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Greg Los ■

The democratic function of victim surveys

Demokratyczna funkcja badań wiktymizacyjnych

Abstract: Police-recorded crime statistics have been discredited among academic criminological circles for decades. Within the British public discourse, they gradually lost ground to victimisation surveys, most prominently "The Crime Survey for England and Wales." In Poland, by contrast, official crime rates still enjoy uncontested dominance, and alternatives such as victim-recorded statistics are sidelined by the police, who prefer to remain in control of crime data. Using a public criminology framework, this article shows that victim statistics have an important democratic function that goes well beyond their epistemic value. I argue that by providing victimisation data, criminology can act as a democratic under-labourer: it can be a counterweight to the official narrative, keep the police in check and calm heated debates.

Keywords: UK, Poland, crime statistics, public criminology, victim surveys

Abstrakt: Policyjne statystyki przestępczości są od dziesięcioleci dyskredytowane w kryminologii. W brytyjskim dyskursie publicznym stopniowo ustępowały miejsca badaniom wiktymizacyjnym, z których najbardziej znane jest „Crime Survey for England and Wales". W Polsce natomiast oficjalne (policyjne) wskaźniki przestępczości wciąż cieszą się dużą popularnością, a alternatywy – takie jak statystyki wiktymizacyjne – są marginalizowane przez policję, która woli zachować kontrolę nad danymi dotyczącymi przestępczości. Wykorzystując ramy kryminologii publicznej, artykuł ten pokazuje, że statystyki wiktymizacyjne pełnią istotną funkcję demokratyczną, która wykracza daleko poza ich wartość poznawczą. Twierdzę, że poprzez dostarczanie danych o wiktymizacji kryminologia może pełnić rolę demokratycznego „pomocnika" i stanowić przeciwwagę dla oficjalnej narracji, kontrolować działania policji i tonować emocjonalne debaty.

Słowa kluczowe: Wielka Brytania, Polska, statystyki przestępczości, kryminologia publiczna, badania wiktymizacyjne

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Introduction

Crime statistics are important. Not only are they useful in determining what we think about crime, they also influence what the public and politicians believe should be done about issues of law and order (Lomell 2010). However, not all crime data is equally reliable, and it is well known across the field of criminology that police-recorded statistics are "both incomplete and biased" (Reiner 1996: 188). A wider debate on the limitations of police statistics (Smith 2006; Independent Police Complaints Commission 2009; Buil-Gil, Medina, Shlomo 2021) is outside the scope of this paper.

The main criticism of police-recorded statistics is that they are susceptible to the dark figure of crime, i.e. the number of crimes which are not reported to the police. There are various reasons for this gap, but it is mostly associated with police practices and the willingness of victims to report. An unwillingness to report victimhood could be attributed to many factors, including a lack of faith in the police and the criminal justice system (Fagan, Tyler 2004; Sandholtz et al. 2013; Xie, Baumer 2019); not wanting to "go through the hassle" (MacDonald 2001); not seeing one's victimisation as serious enough (Los Ignatans, Pease 2017); or various combinations of these. Other limitations of police-recorded statistics could be a lack of standardisation across various forces (van Dijk, Tseloni 2012) and the fact that police forces in some areas are better at recording crime than others (Baumer 2002). The dark figure of crime can also be a product of manipulation where different police forces are less or more proactive with certain offences – especially easily detectable ones such as drinking in public – to make the problem of crime seem sufficiently high or low (see e.g. PASC 2014). The value of police statistics is further weakened by changes to legal definitions and classifications of offences over time. Crucially, the dark figure of crime hinders the operation of the criminal justice system, leads to mismanagement of resources and prevents victims of crime from accessing public and private resources (Skogan 1977).

Victim statistics are presented as an alternative to police-recorded statistics, especially in terms of epistemic value. Their potential for the development of criminology has been deemed so high that the recent presidential address to the European Society of Criminology was fully dedicated to the idea of a continent-wide victimisation survey conducted under the auspices of the Council of Europe (Bijleveld 2023). If successful, such a survey could overcome the comparability problem of national crime data and trace major trends in criminal offending across time and jurisdictional boundaries. A more "neutral source" of information on crime and victimisation can also contest the reasoning behind police actions. For instance, victim surveys can illuminate areas where the police are not being proactive enough and can potentially highlight areas where the police seem to be overly proactive (perhaps for reasons of expediency). This article argues that the value of victim statistics stretches beyond "official" functions. In the 2020s, when

much is being said about the decline of liberal democracies around the world (Görlach 2021) – and more specifically the legitimacy of the police – this article aims to show that victim statistics can perform important democratic functions.

Twenty-three years ago, Mike Maguire (2002: 368) wrote that "the traditional source of crime data associated with the modern period – the standard statistical series of notifiable offences published in official crime statistics – is becoming increasingly irrelevant." In Britain this seems to be true in relation to police-recorded crime (PRC) and seems to be exemplified by a 2014 report from the Public Administration Select Committee (PASC 2014: 3), which starts by claiming that "there is an accumulation of substantial and credible evidence indicating that the PRC data do not represent a full and accurate account of crime in England and Wales." It goes on to say: "the PRC under-records crime, and therefore the rate of decrease in crime may be exaggerated, and this is due to lax police compliance with the agreed national standard of victim-focused crime recording." However, Maguire's statement seems to not ring true in Poland in 2025. As I argue in this article, ownership of crime and crime-related data continues to be a controversial issue in Poland. Robust victim surveys, if executed correctly, create a source of information that is less susceptible to political influence. While it is convenient for the police in Poland to control how crime is counted and how crime statistics are generated, without a well-established alternative "counterbalance," the police can selectively deploy data to create an overly positive picture of their effectiveness.

This article focusses on two cases: Poland and the UK. These cases have been selected because I believe that there are significant differences in how victim statistics are portrayed and treated in the official setting in both countries. In the following section, the article first describes victim statistics in Britain and Poland. As it shows, victim surveys are well established in both countries, but in Poland they continue to be politicised. I develop this latter point in section 2, where I demonstrate the selectiveness of the Polish police in deploying favoured statistics and sidelining – or even withholding – different viewpoints. In the same section, I also describe the "democratic" functions that victim statistics can perform, set in the framework developed by Ian Loader and Richard Sparks (2011). In this article, I show that important democratic functions, which are needed in every country, are performed by victim statistics. However, in its current format, victim statistics in Poland are sidelined and not given the same opportunities as in Britain.

1. Victim surveys in Britain and Poland

Britain has a long history of police-recorded data, going back to 1857 (PASC 2014). Although there are various victim studies and sources of data in Britain, the largest and most established is undoubtedly the Crime Survey for England and

Wales (CSEW). The CSEW was initially developed and implemented as a tool for supplementing police-recorded data (Tilley, Tseloni 2016). It is the main monitor of the extent of crime in England and Wales, and it has been used to develop and evaluate crime reduction policies for over 40 years. The survey was first generated in 1982 and was known at that time as the British Crime Survey. The Survey was a product of the Research and Planning Unit of the Home Office.[1] The beginning of the British Crime Survey was rather humble, with a small sample of 10,000 respondents and a limited budget (Tilley, Tseloni 2016). Since then, it has grown substantially to cover approximately 50,000 households, although historically this sample has varied. Notably, the CSEW has its own annual conference, the Crime Surveys User Conference, where academics and officials exchange updates on the CSEW and present their research applications.

The CSEW includes detailed socioeconomic and demographic information of the participants. The survey asks both victims and non-victims about their perceptions and attitudes towards crime and criminal justice institutions such as the police. Comparing the two groups' responses has resulted in a better understanding of victim characteristics (e.g. the Repeat Victimisation framework) and has subsequently led to better informed police strategies (see e.g. Pease 1998). The CSEW is representative of all residents in England and Wales (over 16 years of age). The survey uses a stratified, multi-stage cross-section sample design with the use of Postcode Address Files (since 1992). The CSEW was successful in highlighting the existence of the dark figure of crime in Britain (Buil-Gil, Medina, Shlomo 2021).

Poland likewise has a long tradition with victim statistics, although its police dignitaries notably have a history of being defensive about crime data. In his memoirs, Sir Leon Radzinowicz (1999) recalls the many obstacles he faced trying to analyse crime trends in pre-WWII Poland after official statistics were discontinued and academic criminology was met with suspicion by the communist regime. The study, which he ultimately completed (Radzinowicz 1935), would have been even harder to conduct in postwar Poland (1944–1956), where crime statistics became classified. However, this began to change in the late communist era.

Notably, since the end of the 1980s, International Crime Victim Surveys (ICVS) have been conducted in Poland five times (in 1989, 1992, 1996 and 2004) (Van Dijk, Van Kesteren, Smit 2008). These were significant, allowing Polish researchers to compare the situation in Poland with what was happening internationally amongst other ICVS participants. Poland has two further studies which resemble the CSEW to some degree. The first of these is *Polskie Badanie Przestępczości* (Polish Crime Study), a joint project by the Polish Police Headquarters and the Institute of Justice, which aims to estimate the dark figure, measure fear of crime, and evaluate police work in addition to identifying crime trends. This study has a representative sample of approximately 17,000 respondents. However, as explained

[1] The Home Office is the branch of the British government responsible for immigration, security and other areas of law and order. In Poland the equivalent is the Ministry of Internal Affairs.

in section 2, these have been unavailable for public use since 2016. Researchers can, however, access the second study (*Ogólnopolskie Badanie Wiktymizacyjne* [Polish Victimological Study]), which looks at victimisation, fear of crime, social punitiveness and assessments of the police and the judiciary. The questions used in the Polish Victimological Study are based on the International Crime Victim Survey (ICVS) to make them comparable with other international victim studies.

Those interested in crime and victimology in Poland can also refer to other smaller and less frequent studies. The National Bureau for Drug Prevention, for example, conducts its own survey every four to five years (N ≈ 3,000). This survey focusses predominantly on the use of and access to illegal substances, but it also includes some questions on crime more generally. Other researchers resort to generating their own samples, often using schools and universities to find participants (Tomaszewska, Krahé 2018) or centring on geographic areas of interest (Kimic, Polko 2022). One noteworthy study comes from Beata Gruszczyńska (2007), who showed that 34.6% of women suffer various forms of violence (including physical and sexual) in their lifetime.

Like the CSEW, Polish victim surveys had various successes, including demonstrating the dark figure of crime, but in contrast to the CSEW, Polish victim surveys are not respected and regarded in the same way, particularly by the public. As this article argues in the following section, elevating Polish victim surveys to the same level as the CSEW could put into motion important democratic functions. These are needed because the barriers described by Leon Radzinowicz began to reemerge amidst the semi-authoritarian rule established in 2015 by the nationalist party Law and Justice. Krzysztof Krajewski (personal communication 2023), for example, drew parallels between the mistrust towards academic criminological research today and the thick wall of secrecy that separated the public and researchers from police operations in the People's Republic. As discussed below, the manipulation of police data has likewise been taking place in Britain, as former Metropolitan Police Commissioner Lord Stevens acknowledges: "[E]ver since I have been in the police service, there has been a fiddling of figures" (Barrett 2014). It is the way that officials attempted to address this practice that is of interest to us.

2. Politics of crime statistics

In terms of the politics of crime in Poland, since its inception in 2001, Law and Justice has promoted issues of crime and punishment (Krajewski 2004), promising to impose stricter laws, increase penalties for violent offenders and "end the paradise for the freeloaders and thieves in Poland" (Polska to raj 2012). From 2015 onwards, the hijacked national broadcaster (Telewizja Polska or TVP) has become a mouthpiece for Law and Justice, showing the party in a positive light

while reporting other more negative news as propaganda against their opponents. Success stories from the frontlines of the staged fight against crime were used to show that the Polish police, under the rule of Law and Justice, were effective at fighting crime, and that Poland is consequently one of the safest European countries.

The state-controlled police became a major source of good news, intended to assure the electorate that law and order had been successfully reinstated after a period of irresponsible experimentation with liberal legislation. Looking at the official police website, one could readily learn that Poles enjoyed a growing sense of security, while officers not only protected them against crime, but also rescued pets and prevented the profanation of their much-adored religious symbols (Polish Police 2019). On its website, the Polish police reported, amongst other predominantly positive events, that in contrast to the EU average of 11%, only 4.4% of Polish citizens had had to deal with issues such as violence, crime, and vandalism in the previous year (Polish Police 2021).

Despite these rose-tinted images, not everybody is satisfied with the police, especially after the ignominious role they played in the demolition of the rule of law in Poland, orchestrated by the nationalist government. In 2021, when judges closely associated with Law and Justice passed a near complete ban on abortion, the police force was extensively deployed against protesters, resulting in violence and multiple arrests (Fazan 2023). Together with other instances of politically motivated provocations (Krajewska, Makowski 2017), unexplained deaths in custody (Wądołowska 2021) and harassment of women suspected of using contraception (Tilles 2023), these acts of abuse called into question police legitimacy, at least in liberal constituencies. Rather than acting as an impartial law enforcer, the Polish police came to be seen as a mindless extension of the state.

To some of our critical colleagues this final statement may sound banal since the police as an institution was created to be an extension of the state and, in many ways, is there to enforce the law made by the state. I am not trying to suggest that I believe in the possibility of creating platonic guardians who would be completely impartial from the state. The degree of political manipulation and influence on the police can vary, however, and in Poland it reached a very dangerous level under the rule of Law and Justice, as exemplified by how the police acted during the Women's March (*Marsz Kobiet*).

Overall, the police can be perceived as being at the forefront of the democratic decline that characterises post-2015 Poland. This has arguably compromised its ability to provide unbiased data on the phenomenon it is supposed to tackle, since fluctuating crime rates do not lend themselves to propagandist use by state-controlled media. Against this backdrop, it is interesting to examine the results of the Polish Study of Criminality, commissioned by the police but conducted independently. Participants in the study report the extent of their trust in the police, rate the effectiveness of crime control and, crucially, report on fear of crime and their own victimisation experiences. The survey is carried out yearly at a significant cost of over PLN 420,000 (approx. GBP 80,000), paid for by taxpayers. If

executed systematically, and made public, it could allow researchers to analyse crime trends over long time periods and to compare them with official statistics. It could also help determine how the public responded to recent controversies surrounding police conduct.

This could be the case if the results of the survey were made publicly available, yet they have not been published since 2016, leaving researchers uninformed about developments since then. The Polish police are not uninterested in the true extent of crime; quite the contrary: victimisation data continues to be collected in an unchanged form, but remains a guarded secret of law enforcement agencies and, as journalists report, known only to the inner circle of the highest-ranking inspectors (Zieliński 2021). Somewhat resemblant of a politician who chooses private health care for his family amidst the decreasing quality of the national health service, the Polish police provide the public and media with substandard home-brand data, but simultaneously prefer to source their own information elsewhere.

3. The "democratic" function of crime statistics

I remain optimistic and along with other criminologists would like to suggest some potential remedies that could contribute to a healthier and more accountable police force. To exemplify what I mean, I borrow some of the most relevant ideas from Ian Loader and Richard Sparks' (2011) conceptualisation of criminology as democratic under-labourer.[2] In their book, "Public Criminology?," the authors proposed a style of engagement with the criminal question that is not limited to the production of (social) scientific knowledge and does not urge students of crime to side with law enforcement and current political interests. Ian Loader and Richard Sparks (2011) also argue that the role of academic criminology should not be reduced to activism or to a lone voice in the wilderness, out of touch with public sensibilities of the day. Instead, the democratic under-labourer contributes to the politics of crime and crime control based on sound academic expertise, which politicians and social movements may lack, while also acknowledging broader political connotations of their research work – something largely absent from many natural scientific domains with fewer implications to the public decision-making process.

Criminology may earn its place at the crime control table on academic merit and not by adopting the role of either a state actor or a progressive activist. What should be expected of criminologists is to provide knowledge about the realities of crime and punishment rather than prescriptive injunctions, which are usually followed by a lamentation about politicians' unresponsiveness. Therefore, our

[2] For Ian Loader and Richard Sparks (2011), the "Democratic Under-Labourer" refers to a vision of criminology that seeks to support democratic debate by clarifying issues, scrutinising evidential claims and improving the quality of public and political deliberation, rather than by exercising technocratic authority.

discipline's "distinctive contribution to the formation of a better politics lies in bringing this knowledge to bear on the matters of public concern and dispute" (Loader, Sparks 2011). Being aware of the political implications of our scholarship, and the context in which its successful reception is most likely, would already be a huge improvement relative to a criminology which, in its nostalgia for the liberal elitist era (Loader 2006), would wish to implement its policy recommendations over the heads of the unenlightened public. Rather than a domain of platonic guardians, crime has become a (legitimate) subject of political debate, whose rules criminologists ought to respect. While the exact contours of public criminology thus defined are yet to congeal in practice, I concur with Loader and Sparks (2011) in their aspiration to overcome the "successful failure" of a criminology which has thrived within the walls of academia but gradually lost the vestiges of impact on policymaking.

This style of criminological engagement is absent from the debate of our current interest. With almost no overlap, two positions can typically be inferred from the literature that take issue with police crime statistics. I associate them with two ideal types of criminological engagement sketched out by Loader and Sparks (2011): the scientific expert and the lone prophet.

The first one is associated with the critical school of "doing" criminology. Here, it was observed early on that the police had a stake in the recorded crime rates (Sykes 1974). Moreover, authors partial to critical thought are likely to see the collection of official data as a part of the social construction of crime (Sacco 2005). Their suspicions appear to extend to every sort of quantification, assumed to serve some unstated purpose; statistics, we are reminded, is the science of the state, and the words "government," "power" and "knowledge" are often uttered in the same breath (Hogg 1998). Granted, official crime statistics come in handy in the service of the governmental project, but what about the methods that bypass the power apparatus? The indiscriminate "Foucauldian" approach to numbers might obscure significant differences in how, by whom and for whom quantitative knowledge is generated. I agree with Loader and Sparks (2011: 130) that "the epistemic landscape is not entirely flat," and criminology is not utterly incapable of understanding the phenomena it sets out to examine. This epistemic advantage becomes evident when one compares police-recorded statistics – a low-quality by-product of the police force's main activity – with research that gives a voice to those affected by criminal offences. The extent of victimisation recorded by the surveys represents something more than Nils Christie's (2004) "suitable amount of crime" arbitrarily set by law enforcers. While I share many of the objections to PRC raised by our critical colleagues, I am inclined to see these objections as a point of departure for an alternative project.

The other position resonates with the ideal of impartial social science that is sometimes associated with falsificationism (Popper 1959; Lakatos 1970). The scientific expert opposes the official data, but with arguments of a methodological nature. Police crime statistics are simply not a valid source of empirical

knowledge, and that is due to the concerns addressed above: underreporting, imprecise classification and poor comparability. If, hypothetically, the police manipulated their data on purpose, the disengaged scientific expert would see that as "a threat to validity" more than anything else, since a threat to, say, democratic values would be hard to identify within this framework. However, even criticism based on methodology might prove ineffective when trying to reach the broader public. Criminologists may well expose the obvious shortcomings of official statistics, but unless they can come up with alternative data their voice will not be heard outside the classroom – such is the magic of numbers. The warnings about dark figures and obvious methodological deficiencies are easily ignored by the media and politicians, "who tend to present crime statistics as an accurate barometer of crime" (Lomell 2010: 125) in Poland. Without a positive alternative, such as the victim surveys I wish to champion, the "scientific expert" may ultimately achieve little more than the "lonely prophet." I also argue that the value of independently collected victimisation data resides not only in their methodological superiority, but also in the change it brings to the power dynamics of crime discourse.

Let me now exemplify what a public criminology of victim statistics could look like. The democratic under-labourer acknowledges that crime rates are a legitimate subject of public debate. Politics are not something that should or can be "circumvented or utterly removed" (Loader, Sparks 2011: 100). Crime and its extent will not disappear from public debate, but the quality of this debate might be improved with our contributions. Criminological expertise can be put to good use by producing high-quality data outside the state apparatus. The true extent of crime, whilst inherently unknowable, may be better approximated if measured independently from the administrative data collected by the police (van Dijk 2009). This allows the democratic under-labourer who compiles the data sourced from crime victims to bring into the debate scepticism about face-value categories.

As the issue of crime has become overly politicised, victimisation surveys may provide more accurate and impartial information about the extent of the problem (Aromaa 2012). Once available, these statistics could be used to calm the heated public debate on crime, whether in the UK or in Poland. One of the main purposes of modern criminology, as understood by the democratic under-labourer, is to "put evidence gathered to work in the struggle against ill-informed and ineffective crime policy driven by political considerations" (Loader, Sparks 2011: 104). Some might see victim statistics as an opportunity to satisfy the "mythical punitive public" by drawing its attention to crime's "banal, charmless, and unheroic realities" (Loader, Sparks 2011: 104). Furthermore, because the surveys always measure a particular type of offence, the data gathered from victims can improve the quality of the public debate by avoiding sweeping generalisations about "crime."

These are but a few examples of how the collection of victimisation surveys is of both epistemic and democratic value, in that they help realise the public value of criminology in a democracy. However, for us to be able to reap any of the potential benefits, the police must no longer remain the chief supplier of numbers

and must lose their monopoly on crime data. Crime statistics, previously "locked up in the administrative monopoly" (Robert, Zauberman 2009: 7), will then be freed so that they can perform their democratic functions.

4. "The infrastructure"

The democratic functions I have described above cannot be performed without suitable "infrastructure," and I would now like to describe specific developments which took place in Britain and which exemplify what I mean.

For much of the 20th century, official statistics were produced in Britain explicitly for the benefit of the government under what became known as the "Rayner Doctrine" (Bumpstead, Alldritt 2011). The purpose of these statistics was primarily to inform government policies, and any wider societal value was secondary. This system was predominant until the creation of the Statistics Authority. During this time there was public outcry and criticism of this approach, and discussions were held in the public sphere on the "purpose and role of the state in relation to its citizens" (Bumpstead, Alldritt 2011: 3). This is important for the Polish context, as it will likely take a long time for a similar "infrastructure" to emerge. In 2008, the Statistics Authority was created in the UK. Their role is to safeguard the production and publication of official statistics, so they serve the public good and, importantly, "benefit society, not just the government" (Bumpstead, Alldritt 2011: 2). Their obligations are set in law by the Statistics and Registration Service Act 2008, and they operate under a Code of Practice for Official Statistics, which is used to audit all official statistics produced in the UK, including Police Statistics. The code focusses on sound methods and assured quality; it requires that those involved in the production of official statistics should continually seek to improve statistical processes, and that these statistics should be well explained and, crucially, accessible.

Police-recorded statistics have been criticised in Britain for some time now (e.g. Lynn, Elliot 2000; Smith 2006; UKSA 2010). One of the most recent attempts at criticising the validity of PRC is traceable to a report titled "Caught red-handed: Why we can't count on Police Recorded Crime statistics." This report, published in 2014 by the PASC, is critical of PRC and its representativeness of crime on the basis that it under-records crime due to a lack of compliance with national standards on the part of the police. Partially because of that report, in 2014 the UK Statistics Authority withdrew its "National Statistics" quality mark – or, in more colloquial terms, gold standard status – for the PRC (Travis 2014). "National Statistics" "required the statistics to be produced, managed and disseminated to high professional standards" (PASC 2014: 19). This followed concerns over the integrity of PRC, including, but not limited to, allegations that the Metropolitan

Police had understated sexual offences by 25%. In the rationale for the decision, the author of the report said, "the fact is in anything that gets measured, once those who are being measured, whose performance are being measured, work out how the system works, there's an incentive, resisted by many, to manipulate the process as to make your own performance look good" (Rawlinson 2013).

The CSEW became the only statistical source of information on crime accredited with the "National Statistics" quality mark. From that point on, the British police were officially no longer able to use PRC to, for example, paint an overly optimistic picture of their effectiveness; instead, they were forced to align with a more realistic representation of crime, such as that offered by surveys like the CSEW. This is not to say that PRC is completely irrelevant, but it has been officially replaced by a more robust counterpart. This has also affected the ability of the police force to create its own legitimacy; instead, British police are now more open to scrutiny from an "external" source of information, which creates a counterweight to their claims. The same report continues that "the CSEW is a crucially important counterpart to the PRC – not least as a benchmark against which the PRC trends can be compared" (PASC 2014: 17).

Crucially for this context, the responsibility for publishing both PRC and the CSEW was transferred from the Home Office to the Office for National Statistics (ONS) in 2012. This also coincided with the creation of the Crime Statistics Advisory Committee (CSAC), which was set up to provide advice on methodological issues. The CSAC is a non-statutory body established by the National Statistician[3] in 2011. It consists of academics and members of the ONS, the Home Office and other government bodies working with crime statistics. Both events were the product of an independent review set up by the Home Secretary in 2011 "to address concerns that the Home Office's involvement in publishing crime statistics was undermining public confidence in the political independence of the figures" (PASC 2014: 9).

Similar processes would be desirable in Poland since the police, being the primary stakeholder, can easily withhold findings – as was the case with the Polish Study of Criminality. Currently, it is mostly private institutions who generate survey-based data; in our view, this should also be changed. Statistics Poland (*Główny Urząd Statystyczny* or GUS) is the main body responsible for statistics in Poland. They collect and disseminate data on dozens of matters, including education and economics, for example. In some ways, Statistics Poland is a similar institution to the British Office for National Statistics, and could, in principle, assume this responsibility. We have already seen from the British context that responsibility for major projects, such as victim surveys, can be moved and changed.

[3] The National Statistician is the Chief Executive of the UK Statistics Authority. The National Statistician advises the ONS, the Home Secretary and other officials on how to best ensure that official statistics on crime in England and Wales are accurate, comprehensible and clearly presented.

Conclusion

The aim of this article was to demonstrate the important "democratic" function of victim surveys, especially in countries with deteriorating democratic institutions like Poland. We began with a brief summary about victim statistics in the UK and Poland. In the main body of the paper, using the framework developed by Loader and Sparks (2011), we argued that victim statistics have an important democratic function. In addition, we traced how a special "infrastructure" was laid out in Britain that allows the CSEW, as reflected by the Statistics Authority, to perform the democratic function of counterbalancing police claims and guiding the police. I now have several recommendations so that Polish counterparts can do the same.

Firstly, Polish police-recorded statistics should be discredited more actively in the public sphere, and their "official status" should be changed, as happened in Britain. As described, the Polish police force currently has a significant monopoly over generating and reporting crime data. This data is then selectively used to create a positive picture of themselves, as can be seen on their website. This creates a dangerous mix when combined with state-owned public television, which is likely to report on these successes without additional scrutiny and frame it in relation to successful governmental policies. Changing the official status of PRC so as to reflect its limitations and potential for manipulation can have a potentially positive effect on the accountability of the Polish police. However, this also requires an independent statistical watchdog: a Polish Statistical Authority of some sort. Secondly, as argued, future studies should be generated independently from the police.

Discussion: Limitations, costs and caveats

It is worth concluding by saying that I am not trying to romanticise the British "approach" to this issue nor to imply that the processes outlined in this article have resulted in a perfectly accountable or legitimate British police force. Even with better victim statistics and greater accountability, as reflected by discussions in the public and political spheres, the British police continue to face significant institutional challenges. A recent report by Baroness Louise Casey (2023), commissioned after the abduction and murder of Sarah Everard, has made striking criticisms. The report concludes, amongst other things, that the Metropolitan Police has downplayed sexual harassment, with 12% of women employed in the Metropolitan Police saying that they have been harassed. One third also claimed to have experienced sexism. Baroness Casey said that the lifeblood of British policing was haemorrhaging and warned that "public consent is broken," with just 50% of the public expressing confidence – even before revelations about the force's worst recent scandals. However,

perhaps this is something I would also like to see in the Polish context: a system similar to the British one, a model where, in principle at least, the police are aiming to improve and are held more accountable for their actions.

I am also not trying to present victim surveys as a perfect tool, although I may have unintentionally done so. Even though some academics have proclaimed the CSEW as a gold-standard survey of its kind (e.g. Flatley 2014), surveys like the CSEW have their own technical limitations, which I will not describe in detail here, but they include the problem of recall bias, where participants might be unable to give precise information because they forget when, how and where something happened.

Another factor to take into consideration is that generating a new and systematic study like the British CSEW is not cheap. The contract value of the CSEW is approximately GBP 28,000,000 and is expected to increase to GBP 34,000,000 due to an increase in sample size (ONS 2022). There are also other labour costs. A survey like the CSEW is an ongoing work in progress, as what is and is not considered a crime changes over time. Stalking and cybercrime, for example, have only recently been recognised as criminal offences in Britain. Cultural changes lead to the recognition of new offences, as well as changes to the willingness of victims in reporting (Estrada et al. 2010). Those involved in new Polish studies of victimology will have to monitor these social contexts and adjust the questionnaire and sampling technique to make the survey more reliable. However, given all the costs and labour, it is worth considering that criminal justice bodies such as the police will be able to operate in a more evidence-informed way, which might lead to better use of existing resources and less waste. More importantly, there is potential for improving people's lives, which is difficult to quantify in terms of financial costs.

Change in this area would take a long time, but is really needed in Poland. Rob Bumpstead and Richard Alldritt (2011: 1) state that "statistics can only genuinely inform the citizen and the democratic debate if the focus of the producer is on their utility." In Poland, the producer of statistics – namely the police force – is less concerned with utility, and this needs to change. A source of such crucial knowledge as crime statistics must be handled and managed by an independent party. Taking away the "power" of the police by removing the official status of police-recorded statistics will not be easy, and neither will persuading other officials that further investment in victim surveys will be cost-effective. A lot of "softening up" of the key policy actors would have to be done (Kingdon 1984).

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Stanisław Mordwa ■

Risky places in the centre of Kalisz

Przestrzenie ryzyka w centrum Kalisza

Abstract: The study is based on now abundant works on crime mapping and the concept of creating safe public spaces. Urban areas with high floor area ratios and high population density also have a high concentration of social issues, including crime. The users of these social and spatial environments often experience mental and emotional problems (stress, anxiety, lack of prospects or limited social trust), social issues (unemployment, poverty or exclusion) and problems associated with crime and safety, degradation of the housing environment or access to public services (e.g. health care or education). Identifying areas particularly at risk of crime can facilitate their transformation into safe spaces and help return these areas to the city and its residents.

The study focusses on the centre of Kalisz and attempts to answer three key questions: (1) Which spaces should be identified as risky places? (2) Which risky places generate the highest risk of crime? and (3) What are the crime-promoting features of risky places?

The study area was inspected and inventoried. Individual risky places were identified on the basis of the general guidelines of the CPTED strategy and the programme "Secured by Design." However, it was Bartosz Czarnecki's method of identifying and assessing threat factors in urban spaces that was of crucial significance.

Field studies have shown that the areas in the centre of Kalisz with the highest risks of crime are in the northern and western parts of the city centre, aside from the historically valued former chartered town area. These areas coincide with the 19th-century and multifunctional development (as well as large-format retail facilities), which are nowadays largely dilapidated. The most important crime-promoting properties of these areas are the possibility of a perpetrator escaping or hiding, the presence of risk groups and third parties, a situational advantage for perpetrators, limited conditions for seeking assistance and a sense of anonymity.

The study emphasises how knowledge of the spatial aspects of crime, combined with the achievements of researchers studying the shaping of safe spaces, can be useful in identifying

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risky places in urban environments. The spatial distribution of risky places and their assessment regarding safety requirements offer valuable information for urban planners and social workers in order to improve the conditions and quality of life of residents in the neglected parts of the city.

Keywords: risky places, crime mapping, environmental crime predictors, shaping safe space, Kalisz

Abstrakt: Opracowanie to powstało w oparciu o bogaty już dorobek crime mappingu oraz w nawiązaniu do koncepcji kształtowania bezpiecznych przestrzeni publicznych. W obszarach miejskich o dużej intensywności zabudowy i dużej gęstości zaludnienia występuje wiele problemów społecznych w dużym natężeniu, także przestępczość. Użytkownicy tych środowisk społeczno-przestrzennych często doświadczają problemów psychicznych i emocjonalnych (stres, lęk, brak perspektyw, niski poziom zaufania społecznego), społecznych (bezrobocie, ubóstwo, wykluczenie), a także związanych z przestępczością i bezpieczeństwem, degradacją środowiska mieszkaniowego, czy dostępem do usług publicznych (np. opieka zdrowotna, edukacja). Identyfikacja miejsc szczególnie zagrożonych przestępczością może pomóc w ich odpowiednim przekształceniu w przestrzeń bezpieczną i przywróceniu tych terenów miastu i mieszkańcom.

Badanie skupia się na centrum Kalisza i dotyczy trzech kluczowych pytań: (1) Które przestrzenie należy zidentyfikować jako przestrzenie ryzyka? (2) Które przestrzenie ryzyka stwarzają największe zagrożenie przestępczością? (3) Jakie są proprzestępcze właściwości prestrzeni ryzyka?

Dokonana została lustracja i inwentaryzacja obszaru badań. Poszczególne przestrzenie ryzyka były identyfikowane zgodnie z ogólnymi wytycznymi strategii CPTED i programu „Secured by Design" (Bezpieczne Projektowanie Przestrzeni). Jednak szczególne znaczenie miała metoda identyfikacji i waloryzacji czynników zagrożeń w przestrzeni miejskiej Bartosza Czarneckiego.

Na podstawie badań terenowych ujawniono, że najbardziej zagrożone przestępczością tereny w centrum Kalisza znajdują się w jego północnej i zachodniej części, poza szczególnie cennym historycznie dawnym miastem lokacyjnym. Tereny te pokrywają się z XIX-wieczną, dzisiaj już znacznie technicznie zdegradowaną, zabudową mieszkaniową i wielofunkcyjną (a także z terenami handlu wielkopowierzchniowego). Do najważniejszych proprzestępczych właściwości tych miejsc zaliczono: możliwość ukrycia się lub ucieczki (sprawcy), obecność grup ryzyka i osób trzecich, sytuacyjną przewagę sprawcy, ograniczone możliwości uzyskania pomocy oraz poczucie anonimowości.

Badanie to podkreśla, w jaki sposób wiedza o przestrzennych aspektach przestępczości w połączeniu z dorobkiem badaczy z zakresu kształtowania przestrzeni bezpiecznych może być przydatna w identyfikacji przestrzeni ryzyka w obrębie miasta. Ujawniona przestrzenna dystrybucja przestrzeni ryzyka oraz dokonana ich ocena w kontekście realizacji warunków bezpieczeństwa oferuje cenne informacje dla urbanistów i pracowników społecznych w celu poprawy warunków i jakości życia mieszkańców dotychczas zdegradowanych części miasta.

Słowa kluczowe: przestrzenie ryzyka, przestrzenne aspekty przestępczości, środowiskowe czynniki zagrożeń, kształtowanie przestrzeni bezpiecznej, Kalisz

Introduction

Crime is not spread through space evenly or randomly. Long-standing research has proved that this phenomenon is visibly concentrated in space – specifically, small pockets of human-occupied space. These pockets with high crime rates are

called hot spots.[1] They are spatial units of various sizes, ranging from individual addresses or buildings, through sections/sides of a street or single blocks to urban neighbourhoods distinguished by similar pathological problems. According to the theory of crime concentration and the concept of crime areas, the crime rates are the highest in certain places. Moreover, the risk of crime there is permanent (Harries 1974; Herbert 1982; Sherman, Gartin, Buerger 1989; Weisburd 2015). In his doctoral dissertation, Jascha Wagner (2020) proved that half of the crimes occurred in less than 10% of locations across seven areas in Delaware, USA. Moreover, in five of these areas crime was concentrated in less than 4% of the blocks.

It was pointed out quite a long time ago that the goal of spatial studies of crime should not only be visualising crime rates on maps, but also interpreting and understanding the relationship between crime and space.[2] That is why, beyond identifying hot spots with higher crime rates, the properties of these hot spots and neighbouring areas should also be studied (Evans, Herbert 1989). In similar research, David Herbert (1982) proved the existence of relationships between crime and both the functions of land use and architectural and urbanist solutions.

In environmental criminology, the objects and places equated with crime hot spots can be classified as generators or attractors of crime (Brantingham, Brantingham 1995; Kinney et al. 2008; Houser, McCord, Sorg 2019). The generators, attractors and detractors of crime are the key notions of crime pattern theory. They describe the spatial contexts capable of influencing the spatial distribution of crime activity in a given area (Brantingham, Brantingham 1993a). Crime generators are usually equated with sites that attract a large number of people, which can entail a higher number of crime opportunities.[3] People arriving at these locations, though

[1] Lawrence Sherman et al. (1989) introduced the term "hot spot" to crime studies. They used it to describe small spatial units characterised by a high intensity of crime, which stems from the non-random distribution of this phenomenon in space. Other researchers have studied the influence of the intensity of crime phenomena and the time intervals between them in places identified as hot spots. From a spatial perspective, the meaning of the term is ambiguous and can encompass individual addresses or buildings, sections/sides of a street or single blocks or even whole districts with similar issues. Currently, Jerry Ratcliffe's spatiotemporal categorisation of hot spots from "The Policing Hotspot Matrix" (2004) is most often used. The matrix includes three types of temporal hotspots (diffused, focussed and acute) and three types of spatial hotspots (dispersed, clustered and hotpoint). A description of various techniques for identifying hot spots in Polish city space can be found in Stanisław Mordwa (2015).

[2] Various methods of determining the properties that 'make' risky places dangerous areas have been developed. One such method, risk terrain modelling (RTM) predictive software, identifies risks from the features of a given location and creates a model of their interaction, thus creating unique spaces of criminal behaviour. RTM offers a statistically credible method of identifying areas at risk of crime on a micro level, while taking into account the spatial influence of its features, such as bars, parks, schools or fast food outlets. The risk values given by the RTM model do not suggest inevitable crimes; they do, however, indicate places where, under specific conditions, the risk of unlawful behaviours is high (Caplan, Kennedy, Miller 2011; Puur et al. 2025).

[3] Two examples of crime generators are areas with a high concentration of trade and services and mass-use facilities (stations and stops, shopping centres or venues for large events) (Czarnecki 2011).

previously having no intention of committing a crime, may decide to engage in criminal activities due to the number of opportunities for them. Such behaviours are described by the routine activity theory.[4] Crime attractors, on the other hand, are the locations which attract criminals because they are familiar with their crime-promoting properties and conditions favourable to committing specific crimes.[5] The behaviours of perpetrators in locations considered crime attractors are explained at length by the rational choice theory (Cohen, Felson 1979; Brantingham et al. 2020).[6] Crime detractors are buildings or areas wherein potential perpetrators refrain from committing crimes due to some discouraging or repelling factors. They include guarded, monitored or difficult-to-access areas and locations associated with a cultural taboo, such as police stations, courthouses or religious buildings/objects (chapels, crosses or cemeteries). So-called defensible spaces (an idea created by architect and city planner Oscar Newman) are a particular subtype of detractors. These are locations designed and organised specifically to limit the possibility of a crime occurring. This pioneering concept by Newman became the foundation for numerous other theoretical and practical undertakings generally aimed at creating safe spaces (Sypion-Dutkowska 2014).

The generators and attractors of crime can be described as risky places. Leslie Kennedy and Joel Caplan (2012) formed three premises in relation to them: 1) all places are risky, but due to spatial factors some are riskier than others; 2) crime occurs in places of high susceptibility, which stems from a combination of various criminogenic features; and 3) the overall effect of risky places on crime is a

[4] Lawrence E. Cohen and Marcus Felson's routine activity theory (1979), modified by John E. Eck, attempts to explain why crimes occur in specific places at specific times. According to the authors of the theory, a crime is the result of three circumstances: a motivated perpetrator, an appropriate target or victim and an unguarded location. Moreover, criminals frequently select (or find) their victims on their daily routes, e.g. when commuting, returning home or going shopping. Eck created the concept of a crime triangle. His idea emphasises the act of the crime itself, the methods for limiting crime opportunities and temptations and possibility of identifying perpetrators (increasing the risk factor for the criminals). A crime is a result of the perpetrator–victim/target–location relationship system and its "controllers": the supervisor–guard–manager. The analysis of issues emerging in this system should, for a given case, help answer the following questions: How to stop perpetrators from committing another crime by using the powers of their supervisors/probation officers? How to limit the probability of becoming a victim? and How to change the areas where such problems emerge? (Clarke, Eck 2005: 28–29).

[5] Crime attractors are buildings or regions where activities that are extra-legal, on the verge of legal or accompanied by crimes, such as red light districts, drug trade locations, the vicinity of entertainment venues, black market locations, etc. (Czarnecki 2011).

[6] According to the rational choice theory, criminal activities should not be considered rational – even if the perpetrators act in time-restricted and stressful situations, with limited perception and without access to all information, and even if they think rationally and make rational decisions. They take into account the danger and the risk of committing a crime, but also estimate the potential profits. The perpetrators decide to commit a crime while maximising the benefits and simultaneously minimising the costs (the possibility of detection and its negative results: criminal investigation, criminal record, prison, ostracism or shame). According to Ronald V. Clarke and Marcus Felson (1993), the choice of taking a criminal path and the tendency to commit an act in a specific situation are based on a rational analysis of predicted costs and benefits.

function of differing vulnerability and exposure throughout the landscape. Risky places vary physically: they can take the form of a point (facilities or nodes), a line (paths or edges) or an area (in relation to the concept of "anchor points" by Kevin Lynch (1960), who similarly identified the elements of urban space).

Paradoxically, dangerous areas attract many residents unaware of the danger, which in turn may also provoke undesirable criminal activities, especially when the conditions are unsafe. In the last fifty years, studies on the relationship between land use and crime have intensified significantly. Yet, they show that while the spatial relations between various types of risky places doubtlessly influence the crime patterns and tendencies in space, the relation is somewhat ambiguous.

On the one hand, earlier studies show that areas with a high concentration of risky places can coexist with a higher number of criminal activities due to the many potential targets and criminal opportunities (Bernasco, Block 2011; Weisburd, Groff, Yang 2012; Haberman, Ratcliffe 2015; Mordwa, Laskowska 2020b). Lin Liu and colleagues (2022) observed a strong relationship between the locations of risky points and crime in Cincinnati, Ohio, USA, determining that the more spots of a specific type, the higher the probability of a crime occurring. As a result they determined that knowing the concentration of locations considered generators and attractors of crime in a given area can help explain the distribution and causes of crimes. Other studies also confirmed on numerous occasions that areas with a higher concentration of certain types of locations (e.g. bars, restaurants, petrol stations, bus stops, underground stations and so on) are associated with higher crime rates. A remarkable, complex review of current studies on the influence of the built environment, land use and environmental crime predictors on crime was made by Alana Inlow (2021). She concluded that areas with lower crime rates are characterised by mixed-use areas and clear urban layouts on a macro scale, while on a local scale the issues of lighting, building conditions and servicing and maintaining green areas are the most important. In a study conducted at the scale of urban blocks, William Smith et al. (2000) confirmed that the number of motels/hotels, stores, parking lots, multi-family residences, bars, restaurants, petrol stations and commercial places correlated positively with crime in Raleigh, North Carolina, USA. Such locations contributed especially to street robberies as either generators or attractors. Numerous other publications have identified the crime-promoting properties of such facilities as petrol stations, restaurants, bars, hotels, health and personal care stores, schools, entertainment venues, alcohol outlets, grocery stores, retail shops, metro/railway stations and bus stops (Loukaitou-Sideris 1999; Bromley, Nelson 2002; Lockwood 2007; Stucky, Ottensmann 2009; Bernasco, Block 2011; Bowers 2014; Ceccato, Uittenbogaard 2014; Groff, Lockwood 2014; Cozens, van der Linde 2015; Haberman, Ratcliffe 2015; Favarin 2018; Gerell 2018; Clutter, Henderson, Haberman 2019; Cozens, Love, Davern 2019; Zahnow, Corcoran 2019; Inlow 2021; Tillyer, Wilcox, Walter 2021; Cameron 2022; Mordwa 2022a; Mordwa 2022b).

On the other hand, the dispersion of risky points presents criminals with a wider choice in their search for potential targets (Clarke 1995). Such a spatial

layout can be a challenge to law enforcement, since it requires more patrols to cover numerous locations (Bowers et al. 2011; Haberman, Stiver 2020). A dispersed layout of crime generators and attractors can therefore require the use of various types of safety measures and a strategy of crime prevention. According to Kate Bowers (2014), risky places can be interpreted as crime radiators and crime absorbers, influencing their vicinity in diverse manners. While the distribution of risky places in urban environments is generally considered an index which explains crime patterns, there are few studies indicating how a system of correlations between these places and their spatial contexts can also influence the occurrence of hot spots (Mordwa, Laskowska 2020b).

Regardless of the above-mentioned disparate regularities concerning the density of dangerous areas' influence on crime, the literature discussing the spatial aspects of crime commonly assumes that certain locations are crucial indices of the spatial distribution of crime (Brantingham, Brantingham 1999; Wilcox, Eck 2011) and can even be used to predict criminal activities (Johnson et al. 2007; Caplan, Kennedy, Miller 2011; Berk 2021). Moreover, taking into account the high level of predictability of crime locations and criminal behaviour in modern research, Kim Rossmo (2000) and David Canter (2003) have proposed separate techniques of geographical profiling which make it possible to successfully recreate the sequence of events (crime – location – victim – perpetrator).[7] These techniques involve finding a highly probable location related in some way to the perpetrator on the basis of spatial clues.

It has already been mentioned that the locations where risky places accumulate do not always overlap with the locations with high crime rates. This is because the presence of environmental threats is balanced with successful preventive actions or protective elements (Czarnecki 2011). The methodology of studies of the spatial conditions of crime at the local level (a residential estate, a public space or a street) was presented by Herbert (1982). He claimed that the location of a crime can be precisely identified, and a set of features related to the place can be determined. A comparative analysis should encompass the locations of crimes that are committed (based on official statistics) as well as the locations without crime records. He named the following environmental variables to be assessed: opportunities/targets, familiarity/perceived risk, surveillance/observability, design qualities/security, adjacent land use, local control systems/claims on space, local labelling, general "criminality" of the area, police/activity/efficiency and law enforcement sanctions.

[7] Among the elements which largely influence the precision of criminal geo-profiles, Kim Rossmo listed the meticulousness of analysis of the crime location, the perpetrator's type and style of action, the availability of criminal opportunities, the victim's daily route, the routine activities of both perpetrator and victim, the specificity of the perpetrator's behaviour, the system of public transport routes and stops, the area borders, the forms and functions of area development and the demographic structure in the neighbourhood (Rossmo 2000). Canter especially emphasises the importance of a detailed analysis of the crime scene, which is crucial in order to identify the perpetrator: "the most objective and observable aspect of any crime is where it happens" (Canter 2003: 6).

For this reason, in this work, the risky places are interpreted in the context of crime prevention through environmental design (CPTED). Since the crime-promoting properties of individual buildings and locations were determined on the basis of research of many years, it should be possible to design a space without such properties. It is also possible to transform existing urbanist and architectural solutions into safer spaces in terms of crime risk. The elements of significance – the continuity of frontages, the types of *façades*, the height and density of the building layout, the class and development of streets, whether the windows overlook the streets, the accessibility of backyards from the streets and in relation to them, the routes of footpaths or the locations of parking spots – all influence the possibility of supervision and informal social control (Jacobs 1961; Ceccato 2020). The physical environment can also influence so-called prosocial behaviours. For this reason Jane Jacobs (1961) did not solely examine individual buildings, but how the system of structural and spatial units of a city and the social spaces within it influences the social dynamics and the growing social issues in these areas. It was proved that the relation described by Jacobs can significantly impact human activity through the residents' conditioned behaviours and decisions (Gao, Janowicz, Couclelis 2017). For instance, territoriality[8] can invoke a sense of ownership, responsibility and topophilia by designating the space of an activity that the residents can identify with. In practice, the principle of image management comes down to creating a space in such a way as to make it look cared for and overseen – meaning that there is someone who guards the place and tends to it. A clean, tidy urban space invokes a sense of order and control, which can scare off criminals and thereby increase the residents' safety. Image management consists in the removal of all signs of disorder and vandalism, even the smallest (e.g. graffiti). Target hardening, on the other hand, is a form of access control that hinders criminal activity by limiting the opportunities to commit crimes such as theft, mugging or property damage. Such attempts and solutions, as well as the more advanced locks and alarms or the use of sturdier doors and windows (target hardening against a criminal attack), are meant to increase the effort a potential offender must put into a crime. Though, in general, the common purpose of various concepts and strategies of shaping safe spaces (e.g. the Dutch *veilig wonen*, the British "Secured by Design" or the German *Beccaria-Qualitätsinitiative*) is to create detractors meant to not only minimise the risk of crime, but also to facilitate the emergence of social bonds, increase the sense of safety and improve the residents' quality of life.

This article does not measure how the concentration of spots with risky places in a given area can influence crime, but identifies and evaluates them from the perspective of the local spatial context. The results of such an approach can prove significantly useful for crime-prevention authorities, and in such matters as planning the distribution of patrols with limited human resources (Ratcliffe et al. 2011; Weisburd et al. 2023).

[8] The six pillars of CPTED are territoriality, surveillance, access control, target hardening, activity support and image management (Cozens, van der Linde 2015).

Bartosz Czarnecki (2011) researched the issue of safety from the perspective of an urbanist who plans spatial structures and attempts to find out what solutions must be implemented to limit crime. He paid particular attention to the influence that all architectural and technical solutions in space have on the behaviour of potential perpetrators. In his publication, which broadly refers to the "Secured by Design" programme,[9] he proposed a method of identifying crime predictors in urban spaces. In this method, he suggested classifying risky places into four categories: crime attractors, crime generators, crime enablers and structural factors of the urban environment. At the subsequent stage, each of these crime predictors is interpreted and evaluated in terms of the risk it poses. The evaluation is based on various aspects of executing the safety/risk conditions; in this way, the crime-promoting features of places are de facto identified. Each risky place is therefore assessed in terms of "the possibility for a perpetrator to escape or hide; the presence of risk groups; the offender's (easily obtained) advantage; the presence of third parties; limited conditions for getting help or a sense of anonymity," for example. A multi-faceted analysis of each risky place then makes it possible to identify problematic locations and give recommendations to limit their crime-promoting qualities, that is, the risks they pose.

The purpose of this work is to identify risky places located in the centre of Kalisz and evaluate them in terms of 21 safety aspects (the crime-promoting qualities), in order to then identify the places that generate the highest risk of crime. A multi-faceted assessment of the crime-promoting properties of these places is presented, constituting a foundation for the suggested spatial solutions aimed at reducing potential crime risks and based on selected examples/locations.

1. Research area

In 2020, Kalisz was the second largest city in the Greater Poland Voivodeship, with approximately 96,000 residents (after Poznań, with 548,000 residents). In terms of crime risk, the city can be considered relatively safe (taking into account its size). This year, there were 23.87 crimes per 1,000 residents (in comparison, in Poznań it was 25.02, in Leszno 29.78 and in Konin 21.74; for the whole of Poland the index was 20.05). In total, 2,312 crimes took place. The majority (1,342) were crimes against property (with only 38 crimes against persons), and criminal detectability amounted to 73.5% (the average in Poland was 73.3%). To compare with previous years, the number of crimes in Kalisz since 2013 (with 3,696 crimes in 2013) has been dropping steadily (based on data from *Bank Danych Lokalnych. Główny Urząd Statystyczny* [Local Data Bank of Statistics Poland]).

[9] When planning the premises of the "Secured by Design" programme, the creators made use of knowledge of spatial analyses of crime and methods of influencing the spatial and social environment to reduce unwanted behaviours. This is why it is possible to identify, with high probability, places that are unlikely to fulfil safety conditions, and to suggest possible solutions.

The area of detailed research encompassed the centre of Kalisz – the oldest part of the city, chartered in 1257. For research purposes, the city centre was separated from the Śródmieście I housing estate by excluding the city park. According to the records of "Studium uwarunkowań…" (2019), a downtown built-up area (tenement-dominated housing estate with ground floors used as service venues) dominates the whole research area. To the north of the historical city area, there are larger complexes of multi-family and services buildings (schools, religious services and a large shopping centre, Galeria Tęcza). The whole area is listed on the Registry of Cultural Property as an area of the urban layout of the city of Kalisz and the area of archaeological cultural layers. Moreover, excluding the multi-family housing development, the shopping centre and the region to the north of Kanał Bernardyński, the area is within a zone of historic preservation; there are 50 sites on the Registry of Cultural Property and numerous ones on the commune register of historic monuments, as well as natural monuments.

The centre of Kalisz was selected as the research area due to its high concentration of negative social phenomena, such as unemployment, poverty, crime and low levels of education and social capital. For these and other reasons, the city centre (analysed in this article) is considered one of the dilapidated parts of the city and ready for revitalisation (Diagnoza 2016). The crime rates in the whole of Śródmieście collected for the diagnosis of social issues were determined to be among the highest in the whole city. The number of incidents recorded by the police amounted to 313.7 per km2 (the value for the whole city was 33.7 per km2), and the number of interventions recorded by the police in Śródmieście was 1,888.4 per km2 (188.1 per km2 for the whole of Kalisz). Within the research area, the western quarters (along Złota Street) and the northern quarters (along 3 Maja Street) are considered to be at the highest risk of crime, while the area of the former chartered city is considered relatively safe. The municipal revitalisation programme to be implemented lists "limiting the scale of social issues" as the first strategic purpose. The social issues include "a number of high-intensity crisis phenomena: unemployment, poverty, crime, low educational achievements among children [and] low participation in public and cultural life" (Zmiana Gminnego Programu 2024: 55).

2. Research methods and sources

The centre of Kalisz was selected for the purpose of this study. In September 2020, field research was conducted there involving the identification and assessment of environmental risk factors. This work was conducted according to the method developed by Czarnecki (2011). The first stage involves a survey of the research area, that is, inventorying buildings and locations which can potentially pose

a risk in their immediate vicinity (they can contribute to the appearance of conditions favourable to crime risks). They are treated as various environmental crime factors. When identifying the risks, it is important to identify the physical features of a given space, its structure and the distribution of functions. When identifying them in the research area, their surroundings and the spatial context were always interpreted in terms of their possible influence on crime distribution (attracting or repelling). Areas with the same development or buildings with the same functions could be considered risky places in some cases, but not in others. The classification of these factors that accompany the identification process are classified in accordance with the principles of the strategies for creating safe spaces. For this reason, the classification replaces the terms "crime generators" and "crime attractors" with a general notion of environmental crime predictors,[10] which nonetheless should be equated with risky places.

Czarnecki's method proposes two main risk predictor groups, ones that have an impact on the presence of a potential perpetrator (opportunity generators or crime-favourable locations) and structural factors (the consequence of an inappropriate urban layout). See Table 1 for the full classification of crime predictors.

The second stage of the method is assessing the places and buildings which generate risks. Each predictor is separately assessed from the perspective of 21 different aspects of safety conditions (see Table 2 for the full list). The assessment of a factor is based on the characteristics of a given place and time. It uses the following five-point scale: 1 – definite lack of influence on crime risk; 2 – no influence; 3 – hard to assess/not applicable; 4 – potential influence; 5 – definite influence. It is recognised that the predictors with the highest negative assessment (those that facilitate the emergence of dangerous spaces) should be appropriately eliminated through special design solutions.

The analysis and visualisation of data obtained during the field research were conducted with the use of GIS tools. The map of assessed risk predictors (Figure 2) was created with the use of "empirical Bayesian kriging"; in the author's experience, this technique is highly effective in identifying places with a high concentration of problematic areas (high assessment of risk evaluation in addition to the close spatial proximity of these places). Since the places under assessment varied in type and scope of influence (taking the forms of points, lines and areas), the assessment was based on all centroids resulting from sectioning the objects with a 50-metre grid.[11]

[10] The research concerns the influence of risk predictors on the distribution of crime, with risk predictors being identified in accordance with various concepts of shaping safe spaces, and not all forms and functions of land development, as was mostly analysed in various other publications. The method favours the predictors that originate in the typology and characterisation of urban spaces, capable of creating conditions that facilitate a general crime risk. According to the standards of strategies which help shape safe spaces, it is the influence of these predictors which should be skilfully eliminated or limited through clever design solutions.

[11] According to Natalia Sypion-Dutkowska (2014: 81), it is the distance with the strongest influence on the majority of risky places. The parameters adopted for the GIS analysis take into account the findings developed through many articles dealing with similar criminological issues of crime studies (e.g. Caplan 2011), and they are consistent with the author's many years of research experience.

3. Results

3.1. Identification of risk predictors

In total, 154 risk predictors were identified in the centre of Kalisz. Their classification is presented in Table 1, and their distribution throughout the city centre is visualised in Figure 1. Among the predictors, the majority were crime attractors (CAs), which decisively influence the presence of a motivated perpetrator. Only eight structural factors (SFs) which limit defence were identified, although they occupy a significant surface area. The most numerous among the CAs were the "honeypots" (meaning locations which encourage social gatherings and influence crime and asocial behaviour) – these are mostly shops, bars, pubs and restaurants that serve alcohol, as well as fast-food restaurants. The category of public facilities encompasses various locations whose properties make them attractive to criminals. In the research area, these are the well-known marketplaces (3 Maja or "pod Tęczą"), service and trade complexes, petrol stations, supermarkets and public utility buildings (offices). Footpaths and routes include public transport stops and dangerous intersections. The conflict and fear generators include facilities and functions that have conflict-generating properties in a given context. In the centre of Kalisz these are pawnshops, some schools, social assistance centres, buildings of the justice system or various religious objects/buildings.

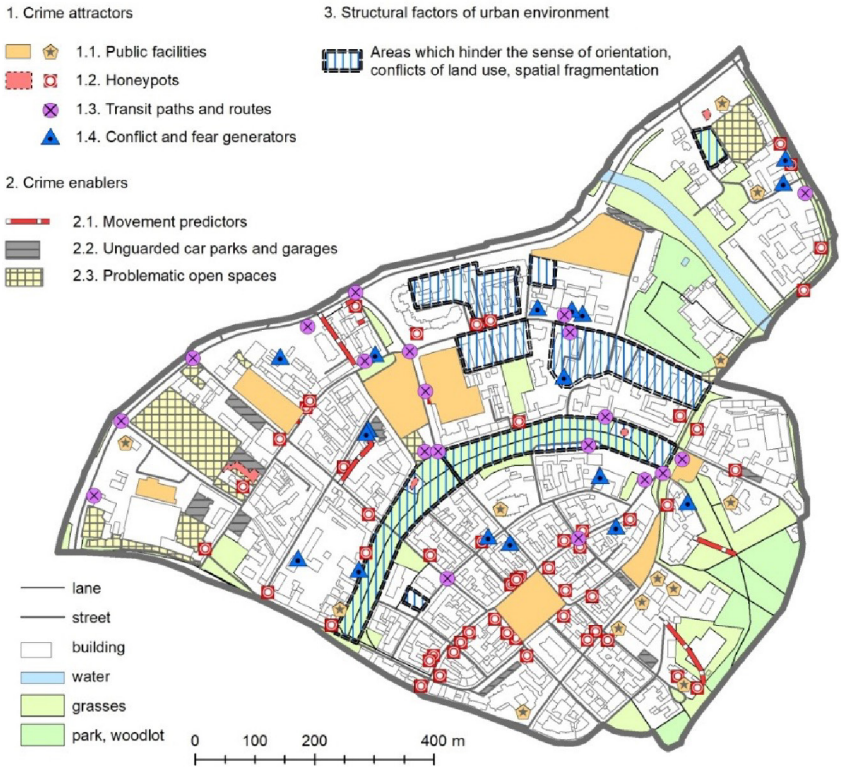
Table 1. Risk predictors identified in the centre of Kalisz

Crime predictors		Buildings/Sites	
		n	%
1. Crime attractors (CAs)		117	76.0
1.1.	Public facilities	21	13.6
1.2.	Honeypots	59	38.3
1.3.	Footpaths and routes	20	13.0
1.4.	Conflict and fear generators	17	11.0
2. Crime enablers (CEs)		29	18.8
2.1.	Movement predictors	6	3.9
2.2.	Unguarded car parks and garages	10	6.5
2.3.	Problematic open spaces	13	8.4
3. Structural factors (SFs) of the urban environment		8	5.2
3.1.	Areas which hinder the sense of orientation	1	1.3
3.2.	Spatial structures restricting social integration	2	0.6
3.3.	Conflicts of land use	0	0
3.4.	Spatial fragmentation	5	3.2
3.5.	Discontinuities of the urban fabric	0	0

Source: Own elaboration.

Crime enablers (CEs), or locations with insufficient or weak supervision and poor maintenance and upkeep, can facilitate the commission of crime. In the centre of Kalisz there are many such risk predictors, with the most common being open spaces. They are typically in significant spatial disorder, the spaces are dilapidated, their purpose and spatial development is unclear. The study area contains numerous urban wastelands, abandoned or uninhabited buildings and areas degraded by human activity (Figure 1). The unguarded car parks and garages, whose negative influence often manifests in the degradation of previously orderly areas, are largely problematic for the development of the study area. Due to an insufficient number of designated parking spaces, the sides of streets and interiors of many districts are chaotically occupied by parked cars. Moreover, several pedestrian routes that determine the routes of movement on foot were identified in the centre of Kalisz. They are isolated paths that determine the route of pedestrian movement under limited visibility, conditions and with little possibility of obtaining assistance.

Figure 1. Distribution of risk factors in the centre of Kalisz



Source: Own elaboration.

A continuous urban space and a clear layout of public spaces improve the users' sense of direction and safety. Unfortunately, the centre of Kalisz strays from this

ideal, since eight large-area structural factors which restrict protections were identified within the area. They limit the conditions for fulfilling protective functions, have properties that facilitate social disorganisation and are poorly equipped for defensive behaviour; all this makes them prone to attracting potential perpetrators. These are mostly intra-district and inter-block areas located on 3 Maja Street and in the area of Planty Miejskie.

The map of the localised risk predictors shows a visible spatial diversity of individual predictor groups, which is obviously caused by the arrangement of various forms of land development and their functions (Figure 1). The majority of crime attractors (including honeypots) are found in the historical quarters around Rynek Główny (the main market square). The areas to the north and west of Planty Miejskie contain the majority of crime enablers and structural factors that restrict protection. The predominantly tenement-based housing there contributes to an impression of spatial disorder and an atmosphere of disorganisation. These areas struggle with spatial degradation associated with illegal parking and informal pedestrian paths. A generally greater concentration of the centroids of risk predictors is in the vicinity of Rynek Główny, Nowy Rynek and Piskorzewie/Chopina Streets.

3.2. Assessment of risk predictors

In the subsequent stage of research, each of the 154 predictors was assessed in its local context from the perspective of the 21 aspects of fulfilling the safety conditions, which determine their crime-promoting properties (Table 2). The average assessment value of all predictors was 3.02. The percentage of assessments indicating no risk to the safety conditions or minimal risk (ranks 1 and 2) was on the same level as the percentage of assessments indicating a negative influence (ranks 4 and 5), amounting to 41%. Crime enablers and the structural factors which limit defence and protection posed a higher potential risk. Among the crime attractors, public facilities should be mentioned, as they were the only predictor in the group to be assessed higher than the average of all predictors (3.12).

From the perspective of fulfilling the safety conditions, the assessments of individual risk predictors were diverse (Table 2). The safety conditions assessed when taking into account as many as nine aspects received an average score below 3; from this perspective, worrying about safety seems mostly unnecessary. However, in general, the safety of people in the centre of Kalisz can be threatened by "the possibility for a perpetrator to escape or hide; the presence of risk groups" (northern and western parts of the area); "the offender's (easily obtained) advantage; the presence of third parties" (in the vicinity of Rynek Główny); "limited conditions for obtaining assistance; or a sense of anonymity" (especially in the vicinity of CEs and SFs).

Table 2. Assessment of risk predictors in terms of fulfilling the safety conditions in the centre of Kalisz

Aspects of safety conditions	Groups of risk predictors*			Average
	1. Crime attractors	2. Crime enablers	3. Structural factors	
User's visibility	2.48	2.62	2.13	2.49
Visibility from the neighbourhood	2.62	3.14	3.13	2.74
Conditions for obtaining assistance	3.31	3.97	4.25	3.48
Possibility of route selection	3.31	3.38	2.50	3.28
Degree of isolation	2.68	3.62	3.75	2.91
Presence of third parties	3.49	3.55	2.75	3.46
Presence of risk groups	3.81	3.59	3.88	3.77
Legitimation of perpetrator's presence	3.23	3.86	3.50	3.36
Perpetrator's advantage	3.53	3.72	4.38	3.61
Possibility of escaping or hiding	3.88	3.97	4.63	3.94
Conditions for supervision	3.13	3.83	3.63	3.29
Sense of anonymity	3.31	3.90	4.00	3.45
Territoriality	3.15	3.86	4.00	3.33
Atmosphere of disorganisation	2.62	3.48	4.00	2.86
Durability of materials and functions	2.28	2.83	2.75	2.41
Unjustified applications on walls; graffiti	2.15	2.31	2.25	2.18
Conditions for maintaining order	2.56	3.31	3.00	2.73
Attractiveness of place	2.83	4.10	3.13	3.08
Appropriate usage	2.32	2.79	2.38	2.42
Usage conflicts	2.32	2.59	2.50	2.38
Conditions for fulfilling the functions of the location	2.32	2.52	2.00	2.34
Average	2.92	3.38	3.26	3.02

Source: Own elaboration

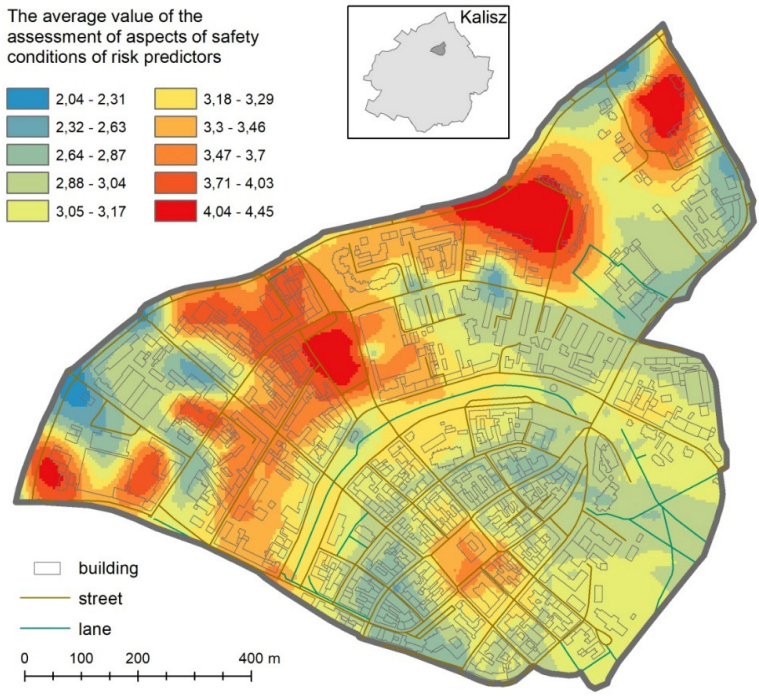
* abbreviations: CAs – crime attractors; CEs – crime enablers; SFs –structural factors which limit protection/defence

A map was created (Figure 2) to visualise the risks posed by spatial elements of the centre of Kalisz using the average values of all 154 predictors in 21 aspects of safety conditions. The map clearly shows the locations with little risk to their occupants, where the environmental conditions are generally unfavourable to potential perpetrators. These lower risk levels are mostly found in the eastern and southern parts of the study area (with the exception of the vicinity of Rynek Główny). There were fewer environmental risk predictors identified for this area

in general. Not only are there fewer of them, but they also obtained better assessments of their safety aspects.

The worst average assessments of safety conditions overlapped with the oldest tenement-based housing estate from the late 19th and early 20th centuries. These are mostly in the vicinity of Nowy Rynek and the neighbourhood of the "3 Maja" marketplace; the crime-promoting features of these locations obtained highly negative assessments. These areas are known for their issues with insufficient spatial order and manifestations of social issues (unemployment and addiction).

Figure 2. Assessment of risk predictors in the centre of Kalisz



Source: Own elaboration.

3.3. Locations with the highest risks of crime

Among all environmental predictors identified in the centre of Kalisz on the basis of Jenks' natural breaks method, the seven potentially most risky ones were selected (Table 3). They include predictors related to intense use (crime attractors; Figure 3a–c) as well as spatial factors (Figure 3d–f), i.e. crime enablers (footpaths, problematic open areas or garages). Among the seven, as many as 82% of all assessments (in 21 categories) were ranks 4 and 5, while only 7% were ranks 1 and 2. All the

predictors listed in Table 3 were most unfavourably assessed in two aspects of fulfilling the safety conditions: "conditions for obtaining assistance and possibility of a perpetrator escaping or hiding." The assessments of the individual predictors "user's visibility, perpetrator's advantage, atmosphere of disorganisation, conditions for maintaining order and attractiveness of the place" were also decidedly negative.

Table 3. Most risk-favourable predictors in the centre of Kalisz

Predictor no.	Name	Address	Average assessment
1.01.02	Marketplace "Pod Tęczą"	Nowy Rynek 1	4.48
1.01.01	City marketplace: Bazar "3 Maja"	3 Maja 42	4.43
3.03.09	Undeveloped land	Stawiszyńska 26	4.38
1.01.05	Kalisz town hall	Główny Rynek 20	4.33
3.01.06	Footpath	Majkowska 4	4.29
3.02.10	Garages by the city marketplace	3 Maja 42	4.29
3.03.02	Undeveloped land	Wojska Polskiego 119–121	4.19

Source: Own elaboration.

Figure 3. Locations with highest risks of crime in the centre of Kalisz: a) the city marketplace "3 Maja"; b) the marketplace "Pod Tęczą"; c) Kalisz town hall; d) dilapidated area on Wojska Polskiego 119–12; e) footpath Majkowska 4 on Wojska Polskiego Street; f) Stawiszyńska 26.



Source: Photographs by Anna Żubrowska.

The most negative influence on the public facilities mentioned in Table 3 (predictors 1.01.02, 1.01.01 and 1.01.05; Figure 3a–c) is determined by the safety

conditions that put a potential victim in a bad position ("user's visibility, conditions for obtaining assistance, presence of third parties and presence of risk groups"), those that provide an advantage to a motivated perpetrator ("conditions for supervision and possibility of escaping or hiding") and those that refer to unfavourable spatial conditions ("atmosphere of disorganisation, unjustified applications or graffiti, conditions for maintaining order and attractiveness of the place"). Describing the properties of locations in this way makes it possible to determine some of their generic predispositions. From the perspective of the theory of shaping safe spaces, the unfavourable properties of the identified risk predictors have the following effects: anonymity and conditions of consent to the perpetrators; frequent presence of people without any ties to the location (including those from marginalised or disadvantaged groups); transit and flows of people – sources of both potential perpetrators and victims; and conflict of functions in relation to neighbouring areas (Brantingham, Brantingham 1993b; Colquhoun 2004; McCord, Ratcliffe 2009; Czarnecki 2011; Wagers, Sousa, Kelling 2017; Mordwa, Laskowska 2020b; Inlow 2021). The properties of these public facilities indicate that these locations are favourable to mugging, bodily injuries, assault, petty theft (including pickpocketing), fraud, illegal trade in licenced or illegal goods and minor violations such as littering, alcohol consumption, harassment, aggressive/loud behaviour or indecent/vulgar behaviour (Ceccato, Haining, Signoretta 2002; McCord, Ratcliffe 2009; Bowers 2014; Groff, Lockwood 2014; Sypion-Dutkowska 2014; Mordwa, Laskowska 2020a).

Among the predictors most negatively assessed for locations that facilitate crime were a footpath, a garage and two problematic open spaces (Table 3; Figure 3d–f). There, the "atmosphere of disorganisation, insufficient conditions for obtaining assistance, the perpetrator's situational advantage and the possibility of a perpetrator escaping or hiding" all obtained highly negative assessments. Such properties of locations have the following crime-promoting effects: no factors of supervision and conditions of consent; limited visibility; limited conditions of maintaining order; no vitality of place; ambiguous location status; hindered orientation; possibility of surprising the victim; possibility of gaining the element of surprise; conditions favourable to catching the victim alone; limited possibility of obtaining assistance; conditions of isolation and anonymity; the presence of people from marginalised or disadvantaged groups; and attractive targets for burglaries. These properties make these locations remarkably favourable for mugging, assault, sexual assault, rape and car theft (from the car and from garages), as well as minor violations such as making graffiti, littering, satisfying physiological needs, alcohol consumption and others. The average values of the environmental risk predictors listed in Table 3 can be treated as the probability of these crimes/acts occurring.

4. Discussion and recommendations

There have been various attempts to solve the issue of identifying buildings and locations at risk of crime. The complexity of the problem stems from the ambiguous relation between the crime rates and the level of fear caused by crime (sense of safety). The nature of crime by itself in the context of the fear of crime is full of paradoxes. On the basis of many works, Norman Davidson (1999: 447) formulated six paradoxical statements regarding the relationship between crime and the fear of crime, all with a spatial element:

1. "even in high-crime areas, people tend to believe that crime is committed by someone else, somewhere else;
2. local events increase fear, distance events do not;
3. crime increases social cohesion in some areas, decreases it in others;
4. women's fear is greatest in places where they are least at risk;
5. Neighbourhood Watch is most successful where it is least needed;
6. the best-lit areas have the highest crime rates."

Obviously, the literature is full of many suggestions and methods of identifying dangerous places, and it is difficult to determine which is the best system. For instance, crime hot spots can be identified through police data (Mordwa 2013; 2015), although the problems with the quality of police databases are no secret (Błachut 2007). Gill Valentine (1990), on the other hand, identified dangerous locations by studying the subjective sense of safety. Paradoxically, most people do not realise which places really are dangerous – if they did, there would be no victims! Studies on the perception of dangerous locations based on the declarations of research participants have the same flaw (Bogacka, Siniecka 2020), which also applies to results obtained through the moments of stress (MOS) method. In the MOS method, used by Kalliopi Kyriakou and Bernd Resch (2019) or Alina Ristea et al. (2021), for example, the study participants carried special devices (spatial videos, audio recording devices and biosensing wristbands), whose purpose was to measure the levels of stress in specific spatial situations when walking along a set path. Another method of identifying dangerous places, currently quite popular, is the use of machine learning GeoAI techniques. John Hipp et al. (2022) interpreted photos from Google Street View in search of eleven spatial features typical of five types of crime. Although it is believed that GeoAI-based techniques make it possible to study a larger area while also being cost-effective and not time-consuming, it should be emphasised that the safe and risky places they identify are nonetheless the result of human visual perception (of the overseers' of computer algorithms), and that they do not take into account the local context.

Doubtlessly, the use of various methods of identifying risky places can yield different results, and the researchers who base their studies on each method will obviously defend their choices. In this article, dangerous areas were determined based on the long-standing results of the CPTED strategy and the "Secured by

Design" programme. Their conclusions and recommendations make it possible to predict which crimes can occur where and in which spatial contexts. These results were compared with the data on crimes from local governments' documents.

The 2016 document called "Kalisz. Rewitalizacja. Do trzech razy sztuka" contains data on crime in the revitalised city area (as cited in Zmiana Gminnego Programu 2024). The Kalisz area analysed in this document is wholly within the zone meant for revitalisation, taking up approximately one fourth of its area and 46% of its residents. Among the 15 streets with the highest crime and intervention rates in the revitalised zone, as many as eight are within the research area of the Kalisz centre. These are (in order) 3 Maja, Złota, Ciasna, Nowy Rynek, Fryderyka Chopina, Zamkowa, Babina and Kazimierzowska. These eight streets hosted 58% of the crimes and 59% of the interventions (where 100% is the total from the 15 streets with the highest crime risk). Therefore, the analysed centre of Kalisz stands out negatively even against the zone meant for revitalisation, which has a high concentration of social issues in its own right.

In the document "Diagnoza strategiczna Miasta Kalisza" (Urząd Miasta Kalisza 2021: 82), it is stated that:

> Kalisz is a safe space, which is confirmed by both statistics and residents' opinions. […] In 2020, the number of crimes per 10,000 residents, confirmed by the police in completed preparatory procedures, was 38. In the period 2014–2020, the highest was in 2019 (49), and the lowest in 2015 (21).

Furthermore:

> In the quantitative and qualitative studies, the residents of Kalisz expressed their relatively high sense of safety. The large majority of all stakeholder groups considered crime a minor issue of the area. Notably, there are some more dangerous locations (mainly 3 Maja, Śródmiejska, Babina, Ciasna and Złota Streets); however, there are relatively few of them, and at least they mainly do not translate into the fears of both residents and representatives of other groups. (Urząd Miasta Kalisza 2021: 83)

The layout of the streets listed in these documents, with the highest number of crimes and interventions, generally coincides with the places at the highest risk of crime on the map showing the assessment of risk predictors (Figure 2). The differences in these spatial layouts are small. Firstly, two small locations, although with high negative assessments, are not crossed by any of the streets with the highest levels of crime risk. One place is located in the northernmost part of the centre of Kalisz (the vicinity of Cicha and Prosta Streets), and another is in its westernmost part (Jabłkowskiego and Podgórze Streets). Both are cases of dilapidated interior urban layouts, within a street network. However, both areas were included in the local plans for revitalisation of Kalisz – the only ones. This means they were intended to be urgently improved in terms of their social and spatial situation (Zmiana Gminnego Programu 2024: 126). On the other hand, during the land inventory procedures, the crime-promoting properties of locations along

Zamkowa and Kazimierzowska Streets were mostly dismissed and attributed only an average potential crime risk.

The advantage of the method of identifying and assessing risky places used in this study is the inclusion of the local spatial context and the distances and relationships between them. Additionally, an in-depth area observation and inventorying of individual risky places which assesses them from the perspective of the 21 aspects makes it possible to suggest, in accordance with the principles of shaping safe spaces, methods of "healing" places that are at particular risk of crime. It is possible to provide recommendations, whose application can restrict or even eliminate the crime-promoting properties of locations and return them to the city and its rightful owners: the local communities.

It is clearly impossible to provide recommendations which would solve the problem of crime in the whole research area. That is due to the differences in the crime-promoting properties of individual locations, which require individual analysis. Recommendations on shaping safe spaces can and even should support the revitalisation of selected parts of the city. In this paper, a recommendation is made for a location on Ciasna Street (Figure 4), which had one of the worst assessments (aside from those whose descriptions are presented in Table 3). The basic description of this place can be described in several points: 1) the streets, pavements and illegal parking spaces are surrounded by old, dense buildings; 2) open and forested spaces lie in close vicinity; 3) the car park is located in an out-of-the-way location with weak visual control. These features make the space a possible area for preparing and executing crimes.

During the inspection of this place, some interviews were conducted with its users. Its negative image, according to their opinions, was due to the lack of a sense of territoriality, an inability to get help, the constant presence of third parties and a pervasive atmosphere of disorder. According to the research methodology, the following issues were observed during the official assessment of the place (and ascribed the highest ranks of 4 and 5): "a wide range of possible routes, the possibility of escaping or hiding, poor conditions for obtaining assistance by the victim, a large degree of isolation, the presence of third parties, the presence of risk groups, the legitimation of the perpetrator's presence, the perpetrator's advantage and poor conditions for informal supervision."

Therefore, the numerous crime-promoting properties of the location were confirmed and, on this basis, the local situational conditions were determined: 1) the lack of visible security features of buildings and yards, 2) easy access to common areas, 3) no guards and no "eyes on the street," as trees and sheds hinder observation. All these statements make it possible to identify predictable behaviours: the spatial properties provide conditions and opportunities for committing crimes.

The following general actions are recommended: 1) secure building and yard entrances, 2) install private monitoring, 3) improve the visual properties and the lighting and 4) increase the presence of residents within the space.

Figure 4. Location on Ciasna Street, Kalisz



Source: Photograph by Anna Żubrowska.

Conclusions

The debate on the quality of generally accessible public spaces, which should facilitate human relationships and fulfil the aspirations of their users, is ongoing in various environments (academics, practitioners, local government officials, community workers, etc.). The concern for an appropriate standard of such places in the urban structure should be the main purpose of various involved parties. Public spaces should be associated with monuments, transportation, green spaces, relaxation, trade, restaurants or residential opportunities, and they should be distinguished by the strong sense of safety they invoke.

In recent years, researchers have published many works on the influence of risky places on crime rates (Ceccato, Newton 2024). However, the majority of empirical studies are still limited to numerical measurements of the locations without taking into account the spatial context in their direct neighbourhood or the level of risk they pose. Individual risky places can represent crime generators, which provide multiple criminal opportunities, or crime attractors, which draw potential criminals in. This study proves that the spatial structural factors, which

additionally shape the neighbourhood and the mutual spatial context of risky places themselves, are also important.

Taking into account earlier studies, the question of which method of identifying risky places is best remains unanswered. If these studies can be related to the vast literature on the geography of crime, crime mapping and the issue of shaping safe spaces, this study provides reliable empirical research and support through a direct assessment of the spatial relations between the risky places, also in the local context. Yet, it is unavoidable that the methodological approach applied herein has some flaws. The research procedure is laborious, requiring large amounts of work and time. Moreover, there are some concerns that assessments of safety conditions (the crime-promoting properties of places) comprise the researchers' subjective opinions. Nevertheless, this study contributes to the vast literature on the issue of the spatial influence of risky places in specific urban areas.

The centre of Kalisz is an important and noteworthy space on a regional scale due to the determinants of heritage, tradition, culture and the arts. In the quest to improve the safety of this space, the article attempts to identify risky places, and then assess the level of crime risk they pose. The potential of applying the conclusions drawn from the research approach is visible, also through the relevant recommendations for suitable local spatial policies. Assuming that the spatial distribution of risky places can influence crime patterns, the results can inspire various ruling bodies and policymakers to manage certain areas better and to optimise the distribution of services for public safety.

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Kryminalizacja i penalizacja zjawiska bezdomności w polskim porządku prawnym oraz praktyce społecznej

Criminalisation and penalisation of homelessness in the Polish legal system and social practice

Abstrakt: Celem artykułu jest przedstawienie, jak w polskim porządku prawnym i w praktyce społecznej wygląda kwestia kryminalizacji zjawiska bezdomności oraz penalizacji skorelowanych z nią czynów. W tekście zaprezentowana została analiza obowiązujących przepisów (warstwa instytucjonalna), jak również wyniki autorskich badań, realizowanych wśród osób w kryzysie bezdomności, dotyczących m.in. ich relacji z przedstawicielami policji, straży miejskiej oraz agencji ochrony (warstwa praktyki). W pracy zasygnalizowano także kluczowe problemy związane z obecnością osób doświadczających bezdomności w sferze publicznej, obejmujące segregację przestrzenną, stygmatyzację oraz wiktymizację, które zostały wpisane w kontekst systemu pomocy społecznej.

Słowa kluczowe: bezdomność, penalizacja, kryminalizacja, policja, straż miejska, agencja ochrony

Abstract: The aim of this article is to present how the Polish legal system and social practice addresses the criminalization of homelessness and the penalization of related acts. The article includes an analysis of relevant regulations (institutional layer) as well as the results of the author's research conducted among people suffering from homelessness regarding their interactions with police officers, city guards and security guards (practical layer). The paper also indicates key issues related to the presence of unhoused people in the public sphere, including their spatial segregation, stigmatization, and victimization, which are situated within the context of the social welfare system.

Keywords: homelessness, penalization, criminalization, police, municipal guard, security guards

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Wstęp

W poniższym artykule podejmuję temat słabo rozpoznany i rzadko podejmowany w Polsce. Jest nim zjawisko kryminalizacji bezdomności w istniejącym porządku prawnym, który rozumiem „zarówno [jako – red.] uznanie jakiegoś czynu za przestępczy, jak i utrzymywanie przestępności jakiegoś czynu" (Gardocki 1990: 7). Zagadnienie to analizuję przez pryzmat przepisów (warstwa instytucjonalna), jak również w sferze interakcji (warstwa praktyki) osób doświadczających bezdomności z przedstawicielami formacji porządkowych – policji, straży miejskiej oraz agencji ochrony.

W literaturze przedmiotu znaleźć można wiele definicji odnoszących się do bezdomności, które akcentują różne ramy interpretacyjne tego zjawiska (m.in. przez pryzmat długości jego trwania, płci). Europejska Typologia Bezdomności i Wykluczenia Mieszkaniowego ETHOS (FEANTSA 2008), stosowana przeze mnie w procesie konceptualizacji, wyróżnia cztery kluczowe kategorie, które różnicują to zagadnienie przez wzgląd na miejsce przebywania badanych, co w omawianym przypadku ma znaczenie szczególne. Pierwsza kategoria obejmuje brak dachu nad głową (tzw. bezdachowość) i odnosi się do osób przebywających w przestrzeni publicznej oraz tych korzystających wyłącznie z pomocy niskoprogowej (np. ogrzewalni)[1]. Druga kategoria oznacza brak mieszkania (tzw. bezmieszkaniowość) i dotyczy osób przebywających w różnego rodzaju placówkach (np. schroniska dla kobiet) oraz tych, które mają niebawem opuścić instytucje (np. zakłady karne), bez możliwości powrotu do poprzedniego miejsca zamieszkania. Trzecia kategoria (tzw. niezabezpieczone mieszkanie) odwołuje się do osób przebywających w niestabilnych warunkach (np. „kątem" u znajomych), czwarta (tzw. nieodpowiednie mieszkanie) wskazuje natomiast na osoby przebywające w konstrukcjach tymczasowych (np. przyczepa kempingowa) lub w warunkach substandardowych (np. skrajne przeludnienie).

Formalnie w Polsce bezdomność nie podlega kryminalizacji, a osoby jej doświadczające mają swobodę przebywania m.in. w miejscach użyteczności publicznej. W praktyce jednak wsparcie oferowane tej grupie jest dalece niewystarczające, co zmusza jej reprezentantów do egzystencji na ulicy i w konsekwencji naraża ich na konflikty z prawem.

Warto w tym miejscu wyjaśnić, dlaczego problem kryminalizacji bezdomności odnosi się przede wszystkich do pierwszej kategorii ETHOS (tzw. bezdachowość). Dzieje się tak dlatego, że państwo (za pośrednictwem rożnego rodzaju organów nacisku) dąży do wyeliminowania przejawów naruszeń porządku publicznego (np. rozbijanie obozowisk), argumentując to m.in.

[1] „Wsparcie niskoprogowe dostępne jest dla każdego, niezależnie od posiadanego ostatniego stałego miejsca zameldowania, sytuacji materialnej. Jest to pomoc doraźna, która otrzymać mogą wszyscy potrzebujący w formie noclegu, możliwości skorzystania z łaźni, ogrzewalni, jadłodajni, pralni oraz punktów poradnictwa" (zob. Urząd m.st. Warszawy 2025).

troską o bezpieczeństwo obywateli. Nie oznacza to, że osoby spoza pierwszej kategorii nie mogą występować w roli ofiar lub sprawców czynów karalnych, związanych w sposób pośredni lub bezpośredni ze swoim statusem mieszkaniowym. W ich przypadku stopień ekspozycji na kontakty ze służbami mundurowymi jest jednak znaczenie mniejszy. Nakłada się na zjawisko tzw. wrogiej architektury (ang. *hostile architecture*). Jest to rodzaj defensywnego projektowania, które ma utrudnić wybranym grupom swobodę korzystania z przestrzeni publicznej. Najczęstszą sposobem wykorzystywania tego mechanizmu w stosunku do badanych są podzielone ławki, uniemożliwiające im położenie się. W efekcie niewydolność systemu pomocy społecznej (np. niewystarczająca liczba miejsc w ośrodkach wsparcia) wypycha ludzi nie ulicę (np. na dworce), co oznacza, że stosuje się wobec nich różnego rodzaju praktyki dyscyplinujące i segregujące (np. nakaz opuszczenia).

Badani reprezentują sobą szereg bardzo różnych cech, tworząc złożone struktury społeczne. Mimo skomplikowanej sytuacji osobistej utrzymują oni jednak szereg kontaktów, zarówno z członkami grupy przynależności, jak i z przedstawicielami świata instytucji. W artykule – poza analizą przepisów – skupiam się na aspektach procesów interakcyjnych zachodzących w jednym ze „światów społecznych", w których funkcjonują jako zarówno potencjalne ofiary, jak i domniemani sprawcy. Nie należy jednak zapominać, że osoby w kryzysie bezdomności funkcjonują w ramach instytucji przede wszystkim jako obywatele, dzięki czemu posiadają szereg związanych z tym praw i obowiązków.

Metodologia badań własnych

W poniższej części przedstawiam opis prowadzonych badań i wskazuję na wyzwania metodologiczne związane z omawianym zagadnieniem. Ich celem było ustalenie, jak w polskim porządku prawnym wygląda kwestia kryminalizacji samej bezdomności oraz penalizacji skorelowanych z nią czynów. W ramach analiz postawiłam następujące pytania badawcze:

- Czy w polskim porządku prawnym istnieją przepisy, które penalizują fakt bycia osobą bezdomną?
- Jakie czyny skorelowane ze stanem bezdomności są w polskim porządku prawnym penalizowane?
- Na ile służby mundurowe stosują obowiązujące przepisy w odniesieniu do osób w kryzysie bezdomności i jak z punktu widzenia badanych wygląda percepcja kontaktu z nimi?

W pracy używam pojęcia penalizacji, które utożsamiam z wąsko rozumianym karaniem za popełniane czyny (przestępstwa i wykroczenia) na gruncie prawa. Kryminalizacja natomiast stanowi szersze zjawisko odnoszące się do karania badanych za sam fakt bycia osobą w kryzysie bezdomności.

Prezentowane w artykule treści zostały opracowane w oparciu o triangulację metodologiczną. Pierwsza z metod opierała się na analizie aktów prawnych obowiązujących w Polsce, co pozwoliło na wytypowanie norm prawnych odnoszących się (w sposób pośredni i bezpośredni) do osób w kryzysie bezdomności. Znacznie bardziej niż stan prawny interesowała mnie jednak stosowalność przepisów i tym samym percepcja relacji badanych z przedstawicielami instytucji, utożsamianych z władzą. Stąd druga z wykorzystywanych technik – indywidualne wywiady pogłębione (IDI – ang. *Individual In-depth Interview*) z osobami z doświadczeniem bezdomności. Badania były realizowane wśród osób żyjących na ulicy, a także z mieszkańcami różnego rodzaju placówek. Włączenie do próby osób korzystających ze wsparcia systemowego było efektem realizacji przez mnie większych badań, prowadzonych na terenie m.st. Warszawy i okolic w latach 2016–2021, których elementem była percepcja relacji ze służbami porządkowymi. Wraz z dwuosobowym zespołem badawczym zrealizowaliśmy wywiady z 51 osobami (36 mężczyzn i 15 kobiet). Rozmowy były nagrywane (za zgodą uczestników i uczestniczek), a ich treść transkrybowana (nie zbierano danych osobowych umożliwiających identyfikację poszczególnych uczestników). Wszystkie wywiady zostały zakodowane. W artykule uwzględniłam wypowiedzi badanych, które uzyskałam jako członek zespołu w grancie pt. „Wiktymizacja osób bezdomnych w Polsce”[2] (za zgodą jego kierownika).

W tym miejscu chciałabym zwrócić uwagę na kilka aspektów metodologicznych i etycznych[3]. Po pierwsze, realizowane przeze mnie badania były prowadzone w perspektywie jakościowej, co z jednej strony uniemożliwia uogólnianie wyników na całość populacji, z drugiej natomiast pozwala dostrzec unikalną perspektywę osób w kryzysie bezdomności. Po drugie, moje spojrzenie na obowiązujący w Polsce porządek prawny jest spojrzeniem socjologa, który postrzega go przede wszystkim jako narzędzie kontroli zachowań społecznych i formę sprawowania władzy. Niewątpliwie różni się to od optyki prawnika, co może mieć szczególne znaczenie w badaniu wątków kryminologicznych. Po trzecie, chciałabym wspomnieć o mojej „podwójnej perspektywie” – badacza i przedstawiciela służb społecznych zarazem. Na przestrzeni ostatnich lat pracowałam na rzecz tej grupy w ramach różnych organizacji i na różnych stanowiskach, co może rodzić szereg implikacji etycznych, zwłaszcza w analizach dotyczących strukturalnych asymetrii władzy. Dlatego tak ważne było dla mnie rozróżnienie tego, kiedy formułuję wnioski na podstawie wypowiedzi badanych, a kiedy dzielę się własnymi obserwacjami tego środowiska, płynącymi z mojej praktyki zawodowej.

[2] Projekt był finansowany przez Narodowe Centrum Nauki (wniosek nr 2017/01/x/hs5/02035).

[3] W ramach badania nie wnioskowano o opinię Komisji Rektorskiej ds. Etyki Badań Naukowych.

Kryminalizacja i penalizacja zjawiska bezdomności w polskim porządku prawnym

Zależność pomiędzy bezdomnością a przestępczością jest wieloaspektowa. Z jednej strony bezdomność może być wynikiem popadnięcia w konflikt z prawem. W 2019 r. w ogólnopolskich badaniach liczby osób bezdomnych 1649 respondentów wskazało opuszczenie zakładu karnego jako powód popadnięcia w bezdomność (Ministerstwo Rodziny, Pracy i Polityki Społecznej 2019), przy czym wskazać należy współzależność różnego rodzaju przyczyn takiego stanu rzeczy. Jak pisze o tym Emilia Truskolaska: „przestępczość może być czynnikiem przyczyniającym się do bezdomności (w szczególności, jeśli powiązane jest z to z odbyciem długoletniej kary pozbawienia wolności)" (Truskolaska 2018: 104). Z drugiej strony bywa także odwrotnie – część osób przebywających w instytucjach dla osób w kryzysie bezdomności trafia do nich w wyniku przestępstwa (np. handlu ludźmi, przemocy domowej). Według wspomnianej autorki „grupa ta obarczona jest bardzo dużym ryzykiem związanym z działalnością innych przestępców, w szczególności działających w zorganizowanych grupach przestępczych" (Truskolaska 2018: 104). W końcu bezdomność i skorelowane z nią czyny mogą być w wyniku kryminalizacji rozpatrywane jako przestępstwo lub wykroczenie i to właśnie na tym aspekcie kontaktu z wymiarem sprawiedliwości skupiam się w artykule.

W analizowanym kontekście szczególnego znaczenia nabiera miejsce przebywania osób w kryzysie bezdomności, a co za tym idzie – typ doświadczanej przez nich bezdomności. Z ogólnopolskich badań tego środowiska wynika, że 76% populacji przebywa w placówkach, 21% żyje w przestrzeni publicznej, a 3% – w mieszkaniach treningowych (Ministerstwo Rodziny, Pracy i Polityki Społecznej 2024). W Polsce statystycznie trzy na cztery osoby dotknięte kryzysem mieszkaniowym korzystają z instytucjonalnego wsparcia (np. schronisko), co znacząco redukuje ryzyko popadnięcia w konflikt z prawem, z uwagi na ograniczenie kontaktu ze służbami porządkowymi. Dużą rolę odgrywa także abstynencja od alkoholu oraz substancji psychoaktywnych, będąca warunkiem korzystania z tego rodzaju wsparcia. Jednocześnie, z ostatnich dostępnych danych urzędu m.st. Warszawy wynika, że ośrodki pomocy społecznej w 2021 r. udzieliły wsparcia 4521 osobom w kryzysie bezdomności (Urząd m.st. Warszawy 2025). Liczba zakontraktowanych miejsc w różnego rodzaju placówkach wynosiła wówczas około 1400 (stan na 2022 r.)[4]. Oznacza to, że liczba osób dotkniętych deprywacją mieszkaniową była wówczas trzykrotnie większa niż liczba dostępnych miejsc w placówkach. Tego rodzaju polityka reglamentująca wsparcie jest częstą praktyką, która zmusza badanych do wykorzystywania miejsc niemieszkalnych (np. pustostanów) w celach noclegowych. Takie podejście rodzi pytania o systemowe i indywidualne koszty, wynikające z braku ade-

[4] Warto zaznaczyć, że jest to liczba orientacyjna i zmienna w czasie. Aktualne dane mogą odbiegać od tego stanu.

kwatnych rozwiązań adresowanych do tej grupy. Przykłady z USA (w Polsce nie prowadzi się tego rodzaju analiz) wskazują na ukryte nakłady związane z funkcjonowaniem osób w kryzysie bezdomności na ulicy. W 2015 r. hrabstwo Santa Clara w stanie Kalifornia wydało na ten cel 520 milionów dolarów (Flaming, Toros, Burns 2023). Co ciekawe 34% tych wydatków stanowiły środki związane z obsługą wymiaru sprawiedliwości (m.in. koszty zatrzymań, grzywien). Potwierdza to założenie, że życie na ulicy uprawdopodabnia popadnięcie w konflikt z prawem i naraża badanych na częstsze interakcje ze służbami mundurowymi. Nakłady te – co paradoksalne – były niemal trzy razy większe niż wszystkie wydatki na usługi społeczne, co wskazuje na represyjny wymiar kary. W Polsce, w przeciwieństwie do większości państw w Europie i USA, nie rozwinęła się na szerszą skalę kultura obozowisk (ang. *encampments*), rozumiana jako skrajna forma podporządkowania przestrzeni publicznej celom mieszkaniowym. Moja kilkuletnia praktyka streetworkerska prowadzona w Warszawie i w okolicach wskazuje, że poza wybranymi miejscami (np. nad Wisłą) osoby doświadczające bezdomności ulicznej starają się raczej pozostać niezauważone i wtopić się w otoczenie. Żyjąc na ulicy (w większości w pojedynkę), wybierają opuszczone budynki, oddalone od głównych węzłów komunikacyjnych ogródki działkowe czy altanki śmietnikowe. Zarówno w USA, jak i w Polsce państwo nie oferuje skutecznej alternatywy, ograniczając systemowo dostęp do rożnych form noclegowych (m.in. noclegowni). Co więcej, oddolnie mogą być wprowadzane regulacje umożliwiające segregację przestrzenną. Dzieje się tak w odniesieniu do osób przebywających w obrębie dworców, które działają w oparciu o wewnętrzne regulaminy. Penalizacja bezdomności odnosi się natomiast do kilku wymienionych i opisanych poniżej zachowań, które wiążą się z obecnością badanych w przestrzeni publicznej i są w mniejszym lub większym stopniu sytuacyjną koniecznością.

Pierwszą czynnością, która koreluje wprost z bezdomnością, jest żebractwo stanowiące jedną z form zarobkowania. Zagadnienie to na gruncie prawnym zostało uregulowane w Kodeksie wykroczeń (Dz.U. z 2025 r., poz. 734). Mianowicie § 1 art. 58 wskazuje, że „kto żebrze w miejscu publicznym w sposób natarczywy lub oszukańczy, podlega karze aresztu, ograniczenia wolności albo grzywny". Jednocześnie § 2 wskazuje, że „kto mając środki do życia, żebrze w miejscu publicznym, podlega karze ograniczenia wolności albo grzywny". Od lat regulacje te są kwestionowane w związku z ich niejasnością. Ustawodawca nie zapewnił odpowiedniej wykładni przepisów (np. brak definicji słowa natarczywość). Podnoszone zarzuty to także brak skuteczności tej normy prawnej (nie działa odstraszająco), penalizacja ubóstwa i brak adekwatnej pomocy adresowanej do osób żebrzących (niezgodność z prawami człowieka). Co ciekawe, badani w trakcie wywiadów zwracali uwagę na istotne, z ich puntu widzenia, rozróżnienie między żebranie a „wędkowaniem". „Wędkowanie" to „żebranie aktywne, w odróżnie-

niu od żebrania biernego – czyli siedzenia z kartką i kubkiem na pieniądze" (Ilecki 2020: 43). W wyobrażeniu części moich rozmówców „wędkowanie" było przejawem ich zaradności życiowej i nie było konotowane negatywnie. Mimo że samo zjawisko żebractwa może przyjmować różne formy – od „niewinnych" występów ulicznych, po mycie szyb samochodowych, pilnowanie auta na parkingu czy mniej lub bardziej aktywne formy proszenia o pieniądze – to w świetle prawa pozostaje ono działalnością niedozwoloną. Penalizacja tego procederu jest jednak w praktyce fikcją prawną. O zniesienie tego przepisu od lat apeluje m.in. Rzecznik Praw Obywatelskich (RPO 2017). W ramach ogólnopolskiego badania liczby osób bezdomnych 1166 respondentów wskazało żebractwo jako swoje źródło dochodu (Ministerstwo Rodziny, Pracy i Polityki Społecznej 2019).

Kolejna czynność podlegająca penalizacji, która jest związana z obecnością badanych w przestrzeni publicznej, dotyczy spożywania przez nich alkoholu. Zgodnie z polskim prawem narusza to art. 43 Kodeksu wykroczeń, w którym stwierdza się: „kto spożywa napój alkoholowy w miejscu publicznym, za wyjątkiem miejsc do tego przeznaczonych, podlega karze grzywny albo karze nagany" (Dz.U. z 2025 r., poz. 734). Zakaz spożywania alkoholu w miejscach publicznych został też uregulowany w ustawie z dnia 26 października 1982 r. o wychowaniu w trzeźwości i przeciwdziałaniu alkoholizmowi (Dz.U. z 2023 r., poz. 2151). W ogólnopolskich badaniach osób w kryzysie bezdomności 28% respondentów wskazało uzależnienie jako powód popadnięcia w kryzys mieszkaniowy (Ministerstwo Rodziny, Pracy i Polityki Społecznej 2024). Warto podkreślić, że co do zasady w polskim systemie pomocy społecznej wsparcie adresowane do tej grupy jest (z kilkoma wyjątkami) warunkowane trzeźwością. Pozwala to domniemywać, że osoby żyjące na ulicy nie uzyskują pomocy m.in. z uwagi na naruszenie zasady abstynencji. Tak z prowadzonych przeze mnie badań, jak i mojej praktyki zawodowej wynika, że spożywanie alkoholu lub jego surogatów (np. denaturatu) w miejscach niedozwolonych często skutkuje pojawieniem się policji lub straży miejskiej i koniecznością (co najmniej) wylegitymowania się, co jest uciążliwą codziennością badanych. Częstą formą reakcji porządkowej na ten czyn jest pouczenie. Sankcje prawne mają według badanych charakter uznaniowy. Alkohol uprawdopodobnia interwencję służb, jednak o niej nie przesądza. Zdaniem części badanych jego konsumpcja bywa pretekstem do dyscyplinującego działania mundurowych (np. wystawienia mandatu, zabrania na izbę wytrzeźwień). Na alkohol należałoby też patrzeć jak na czynnik predykcyjny następujących po jego spożyciu zachowań, związanych z przemocą (np. bijatyki) czy zakłóceniem porządku (np. nieobyczajne zachowania). Działania służb (policji i straży miejskiej) mają charakter prewencyjny, nawet jeśli nie powstrzymują picia i stanowią codzienność moich rozmówców.

Ostatnim przepisem, do którego chciałabym się odnieść, jest art. 145 Kodeksu wykroczeń. Stanowi on, że: „kto zanieczyszcza lub zaśmieca miejsce

dostępne dla publiczności, a w szczególności drogę, ulicę, plac, trawnik lub zieleniec – podlega karze grzywny do 500 złotych albo karze nagany" (Dz.U. z 2025 r., poz. 734). W odniesieniu do osób w kryzysie bezdomności mamy tu do czynienia z dwoma różnymi zagadnieniami. Pierwsze z nich dotyczy budowania sprawczości przez badanych poprzez udomawianie przestrzeni. Tworzenie obozowisk, o których pisałam powyżej, jest zjawiskiem stosunkowo rzadkim w Polsce, ale mogłoby zostać potraktowane przez funkcjonariuszy jako zaśmiecanie lub zanieczyszczanie. W praktyce jednak działania służb nakierowane są na docierania do osób w kryzysie bezdomności ze wsparciem, czego przykładem jest akcja warszawskiej straży miejskiej pod hasłem: „Trochę ciepła dla bezdomnego" (Urząd m.st. Warszawy 2024) (w okresie zimowym dystrybuowane są wśród tej grupy posiłki). W kontekście wspomnianego art. 145 Kodeksu wykroczeń znacznie częściej adresowanym wyzwaniem jest natomiast kwestia dostępności publicznych toalet. Warszawa od lat mierzy się z deficytami w tym obszarze (Warszawa: 4,3 tys. mieszkańców 2020). W tym przypadku należy zauważyć, że brak dostępnej infrastruktury odbija się na osobach, które nie mogą zrealizować potrzeb fizjologicznych w alternatywnym miejscu (np. we własnym mieszaniu) lub przy okazji innej wykonywanej czynności (np. pobyt w restauracji). W Warszawie wyzwaniem jest nie tylko niewystarczająca liczba toalet, ale także komercyjny charakter części z nich. Dodatkowo nakłada się na to szerszy problem godzin otwarcia (nieczynne w godzinach nocnych). Dla wielu badanych wykluczenie sanitarne jest realnym i codziennym wyzwaniem, przez które czują się stygmatyzowani i narażeni na krytykę ze strony otoczenia. Szczególnie trudna sytuacja dotyczy kobiet menstruujących (Urazińska 2021). Trudno jednoznacznie określić, czy przepisy te są egzekwowane przez służby, ale już sam fakt ich istnienia ma charakter wiktymizujący, co skłania, by patrzeć na samo zjawisko jak na wyzwanie dla zdrowia publicznego. W tym miejscu nie sposób nie wspomnieć o tym, że w 2023 r. m.st. Warszawa przyjęło Kartę Praw Osób Doświadczających Bezdomności (Zarządzenie 1836/2023). Jej głównym założeniem jest podkreślenie prawa osób doświadczających bezdomności do wyjścia z niej oraz wskazanie na zasadę niedyskryminacji, także w przestrzeni publicznej. Analogiczne dokumenty zostały wcześniej proklamowane w wybranych miastach Hiszpanii i Włoch. Gdańsk był pierwszym miastem w Polsce, w którym w 2020 r. Rada Miasta uchwaliła równoważną kartę praw. Mimo wspomnianych aktów na świecie rośnie problem kryminalizacji bezdomności. Obecnie bardzo restrykcyjne przepisy w tym obszarze obowiązują m.in. na Węgrzech oraz w wybranych stanach w USA (np. Floryda). Nie bez znaczenia pozostaje kontekst polityczny, w jakim się to odbywa. Podejście do bezdomności, a także do penalizacji związanych z nią czynów, odzwierciedla pogłębiającą się polaryzację społeczną. Podczas gdy model progresywny akcentuje kontekst praw osób doświadczających bezdomności (np. do korzystania z przestrzeni publicz-

nej), strona konserwatywna odwołuje się do szeroko pojętego interesu publicznego (np. usuwanie obozowisk), którego strzeże. Oś podziału nie zawsze odzwierciedla jednak układ sił na scenie politycznej. Kryminalizacja bezdomności daje bowiem szybkie (choć pozorne) efekty i przywraca wiarę w system, podczas gdy jej dekryminalizacja stawia przed systemem szereg wyzwań (np. związanych z dostępem do wsparcia), które czynią tę postawę z pozoru droższą. Badania amerykańskie (Flaming, Toros, Burns 2023) jasno wskazują, że ukryte koszty kryminalizacji dla systemu – często dla podatnika niedostrzegalne – są znacznie wyższe niż wsparcie realizowane w duchu praw człowieka.

Poza obowiązującym prawodawstwem pozostaje jeszcze – istotniejszy z punktu widzenia praktyki – stopień egzekwowalności tych przepisów oraz dokuczliwość tego działania. W dalszej części artykułu omawiam interakcje osób w kryzysie bezdomności ze światem strażników, którzy monitorują przestrzeganie norm prawnych, determinując tym samym stopień kontroli, jakiej doświadczają badani.

Stosowanie prawa przez strażników

Środowisko osób w kryzysie bezdomności, na które składają się losy młodocianych, opuszczających domy dziecka, historie samotnych matek w ośrodkach interwencji kryzysowych, pensjonariuszy schronisk czy osób żyjących na ulicy, to historia codziennych interakcji z reprezentantami organów nacisku i instytucji uosabiających władze. Małgorzata Kostrzyńska w odniesieniu do analizowanego środowiska określa ich mianem strażników. To według niej: „wszyscy ci, którzy stanowią organy kontroli społecznej, którzy sprawdzają, kontrolują wypełnianie określonych obowiązków. Stanowią oni świat, przed którym się ucieka, którego się unika" (Kostrzyńska 2012: 49). Tematyka relacji badanych z przedstawicielami służb mundurowych została w zagranicznej literaturze przedmiotu szczegółowo zbadana i udokumentowana, przede wszystkim za sprawą *hyper-policing* (Anthony et al. 2024). Niestety w polskich realiach temat ten pojawia się niezwykle rzadko i to za sprawą działań o charakterze obywatelskim. *Hyper-policing* odnosi się do nadmiarowych reakcji służb wobec wybranych grup społecznych, m.in. osób doświadczających bezdomności ulicznej i roztaczanej nad tą grupą kontroli. Pisząc o służbach, mam na myśli formacje, których codzienna praca w sposób szczególny oddziałuje na postawy i zachowania badanych, czyli policję oraz straż miejską. W polskich realiach należałoby przywołać jeszcze jedną, często pomijaną w analizach grupę zawodową, jaką są pracownicy firm ochroniarskich, strzegący dostępu do miejsc użyteczności publicznej.

Działania wspomnianych strażników są wpisane w krajobraz porządku publicznego z dwóch powodów.

Pierwszym z nich jest częstotliwość odwoływania się do przemocy (zwłaszcza wśród mężczyzn) w tym środowisku. Jak skonkludował to jeden z badanych:

> Ludzie sami są niebezpieczni dla siebie, nie można... właściwie nikt nikomu nie powinien ufać, bo ci ludzie są tak mocno egoistyczni, że nie myślą o innych. Są oczywiście wyjątki, ale to są bardzo rzadkie wyjątki. Jeden drugiego najchętniej okradnie (…) Bardzo częste są kradzieże, bardzo często są niejawne rozboje, o których się nie mówi, pobicia. Tego typu podstawowe przestępstwa. To jest środowisko, które no w dużej mierze pochodzi z patologicznych rodzin, to są ludzie, którzy są po więzieniach. Często recydywiści. No wiadomo, polski system penitencjarny nie bardzo uczy, nie bardzo socjalizuje, wręcz przeciwnie. Uczy po prostu przestępstw, kolejnych technik. Ci ludzie są niebezpieczni sami dla siebie (mężczyzna_39, 40–49 lat).

Tłem nieporozumień bywają alkohol lub inne substancje odurzające. Andrzej Przymeński poszedł w analizie tego zagadnienia jeszcze dalej, wskazując, że „powszechnie zdarza się okradanie nie tylko nieznajomych lub świeżo przybyłych bezdomnych, lecz także kompanów, z którymi wcześniej spożywano alkohol, nie wyłączając sponsorów libacji" (Przymeński 2001: 181). Proces ten do pewnego stopnia tłumaczy – co nie znaczy, że usprawiedliwia – wspomniane już funkcjonowanie rozmówców w kulturze deficytu i permanentne niezaspokojenie ich potrzeb.

Drugim – zgoła innym – powodem jest wysoki stopień niechęci, z jakim stykają się osoby w kryzysie bezdomności. Sprawia on, że stają się oni łatwym, bo widocznym i często bezbronnym, celem ataków różnych grup, które ogniskują na nich swoją złość i frustrację. W wywiadach badani regularnie podnosili problem agresji, której doświadczają z uwagi na swój status. Dobrze ilustruje to wypowiedź jednego z mężczyzn:

> Spanie po klatach, no to na pewno jakieś pobicia, czy nawet w kanałach spanie no to w gestii jakichś tam małolatów, którzy nie raz jak wpadną, to mogą na rozrywki, tak? Było dużo podpaleń, tam rzucali jakieś tam butelki, podpalali. Na pewno są takie zagrożenia (mężczyzna_42, 50–59 lat).

Jak zauważył Witold Klaus, odwołując się do zagranicznych badań:

> największe zagrożenie dla osób w kryzysie bezdomności stanowią tzw. zwykli przedstawiciele społeczeństwa. To oni odpowiadają za ciągłe ich znieważenia, naruszenia nietykalności cielesnej (jak oplucia, popchnięcia czy oddawanie moczu na osoby bezdomne) oraz za przemoc fizyczną (rzucanie przedmiotami, uderzenia, pobicia) (Klaus 2020: 185).

Zdaniem autora wyjątkowo duże zagrożenie badani upatrują w osobach młodych, których boją się szczególnie (Klaus 2020: 188).

Dlatego właśnie tak ważne jest, by działania służb w odniesieniu do analizowanego środowiska uwzględniały nie tylko kwestię porządku publicznego, ale także potrzeby badanych, zwłaszcza w sytuacjach, w których występują oni w roli ofiar. Problem kryminalizacji osób doświadczających bezdomności bardzo często przeplata się ze zjawiskiem ich wiktymizacji, w ramach którego doświadczają oni różnych form przemocy (np. fizycznej, słownej) lub stygmatyzacji (np. przestrzennej), w związku ze swoim statusem. Z raportu opracowanego na zlecenie Urzędu m.st. Warszawy (BBS Question Mark 2022) wynika, że 22,8% ankietowanych doświadczyło znieważenia bądź poniżenia w ciągu trzech miesięcy poprzedzających badania (BBS Question Mark 2022: 95), a 14,8% było adresatem gróźb napaści fizycznej i pobicia (BBS Question Mark 2022: 96). Niestety, bardzo często wiktymizacja jest efektem obecności badanych w przestrzeni publicznej.

Policja

Policja to organ, który z jednej strony jest odpowiedzialny za ochronę obywateli, z drugiej natomiast sprawuje wspominaną kontrolę przestrzegania przepisów porządkowych. Formacja ta działa w oparciu o Ustawę z dnia 6 kwietnia 1990 r. o Policji (Dz.U. z 2024 r., poz. 1367). W odniesieniu do osób w kryzysie bezdomności jej rola sprowadza się w praktyce do minimalizowania zagrożeń związanych z pobytem badanych na ulicy, zarówno w kontekście ich własnego bezpieczeństwa, jak i bezpieczeństwa pozostałych osób. Obraz tej formacji zarysowany w trakcie wywiadów nie był jednoznacznie korzystny, ale dominowały pozytywne głosy. Warto podkreślić, że badani odwoływali się w rozmowach do całokształtu swoich doświadczeń z tą formacja w okresie bezdomności. Badani chętnie wskazywali przykłady pomocy, jakiej doświadczyli od funkcjonariuszy:

> Mi raz [policja – red.] pomogła. Mi raz pomogła w sytuacji, w której no byłam głodna. Nie jadłam nic, no i zapytałam się – bo nikt nie chciał mi dać pieniędzy – podeszłam do policjanta i zapytałam się: „Panie policjancie, mam do Pana sprawę", „Co się dzieje?". Ja mówię: „no, jestem głodna. Nie jadłam cały dzień. Czy miałby Pan poratować albo kupić". No i poszedł kupić (kobieta_38, 18–29 lat).

Przykłady te dotyczyły nie tylko indywidualnych historii moich rozmówców, ale także określonego traktowania całego środowiska:

> Znam przypadki tam za rogiem, gdzie pan Andrzej na przykład śpi… wie pani gdzie. Tam policja regularnie przychodzi, się pytać, czy czegoś nie potrzeba (mężczyzna_39, 40–49 lat).

33,4% ankietowanych biorących udział w „Diagnozie sytuacji osób doświadczających bezdomności na terenie miasta stołecznego Warszawy" wskazało, że

w trudnych sytuacjach mogą liczyć na policjanta (BBS Question Mark 2022: 67). Badane przeze mnie osoby także wykazywały się dużym zrozumieniem dla działań policji, narzekając jedynie na uciążliwy proces legitymowania i „wrzucania ich na bęben", czyli weryfikacji w policyjnej bazie danych, co – ich zdaniem – ma podnieść statystyki służb. Zdarzały się osoby legitymowane kilkukrotnie w ciągu dnia, co miało swoje uzasadnienie w konieczności zweryfikowania, czy nie są one poszukiwane przez organy ścigania lub zgłoszone jako zaginione: „Potrafią i dziesięć razy legitymować… (mężczyzna_46, 60–69 lat)."

Jeden z mężczyzn z doświadczeniem bezdomności biorących udział w debacie u Rzecznika Praw Obywatelskich zauważył, że: „do osób będących w kryzysie bezdomności policjanci podchodzą notorycznie, tak jakby były najbardziej kryminogenne" (RPO 2019), co może być postrzegane jako wspomniane zjawisko *hyper-policing*. W prowadzonych przeze mnie wywiadach także pojawiały się zarzuty dotyczące analogicznych praktyk, ale nie wpływały one na ogólny wizerunek tej grupy zawodowej. Mimo zasygnalizowanych trudności, niemal wszyscy moi rozmówcy oceniali działania policji lepiej niż straży miejskiej. W narracjach akcentowali oni funkcję pomocową (np. zapewnianie żywności), pomijając wątki związane z zaufaniem, jakim darzą funkcjonariuszy. Co interesujące, z badań realizowanych na terenie m.st. Warszawy wynika, że odsetek ankietowanych, którzy mieli do czynienia ze strażą miejską i/lub policją w charakterze podejrzanego (22,2%.), był o ponad 21% wyższy od odsetka ofiar (18,3%) (BBS Question Mark 2022: 92). Należałoby w przyszłości pogłębić ten wątek, by przeanalizować szczegółowo mechanizmy raportowania o przestępstwach i dostęp do pomocy prawnej oferowany tej grupie. Z kolei w środowisku kobiet w kryzysie bezdomności w odniesieniu do funkcjonariuszy uwypuklił się problem warunkowania „poczucia bezpieczeństwa i zaufania bardziej przez poczucie znajomości kogoś [w policji – red.], niż przez rolę społeczną, którą pełni" (Stowarzyszenie Pomocy i Interwencji Społecznej 2023: 23). Autorki raportu wskazywały na doświadczenia wielowymiarowej przemocy, której kobiety żyjące na ulicy w trosce o własne bezpieczeństwo nie zgłaszają (m.in. w obawie o posądzenie o donosicielstwo), co wymaga podjęcia pilnych działań naprawczych.

Straż miejska

Na wstępie należy pokreślić, że w odniesieniu do osób w kryzysie bezdomności zadania policji i straży miejskiej się na siebie częściowo nakładają. Mowa tu przede wszystkim o działaniach związanych z interwencjami w wyniku naruszenia porządku publicznego (np. spożywanie alkoholu w miejscu publicznym), jak i o współpracy ze służbami społecznymi (np. patrole miejsc niemieszkalnych).

Formacja ta działa w oparciu o ustawę z dnia 29 sierpnia 1997 r. o strażach gminnych (Dz.U. z 2021 r., poz. 1763). Mimo wspomnianych podobieństw, recepcja działania tej jednostki była znacznie gorsza niż w przypadku policji. Odsetek badanych, którzy wskazali policjanta jako osobę, na którą mogą liczyć, był o niemal 36% wyższy niż w stosunku do strażnika miejskiego (BBS Question Mark 2022: 67). W prowadzonych przeze mnie i mój zespół wywiadach badaliśmy zarzuty pod adresem funkcjonariuszy dotyczące m.in. przekraczania uprawnień, co ilustruje następująca wypowiedź:

> O-g-r-o-m-n-a różnica między strażą miejską a policją. (...) W przypadku policji – jak to się mówi – można się dogadać. Nawet jeżeli łamie się prawo, a nie da się nie łamać, będąc 24h na ulicy, to z policjantem po prostu można porozmawiać, dostanie się pouczenie, a straż miejska nie odpuści (mężczyzna_39, 40–49 lat).

Tak negatywny odbiór tej formacji i jej reprezentantów może dziwić zwłaszcza w kontekście podejmowanych przez nią w ostatnich latach działań na rzecz badanego środowiska. Licznym projektom informacyjnym towarzyszyło także rozpoczęcie współpracy z organizacjami pozarządowymi w ramach Ulicznego Patrolu Medycznego, co poskutkowało nagrodą „Animus Fortis", otrzymaną wspólnie z Caritas Polska i Lekarzami Nadziei (Straż Miejska m.st. Warszawy 2023). Co więcej, w ramach cyklicznie organizowanej akcji „Trochę ciepła dla bezdomnego", warszawska straż miejska wraz z ośrodkiem Caritas Archidiecezji Warszawskiej "Tylko z Darów Miłosierdzia" monitoruje zimą miejsca niemieszkalne, dostarczając przebywającym w nim osobom ciepłe posiłki oraz weryfikując ich bieżące potrzeby. Jako wielokrotna uczestniczka tych patroli pamiętam pozytywny odbiór, z jakim spotykała się ta inicjatywa. Natomiast w wywiadach potwierdzały to nieliczne osoby, które bezpośrednio korzystały z tego wsparcia:

> Chyba z Targówka, albo z Zacisza, to całe życie będę pamiętał, że straż miejska przyjeżdżała i ten wyższym stopniem przywoził skarpetki (...) (mężczyzna_40, 60–69 lat).

Choć zaangażowanie strażników w akcje społeczne spotykało się wśród badanych z pozytywnym przyjęciem, to ich codzienne działania związane z utrzymywaniem porządku w miejscach publicznych, a co za tym idzie z dyscyplinowaniem osób tam żyjących, są odczytywane przez nich negatywnie:

> No tak, tak, no rzeczywiście, straż miejska bardziej w tej przestrzeni takiej otwartej to się interesuje, przyjeżdża, ale to często jest na skutek informacji przekazanej przez przechodniów, przez ludzi, którzy dzwonią do straży miejskiej, że ktoś tam śpi, że ktoś tam leży, że nie wiadomo co się stało i straż miejska sprawdza, czasami przegania z tego miejsca, a czasami nic nie mówi (mężczyzna_9, 60–69 lat).

Sposób egzekwowania prawa przez tę formację oraz dokuczliwość podejmowanych przez nią interwencji sprawiała, że bezpośredni kontakt z fun-

kcjonariuszami był uznawany za trudny i opresyjny. Co więcej, w wywiadach podważali oni uprawnienia strażników, wskazując na ich ograniczone kompetencje i niższą rangę względem policji.

Agenci ochrony

W tym miejscu warto zwrócić uwagę również na jeszcze inną grupę zawodową, związaną z bezpieczeństwem, jaką są pracownicy ochrony. Działa ona na mocy ustawy z dnia 22 sierpnia 1997 r. o ochronie osób i mienia (Dz.U. z 2021 r., poz. 1995). Jej reprezentanci nie stanowią formalnie służb mundurowych, są natomiast szczególną kategorią osób, strzegących dostępu do miejsc użyteczności publicznej. Choć od przedstawicieli służb mundurowych różni ich zakres kompetencji, to w sposób symboliczny (m.in. środki przymusu bezpośredniego) i wizualny (m.in. umundurowanie) utożsamiają oni organy porządkowe. Ich władza – często dotkliwa w skutkach dla badanych – rozciąga się na ochranianym terenie (np. zamknięte osiedla, galeria handlowa). W przeciwieństwie do policji i straży miejskiej agencje chronią interes prywatny, a nie publiczny (z pewnymi wyjątkami). Problematyczny w kontekście tej formacji jest przede wszystkim nacisk na funkcję porządkową oraz częstotliwość wzajemnych kontaktów, które wynikają z obecności ochroniarzy niemal we wszystkich miejscach użyteczności publicznej, w której przebywają badani. Jak zauważył jeden z pytanych mężczyzn:

> Najbardziej dokuczliwe są właśnie agencje ochrony, które pilnują dworców czy galerii handlowych, czy osiedla. Tam gdzie jest osiedle pilnowane przez agencję ochrony, to wiadomo, że się w ogóle nie dojdzie. A (...) oni z kolei w ogóle, oni mają za zadanie przegnać z tego miejsca i nie wpuścić z powrotem (mężczyzna_9, 60–69 lat).

Badani wskazywali nawet konkretne obiekty oraz miejsca, w których „nie jest bezpiecznie", „czepiają się" lub „nie można się przespać". Pojawiały się też głosy dotyczące brutalności i dehumanizacji, jakiej doświadczyli ze strony pracowników ochrony. Stosunek ten manifestował się też w uniemożliwianiu badanym korzystania ze środków transportu publicznego:

> Często zresztą jeździła jakaś ochrona, wyrzucała z tego autobusu albo ludzie interweniowali u kierowcy i on musiał wyrzucić mnie (…) (mężczyzna_23, brak danych).

Sytuacja ta ma także drugie, mniej oczywiste oblicze. Wielu moich informatorów w procesie swojej readaptacji podejmowało pracę w firmach ochroniarskich, co wynikało z braku wstępnych wymagań związanych z objęciem tego rodzaju stanowisk. Często przemawiało za tym także nieodpłatne zakwaterowanie (np.

w przyczepie na parkingu, który dozorowali). Korzystanie z własnych doświadczeń pozwalało im zyskać podwójną perspektywę, a co za tym idzie „chodzić na rękę" osobom w kryzysie bezdomności funkcjonującym na monitorowanym terenie. Choć dużo zależy od polityki otwartości w miejscach użyteczności publicznej, kluczowa wydaje się gotowość badanych do wtopienia się w tłum, co sprawia, że pracownicy patrzą na nich bardziej empatycznie:

> W [nazwa galerii handlowej – red.] to ci ochrona na przykład przymyka na to oko, ja poznałem jednego gościa i on ci normalnie powiedział, gdzie masz się na jakiej kanapie usiąść i tak się nawet zdrzemnąć, żeby kierownictwo nie widziało, i damy ci święty spokój (mężczyzna_49, 18–29 lat).

Niewątpliwie ochroniarze są formacją, która budzi wśród badanych największe emocje. Jest to, co trzeba podkreślić, grupa zawodowa, z którą najczęściej się stykają w sferze publicznej. Zarzuty, jakie są wobec niej formułowane, wynikają z przypisywanego im przez badanych braku znajomości przepisów i nierespektowania praw badanych.

Wnioski

W artykule podjęłam się przedstawienia zjawiska bezdomności w ujęciu kryminologicznym, z uwzględnieniem recepcji kontaktu osób doświadczających kryzysu bezdomności z funkcjonariuszami formacji porządkowych, jakimi są policja, straż miejska i agencje ochrony. Przedmiotem analizy były przepisy obowiązujące w polskim porządku prawnym, które zostały uzupełnione o unikalną perspektywę kontaktu badanych z przedstawicielami systemu kontroli i nacisku. Interpretacja przepisów oraz realizacja wywiadów z osobami doświadczającymi bezdomności umożliwiała odpowiedzi na pytania badawcze, które przedstawiam poniżej w formie wniosków.

Najistotniejszym problemem jest deficyt wyodrębnionych rejestrów identyfikujących naruszenia prawa zgłaszane przez osoby w kryzysie bezdomności (np. zaginięcia bliskich), jak i te, w których występują oni w roli ofiar (np. napaści, nadużyć seksualnych). Brakuje także danych wskazujących na skalę interwencji służb (np. sankcje za picie alkoholu w miejscu publicznym). Wskazane deficyty stanowią jednak wyzwanie trudne do przezwyciężenia bez zmian o charakterze proceduralnym. To rozwiązanie pozwoliłoby potwierdzić sygnalizowaną w wywiadach asymetrię pomiędzy skalą działań o charakterze prewencyjnym oraz penalizacyjnym. Pogłębionych badań wymaga także ocena dostępności pomocy prawnej oferowanej badanym. Brak wiedzy w tym zakresie jest systemowym problemem, który należy monitorować i sygnalizować decydentom (m.in. Rzecznikowi Praw Obywatelskich). Dużą rolę

w tym zakresie mają do odegrania organizacje pozarządowe o charakterze strażniczym (tzw. *watchdogowe*).

Jednocześnie, bardzo niepokojące są sygnały dotyczące nadużyć władzy strażników wobec osób w kryzysie bezdomności. Zarówno analiza wywiadów, jak i przegląd literatury, wskazują w tym względzie przede wszystkim, na pracowników agencji ochrony, którzy utrudniają badanym dostęp do przestrzeni publicznej. Powoduje to, że badani, jako grupa wrażliwa, często nie tylko nie są odpowiednio chronieni, ale to miejsca ich codziennego funkcjonowania – sklepy, dworce – są przed nimi strzeżone, co wyraża się w postępującej segregacji przestrzennej obserwowanej w Warszawie. Na wzajemne relacje strażników oraz badanych należy patrzeć przez pryzmat trudnych do pogodzenia, a czasem wręcz sprzecznych, interesów obydwu stron. Instytucjonalne wymogi efektywności stawiane przed funkcjonariuszami oraz nonkonformistyczne postawy osób w kryzysie bezdomności, stają się łatwym katalizatorem napięć społecznych. Zwłaszcza gdy towarzyszy temu także brak wzajemnego zaufania.

W tym kontekście warto także zauważyć, że z wywiadów nie wyłania się jeden spójny wzorzec relacji pomiędzy osobami w kryzysie bezdomności a funkcjonariuszami policji, straży miejskiej czy przedstawicielami agencji ochrony. Wspólnym mianownikiem tych stosunków – w percepcji badanych – pozostaje asymetria w dostępie do środków represji (np. środki przymusu bezpośredniego, mandat). Jednocześnie, w analizowanych trajektoriach (zwłaszcza osób długotrwale przebywających na ulicy) przeplatają się zarówno te „dobre", jak i „złe" przypadki kontaktów z organami porządku publicznego. Charakter tych relacji jest wypadkową wielu czynników, wśród których należy wymienić kontekst przestrzenny (np. miejsce zetknięcia się ze sobą), kontekst psychofizyczny (np. pozostawanie pod wpływem alkoholu) oraz kontekst demograficzny (np. wiek, płeć). Miejsca pozostające na uboczu (np. poza widokiem kamer) były identyfikowane jako te przyciągające mniejsze zainteresowanie mundurowych. Badani pozostający pod wpływem środków odurzających mogli liczyć na mniejszą przychylność podmiotów sprawujących kontrolę. Jednocześnie, kobiety i osoby w zaawansowanym wieku były też rzadziej legitymowane i budziły większe współczucie funkcjonariuszy.

W polskim porządku prawnym nie istnieją przepisy, które wprost penalizują fakt bycia osobą w kryzysie bezdomności. Jednocześnie, istnieje szereg regulacji, które odnoszą się do czynów wynikających bezpośrednio z sytuacji życiowej badanych. Należy do nich m.in. realizacja potrzeb fizjologicznych w przestrzeni publicznej i jej zanieczyszczanie, żebractwo czy spożywanie alkoholu w miejscu publicznym. Wszystkie przywoływane w tekście przykłady mają charakter wykroczeń. Jeśli zaś chodzi o penalizację przywoływanych czynów, to badani wskazywali w wywiadach na różnice w podejściu do egzekwowania przepisów w zależności od formacji mundurowej (policja i straż miejska). Istnieje więc wyraźny rozdźwięk pomiędzy kryminaliza-

cją zachowań osób w kryzysie bezdomności a ich penalizacją. Mimo że system prawny przewiduje kary za poszczególne zachowania (np. spożywanie alkoholu w miejscu publicznym), to penalizacja takiego zachowania (np. wystawienie mandatu) ma w praktyce społecznej charakter uznaniowy, uzależniony od perspektywy funkcjonariuszy. Równocześnie, penalizowane mogą być zachowania, które nie są wprost ujęte w polskim porządku prawnym jako wykroczenie lub przestępstwa. Przykładem tego rodzaju działania jest segregacja przestrzenna badanych i nakaz opuszczenia przez nich wybranych miejsc (np. galerii handlowych) z uwagi na zaniedbany wygląd.

Analiza kryminalizacji zjawiska bezdomności nie może być też prowadzona w oderwaniu od wiktymizacji badanych. Zjawiska te przeplatają się na rożnych poziomach. Ucisk, którego doświadczają, może przebierać formę zinstytucjonalizowanych działań (np. przepisy), segregacji przestrzennej (np. elementy wrogiej architektury) czy praktyk społecznych (np. zgłoszenie na policję osoby spożywającej alkohol w miejscu publicznym). Różnica polega jednak na praktycznej stronie egzekwowania istniejących przepisów, która jest różnie postrzegana przez badanych. Ważne zastrzeżenie, które należy wskazać na końcu, dotyczy katalogu wskazanych wykroczeń utożsamianych z procesem kryminalizacji osób przebywając w przestrzeni publicznej. W części tej wskazałam na najważniejsze i najczęściej pojawiające się w literaturze przedmiotu czyny, mające bezpośredni związek z badanymi. Warto jednak pamiętać, że osoby w kryzysie bezdomności mogą być zarówno sprawcami, jak i ofiarami przestępstw, które nie muszą być bezpośrednio związane z ich funkcjonowaniem na ulicy (np. niealimentacja) i wymagałyby odrębnych analiz.

Oświadczenie w przedmiocie konfliktu interesów

Autor zgłaszanego artykułu oświadcza, że nie istnieje konflikt interesów. Tzn. autor (albo jego pracodawca lub sponsor) nie ma jakiegokolwiek bezpośredniego lub pośredniego finansowego, prawnego lub zawodowego interesu albo związku z innymi organizacjami lub instytucjami, które mogą mieć wpływ na omawiane w tekście badania.

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„Nikogo nie przejmuje, że takie rzeczy się dzieją" – jakościowa analiza doświadczenia molestowania ulicznego

"Nobody cares that these things are happening" – qualitative analysis of street harassment experiences

Abstrakt: Molestowanie uliczne stanowi najpowszechniejszą formę przemocy seksualnej doświadczanej przez kobiety i dziewczęta, występującą w zróżnicowanych kontekstach społeczno-kulturowych, w tym w Polsce. Choć zjawisko to dotyka dwóch trzecich kobiet oraz co trzeciego mężczyzny, jego rutynowe przejawy nadal są trywializowane (jako nieszkodliwe zaczepki) lub romantyzowane (jako forma flirtu). Niniejszy artykuł ma na celu wypełnienie luki w polskiej literaturze przedmiotu poprzez pogłębioną analizę subiektywnych doświadczeń osób, które doznały molestowania ulicznego, a także badanie reakcji otoczenia na akty naruszeń. Analiza 26 wywiadów jakościowych wskazuje, że molestowanie uliczne w konkretny sposób wpływa na ograniczenie swobody działania kobiet w przestrzeni publicznej, zmuszając je do negocjowania bezpieczeństwa kosztem wolności. Obojętność otoczenia i trudności dowodowe wpływają na utrwalenie przekonania o społecznej akceptacji zachowań, wzmacniając poczucie bezsilności ofiar.

Słowa kluczowe: molestowanie uliczne, molestowanie seksualne, *catcalling*, przemoc seksualna, analiza tematyczna

Abstract: Street harassment constitutes the most prevalent form of sexual violence experienced by women and girls, occurring across diverse sociocultural contexts, including in Poland. Although this phenomenon affects two-thirds of women and one third of men, its routine manifestations are still trivialised (as harmless hassling) or romanticised (as a form of flirting). This article aims to fill a gap in the Polish literature with an in-depth analysis of the subjective experiences of street harassment victims and an examination of reactions to these violations. An analysis of 26 qualitative interviews

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indicates that street harassment restricts women's freedom of movement in public spaces, forcing them to negotiate for their safety at the expense of their sense of freedom. The indifference of peers and relatives as well as evidentiary difficulties, perpetuate the belief that such behaviour is socially accepted, reinforcing the victims' sense of helplessness.

Keywords: street harassment, sexual harassment, catcalling, sexual violence, thematic analysis

Wprowadzenie

Molestowanie uliczne jest najbardziej powszechną formą molestowania seksualnego doświadczaną przez kobiety i dziewczęta (FRA 2021), obecną w różnych kontekstach społeczno-kulturowych (Ifop 2018; Ceccato, Loukaitou-Sideris 2021; Useche et al. 2024). Badania przeprowadzone w 2022 r. pokazują, że molestowanie uliczne to problem powszechny również w Polsce, którego doświadczyły przynajmniej raz w życiu blisko dwie na trzy kobiety (66%) oraz więcej niż co trzeci mężczyzna (36%) (Janikowski 2023a).

Molestowanie uliczne najczęściej jest definiowane jako szeroka gama różnorodnych zachowań werbalnych, niewerbalnych i fizycznych, takich jak m.in. catcalling, uporczywe wpatrywanie się, podążanie za kimś, publiczna masturbacja, niechciany dotyk, dokonywanych nie tylko (choć najczęściej) na ulicach, ale również w innych otwartych i zamkniętych miejscach publicznych (Macmillan, Nierobisz, Welsh 2000; Logan 2015; Fileborn, O'Neill 2021).

Ograniczona literatura dotycząca molestowania ulicznego w Polsce wskazuje, że problem ten jest powszechny i dotyka przede wszystkim (choć nie tylko) kobiet i dziewcząt, negatywnie wpływając na ich samopoczucie, realnie ograniczając ich swobodę poruszania się i poczucie bezpieczeństwa (Janikowski 2023b; Rudko 2024). Mimo to zachowania takie jak uporczywe wpatrywanie się, komentarze o charakterze seksualnym lub obnażanie się nadal bywają postrzegane jako niewinne (CBOS 2017; Perschke, Grzelak, Szutowisz 2025).

W niniejszym artykule zaprezentowane są wyniki badań własnych – analizy tematycznej 26 pogłębionych wywiadów z osobami, które doświadczyły molestowania ulicznego[1]. Analiza doświadczenia molestowania ulicznego odwołująca się do koncepcji kontinuum przemocy seksualnej autorstwa Liz Kelly (1987; 1988) oraz feministycznych koncepcji ucieleśnienia ukazuje, jak molestowanie uliczne – przeżywane kumulatywnie i na tle zagrożenia innymi formami przemocy seksualnej – staje się ramą, w obrębie której osoby prezentujące się kobieco negocjują swoją wolność i bezpieczeństwo. Wyniki przedstawionej analizy przyczyniają

[1] Artykuł opiera się na wynikach badań własnych stanowiących część materiału empirycznego rozprawy doktorskiej, w której zagadnienia te zostaną pogłębione teoretycznie i merytorycznie. Chciałabym podziękować dr hab. prof. ucz. Monice Płatek za cenne uwagi i sugestie zgłoszone do wcześniejszych wersji tekstu. Dziękuję także zespołowi redakcyjnemu oraz recenzentom za ich życzliwość, pomoc i wnikliwe komentarze, które przyczyniły się do udoskonalenia tekstu.

się do pogłębionego i bardziej szczegółowego zrozumienia wpływu molestowania ulicznego na codzienne życie młodych osób mieszkających w dużych aglomeracjach miejskich w Polsce.

1. Definicja molestowania ulicznego

W literaturze przedmiotu podkreśla się problem zróżnicowanych definicji oraz typologii zachowań uznawanych za molestowanie uliczne, co potęguje wrażenie ograniczonego zasobu badań w tym obszarze (Vera-Gray 2016a; Fileborn, O'Neill 2021). Część badań analizujących molestowanie uliczne uwzględnia czyny spełniające definicję zgwałcenia lub innej czynności seksualnej (Gardner 1995; Vera-Gray 2016b), inne koncentrują się wyłącznie na zachowaniach werbalnych (Nielsen 2000). Należy także zauważyć, że niektórzy badacze posługują się pojęciem catcallingu i molestowania ulicznego zamiennie (Janikowski 2023b; Rudko 2024). Najczęściej jednak catcalling jest definiowany jako zbiór zachowań werbalnych i niewerbalnych (trąbienie, cmokanie, komentowanie ciała i wyglądu, gwizdanie), stanowiących przejaw szerszego zjawiska, jakim jest molestowanie uliczne (Walton, Pedersen 2022).

W niniejszej analizie posługuję się pojęciem molestowania ulicznego w znaczeniu spektrum niechcianych lub nieproszonych[2] zachowań o podtekście seksualnym, uprzedmiatawiających lub mizoginicznych[3], podejmowanych przez nieznaną osobę, w otwartych lub zamkniętych przestrzeniach publicznych (np. na parkingach, w parkach, sklepach, klubach, barach i restauracjach). Przejawy molestowania ulicznego mogą mieć charakter fizyczny (np. ocieranie się, dotykanie miejsc intymnych, przytulanie), werbalny (np. wypowiedzi o charakterze seksualnym,

[2] Fiona Vera-Gray zwraca uwagę na problem określania molestowania ulicznego mianem zachowań „niechcianych" (*unwanted*) i postuluje używanie w zamian określenia „nieproszone" (*uninvited*). Jak argumentuje, kwalifikowanie zachowań molestujących jako „nieproszonych" przesuwa punkt ciężkości analizy na sam fakt podjęcia działania przez sprawcę, podkreślając prawo osoby doświadczającej molestowania do decydowania o tym, czy i w jaki sposób inni mogą uzyskać dostęp do jej sfery psychicznej i cielesnej w przestrzeni publicznej. Takie ujęcie pozwala na analizę szerokiego spektrum różnorodnych zachowań, w tym również tych niewpisujących w prawną definicję molestowania, choć krzywdzących (Vera-Gray 2016a).

[3] Pojęciem mizoginii posłużono się zgodnie z definicją Kate Manne (2018). Definicja Manne odnosi się do mizoginii jako cechy kierowanych wobec kobiet i dziewcząt wrogich lub nienawistnych działań, postaw, praktyk, instytucji, których funkcją jest nadzorowanie i egzekwowaa nie porządku patriarchalnego, uwarunkowanego przez krzyżujące się systemy dominacji, takie jak rasizm, ksenofobia, klasizm, ageizm, transfobia czy ableizm (Manne 2018: 62–64). W tym ujęciu mizoginicznymi przejawami molestowania ulicznego są m.in. nienawistne lub wrogie działania kierowane wobec kobiet lub dziewcząt, które swoim zachowaniem bądź wyglądem nie spełniają norm lub oczekiwań wynikających z patriarchalnego porządku społecznego. Dotyczy to w szczególności sytuacji, w których kobiety kwestionują przekonanie o prawie mężczyzn do dostępu do ich intymności, uwagi czy seksualności (np. poprzez odmowę wspólnego tańca w klubie czy wyrażenie braku zainteresowania nawiązaniem znajomości).

nieprzyzwoite żarty, komentowanie wyglądu, składanie propozycji seksualnych, natarczywe próby nawiązania znajomości, obraźliwe lub wulgarne uwagi) oraz niewerbalny (np. gwizdanie, trąbienie, cmokanie, uporczywe wpatrywanie się, podążanie za kimś, gesty o charakterze seksualnym, zagradzanie drogi, zwalnianie samochodu, oblizywanie się, nagrywanie lub robienie zdjęć, obnażanie się czy publiczna masturbacja) (Logan 2015; DelGreco 2016).

Płeć jest kluczowym czynnikiem wpływającym na częstotliwość doświadczeń molestowania ulicznego, w tym zwłaszcza seksualnie sugestywnych i uprzedmiatawiających przejawów (Raj et al. 2024). Ponadto sprawcami molestowania ulicznego w przeważającej liczbie przypadków są mężczyźni (SSH 2014; FRA 2021). Z uwagi na powyższe, w niniejszym artykule molestowanie uliczne jest analizowane jako forma przemocy seksualnej i przemocy ze względu na płeć (Kelly 1988; Crouch 2009). Zachowania takie jak m.in. obraźliwe komentarze czy uporczywe wpatrywanie się są doświadczane w miejscach publicznych przez różnorodne grupy społeczne, niekoniecznie na tle seksualnym lub płciowym, jednak dynamika i motywacje stojące za nimi mogą się znacząco różnić (Fairchild 2023). Analiza molestowania ulicznego jako formy przemocy seksualnej oraz przemocy ze względu na płeć pozwala przyjrzeć się specyficznie zachowaniom, które dotychczas były nie tylko normalizowane, ale także romantyzowane – postrzegane jako podryw, flirt czy komplement (Bagiński 2025).

2. Regulacje prawne dotyczące molestowania ulicznego w Polsce

W polskim ustawodawstwie istnieją dwie bardzo podobne definicje molestowania seksualnego zawarte w art. 18^{3a} §6 kodeksu pracy[4] (Dz.U. z 2025 r., poz. 277, ze zm.) oraz w art. 3 pkt 4 ustawy o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania[5] (t.j. Dz.U. z 2025 r., poz. 1452), które zawierają elementy wskazane w art. 40 Konwencji stambulskiej (Dz.U. z 2015 r., poz. 961, ze zm.)[6]. Jednak, jak zauważyła Grupa Ekspertów do spraw Przeciwdziałania

[4] Zgodnie z art. 18^{3a} §6 kodeksu pracy: „Dyskryminowaniem ze względu na płeć jest także każde niepożądane zachowanie o charakterze seksualnym lub odnoszące się do płci pracownika, którego celem lub skutkiem jest naruszenie godności pracownika, w szczególności stworzenie wobec niego zastraszającej, wrogiej, poniżającej, upokarzającej lub uwłaczającej atmosfery; na zachowanie to mogą się składać fizyczne, werbalne lub pozawerbalne elementy (molestowanie seksualne)".

[5] Zgodnie z art. art. 3 pkt 4 ustawy o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania, przez molestowanie seksualne rozumie się: „każde niepożądane zachowanie o charakterze seksualnym wobec osoby fizycznej lub odnoszące się do płci, którego celem lub skutkiem jest naruszenie godności tej osoby, w szczególności przez stworzenie wobec niej zastraszającej, wrogiej, poniżającej, upokarzającej lub uwłaczającej atmosfery; na zachowanie to mogą się składać fizyczne, werbalne lub pozawerbalne elementy".

[6] Zgodnie z art. 40 Konwencji stambulskiej: „Strony przyjmą konieczne środki ustawodawcze lub inne środki w celu zapewnienia, by za jakąkolwiek formę niepożądanych zachowań werbalnych, niewerbalnych lub fizycznych o charakterze seksualnym, których celem lub skutkiem jest naru-

Przemocy wobec Kobiet i Przemocy Domowej (dalej: GREVIO)[7], dotyczą one molestowania seksualnego w ograniczonym kontekście (stosunków pracy i/lub zakupu towarów i usług) (GREVIO 2021: 65). Przepisy te nie znajdują zastosowania do zachowań definiowanych jako molestowanie uliczne, do których najczęściej dochodzi w otwartych miejscach publicznych oraz w miejscach tranzytu, poza kontekstem zatrudnienia, nauki czy dostępu do oferowanych publicznie usług (Janikowski 2023b: 72, 74).

Molestowanie (w tym molestowanie seksualne, molestowanie ze względu na płeć) ani molestowanie uliczne nie są *explicite* przedmiotem regulacji kodeksu karnego (Dz.U. z 2025 r., poz. 383, ze zm.; dalej: k.k.) ani kodeksu wykroczeń (Dz.U. z 2025 r., poz. 734, ze zm.; dalej: k.w.), natomiast niektóre przepisy mogą znaleźć zastosowanie do wybranych przejawów molestowania ulicznego.

Do fizycznych przejawów molestowania ulicznego, takich jak np. klepnięcie w pośladek, uszczypnięcie, obejmowanie, gładzenie po ramionach i udach, zastosowanie może znaleźć art. 217 k.k. regulujący naruszenie nietykalności cielesnej (II KK 24/21 2021; VI Ka 947/21 2022; II K 740/23 2024). Dopiero po przekroczeniu pewnego stopnia intensywności zastosowanie znajduje art. 197 §2 k.k. regulujący doprowadzenie do poddania się innej czynności seksualnej albo wykonania takiej czynności czy art. 200 §1 k.k. regulujący dopuszczanie się innej czynności wobec osoby małoletniej poniżej 15 roku życia lub doprowadzaniu jej do poddania się takim czynnościom albo do ich wykonania (Zakrzewski 2024: teza 2; Mozgawa 2025: teza 5).

W doktrynie za zasadne uznaje się wyłączenie z kategorii innych czynności seksualnych tzw. „drobnych zachowań o charakterze seksualnym", takich jak np. wymuszenie pocałunku, uszczypnięcie w pośladek czy „złapanie za kolanko" (Bielski 2017: teza 36). Kierunek ten prowadzi do ograniczenia pojęcia innej czynności seksualnej wyłącznie do zachowań odnoszących się do sfer intymnych ludzkiego ciała, przy jednoczesnym pozostawieniu możliwości zakwalifikowania takich czynów jako naruszenia nietykalności cielesnej na podstawie art. 217 k.k. (Bielski 2017: teza 36). Należy zwrócić uwagę jednak na to, że występek z art. 217 k.k. jest ścigany z oskarżenia prywatnego, co oznacza, że to na osobie pokrzywdzonej spoczywa ciężar zgromadzenia materiału dowodowego, sporządzenia aktu oskarżenia i popierania go przed sądem, co jest szczególnie utrudnione w przypadkach molestowania ulicznego. Podobny problem zachodzi w przypadku prób ścigania werbalnych i niewerbalnych przejawów molestowania ulicznego, które wyczerpują znamiona znieważenia, także ściganego z oskarżenia prywatnego (art. 216 k.k.).

Rozważając przepisy regulujące zjawisko molestowania ulicznego, należy wskazać art. 107 k.w., dotyczący złośliwego niepokojenia, art. 140 k.w., odnoszący

szenie godności osoby, zwłaszcza poprzez tworzenie atmosfery zastraszenia, wrogości, upodlenia, poniżenia lub obrazy, groziła odpowiedzialność karna lub inny rodzaj odpowiedzialności prawnej".

[7] Zgodnie z art. 66 ust. 1 Konwencji stambulskiej, Grupa Ekspertów do Spraw Przeciwdziałania Przemocy wobec Kobiet i Przemocy Domowej monitoruje postępy we wdrażaniu przez strony postanowień Konwencji.

się do nieobyczajnego wybryku, oraz art. 141 k.w., penalizujący używanie słów nieprzyzwoitych w miejscach publicznych. Jednakże, podobnie jak w przypadku czynów określonych w przepisach kodeksu karnego, regulacje te znajdują zastosowanie do molestowania ulicznego w ograniczonym zakresie (Warylewski 1999; Wala 2019: 187–194).

Należy więc zgodzić się z Jarosławem Janikowskim, który zauważył, że choć zachowania definiowane jako molestowanie uliczne są regulowane przepisami kodeksu karnego lub kodeksu wykroczeń, to „kwalifikacja ta nie będzie intuicyjna, a w konsekwencji stosowanie tych przepisów w omawianych sytuacjach będzie epizodyczne" (Janikowski 2023b: 78). To z kolei prowadzi do wniosku zaprezentowanego w raporcie GREVIO, w którym wskazano, że „dostępne drogi dochodzenia praw nie są dostosowane do przypadków molestowania seksualnego, w szczególności takich jak zachowania werbalne i niewerbalne, na przykład seksistowskie słowa, gesty lub obrazy" (GREVIO 2021: 66).

Działania władz publicznych w obszarze edukacji i profilaktyki także są ograniczone. Zjawisko molestowania ze względu na płeć oraz molestowania seksualnego w przestrzeni publicznej nie zostało uwzględnione w Krajowym Programie Działań na rzecz Równego Traktowania na lata 2022–2030, ustanowionym uchwałą z dnia 24 maja 2022 r. (M.P. z 2022 r., poz. 640). Analiza opublikowanego sprawozdania Pełnomocnika Rządu do Spraw Równości potwierdza również brak inicjatyw systemowych ukierunkowanych na przeciwdziałanie temu problemowi (Pełnomocnik Rządu do Spraw Równego Traktowania 2025). Zgodnie z rozporządzeniem z dnia 14 lutego 2017 r. (Dz.U. z 2017 r., poz. 356, ze zm.) zagadnienia związane z nierównym traktowaniem, w tym molestowaniem oraz molestowaniem seksualnym, zostały ujęte w podstawie programowej przedmiotu „edukacja zdrowotna". Jednak z uwagi na jego nieobowiązkowy charakter oraz wysoki wskaźnik osób, które zrezygnowały z uczestnictwa w przedmiocie, należy uznać, że większość uczniów i uczennic nie ma dostępu do informacji o tych zjawiskach (RPO 2025).

Powyższe wskazuje, że choć problem molestowania ulicznego jest powszechny i prowadzi do poważnych konsekwencji psychicznych, pozostaje on niewidzialny dla władzy publicznej. Dlatego istnieje potrzeba pogłębienia wiedzy na temat krzywdzącego charakteru rutynowych zachowań, takich jak molestowanie uliczne, oraz podkreślenia, że nawet pozornie „drobne zachowania o podłożu seksualnym" mają poważne skutki i prowadzą do ograniczenia uczestnictwa kobiet i dziewcząt w życiu publicznym.

3. Ramy teoretyczne

W niniejszym badaniu czerpałam z fenomenologii feministycznej na poziomie ogólnym oraz na poziomie szczegółowym z feministycznych koncepcji ucieleśnienia oraz z feministycznych ujęć przemocy seksualnej.

Na poziomie ogólnym w badaniach kierowałam się następującymi założeniami. Po pierwsze przyjęłam, że materialna rzeczywistość osoby, a w szczególności jej ucieleśnienie, warunkuje poznanie świata, kształtuje jego doświadczanie i interpretację: żywe ciało nie jest rzeczą, lecz sytuacją „naszym ujmowaniem świata i zarysem naszych projektów" (de Beauvoir 2017: 55). Dostęp do jakiejkolwiek wiedzy o świecie jest zatem możliwy poprzez analizę tego co osobiste – przeżyć konkretnych osób, usytuowanych w specyficznym kontekście społeczno-kulturowym. Oznacza to również, że usytuowanie społeczne osoby może w ramach społecznych struktur (m.in. klasy, rasy, płci) wpływać na różnorodne kształtowanie się interpretacji tych samych zdarzeń. W kontekście doświadczeń przemocy seksualnej powyższe kwestie są dobrze oddane w przykładach przywołanych przez Robin West (2000: 149):

> (…) dla mężczyzny wieczór był randką – być może niezbyt udaną, lecz z pewnością nienapawającą lękiem – dla kobiety był gwałtem i doświadczeniem naprawdę przerażającym. Podobnie to, co mężczyzna może odczuwać co najwyżej jako obraźliwe, a w najlepszym razie jako podniecające, kobieta może postrzegać jako wyniszczające, odczłowieczające, a nawet zagrażające życiu (tłum. własne).

W szczegółowej warstwie analitycznej odwołałam się do koncepcji kontinuum przemocy seksualnej Liz Kelly (1987; 1988). Kelly (1988) w toku prowadzenia empirycznych badań jakościowych dotyczących przejawów przemocy seksualnej zakwestionowała zasadność badania różnych jej form jako osobnych kategorii analitycznych, dowodząc, że są one przeżywane relacyjnie i kumulatywnie. Kontinuum przemocy seksualnej jawi się tu jako zbiór przenikających się naruszeń o zatartych granicach, z których wszystkie stanowią manifestację władzy mężczyzn, polegającej na posiadaniu roszczenia do uwagi, seksualności i intymności kobiet (Kelly 1988: 41–42). Koncepcja kontinuum przemocy seksualnej wprowadza istotną zmianę perspektywy analitycznej, pokazując, jak rutynowe zachowania, takie jak molestowanie uliczne, są przeżywane w kontekście ich możliwej eskalacji w nierutynowe przejawy przemocy seksualnej (Kelly 1988: 97–103).

Powyższe koresponduje z teoretycznym ujęciem strachu przed przemocą seksualną jako formą społecznej kontroli kobiet. Esther Madriz (1997) w trakcie wywiadów prowadzonych z mieszkankami Nowego Jorku doszła do wniosku, że strach przed przemocą seksualną, wzmacniany jej rutynowymi przejawami, jest istotnym czynnikiem wpływającym na społeczną akceptację ograniczenia pełnego udziału kobiet w życiu publicznym. Molestowanie uliczne w tym ujęciu funkcjonuje jako przypomnienie o powszechnym narażeniu kobiet na przemoc seksualną, pozycjonując je jako osoby, które, aby czuć się bezpiecznie, muszą dostosowywać swój strój, opuszczać wzrok oraz korzystać z męskiej ochrony i opieki (Mackinnon 1991; Madriz 1997).

Wpływ ograniczającego kontekstu społeczno-kulturowego na jednostkę jest możliwy do uchwycenia przy wykorzystaniu fenomenologicznej koncepcji ucieleśnienia rozwijanej przez Iris Marion Young. W eseju zatytułowanym „Rzucać

jak dziewczyna. Fenomenologia kobiecej postawy ciała, motoryczności i przestrzenności" autorka ukazuje, w jaki sposób społeczno-kulturowe mechanizmy opresji płciowej kształtują kobiece doświadczenie własnego ciała – przeżywanego jednocześnie jako podmiot i jako rzecz – prowadząc do ograniczenia swobody ruchu. Przyczyn tak kształtowanej kobiecej cielesnej egzystencji badaczka upatruje w patriarchalnych uwarunkowaniach, w których „częścią sytuacji bycia kobietą jest doświadczanie stale obecnej możliwości, że będzie się oglądaną li tylko jako ciało, kształt, sylwetka – potencjalny obiekt dla intencji i manipulacji innego podmiotu, a nie jako żywa manifestacja działania i intencji" (Young 2017: 652).

Rozwijana przez Fionę Vera-Gray (2016b; 2018) fenomenologiczna analiza wpływu molestowania ulicznego na „bycie-w-świecie" kobiet pozwala uchwycić internalizację kontrolnej funkcji molestowania ulicznego. Fiona Vera-Gray wskazuje, że doświadczenia molestowania ulicznego kształtują sposób doświadczania własnego ciała – nie jako siebie samych, lecz jako źródła potencjalnego zagrożenia, które należy monitorować i dyscyplinować (Vera-Gray 2016b: 152–153). Z czasem nawyki, takie jak skanowanie otoczenia czy unikanie kontaktu wzrokowego, tracą swój świadomy charakter, stając się bezrefleksyjnymi automatyzmami, które trwale przekształcają wiedzę cielesną podmiotu (Vera-Gray 2018: 120–126). Perspektywa fenomenologii feministycznej umożliwia z jednej strony wgląd w proces internalizacji narzuconych ram i ograniczeń, z drugiej zaś pozwala na wskazanie codziennych prób ich kontestowania oraz negocjowania wolności w przestrzenipublicznej.

Dobór opisanych powyżej ujęć teoretycznych umożliwił przybliżenie tego, w jaki sposób świadomość narażenia na molestowanie uliczne i inne formy przemocy seksualnej przy jednoczesnej obojętności otoczenia tworzą kontekst współkształtujący sposób przeżywania własnego ucieleśnienia i przestrzeni przez badanych.

4. Sposób realizacji badań i aspekty etyczne

W artykule zaprezentowałam wyniki badań własnych, stanowiących część szerszego projektu badawczego realizowanego w ramach przygotowywanej rozprawy doktorskiej. Punktem wyjścia dla analizy było pytanie o to, w jaki sposób osoby badane przeżywają i ucieleśniają doświadczenia molestowania ulicznego oraz jakie znaczenia są nadawane tym doświadczeniom przez nie same i ichotoczenie.

W okresie od grudnia 2024 roku do września 2025 roku zrealizowałam 26 pogłębionych, częściowo ustrukturyzowanych wywiadów jakościowych z osobami zamieszkującymi Warszawę oraz okoliczne powiaty – piaseczyński i grodziski.

Rekrutację do badania przeprowadziłam za pośrednictwem mediów społecznościowych, wiadomości e-mail oraz za pomocą metody kuli śnieżnej. Kryteria

wejścia do badania obejmowały: wiek od 18 do 34 lat[8], zamieszkiwanie w Warszawie lub okolicy[9] oraz doświadczenie molestowania ulicznego.

Tabela 1. Wykaz osób uczestniczących w badaniu

PŁEĆ	ORIENTACJA SEKSUALNA	WIEK	WYKSZTAŁCENIE
kobieta cispłciowa = 22	heteroseksualna = 15	18–22 = 4	wyższe = 18
mężczyzna cispłciowy = 3	biseksualna = 8	23–27 = 14	średnie z maturą = 5
osoba niebinarna = 1	homoseksualna = 2	28–31 = 8	podstawowe = 3
	queer = 1		

Źródło: Opracowanie własne.

Na etapie rekrutacji osoby zainteresowane udziałem w badaniu otrzymały napisaną prostym językiem informację o badaniu, formularz dobrowolnej zgody na udział w badaniu oraz formularz zgody na przetwarzanie danych osobowych. Po zapoznaniu się z wyżej wymienionymi dokumentami i ich akceptacją przez osoby badane przystąpiłam do realizacji wywiadów. Przed rozpoczęciem każdej rozmowy przypominałam uczestnikom o prawie do przerwania wywiadu, odmowy odpowiedzi na pytania, zmianie terminu lub rezygnacji z udziału w badaniu. Zwracałam uwagę na możliwość pojawienia się tematów wywołujących negatywne emocje oraz monitorowałam przebieg rozmowy, reagując w razie potrzeby i proponując przerwy. Każdy wywiad rozpoczynał się i kończył podsumowaniem praw osób uczestniczących, omówieniem procedur gwarantujących anonimowość oraz przekazaniem informacji o dostępnych formach wsparcia psychologicznego i prawnego. Wywiady trwały od jednej do dwóch godzin i były przeprowadzane stacjonarnie z jednym wyjątkiem, kiedy wywiad został przeprowadzony za pośrednictwem narzędzia Google Meets. Wywiady były nagrywane na dyktafon za zgodą osób uczestniczących w badaniu, a następnie samodzielnie transkrybowane i anonimizowane na etapie transkrypcji. Po zakończeniu transkrypcji nagrania były trwale usuwane.

Podczas wywiadów prosiłam osoby uczestniczące o podzielenie się refleksjami na temat doświadczeń molestowania ulicznego, ich konsekwencji, dostrzeganych potrzeb i barier związanych z zaspokojeniem ich poczucia sprawiedliwości. Pytania zawarte w scenariuszu zostały zaprojektowane z uwzględnieniem perspektywy fenomenologicznej i miały charakter otwarty, skłaniający do pogłębionej autorefleksji. Uwzględniały temporalność doświadczeń, ich reinterpretację, reakcje cielesne oraz doświadczenia wymykające się binarnym kategoriom molestowania i flirtu.

[8] Osoby w młodym wieku są szczególnie narażone na doświadczenia molestowania uliczn ego (FRA 2021; Vacas, Tétaz 2021).

[9] Molestowanie uliczne najczęściej jest obserwowane w gęsto zaludnionych aglomeracjach miejskich (Janikowski 2023a) oraz w lokalizacjach z infrastrukturą przyjazną dla pieszych (El-Sherief, Belding 2015).

Wywiady przeprowadzałam z dużą uważnością na nieuniknioną dynamikę władzy wpisaną w sytuację badania. Kierując się podejściem Ann Oakley (2005), traktowałam wywiad jako formę rozmowy, w której scenariusz pełnił funkcję przewodnika, dopuszczając jednocześnie komentarze, dygresje i przesunięcia narracyjne, inicjowane przez uczestników. Proces generowania danych rozumiałam jako sytuacyjnie współkonstruowany i osadzony w relacji badawczej, która była jednocześnie bliska i asymetryczna. Moja rola obejmowała zarówno aktywne uczestnictwo w relacji badawczej, jak i odpowiedzialność za późniejszą interpretację zgromadzonego materiału empirycznego.

Moja bliskość wobec osób badanych, wynikająca zarówno z podobieństwa wieku, jak i – w większości przypadków – płci, współkształtowała przebieg spotkań badawczych. Sprzyjała dzieleniu się ucieleśnionymi i emocjonalnymi wymiarami doświadczeń, które często pozostają trudne do uchwycenia. Jednocześnie ta bliskość wymagała ode mnie stałej refleksyjności nad tym, w jaki sposób moja obecność wpływa na kształtowanie narracji, którą praktykowałam poprzez prowadzenie dziennika badawczego oraz systematyczną analizę zawartych w nim wpisów.

5. Analiza tematyczna

Zgromadzony materiał empiryczny poddałam analizie tematycznej ukierunkowanej na uchwycenie sposobów przeżywania i ucieleśniania doświadczeń molestowania ulicznego oraz znaczeń nadawanych tym doświadczeniom przez osoby badane i ich otoczenie, przez pryzmat feministycznych koncepcji ucieleśnienia oraz feministycznych ujęć przemocy seksualnej.

Proces interpretacji materiału empirycznego postrzegam jako integralny element analizy tematycznej, rozpoczynający się już na etapie zapoznawania się z danymi i obecny na każdym kolejnym etapie analizy, a następnie rozwijany oraz kształtowany w procesie pisania. W ramach feministyczno-fenomenologicznego podejścia interpretacja danych nie służy ustaleniu jednej „prawdy" o doświadczeniu molestowania ulicznego, lecz identyfikacji intersubiektywnych wzorców pojawiających się w zróżnicowanych, ucieleśnionych doświadczeniach osób badanych oraz ich osadzeniu w szerszych strukturach teoretycznych i społeczno-kulturowych. Jednocześnie na każdym etapie towarzyszyła mi świadomość, że interpretacja nigdy nie odbywa się z pozycji neutralnego obserwatora, a moje usytuowanie teoretyczne i osobiste wyznacza ramy tego procesu. Refleksyjność wobec własnej pozycji, doświadczeń oraz reakcji emocjonalnych stanowiła zatem kluczowy element procesu badawczego.

Metodę refleksyjnej analizy tematycznej wybrałam ze względu na jej elastyczność teoretyczną (Braun, Clarke 2022). Podejście to umożliwiło wyodrębnienie wspólnych wzorców obecnych w indywidualnych doświadczeniach osób badanych,

a także ich interpretacyjne osadzenie w ramach feministycznej fenomenologii oraz feministycznych badań nad przemocą seksualną. Elastyczność teoretyczna pozwoliła w niniejszym badaniu uchwycić złożony charakter doświadczeń molestowania ulicznego, zarówno na poziomie ich ucieleśnionego przeżycia, jak i w wymiarze ich społeczno-kulturowych uwarunkowań. Analiza obejmowała zatem zarówno poziom semantyczny, jak i latentny, co było kluczowe dla interpretacji znaczeń nadawanych doświadczeniom molestowania ulicznego przez osoby badane.

Analizę materiału empirycznego rozpoczęłam od „zanurzenia się" w danych badawczych – słuchania nagrań wywiadów, wielokrotnej lektury transkrypcji oraz sporządzania wstępnych refleksji i notatek analitycznych. Początkowe obserwacje i interpretacje koncentrowały się na znaczeniach semantycznych obecnych w narracjach osób badanych, ze szczególnym uwzględnieniem emocjonalnego wymiaru ich wypowiedzi. W trakcie wstępnego zapoznawania się z danymi doświadczałam również własnych reakcji emocjonalnych. Mając świadomość, że niektóre fragmenty wywiadów przywoływały skojarzenia z moimi doświadczeniami lub doświadczeniami osób mi bliskich, zachowywałam refleksyjność wobec wpływu własnej subiektywności na proces interpretacji materiału empirycznego.

Kolejny etap analizy obejmował systematyczne kodowanie transkrypcji. W jego trakcie zaobserwowałam, że często automatycznie realizowane strategie unikania molestowania ulicznego są silnie osadzone w narracjach dotyczących odpowiedzialności kobiet za zapewnianie sobie bezpieczeństwa. W związku z tym uznałam, że pogłębiona interpretacja materiału wymaga uwzględnienia nie tylko poziomu semantycznego, lecz także znaczeń latentnych. Proces kodowania miał charakter zintegrowany i łączył podejście indukcyjne oraz dedukcyjne, umożliwiając identyfikację zarówno jawnych, jak i ukrytych znaczeń odnoszących się do feministycznych koncepcji przemocy seksualnej oraz feministycznych koncepcji ucieleśnienia.

Opracowane kody zgrupowałam następnie wokół wspólnych znaczeń, tworząc wstępne tematy. Proces ten miał charakter iteracyjny i był poddawany wielokrotnej weryfikacji, aż do uzyskania spójnych, wewnętrznie zróżnicowanych i analitycznie wyczerpujących kategorii. W trakcie analizy i konstruowania tematów uwzględniałam zróżnicowanie płciowe próby, poszukując zarówno podobieństw, jak i różnic w doświadczeniach osób badanych. Było to istotne zwłaszcza w kontekście nadreprezentacji kobiet w materiale empirycznym.

Przedstawione poniżej zagadnienia ujęłam w ramach nadrzędnego tematu dotyczącego doświadczenia molestowania ulicznego oraz reakcji otoczenia. W jego obrębie wyróżniłam następujące tematy: kontinuum molestowania ulicznego, negocjowanie wolności kosztem bezpieczeństwa, normalizacja oraz bariery.

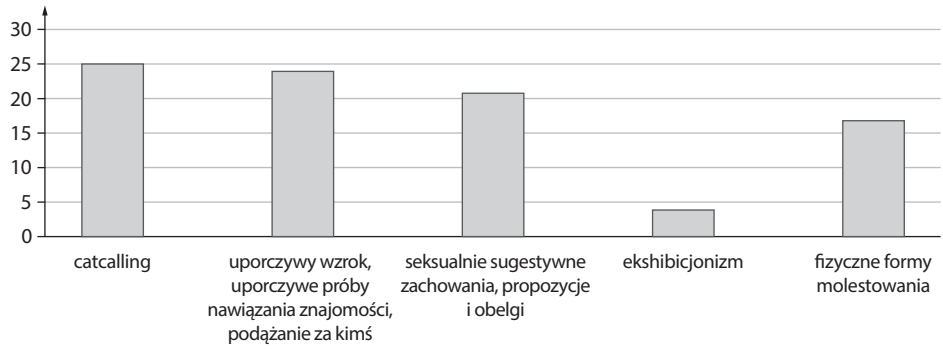
6. Kontinuum molestowania ulicznego

Molestowanie uliczne było przez badanych opisywane jako zbiór zachowań werbalnych, niewerbalnych i fizycznych. Początek molestowania ulicznego identyfikowano już w uporczywym wpatrywaniu się, wypowiedziach seksualizujących (np. „Ładne nogi!"), uprzedmiatawiających (np. „Taka ładna, a się nie uśmiecha!"), a jako najbardziej drastyczne przejawy wskazywano ekshibicjonizm oraz fizyczne przejawy molestowania ulicznego – niechciany dotyk i inne czynności seksualne.

> Dla mnie to zaczyna się już w momencie, kiedy czujesz bardzo nieprzyjemny wzrok na sobie, to jest bardzo konkretne uczucie, że trochę coś cię mierzi, trochę czujesz się po pierwsze oglądana, a po drugie oceniana i zazwyczaj jest to niekomfortowe. Ostatni etap to jest już przemoc fizyczna i to agresywna przemoc seksualna. No tak, to jest ta skala (Ela, 27 lat).

Najwięcej badanych zadeklarowało doświadczenie choć raz w życiu: catcallingu[10] (n= 25), uporczywego wzroku, uporczywych prób nawiązania znajomości, podążania za kimś (n=24), seksualnie sugestywnych zachowań, propozycji seksualnych i obelg (n=21). Mniejsza liczba osób doświadczyła fizycznych przejawów molestowania ulicznego (n=17) oraz obnażania się i publicznej masturbacji (n=4).

Wykres 1. Liczba badanych, którzy co najmniej raz w życiu doświadczyli jednej z poniższych form molestowania ulicznego



Źródło: Opracowanie własne.

Wymienione wyżej kategorie przejawów molestowania ulicznego w sytuacjach przytoczonych przez badanych często przenikały się – uporczywe wpatrywanie się czy niewinny komplement płynnie przekształcały się w podążanie za kimś, obelgi czy fizyczne przejawy molestowania ulicznego. Jedną z takich sytuacji przywołała Kinga, która podczas wyjścia do klubu doświadczyła niechcianego dotyku:

[10] Catcalling definiowany jest jako komentarze przypominające komplementy lub próby nawiązania znajomości, a także cmokanie, gwizdanie czy trąbienie.

> Był taki facet, którego w ogóle nie znałam i nie tańczyliśmy razem, ale bardzo się do nas przyczepił i chodził za nami cały czas, w ogóle nie rozmawialiśmy, on po prostu za nami cały czas chodził. W pewnym momencie jak przechodziłyśmy, to on przechodził z drugiej strony i stanął tak bokiem, niby chcąc mnie przepuścić i wypiął się, ocierając się o mnie. To mnie tak oburzyło, miałam 15 lat, więc wydaje mi się, że to było moje takie pierwsze zderzenie z tym, że faktycznie ktoś mnie wykorzystał w jakiś sposób (Kinga, 23 lata).

Na przykładzie sytuacji opisanej przez Kingę widać, że w praktyce granice między poszczególnymi formami molestowania ulicznego mają charakter nieprzewidywalny i płynny. To sprawia, że osoby doświadczające tych sytuacji nie mogą w trakcie ich trwania przewidzieć ich dalszego przebiegu ani potencjalnej eskalacji. W perspektywie kontinuum przemocy seksualnej molestowanie uliczne można rozumieć jako proces obejmujący przenikające się formy zachowań werbalnych, niewerbalnych i fizycznych, którego początek sytuuje się już na poziomie budzącego dyskomfort wpatrywania się lub podążania za kimś. Zachowania te w niektórych przypadkach eskalują do bardziej jawnych form molestowania ulicznego, takich jak niechciany dotyk, a w innych przypadkach pozostają w sferze zdarzeń trudnych do jednoznacznego nazwania, często opisywanych jako sytuacje, w których „nic się nie stało" (Kelly, Radford 1990).

Wiele badanych kobiet przywoływało w swoich wypowiedziach niejednoznaczne incydenty, w których doświadczały poczucia zagrożenia, jednak ze względu na brak dalszej eskalacji retrospektywnie określały je jako sytuacje, w których „nic się nie stało". Alicja opisuje jedną z takich sytuacji, kiedy to została zaczepiona na ulicy przez nieznajomego mężczyznę, który następnie zaczął za nią podążać. Choć interakcja nie eskalowała, więc „nic tam się nie wydarzyło", to jednak na poziomie subiektywnym doświadczenie to zostało przez nią zinterpretowane jako realne zagrożenie, skutkujące podjęciem konkretnych działań zapobiegawczych.

> Nic tam się nie wydarzyło. Naprzeciwko, akurat szli moi znajomi. Tamci nas minęli, nic się nie stało i najprawdopodobniej też nic by się nie stało, ale dużo strachu tam jest. Tak, więc no. Już wiesz, odwracałam się, ale tak, żeby on nie zauważył, że ja się odwracam. Już dziewczynę moją na bok przysuwałam, szukałam miejsca, patrzyłam, czy są inni ludzie naokoło (Alicja, 23 lata).

Powyższe pokazuje, że możliwość eskalacji determinuje sposób postrzegania sytuacji, do tego stopnia, że brak jej urzeczywistnienia sprawia, że subiektywnie doświadczone zagrożenie traci status realnego zdarzenia. Nadawanie znaczenia doświadczeniom molestowania ulicznego w perspektywie możliwości ich eskalacji ujawnia powiązania zarówno pomiędzy różnymi zachowaniami, mieszczącymi się w obrębie samego molestowania ulicznego, jak i między molestowaniem ulicznym a innymi formami przemocy seksualnej. Tego rodzaju interpretacje wskazują, że poszczególne incydenty nie są postrzegane jako odizolowane zdarzenia, lecz jako elementy szerszego kontinuum przemocy seksualnej.

Dla Hanny, która została zapytana przez kierowcę, czy wejdzie do samochodu i dokona na nim innej czynności seksualnej, doświadczenie to było jednocześnie „tylko pytaniem" i uniknięciem innych form przemocy seksualnej.

> Tutaj ja zostałam tylko zapytana, tak? I mogłam powiedzieć „nie" albo nic nie powiedzieć, bo ja nic nie powiedziałam. Ale nigdy nawet nie wyobrażałam sobie, że tak jak mama mnie ostrzegała: „uważaj, bo ktoś cię wciągnie do auta", to nie wyobrażałam sobie, że w ogóle takie sytuacje mogą mieć miejsce. A później faktycznie już zdałam sobie sprawę, że jest to możliwe i coś zostało do mnie powiedziane. Ale mogło być troszeczkę inaczej – tak, że ktoś faktycznie mógł wysiąść do mnie z tego samochodu i mnie w nim zamknąć albo zrobić mi krzywdę po prostu tam przy drodze. I miałam później przez dłuższy czas taki strach przed chodzeniem na autobus (Hanna, 23 lata).

Hanna, nadając sens temu doświadczeniu, interpretuje je jednocześnie jako werbalne naruszenie i uniknięcie niebezpieczeństwa kryminalizowanych form przemocy seksualnej. Choć została „tylko zapytana", to sytuacja ta sprawiła, że zachowania, w które pytanie mogło eskalować, stały się dla niej realną potencjalnością, zmieniając jej sposób funkcjonowania w przestrzeni publicznej. Na tym przykładzie można dostrzec, że siła oddziaływania molestowania ulicznego jest osadzona w świadomości realnego ryzyka doświadczenia różnych zachowań sytuujących się na kontinuum przemocy seksualnej. Kobiety nadają im sens odnosząc pojedyncze incydenty zarówno do wcześniejszych doświadczeń – własnych i cudzych – jak i do możliwości dalszej eskalacji zdarzeń. To wspólnie kształtuje kontekst towarzyszącej kobietom potencjalności doświadczenia przemocy seksualnej w różnych jej formach, w ramach którego nawigują przestrzeń publiczną. Ilustruje to poniższa wypowiedź Zofii:

> No, multum takich sytuacji było. Więc my teraz, jak gdzieś wychodzimy i ktoś się krzywo spojrzy, my już wszystkie bojowo nastawione: „dawaj, podchodź". My już wszystkie jak z pazurami po prostu wystawionymi. Bo już szczerze mówiąc, ja wolę zareagować za bardzo, niż nie reagować wcale. Bo to jest, no trzeba po prostu. Ja też się, no powiem, bo ja się boję. Ja też znam swoje możliwości, znam swoją siłę. Ja też trenowałam jakiś czas. Jestem silną kobietą, ale nie poradzę sobie z facetem, który jest dwa razy większy ode mnie, po prostu. Albo nie daj Boże z dwójką, więc zawsze, jak gdzieś wychodzimy, to co najmniej dwie, trzy osoby. I się trzymamy razem (Zofia, 18 lat).

Brak odniesienia do potencjalności doświadczenia przemocy seksualnej odróżniał znaczenia przypisywane molestowaniu ulicznemu przez mężczyzn od sposobu, w jaki interpretowały je kobiety. W przypadku mężczyzn molestowanie uliczne wywoływało niepokój, zakłopotanie i dyskomfort, jednak doświadczenia te były przeżywane w oderwaniu od obecnego w kobiecych interpretacjach szerszego kontekstu wszechobecnego zagrożenia przemocą seksualną.

> Ja myślę też, że w takim kontekście tym... mężczyzna z mężczyzną homoseksualnym, homoseksualni mężczyźni, że to zagrożenie zupełnie inaczej wygląda. Że ono się

> trochę jednak zatrzymuje na tym wlepianiu spojrzeń, tak? I na takim obczajaniu, na takiej ocenie, na takim rozbieraniu trochę oczami. Myślę, że to się często na tym zatrzymuje (Leon, 28 lat).

Badani mężczyźni dostrzegali rozbieżność w znaczeniach, jakie niejednoznaczne sytuacje – np. bycie śledzonym – niosą dla nich, a jakie dla kobiet. Zauważali oni, że kobiecemu doświadczeniu towarzyszy stała świadomość potencjalnej przemocy seksualnej, podczas gdy w ich własnym przypadku ewentualna eskalacja analizowana jest niemal wyłącznie w kategoriach agresji fizycznej. Różnicę tę ilustruje wypowiedź Tomasza, który odnosi się do incydentu podążania za nim:

> Kurczę, ja bałem się, że zęba mi ktoś wybije, ale nie bałem się, że mnie ktoś zgwałci. Co uważam, że to już jest w ogóle, wiesz, no takim aktem mega niszczącym psychikę, oprócz tego, że jest aktem fizycznym, nie? (Tomasz, 32 lata).

Analiza molestowania ulicznego w perspektywie kontinuum przemocy seksualnej pozwala uchwycić zróżnicowanie sposobów nadawania im znaczeń przez kobiety i mężczyzn. W przypadku kobiet doświadczenia te są częściej sytuowane na kontinuum przemocy seksualnej i analizowane pod kątem ich eskalacji. Taka interpretacja wynika z doświadczania molestowania ulicznego nie jako pojedynczych, odizolowanych incydentów, lecz w sposób kumulatywny – poprzez wzajemne powiązanie poszczególnych zdarzeń oraz ich osadzenie w kontekście realnego zagrożenia innymi formami przemocy seksualnej. Z kolei w przypadku mężczyzn molestowanie uliczne częściej bywa interpretowane jako zjawisko incydentalne i sytuacyjne, rzadziej powiązane z innymi przejawami przemocy seksualnej. Ocena ryzyka potencjalnej eskalacji zachowań trudnych do jednoznacznej klasyfikacji jak np. podążanie za kimś, jeśli jest dokonywana przez mężczyzn, to pod kątem doświadczenia przemocy fizycznej.

Podobne zależności zaobserwowano w badaniach Sarah Bastomski i Philipa Smitha (2016), w których wykazano, że doświadczenia molestowania ulicznego wśród kobiet i dziewcząt znacznie częściej wiążą się z poczuciem lęku, niż w przypadku mężczyzn. Jako wyjaśnienie tego zjawiska badacze wskazali na wyższą częstotliwość zdarzeń dotykających kobiety, odmienną specyfikę incydentów oraz różnice w procesie socjalizacji (Bastomski, Smith 2016: 85). Rozbieżności w nadawaniu przez badanych znaczeń doświadczeniom molestowania ulicznego wpisują się również w formułowaną przez Kenneth Ferraro (1996) hipotezę cienia napaści seksualnej (ang. *shadow of sexual assault*). Sugeruje ona, że kobiety odczuwają wyższy niż mężczyźni poziom lęku przed różnymi zagrożeniami, ponieważ strach przed zgwałceniem rzuca cień na inne formy wiktymizacji (w tym molestowanie uliczne) i jawi się jako potencjalny finał każdego, nawet rutynowego, aktu przemocy (Fairchild, Rudman 2008).

Przywołane tu zagadnienia zaczynają ukazywać, w jaki sposób tło narażenia na molestowanie uliczne stanowi kontekst, w ramach którego badani przeżywają i interpretują własne doświadczenia. W dalszej części tekstu zagadnienie to zostanie poddane bardziej szczegółowej analizie.

7. Negocjowanie bezpieczeństwa kosztem wolności

Badani wskutek doświadczenia molestowania ulicznego zmieniali sposób przebywania w miejscach publicznych, wdrażając strategie aktywnego zarządzania ryzykiem, które choć powodowały wzrost poczucia bezpieczeństwa, to jednocześnie ograniczały wolność działania. Jest to widoczne między innymi w wypowiedzi Amelii, która po doświadczeniu fizycznego molestowania w komunikacji miejskiej zauważyła, jak wiele strategii podejmuje, aby zapewnić sobie bezpieczeństwo w miejscach publicznych.

> Nie wsiadam do zatłoczonego tramwaju, przechodzę na pasach jako ostatnia, żeby nikt nie szedł za mną i żeby nie iść w tłumie. Nie siadam na siedzeniach w komunikacji miejskiej, jeśli ktoś może usiąść za mną, czyli zawsze stoję plecami tak, żeby widzieć wszystko, zawsze od przodu, czyli tu, gdzie jest kierowca, zawsze wśród ludzi i po tej sytuacji – zawsze wśród kobiet, unikam kompletnie mężczyzn. Jeżeli nikogo nie ma w komunikacji, to nie mogę tam wsiąść, bo nie wiadomo, co się wydarzy (Amelia, 30 lat).

Podejmowane przez badanych działania wpisywały się w strategie zapewnienia bezpieczeństwa w miejscach publicznych: izolację (zapobieganie wiktymizacji poprzez niewystawianie się na ryzyko – np. unikanie pustych wagonów tramwajowych) oraz aktywne zarządzanie ryzykiem (ograniczenie ryzyka w sytuacjach narażenia na niebezpieczeństwo – np. siadanie w komunikacji publicznej obok kobiet) (Riger, Gordon 1981).

Wdrażanie tych mechanizmów, choć przyczyniało się do wzrostu subiektywnego poczucia bezpieczeństwa, jednocześnie ograniczało zakres i sposób poruszania się w przestrzeni publicznej. Zmiana ta stawała się szczególnie dotkliwa, gdy do molestowania dochodziło w okolicznościach dotychczas postrzeganych jako bezpieczne. Strategie prewencyjne, podejmowane przez wiele uczestniczek w sytuacjach uprzednio definiowanych jako podwyższonego ryzyka (np. po zmroku, w lokalach rozrywkowych czy w taksówkach), pod wpływem kolejnych doświadczeń przemocy seksualnej rozszerzały się na nowe sfery życia. W konsekwencji obszar, w którym badane mogły poruszać się bez konieczności stałej oceny ryzyka i podejmowania działań ochronnych, ulegał stopniowemu zawężeniu, co często interpretowano w kategoriach bolesnej straty.

> Miałam takie uczucie, że ktoś mi w jeden dzień odebrał moje miasto, które kochałam, w którym czułam się bezpiecznie, dobrze. I ktoś w jeden dzień, w jedną chwilę mi to zabrał. Ja nie chciałam już po prostu tu żyć, to jest moje miasto, a ja nie chciałam w nim być. Jeszcze to się stało w mojej dzielnicy, to się stało na mojej ulicy! (Amelia, 30 lat).

Podobne emocje towarzyszyły wielu uczestniczkom oraz niektórym uczestnikom badania – m.in. Layli, która po incydencie ekshibicjonizmu zrezygnowała z biegania po lesie, Leonowi, który z obawy przed zaczepkami przestał wychodzić na podwórko, Zofii, która po doświadczeniu śledzenia przestała wychodzić

sama na spacery oraz Kindze, która zrezygnowała z jazdy na rolkach po tym, jak nieznajomy mężczyzna przez kilka tygodni uporczywie próbował nakłonić ją do wspólnego wyjścia na randkę.

> Miałam wtedy ogromną frajdę z jeżdżenia na tych rolkach i było to dla mnie takie strasznie po prostu smutne, że ja muszę zrezygnować z czegoś, z własnej przyjemności, żeby czuć się bezpieczną, bo ktoś sobie obrał mnie jako cel i bardzo chce do mnie dotrzeć (Kinga, 23 lata).

Ograniczanie wolności badanych w celu zwiększenia ich poczucia bezpieczeństwa było szczególnie widoczne w przypadku zmian wizerunku wynikających z doświadczeń molestowania ulicznego. Wiele uczestniczek badania, w następstwie takich doświadczeń, modyfikowało sposób prezentowania się w przestrzeni publicznej na mniej konwencjonalnie kobiecy – zarówno w sposób stały, jak i sytuacyjnie, w zależności od kontekstu. Mówi o tym między innymi Antonina, która po licznych doświadczeniach molestowania ulicznego zmieniła sposób prezentowania się w miejscach publicznych:

> Nie noszę dekoltów i też unikam obcisłych ubrań, raczej. I np. zdarza mi się, że jak wyjdę w czymś i czuję, że sporo mężczyzn zwraca na mnie uwagę w danym stroju, to ja później nie chcę w nim chodzić i czeka w szafie, czasem się doczekuje kolejnego momentu, a czasem się go nie doczeka. Także unikam takich ubrań, bo kojarzą mi się po prostu i myślę: „a dobra to jest mój pechowy strój i w tym już nie wychodzę". Też w makijażu czy czegoś unikam. Był taki moment, że unikałam bardzo malowania ust, bo dostałam kiedyś taką litanię komentarzy na temat czerwonych ust, więc był długi okres czasu, że w ogóle nie malowałam ust i dopiero teraz się do tego przekonuję, żeby znowu malować usta (Antonina, 24 lata).

Z czasem ocena ubrań pod kątem ich bezpieczeństwa przestawała być świadomą decyzją, a stawała się odruchem. Widać to między innymi w poniższej wypowiedzi Barbary:

> W sensie, że jeżeli byłoby tak, że na przykład, wiem, że miałabym wracać gdzieś tam po nocy i tak dalej, to niekoniecznie może ubrałabym się w spódnicę i w szpilki. Myślę, że bym to zrobiła nawet nie na tym poziomie świadomym, tylko gdzieś tam rozważałabym to tak: „a może jednak w dżinsach będzie mi lepiej", ale nie lepiej, tylko będzie mi bezpieczniej w mojej głowie. No to wpływa trochę na to, jak się ubieram, bo jak idę z moim partnerem gdzieś, to w ogóle o tym nie myślę, absolutnie w ogóle (Barbara, 28 lat).

Badane wyrażały przekonanie, że elementy ubioru i cechy wyglądu tradycyjnie kojarzone z kobiecością, jak dekolt, spódnica, buty na obcasach czy pomalowane usta, mogą powodować zwiększone ryzyko doświadczenia molestowania ulicznego. Powyższe może prowadzić do wniosku, że samo kobiece ucieleśnienie było przez nie przeżywane jako źródło niebezpieczeństwa. Jest to widoczne m.in. w wypowiedzi Felicji, która wskazywała, że zarówno poprzez ubiór, jak i w niektórych

przypadkach poprzez zmianę postawy ciała dążyła do ograniczenia widoczności kobiecych cech, aby uniknąć doświadczenia molestowania ulicznego.

> Od tego czasu przez rok nigdy nie zdarzyło mi się mieć nawet w lato tylko jednej warstwy i być bez stanika, nawet jak szłam i ktoś mnie mijał, to się zginałam tak, żeby nie było widać mojego biustu, bo ten komentarz tak ze mną został. On był tak ordynarny i tak obrzydliwy, też to była siódma rano! (Felicja, 26 lat).

Choć przyjęta strategia zwiększała jej poczucie bezpieczeństwa, jednocześnie była przez nią kontestowana i postrzegana jako narzucone ograniczenie swobody funkcjonowania w przestrzeni publicznej, sugerujące, że kobiecość jest cechą niebezpieczną, wymagającą ochrony i ukrycia.

> Co ja teraz muszę ukrywać? Czy to jest mój obowiązek, żeby nie urazić nikogo albo nie narazić się na molestowanie, to ja muszę się chronić, muszę nosić ciasny stanik, żeby nie było widać, że mam biust, że jestem kobietą, że jestem człowiekiem, który ma ciało? (Felicja, 26 lat).

Wypowiedź Felicji odsłania towarzyszące wielu uczestniczkom badania napięcie między potrzebą zapewnienia sobie bezpieczeństwa a złością wynikającą z poczucia obciążenia odpowiedzialnością za skuteczne unikanie przemocy seksualnej poprzez ograniczanie własnej widoczności jako kobiety, jako „człowieka, który ma ciało".

Dla niektórych badanych, należących do grup mniejszościowych, osiągnięcie niewidoczności w przestrzeni publicznej było znacznie utrudnione. Odnosi się do tego między innymi Weronika:

> No i właśnie też takie teksty rzucane, że „o jakie seksowne dziewczynki" i tak dalej parę razy. No i też zawsze wchodziłam w taką rolę trochę, że jakby ja to ogarniałam, że tak powiem. To też pozwalało mi trochę się odciąć od tej sytuacji. Ale... no to było dosyć nieprzyjemne bardzo. No właśnie, że też tak trochę podważało nasz związek, nasze po prostu bycie w miejscu publicznym, jako para, jako kobiety (Weronika, 18 lat).

Strategie stosowane przez badanych – od monitorowania otoczenia, przez dobór ubrań, po zmianę postawy ciała – są osadzone w postrzeganiu własnego ciała z perspektywy zewnętrznej, jako obiektu, który wymaga monitorowania i ochrony. Proces ten opisuje Iris Marion Young (2017), wskazując, że w patriarchalnym społeczeństwie kobiety są definiowane jako obiekty, co kształtuje ich doświadczenie własnego ciała jako jednocześnie żywej manifestacji działania i intencji oraz jako przedmiotu, który może stać się obiektem manipulacji, oceny i działań innych osób, a tym samym wymaga ochrony. Potencjalne ryzyko uprzedmiotowienia sprawia, że ciało jest doświadczane jednocześnie jako źródło sprawczości i wolności oraz jako rzecz wymagająca stałego monitorowania i ochrony, co powoduje ograniczone ruchy kobiet. Jak zauważa Young: „Otworzyć swoje ciało na swobodną aktywność i zwiększanie zasięgu oraz śmiałe ukierunkowanie wprzód znaczy dla kobiety zachęcać do uprzedmiotawiania" (Young 2017: 652).

Wypowiedzi badanych wskazują, jak istotną rolę w tym procesie odgrywały doświadczenia molestowania ulicznego, które wpływały na wdrażane przez nie praktyki „hamowania własnego ciała" (Young 2017: 651). Ilustruje to także wypowiedź Moniki, która po doświadczeniu fizycznej formy molestowania w komunikacji miejskiej zmieniła sposób układania swojego ciała.

> A nagle to się wydarzyło i dochodzi do kolekcji rzeczy, które się mogą wydarzyć i na które też trzeba być wyczulonym i uważać, nawet w takich pozornie bezpiecznych okolicznościach. Do tej pory mam ten odruch, że jak się przyłapię na tym, że siedzę inaczej, to z automatu prewencyjnie zabieram rękę i siedzę normalnie (Monika, 26 lat).

Działania ukierunkowane na unikanie doświadczeń molestowania ulicznego z czasem zaczynają więc funkcjonować przedrefleksyjnie, jako ucieleśnione rozumienie określonych sytuacji, ujawniające się w interakcji z otoczeniem (Vera-Gray, Kelly 2020). Wypowiedzi badanych ukazują tym samym rolę molestowania ulicznego w procesie ucieleśniania hamowania własnych ruchów oraz monitorowania swojego ciała.

Wpływ sposobu prezentowania się w sposób bardziej stereotypowo kobiecy na poczucie bezpieczeństwa w przestrzeni publicznej był również dostrzegalny w wypowiedziach osób, które na różnych etapach życia zmieniały swój styl ekspresji płciowej. Zmiany te wiązały się ze wzrostem niechcianej uwagi ze strony mężczyzn, co często prowadziło do ograniczenia dotychczas podejmowanych aktywności.

> Wcześniej nosiłam ciuchy, które były bardziej męskie i teraz to się zmieniło. Widzę, jak bardzo to zmienia moje funkcjonowanie w przestrzeni publicznej, bardziej przyciągam uwagę facetów niż wcześniej. Kiedyś miałam takie „może mnie ktoś weźmie za chłopaka w sumie albo coś" i to mi dawało więcej poczucia bezpieczeństwa. Widzę to konkretnie, że teraz się bardziej boję gdzieś iść, jak jest ciemno i jestem sama (Helena, 26 lat).

Mężczyźni rzadziej niż kobiety stosowali strategie minimalizacji ryzyka doświadczenia molestowania ulicznego, a dostrzegalny kontrast między poczuciem bezpieczeństwa mężczyzn i kobiet w przestrzeni publicznej był postrzegany jako przywilej:

> W weekendy praktycznie nie widziałem kobiet, nawet na spacerze z psami. A jeżeli już gdzieś widziałem kobiety w weekendy, to przez chwilę myślałem, że to jest przymykający jelonek, czy coś tego typu, bo to było dosłownie, wiesz, pojawiała się ta osoba znikąd i do Ubera, jakby do jakiejś taksówki, tak? Nagle, wiesz, jakby też w jakimś takim przerażeniu większość z nich funkcjonuje w nocy (Kamil, 30 lat).

Opisane powyżej obserwacje wpisują się w to, co opisywały Jill E. Yavorsky i Liana Sayer (2013), wskazując, że kobiety transpłciowe, choć socjalizowane jako mężczyźni, po przejściu tranzycji odczuwały zwiększony strach przed doświadczeniem przemocy seksualnej w miejscach publicznych. Kluczowym elementem pogłębienia tego strachu było zwiększenie niechcianej uwagi ze strony mężczyzn

w miejscach publicznych: „uczestniczki badania przestały być postrzegane jako po prostu osoby poruszające się w przestrzeni publicznej; ich ciała (lub ich części) zostają zredukowane do obiektów 'cenionych przede wszystkim ze względu na ich użyteczność bądź możliwość konsumpcji przez innych'" (Yavorsky, Sayer 2013: 526). Podobną zależność zauważyły Bianca Fileborn i Sophie Hindes (2023), wskazując, że transpłciowi mężczyźni po dokonaniu tranzycji czuli się bezpieczniej w miejscach publicznych, choć zwiększone poczucie bezpieczeństwa było uwarunkowane postrzeganiem ich jako osób cispłciowych i heteroseksualnych.

Wskazane konsekwencje molestowania ulicznego przybliżają jego uwikłanie w strukturalne nierówności płciowe. Osoby prezentujące się w sposób kulturowo kodowany jako kobiecy negocjują swoją wolność i bezpieczeństwo w warunkach wiedzy o własnych i cudzych doświadczeniach molestowania ulicznego oraz innych form przemocy seksualnej, w które zachowania te mogą się przerodzić. Doświadczenia te wpływają na postrzeganie swojego ciała z zewnątrz jako obiektu oceny i manipulacji innych, który wymaga ochrony i monitorowania. Podejmowane w tym celu działania prewencyjne, choć powodują wzrost poczucia bezpieczeństwa, to prowadzą do ograniczenia swobody w realizacji codziennych aktywności – w tym również na przedrefleksyjnym poziomie hamowania ruchów własnego ciała. Doświadczenie konieczności redukowania własnej autonomii w imię bezpieczeństwa bywa początkowo kontestowane i interpretowane jako forma utraty lub ograniczenia wolności. Z czasem jednak praktyki te często ulegają internalizacji, stając się zintegrowanym elementem codziennych rutyn i schematów działania (Vera-Gray 2016b: 166).

Proces ten dodatkowo wzmacniany jest przez reakcje otoczenia, które nierzadko normalizują, a niekiedy również romantyzują zjawisko molestowania ulicznego – z jednej strony traktując je jako zwyczajny element doświadczenia w przestrzeni publicznej, z drugiej zaś jako potencjalne zagrożenie, na które osoby prezentujące się kobieco powinny być permanentnie przygotowane.

8. Normalizacja

Osoby badane, dzieląc się swoimi doświadczeniami z otoczeniem, często były przekonywane o komplementującym charakterze molestowania ulicznego lub obciążane odpowiedzialnością za skuteczne przeciwdziałanie tym doświadczeniom.

Alicja, opowiadając rodzinie o sytuacji, w której nieznajomy mężczyzna powiedział jej, że może ją „przełożyć przez kolano", usłyszała, że to „normalne i podoba się mężczyznom". Antonina (24 lata), dzieląc się z bliskimi jej doświadczeniami molestowania w klubie usłyszała: „nie pasuje ci jak oni się zachowują – nie chodź tam". Z kolei Samira (23 lata), która podzieliła się z członkiem rodziny swoim zaniepokojeniem związanym z trąbieniem i gwizdami na ulicy, usłyszała w od-

powiedzi: „Ja nie wiem, co ty musisz robić – na moje koleżanki jakoś nie trąbią". Podobne komunikaty słyszeli mężczyźni skarżący się na sytuacje molestowania ulicznego – Kamil (30 lat) następująco przywołuje reakcje otoczenia: „przecież tak narzekasz na brak kontaktu z kobietami, no to właśnie masz kontakt, tak? Jakby czemu narzekasz, skoro jest to coś, czego ci brakuje?".

Komunikaty te podważały subiektywne doświadczenia osób badanych, które postrzegały molestowanie uliczne jako zjawisko krzywdzące, wymagające reakcji i pozostające poza ich kontrolą. Z jednej strony normalizowały molestowanie uliczne jako immanentny element rzeczywistości społecznej, wymagający adaptacji poprzez ograniczanie swojej wolności, z drugiej zaś – romantyzowały je i redefiniowały jako formę komplementu, która wynika z wyglądu jednostki, a więc można ją kontrolować (Gardner 1995: 238–239).

Reakcje otoczenia przywoływane przez badanych wpisują się w logikę obwiniania ofiar opartą na przekonaniu, że kobiety, które ograniczają swoje działania, korzystają z męskiej ochrony i podporządkowują się normom bycia „dobrą dziewczyną", unikają zagrożenia lub krzywdy, która spotyka osoby nie przestrzegające tych zasad (Madriz 1997). Wynika z tego zarazem, że osoby łamiące te normy i doświadczające wiktymizacji uznawane są za zasługujące na swój los (Madriz 1997: 88).

Analizę wypowiedzi badanych pogłębia ich osadzenie w polskim kontekście społeczno-kulturowym, w tym odniesienie się do zaleceń dotyczących bezpieczeństwa kobiet publikowanych przez jednostki Policji (KMP Bielsko Biała b.d.; KPP Cieszyn b.d.) oraz wybrane urzędy miast (Wojtysiak, Zych 2022; UM Warszawa b.d.). Zalecenia opublikowane w 2024 roku przez Urząd m. st. Warszawy określają jedenaście zasad mających na celu zapewnienie kobietom i dziewczętom bezpieczeństwa w przestrzeni publicznej. Większość z nich koncentruje się na ograniczaniu swobody działania kobiet w miejscach publicznych – na przykład: „unikaj niebezpiecznych miejsc", „zaplanuj wcześniej podróż i zawsze korzystaj z bezpiecznych środków transportu", „staraj się przemieszczać z kimś, komu ufasz" (UM Warszawa b.d.). Przekaz płynący z tych wytycznych przedstawia kobiety jako szczególnie narażone na niebezpieczeństwo, jednocześnie obciążając je odpowiedzialnością za skuteczne jego unikanie. To kobiety, do których kierowane są te zalecenia – a nie Policja, Straż Miejska, ochrona w klubach czy wreszcie sami sprawcy – zostają obarczone odpowiedzialnością za zapewnienie sobie bezpieczeństwa w przestrzeni publicznej (Płatek 2011). Komunikaty jednocześnie utrwalają iluzję sprawiedliwego świata, w którym „bycie dobrą dziewczyną" i przestrzeganie zasad: ubieranie konkretnych ubrań, niewychodzenie po zmroku, niesiadanie na końcu autobusu – ma stanowić gwarancję bezpieczeństwa, podczas gdy w rzeczywistości molestowanie uliczne jest poza naszą kontrolą i może do niego dojść niezależnie od stosowanych na co dzień środków ostrożności.

Narracje obciążające kobiety odpowiedzialnością za własne bezpieczeństwo miały istotny wpływ na badane, które często postrzegały działania na rzecz własnego bezpieczeństwa nie jako opcjonalny środek ostrożności, lecz jako wymaganie.

Większość badanych kobiet na co dzień stosowała strategie minimalizowania ryzyka doświadczenia molestowania ulicznego i innych form przemocy seksualnej, podejmowane nie tylko w reakcji na konkretne sytuacje (własne lub cudze), lecz także jako element zdroworozsądkowego sposobu funkcjonowania. Naturalizacja działań podejmowanych w celu zapewnienia sobie bezpieczeństwa wzmacniała poczucie bezpieczeństwa, jednocześnie przesłaniając świadomość związanych z nimi kosztów.

> To [molestowanie] nie był temat do rozmowy, to było normalne, ciężko jest mi wyodrębnić jakiś taki konkretny moment, bo ja się wychowywałam w takim poczuciu, że to jest normalne. Moja mama też wychowywała mnie w takim poczuciu – jest wieczór, to nie wychodzisz, nie jeździsz autobusem nocnym, bo cię ktoś zabije. Nie było jednego momentu, tylko zostało mi wgrane w mózg, że tak świat działa i już, sorry. Musisz jeździć taksówką, nie możesz zakładać słuchawek, jak wracasz, musisz do którejś godziny wrócić do domu albo nie wracać sama albo rozmawiać przez telefon. To były zawsze tak oczywiste rzeczy, że ja się nie zastanawiałam nad nimi w ogóle (Layla, 31 lat).

Layla, podobnie jak wiele innych uczestniczek badania, postrzegała działania podejmowane w celu zapewnienia sobie bezpieczeństwa jako zdroworozsądkowy element przebywania w przestrzeni publicznej. Przeniesienie odpowiedzialności za unikanie doświadczeń molestowania ulicznego na kobiety sprawiało, że działania te przestawały być traktowane jako dodatkowa aktywność, a zaczynały być postrzegane jako wymóg związany z funkcjonowaniem kobiet w przestrzeni publicznej. Prowadziło to nie tylko do osłabienia świadomości ograniczeń wolności wynikających z podejmowanych działań, lecz w wielu przypadkach także do poczucia wstydu w sytuacji, gdy przyjęte sposoby radzenia sobie okazywały się nieskuteczne.

> To jest dla mnie bardzo przykre, że mam wrażenie, też jak rozmawiam z koleżankami o tym, jeżeli takie rzeczy się dzieją, to my nie czujemy najpierw złości tylko wstyd, że to jest coś naszego, że to my musimy zinternalizować, że to nam się przytrafiło i to jest trochę nasza wina. Nie wybrzmiewa to na głos, ale jest taka cząstka, która zostaje w tobie i myślisz, że może to ja nie zabezpieczyłam się wystarczająco przed tym. A to nie jest nasza wina, to jest wina tych mężczyzn, którzy molestują (Felicja, 26 lat).

Internalizacja strategii zapewniania sobie bezpieczeństwa sprawiała, że brak skuteczności w unikaniu molestowania ulicznego był przez badane interpretowany nie jako „błąd w działaniu", lecz jako „błąd w byciu" (Vera-Gray 2018: 168). Choć uczestniczki badania były świadome, że nie ponoszą winy za doświadczenia molestowania ulicznego, nadal odczuwały odpowiedzialność i wstyd, gdy przyjęta przez nie strategia okazywała się nieskuteczna. Widoczne tutaj jest znaczenie wstydu jako emocji odczuwanej z powodu własnych braków, w odróżnieniu od poczucia winy, które jest odczuwane z powodu własnych działań (Bartky 1990: 102).

Narzucone kobietom poczucie odpowiedzialności za doświadczane molestowanie w niektórych przypadkach było weryfikowane przez rzeczywistość,

prowadząc badane do redefinicji sytuacji. Mówi o tym Weronika (18 lat), która doświadczając molestowania ulicznego w okresie dorastania, myślała, że „to jest moja wina, że przyciągam uwagę. Jak założyłam bluzkę z głębszym dekoltem, to się o to przecież proszę". Jej postrzeganie sytuacji zmieniło się, gdy zaczęła ubierać się inaczej, a i tak doświadczyła nieproszonych komentarzy seksualnych na ulicy:

> właśnie ta sytuacja, jak miałam długie spodnie, kompletnie „nie prosiłam się o to" pomogła mi zrozumieć, że równie dobrze mogę się ubierać jakkolwiek chcę, bo i tak to nic nie zmieni. To mi pomogło potem zrozumieć, że jakby no to nie jest kompletnie moja wina (Weronika, 18 lat).

Normalizacja w niniejszym badaniu, podobnie jak w badaniu Megha Dhillon i Suparna Bakaya (2014) oraz Bianca Fileborn i Jess Hardley (2023), rysuje się jako kluczowy czynnik wpływający na obarczenie osób doświadczających molestowania ulicznego odpowiedzialnością za jego zapobieganie, utrudniający identyfikację własnych doświadczeń jako krzywdzących oraz wpływający na niechęć do dzielenia się swoimi doświadczeniami z otoczeniem, w tym z instytucjami odpowiedzialnymi za porządek publiczny.

Narracje społeczno-kulturowe odwołujące się do „wiary w sprawiedliwy świat", zgodnie z którą „nic złego nie spotyka dobrych dziewczyn", sprzyjają internalizacji prewencyjnych strategii zachowań oraz przypisywaniu sobie współodpowiedzialności za doświadczenie molestowania ulicznego. W konsekwencji mogą one prowadzić do zwiększonych obaw przed ujawnianiem tych doświadczeń instytucjom odpowiedzialnym za porządek w miejscach publicznych.

9. Bariery

Reakcje otoczenia podważające znaczenia nadawane doświadczeniom molestowania ulicznego przez badanych, a jednocześnie często obciążające ich odpowiedzialnością za to, co ich spotkało, powodowały, że rzadko decydowali się na poszukiwanie pomocy w instytucjach odpowiedzialnych za utrzymanie porządku publicznego. Jak zauważyła Alicja:

> No i ta bezradność też właśnie, że jakby co z tym zrobić teraz. I też takiego – pewnie tak jak z tą moją mamą – takiego ogólnego przyzwolenia na to, że to jest taka natura rzeczy, że jak robotnicy mają przerwę, to gwiżdżą, mężczyźni chcą jakiegoś zadwolenia seksualnego, to podrywają, i tak dalej, i tak dalej, i że to jest okej. No i komu to zgłosisz? Tak jak właśnie z tą moją mamą. Mogę iść na policję, ale skoro moja mama nie uważa tego za coś niestosownego, to dlaczego policja miałaby? (Alicja, 23 lata).

Podważanie znaczenia nadawanego doświadczeniom molestowania ulicznego przez otoczenie prowadziło u osób badanych do wątpliwości co do własnej zdolności do adekwatnej oceny tych zdarzeń. Kinga, która była wielokrotnie zaczepiana

przez tego samego mężczyznę – zapraszana na randki, śledzona, obrzucana komentarzami z samochodu – nigdy nie poczuła się na tyle bezpiecznie, by zgłosić te doświadczenia organom odpowiedzialnym za porządek publiczny. Nie tylko obawiała się zlekceważenia, ale także wątpiła we własną zdolność prawidłowej interpretacji sytuacji.

> Będąc w takiej sytuacji, że czułam się zagrożona, nigdy nie czułam, że jakaś osoba, u której mogłabym szukać pomocy, wzięłaby to na serio. W sensie było to w mojej głowie na tyle lekceważone i ja może też nie czułam się na tyle pewna, że to, co on robi, jest złe, tylko może po prostu ja się czuję niekomfortowo, bo jestem jakaś, nie wiem, on może wcale nie ma tego na myśli (Kinga, 23 lata).

Obciążani odpowiedzialnością za doświadczenia molestowania oraz uczeni podważania trafności własnej oceny sytuacji, badani często wątpili, czy doświadczone przez nich zdarzenia były na tyle poważne, by zgłosić je organom ścigania. Wątpliwości dotyczące zasadności zgłoszenia danego zdarzenia były przy tym często związane nie z brakiem odczuwanej szkodliwości czynu, lecz z wyobrażeniem o tym, jak jego szkodliwość oraz możliwość udowodnienia zostałyby ocenione przez organy odpowiedzialne za porządek publiczny.

> Też wydaje mi się, że „*verbal abuse is not abuse*", co oczywiście nie jest prawdą, ale przez to, że to się dzieje jako werbalna odzywka, która trwa 10 sekund, to tym bardziej zostanie to zignorowane zupełnie przez policję i tym bardziej możliwość wykrycia czegoś takiego jest zerowa, więc nigdy nie podjęłam żadnych kroków, żeby coś takiego zgłosić (Ewa, 28 lat).

Widoczne w wypowiedzi Ewy przekonanie, że to, co dla niej jest przeżyciem krzywdzącym, zostanie ocenione jako nieszkodliwe lub zbyt trudne do udowodnienia przez organy ścigania, towarzyszyło wielu badanym. Wątpliwości dotyczące tego, w jaki sposób oceniona zostanie powaga doświadczenia, ujawniają również dalsze powiązania dostrzegane przez badane między molestowaniem ulicznym a innymi formami przemocy seksualnej. Wiedza o sposobie działania organów ścigania w przypadkach kryminalizowanych form przemocy seksualnej, takich jak zgwałcenie, kształtowała ich wyobrażenia o skuteczności podejmowania działań w sytuacji, gdy to, czego doświadczyły, stanowiło „tylko słowa".

> Wydaje mi się, że mało który sprawca molestowania ulicznego kiedykolwiek poniósł tego konsekwencje, bo gdzieś sam temat gwałtu – mało który sprawca ponosi konsekwencje, a co dopiero jak to są „tylko słowa" (Antonina, 24 lata).

Poczucie, że sytuacja jest na tyle poważna, by zgłosić ją funkcjonariuszom policji, w niektórych przypadkach zderzało się z ograniczonym zakresem podejmowanych przez nich działań. Brak oczekiwanej reakcji ze strony organów, w których kompetencjach leży ocena powagi danego zachowania, podważał poczucie badanych, że to, czego doświadczyły, było poważne i szkodliwe, utwierdzając je zarazem w przekonaniu o bezkarności sprawców. Zwraca na to uwagę Layla, której

nieznajomy mężczyzna próbował ściągnąć spodnie. Kiedy usłyszała od stojącego obok patrolu, że może jedynie udać się na komendę i złożyć skargę, stwierdziła, że „nikogo nie przejmuje, że takie rzeczy się dzieją".

Konkluzja Layli była widoczna też w relacjach innych uczestniczek badania, które podkreślały obojętność otoczenia obserwującego doświadczenia molestowania ulicznego. Amelia, po doświadczeniu fizycznego molestowania w tramwaju, zareagowała stanowczo – krzycząc i wzywając współpasażerów do interwencji. Choć ostatecznie świadkowie zareagowali, motorniczy zatrzymał pojazd, a funkcjonariusze policji podjęli działania i utwierdzili ją w słuszności podjętych przez nią kroków, sytuacja ta wymagała od niej znacznego wysiłku i determinacji, by przełamać początkową obojętność otoczenia.

> Tak, ja dostałam ogromne potwierdzenie, że ja dobrze zrobiłam, od motorniczego, od kontrolerów ruchu, bo przecież były zatrzymane tramwaje wszystkie, policja to samo i ci ludzie tak samo. Finalnie oni wszyscy chcieli składać zeznania jako świadkowie, więc spoko. No, ale wiem, że nikt by nie zareagował, jeżeli ja bym nie wywołała ich, patrząc im w oczy, wiem to, że to by się nie wydarzyło. Widziałam to w nich, że każdy myślał „jakaś wariatka, jebnięta po prostu krzyczy sobie". Wiesz, ja tak się czułam, tak byłam oceniana (Amelia, 30 lat).

Brak reakcji ze strony świadków oraz instytucji, w których kompetencjach leży rozstrzygnięcie, czy dane zachowanie miało charakter poważny, pogłębiało poczucie bezsilności oraz przekonanie o bezkarności sprawców. Osoby doświadczające molestowania ulicznego słusznie zwracały uwagę na istotne bariery, utrudniające poszukiwanie wsparcia w instytucjach odpowiedzialnych za utrzymanie porządku publicznego. Przekonanie o braku szans na skuteczność działań podejmowanych przez instytucje odpowiedzialne za porządek publiczny dodatkowo wzmacniała świadomość trudności dowodowych oraz obojętność otoczenia.

Analiza powyższego, w świetle teoretycznej koncepcji kontinuum przemocy seksualnej, ukazuje, jak postrzeganie przemocy seksualnej w ramach binarnych kategorii oddzielających rutynowe przejawy przemocy seksualnej, takie jak molestowanie uliczne, od ich nierutynowych przejawów skutkuje pominięciem szerokiego spektrum krzywd. Doświadczenia te, niewpisujące się w kategorie prawne zgwałcenia lub innej czynności seksualnej, często pozostają niewidoczne dla instytucji państwowych, mimo że dla wielu stanowią codzienność.

10. Wnioski z analizy tematycznej

Celem niniejszego artykułu była analiza tego, w jaki sposób osoby badane przeżywają i ucieleśniają doświadczenia molestowania ulicznego oraz jakie znaczenia nadają tym doświadczeniom one i ich otoczenie. Czerpiąc z feministycznych ujęć przemocy

seksualnej oraz feministycznej fenomenologii, analiza ukazuje, że doświadczenia molestowania ulicznego stanowią kluczowy element w systemie społecznej kontroli przede wszystkim badanych o kobiecej ekspresji płciowej, wpływając na ograniczenie ich wolności w przestrzeni publicznej także na przedrefleksyjnym poziomie ucieleśnienia.

Doświadczenia molestowania ulicznego – przeżywane w kontekście wiedzy o realności narażenia na przemoc seksualną oraz reakcji otoczenia obciążających badanych odpowiedzialnością za własne bezpieczeństwo – funkcjonują jako mechanizm społecznej kontroli, konstruujący przede wszystkim kobiece ciała jako obiekty wymagające ochrony i monitoringu. Istotną rolę w tym kontekście odgrywa normalizacja molestowania ulicznego: dominuje narracja, w której zachowania te są przedstawiane jako „nic nadzwyczajnego" – trwały element rzeczywistości, do którego należy się dostosować poprzez zmianę własnych zachowań. Przekonanie o odpowiedzialności za własne bezpieczeństwo dodatkowo wzmacniają narracje podtrzymujące mit sprawiedliwego świata, zgodnie z którym kobiety mogą się uchronić przed niebezpieczeństwem, przestrzegając szeregu zasad ograniczających ich swobodę działania w przestrzeni publicznej. Komunikaty romantyzujące i normalizujące molestowanie uliczne uciszają badanych, ucząc ich wątpienia w zdolność do trafnej oceny sytuacji oraz utrwalając ich poczucie odpowiedzialności za doświadczanie molestowania ulicznego. Badani w konsekwencji zaczynają samodzielnie dbać o własne bezpieczeństwo w milczeniu. Choć podejmowane strategie z początku są kontestowane i przeżywane w kategoriach utraty, to z czasem przekształcają się w ucieleśnione praktyki, wpływając na poprawę poczucia bezpieczeństwa, jednocześnie przesłaniając ponoszone koszty wolności. Mechanizm ten powoduje, że choć potencjalność doświadczenia molestowania ulicznego oraz jego eskalacji jest uwzględniana w codzienności badanych, to problem ten nadal w dużej mierze pozostaje niewidzialny dla władz publicznych.

Dalsze badania są konieczne, aby rozwijać wątki poruszone w niniejszym artykule, uzupełniając je o doświadczenia osób zamieszkujących obszary wiejskie oraz małe i średnie miasta w Polsce. W kolejnych badaniach warto także pogłębić perspektywę mężczyzn, w tym migrantów oraz przedstawicieli mniejszości seksualnych, etnicznych i wyznaniowych. Grupy te doświadczają molestowania ulicznego motywowanego nie tylko płcią i seksualnością, lecz także innymi czynnikami społecznymi i kulturowymi, które mogą stanowić dodatkową barierę w kontaktach z instytucjami odpowiedzialnymi za porządek publiczny.

11. Rekomendacje

Analiza wyników zaprezentowanych badań, osadzona w kontekście dostępnych danych ilościowych dotyczących skali i powszechności negatywnych konsekwencji molestowania ulicznego (Roszak, Gober 2012; Livingston, Grillo, Paluch 2015; Jani-

kowski 2023b: 76–77), wskazuje na konieczność podjęcia pilnych i kompleksowych działań. Zgodnie z ustaleniami innych badaczy i badaczek należy zaakcentować znaczenie nie tylko kampanii społecznych, lecz również wdrażania praktycznych szkoleń dla pracowników transportu publicznego, kolei oraz służb mundurowych, ukierunkowanych na wykorzystanie obowiązujących przepisów w reagowaniu na przypadki molestowania ulicznego (Ceccato, Loukaitou-Sideris 2021; Ribeiro 2023).

Krokiem we właściwym kierunku jest kampania społeczna „*Stand Up* – Sprzeciw się molestowaniu w miejscach publicznych", realizowana przez markę L'Oreal Paris we współpracy z organizacją *Right To Be*, zachęcająca do udziału w szkoleniach dotyczących właściwego reagowania na przejawy molestowania ulicznego (Stand up b.d.). Kolejnym pozytywnym przykładem jest kampania Sexed.pl „Księcia z bajki się zachciało?!", ukierunkowana na podnoszenie świadomości społecznej dotyczącej różnych form przemocy seksualnej (Sexed.pl 2025). Jej celem jest nie tylko edukacja potencjalnych sprawców, lecz także wzmocnienie osób narażonych poprzez dostarczenie im języka do opisu i nazwania własnych doświadczeń.

Kluczowe dla ochrony praw osób narażonych na molestowanie uliczne jest zapewnienie im dostępu do skutecznych środków prawnych. Istotną barierę stanowi zarówno brak zdefiniowania zjawiska molestowania seksualnego w przepisach kodeksu karnego, jak również prywatnoskargowy tryb ścigania czynów z art. 216 i 217 k.k. W realiach incydentów o charakterze publicznym, gdy sprawcą jest zazwyczaj osoba nieznajoma, konieczność zgromadzenia materiału dowodowego, sporządzenia aktu oskarżenia oraz popierania go przed sądem znacząco utrudniają, a czasem wręcz uniemożliwiają dochodzenie sprawiedliwości. Należy więc zgodzić się z Dagmarą Woźniakowską-Fajst (2019), która krytycznie analizując ograniczoną skuteczność środków prawnych dostępnych dla osób pokrzywdzonych molestowaniem seksualnym, postuluje jego kryminalizację. Przy czym, aby zapewnić osobom doświadczającym molestowania ulicznego realny dostęp do dochodzenia sprawiedliwości, niezbędne jest wyręczenie ich przez państwo w procesie gromadzenia materiału dowodowego, sporządzenia aktu oskarżenia i jego popierania przed sądem.

Niezbędne wydaje się również podjęcie problematyki molestowania ulicznego w strategiach rządowych np. w „Krajowym Programie Działań na rzecz Równego Traktowania na lata 2022–2030", projektując działania ukierunkowane na poszerzenie świadomości społecznej problemu oraz wsparcia osób na nie narażonych. Kluczowe jest także włączenie do programu nauczania zagadnień związanych z nierównym traktowaniem, w tym molestowaniem ze względu na płeć oraz molestowaniem seksualnym. Kwestia ta rysuje się jako szczególnie istotna, zważając na niezwykle młody wiek, w którym badane odnotowują pierwsze doświadczenia molestowania ulicznego (Livingston, Grillo, Paluch 2015). Wskazane powyżej działania edukacyjne, ukierunkowane na zmianę postaw kulturowych i politycznych, powinny stanowić pierwszy krok w kierunku stopniowej transformacji głębokiego przyzwolenia na molestowanie uliczne.

Oświadczenie w przedmiocie konfliktu interesów

Autorka zgłaszanego artykułu oświadcza, że nie istnieje konflikt interesów. Tzn. autorka (albo jej pracodawca lub sponsor) nie ma jakiegokolwiek bezpośredniego lub pośredniego finansowego, prawnego lub zawodowego interesu albo związku z innymi organizacjami lub instytucjami, które mogą mieć wpływ na omawiane w tekście badania.

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Akty prawne

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Ensuring the rights of women who are victims of intimate partner violence in Lithuania: A literature review

Zapewnienie praw kobietom doświadczającym przemocy ze strony partnerów na Litwie: przegląd literatury

Abstract: In 2019, the European Union Agency for Fundamental Rights (FRA), an independent centre of excellence for promoting and protecting human rights, conducted research to take a closer look at the experiences of female victims of partner violence as they encountered the criminal justice system. The fieldwork covered seven EU countries, excluding Lithuania. The objective of this paper is to examine the findings of the FRA research on the state of knowledge in Lithuania. A narrative literature review methodology focussing on qualitative synthesis was utilised. Following a database search, 15 research studies that met the inclusion/exclusion criteria were selected for analysis. The findings in the case of Lithuania fully support the conclusion reached by the FRA, that the most problematic areas in ensuring the rights of women as victims of partner violence are the lack of effective protection against repeat victimisation and insufficient support services. Additionally, the paper not only verifies whether similar problems are present in other studies, but also expands on the findings of the FRA study by exploring urgent issues in the national system of protecting IPV victims' rights.

Keywords: crime victims' rights, intimate partner violence (IPV), women as victims of IPV, victim support services, criminal justice system

Abstrakt: W 2019 r. Agencja Praw Podstawowych Unii Europejskiej (FRA), niezależne centrum doskonałości zajmujące się promowaniem i ochroną praw człowieka, przeprowadziła badania mające na celu dokładniejsze przyjrzenie się doświadczeniom kobiet będących ofiarami przemocy ze strony partnerów w kontaktach z wymiarem sprawiedliwości w sprawach karnych. Badania terenowe objęły siedem krajów UE, z wyjątkiem Litwy. Celem niniejszego artykułu

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jest analiza wyników badań FRA dotyczących stanu wiedzy na Litwie. Zastosowano metodologię narracyjnego przeglądu literatury, koncentrującą się na syntezie jakościowej. Po przeszukaniu bazy danych do analizy wybrano 15 badań naukowych, które spełniały kryteria włączenia/wyłączenia. Wyniki badań dotyczących Litwy w pełni potwierdzają wniosek FRA, że najbardziej problematycznymi obszarami w zakresie zapewnienia praw kobiet będących ofiarami przemocy ze strony partnera są brak skutecznej ochrony przed ponowną wiktymizacją oraz niewystarczające usługi wsparcia. Ponadto w artykule nie tylko sprawdzono, czy podobne problemy występują w innych badaniach, ale także rozszerzono wyniki badania FRA, analizując pilne kwestie dotyczące krajowego systemu ochrony praw ofiar przemocy ze strony partnera.

Słowa kluczowe: prawa ofiar przestępstw, przemoc w związku partnerskim, kobiety ofiary przemocy, usługi wsparcia dla ofiar przemocy ze strony partnera, wymiar sprawiedliwości w sprawach karnych

Introduction

Intimate partner violence (IPV) against women is a widespread phenomenon, observed in Europe and beyond. Victims of IPV need protection against repetitive violent acts. Unfortunately, most female victims of domestic violence are disillusioned and do not dare to ask for help or inform the authorities about the abuse they suffer. Therefore, they need special protection and assistance.

In its report on women as victims of partner violence (FRA 2019), the FRA emphasised the experiences of one particular group of victims as women who endure partner violence. According to the findings of the FRA (FRA 2019), since the early 1990s the issues of violence against women in general and of domestic partner violence in particular have received increasing attention from policymakers and legislators. Within a few years, from 1992 to 1995, a widespread consensus emerged that partner violence should be recognised as "gender-based violence" – that is, as a form of violence that has deep social and cultural roots and one of many manifestations of large-scale discrimination encountered by women.

Female victims of violence have a right to protection under the Istanbul Convention and EU Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (Victims' Rights Directive) (OJ of 14.11.2012, L 315, pp. 57–73). In line with Article 18 of the Victims' Rights Directive, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, intimidation and retaliation – including the risk of emotional or psychological harm – and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members. Due to the developments in justice (child-friendly, victim-centred justice) and technology, as well as new challenges (such as health

crises), the Europe Commission has revised the minimum standards and has proposed amendments for the Directive so that victims fully benefit from their rights.

The Victims' Rights Directive was adopted to better protect the rights of all victims of crime. It only establishes minimum standards and provides minimum thresholds, as an instrument of minimum harmonisation. The Directive does not go as far as the Istanbul Convention does regarding the protection of victims; it arguably lacks a cross-border approach and leaves very wide discretion for the Member States. It has a better prognosis for implementation, however, partly due to the minimum-intervention strategy and partly due to its legal form (Pilinkaitė-Sotirovič, Vaigė 2017). When it comes to the victims of domestic violence, however, the Directive employs an exclusive perspective on protecting rights (Arts 9, 22, etc.), i.e. it acknowledges their specific vulnerability, uses dedicated terms (such as "particular attention" and "due consideration") and calls for targeted and integrated services (such as appropriate measures of protection and specialist support). But again, it directs only the degree of performance, leaving the national authorities the discretion to choose specific instruments. However, these problems are addressed in the proposal for amending the Directive, which would establish more specific obligations for states (e.g. implementing a help line for victims, making timely assessments of the most vulnerable victims' individual needs, providing psychological help free of charge, etc.). A higher-level standard is formulated in the jurisprudence of the European Court of Human Rights (ECtHR) as well: given the specific nature of the violence and the victims' vulnerability, cases of domestic violence must be handled with special diligence and the utmost expediency (Talpis v. Italy 2017); national authorities must act with a greater degree of vigilance (Hajduova v. Slovakia 2010); the reaction must be active, prompt and more robust (T. M. and C. M. v. Moldova 2014); and measures of protection should be effective and in some circumstances, without delay (Bevacqua and S. v. Bulgaria 2008).

Despite pro-victim legal reforms, women who suffered intimate partner violence continue to report their dissatisfaction with the criminal justice system. They still face victim-blaming and expectations to be an "ideal victim" (Meyer 2016). They still encounter ignorance about the specifics of their experience, as their needs are not limited to the immediate violent event. They also seek to maintain long-term safety and exert their rights to protection and freedom from abuse in the recovery phase (Shearson 2021). A better understanding of victims' needs is crucial because an incorrect needs assessment renders the service ineffective (Roeg, Hilterman, van Nieuwenhuizen 2022). Because ensuring rights is closely connected with the discretion of the authorities, it is inconsistently applied – even in the same jurisdiction (Anderson 2015) – and getting help depends on "being lucky" with the officials one encounters (Saxton et al. 2021). To respond to victims' needs and optimise the use of criminal proceedings, researchers and legislators are searching for new solutions. Some are testing the potential of innovative technologies (Grommon, Rydberg, Carter 2017; Al-Alosi 2020; Signorelli et al. 2022). Others turn to policy, e.g. basing policy and procedures on an enhanced victim empowerment approach

(Birdsall, Kirby, McManus 2017), victim-focussed, community-coordinated outreach intervention (DePrince et al. 2012) or community-based second responders (Rubenstein et al. 2021). Others still are monitoring new legal instruments, e.g. individual legal representation (Iliadis, Fitz-Gibbon, Walklate 2021), Independent Domestic Violence Advisors (Ross, Sebire, Strang 2022) or new offences (Walklate, Fitz-Gibbon, McCulloch 2018). Comprehensive academic analyses are still needed in the areas of enforcing rights, intersectional challenges, the potential for restorative justice and emerging issues (pandemics, the migration crisis and technology-facilitated abuse).

Before turning to victims' rights, we should clarify the notion of a victim in Lithuania's criminal law. The explicit term "victim" is not defined in national criminal legal acts; instead, the Lithuanian word "*nukentėjusysis*," meaning "the one who suffered," is used (OJ of 9.04.2002, No. 37-1341: Art. 28). The substantive scope of the Lithuanian concept was synchronised with Art. 2.1(a) of the Victims' Rights Directive to cover family members as well as the direct victims. However, the status of a victim depends on the procedural aspect, i.e. the decision of the pre-trial investigating officer, prosecutor or court. This means that a victim is entitled to procedural rights only if and when a competent authority decides to grant them the status of a victim. This mechanism does not fully comply with the Directive's approach that a person who falls under the definition is a victim notwithstanding their role in the national criminal justice system. Following the minimum standard established in the Directive, the status of a victim in Lithuania is related to the criterion of harm and its direct causal link to the crime.

However, the preamble of the Istanbul Convention recognises that children are victims of domestic violence, including as witnesses of violence in the family. Similarly, the Lithuanian Law on Protection against Domestic Violence (LPADV) declares that a child living in an abusive environment is acknowledged as having experienced domestic violence (Art. 2.4). However, children who have witnessed domestic violence usually are not granted the status of a victim during criminal proceedings. Moreover, the concept of a family member in Lithuania's criminal law is rather limited. The Directive confers the discretion to the national legislature to determine and prioritise the list of beneficiaries. However, research suggests that – given the nature of domestic violence – the provisions of international legal acts, the jurisprudence of the ECtHR and the register of family members in Lithuania's criminal justice system should be wider in scope (Jakštienė 2019). The Directive's concept of a family member has been fully transposed into the LPADV, and it establishes the less stigmatising notion of a survivor (Arts 2.4 and 2.7).

To transpose the requirements of the Victims' Rights Directive into national law, the Criminal Procedure Code of Lithuania was amended and new secondary legislation was introduced. These adjustments resulted in the redefinition of the concept of a victim and a family member (Arts 28 and 38), the establishment of a new institution in criminal proceedings (i.e. a person accompanying the victim [Art. 56-1]) and of a new concept of special protection needs and the procedure to

assess them (Arts 36-2 and 186-1; TAR, 1.03. 2016, No. 4051) and the expansion of the list of victims' rights (the right to be informed, the right to be interviewed by an officer of the same sex, special measures for children victims, etc.). However, according to the Lithuanian Department of Statistics, reported cases of domestic violence have been on the rise recently (from 41,531 reports registered by police in 2018 to 55,815 reports in 2021). At the same time, the number of crimes related to domestic violence has been decreasing: for example, in 2021, 5,802 offences were registered as domestic violence, or 60.9% less than in 2018 (9,530) (Lithuanian Department of Statistics n.d.). Accordingly, there is a huge gap between reports of violence and the number of pre-trial investigations initiated by the police. These figures raise serious concerns about the response from law enforcement satisfying the minimum standard of victims' rights, let alone a higher one. Although institutions that assist victims of violence have noted the inability of law enforcement officers to identify individual types of violence, the reasons for the gap between the numbers of reports and of pre-trial investigations may be more complex. Therefore, Lithuanian researchers ask what relevant institutions can do in response to domestic violence in order to change this situation (Michailovič et al. 2022b).

Before the Victims' Rights Directive was implemented, law researchers in Lithuania tackled a range of issues regarding the rights of victims, from identifying the most problematic points (Uscila 2004; Michailovič 2009) to defining legal concepts suc as a victim and their legal status (Ancelis 2003), the interests in criminal proceedings (Matuizienė 2012), ensuring specific rights, such as the right to access justice (Ažubalytė 2010), compensation for damages (Gavrilovienė 2006), support services (Uscila 2007), restorative justice (Uscila 2001), realising the rights at particular stages of criminal proceedings (Ažubalytė 2005) and the rights of vulnerable victims, e.g. children (Tamutienė 2005; Grigutytė, Valiukevičiūtė 2006).

After the national law was harmonised with the Victims' Rights Directive, the legal academic discourse in this field was expanded by some conceptual victimological insights (Michailovič 2019), general overviews of victim rights (Blažytė, Vaigė 2014) and precise terms: problematic aspects in cases of certain categories of criminal offences (e.g. property crimes (Bučiūnas, Jasevičienė 2022), the implementation of specific rights (e.g. restorative justice (Michailovič et al. 2014; Michailovič, Giedrytė-Mačiulienė 2016), the right to private prosecution (Matuizienė 2013), compensation for damages (Drakšas 2017; Levon 2017), support services and protection (Chomentauskas, Dereškevičiūtė, Murauskienė 2015), the rights of vulnerable groups such as children (Kavoliūnaitė-Ragauskienė 2016; Murauskienė 2017) or people with disabilities (Uscila 2020) and assessments of vulnerability (Ažubalytė, Zajančkauskienė 2014; Jakštienė 2017b). Undoubtably, the Victims' Rights Directive promoted the academic debate on the rights of domestic violence victims at the heart of this research. At the same time, researchers point out the challenges of the as yet unratified Istanbul Convention in ensuring victims' rights (Michailovič et al. 2021) or criminalising stalking and providing effective responsibility for sexual harassment and other forms of sexual abuse (Laurinaitytė, Michailovič, Jarutienė 2022).

It is worth mentioning that to ensure adequate protection for victims of violence, proper data collection is crucial. The FRA collects and analyses data, advises and supports the safeguarding of the rights, values and freedoms enshrined in the EU's Charter of Fundamental Rights. Building on its previous efforts regarding victims of crime (FRA 2014; FRA 2017), the FRA conducted research to examine the experiences of women as victims of partner violence as they encountered the criminal justice system. The methodology was interviewing victims and professionals, and the fieldwork covered seven EU countries, excluding Lithuania. The different jurisdictions diverged in scale and proficiency of their protection systems: from minimal to enhanced, from elementary to experienced. Despite the diversity, a lack of effective protection was the key universal verdict. The findings indicate a need for active, systemic changes to close the gap between legislation and practice. The report calls for fundamental change in perceptions and attitudes by shifting to a more victim-centred approach. These suggestions encourage an examination of the implications of recent FRA research (FRA 2019) in the context of Lithuania and a systemic review to determine the obstacles preventing effective protection of the rights of female victims of IPV. The implementation of EU victim protection standards at the national level is still an under-researched topic in Lithuania.

1. Methodology

The purpose of a literature review is to present an objective summary of the existing knowledge on a given topic, drawing from previously published research. It offers readers a thorough overview of the subject and helps contextualise the information within the broader field (Green, Johnson, Adams 2006; Van Roeyen et al. 2016; Rajan 2025). In the study, we used the databases of Web of Science, Scopus, Google Scholar and ResearchGate as a source of eligible research. Since we predicted that the number of studies related to Lithuania's legal system would be small, we opted for a broad network of data to capture as such material as possible. The references of the selected articles were also reviewed to identify additional studies that meet the inclusion criteria. We referred to the PRISMA guidelines (Preferred Reporting Items for Systematic Reviews and Meta-analyses). Studies were eligible for inclusion if they met the following criteria.

- Partner violence – Because we did not identify any studies focussing specifically on the rights of women as victims of "intimate partner" violence, we broadened our search to encompass studies on the rights of victims of "domestic violence."
- Relevance of studies – Since one of the main criteria for data collection was relevance to the topic, we only selected studies that deal with the relevant legal regulation in Lithuania during the first ten years following the LPADV's entry into force, i.e. 2011–2021.

– Study design – Qualitative empirical studies were included in the research. We then filtered the preliminary results according to the methodology, i.e. by selecting studies that used the same methodology for data collection as the FRA: interviewing victims, law enforcement officers (police and probation officers and prosecutors), judges and agencies providing support for victims of domestic violence.

For the purposes of the study, the following search terms were used: *rights** AND *women** AND *victim** AND *domestic violence** OR *intimate partner**. During the search, 15 published, peer-reviewed studies were selected as material for this research. We made a list encrypted the studies for more convenient reference. The details of the specific articles included in the review are presented in Table 1. The data were processed as a case study of Lithuania, utilising a narrative literature review methodology focussed on qualitative synthesis.

In this paper, we determine whether the findings from the FRA are also evident in Lithuania. Therefore, we examined the key findings of the FRA:

1. Women who are victims of partner violence lack effective protection mainly due to:
   – inadequate responsiveness of the police;
   – shortcomings in the referral of victims to support services and an incomplete network of support organisations;
   – insufficient implementation of court protection orders.
2. Everyone involved in the institutional response to partner violence should improve their contributions and cooperate better.
3. Legislation and organisation need to improve.

Although the analysis included studies that employed similar methodologies to the FRA and examined comparable problem areas, another aim of our study was to expand on the FRA findings and verify whether analogous issues were revealed in other research. This is an added value of the article, as it brings a new context to the FRA survey.

2. Results

The records for this study cover the period 2014–2021. Only one of the items was an operational audit; all the others were research. Most of them focussed on the situation in Lithuania, and only two of them were part of an EU-scale survey (FRA 2014; FRA 2021). However, several national studies assessed Lithuania's legal system in the context of international law to measure its compliance with European standards (HRMI 2014; Jakštienė 2019). The academic narrative ranges from law to sociology/psychology, the latter being slightly more numerous. Some studies took a multidisciplinary approach (e.g. Jakštienė 2019). Most of the legal texts were dedicated to criminal proceedings specifically. While some of

them assessed a wider range of criminal instruments (e.g. criminalisation, the adequacy of the Penal Code, due diligence and positive state's duties, assessment of special protection needs, measures of protection, evidencing, etc. in Jakštienė 2019), some of them tackled a particular issue (e.g. interinstitutional cooperation and multi-agency approach in Michailovič et al. 2019; 2021). The rights of domestic violence victims as the sole subject matter were observed in just one paper (HRMI 2014). Again, only one thesis explicitly adhered to a gender-sensitive paradigm and addressed the protection of women (Jakštienė 2019), although the remainder also implied the gender-based nature of domestic violence in terms of its causes, prevalence and effects. Beyond the diversity of academic fields and foci, the findings of the various studies did not significantly differ, as they all evidenced significant shortcomings in victim protection. While the international studies offered a comparative perspective on the prevalence of victimisation and victims' experiences, national investigations approached the local context with an in-depth and nuanced analysis.

The main findings of the FRA survey were also identified in different Lithuanian studies (see the results in Table 1). Moreover, in some studies we observed all or almost all the conclusions reached by the FRA (HRMI 2014; Jakštienė 2019). Accordingly, the extent and nature of the problem in Lithuania corresponds to the situation in other EU countries. These outcomes are reinforced in other Lithuanian research that is beyond the direct scope of our research, but still relevant to the topic. Therefore, we shall also refer to them to validate our conclusions.

Table 1. FRA findings and research in Lithuania

FRA findings	**Research in Lithuania**			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
Women who are victims of partner violence lack effective protection, mainly for the following reasons:				
Inadequate responsiveness of the police	Vasiliauskaitė, Geffner 2020	Reasons that keep women from disclosing intimate partner violence	Online questionnaire of 127 female survivors of IPV werea recruited through social media. The Composite Abuse Scale (CAS) and the Scale of Economic Abuse (SEA) were used, together with a list of 12 possible reasons for non-disclosure.	The odds of not disclosing abuse due to past negative experiences with the police were 48% higher (less in the case of sexual violence). This suggests that a previous negative experience plays a significant role in help-seeking.

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
	Vasiliauskaitė 2015	Help-seeking and perceived helpfulness of formal help sources for victims of domestic violence: An exploratory study	Semi-structured interview of five women who sought help from a specialised support centre for domestic violence	The most helpful formal support they found was from specialised support centres. In carrying out the state-delegated function, they provided the best assistance and therefore rekindled trust in the legal system as well as the state itself. All women had experienced institutional violence and/or institutional betrayal.
	National Audit Office of Lithuania 2015	Organization of protection against domestic violence: Report of the National Audit Office	Mixed methods including interviews with specialists, judges, prosecutors and police officers	Although the average police response time to reports of domestic violence is getting shorter and the number of people who are provided protection up to 48 hours after a violent incident is increasing, there are still cases where the response to reports exceeds the set 20-minute arrival time at the scene.
	Human Rights Monitoring Institute HRMI 2014	Victims' Rights Directive: A new approach to victims of domestic violence	15 semi-structured interviews with professionals from law enforcement, social services and non-governmental organisations	Inadequate responsiveness of the police, as victims complain of an overall insensitive, unprofessional attitude and indifference, prejudice, incompetence and incoherent procedures. Officers are also sometimes unprofessional when arriving at the scene and registering cases of violence. Some respondents noted that police officers try to persuade victims not to initiate criminal proceedings. There is no effective mechanism for responding to violations of court-ordered preventive and/or protective measures in cases where the suspect or accused returns to the victim's home without warning, tries to seek contact or exerts influence on the victim through third parties, e.g. children.

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
Shortcomings in referring victims to support services	FRA 2021	Crime, Safety and Victims' Rights	Mixed methods survey (34,948 respondents in total EU-wide) In Lithuania, face-to-face questionnaire interview with 1,008 randomly selected respondents over 16 years of age	In Lithuania, 0% of victims contacted victim support organisations after experiencing physical violence.
	Purvaneckienė, Venslovaitė, Stonkuvienė, Žiliukaitė 2019	Domestic violence – Prevention, protection, assistance, cooperation: Qualitative research report	Semi-structured interviews with (1) persons who have experienced domestic violence and (2) experts working in the prevention of domestic violence and assistance to victims of violence and (3) two focus group discussions with experts working in institutions providing assistance to survivors of domestic violence	There is little or no information about specialised support centres, although they perform public functions. Disabled people suffering from domestic violence are even more isolated from services and organisations that provide information and assistance.
	National Audit Office of Lithuania 2015	Organization of protection against domestic violence: Report of the National Audit Office	See above: National Audit Office of Lithuania 2015	Reports from police officers to specialised complex assistance centres do not always meet the requirements set by the Commissioner General of the Lithuanian Police, and do not provide all the necessary data about victims, which makes it difficult for the centres to contact them.
	Human Rights Monitoring Institute HRMI 2014	See above: HRMI 2014	See above: HRMI 2014	The specialised support centres lack information about specific cases; they are not always provided with the victim's contact information.
	FRA 2014	Violence against women: An EU-wide survey	Survey and interviews with a nationally representative sample of 1,500 women per country (42,000 women aged 18–74 years old in total across the EU)	In Lithuania, 0% of victims contacted victim support organisations after experiencing physical or sexual violence by a partner.

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
Incomplete network of support organisations	Michailovič, Justickaja, Vaičiūnienė, Kalpokas, Visockas 2019	Towards effective cooperation between the police and other stakeholders: A model for the recognition, assistanceand prevention of domestic violence	45 semi-structured interviews and three focus group discussions with experts working with domestic violence cases in Lithuania	The limited number of specialised support centres and limited funding make timely provision of assistance difficult.
	Vasiliauskaitė Geffner 2020	Reasons that keep women from disclosing intimate partner violence	See above: Vasiliauskaitė, Geffner 2020	The state should provide sufficient and continuous funding so the organisations can be staffed well enough to provide the necessary help. They also need funding to raise awareness of the services available to help women and the importance of seeking help.
	Purvaneckienė, Venslovaitė, Stonkuvienė and Žiliukaitė 2019	Domestic violence – Prevention, protection, assistance, cooperation: Qualitative research report	See above: Purvaneckienė et al. 2019	The availability of services varies geographically: in smaller towns assistance is received much less than in large cities. The network of NGOs providing assistance is insufficient, and the continuity of their activities is hampered by unstable funding.
	Human Rights Monitoring Institute HRMI 2014	Victims' Rights Directive: A new approach to victims of domestic violence	See above: HRMI 2014	Some critical remarks were made regarding the restriction of accommodation services for those with children. The study revealed that the lack of legal aid and legal representation during the process is a particularly relevant problem and leads to insufficient protection of the interests of the victim.

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
Insufficient implementation of court protection orders	Jakštienė 2019	Domestic violence against women: Protection by criminal law	Mixed methods including face-to-face, in-depth interviews (free-form questions) with 28 respondents (judges, prosecutors, police officers, probation officers and specialists from specialised support centres)	Enforcement of protective measures remains one of the weakest elements in the protection structure for victims of violence. The legal consequences of a suspect (accused) violating preventive measures are usually associated with repeat violations
	Purvaneckienė, Venslovaitė, Stonkuvienė, Žiliukaitė 2019	Domestic violence – Prevention, protection, assistance, cooperation: Qualitative research report	See above: Purvaneckienė et al. 2019	One of the main problems related to restraining orders is the lack of information about this measure at both the institutional level and among victims of domestic violence (their beginning, end and content).
	Human Rights Monitoring Institute HRMI 2014	Victims' Rights Directive: A new approach to victims of domestic violence	See above: HTMI 2014	The response mechanism to violations of court-ordered protective measures is not effective enough, especially in cases when the person who used violence returns to the survivor's residence, tries to seek contact or influence her through children or other third parties.
The police, support organisations, health care in-stitutions and courts should improve their contributions. Everyone involved in the institutional response to partner violence should cooperate better.	Michailovič, Justickaja, Vaičiūnienė, Viršilas 2021	Changes in violent behavior of intimate partner: Perspectives for the development of work with perpetrators of violence in Lithuania	Qualitative data from 50 semi-structured interviews and three focus group discussions with the facilitators, attendees and various stakeholders of batterers' intervention programmes (BIPs)	The consistency and integrity of the entire implementation of BIPs should be prioritised, and institutional cooperation in Lithuania needs to be improved to achieve a successful, coordinated response to IPV. BIPs in Lithuania should be systematised by incorporating existing instruments, such as motivational interviewing, risk-based assessment, differential treatment and evidence-based programmes focussed on different theoretical approaches and forms of implementation.

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
	FRA 2021	See above	See above	States should consider introducing specific measures to ensure targeted support for victims of domestic violence who struggle to break the cycle of violence and receive justice. This can include training and specific guidelines for professionals who are in contact with victims (such as health care professionals or teachers) on how to detect crime that occurs at home and how to deal with it appropriately.In recording crimes and reporting on the situation in the country, EU Member States could make use of third-party reporting mechanisms to capture more incidents.
	Michailovič, Justickaja, Vaičiūnienė, Kalpokas, Visockas 2019	Towards effective cooperation between the police and other stakeholders: A model for the recognition, assistance and prevention of domestic violence	See above: Michailovič et al. 2019	There are contradictions between the perception of and solution to the problem of domestic violence, as well as the vision of family support between specialised support centre employees and specialists from child protection services. Specialised support centres have no feedback on the final decision in cases. It is necessary not only to strengthen specialised assistance, but also to increase the availability of social services for domestic violence survivors.
	Jakštienė 2019	See above: Jakštienė 2019	See above: Jakštienė 2019	The lack of inter-institutional cooperation complicates the implementation of BIPs.

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
	Purvaneckienė, Venslovaitė, Stonkuvienė, Žiliukaitė 2019	Domestic violence – Prevention, protection, assistance, cooperation: Qualitative research report	See above: Purvaneckienė et al. 2019	Most of the professionals who participated in the study, especially police officers, stated that the training on domestic violence is sufficient, and they recommended focussing on its quality, not quantity. The participants pointed out the following problems with the training: duplication of topics, a lack of systematic organisation and continuity and inconsistency between theory and practice. However, there is a need to train police officers, especially newly hired ones, about the specifics of assisting disabled people experiencing domestic violence. Considering that they may be the only source of information for disabled people as victims of violence, there should be a package of information on where else to turn. One of the alternatives is to oblige police officers to inform municipal support centres about disabled people experiencing domestic violence (to the extent permitted by the Law on Legal Protection of Personal Data of the Republic of Lithuania). Raising awareness and improving professional competences are one of the main conditions for successful prevention of domestic violence.
	Jakštienė 2019	See above Jakštienė 2019	See above Jakštienė 2019	Criminal legislation and case law do not fully comply with the requirements

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
				of the Victims Rights' Directive and relevant jurisprudence of the ECtHR. State officers/professionals lack awareness and training on the nature of gender-based violence and IPV.
	Michailovič, Bikelis, Čepas, Dobrynina, Simaitis, Šneideris, Ūselė, Venckevičienė 2014	Restorative justice perspectives in Lithuania	Mixed methods including 18 semi-structured, in-depth interviews with law enforcement officers and experts in gender-based violence	Decisions on restorative justice measures in domestic violence cases should be made on an individual basis, after careful consideration of the circumstances.
	Pilinkaitė-Sotirovič, Vaige 2017	Challenges for preventing violence against women in Lithuania	Mixed methods including 10 in-depth interviews with female victims of domesticviolence	The impact of gender-neutral policies on attempts to solve the problem of violence against women should be critically assessed.
	Michailovič 2020	The importance of changing violent behavior in preventing domestic violence	Mixed methods including four in-depth interviews with experts working with domestic violence cases	An effective strategy to prevent domestic violence must be comprehensive, involving work with perpetrators and a primary focus on the needs and interests of victims.
	Michailovič, Giedrytė-Mačiulienė 2016	Policy and practice dealing with domestic violence cases in Lithuania	In depth, semi-structured interviews with 15 police officers, prosecutors and judges who work with domestic violence cases	The problem of domestic violence cannot be effectively addressed solely through penal measures. A comprehensive and coordinated approach – encompassing legislative reforms, educational initiatives, social support systems and psychological assistance – is essential. Only through integrating these measures can society create an environment conducive to preventing domestic violence and supporting its victims

FRA findings	Research in Lithuania			
	Authors (references are provided in the article)	**Title**	**Method**	**Results**
	Human Rights Monitoring Institute HRMI 2014	Victims' Rights Directive: A new approach to victims of domestic violence	See above: HRMI 2014	Transposing the EU Victims' Rights Directive into national law is not appropriate. For example, criminal laws do not clearly regulate victims' rights to protection, nor do they cover protection measures or how they are to be put in place. Victims do not receive all the information required by the Directive during their first contact. Female survivors received some of the information later – not from police officers, but from specialised assistance centres, legal representatives or the internet.

3. Discussion

3.1. The case of Lithuania

The analysis suggests that victim's rights protection in Lithuania is shaped by the efforts to attune international trends and national cultural as well as legal frameworks. New legislation is introduced slowly. Lithuania remains one of the few EU countries that have not ratified the Istanbul Convention. Although this is being disguised with legal arguments, the main obstacle is essentially a lack of political will regarding the human rights agenda. The Constitutional Court of Lithuania found that the disputed provisions of the convention (i.e. the concept of gender and ensuring gender equality) are not incompatible with the Constitution of Lithuania (Constitutional Court of the Republic of Lithuania 2024). Political decisions are supported by stereotypes, misconceptions about intimate partner violence and attitudes regarding gender roles that are still widespread among the society. Though population surveys indicate some positive changes, victim-blaming and tolerance of IPV is still prevalent (RAIT n.d.). Moreover, the lack of a trauma-informed, victim-sensitive approach has impacted the criminal justice system accordingly.

Unfortunately, the gendered nature of IPV is not appropriately reflected in the legal system. For example, no definition for "gender-based violence" is established in either the criminal or domestic violence laws. Other relevant terms (e.g. "victim" or "family member") are subject to limitations. Insufficient and defective legislation reinforced by lagging implementation and procedural obstacles hinder the benefits of victim protection. This allegation is supported by NGOs, research and state institutions working in the field of human rights (Parliamentary Ombudspersons of Lithuania 2021).

3.2. Ensuring rights of women as victims of IPV in Lithuania

3.2.1. Inadequate responsiveness of the police

The police force is at the forefront of the system protecting against domestic violence. Therefore, its operations are very much observed, and victims have many expectations for its effective involvement. However, inadequate responsiveness of the police is one of the most common findings of Lithuanian researchers. Victims complain of an overall insensitive, unprofessional attitude and indifference, prejudice, incompetence and incoherent procedures (HRMI 2014). On the other hand, deficiencies during specific procedures are also indicated: e.g. actions at the scene, poor record-keeping, delayed response, etc. (HRMI 2014; National Audit Office of Lithuania 2015; Jakštienė 2019; Purvaneckienė et al. 2019). Previous negative experience with law enforcement plays a significant role in the underreporting of domestic violence and discourages help-seeking (Vasiliauskaitė 2015; Vasiliauskaitė, Geffner 2020).

To address these problematic issues, new procedures were introduced: instructions to make records, video recording of the scene of incidents, targeted preventive measures for perpetrators in case of repeat victimisation and secondary verification of the circumstances if domestic violence was not detected after the first report (TAR, 3.07.2018, No. 11084). Pressing victims to not initiate criminal prosecution or to drop the charges was frequent previously, but this has changed since private prosecution of particular crimes was replaced with prosecution *ex officio*: e.g. crimes against health, liberty or private life or sexual crimes (OJ of 25.10.2000, No. 89-2741: Arts 140, 145, 148-1, 149, 150, 151, 165). However, this provision does not cover all offences. Thus, the level of state protection is not uniform, without a reasonable justification.

3.2.2. Shortcomings in referring victims to support services

In line with the right of victims to have access to victim support services and the obligation of EU Member States to facilitate the referral of victims (Art. 8(2) of the Victims' Rights Directive), the police should be empowered and obliged to inform a specialised support organisation and allow the organisation to follow up

on the police intervention in cases of IPV by contacting the victim and offering support (FRA 2019).

However, according to interviews with victims in the FRA study (2019), in about one in three cases it was the police who established the first contact between the victim and the support organisation. The police referred fewer than half of the victims to a support organisation. As this referral is a crucially important link between the police intervention and ensuing court proceedings, the police should step up efforts to ensure effective referral of the victim to an appropriate support organisation.

Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings (Art. 8 of the Victims' Rights Directive). The research conducted by the Human Rights Monitoring Institute (HRMI) in 2014 shows that victims did not receive all information required by the EU Directive during the first contact. The female victims of domestic violence received some of the information later, not from officials but from Specialised Complex Assistance Centres (hereinafter SCACs) or legal representatives – or found it themselves online.

In Lithuania, police officers are instructed to report all victims of violence to SCACs immediately (LPADV, Art. 13.2), but no specific deadline is set. Therefore, this does not guarantee that the SCACs receive such information from the police in a timely fashion (National Audit Office of Lithuania 2015; TAR, 3.07.2018, No. 11084 [changes made on 10 June 2021]).

According to the Office of Equal Opportunities Ombudsperson, from 2016 to 2018 the number of persons who experienced domestic violence and received specialised complex assistance increased: from 11,079 in 2016 to 11,635 in 2017 and to 12,758 in 2018. These figures are slightly higher than those registered by the police, as some people who experience domestic violence contact the SCACs directly (Purvaneckienė et al. 2019). In 2020–2021, SCACs registered 16,672 (16,343) individuals who experienced domestic violence, of whom 5,236 (5,184) were minors who experienced violence, witnessed it or were living in a violent environment. In 2021, 11% of the victims registered by SCACs applied for help in person. Meanwhile, 89% of the registered reports of domestic violence were forwarded to SCACs by the police (LNAWR 2021; LNAWR 2022).

3.2.3. An incomplete network of support organisations

According to FRA findings obtained by interviewing victims and practitioners, there is a lack of appropriate and sufficiently funded specialised support organisations. An appropriate support organisation must not only grant the victim effective access to criminal proceedings, but also protect her from repeat victimisation. Victim support services must be comprehensive enough to include social,

emotional, psychological and financial support as well as practical and legal advice (FRA 2019). However, insufficient support in terms of referral and accessibility (e.g. geographical coverage), as well as a lack of coordination and funding, was reported EU-wide (Commission Staff Working Document 2022).

As Zuzana Vasiliauskaitė and Robert Geffner reported, the women who experienced emotional abuse did not disclose the abuse largely because of shame (59.1%) and fear of losing their children (12.6%). However, both of these reasons can be a consequence of the poor institutional response to IPV. Child Rights Protection Units (CRPUs) too often do not differentiate between the abusive and non-abusive parent. This negative practice puts the women and children at even greater danger, as they should focus on protecting the child and the non-abusive parent (Vasiliauskaitė, Geffner 2020).

3.2.4. Insufficient implementation of court protection orders

EU national victim support organisations consider that protection orders are not sufficiently effective (Commission Staff Working Document 2022). The Lithuanian legislature offers a range of protection measures to prevent domestic violence and protect against repeat victimisation: legal responsibility, court-ordered temporary protection measures, coercive measures, special protection measures, punitive measures, etc. (OJ of 25.10.2000, No. 89-2741: Arts 72-1, 72-2; OJ of 9.04.2002, No. 37-1341: Arts 132-1, 186-1; OJ of 14.06.2011, No. 72-3475: Art. 5.1). The problem is that they are mostly related to criminal prosecution, since analogous civil protection measures (prior to recent amendments of the LPADV) were available only in limited cases, i.e. during divorce proceedings (OJ of 6.09.2000, No. 74-2262: Art. 3.65.2). However, even under such circumstances, the ECtHR ruled that the Lithuanian law is sufficient to provide victim protection, but that inappropriate implementation of criminal-law mechanisms may be severe enough to be grounds for violating the Convention (Valiulienė v. Lithuania 2013).

Ensuring court protection orders is a procedure to which such a description particularly applies. Victims are not informed of the dates when this instrument comes into force and expires, nor of its content (what specifically the abuser is or is not restrained from doing). Accordingly, in most cases the legal regime of shared custody of children presents a way for an abuser to violate the court order without facing any consequences (Purvaneckienė et al. 2019). However, the most problematic aspect is that response mechanism to violations of court-ordered protective measures is not effective enough, especially in cases when the perpetrator returns to the victim's residence, tries to seek contact, or affect the victim through third parties, e.g. their children (HRMI 2014). The execution of court orders and the legal consequences in case of a breach are not monitored well enough to have a deterrent effect (Jakštienė 2019). Recent amendments to the LPADV (came into force on 1 July 2023) are very promising in this regard, as they establish a civil

protection order. Its scope and application make it a "true" protection order that is timely, relevant and related to victims' needs instead of criminal proceedings. Although the police are reporting increasing numbers of civil protection orders, for the moment it is too early to assess whether this will properly address the previously identified deficiencies.

3.2.5. Limited institutional response to IPV

When replicating the findings of FRA research in the Lithuanian context, it is important to highlight the role of institutional response to intimate partner violence against women. As the FRA stated, the police, support organisations, health care institutions and courts should improve their contributions. Everyone involved in the institutional response to partner violence should cooperate better (FRA 2019). The LPADV defines the management system for protecting domestic violence victims, assigning roles and obligations to relevant institutions. The LPADV governs the interaction between the institutions in charge of enforcing the law, their coordinated operation and the processes that combine victim protection and assistance (Art. 4). For example, the SCACs should receive information from the police about an incident of domestic violence and should proactively contact the victims, providing them with various supportive services (Art. 13.2). Similarly, when a child is involved in an episode of violence, the territorial child protection unit should be informed about the incident, which then assesses the situation and responds appropriately (Art. 13.4). It should be noted that until the recent amendments of the LPADV, the three primary subjects in charge of enforcing the law were the police, the SCACs (usually NGOs providing assistance to victims) and the CRPUs (if a child was involved). However, according to the above-mentioned amendments to the LPADV, other institutions such as the Lithuanian Probation Service (in charge of batterer intervention programmes [BIPs]), social services and support centres are formally part of the network. Therefore, we can notice a positive change in Lithuania, by which other responsible institutions – primarily probation services – are recognised as part of the multi-agency network of cooperation. This is crucial in Eastern Europe, which was influenced by the Soviet Union for nearly half a century and where many countries have not systematically implemented intervention for domestic violence perpetrators (Michailovič et al. 2022b).

According to recent research (Michailovič et al. 2019), interinstitutional cooperation in protecting and assisting victims of domestic violence is currently fragmented and often chaotic. Although cooperation is established as one of the principles to protect against domestic violence (Art. 3(1) of the LPADV), it is often impaired by the lack of a cohesive systemic approach, common goal and shared vision. Since the entities involved in multi-agency cooperation have a limited understanding of how others in the network operate, they are not fully aware of how the entire system works as a whole. The findings suggest that the level

of institutional cooperation is basic, limited to contacting and informing other institutions, and that due to a lack of feedback and a common approach, there is no effective teamwork or coordinated response.

Other research (Michailovič et al. 2021) has revealed that the greatest need for collaboration is between institutions that assist victims and those working on batterer intervention programmes. The activities of these two entities must be integrated, consistent and transparent to both victims and perpetrators. Respondents in this study also emphasised that a multilevel coordinated response may better ensure institutional cooperation and hold each institution accountable for their role in preventing domestic violence. It may also improve the efficacy of BIPs. Overall, the research revealed that there is a need for a stronger, more regulated and coordinated multi-agency response to domestic violence.

Based on the research, it can be stated that institutions working with cases of domestic violence assess violence-related issues narrowly, i.e. within the limits of their competence. Specialists have a narrow understanding of domestic violence and the needs of people affected by it. The different understanding of violence and the lack of a uniform perception of the problem complicate the organisation of a comprehensive, high-quality response. Due to the different approaches to the issue, the multi-agency cooperation is not smooth and leads to a lack of information and feedback (Michailovič et al. 2019).

In addition to cooperation among the relevant institutions, their individual substantive contributions must be enhanced. For example, high schools and the health care sector have specific legal duties in the protection against domestic violence, particularly to report it (including but not limited to Arts 3 and 4 of the LPADV). However, they are still reluctant to be involved (Vaigė 2016a; Jakštienė 2017a). Therefore, the activities within the relevant organisations and the collaboration among them are strongly related. It is a two-way road, as close networking has the potential to make internal procedures more effective and vice versa. This becomes possible thanks to delineating the competencies and responsibility, setting common standards and monitoring the operations.

3.2.6. Deficiency of legislation and need for comprehensive training programmes

In line with the FRA's findings, Lithuanian academics also see the need to improve legislation as a means of enhancing the protection of IPV victims' rights. Some of the academic recommendations and those initiated by NGOs have become real changes in law, such as the long-debated criminalisation of stalking by a special norm in the Penal Code (OJ of 25.10.2000, No. 89-2741: Art. 148-1). Despite the encouragement from Article 34 of the Istanbul Convention to criminalise stalking, the Lithuanian parliament did not introduce a specific criminal offence for it until 14 October 2021.

One of the reasons for ignoring this issue was a belief that the generic criminal provisions were sufficient and provided adequate protection against stalking behaviour (Michailovič et al. 2022a). In reality, law enforcement is very often unable to ensure the safety of victims, and stalkers do not experience any legal consequences for their behaviour. A recent study found that victims of stalking were unsure whether the police would treat the intrusive and intimidating behaviour seriously; consequently, they may be worried that the reaction from the police would not be sufficient to stop it (Laurinaitytė, Michailovič, Jarutienė 2022). The criminalisation of stalking in Lithuania was a complex undertaking. The draft was edited several times during the legislative process. The reaction to the final version of the provision is controversial: on the one hand, it is a positive legal development, but on the other hand it is a step back because it establishes more lenient legal consequences for the perpetrator than previously and it distorts the established case law (Sinkevičius 2021).

The list of aggravating circumstances was supplemented with a new one that establishes a more severe punishment for some forms of sexual violence against a family member, close relative or cohabitant (OJ of 25.10.2000, No. 89-2741: Art. 60.1(14)). Yet, this provision does not cover all the criminal offences. Sentencing has become unreasonably diverse, as judgments are more favourable for the perpetrator in cases where an intimate relationship is neither a qualifying nor an aggravating element of a crime. With this argument in mind and due to the lack of reasoning, we do not support eliminating a family member or close relative from the list of qualifying elements of a homicide (Švedas et al. 2022).

Considering the concerns by professionals, the Law on Mediation (OJ of 31.07.2008, No. 87-3462) was amended to establish possible instead of mandatory mediation in cases of domestic violence. However, contrary to the advice, the law does not determine the procedure in detail, does not provide for safeguards and does not introduce non-eligible cases (Vaigė 2016b; Vasiliauskienė, Dirmotaitė, Vasiliauskaitė 2016).

Another urgent insight is related to the concept of one's social environment in the criminal law system: academics argue in favour of a wide scope for a family member as a qualifying element of some crimes in order to cover more forms of close relationships, e.g. ex-partners, ex-spouses, people having a child together, etc. (Jakštienė 2019). Recent amendments to the Criminal Code have addressed this issue, though the list of family members was mostly supplemented with non-formalised relationships and remains exhaustive (Art. 141.2).

Some other suggestions from academics, mostly related to criminal justice, have not been taken up by the legislature. To enhance the criminal-law response to psychological IPV and to offer adequate protection against it, researchers recommend criminalising coercive control with a special provision in the Penal Code (Jakštienė 2019). The CEDAW committee's recommendations to explicitly criminalise the rape of an intimate partner with a special norm in the Penal Code were also supported by Lithuanian academia (Vaigė 2016b).

As Lithuanian scholars noticed, Lithuania adopted a special law on domestic violence (LPADV 2011) which introduces a gender-neutral concept of domestic violence and undermines any attempt to identify the problem as being gendered in nature or to relate it to structural gender inequality. Nevertheless, a gender-neutral framing of violence against women does not translate into gender-neutral implementation (Pilinkaitė-Sotirovič, Vaigė 2017). Unfortunately, this approach persists in the new law as well (LPADV 2011 amended in 2022). The Istanbul Convention calls for its signatories to introduce in their national law a set of articles that consider the specifics of violent behaviour against women. Signing the Convention would address the urgency of the problem and fulfil the desire to strengthen the international prestige of the country. On the other hand, there is a reluctance to decisively change the existing practice of reserved, asymmetric responses to violence against women (Michailovič et al. 2022a). We therefore join the advocacy to ratify the Convention (Vaigė 2016b; Vasiliauskienė, Dirmotaitė, Vasiliauskaitė 2016; Purvaneckienė et al. 2019).

Here again we must agree with the conclusion of the ECtHR that the legal framework for protecting against domestic violence is not defective per se, but that the approach and the manner of its implementation are inappropriate. Therefore, the objective of the research-based recommendations that were mentioned above is to change the existing inadequate practice.

Respondents of the national survey declared that the institutions providing social and psychological assistance, municipalities, and NGOs must improve their contribution to the issue of domestic violence. On the contrary, the interviewed judges noted that law enforcement only deals with the consequences of violence against women, but not the causes (Michailovič, Giedrytė-Mačiulienė 2016). For example, most of the professionals who participated in the study conducted by Giedrė Purvaneckienė et al. (2019), especially police officers, stated that the training on the topic of domestic violence is sufficient; they recommended focussing on the quality of the training, not the quantity. The interviewees singled out the following problems of training: duplication of topics, a lack of systematic organisation and continuity of training and inconsistency between theory and practice. Therefore, as FRA research suggests (FRA 2019), in everything they do, the police, other authorities and support organisations must be trained to intervene in cases of partner violence in a manner that unambiguously conveys certain messages to offenders and victims.

3.2.7. Other problematic aspects

As one can guess, this is not an exhaustive list of problematic aspects. The academic insights of Lithuanian researchers focus on the national context and elaborate on the findings of the FRA study by identifying specific details that contribute to making the system of protecting IPV victims' rights defective. The procedure for

assessing special protection needs is criticised for its formal and recommendatory format, the excessive discretion given to officers and for ignoring the specific nature of domestic violence and the vulnerability of the victims (Jakštienė 2017b). To the authors' knowledge, this procedure is still quite varied in practice. However, this was found to be a common problem in other EU states (Commission Staff Working Document 2022). The widespread practice in Lithuania of so-called turbo processes (i.e. criminal proceedings in 48 hours) and reconciliation as a basis for exemption from criminal liability raise doubts due to their inappropriateness in cases of systemic, complex IPV (Jakštienė 2019). At the same time, however, the research shows that decisions about the use of restorative justice measures in domestic violence cases could be made on an individual basis, after careful consideration of the circumstances (Michailovič et al. 2014). In addition, the newest studies show the need to change violent behaviour by implementing BIPs and social services as part of the multi-agency network of cooperation to achieve a successful coordinated response to intimate partner violence (Michailovič et al. 2022b). Furthermore, the scale of the problematic aspects is even more significant in the case of especially vulnerable victims, e.g. people with disabilities. This field is under-researched, but the data shows that this group experience domestic violence significantly more often than other people. The availability of support services is even more limited, since people with disabilities are often abused by their guardians – who are family members (Purvaneckienė et al. 2019). Therefore, these findings demonstrate the need for further research at the national level.

3.2.8. Beyond the core findings: divergence and overlooked topics

The analysis implies that sample research offers different spotlights but does not generate significant contradictions. While earlier papers (pre-2015) tackle transitional moments (the shift from civil to criminal law, from national to EU-wide standards for victims' rights) and find substantive non-compliance with the Victims' Rights Directive, the most recent ones (2019–2022) focus on specific aspects (interagency coordination, perpetrator programmes or emerging issues) and acknowledge points of improvement. Qualitative victim-centred studies (Vasiliauskaitė 2015; Purvaneckienė et al. 2019) prioritise authentic experience and emotional/psychological barriers, whereas institutional/policy studies (National Audit Office of Lithuania 2015) work on the legal system, resources, procedures, administrative and governance shortcomings. Thus, their explanation of institutional effectiveness varies from structural (slow procedures, limited availability of shelters or bureaucracy) to individualised (psychological or relational). Accordingly, they relate the progress in victims' rights protection to operational developments (National Audit Office of Lithuania 2015) or cultural changes (e.g. Laurinaitytė, Michailovič, Jarutienė 2022 [on stalking]).

Some academic studies utilised a limited scope (e.g. HRMI 2014 [legal compliance]), but most of them took a holistic approach, incorporating social

support networks, psychosocial interventions (Vasiliauskaitė 2015; Purvaneckienė et al. 2019), a coordinated community response and perpetrator programmes (Michailovič et al. 2019; 2021; 2022b) and a gender-sensitive, trauma-informed legal response (Jakštienė 2019). Almost all the studies took a rather critical perspective towards the police response and pointed out a range of serious shortcomings (e.g. a dismissive attitude and secondary victimisation); only some of them perceived gradual improvement (Michailovič et al. 2019). A more pronounced difference in positions can be observed when assessing the anti-violence programmes for perpetrators: while Ramunė Jakštienė (2019) points out their questionable effectiveness and potential adverse impact on victims' safety, Ilona Michailovič et al. (2019) argue for increased utilisation. However, the preferred form of the interventions – individualised (Michailovič et al. 2021) or systemically uniform (Michailovič et al. 2022b) – is still debated.

These findings suggest that some dimensions are still under-researched at the national level. A comprehensive longitudinal qualitative study is needed to assess the effect of the Victims' Rights Directive in cases of IPV. It should measure the real-life relation between interagency coordination, anti-violence programmes and victims' safety. Intersectional vulnerabilities are an extremely relevant research topic. The experience of children exposed to IPV has only been covered indirectly (Jakštienė 2017a). Though a significant research gap has already been acknowledged (Jakštienė 2019; Laurinaitytė, Michailovič, Jarutienė 2022), cyber-violence, coercive control, stalking and economic abuse are still tackled fragmentarily. While academic attention is focussed on the response by law enforcement, the definition of full algorithms demands an in-depth study on the involvement of other frontline professionals (social workers and healthcare providers). Though their relevance has been identified (Pilinkaite-Sotirovič, Vaige 2017), prevention measures (stereotypical attitudes, media discourse, masculinity norms and tolerance of violence) remain largely unaddressed.

Conclusions

In Lithuania, Directive 2012/29/EU promoted legislative activities and academic debate on the rights of domestic violence victims. It resulted in amendments to and/or new special and secondary legislation. However, the concept of a victim in Lithuania's criminal law does not comply fully with the approach in the Victims' Rights Directive that a person defined as a victim is a victim, notwithstanding their role in the national criminal justice system.

To some extent the policymaking in Lithuania is affected by a gender-based, victim-sensitive, domestic violence-specific approach. However, as our research shows, there is a reluctance to decisively change the existing practice of reserved,

asymmetric responses to violence against women: the delays in criminalising stalking and establishing civil protection orders, the reliance on generic legal provisions, the inadequate funding or the lack of political will to ratify the Istanbul Convention and shift away from a gender-neutral concept of domestic abuse. Furthermore, national legislative developments mostly address the formal transposition of minimum standards established in the Victims' Rights Directive and fails to adopt its spirit and attitude or to introduce extra safeguards. The legal framework is reactive instead of proactive. As a consequence, adequate monitoring to assess the implementation of legal novelties is not ensured. It seems that the activities of state authorities lack consistency and a common position. In consequence, the protection of victims' rights hardly reaches the basic level operationally, except for children's rights, which are better organised both in strategy and in practice. However, international standards (Directive 2012/29/EU, the Istanbul Convention, the jurisprudence of the ECtHR, etc.) require victims of partner violence to be approached in a special way.

We support the views from the literature on the subject that the national legal system of protecting women against partner violence is not defective per se; the standpoint and the manner of its implementation do not respond appropriately to victims' experiences and needs. Therefore, the objective of research-based recommendations is to change the existing inadequate practice.

The most problematic areas of ensuring the rights of women as victims of IPV cover protection and support services, both in Lithuania and across the EU. The inadequate response from the police, the non-deterrence of restraining orders and victims' limited access to assistance all contribute to an ineffective protection system. This does not mean that the implementation of other rights is sufficient. These are merely related to victims' basic needs to prevent repeat and secondary victimisation. On the other hand, they are the most widely surveyed. It is highly problematic that this is a universal concern despite pro-victim legal reforms and different national systems that differ regarding the level of protection and expertise, i.e. the extent of criminalisation, the financial resources dedicated to providing support services, awareness among society, history of legislation, etc. The FRA's instructions (FRA 2019) only echo regulations that already are part of the state's positive obligation to act with due diligence to protect people from crime. Therefore, the future efforts of researchers and practitioners should be directed at finding common causes that yield the same unsatisfactory result in diverse circumstances, as well as new solutions that evolve into true changes. Likewise, the proposals for amending the Directive seem very promising in this regard, as they are based on EU-wide monitoring and aim at better harmonisation and specification of states' obligations – including in cases of domestic violence (Commission Staff Working Document 2022).

In the case of Lithuania, the potential to encourage victims to report IPV and to seek formal help is still untapped. Improved quality of services and access to them (i.e. reaction from law enforcement, support for victims from SCACs

and BIPs) are the prerequisites to achieve this. Expanded networking and closer institutional cooperation may provide some fuel for this procedure. Although the Victims' Rights Directive promotes scientific research to adopt a victimological perspective in policymaking, the protection of the rights of vulnerable victims (e.g. people with disabilities, migrants, the elderly, poor women, persons of ethnic minorities or children) is still under-researched in Lithuania. Therefore, it is another direction for future research.

There are several limitations to this review. Firstly, the limited number of relevant studies might reduce the representative significance of the analysis. Future research may be considered, including the most recent papers, both published and unpublished. This review covered studies available in English and Lithuanian, which may have introduced another limitation as a perspective free of language bias could offer new insights.

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Crimes and violence against women in Kyrgyzstan and their aetiology*

Przestępczość i przemoc wobec kobiet w Kirgistanie i ich etiologia

Abstract: This paper presents crime and violence against women in contemporary Kyrgyzstan from a criminological point of view. Its purpose is to show the scope and background of these phenomena. It discusses the difficult situation of women resulting from discriminatory and criminal practices on the part of men, such as the kidnapping of women for marriage, early marriage, polygamy and domestic violence. The peculiarities, manifestations and causes of these practices are indicated. It is shown that their extent is closely related to the patriarchal family model that exists to this day in Kyrgyzstan.

Keywords: violence against women, bride kidnapping, polygamy, early marriage, Kyrgyzstan

Abstrakt: Niniejszy artykuł przedstawia w ujęciu kryminologicznym przestępczość i przemoc wobec kobiet we współczesnym Kirgistanie. Jego celem jest ukazanie zakresu tych zjawisk oraz podłoża ich występowania. W artykule omówiono trudną sytuację kobiet, będącą następstwem dyskryminujących je i przestępczych praktyk ze strony mężczyzn, takich jak: uprowadzenia kobiet w celu zawarcia małżeństwa, wczesne małżeństwa, poligamia, przemoc w rodzinie. Wskazano ich specyfikę, przejawy oraz przyczyny występowania. Udowodniono, że ich zakres jest ściśle związany z występującym, również we współczesnym Kirgistanie, patriarchalnym modelem rodziny.

Słowa kluczowe: przemoc wobec kobiet, porwanie narzeczonej, poligamia, wczesne zawieranie małżeństw, Kirgistan

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Introduction

This paper was prompted by the world ranking of the Women, Peace, and Security Index 2023/24 (2023), which indicates that in 2023 Kyrgyzstan was again named the most dangerous country in Central Asia for women (due to the frequency of violence against women). It ranked 95th out of 177 countries, behind its neighbours. Statistics show particularly high levels of violence and crime against women in Kyrgyzstan. Research shows that about 35% of women over the age of 15 experience it from their partner/husband at home and in the family (Čynybaeva, Ašyrbaeva n.d.). It should be noted that the problem is fostered by the position of women in the society and the family, and the accompanying stereotypes. These phenomena are not new in Kyrgyzstan. Additionally, however, the economic changes and development of a patriarchal society (perpetuating the leading role of the male and the traditional subordination of women in the family) in recent decades have exacerbated the scale and scope of these negative behaviours against women (Ilibezova, Makembaeva, Tûlekova 2018: 6).

The purpose of this paper is to show the extent and background of violence and crime against women in Kyrgyzstan. It should be noted that these phenomena come in various forms: domestic violence (physical, psychological and economic), sexual violence, early marriage, kidnapping of women for marriage, polygamy, trafficking in women, forced prostitution and workplace harassment (Žumabaj uulu 2021: 1). It points out that one of the most common forms of violence in Kyrgyzstan is domestic violence, which is closely related to other types of violence (Kadyrkulova, Ačylova 2008: 168). Due to the limited framework of this paper, only selected manifestations of violence in Kyrgyzstan are discussed.

The method used in this paper was an analysis of criminological literature and other scientific sources obtained during a study visit to the library of the Kyrgyz National University in Bishkek in May 2025. The author sought to show the phenomena from the perspective of the Kyrgyz public. Therefore, Kyrgyz literature was primarily used. Foreign studies were also used as a guide to confirm these phenomena. This study contributes to the in-depth analyses that are planned in this area.

The following research hypothesis was formulated for the analysis: "Violence and crime against women in Kyrgyzstan most often occur within the family and originate from the patriarchal family model." The thesis was based on an analysis of a wide range of Kyrgyz data sources. The familial and gender-related bases of these negative phenomena are very often pointed out. The literature emphasises that there are gender inequalities in modern Kyrgyz society, including in the family, which creates the basis for a progressively more archaic way of life of the society and contributes to the resurgence of discriminatory behaviour against women, which constitutes violence and crimes penalized in the Criminal Code (e.g. the forced abduction of girls for marriage or polygamy) (Tugel'baeva, Hamzaeva, Hamzaeva 2018: 12).

1. The state of knowledge about crime and violence against women in Kyrgyzstan

It must be pointed out that these phenomena have historical roots, going back to the nomadic period in the history of Kyrgyzstan. For centuries, the traditional Kyrgyz family has been a core human value, and has been seen as patriarchal and polygamous (Kadyrkulova, Ačylova 2008: 170). In the traditional patriarchal Kyrgyz society, women had far fewer rights than men. From their birth, women were subordinated to their fathers as the heads of the family. Then, through marriage, they were subject to their husband's authority, as a result of which they often were deprived of many rights, they were discriminated against and they became the victims of crime and violence (Èšmuradova 2017: 183).

The problem of negative behaviour toward women also existed in Tsarist Russia, of which Kyrgyzstan became a part, and later in the Soviet Union. In the USSR, domestic violence – especially against women – was seen as a relic of bourgeois and petit-bourgeois life. It was believed that "progressive Soviet citizens were not involved in it in any way" (Smirnova 2022: 583). Therefore, the authorities did not treat it as a serious social problem and did not support its victims (Semenoff 1997: 3–4). In contrast, they considered bride abduction, polygamy and early marriage to be relics of local customs. They believed that these problems were the result of inadequate "ideological work and weaknesses of educational measures." For example, bride abduction was countered through criminal and political means as well as propaganda, which had the effect of limiting the scale of the problem (Tugel'baeva, Hamzaeva, Hamzaeva 2018: 8–9). Another factor was the declining role of the opinions of elderly people, who had enjoyed authority in the society but represented the "old way of life" (Naumova 2016: 76–77).

In sovereign Kyrgyzstan, a multipolar influence on the institution of the family began to be exerted by both the Western and Islamic civilisations (Kadyrkulova, Ačylova 2008: 168–169). The former has faced more difficulty in gaining importance in the public awareness, since it is associated with the crisis of the family and promotion of gender equality. The latter civilisation has shaped Kyrgyz society more easily. Therefore, traditional family culture today is often mixed with Islamic orthodoxy, leading to a stable but closed family, in which discriminatory practices against women are common (Kadyrkulova, Ačylova 2008: 170). Religious institutions often ignore this problem, as long as it fits within certain "limits of decency" (Larionov 2021). It is therefore believed that since the beginning of the socioeconomic change, a patriarchal renaissance has been increasingly developing in Kyrgyzstan. As a result, traditional values prevail in Kyrgyz society, which allow women to be treated primarily as housewives and mothers, responsible for raising children (Piga, Novovič, Mogilevskij 2016: 55). In the patriarchal family model, it is the man who plays the leading role and takes the key decisions. Over the years of sovereign Kyrgyzstan, traditions and customs that were latent in Soviet times – such as bride kidnapping, early marriages, polygamy and violence – have been revived (Kadyrkulova, Ačylova 2008: 170).

The incidence of crime and violence against women is confirmed by a number of studies by scholars, human rights activists and pro-women organisations, both Kyrgyz and foreign. It should also be pointed out that these problems exist in other Central Asian countries, as pointed out by researchers (Werner 2009; Becker, Mirkasimov, Steiner 2016; Childress et al. 2023; Gottfredson, Nielsen 2024; Akisheva 2025).

2. The situation of women in Kyrgyzstan

It should be noted that from 1991, i.e. from Kyrgyzstan's declaration of independence, to the present day, the country's parliament has ratified more than 30 international human rights documents and passed four laws dealing with violence against women (Kadyrkulova, Kasymova 2020: 73). The current 2021 Constitution of the Kyrgyz Republic (Konstituciâ 2021) contains a provision, Article 24(1), which is aimed at ensuring the protection of the rights and freedoms of all persons within its territory and subject to its jurisdiction. It prohibits discrimination based on gender, race, language, disability, ethnicity, religion, age, political or other opinion, education, ancestry, property or other status or other circumstances. Article 24(2) guarantees equality for all "before the law and courts." It states that in Kyrgyzstan "men and women have equal rights and freedoms, and equal opportunities to exercise them" (Article 24(3)). Article provides for families to be formed on the basis of a voluntary union between a man and a woman who have reached the legal age of marriage. No marriage is allowed without the mutual consent of these persons. Spouses have equal rights and responsibilities in marriage and the family. Thus, Kyrgyzstan's highest legal act provides for and guarantees the same rights for men and women.

The equality of spouses in the family is guaranteed by Article 3 of the 2003 Family Code (Semejnyj Kodeks Kyrgyzskoj 2003). Guided by this principle, the Family Code also establishes joint decisions on family matters and relationship-building based on mutual respect and assistance. It considers discrimination between spouses on the basis of gender to be unacceptable. Article 14 of the Family Code states that 18 years is the legal age for marriage. On the other hand, the 2008 Act on State Guarantees of Equal Rights and Equal Opportunities for Women and Men, in its Article 1, defines the term "gender discrimination." Article 5 prohibits gender discrimination in any sphere of activity against persons of different genders (Zakon Kyrgyzskoj Respubliki 2008). Relations between spouses are also regulated to some extent by the 2021 Criminal Code (CC) (Ugolovnyj Kodeks Kyrgyzskoj 2021) and the 2017 Act on Protection from Domestic Violence.

However, in practice the law is not always followed. Women in Kyrgyzstan face difficulties in getting employed (women's labour force participation is almost

1.5 times lower than that of men) and obtaining decent wages for work (there is gender disparity and women are employed in lower-paid sectors), and they are underrepresented in leadership positions (Piga, Novovič, Mogilevskij 2016: 11). Their participation in the political life of the country is very limited, since (according to the principles of Islam) women are not treated as leaders (Muratbaeva, Tobokelov 2023: 275–276). They are victims of domestic violence, early marriage and bride kidnapping (Piga, Novovič, Mogilevskij 2016: 11). In addition, based on many traditions and customs, women are subject to the right of men to control their behaviour, reproductive functions and economic status, and to punish them through psychological and physical violence. Claims of gender equality are undermined by the traditional values cultivated by Kyrgyz society (Musina, Sarsenova 2020: 76). Therefore, the actual situation of some women is difficult.

When analysing the situation of women in modern Kyrgyzstan, it is necessary to refer to history and recall that men have held the leading position in the traditional Kyrgyz family (Žandolotova 2015: 306). In the nation's culture, it has always been considered that the man is the breadwinner of the family and the woman is the guardian of the household. Consequently, the man was the head of the family and the woman had to obey him absolutely and accept his decisions (Osmonalieva 2024: 138). The change in the country's socioeconomic situation since the early 1990s has led to changes in the relations between men and women. The status of men as breadwinners has changed significantly due to the increased participation of women in the workforce, which has resulted in a gradual shift towards women also gaining this status, while continuing to treat marriage and family as an enduring value, regardless of place of residence, social status or level of education (Žandolotova 2015: 306–307).

Therefore, according to one survey, almost half of men believe that "relationships between men and women should be built on the basis of equal rights, responsibilities and opportunities for self-fulfilment" (Žandolotova 2015: 307). It may therefore seem that the situation is improving significantly, but this is not true. Article 9 of the 2021 Constitution of the Kyrgyz Republic (Konstituciâ 2021) states that Kyrgyzstan is a secular state. However, the majority of its citizens profess Islam, which does not recognise gender equality. The religion legitimises the husband's authority over his wife. It stipulates that a disobedient woman should be "educated" through admonition and beating. An example of the contemporary attitude towards women was presented in 2022 by one imam, who compared the rising price of meat with the length of a woman's skirt and called on men to "put an end to this disgrace" (Efimova 2022: 84–85).

Contemporary research indicates that an unequal partnership model still prevails in all Muslim families. It is based on the fact that a man is traditionally the head of the family and the owner of and heir to property. Men are supported by a system of family education that ensures their privileged position by setting certain holidays for them (e.g. on the occasion of the birth of a son or the act of male initiation [circumcision]) and lifting of certain prohibitions (e.g. returning

home late or getting due rest). Men's privileged situation is manifested in access to education, support for forced marriage and positive perceptions of polygamy (Tugel'baeva, Hamzaeva, Hamzaeva 2018: 10).

While this Islamic orthodoxy found in the traditional family culture leads to stability in the functioning of the family, it closes it off and alienates it from society, exposing it to discriminatory practices against women (gender stereotyping in the formation of familial and marital relationships and the spread of illicit forms of marriage through bride kidnapping, for example). It should be noted that these situations did not just occur in the past, but are continued today in independent Kyrgyzstan. This is because these traditions and customs, which were hidden or conditional during Soviet times, have been reborn in the country (Kadyrkulova, Ačylova 2008: 170).

As mentioned above, the traditional Kyrgyz family is patriarchal. It is also most often large, following "the idea of the family as the core value of human existence." Particularly in rural areas of the country, a large number of children means a large number of workers for subsistence farming (Kadyrkulova, Ačylova 2008: 170). By giving birth to many children, a woman contributes not only to the family line, but also to the development of the farm.

Unfortunately, as contemporary researchers note, many women accept the current situation – having been raised in the spirit of patriarchal traditions and reverence and respect for men based solely on this biological fact. They accept being the breadwinner while simultaneously surrendering leadership in the family to their husbands. This approach does not contradict national traditions and maintains the father's authority in the family (Žandolotova 2015: 308). Thus, it is not the law, but the traditions, customs and religion that determine the weak position of women in Kyrgyzstan.

3. Bride kidnapping in Kyrgyzstan and its aetiology

It should be stated that crime and violence in many marriages often begin with a family being established in an unusual way, i.e. with the kidnapping of a bride (with or without her consent) and forced marriage (Denisenko n.d.: 7). The majority of Kyrgyz people are Muslim, and Islamic law (Sharia) prohibits marriage without the consent of both parties (Klejnbah, Salimžanova 2011: 90). In Islam, a man cannot force a woman to marry a person she does not love; even a father cannot do this to his daughter. It is assumed that a woman should marry "solely of her own will and desire" (Ajtmamat kyzy 2017: 74). In addition, the free and full consent of those entering into marriage is required by the 1948 Universal Declaration of Human Rights and the 1979 Convention on the Elimination of All Forms of Discrimination against Women, both of which have been ratified by the Kyrgyz Republic (Klejnbah, Salimžanova 2011: 90).

Nevertheless, the tradition of bride kidnapping, referred to as *ala kachuu* (grab and run), goes back to ancient, nomadic Kyrgyz society, which was based on customary law (Romanenko, Terent'eva 2022: 254). This phenomenon has changed since the beginning of the 20th century. The number of bride kidnapping cases began to rise, with agreed kidnappings increasingly being replacing by non-consensual ones. Such behaviour began to be considered a tradition permitted by Kyrgyz customary law (Klejnbah, Salimžanova 2011: 90). Most likely, the decrease stems from the 2013 amendment to Article 155 of the Penal Code, which provides for harsher penalties for kidnapping women, and the subsequent Criminal Codes adopted in 2017 and 2021. However, no official statistics on this crime are available. The kidnapping of women for the purpose of marriage was practically absent from public statistics before 2019 (Protivodejstvie nasiliû 2021: 64). According to selective information from various sources, 197 cases of kidnapping were reported in 2017 (V Kyrgyzstane 2018). In 2018, the Ministry of the Interior reported that the police had received 895 reports of kidnapping for the purpose of marriage in the previous five years, but 727 of them were discontinued (Džumašova 2023). In 2020, the police registered 210 such crimes (V 2020 godu 2021); in 2021 there were more than 500 cases according to the National Security Council of the Kyrgyz Republic, with 400 cases being discontinued (Džumašova 2023). In 2022, 28 cases were initiated, of which 18 were referred to a court (Pekin+30 2024: 59–60). In four months of 2023 alone, there were 25 cases of kidnapping of girls, and 6 in the first half of 2024 (V Kyrgyzstane 2024).

Nowadays, there are three versions of bride abduction/kidnapping/theft: with the consent of the woman; with the consent of the families of both parties, in a planned manner to reduce the costs of a wedding and wedding party; and without the bride's consent, with her relatives objecting (Kadyrova, Zajyrbekova 2023: 131). In the first version, the woman agrees to be kidnapped for marriage. In the second version, the ritual takes place with the consent of both parties, meaning that the couple agree and initiate the kidnapping. In this way, they avoid the traditional long marriage process (Šaršenova 2011: 150).

In the third version, however, a completely unknown woman is kidnapped and taken to the home of a potential husband (Šaršenova 2011: 150). This man often first looks for and observes a woman at various events, such as weddings, student events, etc., and then he and his friends seek information about her in order to guarantee a successful kidnapping. Sometimes it occurs spontaneously, without prior reconnaissance. Sometimes it results from alcohol abuse or the provocation of his acquaintances. In some cases, however, it is on the initiative of relatives who are involved in the search for a woman (Kadyrova, Zajyrbekova 2023: 131).

Most often, the man lures the woman from her house with cunning. Sometimes, he catches her on the street and pushes her into a car with some friends (Naumova 2016: 76). Her loved ones may then pursue the kidnapper. If they catch him, they can beat him severely (Šaršenova 2011: 150). If the woman's family does not interfere, the man drives her to the home of his parents or the relatives who

prepared him for the "wedding." The woman is not happy with the situation, so she defends herself, resists and refuses to get out of the car and enter the house. She is then forcibly dragged out of the car and inside the house (Naumova 2016: 76). At home, the man and his sisters or other relatives begin to persuade her to obey, explaining that this behaviour is natural in their family ("We also married like this") (Šaršenova 2011: 151). In this way, they put pressure on the kidnapped woman and organise a wedding table to finally convince her of the inevitability of being married to her kidnapper (Šaršenova 2015: 222). They inform her of her future husband's qualities (Karabaeva 2015: 195), seeking her consent to the marriage (Naumova 2016: 76). As a sign of consent, the man's relatives try to make her put on a headscarf (Šaršenova 2011: 76). If she disagrees, they threaten her. If threats are ineffective, the man and his friends may beat or rape her, after which the "impure" woman will certainly not refuse to become his wife (Karabaeva 2015: 76).

After obtaining the woman's consent, the man's relatives notify her parents, who then visit the kidnapper's house. If their daughter does not want to stay there, they can take her (Naumova 2016: 76). However, the woman's parents often do not take her back for fear of infamy, the disapproval of elders and condemnation from relatives and neighbours (Žamankulova 2021: 87). Meanwhile, the man's relatives urge her to stay, threatening her with embarrassment, while also offering her gifts (Naumova 2016: 76). Thus, they apply psychological pressure, which is also related to the fact that if a woman stays overnight at a man's house, she will be considered disgraced. This forces her to agree to marry her kidnapper (Šaršenova 2011: 150). In such a situation, many parents urge their daughter to stay with her kidnapper. After the woman and her parents give their consent, the man's family, especially in southern Kyrgyzstan, holds a Muslim wedding for relatives and local residents. The marriage can then be officially registered. Sometimes a marriage is not formalised by either a religious ceremony or a civil registry office (Naumova 2016: 76).

Researchers point out that women are kidnapped for marriage almost twice as often in rural areas as in urban areas (Women, Peace 2023: 7–8). The vast majority of the kidnappers and a significant proportion of the kidnapped women come from rural areas "with strong patriarchal foundations," in which public opinion plays an important role and causes a fear of condemnation by fellow residents and loved ones if the women fail to comply with the community's demands or violate generally accepted norms. These norms, in turn, impose an obligation to start a family and have children, which they identify as the main purpose of human life and a key social value. In a traditional society, "an unmarried man and an unmarried woman are considered inferior and a disgrace to the family" (Naumova 2016: 79).

The main motives for kidnapping a woman are the man's fear of rejection and desire to avoid paying a dowry to the bride's family, which can range from KGS 10 to more than KGS 100,000 (Kyrgyzstani som; in 2025, EUR 1 was worth KGS 100.79), depending on the area, the social status of the bride's family, the external characteristics of the woman and her level of education. If the amount is expensive for the young man, he makes arrangements with his friends and kidnaps

the woman (Karabaeva 2015: 195). Another motive for kidnapping is the man's need for a woman to run his house (Naumova 2016: 76). It is the man's mother who is particularly interested in this, wanting to transfer much of the household chores to her daughter-in-law (Šaršenova 2015: 222). Another reason for kidnapping a woman can also be the man's age (Naumova 2016: 76) or a physical or mental illness that makes it difficult or impossible for him to find a woman who would marry him voluntarily (Kadyrova, Zajyrbekova 2023: 131). A man's decision to kidnap a woman may also be influenced by the way his parents were married, as well as his relatives' views on the subject, thanks to which he may consider kidnapping "normal" and "acceptable" (Šaršenova 2015: 222).

The United Nations Population Fund recognises that the highest frequency of bride kidnapping occurs in Kyrgyzstan (Piga, Novovič, Mogilevskij 2016: 151). In the 2000s, according to international organisations, 14,000–16,000 girls were kidnapped every year in the country; the Women's Aid Center estimates about 12,000 cases, of which about 2,000 are raped. According to other sources, between 10,000 and 25,000 brides are kidnapped. In half of the cases, the woman does not know the kidnapper (Karabaeva 2015: 195). It is estimated that more than 20% of marriages in Kyrgyzstan are entered into as a result of kidnapping of a woman (with or without her consent), and that the share of forced marriages is 6% (Women, Peace 2023: 7–8). According to other data, 35%–45% of marriages nationwide are the result of women being kidnapped, while in rural areas this value rises to about 60%. Every day, 43 women are kidnapped as brides (Piga, Novovič, Mogilevskij 2016: 51). These figures and percentages were obtained from interviews and consultations with researchers – employees of various national (and local) governmental and non-governmental organisations – and from analyses of official statistics.

Due to the lack of complete data in this area, selective but quite telling data must be relied on. According to the Ministry of the Interior, during a five-year period (2014–2018) the police received 895 reports of kidnapping of women; 168 cases were opened as a result, and the remaining reports were withdrawn. Thus, in 627 cases, the families of kidnapped women were either paid off or the women were forced to accept the marriage (Turdubaeva 2022: 209).

Some kidnappings have a dramatic course or effects. For example, in May 2018, an unknown man tried to force 19-year-old Bakytzhan Turdaleva to get into his car, which he failed to do. He was detained by police officers and taken to a police station. After leaving the police station, the man fatally stabbed the girl in her apartment and then attempted suicide. In April 2021, 36-year-old Zamirbek Tenizbayev kidnapped 26-year-old Aizada Kanatbekova. As a result of an argument between them, the man first killed the girl and then committed suicide (Ortikov 2024: 265).

It should be noted that the kidnapping of women has been considered a crime in Kyrgyzstan since 1994. Kidnapping was first criminalised by the amendment to the 1960 Criminal Code of the Kyrgyz Soviet Socialist Republic (Romanenko, Terent'eva 2022: 254). It was also recognised as a crime in the 1997 Penal Code.

Under Article 172 of the 2021 CC, kidnapping a person for the purpose of marriage is punishable by a fine of between 1,000 and 2,000 calculation indices or a prison sentence of between 5 and 7 years. Kidnapping a child for this purpose is punishable by a fine of between 1,000 and 2,000 calculation indices or a prison sentence of between 7 and 10 years. The calculation index is a monetary rate used to determine social benefits, compensation, economic sanctions, administrative penalties and fines, as well as other economic indicators unrelated to wages (in 2025, it is equal to KGS 100, and KGS 1 = EUR 0.0098). Despite the criminalisation of this behaviour, it is condoned by society and the perpetrators often go unpunished. This results in a sense of impunity for perpetrators and furthers the practice. Aid in avoiding liability is often provided by cooperating relatives, friends and law enforcement officials. As a result of such aid, only a few offenders have been convicted of kidnapping a woman since Kyrgyzstan gained independence (Karabaeva 2015: 196). This approach stems from the fact that part of Kyrgyz society treats the practice as a positive manifestation of the national cultural identity, while others cite the need for labour on farms and in households (to be provided by young daughters-in-law and children). Only a few scholars treat it as an example of systematic misogynistic patriarchy, referred to as "everyday terrorism" (Kim 2018: 14). They are supported by contemporary ethnographers, who describe the kidnapping of women as a negative phenomenon that has nothing to do with Kyrgyz tradition and folk wisdom (Žamankulova 2021: 87).

Women in such arranged marriages and families suffer from their financial dependence, the defects of the alimony system and their inability to support their children on their own (Osmonova 2018: 337). They live in forced marriages due to a lack of support from their families, who do not respect a woman's right to choose her own husband, and out of fear of the future. In addition, a woman who is a victim of violence and who has run away from her husband has no way of finding a new one. Thus, she lives with the belief that once she flees, her family will not accept her due to their fear of being judged badly by society (the infamy will affect the whole family) (Kadyrova, Zajyrbekova 2023: 132). Consequently, the fear of violating tradition and losing reputation puts women in a very difficult situation (Kadyrova, Zajyrbekova 2023: 132). The violence against them, including the sexual violence that follows kidnapping, is often characteristic of rape and torture (Kim 2018: 9). This and other forms of violence negatively affect the family as a whole, but especially women (who often commit suicide) (Kadyrova, Zajyrbekova 2023: 132). It can therefore be concluded that the tradition of bride kidnapping is a kind of barometer, an indicator of men's attitudes toward Kyrgyz women (Osmonova 2018: 337).

The aetiology of bride abduction involves several aspects. One of them is social stratification. Poor men are, in a way, forced to steal their brides. They know that well-off parents will never allow their daughters to marry a non-wealthy man. By abducting a bride, they are not required to pay a dowry for her, which greatly reduces the cost of marriage (Sydykova 2014: 16).

Another aspect includes the belief of some Kyrgyz people that bride abduction is a folk tradition (Klejnbah, Salimžanova 2011: 90) and a "tribute to tradition" (Sydykova 2014: 16). In practice, however, it constitutes discrimination against women. This is because by abducting his future wife, a man denies her right to choose her husband, considering himself a worthy partner and asserting his will. For a man, bride abduction is a demonstration of his own superiority, a "manly" act in line with national traditions (Šaršenova 2015: 222). Thus, the dominance of men in the family and the society underlies the abductors' conduct, and they establish superiority over women through their behaviour. Unfortunately, women consider submission to their will as the norm (Naumova 2016: 80). The negative interpretation of some cultural and social traditions restricts a woman's right to decide about her own life (Ajtykulova 2022: 527).

Bride abduction is also a manifestation of the society's limited awareness of the law (Sydykova 2014: 17). This is particularly evident in the south of the country, in rural areas, which are inhabited by a population that is less educated and more likely to uphold old customs and preserve archaic social customs, i.e. patriarchal relations in the family and tribal ties in the community (Naumova 2016: 78–79). Thus, the incidence of abductions depends on the region and the specific characteristics of its population.

Bride abduction is also related to the financial situation of the abductor's family, as the woman is viewed as an essential additional worker in her husband's household (Sydykova 2014: 17).

The incidence of kidnappings is also fostered by inadequate practices of law enforcement agencies. Sometimes their officers treat this act very lightly and take no action. This results in the underreporting of these crimes and impunity for their perpetrators (Osmonalieva 2024: 138). Even if the authorities take action and the case goes to court, especially in rural areas, the perpetrator is most often not punished. This is because in Kyrgyzstan's pluralistic legal system, far from the state legal system, many villages are effectively governed by councils of elders and *aksakal* courts based on customary law. They certainly do not side with the abducted women (Ajtykulova 2022: 526).

4. The phenomenon and aetiology of early marriage in Kyrgyzstan

Another practice, which is often associated with the kidnapping of women, is early marriage (child marriage). It should be pointed out that in Kyrgyzstan one of the conditions for marriage is to be 18 years of age. The law allows persons who have reached the age of 17 to marry, provided that they have obtained the appropriate permission from the state authority charged with child protection. However,

in practice, only a few receive such permission (Ajtmamat kyzy 2017: 74). Article 174 of the 2021 Criminal Code criminalises forcing a person to marry (it is punishable by 3 to 5 years of imprisonment), and Article 175 criminalises violating marriage age legislation during religious ceremonies (punishable by 3 to 5 years of imprisonment). Throughout the world, marriages involving minors are considered a gross violation of children's rights (Makembaeva 2016: 207).

It is estimated that in Kyrgyzstan about 12% of girls marry before the age of 18 (Kušubakova 2020: 73). After 2010, an increase in early marriages was observed. Some parents marry off their daughters in the ninth grade (Sûžet "Ala kačuu" 2021), or even the eighth grade. They do so mainly for economic reasons (e.g. the need to pay off a loan), essentially selling their daughters. In doing so, they believe that the best thing for a girl is to get married (Ajtmatova, Èdilova 2022: 217). They also do so out of fear that she will move to the city after leaving school and become "spoilt," making it impossible for her to marry later. Therefore, it is primarily the parents who are interested in early marriage, and they hide the fact (Sûžet "Ala kačuu" 2021). Such marriages are most common in southern Kyrgyzstan and in some villages in the north of the country (Ajtmamat kyzy 2017: 74).

Entering into an early marriage often leads to an early pregnancy and risks the girl's death from complications related to childbirth (Kušubakova 2020: 73). According to annual statistical reports, since 2006 there has been a steady increase in the birth rate among girls aged 15–17. While in 2006 it was 4.4 babies per 1,000 women of this age, in 2011 it was 7.2 babies, which suggests that these girls are in "de facto marital relations" (Altybaeva 2014: 152). Giving birth to children and running a household entail a number of responsibilities (Sûžet "Ala kačuu" 2021). This reduces their chances of getting an education or vocation, as they must leave school early (Kušubakova 2020: 73), resulting in their economic dependence on their husband (Sûžet "Ala kačuu" 2021). This deepens their social isolation, which makes it easier for them to become a victim of domestic violence (Kušubakova 2020: 73). Thus, for such minors, marriage carries risks associated with reproduction, health, mental, physical and social development, educational limitations and violence (Makembaeva 2016: 207).

The determinants of early marriage are the "deeply rooted patriarchal attitudes and stereotypes towards girls and women" (Makembaeva 2016: 207) discussed above, the low legal awareness of the society (Ajtmamat kyzy 2017: 74), the poverty and low social status of girls and the low self-esteem and resulting fear of contact with law enforcement agencies (Karabaeva 2015: 196).

Other researchers argue that the reasons for early marriage include the aforementioned ethnocultural traditions (pseudo-tradition) (Altybaeva 2014: 152), medical indications (based on folk superstitions) and the daughters' premature physical maturity and resulting fear for their safety. Other aetiological factors include early pregnancy, poor academic performance and exclusion from attending school. They are also linked to the illness of the girls' parents, as well as their fear that their daughter will remain unmarried (Kim 2018: 9). According to Aizhanyl

Ajtykulova, the reason for early marriage is the "high and growing levels of inequality and significant imbalance between the regions" (Ajtykulova 2022: 527). This means that it occurs in poorer parts of the country.

5. Polygamy in Kyrgyzstan and its aetiology

It should be recalled that polygamy among the peoples of Central Asia has occurred for many centuries (Osmonova 2019: 107–108). Although monogamous marriage was the main form of marriage under Kyrgyz customary law, polygamy was also prevalent among the wealthy members of the society. Marriage and family relations among Kyrgyz people were regulated by the norms of customary law (*adat*) and Sharia (Tegizbekova 2010: 87).

During Soviet rule polygamy was banned as a form of marriage (Tegizbekova 2012: 202), but was nevertheless practiced in secret. At the time, it was one of several crimes considered relics of local customs (Sydykova 2014: 58). With the collapse of the USSR and the destruction of communist ideology and morality, polygamy underwent a rapid resurgence across the region (Osmonova 2019: 107). After Kyrgyzstan gained independence, cases of polygamy became common (Tegizbekova 2012: 197). Currently, only monogamous marriages are considered legal in the country. Criminal law prohibits polygamy, criminalising the act (Tegizbekova 2012: 202). Article 176 of the CC criminalises bigamy and polygamy, which are punishable by community service of 100 to 300 hours or correctional work for 1 to 3 years, or a fine of 500 to 1,000 calculation indices.

In July 2008, Kyrgyzstan's justice minister proposed legalising polygamy. He pointed out that the ban violates the rights of children born in marriages by second and third wives. It should be clarified that successive marriages are not performed in a government office, but only in a mosque (Bibikov 2020: 54), i.e. according to Muslim traditions. Such marriages are not legally valid and do not establish the legal situation of the women and children concerned, as a result of which they often cannot defend their interests in cases concerning the division of property, enforcement of alimony or establishment of paternity (Kadyrkulova, Ačylova 2008: 170). The minister's proposal did not result in a change in the law (Bibikov 2020: 54).

On the other hand, in the autumn of 2017, the Kyrgyz parliament began discussions on legalising polygamy. It analysed the social disputes over the permissible number of wives for a Muslim, as well as for a Kyrgyz. It pointed to the arguments of Muslim clergy which advocated for the introduction of polygamy as a norm, as well as the need to protect the rights of children, women and men. The discussions did not lead to changes in the law (Osmonova 2019: 108).

Many researchers have pointed to similar arguments regarding the protection of the rights of women and children who are already in this type of marriage.

They noted its widespread perpetuation in the public consciousness (Tegizbekova 2012: 203) and stressed that society accepts polygamy under the current difficult economic conditions (Bibikov 2020: 54).

Supporters of polygamy in Kyrgyzstan reasoned that it would solve the problem of there being more women than men in the country. It would allow single women to become second or third wives. They argued that men by nature instinctively strive to have several women, which would be legalised through polygamy. The proponents of polygamy cited religion, which allows a man to marry up to four women (Žunušova 2013: 219). They justified polygamy (especially some men and some Islamic clergymen) with Islam, even though in reality it is not compatible with the Quran and Sharia (Kadyrkulova, Ačylova 2008: 170). They encouraged men to take a second wife if their first wife was in poor health or infertile, or if they lacked hope that the first wife would give birth to a boy (Bibikov 2020: 55). They suggested finding a wife on their own if their parents had arranged their marriage and there were no feelings between the spouses (Tegizbekova 2012: 201). These views and arguments, as well as the widespread prevalence of polygamy and the permissive attitude to it in Kyrgyzstan, suggest that discrimination against women is seen as a natural norm of life in the country (Osmonova 2018: 338).

Polygamy in Kyrgyzstan is unique in that it contains both Islamic and traditional elements, as well as elements that are frequently associated with the low socioeconomic status of women (Kadyrkulova, Ačylova 2008: 170). This creates conflicts with the secular part of society, especially with NGOs promoting women's rights. On the one hand, the state feels the strong pressure from the Islamic part of society to legalise polygamy; on the other hand, it sees the phenomenon as contradictory to the secular nature of the state's constitutional system (Osmonova 2019: 107–108).

Studies show that polygamous marriages are on the rise in modern Kyrgyzstan. Polygamy is practiced in both urban and rural areas, by both wealthy and not-so-wealthy men. Having a second wife adds prestige and increases their standing in society, and they continue to be married to their first wife, who retains her status as a married woman and the right to her husband's inheritance. Usually the wives do not live together, and the man provides them with separate homes (Osmonova 2019: 109). However, not all husbands with two or more wives are responsible; they do not always take care of all their wives and children, including after divorce, which is contrary to the requirements of Sharia and Muslim ethics (Turdubaeva 2022: 207). It can be concluded that polygamy exacerbates the crisis of the institution of the family in Kyrgyzstan (Kadyrkulova, Ačylova 2008: 170).

It must also be said, unfortunately, that polygamy in Kyrgyzstan today is also sometimes forced by the situation. Men who have gone abroad in search of work sometimes stop sending money to the families they leave behind, forcing their wives to seek livelihoods on their own. They frequently opt for the status of a second wife then. Of course, as mentioned above, a second marriage consecrated in a mosque is not legally valid (no right to alimony or inheritance) (Bibikov 2020: 55).

As a result of polygamy, women often become additional workers on farms run by rich men, which is one form of exploitation of female labour (Tegizbekova 2012: 200–201). Therefore, while marrying a new wife may simply satisfy a rich man's whim, for a woman it is often the result of both poor social circumstances and a lack of prospects for finding a husband and starting a family based on love (Bibikov 2020: 55).

Research on polygamy conducted in the countries of Central Asia, including Kyrgyzstan, has identified the reasons for the revival of the phenomenon: the occurrence of long-standing political, socioeconomic and spiritual crises that have made women economically dependent on wealthy men; the progressive Islamisation of the country, leading to the legalisation of polygamy with the support of mainly male representatives of the economic and political elite; the gender imbalance in the society, associated with mass internal and external migration, which promotes the acceptance of polygamous families; and men's desire to increase their prestige by having two or more wives (Osmonova 2019: 111).

Against the backdrop of the aforementioned aetiological factors, it is important to note the issues associated with the biological and physical sphere of a wife's life. Infertility (Sydykova 2014: 58), ageing, loss of attractiveness and weight gain due to childbirth causes "her husband's lack of satisfaction with her" (Žunušova 2013: 219), which leads him to look for another wife. Polygamy is also fostered by the need for labour in a rich husband's household, which can be done by a young, capable woman (Sydykova 2014: 61). This demonstrates the objectification of women. Unfortunately, through polygamy, they too are often forced to pursue their material interests (Tugel'baeva, Hamzaeva, Hamzaeva 2018: 12). Due to financial dependence on their husbands, if the husbands fail to pay alimony, they are unable to support the family on their own and many women assume the humiliating position of being a second or third ("younger" or "older") wife (Žandolotova 2015: 305–306). Polygamy is also fostered by the presence of a tendency in Kyrgyzstan to adopt a more archaic way of life in the country, which is particularly manifested in the resurgence of certain customs that discriminate against women (Tugel'baeva 2018: 47).

6. Domestic violence against women in Kyrgyzstan and its aetiology

At the outset of the analysis in this area, it should be stated that the phenomenon of domestic violence in Kyrgyzstan has been recognised and defined. The 2017 Act on Protection against Domestic Violence defines the term as "intentional acts of a physical, mental or economic nature, or the threat thereof, stalking or neglect committed by one family member/a person equal to him or her against another

family member/a person equal to him or her" (para. 10). The Act also defines the various manifestations of the phenomenon: physical (para. 13), psychological (para. 9) and economic (para. 15) violence.

According to research conducted in Kyrgyzstan, women are most often affected by psychological violence, followed by physical violence and sexual violence (Ryžkov 2013: 208). They are also subjected to economic violence. They are often humiliated by family members and relatives (Kadyrkulova, Kasymova 2020: 72). They are subjected to brutal physical violence, even fatal violence, by their husbands and partners. In such situations, the woman's death is a direct consequence of domestic violence. For this reason, "the family home of Kyrgyz women is considered the most dangerous place." Men most often justify their behaviour by "the provocative behaviour of their wives" (Efimova 2022: 84). Other manifestations of this violence against women include the killing of girls through abortion and infanticide. This is done on the basis of gender, as the family prefers boys (Piga, Novovič, Mogilevskij 2016: 51). Sons are considered the future breadwinners of the family, so the birth of boys is in the family's economic interests (Muratbaeva, Tobokelov 2023: 275).

In addition, the vast majority (73.5%) of women experiencing violence are economically dependent on their abusers, be it a husband or other family member (Piga, Novovič, Mogilevskij 2016: 51). Some women are banned from working and studying, which results in limited opportunities for economic independence (Kadyrkulova, Ačylova 2008: 168). This attitude towards and treatment of women stems from traditions that objectify women and see them as economically dependent on their husbands (Muratbaeva 2023: 170). This results in a lower position for women and a difficult material situation in the family.

Domestic violence against women in Kyrgyzstan is widespread. However, it is incredibly difficult to determine its scale. According to the available data, in 2011, for example, 13% of women experienced domestic violence (Muratbaeva 2023: 170). In 2012, 25% of married women aged 15–49 were victims of physical or sexual violence by their husband or partner. Some of them (7%) were pregnant at the time (Women, Peace 2023: 7–8). According to recent research, 25% of women in Kyrgyzstan have been victims of domestic violence in various ways. One in four married women has been a victim of physical violence, while 18% of women have experienced sexual and emotional violence (Efimova 2022: 84). According to some data, as many as 83% of women in Kyrgyzstan experience violence from their husbands or partners (Ryžkov 2013: 208). Other data indicate that women, i.e. wives, daughters, sisters and mothers, account for 95% of the victims of domestic violence (Makembaeva 2019: 167), or as much as 98% according to 2020 data (Žumabaj uulu 2021: 1).

Unfortunately, the numbers of reported crimes and requests for help from women are negligible. The reluctance to report such incidents and the lack of punishment for the perpetrators is evidenced by the following data: in 2021, 7,840 cases of domestic violence were registered, of which only 10% went to court; 7,132 cases were terminated (63% due to lack of evidence, 21% due to lack of a statement

from the victim, 13% due to reconciliation of the parties and 3% due to a statute of limitations or amnesty law) (Efimova 2022: 83). Thus, the response of state authorities discourages people from reporting such crimes to law enforcement agencies.

In addition, to avoid their children being raised by their father, women often do not report crimes and violence and do not assert their rights, thus sacrificing their own safety (Efimova 2022: 84). They often find themselves pressurised by relatives who demand that they protect their family and its good name at all costs and force them to not report the violence they have suffered. The victims fear social stigma and are afraid to report violence due to their economic dependence, vulnerability and isolation (e.g. those living in unregistered marriages), and out of fear of retaliation from family members (Žumabaj uulu 2021: 1). Only about 30% of domestic violence cases are reported to the police (Makembaeva 2019: 167), and this figure may be even lower (less than 20%) (Protivodejstvie nasiliû 2021). This is mainly influenced by the mentality of Kyrgyz society, its traditions, the educational level of the population, the legal protection available and the region concerned (Mamatazizova, Mamatazizova 2021: 478–479).

According to research, 98% of domestic violence cases are perpetrated by the husband or former husband (Efimova 2022: 84). On the other hand, data from the Judicial Department of the Kyrgyz Republic point to husbands and partners (77% of cases), followed by sons (19%) and fathers (4%). These findings suggest that domestic violence is a gender-based problem (Žumabaj uulu 2021: 1). Most perpetrators have a general secondary education (89%–90%), and much less frequently a secondary vocational education (3%–4%) or higher education (3%–4%). Most of them are unemployed (85%–90%) (Tugel'baeva 2018: 47). The perpetrators of violence are often under the influence of alcohol. In this state, they primarily commit physical violence (inflicting bodily injury, beating or torture) (75% of cases), psychological violence (humiliation, insults or deprivation of liberty) (15% of cases), other types of violence (i.e. rape or sexual assault) or economic violence (discrimination and denial of the right to own property) (10% of cases) (Žumabaj uulu 2021: 1).

Violence very often affects women living in rural areas, where these customs are rigorously observed today, according to which certain prohibitions are imposed on women by their husband and his relatives. The daughter-in-law is at the bottom of the family hierarchy, which entails her doing all the housework, as well as being required to help at all events of her husband's relatives (weddings and funerals). In case of conflicts in the family, a woman should not inform anyone about it, much less complain about her husband or his relatives. Women living in remote areas away from cities are often cut off from the world, deprived of means of communication, i.e. telephones, computers and the internet. This makes it impossible to report violence to the authorities. This problem was particularly evident during the COVID-19 pandemic. The isolation in people's homes and the resulting economic difficulties (obtaining loans for sowing and farming expenses) negatively affected their quality of life (Mamatazizova, Mamatazizova 2021: 479).

Older women, often suffering from various chronic illnesses that require constant care and medication, are also victims of domestic violence. Due to low pensions, they become financially dependent on their family members and easily become victims of psychological abuse. Another category of domestic violence victims are women from the one hundred ethnic minorities living in Kyrgyzstan. Most of them live in closed communities, acting as housewives taking care of a large number of children, without participating in public life. They are subjected to discrimination and violence that is justified by tradition and religion (Mamatazizova, Mamatazizova 2021: 479).

Women with disabilities and/or disabled children are similarly disadvantaged. Most of them are dependent on other family members and, as a result, constantly experience psychological violence. They are blamed for giving birth to a disabled child, as in Kyrgyz families it is believed that the child's health depends solely on the mother (Mamatazizova, Mamatazizova 2021: 479–480).

The above facts demonstrate that the victims of violence are most often those least socially protected (i.e. materially, physically and psychologically) from other members of their families (housewives, pensioners and the disabled). Such people's dependence can easily be exploited through violence (Iskenderova 2010: 81).

It should be noted that violence also occurs in so-called good families – those free from substance abuse, composed of intelligent and educated members and wealthy. Thus, domestic violence has no intellectual or economic boundaries (Ajtbaeva 2020: 146).

Given all this information, unfortunately, one must also conclude that the majority of Kyrgyz society tolerates violence against women, thus affirming the husband's right to "educate his wife." About 30% of women and about 50% of men believe that wife-beating is acceptable in some cases. Women may support this belief, especially in cases where a woman does not take care of her children, leaves the house without informing her husband, shows defiance to him, refuses to have sexual intercourse with him or cooks poorly (Women, Peace 2023: 7–8).

This is despite domestic violence having been criminalised. Article 177 of the Criminal Code punishes such behaviour with correctional work for 2 months to 1 year, community service for 40 to 100 hours or imprisonment for up to 5 years. Nevertheless, victims very often do not report violence, primarily because of the stigma associated with doing so. This discourages and deters women who suffer from violence (Piga, Novovič, Mogilevskij 2016: 51). Thus, despite the legal framework created to ensure the rights of women and girls in Kyrgyzstan, they are still largely unprotected from domestic violence (Kušubakova 2020: 73). This is certainly facilitated by the application of the law and the approach of law enforcement agencies in this regard (similar to the crimes discussed above).

The determinants of domestic violence are primarily cultural in nature. Social, economic, institutional and legal factors also play a significant role. It should be concluded that the cultural traditions and customs of Kyrgyz society, including religious traditions, give women a lower status compared to men, which leads to aggressive behaviour against women (Musina, Sarsenova 2020: 76).

A special role in this regard is played by the family, which regulates and controls adherence to socially accepted relationships and behaviour based on patriarchal culture. "It is patriarchal culture, through its various sources, that preserves violence against women as a system of subordination and terror, replicating its 'virus' from generation to generation" (Ajtbaeva 2020). Therefore, violence against women in Kyrgyzstan is based on patriarchal customs and traditions involving certain social relations, cultural norms, value trends and gender stereotypes, the dependency status of women in the family and the customary attitude that domestic violence is an individual problem (Kadyrkulova, Kasymova 2020: 72).

Domestic violence is a tool to maintain control and domination over women, especially Muslim women, and to perpetuate a patriarchal society in which men control women and women are expected to be submissive (Turbubaeva n.d.). Therefore, cultural attitudes determine gender inequality (Osmonalieva 2024: 137), and the perpetuation of patriarchal attitudes towards women (Efimova 2022: 84) underpins the use of violence against women in the family. They support economic gender inequality at the level of the state and social institutions. The social causes of the behaviour discussed herein are alcohol or drug abuse (Askat uulu 2019: 119), increased migration, limited education (Efimova 2022: 84), declining educational level across the population (Žumabaj uulu 2021: 1) and a spiritual and cultural decline in the society (Askat uulu 2019: 119). Other problems include disagreements over childrearing, childlessness and the inability of one spouse to resist the interference of relatives (Efimova 2022: 84). Furthermore, many misconceptions about domestic violence persist in Kyrgyzstan. Terms such as abuse, coercion and exploitation are more commonly used to describe the phenomenon. The victims of violence do not consider it violence, perceiving it as the norm (Abdymomunova, Sabirova 2015: 1144).

Domestic violence is also determined by socioeconomic problems (Žumabaj uulu 2021: 1), including socioeconomic instability and unemployment (Askat uulu 2019: 119), the society's socioeconomic crisis and a general decline in living standards (Efimova 2022: 84). The problem is the lack of effective legislation and mechanisms to protect the victims (Osmonalieva 2024: 137–138), as well as the culture of silence and not recognising the problem that prevails in Kyrgyz society. Due to the lack of support, many victims do not report acts of violence, fearing the perpetrator's retribution and the society's stigmatisation (Čynybaeva, Ašyrbaeva n.d.). Unreported cases of domestic violence are also due to the lack of professionalism among law enforcement officers (Saâkova 2011: 52) and the resulting failure to prosecute the perpetrators (Muratbaeva 2023: 170). On the other hand, the low level of professionalism of the judicial authorities (Saâkova 2011: 52) results in courts considering only a fraction of the reported cases and accusing most perpetrators of only "disturbing the peace" and not of domestic violence (Piga, Novovič, Mogilevskij 2016: 50).

This makes it difficult to analyse the impact of criminal law on the state of the crimes in question. Their long-standing practice, which is full of contradictions

and shortcomings, has resulted in a lack of systematic monitoring by the state and evaluation of the legislation's impact on the processes associated with the protection and rights of female victims (Pekin+30 2024: 27).

Conclusion

The analysis conducted for this paper allows us to confirm the hypothesis: Violence and crime against women in Kyrgyzstan most often occur within the family and originate in the patriarchal family model. It was established that the family is hardly a safe place for a Kyrgyz woman to live. Her situation, made difficult due to her gender, begins when she is married off as a minor (or teenager), or kidnapped without consent by a man she usually does not know or accept. Staying in a polygamous marriage (with all its consequences) is also difficult, and being subjected to violence from her husband or mother-in-law is damaging to both the woman and her children. The analysis leads us to agree with the researchers' opinion that in modern Kyrgyzstan the use of physical force in interpersonal relations is widely accepted. Cases of violence and crime against women are often concealed, reflecting an old social mindset. Protecting family or clan status is more important than legal principles.

All of the behaviours discussed herein, i.e. crimes, abuse and pathologies, are the result of a familial dynamic characterised by the domination of the husband and his close relatives. A ruthlessly patriarchal family model, often based on tradition and ancient customs, even prevents a woman from deciding about her life, relegates her to the margins of family life and exposes her to acts of verbal and psychological aggression, leading in turn to her discrimination and victimisation. This leads to the conclusion that the modern upbringing of girls – which is focussed on teaching them to obey many rules, orders and prohibitions, and on the belief that they will play a subordinate role in marriage and the future family – will continue to foster a deterioration in terms of violence and crime against women.

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Urban land conflicts and community responses in Africa: Violence, justice and everyday resistance

Konflikty o ziemię miejską i reakcje społeczności w Afryce. Przemoc, sprawiedliwość i codzienny opór

Abstract: Urban land conflicts in African cities are shaped not only by rapid urbanisation and socio-political inequality, but also by organised and everyday forms of violence, including evictions, land grabs and coercive interventions by state and non-state actors. While much scholarship has examined formal policies, tenure insecurity and informal urban expansion, less attention has been given to community-led strategies for navigating these conflicts. Drawing on documented cases, secondary sources and existing scholarship, this paper examines how urban communities – often marginalised along lines of class, race and gender – respond to land contestation through collective action, local arbitration and everyday placemaking. Using critical and decolonial perspectives, I analyse how historical processes of dispossession, neoliberal land reforms and state disinvestment produce layered forms of urban land precarity. By focussing on documented grassroots responses, the study highlights both the creative, context-specific knowledge that communities contribute to conflict resolution and the forms of violence they face, linking urban land disputes to broader debates on criminality, victimisation and social control. This approach contributes to comparative criminology by situating African urban experiences within global discussions of urban governance, grassroots resilience and transformative justice.

Keywords: urban, land conflict, Africa, urbanization, class, race, gender, cities

Abstrakt: Konflikty o ziemię miejską w afrykańskich miastach kształtowane są nie tylko przez szybką urbanizację i nierówności społeczno-polityczne, ale także przez zorganizowane i codzienne formy przemocy, w tym eksmisje, przejmowanie ziemi oraz oparte na środkach przymusu interwencje ze strony podmiotów państwowych i niepaństwowych. Chociaż w wielu badaniach analizowano formal-

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ne polityki, niepewność mieszkaniową oraz nieformalną ekspansję miast, mniej uwagi poświęcono strategiom obieranym przez społeczność w zakresie radzenia sobie z tymi konfliktami. Artykuł ten opiera się na udokumentowanych przypadkach, źródłach wtórnych i istniejącej literaturze. Analizuję w nim, jak społeczności miejskie – często marginalizowane ze względu na klasę, rasę i płeć – reagują na spory o ziemię poprzez działania zbiorowe, lokalny arbitraż i codzienne tworzenie miejsc. Korzystając z krytycznej i dekolonialnej perspektywy, analizuję, jak historyczne procesy wywłaszczenia, neoliberalne reformy rolne i wycofywanie inwestycji państwowych prowadzą do wielowarstwowych form miejskiej niepewności ziemi. Badanie koncentruje się na udokumentowanych inicjatywach oddolnych i podkreśla zarówno kreatywną, kontekstową wiedzę, którą społeczności wnoszą do rozwiązywania konfliktów, jak i formy przemocy, z którymi się spotykają. Badanie łączy spory o ziemię miejską z szerszymi debatami na temat przestępczości, wiktymizacji i kontroli społecznej. To podejście stanowi wkład do kryminologii porównawczej, dodając afrykańskie doświadczenia miejskie do globalnych dyskusji o zarządzaniu miejskim, odporności oddolnej i sprawiedliwości transformacyjnej.

Słowa kluczowe: charakter miejski, konflikt o ziemię, Afryka, urbanizacja, klasa, rasa, płeć, miasta

Introduction

Across Africa, land remains central to social, political and economic life. In rapidly urbanising cities, however, it is increasingly characterised by contestation, fragmentation and violence. Urban expansion, both outward into peri-urban areas and inward through speculative development and elite capture, has transformed land into an arena of intense conflict among state actors, private developers and local communities (Lombard, Rakod 2016; Dadashpoor, Ahani 2019; Froese, Schilling 2019). These conflicts are rarely incidental; they reflect long-standing historical trajectories of dispossession, uneven development and state-sanctioned spatial exclusion. Communities, particularly those marginalised by race, class, gender and historical displacement, must navigate, resist and reclaim land through diverse grassroots strategies. While often overlooked in policy and academic discourse, these strategies are a vital domain of urban politics, revealing how violence, power and contestation are deeply intertwined in everyday urban life.

Despite growing attention to urban land governance, tenure security and informality, much of the scholarship remains fragmented and technocratic. Policy-focussed studies often emphasise land titling, registration and formal dispute resolution mechanisms, assuming that formalisation will reduce conflict and clarify tenure (Zoomers et al. 2017; Kanai, Schindler 2019; Schirpke et al. 2023). However, evidence demonstrates that formalisation can exacerbate exclusion, reinforce power asymmetries and even generate violence – particularly in contexts where elite actors dominate access to land or the state intervenes selectively (Vesco et al. 2020; De Jong et al. 2021; Mudapakati et al. 2024; Wolford et al. 2024). Such processes often reproduce structural precarity, exposing marginalised populations to threats of eviction, harassment or criminalisation. Missing from this discourse is serious engagement with the agency, knowledge and practices

of communities confronting land conflict – understood not as policy failures to be corrected, but as lived conditions to be navigated, challenged and transformed from below.

This paper introduces the land conflict–community nexus as a conceptual framework to provide a relational and grounded understanding of how land disputes unfold and are addressed in African cities. The nexus approach foregrounds the entanglement of structural dispossession, grassroots responses and the production of urban space. Land is conceptualised not merely as a legal or economic asset, but as a contested terrain imbued with memory, identity and social significance (Huggins, Mastaki 2020; Manara, Pani 2023). Similarly, community is treated as a dynamic site of negotiation, exclusion and solidarity that is capable of both resisting and reproducing dominant spatial orders. By highlighting the interconnections between historical, social and political processes, this framework allows for a more nuanced understanding of urban land conflict as simultaneously structural, violent and relational.

Historical context is crucial for understanding the contemporary land conflicts. In many African cities, disputes are rooted in colonial land regimes that institutionalised racial and ethnic hierarchies through spatial ordering and legal abstraction. These legacies persist in dual or plural legal frameworks where statutory and customary tenure often overlap, frequently to the disadvantage of marginalised groups (Gribat, Piszo 2020; Taviani 2022). Post-independence governments have sometimes perpetuated or adapted these systems to favour elite actors, formal markets and capital-intensive development. Peri-urban areas are especially vulnerable to overlapping claims and speculative pressures, producing multiscalar and violent land struggles (Balestri 2019; Follmann 2022; Elfversson 2023). In many cases, the actors involved in these conflicts – whether private developers, municipal authorities or organised crime groups – employ coercive or illegal tactics to enforce their claims, further intensifying the risks and stakes for local communities.

Despite these structural constraints, communities continue to mobilise documented strategies to assert claims, defend tenure and negotiate access to space. In cities such as Nairobi, Accra, Harare and Johannesburg, residents have established land committees, savings groups, housing cooperatives and neighbourhood associations to protect their interests collectively (Van der Haar, van Leeuwen, De Vries 2020; Elfversson 2023; Elfversson, Höglund 2023; Albertus, Klaus 2024). These mechanisms often operate outside formal legal frameworks, relying on social networks, customary norms or hybrid forms of legitimacy. Some initiatives involve direct resistance – preventing evictions, organising land occupations or constructing self-built infrastructure – while others pursue gradual recognition through visibility and sustained presence. These practices are not simply adaptive or reactive; they are context-specific forms of agency that contest violent spatialities while redefining what it means to belong, dwell and claim rights in the city.

Recognition of these grassroots responses in policy frameworks remains limited. When acknowledged, they are often instrumentalised to legitimise prede-

termined development agendas or to depoliticise collective action (Lombard 2016; Banks, Lombard, Mitlin 2020; Carrilho, Trindade 2022). This neglect marginalises local knowledge and reinforces exclusion. A critical perspective on the land conflict–community nexus therefore requires shifting from top-down, needs-based interventions towards dialogical, locally driven processes that value community epistemologies and situate their strategies within broader structural and historical conditions (Menzori, de Sousa, Gonçalves 2021; Leitner, Nowak, Sheppard 2023).

By drawing on documented cases and secondary sources, this paper conceptualises community responses not merely as coping strategies, but as political acts grounded in collective memory, relational belonging and spatial justice. It examines the structural and historical conditions that give rise to land conflict in urban and peri-urban Africa; explores how communities respond through negotiation, collective action and resistance; and considers what lessons these responses offer for more just and inclusive urban land governance. Situating African urban experiences within broader debates in criminology and urban governance, the study highlights the interplay of violence, social control and grassroots resilience. It shows how land conflict can simultaneously be a site of precarity and a realm of possibility, revealing both the vulnerabilities and the creative capacities of communities navigating violent urban orders.

In a nutshell, this analysis contributes to comparative criminology by foregrounding African urban experiences within global discussions of urban governance, grassroots resilience and transformative justice. It challenges conventional policy assumptions that view land conflict solely as a legal or technical problem, emphasising instead the relational, political and contested nature of urban land. By centring the lived experiences and strategies of communities, the paper demonstrates that understanding land conflict requires attention to structural violence, organised actors and the everyday practices through which residents negotiate, resist and transform urban space. In doing so, it underscores the importance of integrating critical, context-sensitive and empirically grounded perspectives into debates on urban land justice, crime and social control.

1. Methodological approach

This paper advances critical theoretical perspectives for rethinking how urban land conflict is conceptualised in African cities, with particular attention to grassroots responses. It draws on documented cases, secondary sources and existing scholarship to examine two interrelated themes: the historical continuities of spatial exclusion and colonial dispossession that shape urban land struggles and the ways in which these struggles function as sites of both material contestation and symbolic resistance, mediated by power, inequality and community agency. Rather

than presenting new empirical data in the conventional sense, the paper engages critically with documented instances of land conflict and scholarly analysis to illuminate both the structural and everyday dimensions of contestation.

The methodological approach combines critical synthesis, comparative analysis and case-based interpretation. Documented cases – drawn from scholarly articles, reports and legal or media records – serve as empirical grounding for exploring how communities negotiate tenure, resist eviction and navigate contested urban spaces. By systematically examining these cases, the study identifies patterns of conflict, strategies of grassroots mobilisation and the role of violence, coercion and social control in shaping outcomes. This approach allows for rigorous analysis while remaining sensitive to context-specific variations across cities such as Nairobi, Accra, Harare and Johannesburg.

My perspective as a Nigerian researcher, having grown up in a peri-urban settlement on the fringes of a rapidly expanding city, informs this analysis. Personal observations of state-backed development schemes, elite land speculation and the ambiguous enforcement of land titles provide a grounded understanding of how communities are affected by layered forms of land precarity. Coupled with academic and activist engagements with grassroots organisations and legal advocates working on land tenure and urban justice (Bamidele 2018a; 2018b; 2022; 2024; 2025), this insider knowledge enables the paper to interpret documented cases in ways that foreground community agency, localised strategies of resistance and the sociopolitical dynamics of violence and coercion.

By focussing on documented grassroots responses, the paper situates African urban land conflicts within broader debates in criminology, urban governance and social justice. It emphasises that communities are not merely passive victims of structural dispossession, but active political agents whose strategies reveal both the limitations of formal legal frameworks and the creative potential of locally grounded practices. This method highlights the intersection of historical processes, institutional power and community action, providing a nuanced understanding of how land conflicts are experienced, contested and sometimes transformed from the ground up.

2. Historical continuities of spatial exclusion and colonial dispossession

Critical urban scholarship increasingly situates contemporary urban inequality, land struggles and housing crises in Africa within a historical continuum of colonial dispossession and racialised spatial ordering. These phenomena are not emergent or ahistorical; they reflect the structural and symbolic legacies of settler colonialism, racial capitalism and imperial urbanism, which continue to shape

the exclusionary spatial landscapes of postcolonial African cities. From the British colonial city in Lagos or apartheid-era Johannesburg, through settler-dominated Nairobi to militarised zoning in Harare, spatial injustice persists as a central feature of urban governance, development and social control (Roy 2009; Myers 2011; Odendaal 2021; Chataika, Goodley 2024; Corbett et al. 2025).

As Mahmood Mamdani (1996) argues, colonialism established a bifurcated urban governance system that endures today: a dual regime in which urban space functions simultaneously as a site of accumulation for elites and a zone of containment for the poor. Spatial exclusion was not incidental; it was central to the production of colonial order. Indigenous populations were forcibly displaced, their lands expropriated and their settlements rendered illegal. Legal frameworks deliberately negated customary land rights, enabling dispossession under the guise of modernisation, infrastructure development and legal rationality (Okoth-Ogendo 1991; Bjornlund, Bjornlund, van Rooyen 2020). Post-independence governments frequently perpetuated these logics, often privileging new elites, private investors and international capital while further marginalising low-income and historically excluded communities.

Rather than dismantling colonial spatial orders, many postcolonial states have reinforced them through neoliberal urban reforms, state-sanctioned evictions and elite-driven development initiatives. These dynamics are visible in speculative real estate markets, gated communities and informal settlements displaced under the banner of "urban regeneration" or "modernisation." Cities such as Nairobi, Lagos and Johannesburg display stark spatial dualisms: affluent districts and "world-class" infrastructure exist alongside informal settlements facing neglect, insecure tenure and violent repression (Watson 2009; Caldeira 2017; van Vliet 2019; Banks, Lombard, Mitlin 2020).

This persistent geography of exclusion is maintained through legal, political and ideological mechanisms. Land titling and zoning laws continue to marginalise informal tenure systems, while technocratic urban planning prioritises elite accumulation. Public discourse frequently frames informal residents as intruders, criminals or obstacles to development, legitimising evictions, demolitions and coercive policing (Fanon 1963; Mbembe 2001). These spatial practices are profoundly racialised, gendered and violent, designed to maintain a hierarchy privileging some lives while rendering others disposable.

In this context, spatial injustice is not a backdrop to protest; it is its catalyst. Marginalised communities assert claims to land, housing and urban space through occupation, litigation and collective action, challenging structural arrangements that deny them full citizenship. Contemporary urban protest is thus inseparable from historical and structural inequalities. Drawing on Henri Lefebvre's (1991) concept of the right to the city, these struggles can be interpreted as claims for spatial justice and decolonial sovereignty, rather than mere disruptions or grievances over service delivery.

2.1. Material deprivation and structural violence that render protest inevitable

Structural violence underpins contemporary African urban landscapes. Centuries of spatial engineering – colonial land expropriation, forced removals, exclusionary planning and postcolonial neoliberal urbanism – have rendered millions of urban residents invisible, precarious and vulnerable. Informal housing, inadequate services, insecure tenure and frequent encounters with police or municipal authorities are normalised realities for many urban residents (Pieterse, Parnell 2014; Simone 2018; Feltran 2020; McFarlane 2021; Wacquant 2022).

Evictions and demolitions are stark manifestations of this structural violence. In Lagos, the 2017 demolition of Otodo Gbame displaced over 30,000 residents, despite favourable court rulings. Residents were forcibly removed under the guise of environmental protection and urban modernisation, while security forces demolished homes, confiscated belongings and criminalised survivors as "illegal occupants" (Walker et al. 2018; Adeola 2020; Roberts, Okanya 2022). In Nairobi, repeated evictions in Kibera, Mukuru and Mathare have accompanied infrastructure projects funded by international development banks. Police and private security forces frequently employ tear gas, water cannons and physical assault, destroying homes and small businesses in the process (Huchzermeyer 2011; Nagendra et al. 2018; Monteiro et al. 2024).

In Johannesburg, the shack-dwellers' movement Abahlali baseMjondolo faces systematic harassment, arrests and attacks from municipal authorities while resisting evictions and land grabs. Their protests are often labelled criminal, "illegal occupation" or "public nuisance," which reflects how state apparatuses deploy law and policing to reinforce spatial exclusion (Zikode, 2008; 2009; Burchardt 2023). Similarly, in Harare, informal traders have repeatedly confronted municipal demolitions, arrests and the destruction of livelihoods, despite ongoing court battles defending their rights (Kamete 2012; 2013; Vermeiren et al. 2012; Bandauko, Arku 2024).

These acts of state-sanctioned and elite-driven violence are part of a broader political economy that treats urban land as a commodity rather than a right. The criminalization of protesting serves to delegitimise grassroots claims and obscure the historical and structural causes of dispossession. Authorities frequently depict eviction resistance as riots, looting or disorderly conduct, framing marginalised populations as inherently criminal while masking structural violence as a law-and-order problem.

Communities respond through diverse strategies of resistance and assertion. In Johannesburg, Abahlali baseMjondolo has combined direct action with legal advocacy, securing victories in court that challenge eviction orders and affirm informal settlements' rights to land (Zikode 2009; Burchardt 2023). In Kenya, the Ogiek community won a landmark ruling at the African Court on Human and Peoples'

Rights, legally recognising their ancestral claims to the Mau Forest and forcing the state authorities to respect collective tenure systems (Kibugi 2021; Claridge, Kobei 2023). In Mozambique, youth in peri-urban Maputo transformed idle land into community agroecological spaces, resisting eviction through alliance-building with NGOs, media campaigns and legal advocacy (Bamidele 2018a; 2018b).

Even when legal victories are partial, grassroots action produces political leverage, visibility and negotiation capacity. In Ghana, communities have documented land encroachments and lobbied local councils to recognise customary land claims, challenging technocratic land titling programmes that exclude smallholders (Tsikata, Yaro 2014). In South Africa, landless farmers mobilised to contest post-apartheid land reform policies that favoured commercial farming elites over historically dispossessed populations (Moyo, Yeros 2005).

Criminalisation and repression remain constant challenges. Female land defenders in particular face gendered violence, threats and intimidation when leading protests or advocating for tenure security. In Uganda, widows in the Acholi region have spearheaded land restitution campaigns, often confronting hostile state agents and private encroachers, yet achieving partial legal recognition of their rights under customary law (Adoko, Levine 2008; Coro, Juanena, Debska 2014). These cases underscore the intersection of gender, state violence and dispossession, illustrating that resistance is both morally justified and politically urgent.

The geography of structural violence shapes how and where protests occur. Informal settlements, townships and inner-city slums are sites of concentrated vulnerability: at the intersection of over-policing, unemployment, inadequate services and insecure tenure, persistent mobilisation is generated. In this sense, protest is a spatial practice, asserting presence, claiming rights and contesting the erasure enforced by urban governance systems.

Urban residents engage in a wide spectrum of resistance practices, from establishing informal settlements and occupying land to organising road blockades, marches and strategic litigation. These acts may appear fragmented, but collectively they constitute a vital political force challenging exclusionary planning and elite domination. Faranak Miraftab (2009; 2015) frames such practices as "insurgent planning," emphasising how marginalised communities reconfigure urban space to resist displacement, assert claims and prefigure alternative social arrangements.

Documented instances across Africa illustrate the interplay of repression and victory. In Lagos, repeated community protests against eviction and demolition orders forced municipal authorities to delay or partially revise displacement plans (Walker et al. 2018; Adeola 2020). In Kenya, Ogiek advocacy campaigns achieved legal recognition, but also raised international awareness, pressuring conservation authorities to negotiate land use plans that integrate community rights (Claridge, Kobei 2023). Similarly, Abahlali baseMjondolo has leveraged court rulings and media attention to secure infrastructure improvements, the recognition of settlements, and temporary halts to evictions (Zikode 2009; Burchardt 2023). These examples demonstrate that protest is not merely disruptive; it is a strategic, historically

informed response to structural exclusion, dispossession and criminalisation. By framing resistance as spatial practice, the analytical lens shifts from individual acts to systemic processes, revealing how marginalised populations navigate, contest and reshape urban space.

In sum, contemporary urban protests in African cities are best understood through the lens of historical continuities, structural violence and colonial legacies. The persistence of informal settlements, widespread evictions and the criminalisation of protesting are not accidental; they reflect spatial regimes designed to privilege elites while subordinating marginalised populations. By centring on history, structure and grassroots resistance, this analysis contributes to a criminologically informed understanding of urban citizenship, spatial justice and the political agency of African communities, highlighting both the injustices they face and the innovative strategies they employ to assert rights, resist erasure and claim urban space.

3. Land struggles as sites of material contestation and symbolic resistance

> "Land is not just soil. It is land in the sense of ground, place, and territory. It is the foundation of people's lives and identities." – Wendy Wolford (2010: 6)

Across Africa, land struggles are shaped by both material deprivation and systemic violence. Documented cases reveal that dispossession is rarely accidental: it is often orchestrated by state actors, corporate interests or elites, and enforced through coercion, legal manipulation and sometimes physical violence. In central Mozambique, agribusiness firms fenced off lands traditionally cultivated by smallholder families, displacing residents and restricting access to food and water (Ferguson 2006; Peluso, Lund 2011). Reports indicate that some families were forcibly removed, while others remained under constant threat, highlighting how dispossession operates as both material deprivation and social control.

Similarly, in Ghana's Volta Region, large-scale irrigation projects submerged ancestral lands, often without adequate or timely compensation. Local farmers documented losing access to productive land as well as to spaces of cultural and spiritual significance (Tsikata, Yaro 2014). These examples illustrate the entanglement of economic, legal and coercive forces: the same institutions tasked with governance and development simultaneously produce dispossession and criminalise resistance.

Land struggles are therefore both material and symbolic. Land constitutes more than a productive asset; it is central to identity, collective memory and social belonging (Chauveau, Richards 2008). Its expropriation reflects broader patterns

of structural violence, while community responses demonstrate resilience, agency and political imagination. Legal frameworks and market-orientated land reforms often delegitimise customary claims, framing those who resist as criminal or deviant (Zoomers 2010; Borras et al. 2011). In Kenya's Embobut Forest, members of the Sengwer community continue to perform spiritual rituals in sacred groves despite repeated evictions, asserting identity and belonging while facing criminal charges (Cameron 2018; Suliman et al. 2019).

Land struggles cannot be disentangled from colonial and postcolonial histories of dispossession. Colonial regimes expropriated indigenous lands, established settler control and imposed legal frameworks that marginalised customary tenure (Mamdani 1996; Boone 2014; Lund 2017). Post-independence governments often continued these practices, sometimes under the guise of modernisation or structural adjustment programmes, further concentrating land in the hands of elites while undermining community claims.

The phenomenon of land grabbing exemplifies this process. Transnational corporations, states and elites acquire large tracts of land under the pretext of food security, climate adaptation or economic development, often dispossessing smallholder farmers, pastoralists and forest communities (Zoomers 2010; Bamidele 2018a; 2018b). Such interventions exemplify structural violence, rendering marginalised populations legally invisible and socially vulnerable. The criminalisation of protesting against these interventions – through arrests, charges of illegal occupation or forced evictions – demonstrates the intersection of land conflict and criminological processes, where the state functions simultaneously as regulator, aggressor and arbiter.

These contested sites also serve as arenas of resistance and imagination. Communities mobilise to reclaim land and defend livelihoods through a spectrum of strategies, ranging from legal challenges, occupations, protests and road blockades to transnational advocacy campaigns. Symbolic and everyday acts – rituals, storytelling, agroecological initiatives and digital documentation – challenge dominant narratives and assert community presence (Randeria 2003; Cameron 2018). Youth collectives in Malawi, for example, documented forced evictions through social media, countering sanitised accounts of development projects and amplifying marginalised voices. One activist explained: "They want to silence us, but our stories are also weapons."

Documented struggles also reveal the gendered dimensions of land conflict. Women, who are often marginalised under patriarchal and neoliberal frameworks, frequently bear the brunt of dispossession but simultaneously act as leaders and custodians of communal land. In Uganda's Acholi region, widows led land restitution campaigns, invoking customary norms to assert rights as lineage guardians (Adoko, Levine 2008; Coro, Juanena, Debska 2014). Across Africa, women-led cooperatives reclaim land through agroecology, collective ownership and mutual aid, restoring livelihoods while nurturing social solidarities fractured by dispossession (Whitehead, Tsikata 2003; Meinzen-Dick et al. 2019). These acts highlight both

material reclamation and the symbolic assertion of rights, challenging intersecting axes of structural, gendered and economic violence.

Resistance is often costly. Activists face harassment, arrest and even assassination. In South Africa, members of Abahlali baseMjondolo have been repeatedly targeted for defending informal settlements (Zikode 2008; 2009; Burchardt 2023). In Mozambique, youths transforming idle peri-urban land into community farms confront eviction threats from municipal authorities and private interests. These struggles exemplify the criminalisation of grassroots action, where communities defending basic survival and cultural integrity are labelled as lawbreakers.

Land struggles also operate as symbolic resistance. Rituals, storytelling and cultural practices affirm belonging and challenge dominant representations of African land users as idle or irrational. In Kenya, the Sengwer community's continued presence in Embobut Forest, despite repeated evictions, signals a spiritual and ontological claim to the land. Digital storytelling collectives document eviction narratives, asserting presence in ways that challenge state and corporate narratives. These symbolic acts are forms of subaltern agency, exposing contradictions in state power while reinforcing social cohesion and identity (Randeria 2003).

The interplay between material and symbolic stakes is evident in organised movements. The Landless People's Movement in South Africa and the Ogiek struggle in Kenya have achieved legal recognition and international visibility, demonstrating how community mobilisation transforms structural vulnerability into political leverage (Moyo, Yeros 2005; Kibugi 2021; Claridge, Kobei 2023). Such movements exemplify grassroots strategies operating within and against the legal and political frameworks that sustain dispossession.

These struggles also illuminate the concept of "abolition geographies" (Gilmore 2022). Communities create life-affirming spaces amid the ruins of racial capitalism and state neglect. In Maputo's peri-urban belt, landless youths transformed idle land into agroecological farms without state approval, asserting economic, political and symbolic claims. Their efforts demonstrate that land is not merely a commodity, but a site of future-making, care and social reimagination, offering an alternative to extractive logics.

Critically, these struggles reveal the criminological dimensions of land conflict. Evictions, forced displacement and the criminalisation of protesting show how states and elites deploy legal, coercive and sometimes violent mechanisms to maintain control. Resistance, in turn, challenges these mechanisms, revealing both the limits of formal authority and the resilience of marginalised communities. By documenting these cases, the paper underscores how land conflict intersects with crime, social control and victimisation, extending criminological analysis beyond conventional categories of urban crime to include structural and political violence.

Ultimately, land struggles in African contexts are profoundly political acts that contest both material deprivation and symbolic erasure. They highlight systemic inequalities, demonstrate patterns of criminalisation and assert collective rights to life, identity and space. Communities navigate coercive legal frameworks, elite cap-

ture and structural violence to assert agency and claim justice. Whether through occupation, protest, ritual, storytelling or agroecology, these acts articulate the dual nature of land conflict: as a site of dispossession and as a terrain of possibility.

As Wendy Wolford (2010) states, land is a foundation for life, identity and justice. Defending it represents survival and a radical affirmation of community sovereignty and hope. In a context of escalating dispossession, the symbolic and material reclamation of land emerges as a deliberate act of resistance, imagination and justice, challenging both the extractive priorities of elites and the criminalisation of marginalised populations.

Conclusion

Critical perspectives on urban land struggles in Africa reveal the deep entrenchment of colonial legacies, capitalist accumulation and carceral urbanism, which converge to produce spatial regimes of exclusion, dispossession and inequality. These regimes are neither neutral nor technocratic; they are structured through racialised, gendered and state-sanctioned violence, extending from colonial settlement patterns and imperial urban planning to contemporary practices of neoliberal governance, militarised development and corporate land acquisition. Land in African cities is therefore not merely a physical resource, but a terrain where power, belonging and survival are contested, making the land conflict–community nexus a critical site for examining grassroots resistance, insurgent spatial politics and abolitionist possibilities.

As this study has shown, urban land struggles are not solely about property or tenure security. They fundamentally concern who counts as a legitimate urban subject, whose claims to space are recognised and whose lives are deemed expendable in the name of "development." Evictions, forced relocations and displacement disproportionately affect the urban poor – often racialised, feminised and historically marginalised populations – whose experiences are criminalised or rendered invisible by dominant planning paradigms, securitised governance and elite-driven development (Zikode 2008; 2009; Huchzermeyer 2011; Adeola 2020).

The criminalisation of resistance is widespread. In South Africa, members of Abahlali baseMjondolo have repeatedly faced arrests, targeted harassment and politically motivated attacks while defending informal settlements in Durban and Cape Town (Zikode 2008; Burchardt 2023). In Kenya, land defenders from the Ogiek community have been evicted multiple times from the Mau Forest complex, and activists have been prosecuted under forestry laws despite having received legal recognition of their ancestral claims (Kibugi 2021; Claridge, Kobei 2023). In Mozambique, youths cultivating idle peri-urban land for community agroecology faced threats of arrest and eviction by municipal authorities and private investors

(Bamidele 2018a; 2018b). In Lagos, Nigeria, the state's demolition of the Otodo Gbame settlement in 2017 displaced over 30,000 residents, despite court orders in their favour; the residents were criminalised under accusations of "illegal occupation" (Walker et al. 2018; Adeola 2020; Bakare 2024). These examples highlight how legal and coercive tools are employed to maintain elite control, while grassroots resistance is framed as deviance or criminality.

In response, communities across the continent have been innovative in resisting and asserting their rights. In South Africa, Abahlali baseMjondolo successfully secured court rulings recognising the legality of informal settlements, setting important precedents for tenure rights and gaining protections against eviction (Zikode 2009; Burchardt 2023). The Ogiek community in Kenya won a landmark case at the African Court on Human and Peoples' Rights in 2017, affirming their collective land rights and providing international visibility to their struggle (Claridge, Kobei 2023). In Mozambique, youth-led peri-urban agroecological projects have resisted eviction through public advocacy and alliances with civil-society organisations, transforming idle land into spaces of subsistence, education and political imagination (Bamidele 2018a). In Ghana, community-led mapping and documentation of land encroachments have pressurised the local authorities to recognise customary claims in peri-urban regions (Tsikata, Yaro 2014). These victories demonstrate how grassroots action can intersect with formal legal mechanisms, international advocacy and civil-society support to reclaim agency and protect communities from displacement.

These struggles are not only legal or material; they are profoundly symbolic and cultural. Communities perform rituals, preserve sacred sites and engage in storytelling that resists erasure and affirms identity. In Kenya's Embobut Forest, the Sengwer community's ongoing spiritual practices function as acts of resistance, asserting historical and ontological claims to the land despite repeated evictions and criminal charges (Cameron 2018; Suliman et al. 2019). In Malawi, youth collectives document forced evictions via digital storytelling, producing narratives that counter sanitised government and NGO accounts, which in turn mobilises broader public support and raises awareness (Bamidele 2018b). These symbolic practices disrupt dominant narratives that depict African land users as inefficient or irrational and reframe resistance as legitimate political and moral action.

Gendered dimensions are also central. Women often bear the brunt of dispossession but simultaneously lead land restitution, advocacy and cooperative projects. In Uganda's Acholi region, widows have successfully challenged both state and private encroachment on ancestral lands, invoking customary norms and asserting rights as custodians of lineage property (Adoko, Levine 2008; Coro, Juanena, Debska 2014). Across Africa, women-led cooperatives in Mozambique, Ghana and South Africa have reclaimed land through collective ownership, agroecology and mutual aid, restoring livelihoods while reinforcing social solidarity and community governance structures (Whitehead, Tsikata 2003; Meinzen-Dick et al. 2019). These practices highlight the intersection of gendered, structural and

racialised violence and the innovative capacity of marginalised actors to create life-affirming alternatives.

Crucially, these struggles demonstrate the criminological relevance of land conflict. Forced evictions, activists' arrests, the criminalisation of protesting and violent repression are not isolated acts, but part of systemic mechanisms of social control and coercion that regulate who may inhabit, use or profit from urban space. Communities' resistance illuminates the limits of these mechanisms and exposes how state and corporate actors enforce dispossession under the guise of legality, development or environmental management (Ferguson 2006; Peluso, Lund 2011). By documenting these patterns, the paper extends the analysis of crime and victimisation beyond individual offences to encompass structural, political and spatial forms of violence.

Grassroots strategies also reflect insurgent spatial politics. Whether through occupations, protests, legal action, agroecology or digital campaigns, communities enact alternative governance structures that prefigure abolitionist urban futures (Miraftab 2009; Gilmore 2022). These practices transform "scenes of subjection" into arenas of possibility, asserting rights to land, livelihoods and dignity. Communities contest both the material and symbolic dimensions of dispossession, illustrating how resistance is inseparable from knowledge production, identity formation and spatial justice.

The land conflict–community nexus also illuminates the intersections of land justice, climate justice and racial justice. Evictions for mega-projects, real estate development or climate adaptation frequently weaponise environmental narratives to legitimise displacement and enforce elite interests (Sultana 2022). Grassroots responses reveal the convergence of extractive, coercive and carceral logics in governance while offering life-affirming alternatives rooted in care, solidarity and relational accountability.

Ultimately, urban land struggles in Africa demonstrate that grassroots movements are not only resisting dispossession – they are actively constructing alternative futures. Informal settlements, tenant unions and neighbourhood associations embody daily insurgent planning, reconfiguring urban space around collective needs rather than elite accumulation. These movements challenge the dominant notions of citizenship tied to legal recognition and market property, asserting instead a vision of urban space as a common governed through reciprocity, care and relational justice.

Abolitionist urban land futures reject the commodification of land and emphasise its centrality to life, dignity and community well-being. They demand structural transformation, including the redistribution of power and resources, protection from criminalisation and support for grassroots decision-making. By centring on community agency, these futures envision cities where mobility, shelter and safety are universal rights rather than privileges, connecting struggles for urban land justice to broader projects of migration, climate and racial justice.

As Ruth Wilson Gilmore (2022) emphasises, abolition involves both dismantling coercive structures and creating life-affirming institutions, relationships and practices. The urban land conflict–community nexus in Africa offers both a mirror of systemic violence and a window into emergent, insurgent futures. Documented examples across Mozambique, Ghana, Kenya, Nigeria, South Africa and Uganda demonstrate that communities are not passive victims: they are agents of change, asserting rights, reclaiming land and envisioning justice amid adversity.

The challenge ahead is to learn from these struggles, amplify community visions and support grassroots-led strategies that transform urban spaces into realms of dignity, autonomy and collective flourishing. Abolitionist urban futures in Africa demand that we understand land not as a commodity or administrative asset, but as the foundation of life, identity and justice, where grassroots struggles serve as both inspiration and a blueprint for more equitable cities.

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Challenges for the police investigating border crime in Bangladesh: An exploratory study on the Bangladesh Police

Wyzwania związane z policyjnymi dochodzeniami w sprawie przestępstw granicznych w Bangladeszu. Badanie eksploracyjne dotyczące policji Bangladeszu

Abstract: Border crime in the north-western region of Bangladesh is severe, as illegal activities such as illegal trade, drug trafficking and unauthorised border crossings occur on a regular basis. This study explores the challenges faced by the Bangladesh Police in investigating border crime and examines the nature and causes of these offences. The research uses a qualitative approach, collecting primary data through in-depth interviews with investigation officers from police stations located in border areas. The data were coded, and later revealed several themes and subthemes. The findings of this study indicate that open borders, a lack of supervision and corruption among agencies are the primary causes. These offences are often committed by powerful individuals who exploit young and economically vulnerable populations to carry out such activities. Investigative challenges include insufficient evidence, excessive caseloads, personnel shortages, limited access to information, inadequate financial support, political pressures, misleading sources, hostile environments and poor communication systems in border areas. The study suggests that increasing resources, depoliticising law enforcement, providing support to secure evidence, enhancing inter-agency collaboration and improving access to information can help reduce these investigative challenges.

Keywords: border crime investigation, investigation challenges, nature of border crime, causes of border crime, multi-agency collaboration

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Abstrakt: Przestępstwa graniczne w północno-zachodnim regionie Bangladeszu są poważnym problemem, ponieważ nielegalne działania, takie jak nielegalny handel, obrót narkotykami i przekraczanie granicy wbrew przepisom, mają miejsce regularnie. Niniejsze badanie poświęcone jest analizie wyzwań w zakresie policyjnych dochodzeń w sprawie przestępstw granicznych w Bangladeszu, a także analizie charakteru i przyczyn tych przestępstw. W badaniu zastosowano podejście jakościowe. Zgromadzono dane pierwotne w postaci pogłębionych wywiadów z funkcjonariuszami z pionu dochodzeniowego w posterunkach policji zlokalizowanych na obszarach przygranicznych. Zebrane dane zostały zakodowane, co pozwoliło na wyodrębnienie kilku tematów i podtematów. Wyniki badania wskazują, że głównymi przyczynami są otwarte granice, brak nadzoru i korupcja w służbach. Przestępstwa te są często popełniane przez wpływowe osoby, które wykorzystują młode i znajdujące się w trudnej sytuacji ekonomicznej grupy społeczne do prowadzenia takiej działalności. Wyzwania związane z dochodzeniami obejmują niewystarczające dowody, nadmierne obciążenie sprawami, niedobór kadr, ograniczony dostęp do informacji, niewystarczające wsparcie finansowe, presję polityczną, niewiarygodne źródła informacji, nieprzyjazne środowisko i słabe systemy komunikacyjne na obszarach przygranicznych. Badanie sugeruje, że zwiększenie zasobów, odpolitycznienie organów ścigania, zapewnienie wsparcia w zakresie zabezpieczania dowodów, zacieśnienie współpracy pomiędzy służbami oraz poprawa dostępu do informacji mogą pomóc w zmniejszeniu wyzwań związanych z tymi dochodzeniami.

Słowa kluczowe: dochodzenia w sprawach przestępstw granicznych, wyzwania związane z dochodzeniami, charakter przestępstw granicznych, przyczyny przestępstw granicznych, współpraca między służbami

Introduction

Border crime is a critical concern in the global security dialogue. This category includes human trafficking, drug smuggling, arms trading and trans-border terrorism. These crimes are also known as "transnational crime," "trans-border crimes" and "cross-border crimes," being among the most dangerous crimes in the contemporary world. These kinds of crimes exploit vulnerabilities at national borders and pose significant threats to state sovereignty, economic stability and public safety (UNODC 2024). Border crime takes several forms depending on the geographical and political context. Human trafficking, the smuggling of migrants, trade in narcotics, arms trafficking, wildlife trafficking and cross-border terrorism are the most prevalent types, and they are increasing globally (Shelley 2014). In Bangladesh, the most pressing border crimes are drug smuggling, human trafficking and small arms trafficking (Husain 2024a). The India–Bangladesh border is especially active in the smuggling of phensedyl, a codeine-based cough syrup banned in Bangladesh but easily available across the border. Also, trafficking in persons happens at the border regularly, especially targeting women and children trafficked for forced labour and sexual exploitation (IOM 2019).

Law enforcement agencies encounter significant challenges in combating these crimes, as they are transnational in nature, making them difficult to detect,

investigate and prosecute. Border crime is on the rise in Nigeria, Indonesia, the Philippines, Kosovo, Turkey, the USA, Mexico, Colombia and other African and Asian countries (Laan 2017). Bangladesh is not immune to border crime, either. Bangladesh has a high prevalence of border crime due to its geographical location. Bangladesh is located in the centre of the Golden Triangle, the Golden Crescent and the Golden Wedge. Due to this geographical condition, several countries – such as Pakistan, India, Afghanistan, Myanmar and Nepal – use Bangladesh as their transit route to traffic drugs into European and American countries (Hassan 2022; Tayeb 2022). Following the revolution known as the "July Uprising" in Bangladesh, border control has become more vulnerable due to political instability (Ullah 2025). All these factors have collectively worsened the status of border crime in Bangladesh. The Bangladesh Police are tasked with investigating and responding to border crime, but they often face numerous challenges in performing their duties effectively, due to political and situational causes (Bajpaee, Schröder 2024). The Bangladesh Police recorded 9,634 recoveries, including arms, explosives, drugs and smuggled goods. Of these, 9,069 cases were related to drug seizure alone, averaging approximately 27 cases per day. Approximately 55% of all cases handled by the Bangladesh Police involved the seizure of goods smuggled from neighbouring countries at the border (Bangladesh Police 2019). Thorough investigations are crucial to uncovering the underlying causes of border crime. However, inadequate funding, resources, technology and manpower make it challenging to investigate these crimes (Beyene 2011; Makokha 2020). The authorities often prioritise domestic offences that receive media coverage and public attention, but it is important to address border crime effectively as well (Casino et al. 2022).

Sometimes, several border crimes go unreported and undiscovered; this gives the criminal the chance to commit further offences, which is a major problem. While investigating border crime, the Bangladesh Police face a number of cultural, linguistic, technical and moral challenges. When these investigative challenges are not properly addressed, it is impossible to uncover the facts related to border crime. Assessing how law enforcement agencies are responding to border crime is crucial. The responses of the Bangladesh Police are typically entirely reactive in nature. When a crime has been successfully carried out and a victim gets hurt, the only option is to repair the damage. There are also other challenges that limit the Bangladesh Police from taking proactive measures to stop border crime. Due to their transnational nature, these crimes are more difficult and challenging to investigate and respond to than other forms of crime. The investigative challenges in border crime faced by law enforcement personnel need to be addressed to properly respond to combat border crime. The prevention of cross-border crimes can be possible to some extent through addressing the investigative challenges, as it would create a deterrence effect.

Existing studies on human trafficking, drug trafficking and illegal goods smuggling have been conducted independently in various countries. However, these studies offer limited insight into the overall challenges of investigating border

crime. Addressing the investigative challenges in a comprehensive way can help elucidate the challenges from a unique perspective. The main objective of this study is to explore the investigative challenges faced by the Bangladesh Police during the investigation of border crime. To further explain them, the nature and cause of border crimes in Bangladesh are explored. Moreover, this study jointly focusses on the nature, causes and challenges of border crime in Bangladesh.

Exploring the challenges that the Bangladesh Police face in investigating border crime may lead to measures that strengthen the collaboration between Bangladesh and its neighbouring countries to combat border crime. This study can also contribute to the body of academic research on law enforcement, which can be useful for researchers and policymakers working in this area. Overall, this study addresses the critical investigative challenges of border crimes, improvement in law enforcement and enhancement in cross-border cooperation, and contributes to academic research.

1. Literature review

Any crime that undermines public safety or security because of proximity to the border, such as crimes involving weapons, drugs, human trafficking or other exploitation, financial crimes, money laundering, criminal enterprises and gangs engaging in activities such as kidnapping, extortion, murder, etc. can be called a border crime (Beyene 2011; Ering 2011). Controlling borders can be difficult due to the several incompatible goals that border officers must balance. Borders must be closed off enough to keep out unwanted elements such as terrorist organisations and international organised crime, while remaining open enough to facilitate smooth trade and relations with neighbouring nations (Gituanja 2013).

Border security has become a serious concern around the world since the scale and frequency of criminal activity have both increased, particularly since the rise of globalisation. The development of telecommunications, transportation and innovation in general has made it simple for cross-border crimes to be committed (Afolayan 2000). The world has become a global village, with its challenges and issues. Criminals can now move freely across the borders of countries and even carry out illicit activity anonymously. This has impacted the safety of people and property, as well as social development (Adepoju 2005). For the interests of governmental and socioeconomic activities, regulation of cross-border crimes is crucial because these are required to incorporate the national economy and to guarantee safety and stability management (Addo 2006).

1.1. Causes of border crimes

Border crimes such as smuggling people, narcotics or weapons can be caused by a complex mix of social, economic and political factors. One major driver is economic profit and demand: illegal markets for drugs, weapons and contraband goods offer high financial rewards (Shelley 2014). For example, Carlos Alvarez and Jascha Wagner (2024) have shown that along the USA–Mexico border, human smuggling and drug trafficking form "high degrees of spatial concentrations," which indicates profitable market opportunities. In the US context, the market for smuggling humans into the country was estimated at about USD 500 million annually (Andreas 2009), and 90% of US cocaine flows from Mexico (DEA 2021). These are clear indicators of strong pull factors for criminal networks. Pockets of endemic poverty and a lack of legal opportunities in origin regions also act as push factors (Lee 1966). Idrees Gana et al. (2023) applied push and pull theory to Nigeria and found poverty, conflict and weak borders push individuals into smuggling networks. On the other hand, market demand (e.g. for fuel or contraband) pulls illegal activity across borders. As in Malaysia, "profit factors and simple marketing" were identified as the main causes of cigarette smuggling (Ering 2011).

Onuk Ojem et al. (2021) identified some causes of cross-border crimes, which include the roughness of borders, insufficient personnel, a lack of logistical backup at the border, weakly defended borders, a lack of essential necessities, financial crises and sociopolitical instability in neighbouring nations, among other factors. However, Rajesh Khakurel (2015) described the benefits of open borders, including freedom of obligation, sociocultural connections and employment possibilities. Due to the porous nature of Bangladesh's border, several other countries exploit it for trafficking routes. The geographic position of Bangladesh makes the country highly vulnerable to illicit drug trafficking. Bangladesh is situated between the two major opium and synthetic drug production hubs in the world, which are the Golden Triangle and the Golden Crescent (Hassan 2022). The Golden Triangle is located to the east of Bangladesh, which comprises the border areas of Myanmar, Laos and Thailand. Myanmar shares a direct border with Bangladesh and is a significant source of methamphetamine, mainly "Yaba" and "crystal meth," which flood into Bangladesh (Tayeb 2022; Alam, Uddin 2025). To the west of Bangladesh lies the Golden Crescent of Afghanistan, Pakistan and Iran. This region is a primary source of opiates such as heroin, which find their way into Bangladesh through various land and sea routes. While Bangladesh does not produce these narcotics, its porous borders and strategic location make it a transit country for international drug syndicates (UNODC 2005; Hassan 2022).

Poverty significantly complicates border crimes in Bangladesh, particularly through the vulnerable border communities (Rahman, Rani 2020). Limited legitimate economic opportunities make the people in border areas engage in illicit activities as a means of survival and income generation (Hasan, Khatun 2020). Smuggling has become an easy option for those struggling with unemployment

and low wages (Husain 2024b). This economic desperation fuels various border crimes, including drug trafficking, human trafficking and the illegal trade of goods. Individuals from impoverished backgrounds are more susceptible to recruitment by criminal syndicates, who exploit their vulnerability (UNODC 2025a). Addressing root causes like poverty through socioeconomic development initiatives is crucial to preventing border crime in Bangladesh (Alam, Uddin 2025).

Political sensitivities and periodic border tensions with neighbouring countries hinder joint enforcement actions and intelligence sharing (Legrand, Leuprecht 2021). Following the recent July Uprising in Bangladesh, widespread unrest and shifts in power have created a challenging environment for maintaining proper security along the extensive borders in Bangladesh. The disruption caused by the uprising may have weakened the operational capacity of law enforcement agencies and border guards. This issue has increased vulnerability to national security and regional stability (Ullah 2025). These political, geographical and socioeconomic causes of border crime are quite unique in Bangladesh compared to those of other regions and nations.

Border crime can also be caused by a weak state and corruption (Rotberg 2004). Where law enforcement is under-resourced, criminal syndicates exploit loopholes (Bayley 2005). David Jancsics (2021) noted that in the USA–Mexico border region, several corruption cases involved border officers being bribed to facilitate trafficking. Cross-border tribal or familial ties also can create local tolerance of smuggling, which can further enable these crimes (Flynn 1997). Uneven development and globalisation including illegalised migration and transnational networks create conditions for border crime (Sassen 1998). Globalisation and organised crime networks "challenge the sovereignty of nation-states," producing cross-border crimes such as trafficking and terrorism (Andreas 2003). Thus, border crime is rooted in global inequalities, demand for illicit goods/labour, conflict and weak governance – all of which create incentives and opportunities for illegal cross-border activity (Findlay 1999).

1.2. Controlling border crime and the associated challenges

Controlling border crime requires comprehensive strategies, but law enforcement agencies face significant obstacles. Governments use physical and technological measures – fences, patrols, surveillance cameras, drones and X-ray scanners (Amoore 2006) – as well as legal measures, such as treaties, extradition and mutual assistance (Nadelmann 1993). Regional initiatives, such as the EU's Schengen internal open-border regime versus its Frontex external border control, aim to coordinate enforcement (Mitsilegas 2015). Because "organised crime benefits from operating across borders," effective control demands a coordinated effort between local, national and international agencies with innovative data-driven policing (Edwards, Levi 2008). Data sharing platforms and joint task forces are increasingly used to target trafficking rings (Bruinsma, Bernasco 2004). Some

nations also attempt to close borders or implement stricter measures; one study in Nigeria found that simply sealing the border did not stop smuggling due to other weaknesses of the border. Instead, modernising customs and international cooperation can be useful (Asiwaju 1985).

However, practical and political challenges have made it difficult to take such measures. Jurisdictional limits and legal differences can complicate attempts at cooperation. Different countries have their own definitions of offences, evidentiary rules and penalties. Mismatches in legal frameworks often slow down joint investigations regarding the exchange of evidence or extradition (De Jonge, De Vries 2024). As an EU analysis notes, it is often impossible to prosecute cross-border criminal networks, which indicates that disrupting the crime may be a more realistic approach than going to trial (Europol 2021). Cross-border patrols or information exchange depend on trust and resources (Sheptycki 2000). Language, bureaucracy and mutual legal assistance treaties (MLATs) create significant delays in responding, controlling and investigating border crime (Nadelmann 1993).

Contestable borders, a porous border structure, high population density in border regions and an open border lead to crimes such as human trafficking, trafficking in weapons and drugs, unlicensed trade, extremist, insurgent and radical groups, counterfeiting, murder, robbery, kidnapping and extortion, terrorism. Many incidents where criminals targeted by law enforcement forces from either nation access the neighbouring country simply cross the unsecured border and engage in illegal activities there (Khakurel 2015). The contribution of corruption to the facilitation of migrant smuggling has also been highlighted in research. For instance, Cristina Alberola and Chloé Janssen (2019) argue that law enforcement officers are involved in corruption, which serves as the primary enabler of migrant smuggling. They see corruption as facilitating the acquisition of genuine, but false travel credentials from government representatives, which makes it very challenging for enforcement agencies to spot migrant smuggling. Corruption makes things difficult by reducing border controls. Smugglers and immigrants are simply allowed to cross borders by bribing officials (OECD 2015). Several towns in the borderlands are impacted by a range of cross-border crimes. In general, violent crime and property crime are more prevalent in border regions than elsewhere (Shirk 2003). Sometimes, a process or procedure is not clearly stated in a law or regulation. Due to the absence of legal guidance, discretionary power was used in those circumstances. Similarly, there are no processes specified for immigration border clearance or marine border governance in several countries, which creates a situation of indecisiveness for law enforcement officials (Arifin, Nurkumalawati 2022).

Bangladesh has witnessed a revolutionary change since the July Uprising, which exposed widespread corruption, bribery and misconduct within the Bangladeshi police force. Police personnel across the nation faced a surge in complaints regarding accountability. Such corruption and misconduct have long been practiced in Bangladesh, which hinders effective responses to border crime (Akash, Sharif 2025; Ullah 2025). Furthermore, the Rohingya crisis has intensified certain crime trends,

particularly human trafficking and small arms smuggling. Organised criminal networks, often involving local actors, exploit the lack of strong law enforcement and recruit Rohingyas from refugee camps to expand their operations (IOM 2019). Overall, due to these factors, it has not been possible to properly address border crime.

Corruption and local politics also play a vital role in this. Border officials, from customs agents to militia members, can be bribed or co-opted (Heyman 1995). There are documented cases of US border agents accepting bribes to allow drug and migrant smuggling (Jancsics 2021). Such corruption transforms border zones into "floating" zones where illegal flows go unchecked. Also, border control is often politicised. Enforcement officers face pressure from national agendas (as tough immigration rhetoric, e.g. the "war on drugs") which can conflict with human rights norms (Ering 2011). This politicisation may reduce the discretion of officers for humanitarian considerations. Moreover, controlling border crime involves integrated technology and policy, but must overcome the corruption, legal/jurisdictional gaps and political constraints (De Jonge, De Vries 2024).

1.3. Investigative challenges in border crime

The investigation of crimes that cross borders entails unique difficulties – jurisdictional fragmentation is one of those issues (Reichel 2017). Criminal activity often involves multiple countries, but law enforcement powers do not. Even sharing evidence digitally can be difficult, as evidence may reside on cloud servers under foreign laws, which requires international legal requests to examine (Casey 2011). For cross-border investigation in the digital age, even simply exchanging data involves many complex issues. Legal systems differ, and delays can make a piece of evidence outdated (Brenner, Koops 2004; Casino et al. 2022). For example, because encrypted communications or online marketplaces may involve servers in multiple states, authorities must navigate diverse data retention and privacy laws. These complexities mean that some international investigations can be delayed at the evidence-collection stage (Finklea 2017).

Mutual legal assistance is another challenge: countries use MLATs or joint investigation teams, but these are slow and subject to political vetoes (Nadelmann 1993). Prosecuting a foreign-based network is often impossible if the country where the crime occurs refuses to cooperate. Criminal prosecution of foreign-based networks may be impossible, which forces agencies to focus on disrupting supply chains rather than fully preparing for trials (Europol 2021). Language and trust issues challenge coordination, and investigators may lack trust in foreign police forces or hesitate to expose informants (Sheptycki 2000).

In combating organised border crime, standard street-level police investigation methods generally fail. Given the challenges, laws against organised border crime also offer specialised investigative methods and processes that strengthen the authority of law enforcement. The investigation is improved by unique investigative techniques such as electronic monitoring, covert operations, a regulated drug sup-

ply and the testimony of partners. If the use of these techniques is not constrained, human rights such as freedom to privacy may be violated. Most nations permit the use of specialised investigation methods with a court order. When the evidence is not related to the investigation, detectives must stop the interrogation (Beyene 2011). There are several challenges to addressing cross-border security, such as the proliferation of light weapons, a porous boundary, ineffective coordination between agencies, a lack of intercommunication, inconsistent jurisdiction, a lack of a skilled labour force and inefficient collaboration (Shidane 2020). Combating human trafficking at the border in Moyale, Kenya, law enforcement officials face several challenges, including settlements for border communities, intercommunity conflict-related instability, the border location, insecurity, linguistic obstacles, a shortage of interpreters employed by the government, corruption, insufficient training, inadequate norms and practices, insufficient resources and a lack of communication (Makokha 2020).

Cultural, linguistic and ethnic overlaps across borders facilitate criminal activity by obscuring national affiliations and complicating the identification of suspects (Andreas 2003). Language barriers, inadequate technology, a lack of motivation among staff to share knowledge, insufficient experience or skills, problematic leadership issues, organisational differences, a lack of positive relationships, a lack of system integration and standardisation, a lack of a legal framework for collaboration, differences in national laws and varying strategic priorities can be the most likely problematic issues preventing knowledge sharing among neighbouring countries. These factors negatively affect the investigation of border offences (Birdi et al. 2021). Cross-border criminal investigations are particularly important because of the complexity that results from the diversity of legal systems, which goes beyond time constraints to become prohibitive (Casino et al. 2022). The governmental policy of restricting entry may be viewed as ineffective because it reduces the options for legal entry, which leads to migrants turning to smugglers for help and the growth of the illegal trade (Makokha 2020). A number of institutional, psychological and legal difficulties face the police department's organised human trafficking investigation. Significant evidence of resistance to change in response to new legislation, an uncertain legal environment, a lack of expertise, a lack of tools and training, a lack of victim services, forcing victims to give testimony, negative attitudes towards victims of human trafficking and the difficulty of establishing the credibility of victims were identified as the main challenges in human trafficking investigations (Farrell, Owens, McDevitt 2013).

Technical obstacles add to the difficulty as criminals use encryption, VPNs, the dark web and decentralised currencies to hide their activities (Europol 2019). Tracing and attributing transnational crimes, such as money laundering, across multiple banks requires intensive forensic expertise. Training local prosecutors in international criminal law is often insufficient (De Jonge, De Vries 2024). Even when evidence is collected, differences in standards can slow down the activities of prosecutors. Bureaucratic complexity, legal heterogeneity and technical challenges make investigating border crime very difficult (Casino et al. 2022).

In Bangladesh, the limited technological resources are notable. Although the authorities have made some investments (e.g. installing CCTV along parts of the India–Bangladesh border), the overall level of technology remains lower than that of neighbouring countries (Team 2024). The Bangladesh Police lack widespread surveillance drones and comprehensive electronic databases for cross-referencing offenders. Furthermore, as the information technology infrastructure in remote posts is limited, basic connectivity is very poor (Huque, Ferdous 2024). Interviews with Bangladeshi officials reveal that inadequate infrastructure, such as roads, outposts and communication links, as well as limited resources hinder the effective use of technology (Husain 2024a).

1.4. Human rights issues

National immunity, diplomatic immunity and national sovereignty are all general principles of international law that apply to human rights on a global scale. Human rights are innate, fundamental rights but in order for them to function as legal rights, countries must agree to be obligated by them. On a global scale, human rights are primarily outlined in the body of conventions on human rights negotiated under the supervision of the United Nations, as well as in local human rights conventions (Koops, Goodwin 2014). Conventions and treaties such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention on the Rights of the Child (UNCRC), for example, can be used to investigate border or cross-border crimes, and the investigating agencies must respect the rights that are mentioned in those conventions. Most nations tend to catch, prosecute and imprison victims of human trafficking on the basis of unlawful entry, fraudulent documents and participation in illicit activities. Due to these actions, the majority of trafficking victims doubt the criminal justice system; they are afraid of the system and do not cooperate with the police or other agencies. However, it has become challenging to investigate and prosecute cases of human trafficking without the assistance of the victims (Beyene 2011).

There are some issues regarding humanitarian and rights-based policies, since securing borders may prevent smuggling and trafficking, but it undermines victim protection and dissuades victims from cooperating with investigations (Miller, Baumeister 2013; Norfolk, Hallgrimsdottir 2019). Studies of migration routes (such as the Central Mediterranean route) present how smugglers' tactics and humanitarian crises produce hybrid outcomes, both voluntary movement and exploitation, which complicates the legal classification and responses (Bish et al. 2023).

1.5. Preventive measures

In order for the security institutions to successfully perform their duty, adequate personnel are needed. The government should hire specialists for staff and people from border regions, who need to be retrained. The well-being of the personnel from the border agencies should be taken care of to make them more efficient. This way they will not involve in illegal activities (Ojem, Ibrahim, Maiwada 2021). To communicate any accessible security-related information and to create a shared platform for security updates, all border security agencies are required to cooperate with each other. They may utilise the available technology more effectively to facilitate information flow (Khakurel 2015). The infrastructure at the border must be updated, including the roadways, modern equipment and accommodation for the staff. Salaries for border protection personnel need to be updated, and governments should allocate such funds in the budget because of the difficult working conditions. Meeting the security personnel's fundamental requirements will help prevent them becoming corrupted (Shidane 2020).

For preventing border crime, agreements like the "22 Point Smart Border Agreement between the United States and Mexico Secure Infrastructure" can be introduced among neighbouring countries. The agreements represent several attempts at collaboration between the United States and Mexico, including long-term planning, infrastructure protection, technology sharing, joint training, visa policy consultation, cross-border cooperation, pre-cleared travellers (Shirk 2003). The exchange of information between neighbouring countries is critical in investigating border crimes. Using appropriate technology is listed as the most frequent facilitator for knowledge transfer among organisations. Cross-border patrols, enthusiasm for information sharing, acceptable language proficiency, strong leadership and having enough economic capabilities are all treated as crucial components in this regard (Birdi et al. 2021). In the interests of developing the political and socioeconomic activities required for integrating economies and guaranteeing peace and stability, these actions towards the appropriate supervision of cross-border crimes must be taken (Addo 2006).

Technological advancements offer both opportunities for criminals and tools for law enforcement. While illicit markets use digital platforms and cryptocurrencies to expand their reach and evade detection, data-driven investigations can be a vital countermeasure. By employing network analysis and large datasets, the police can recognise patterns, identify criminal networks and develop proactive strategies. However, this requires that challenges related to cross-jurisdictional data sharing and ensuring admissible evidence be addressed (De Jonge, De Vries 2024). Several nations use domestic legislation to address organised crime and human trafficking, as well as platforms for global collaboration in investigating and sentencing trafficking cases. This is particularly important since it improves the investigation and prosecution of cases involving organised border crime (Beyene 2011). Contemporary investigations are hampered by the expertise of illegal

activity and the advancement of information technology, which calls for ongoing international cooperation among many entities. Given the numerous challenges, including those in the legal, technological and moral dimensions, the solution is not simple (Casino et al. 2022).

2. Theoretical framework

Michael Lipsky's (1980) theory, street-level bureaucracy, offers insight into the challenge of border control and border crime investigation. Michael Lipsky argued that frontline public servants such as police officers or social workers (the "human face" of policy) effectively shape policy through daily decisions. They operate under ambiguous rules and limited resources, using coping strategies and personal judgments to deliver or withhold services. Applying this concept to borders, customs, border guard and coast guard personnel and immigration officers are the classic street-level bureaucrats (Soss, Fording, Schram 2011). Their interactions with migrants and smugglers in effect constitute the lived experience of border policy. They decide who crosses, who is to detained or turned away and under what offences, which effectively shape the policy on the ground. Studies by border researchers highlight how these decisions of officers reflect competing pressures and norms. Linda Williams (2015) studied US police departments and found that officers, being pulled between political pressures, are hostile to immigrants. Departments with strong professional ethics tended to treat immigrants fairly despite anti-immigrant politics. This suggests that street-level agents can either assist or resist the broader policy climate.

However, at the border, the official atmosphere is often more securitised. Katja Franko Aas (2013) introduced the idea of a "bordered penality," where non-citizens face harsher justice. She argues that for migrants, street-level enforcement embodies a two-tier system where non-citizens are more likely to be penalised (deported or detained) rather than rehabilitated. In practice, a border officer may treat an undocumented migrant encounter as a criminal act that warrants deportation (penal banishment), whereas a citizen might receive a warning for a similar infraction (Aas 2013). Katja Franko Aas shows that this discretionary punishment reflects the "precarious membership" of migrants; their status grants border guards greater latitude to exclude rather than assist.

Nicholas De Genova (2002) further explored how street-level enforcement produces the very category of "illegality." He describes the border as a kind of lethal filter where the militarised barrier "simply tends to 'trap' the great majority of those who succeed to get across inside the space of the nation-state as migrant labor." In other words, border enforcement does not purely exclude migrants, but selects and detains them inside as cheap labour. Nicholas De Genova (2002) argues that

the routine decisions of border agents, often under the guise of national security, create "anonymous brown bodies," people transformed into disposable, illegalised migrants by policy. Street-level agents, by detaining or deporting some migrants but not others, actively produce the contours of illegal migration (De Genova 2021). This perspective critiques Michael Lipsky's focus on individual discretion, which emphasises that enforcement at the border is also a deeply political act that sustains a global regime of selective migration (Hess 2012). Sharon Pickering examines a similar dynamic through a gendered lens. In her ethnography of Australian maritime patrols, Sharon Pickering (2014) describes border patrol boats as "floating carceral spaces." She showed how officers and asylum-seeking women are governed by competing narratives of enforcement versus rescue. Border agents often enact a "masculine" enforcement role as interdiction or even control, and they sometimes play a "feminine" rescue role as providing aid. This gendered dynamic shapes how street-level bureaucrats perceive threats: for instance, they may view men as smugglers or fighters and women primarily as needy victims. Such framing influences discretionary decisions about who needs to be arrested versus admitted to care (Pickering 2014). Sharon Pickering's study highlights that street-level work at borders is not value-neutral, but infused with cultural meanings of gender, fear and heroism that guide the actions of officers.

Taken together, these theories suggest a critical, mediated view of border enforcement and control. Michael Lipsky's (1980) model shows us that attitudes and routines of officers determine outcomes. But Katja Franko Aas (2013), Nicholas De Genova (2002) and Sharon Pickering (2014) add that these outcomes are also structured by larger forces such as citizenship regimes, racial hierarchies and political economies. Border officials do not choose their operating environment. They work within two-tiered laws and a securitised politics that encourages exclusion. A critical analysis would note that street-level theory must account for how power is deployed unevenly. For example, when migration is framed as a security crisis, officers are likely to be pushed towards rigid enforcement strategies to limit the discretion Michael Lipsky described (Guiraudon 2000). On the other hand, in contexts emphasising humanitarian values, those same officers might bypass policies to allow asylum, consistent with strong professional norms (Williams 2015).

Moreover, street-level theory helps explain the enforcement challenges noted above. Limited resources and high workloads lead officers to ration the available services. At busy borders, this may mean prioritising obvious security threats and ignoring smaller infractions. The call for data-driven policing implicitly acknowledges that street-level practice is often reactive. Officers focus on visible patterns because they cannot monitor everywhere (De Jonge, De Vries 2024). Corruption can also be seen as an adverse coping strategy, as officers who are bribed have effectively lower enforcement pressure, a result of individual choice under corruptible systems (Heyman 1995).

Michael Lipsky's theory posits that the staffs have the discretion to reinforce the service-seeker with negative and positive reinforcements (Lipsky 1980). This

research conceptualises the challenges in investigating border crime. As mentioned above, the bribery and misconduct of the Bangladesh Police have hindered effective responses to border crime. For several political and situational factors, such as pressure from higher-ups, bribery and corruption, the police officers have used their discretionary power in a negative way (Akash, Sharif 2025; Bajpaee, Schröder 2024). As street-level bureaucrats, the police have exercised their discretionary power at will, which has led to improper investigations. Additionally, the police must follow instructions from higher authorities, as they depend on political leaders and the Ministry of Home Affairs for resources. Moreover, the use of discretionary power, combined with political and hierarchical pressure, has created significant challenges in responding to and investigating border crimes. Moreover, applying street-level bureaucracy to border crime control agencies, they decide how laws "play out" day-to-day. Katja Franko Aas's "bordered penality" and Sharon Pickering's "floating carceral spaces" reveal that the boundaries of the nation profoundly change the meanings of law enforcement. Nicholas De Genova's analysis suggests that the border itself is an instrument that street-level actors use (sometimes unwittingly) to construct illegality. A thorough framework would therefore combine Michael Lipsky's insights on discretion, challenges and coping. It would examine how border guards interpret policy, how they balance political mandates against norms and how their daily practices produce broader patterns of inclusion and exclusion at the border.

The SARA model (scanning, analysis, response and assessment) is a component of what Herbert Goldstein (1979) referred to as "problem-oriented policing." This model represents one of the best and most powerful methods for policing, which may help prevent crime, find remedies and assist police personnel in responding more efficiently (Glenn 2020). With this model, it is possible to decrease some of the investigative challenges, as officers may scan and understand the nature and types of border crimes that occur. Then the officers may analyse the types of crimes that occur along the border, as well as their frequency and causes. Based on the analysis, police have to develop a response to properly address and investigate border crime with the limited resources they have at hand. This might involve developing new strategies and techniques for investigating and solving border crime. Lastly, police might evaluate the impact of the new strategies and techniques on the investigation and resolution of border crimes and identify areas for improvement.

3. Method

This study was conducted using a qualitative method and an exploratory research design. The data were collected from primary sources through in-depth interviews using a semi-structured interview guide. The interview guide included open-en-

ded questions about the sociodemographic information of the respondents, the nature and causes of border crime, the challenges faced by law enforcement officials in combating and investigating border crime and lastly, suggestions from the respondents. The research focussed on the north-western border of Bangladesh, specifically three police stations in the border area. The police stations deal with several kinds of border crime which are frequent at the north-western border of Bangladesh, including drug trafficking, illegal goods trafficking, human trafficking, illegal entry, murder and extortion.

The study area comprised three police stations in the Chapainawabganj district, which includes Chapainawabganj Sadar police station, Shibganj police station and Gomastapur police station. These three police stations have 48 investigative officers in total, including 2 assistant superintendents, 9 inspectors and 37 sub-inspectors. A non-probability sampling approach, specifically convenience sampling, was used because not all officers were available at the time of the study due to official duties in other places and holiday leave. The available officers were interviewed, which resulted in 16 interviews (with 1 inspector and 15 sub-inspectors). The sociodemographic data of the respondents can be found in Table 1. The data were then sorted, narrated and transcribed to generate meaning. Open and axial coding techniques were used to categorise the narrative of the interviews, leading to several sub-themes that were subsequently grouped into several themes. Then, thematic analysis was conducted to generate the results from the data.

Table 1. Socio-demographic data of the respondents

Socio-demographic variables	Frequency (n)	Percentage (%)
Age		
21–30	2	12.5
31–40	10	62.5
41–50	1	6.25
51–60	2	12.5
Gender		
Male	16	100
Educational qualification		
Higher secondary	2	12.5
Bachelor	5	31.25
Masters	9	56.25
Religion		
Islam	14	87.5
Hinduism	2	12.5

Socio-demographic variables	Frequency (n)	Percentage (%)
Marital status		
Married	13	81.25
Unmarried	3	18.75
Rank		
Inspector	1	6.25
Sub-inspector	15	93.75
Income		
15001–20000	7	43.75
20001–25000	9	56.25
Working hours		
12–16 hours	10	62.5
16–20 hours	2	12.5
24 hours	4	25
Duration in Police Service		
1–10 years	9	56.25
11–20 years	4	25
21–30 years	3	18.75
Duration in investigation		
1–5 years	6	37.5
6–10 years	7	43.75
11–15 years	3	18.75
Duration in border crime investigation		
Less than 6 months	6	37.5
6–11 months	2	12.5
1– 2 years	6	37.5
More than 2 years	2	12.5

Source: Authors' own research.

The study also made use of field observation. The researcher closely monitored some of the activities of the officers when investigating border crimes. These investigation officers shared their experiences of what they faced during their regular activities. There are also other officers, in addition to the investigation officers, in the police stations who cannot directly take part in the investigation, but inquire about crimes and assist the investigation officers. They also shared their experiences with the researcher, which helped develop a deeper understanding of the investigative challenges. These observations helped develop further descriptions of the empirical data in the study.

This study has multiple limitations that impact its generalisability to some extent and need to be specified. As several investigation officers were occupied performing their official duties in other regions, it was not possible to interview them all. In the three selected police stations, there was only one female investigation officer. However, she was also preoccupied with official duties in another region, which is another limitation of this study, as no female investigation officers were interviewed. There were not enough investigation officers available to conduct the required number of in-depth interviews, which lessens the generalisability of the study to some extent. Also, a major problem facing the Bangladesh Police is that the investigation officers are frequently transferred; across the whole police department, one year is the average duration of an officer serving at a police station, which is another limitation. The officers' duration of service in the border region and overall are specified in the socioeconomic data (see Table 1). Most of the investigation officers interviewed for the study have not been in the police stations of the border region for very long, and they were not experienced in investigating border crime. This led to an incomplete picture of the investigative challenges faced by the officers.

4. Analysis and findings

In this section, the findings from the in-depth interviews are presented thematically. Several sub-themes and themes emerged in this study, which are described with quotes from the respondents. Also, the insights from the field observation have been incorporated in this section to critically describe the issues of investigative challenges in border crime. It is crucial to describe the nature and causes of border crime and the responses to those crimes in order to better understand the investigative challenges. Thus, all these issues are discussed in this section.

4.1. Nature, pattern and causes of border crime

The Bangladesh Police confront various crimes at the border, including illegal entry, drug trafficking, firearms smuggling, illegal goods smuggling, human trafficking, money laundering, kidnapping, murder and extortion. All the respondents confirmed that these crimes frequently happen in the border area. Illegal entry also occurs, as some parts of the border area are wide open and supervision of law enforcement agencies is absent. Murder and extortion are less frequent crimes in this region. However, several murders have occurred, as some trafficking groups had internal clashes.

> I [an investigator] mainly deal with border crimes such as drug trafficking, illegal goods trafficking, kidnapping, extortion, murder, etc. All the border areas are highly crime-prone. (Respondent 5)

> Offenders can easily disguise their illegal goods in some products so that they don't easily get caught. (Respondent 6)

The crimes that occurred in the border area can be either organised or individual in nature. Mostly, organised crime occurs because certain groups are involved. Border crimes are often coordinated by influential political leaders, who use young, impoverished individuals (e.g. women and children) in need of money.

> These crimes are mostly committed by the powerful person on the border area. They use vulnerable people who need money and have family problems to commit these border crimes. The offenders here use the unused cultivation lands that have no physical border to commit border crimes. (Respondent 2)

> We [investigators] also found some criminals who had inherited crimes from previous generations. (Respondent 4)

> People who are estranged from their families (…) are more likely to engage in border crimes. (Respondent 1)

There are some groups who are involved with border crime because of previous generations. Committing these crimes is generational for them; they learn the criminal tactics from their parents or grandparents. Also, there are some cases where young people who are estranged from their families join organised crime groups and commit these crimes under the guidance of influential individuals. Traffickers and smugglers exploit unguarded areas along the border to transport their illegal products, occasionally disguising the products to avoid detection at the border. The primary causes of border crimes, as identified by investigation officers, include open and unsecured borders, corruption within border security agencies, inadequate surveillance and poor border management. Corruption and the use of discretionary power have led to a lack of supervision at the border and have facilitated the activity of organised crime groups.

> Open borders, corruption within border authorities, border areas that are far from a police station [and] an easily assessable border (…) are the main causes of border crimes. (Respondent 1)

> The following factors contribute to these crimes: a lack of supervision by the border guard, corruption within the border agency, etc. (Respondent 16)

The lack of coordination among law enforcement agencies, inefficient border security agencies, insufficient patrolling in border areas, negligent border security agencies, the lack of manpower in border areas, the distance between border areas and police stations and vulnerable groups being coerced into committing crimes are some core causes of border crime. The lack of supervision and awareness, along with the temptation of quick financial benefits, are crucial causes that encourage people to commit border crime in this border area.

4.2. Responses to border crimes

Border crimes require special attention and specific responses due to their transnational nature. Border Guard Bangladesh (BGB) is responsible for patrolling the borders of Bangladesh. However, in certain circumstances, the Bangladesh Police also conduct patrols in response to prior crime-related information. Both the BGB and the Bangladesh Police have the authority to apprehend criminals in the border area. The Police maintain local sources to collect intelligence for their investigations.

> We [Bangladesh Police] maintain patrols in border areas on a routine basis with patrol pickups, local vehicles, walkie-talkies, shotguns, life jackets, light-reflecting jackets, handcuffs, flutes, etc. (Respondent 12)

Following an arrest, a report is filed at the local police station, which initiates the investigation process. Investigation officers often rely on local sources to locate offenders and use various technologies such as call detail records (CDR), crime data management systems (CDMS) and the National Identity Server (NID) to gather evidence.

> Technological tools are operated by special units [of the Bangladesh Police]. So, we [investigators] have to depend on them for call detail records, fingerprint analysis and information from the national identity server. (Respondent 10)

Forensic testing of evidence is carried out when necessary by specialised units such as the Criminal Investigation Department (CID) and the Cyber Police Centre (CPC) upon the request of the investigation officer. Sometimes, the police also use techniques such as ambushes to apprehend an offender.

> We [investigators] must rely on the cyber police unit to gain access to even a little amount of information, which causes delays in the investigation process. (Respondent 10)

Once all the necessary information is collected, a charge-sheet for a crime is made and submitted to the court in order to start the prosecution process. Exclusive jurisdiction for investigating border crimes lies with the Bangladesh Police, making it a crucial step in identifying patterns and addressing such crimes effectively.

4.3. Investigation challenges faced by investigation officers responding to border crime

Investigating border crimes is a difficult task that requires careful attention to different factors in order to uncover the facts. Due to its transnational nature, border crime presents additional challenges that require special skills from investigators. In Bangladesh, investigators face numerous obstacles when dealing with border crime.

4.3.1. Lack of evidence

Due to the poor infrastructure, the investigator may miss some evidence. Some areas of the border region do not even have any proper roads or means of communication. Thus, it takes time to reach those areas. At a crime scene, the investigator may not find enough evidence; it may have been spoiled or taken by someone. There is no proper system for evidence preservation until the police reach the crime scene. Most of the time, there are many onlookers and other people at a crime scene, making it easy for them to spoil evidence. When police reach the crime scene, they often cannot find any usable evidence.

> We [investigators] also face problems getting witnesses from the border area, as they are not helpful and don't want to testify easily. (Respondent 11)

> [I]f a crime happens at the border, it takes a long time for us to get there. Till then, we can't find enough evidence to prove that case. (Respondent 16)

Physical, oral or documentary evidence is crucial for proving or disproving a case in the legal context of Bangladesh. But the investigator will drop the case if enough evidence cannot be found. And these are regular challenges in the investigation of border crime.

> [W]e [investigators] can't gather evidence from across the border [from neighbouring countries] or from the originating place of that crime; when we don't find any evidence, we have to drop the case and most offenders flee from the country across the border due to the slow investigation. (Respondent 1)

Here, the challenges in gathering evidence for an investigation are affected by several other factors, as the police do not have enough vehicles to get to a crime scene. In each police station, there are only two vehicles, one of which is always reserved for the officer in charge of that police station. This complicates the situation for the investigation officers, who have to rely on local transport, which usually is not very reliable in border areas. Also, most of the investigation officers are not properly trained to collect evidence from crime scenes. There are different teams for collecting, storing and analysing evidence. However, most of the police stations do not have an evidence collection team, which leads to improper evidence collection and a failure to investigate the facts of the crime.

4.3.2. Lack of manpower and overburdened caseloads

Due to a lack of manpower, the existing investigation officers are forced to take on additional cases. Thus, to decrease their caseloads, they have to complete investigations quickly, and then they have another case to solve.

> Bangladesh Police lack manpower. So, we [investigators] get too little time for an investigation. Because of the high caseload, one investigation officer must handle at least 9–10 cases at a time in our police station. (Respondent 4)

> We [investigators] have to fast-track the process of one investigation to completion, and then we have to jump to other cases. (Respondent 7)

Many of the investigation officers feel burdened with the caseloads and have stress from time to time. They cannot even get a proper meal due to their workload of investigations. The Bangladesh Police have to depend on the government to recruit personnel, but the government does not seem to care about this issue. Therefore, with this little manpower, the police department has to manage the overburdened caseloads.

4.3.3. Lack of technological support

Police stations in Bangladesh suffer from a significant lack of technology, which hampers investigators' access to necessary information. They must rely on specialised police units such as the Criminal Investigation Department, cyber police units and police headquarters to obtain the required information.

> The investigators have to depend on other [special] agencies to get access to crucial information that is needed instantly for an investigation. Sometimes it takes 2–3 working days to get a small piece of information. (Respondent 6)

> Sometimes the investigator has to transfer sensitive cases to a specialised unit like the Police Bureau of Investigation or the Criminal Investigation Department to investigate. (Respondent 7)

Specialised police units have easy access to information. Transferring the cases to the special unit ensures a fast investigation, but there are few special units and they are not available in every region.

4.3.4. Lack of financial support

Almost all respondents expressed concerns about finances. Every police officer needs to be on duty for 24 hours. They are obligated to respond whenever they are summoned. However, they are paid on average like other government employees who only work 8 hours a day. Even in times of inflation, the government does not provide any additional financial support to the officers.

> The government pays us the money depending on our grade specified in government salary scale. But in the same grade, other government employees have to work only 8–10 hours a day. But we have to be on duty for 24 hours. (Respondent 8)

> We [investigators] don't get paid enough for our transportation and other investigation bills. (Respondent 11)

There is a common salary structure for all government employees in Bangladesh. Even with the extra duties for additional hours, the investigators are not compensated. This discrimination has sometimes led to a lack of motivation in investigations.

4.3.5. Lack of collaboration and coordination

The lack of collaboration is a huge problem in every sector in Bangladesh. All governmental organisations have to collaborate and coordinate with each other for several purposes. But there are no specific rules or regulations for collaboration. This has caused a huge gap in intelligence-sharing among the agencies, and ultimately leads to failure in investigation.

> A lack of collaboration between the Bangladesh Police and Border Guard Bangladesh exist. When the border guard files a case, they do not include all of the information of that crime in the general diary. (Respondent 1)

> Lack of intelligence-gathering is the result of a lack of collaboration that creates information gaps within the investigation. (Respondent 16)

> Investigators don't get enough collaboration from other law enforcement agencies. But we expect to get operational and informational support from [several special units such as] the Border Guard, the Rapid Action Battalion and the Drug and Narcotics Control. (Respondent 4)

In the case of border crimes, without the support of border agencies, it can be quite difficult for the police to handle an investigation. But there is no existing framework or regulation that can address these issues in collaboration. This has made the agencies share intelligence or information at their discretion. Sometimes, other law enforcement agencies do not help the investigators at all, and from time to time are even hostile. They make the investigation officers wait when they need support. They delay the support process with several excuses.

Many of the investigation officers have tried to contact the law enforcement agencies of the neighbouring country (India) to solve their cases, but they were denied any help by any means and told to follow proper protocol to get information, which could take several months.

> I [investigator] needed just some information from an FIR that was filed in India. But they denied giving me that information and told me to follow the procedure and give them an application through the ministry. (Respondent 8)

If an information exchange system was developed between Bangladesh and the neighbouring countries regarding border crime issues, the investigation officers would benefit and would be able to do proper investigations.

4.3.6. Political pressure and pressure from higher-ups

All the strategies and other planning frameworks of the Bangladesh Police are comparatively traditional. As a result, an investigator cannot go beyond the rules by which they are bound. This is a serious problem in Bangladesh, where powerful people with connections to high-ranking government officials can easily get away with their crimes. If officials want to mislead an investigation in other directions, the investigator has no choice but to follow.

> There is so much lacking in strategic planning. (Respondent 16)
>
> In many cases, when we [investigators] are about to reveal the fact of a crime, we are told to mislead that fact in another way as the powerful people have connections with the higher-ups' police officials. We are obligated to follow the orders of our superiors. (Respondent 8)

Sometimes, to maintain the chain of command, investigators have to do something that they are not willing to do. And they have to force themselves to obey their superiors to avoid any difficulties from higher-ups in future.

4.3.7. Challenges in information-gathering

In most police stations, investigators lack a suitable environment and opportunity to properly interrogate offenders. The absence of proper interrogation settings with appropriate materials is a common problem. Also, the people from border areas can sometimes be hostile. They assist offenders by hiding them and providing incorrect or misleading information to the police. In addition, the local source used by the investigation officer can have the wrong or incomplete information, which hampers the investigation in different ways.

> We [investigators] can't properly interrogate offenders due to a lack of interrogation techniques and the interrogation environment in the police station. (Respondent 10)
>
> We [investigators] always have to be aware of the people in border areas. (…) They become hostile when we get to them to collect information about a case. (Respondent 16)
>
> The local source sometimes gives us misleading information. So, based on that information, the investigation takes a detour away from the facts. (Respondent 5)

The investigators also lack skills in collecting intelligence and information from sources and witnesses of crimes. Information-gathering requires special skills such as rapport-building, observation and the ability to psychologically assess individuals. As most of the investigators in the Bangladesh Police are not properly trained in collecting information, this issue remains a big challenge.

4.3.8. Changing pattern of crime in the border area

The evolving patterns of border crime in Bangladesh are influenced by modern technology and emerging techniques. Crimes committed in the past two decades have new patterns, and new methods are used. However, the Bangladesh Police has yet to introduce proper crime pattern technology to address this issue properly.

> Crime patterns are changing every day in border areas. So, to keep up with the pattern, high-tech technologies need to be introduced in force to track down the changing pattern. (Respondent 8)

There are not many investigation officers in the Bangladesh Police, but the government is unable to train all of them. Only the investigators from special units receive special training on recent technology and crime pattern analysis. Another challenge in this regard is that the investigation officers get transferred frequently. The average investigator stays at a police station for one year. For this little time, the authorities do not want to train an investigator to investigate special crimes such as border crime.

4.4. Consequences of these challenges of investigating border crime

Investigation officers experience mental and physical stress due to their caseloads, round-the-clock shifts, pressure from superiors, unsolved cases, busy police duties and working in challenging environments. These factors minimise their ability to focus on their work; sometimes they need to push themselves to fulfil their duties.

> During an investigation, we get a lot of pressure that creates physical and psychological stress on us. This stress leads to inattention, getting sleepy all the time, etc., which minimises our performance in the next investigation. (Respondent 3)

> We [investigators] can't see our family often. (…) Work pressure doesn't even let me sleep. Every police officer spends their life in this manner. (Respondent 8)

Investigation officers take on the stress of the victims and their families during investigations, fuelled by a sense of responsibility towards their fellow citizens. They try their best to solve cases by any means possible. However, due to their caseloads, their stress levels continue to rise. When cases remain unsolved, they cannot find relief.

> We [investigators] are facing a lot of stress every day. People's stress is transferred to us when they file a case. Solving crimes and investigating make us different people. We [investigators] face so many physical and mental stresses that we can't spend time with family and relatives. (Respondent 11)

More or less, all the investigation officers and all the police officers of the Bangladesh Police go through a lot of stress daily. They must always be on the move. They also suffer severe mental and physical health problems from this stress. They cannot take holiday leave like in other jobs. The staffing shortages lead existing personnel to work harder to handle the caseloads. As a result, the investigators are constantly stressed and unable to provide a quality service to the citizens.

4.5. Suggestion for minimising the investigative challenges of border crime

Investigators receive compensation from the police department after a successful investigation, but that is insufficient. The respondents generally feel that this payment does not cover their expenses of investigation. Additionally, police officers typically receive additional allowances such as housing, lunch, transport and

dearness allowances to manage their monthly expenditures. However, the government has temporarily suspended dearness and transport allowances. All of the respondents want the allowance to be reinstated.

> We [investigators] get compensation for every investigation. But that is not enough for us. We need extra privileges for conducting investigations. We spend more than this compensation during the course of an investigation. (Respondent 11)

The government needs to create more positions and fill them with skilled officers so that the caseload of each investigator can be decreased. Of course, that is not possible in a short time. However, gradually increasing the number of police officer positions would effectively reduce the currently overburdened caseloads.

> The government has to recruit more manpower to decrease the caseloads of every investigation officer, so that we have enough time to investigate and solve cases in a proper and effective way. (Respondent 14)

The existing difficulties accessing information can be easily improved if the technological tools that are commonly utilised by specialised police units like Criminal Investigation Department and the Cyber Police Centre can be made available at the police station level. Investigators can quickly obtain essential information regarding their investigations in this way.

> If we [investigators] get the technological tools like call detail records, fingerprint identification from the National Identity Server and call tracking at the police station level, then it will be very easy for the investigation officer to access information. (Respondent 7)

Some of the respondents also suggested a special unit in the Bangladesh Police for investigating border crimes so that the caseloads could be reduced. In this way, all border crimes can be properly investigated with more time and effort.

> A special border crime investigation unit can also be established to reduce caseloads and handle border crime investigations in a sophisticated manner. (Respondent 2)

There are various reasons why the investigators cannot effectively execute investigations. The lack of all kinds of logistical and other support has complicated the process of investigation. Consequently, the investigation officers also lack dedication in their investigations. With few resources, proper allocation and strategic planning can make the investigation effort successful. But the whole Bangladesh Police force lacks strategic planning at every level, which further complicates the investigatory efforts.

5. Summary and theoretical discussion

This study mainly focussed on the challenges of investigating border crime in Bangladesh. While exploring the investigative challenges, it also explored the causes, nature and responses to border crime. The research found that border crimes such as illegal entry, drug and substance trafficking, illegal firearms smuggling or human trafficking are committed by powerful individuals who often exploit vulnerable groups and criminal gangs. Open borders, corruption among border agencies, inadequate supervision, ineffective border security, poor border management, lack of employment opportunities, lack of crime awareness and insufficient patrols have been identified as the main causes of border crime, which supports the findings from the literature (Beyene 2011; Khakurel 2015; Ojem, Ibrahim, Maiwada 2021). Investigators face several challenges, including a lack of evidence, large caseloads, limited manpower, insufficient technological and financial support, inadequate collaboration with other agencies, political pressure, changing crime patterns and poor communication in border areas. Investigators often endure mental and physical stress, including insomnia, inattention and demotivation, which affects their ability to serve citizens effectively. Prior studies echo these challenges, highlighting insufficient collaboration, resource shortages, corruption and a lack of technological advancement (Hatchard 2006; Makokha 2020; Shidane 2020; Birdi et al. 2021). The respondents recommended increasing manpower, technological resources, financial and logistical support, operational efficiency and training. They also emphasised the need for improved collaboration among agencies and neighbouring countries. These suggestions align with the literature on the subject (Addo 2006; Birdi et al. 2021; Ojem, Ibrahim, Maiwada 2021).

Several political and geographical issues make investigating and addressing border crime more complicated for law enforcement agencies. As Bangladesh is situated in the middle of the Golden Triangle and the Golden Crescent, the border has been frequently used by drug smugglers as a smuggling route (Tayeb 2022). The continuous political instability in Bangladesh makes the border areas vulnerable to smuggling and trafficking (Ullah 2025). The Rohingya refugees frequently cross the Myanmar–Bangladesh border to take shelter in Bangladesh (IOM 2019). Overall, these factors combine to make the borders of Bangladesh vulnerable, which in turn attracts criminals and organised crime groups, who take advantage of this weak border and commit their crimes. In addition to these challenges in investigating and addressing border crime, there are several other factors which are more complicated, such as the use of individual discretion and police corruption.

The concept of "street-level bureaucracy" by Michael Lipsky (1980) has helped describe the issues of corruption, bribery and negligence, which can complicate border crime investigations. The investigation officers here can be described as street-level bureaucrats who can apply their discretion, as there has been a lack of supervision and minimal internal oversight in the Bangladesh Police. The recent "July Uprising" in Bangladesh has made people understand how inefficient and

corrupt the Bangladesh Police has been for a long time. Several political leaders and influential people have exploited the police personnel for their own benefit (Akash, Sharif 2025; Ullah 2025). Police personnel apply their discretion as street-level bureaucrats under the wings of their higher-ups and political leaders. Jeffrey Pfeffer and Gerald Salancik (1978) emphasise that an organisation's reliance on external resources, such as financial and logistical support, can make that organisation obey any command from that external organisation. Also, the interplay between economic, political and institutional factors makes an agency dependent on their controlling authority (Sarat, Clarke 2008; Dewey, Woll, Ronconi 2021). This study found pressure from higher-ups and political pressure to be a core investigative challenge which complicates the investigation of border crime. The police department has to depend on the political party in power for their resources. Thus, the police have to entertain any command from higher-ups and political parties, even to receive resources and advantages.

Addressing the challenges in investigating border crimes is essential, as it concerns the sovereignty and national security of the state. Border crime is very difficult to prevent, combat and investigate due to its transnational nature. Therefore, these challenges should be addressed in a comprehensive and organised manner. The law enforcement agencies from bordering countries should take comprehensive, actionable steps together to prevent and control cross-border crime. To do that, common international laws and conventions, such as the UN Convention against Transnational Organised Crime (UNTOC), should be ratified and implemented by the neighbouring countries. Such frameworks facilitate extradition, mutual legal assistance and the transfer of criminal proceedings, which are crucial for overcoming diverse legal systems and jurisdictional limitations between the bordering countries (UNODC 2025b). However, the effectiveness of these formal attempts at cooperation can be hampered by slow processes and some states' preference for national solutions (Dandurand, Jahn 2021). Despite these challenges, informal relationships and networks between law enforcement agencies across borders have been shown to drive effective collaboration, often preceding formal agreements (Legrand, Leuprecht 2021).

Most of the investigative challenges depend on each other, as the lack of all kinds of logistical support leads to a lack of evidence and limited access to information, which are significant factors in an investigation. There is a huge lack of dedication and motivation among investigators, as observed in this study. All the interviewed investigation officers indicated the logistical and internal challenges. However, measures can be taken at the individual level in investigating border crimes; strategies such as the SARA model (scanning, analysis, response and assessment) can be used for effective investigation with minimal resources (Goldstein 1979). Also, a data-driven approach can be implemented by law enforcement agencies to prevent and control cross-border crime (De Jonge, De Vries 2024). The systematic stress and inequalities facing the police officers prevent them from taking such steps on their own. Sometimes, the investigation officers hide their

incompetence behind systemic and institutional barriers. On top of that, the poor system has created opportunities for investigation officers to take bribes and apply their discretion in investigations. This whole system needs to be developed in a way that accountability and transparency can be maintained in every position in the police force. Moreover, the investigative challenges in border investigation are a very complicated issue that requires special attention and comprehensive effort from all stakeholders to ensure effective investigation so as to prevent, combat and control border crimes and to strengthen the safety and security of the state.

5.1. Recommendations

In order to overcome the investigative challenges, investigators must put forward their best effort. All the investigators recommended several adjustments. It may take some time, but integrating these suggestions into the law enforcement institution can help mitigate the investigative challenges. All of the recommendations are provided below as the findings of the study:

1. Increase technological support at police stations for easy access to information, offender profiling and crime pattern analysis. Utilise modern technologies for investigation and surveillance.
2. Increase police manpower to manage excessive caseloads, ensure continuous patrols by providing enough vehicles and appoint assistants for investigators to handle clerical duties.
3. Establish dedicated investigation units for border crimes and provide in-service training on modern investigative techniques and procedures.
4. Strengthen inter-agency collaboration, including coordination with Border Guard Bangladesh and other law enforcement agencies for proper intelligence- and information-sharing.
5. Enhance financial resources for investigations, ensure reimbursement of investigation expenses and revise laws to align with modern investigative needs.
6. Allow investigators sufficient time to conduct thorough investigations, increase holiday leave to ensure proper physical and mental health and implement crime scene teams for immediate response.
7. Develop systems to ensure accountability and transparency within the police force to prevent corruption and abuse of power.
8. Divide border areas into beats, ensure proper patrols with essential tools and develop infrastructure to improve operational efficiency in border areas.

Moreover, the combined efforts of investigation officers, police departments and the government should work together to overcome all obstacles for the proper investigation of border crime. This study mainly explores the investigative challenges law enforcement personnel face when investigating border crime. Improvement in this alone cannot significantly decrease the cross-border crime rates. Reducing these challenges can create a deterrent effect, however, which may contribute to lower border crime rates and other preventive factors of border crime.

Conclusion

Border crime is transnational in nature, so investigating it is different to investigating traditional crime. The Bangladesh Police have sole authority to investigate these crimes. The investigation officers are giving their best effort in investigating border crime, but the crime rates are increasing day by day, as border crime allows criminals to earn more money in a shorter amount of time. When investigating these crimes, the investigators face many challenges all the time. Investigation officers in border areas admit their inability to effectively investigate border crimes due to poor surveillance and significant technological gaps. They believe that securing the entire border with fencing, barricades and improved surveillance will automatically reduce border crime to some extent and facilitate the investigation process. The Bangladesh Police face numerous challenges across all sectors, requiring the introduction of new technology and techniques and increased financial, logistical and tactical support for effective investigation. Corruption is the root cause of many challenges in the investigation of any crime. However, as most of the officers in the police department in Bangladesh are corrupt (Ullah 2025), they use their discretion as street-level bureaucrats and often mislead the cases they are investigating for financial gain or on orders from higher-ups.

Corruption and other unethical measures should be detected by the internal oversight body to ensure a fair and just investigation. The government should also revise the colonial-era laws with a modern perspective. The lack of manpower, which creates several challenges in investigation, should be addressed properly by the authority. The current ratio of police officers to inhabitants in Bangladesh is 1:755 (Islam 2019). It is nearly impossible for the police department to handle such a large population. Thus, if the crimes can be prevented, the caseloads and other challenges will automatically decrease. The government of Bangladesh has already proven its success in preventing drug-related crimes by adopting a "zero tolerance" policy. The government should also adopt a "zero tolerance" policy against cross-border crime. All the powerful people who are behind these crimes need to be apprehended in order to prevent and control these crimes. All the law enforcement authorities have to develop a collaborative framework combining all the agencies so as to ensure collaboration among them in combating and investigating border crime. Also, as border crime is mostly transnational and organised in nature, preventing it will require a more comprehensive response, where addressing the investigative challenges is just one factor.

This study has several limitations that leave room for other research to fill the gaps. The root causes and prevention strategies of border crime have not been thoroughly explored from a broad perspective in this study, which needs further exploration. In the Bangladesh Police, there are only a few female investigation officers and, in this study, no female investigation officers participated in an interview. Exploring and contrasting the investigative challenges of border crime

from a gender perspective is also crucial, which can be explored further. The study was conducted with only 16 respondents, as most of the investigators were busy with their duties. Research on this topic can be conducted on a larger sample for more generalisability.

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