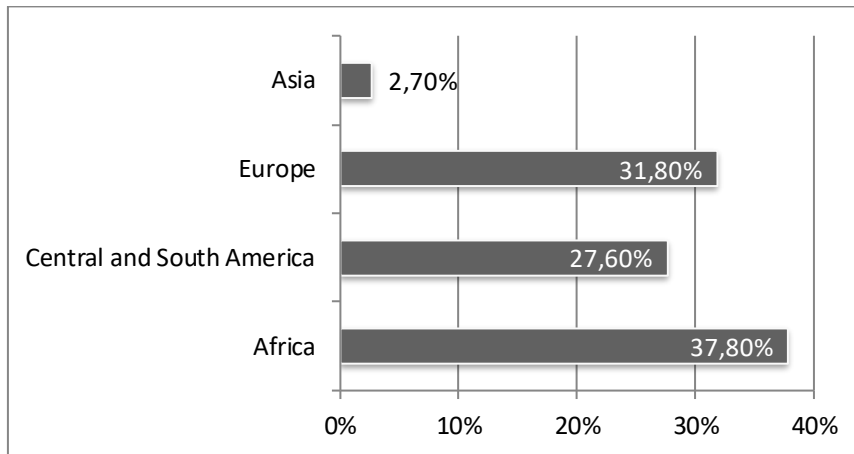


Chart 2: Residence in Portugal vs. Nationality

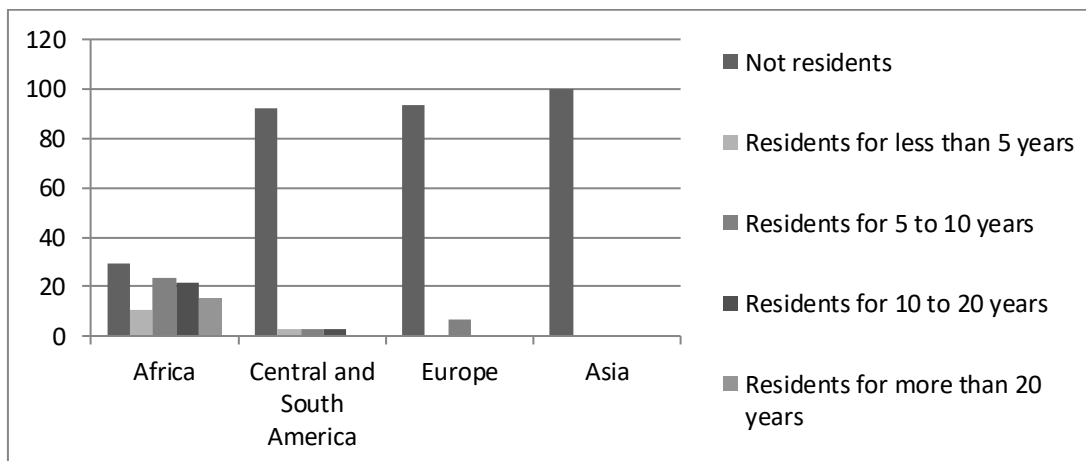


Chart 3: Places of detention

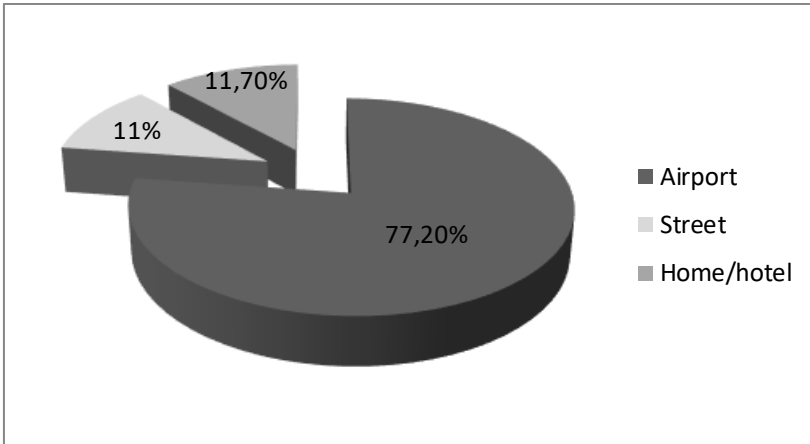


Chart 4: Sentences

