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Global Trends in Law Enforcement

Theory and Practice

Edited by Nikolaos Stamatakis

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Meet the editor

Dr. Nikolaos Stamatakis received his habilitation at the University of Paris, Saclay, France. He also completed a post-doctorate at the University of Sao Paolo – Centre for the Study of Violence, Brazil. In 2013, he obtained a double Ph.D. in Criminology at Ghent University and the University of Liege, Belgium, and a Ph.D. in Sociology at Panteion University of Social and Political Sciences, Greece, in 2007. Dr. Stamatakis also holds an MPhil in Law from University College London, UK an LLM from National University of Ireland, an MA in Religion in Peace and Conflict from Uppsala University, Sweden, an MA in Education from Tartu University, Estonia, an MA in Criminology from Catholic University Leuven, Belgium, a PG Diploma in Restorative Justice from Queen's University, Canada, and a Certificate in Victimology from Tokiwa University, Japan. His area of expertise is on restorative justice, juvenile delinquency, prison reform, death penalty, police violence, and crime prevention and rehabilitation. Dr. Stamatakis has extensive work experience in various national, European, and international organizations, such as the Greek National Centre for Social Research, the European Commission, the United Nations (UNODC), the Trinidad and Tobago Ministry of National Security, the Penal Reform International (Kazakhstan), the Finnish Ministry of Justice (Criminal Sanctions Agency), the New Zealand Police, and the US Federal District Court in Los Angeles, CA. Being a researcher on restorative justice, he has facilitated in-prison restorative justice programs in South Africa (Pollsmoor prison) and New Zealand (Rimutaka). He has also collaborated with the Restorative Justice Unit of the Canadian Correctional Services.

Contents

Preface

In the ever-evolving landscape of global society, law enforcement plays a pivotal role in maintaining order, ensuring justice, and upholding the rule of law. As the world be-comes increasingly interconnected, law enforcement agencies face unprecedented challenges that demand a nuanced understanding of diverse legal, social, and technological trends. *Global Trends in Law Enforcement – Theory and Practice* explores and analyzes the dynamic forces shaping law enforcement on a global scale.

This comprehensive volume brings together a collection of insightful perspectives from scholars, practitioners, and experts in the field of law enforcement. The goal is to provide a comprehensive overview of the current state of law enforcement, addressing both theoretical frameworks and practical applications. By examining global trends, this book aims to contribute to the ongoing dialogue on how law enforcement agencies can adapt and thrive in the face of emerging challenges.

The chapters within this volume cover a wide range of topics, including the impact of technology on policing, the evolving nature of transnational crime, the role of community-oriented policing in fostering trust, and the challenges posed by issues such as domestic and gender-based violence, corruption, and (maternal) imprisonment. Through a multidisciplinary approach, the authors delve into the complexities of contemporary law enforcement, offering critical insights and innovative solutions.

In exploring global trends, this book acknowledges the interconnected nature of law enforcement issues, recognizing that strategies employed in one part of the world may have implications for policing elsewhere. By fostering a global perspective, readers are encouraged to consider the transferability of successful models and the importance of international collaboration in addressing shared challenges.

As editor of this volume, I have sought to curate a diverse collection of perspectives that will appeal to academics, practitioners, policymakers, and students interested in the evolving landscape of law enforcement. I hope that this book serves as a valuable resource for understanding and navigating the complexities of modern policing, ultimately contributing to the advancement of theory and practice in the field of global law enforcement.

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Section 1

Theory

Chapter 1

What Law Enforcement Leaders Can Do to Mitigate Occupational Stress

Richard O. Segovia

Abstract

This chapter synthesizes the peer-reviewed literature and practitioner perspectives on how law enforcement occupational stressors significantly impact individual officers, their agencies, and the communities they serve. There is a clear connection between officer well-being and public safety, with both police agencies and communities benefitting from having healthy officers. Modern-day police leaders recognize the importance of maintaining a physically and mentally healthy workforce and feel ethically responsible for addressing occupational stress among their staff. A systematic literature search was conducted using Google Scholar, ERIC, and the ProQuest Criminal Justice Database. This chapter shows how organizational, operational, and personal factors, such as the work environment and external support systems, play a role in contributing to or worsening occupational stress in law enforcement. In addition, the chapter includes a discussion on research-based strategies that police leaders might find beneficial to reduce officer stressors in the workplace. By implementing these research-based strategies, law enforcement leaders can foster a healthier and more resilient workforce, thereby reducing the adverse effects of occupational stress on their officers and enhancing overall well-being and effectiveness within the law enforcement community. Understanding the root cause of workplace stressors may help promote a healthier workforce.

Keywords: occupational stress, police work, mitigation strategies, wellness programs, policy

1. Introduction

From the moment cadets begin training in a police academy to their day-to-day duties, patrolling our communities, they face responsibilities that demand quick decision-making, creative problem-solving, and critical thinking skills. The nature of their work exposes them to stress, emotional strain, and potential danger [1]. Police officers regularly undergo training to handle high-stress scenarios, such as domestic disputes, abuse involving children and older adults, motor vehicle accidents, and dangerous and violent situations.

Even when off-duty, police officers face challenges, such as missing important family events like birthdays and dinners due to shift work and demanding schedules.

The occupational stress experienced in police work can have various personal and professional consequences.

2. What does the literature say about police stress?

The body of literature and research concerning police stress is substantial, and this article explores three distinct global perspectives on the subject. Firstly, a study in Italy delves into occupational stress and examines stress levels and anxiety experienced by officers in a large metropolitan police agency [2]. Secondly, scholars from the University of Toronto investigate the impact of stress and trauma on officer wellness in Canada [3]. Lastly, American researchers explore various factors influencing stress levels among law enforcement officers in New York State [4]. These three studies contribute valuable insights into the complex issue of police stress from different geographic contexts. I searched scholarly articles using the keywords resiliency, coping, and stress, and the articles concerning police stress in Italy, resiliency in Canada, and coping in New York were the leading articles for their respective topics.

2.1 Police stress in Italy

In a research article published in an occupational medicine journal, Universita di Tornio, researchers studied police stress, anxiety, and coping strategies. They found a significant relationship between occupational stress among law enforcement officers and the deterioration of their psychological health and social well-being [2]. The researchers utilized questionnaires and, a Distress Thermometer, a stress rating scale, to collect stress data, identify stressors, and assess coping mechanisms among 617 Italian police officers.

Interestingly, a different study revealed variations in stress levels between male and female officers [5]. Men tended to experience more organizational stress, while women reported higher operational stress levels; however, despite the challenges faced by both genders, both groups demonstrated effective stress-coping strategies [2, 5]. The researchers concluded that proper training and support are crucial for police officers to manage their work demands effectively. Furthermore, they highlighted that factors like gender, position, and assignment play a role in the specific stressors encountered by officers in the field.

2.2 Resiliency in Canada

In 2015, a scholarly article in a law enforcement journal focused on police resiliency and investigated the relationship between training and resilience among 297 law enforcement officers in British Columbia, Canada [3]. The researchers specifically explored how mental preparedness techniques could help mitigate the stressors faced by officers and the positive impact of these techniques on both officers and policymakers.

The study found that exposure to stress could lead to trauma for officers, with potential physical and psychological consequences. To address this issue effectively, the researchers emphasized the importance of a proactive approach in dealing with potential stress. They highlighted that promoting mental preparedness before stress occurs is more effective than treating its effects afterward. By investing in mental preparedness techniques and adopting a proactive approach, law enforcement agencies

can enhance officers' resilience, promote their overall well-being, and better manage stress in their profession.

2.3 Coping in New York

In 2018, the police and practice research journal published an article by the Routledge Taylor and Francis Group, which examined the work-stress axis among police officers [4]. For this study, researchers collected data from 594 peace officers representing 21 law enforcement agencies in New York state. The aim was to identify the factors that contribute to officer stress.

The study revealed that various variables, including demographics, education level, rank, tenure, and internal and external factors, influenced occupational stress in police officers. Additionally, the presence of support systems and accumulated stress over time were significant factors. Moreover, researchers discovered that pre-existing physical, mental, and emotional conditions and a lack of a support system impacted stress levels.

Interestingly, the study found that law enforcement agencies that offered counseling services positively influenced how officers coped with stress. These services resulted in improved well-being and resilience among officers. The researchers concluded that police officers who utilized stress-coping techniques were more effective in reducing and managing stress.

3. What do others say about police stress?

Several other sources offer anecdotal and data-driven evidence regarding police stress. Notably, information from web sources is considerable, and an analysis of three web-based articles from reputable professional sources offers perspective.

3.1 Healthy officers equal healthy communities

First, a publication from the International Association of Chiefs of Police (IACP) studied officer wellness [6]. The IACP and their contributing partners concluded that healthy officers in healthy communities are interrelated. The study showed that policies such as wellness training, fitness programs, and peer support help officers adopt healthy lifestyles and mitigate occupational stress.

3.2 Stress and mental and physical axis

In 2008, a study conducted by the University of Buffalo and published on ScienceDaily.com revealed that law enforcement officers face significant pressures, which can be precursors to various physical and mental health complications, including heart disease and post-traumatic stress disorder (PTSD) [7]. The study also cited findings from the National Institute of Justice (NIJ), which indicated that officers above 40 years of age are at a higher risk of experiencing cardiac issues due to the unpredictable and dangerous nature of police work, which can be psychologically demanding.

Similar to the study in British Columbia, the researchers at the University of Buffalo concluded that early intervention could aid officers in effectively handling the stressors associated with policing. Early intervention might help limit the physical

and psychological damage caused by traumatic experiences. Researchers identified mental preparedness techniques as valuable tools for assisting officers in dealing with stress. Such techniques involve visualizing preparation measures and reducing the impact of critical events and incidents on their well-being.

In another article by Michelle L. Beshears, Ph.D., titled "How Police Can Reduce and Manage Stress," various types and causes of work-related and individual stressors are highlighted, including factors like poor management, shift work, and changes in duties [8]. The article delves into the consequences of stress, such as PTSD, reduced efficiency, and physical health problems, while emphasizing the importance of implementing stress reduction and management strategies for law enforcement officers.

4. Mindfulness-based resilience training: perspective from a career law enforcement professional

In writing this chapter, I consciously addressed potential biases through accepted mitigation strategies like critical reflection and opening up an inquiry [9, 10]. My professional background and academic experience provided me with the necessary skills to collect, analyze, and synthesize data for this chapter, aiming to offer valuable insights and information to learners, law enforcement practitioners, and scholars alike. While I strived to maintain objectivity in my writing, I also wanted to share the perspectives gained from decades of law enforcement experience.

Based on my professional insights, I firmly believe that police occupational stress is influenced by a combination of organizational, operational, and personal factors and that there is a clear correlation between officer wellness and their ability to provide effective public safety services. Drawing from my own experiences and understanding of the stresses and stressors outlined in the article "A Qualitative Investigation of the Experience of Mindfulness Training Among Police Officers [11]," which examined acute and chronic stressors inherent in police work, I believe the quality of intervention in mental health and wellness programs is paramount. Anecdotally, I see how the implications of that study's findings could support advocating for wellness policies and programs within the law enforcement community. Police executives have a moral and legal responsibility to safeguard their employees and provide a safe working environment. By implementing these policies and programs, not only will officers benefit, but they will also have a positive impact on the communities they serve.

4.1 What is mindfulness-based resilience training?

In the article "A Qualitative Investigation of the Experience of Mindfulness Training Among Police Officers [11]," published in the Journal of Police and Criminal Psychology, researchers studied the acute and chronic stressors commonly associated with police work. The study's primary objective was to qualitatively evaluate the effectiveness of mindfulness-based resilience training (MBRT) as a coping mechanism for police officers. The study sample consisted of five police officers with an average of 16.8 years of police service, representing diverse backgrounds, including three White officers, one African American officer, and one Pacific Islander officer. The sample also encompassed various ranks, with three line-level officers, one lieutenant, and one captain from four police agencies.

4.2 Research design and data collection

Researchers [11] employed semi-structured interviews as their study's primary data collection method. They utilized research assistants to audio-record and transcribed these interviews accurately. The interview questions were thoughtfully designed by the researchers to comprehensively explore various conceptual themes and areas of interest related to the assessment of police officers who underwent MBRT as a means to manage their stress.

To ensure a thorough examination of the data, the researchers collaborated with a subject matter expert, a police lieutenant, who helped incorporate subthemes within each interview prompt. This expert input added valuable insights and perspectives from someone who deeply understands the law enforcement context.

Furthermore, researchers [11] used coding schemes and triangulation techniques to enhance the reliability and validity of their findings. By integrating diverse sources and theoretical perspectives, they aimed to strengthen the overall robustness of their work. Triangulation involves cross-verifying findings from different data sources or methods, which helps validate the results and increase the study's credibility.

4.3 Analysis and results

In their analysis, researchers [11] explored several themes derived from the data, including the impact of dedicated practice space, improved family communication, enhanced well-being, and strengthened camaraderie among the participants. To conduct the analysis, the researchers utilized coding and sub-coding techniques, identifying various codes they categorized in their study.

The identified codes included aspects such as the most helpful and least helpful elements of MBRT, the obstacles encountered, and how participants overcame those challenges. Additionally, they analyzed the impact of MBRT on intra- and interpersonal functioning, the benefits experienced by participants from MBRT, and the suggested strategies for improving stress mitigation.

Researchers [11] provided specific quotes from the participants to support their findings and add depth to their qualitative results. The researchers concluded that although preliminary, the qualitative outcomes of their study were consistent with previous quantitative research concerning the psychological and physiological effects of MBRT in mitigating police occupational stress. They emphasized that their findings further support the utility and acceptability of MBRT, especially in improving intra- and interpersonal functioning, highlighting the benefits of MBRT and offering strategies for effectively managing stress among police officers.

4.3.1 Further research

Indeed, further research exploring the relationship between police occupational stress and its impact on psychological health and social welfare could significantly contribute to the existing literature. Using the researchers' [11] work as a framework, future research could delve deeper into understanding how prolonged exposure to stressors in police work can affect officers' mental well-being and overall social functioning.

A study into anxiety and coping strategies in occupational police stress [2] offers valuable insights into this area, identifying the link between police occupational stress and the decline of mental health and social well-being. The researchers' examination

of stress differences between male and female officers highlights the importance of considering gender-specific stressors and coping mechanisms within the law enforcement community.

Further research in this direction could explore additional factors that influence the experience of occupational stress among police officers and examine how different types of support, such as departmental training and various forms of peer and familial support, contribute to officers' ability to cope with the rigors and stressors of their profession.

By expanding on these findings and conducting more in-depth investigations, researchers can develop a more comprehensive understanding of the implications of police occupational stress and potentially identify effective strategies for promoting the well-being and resilience of law enforcement officers. Such research could ultimately lead to the development of targeted interventions and policies to support the mental health and social welfare of police officers, enhancing the overall effectiveness of law enforcement agencies and their ability to serve their communities.

4.3.2 Threats to validity

Researchers in the MBRT study [11] utilized triangulation to enhance their study's reliability and validity. However, one potential challenge to the study's validity when employing triangulation is the presence of reactivity on the part of the researchers. Reactivity refers to the potential impact researchers may have on their study's subject and the participants themselves [12]. The article did not address how the researchers and research assistants addressed or minimized possible risks or biases, such as reactivity, that could influence the study's results. Including such information might have provided greater transparency regarding the researchers' methods and efforts to ensure the study's integrity.

5. What does this all mean?

Mitigating occupational stress in law enforcement is of paramount importance for several compelling reasons:

1. Officer Well-being: Police officers face unique stressors and challenges, which can affect their mental and physical well-being. By addressing and reducing occupational stress, law enforcement agencies can promote their officers' overall health and resilience, ensuring they are better equipped to handle the demands of their job [13].

2. Performance and Effectiveness: High-stress levels can impair an officer's decision-making abilities, critical thinking skills, and overall performance. By mitigating stress, law enforcement agencies can improve the effectiveness of their officers in carrying out their duties, leading to better outcomes in various situations [13].

3. Public Safety: Stressful situations can influence officers' behaviors and reactions, potentially affecting their interactions with the public. By managing occupational stress, law enforcement agencies can enhance community relations and ensure

officers respond to incidents with a clear and composed mindset, ultimately improving public safety [6, 14, 15].

4. Reducing Burnout and Turnover: Excessive occupational stress can contribute to burnout and job dissatisfaction among police officers. Proactively addressing stress can help retain experienced officers, reducing turnover rates and ensuring a more stable and experienced workforce [16].

5. Mental Health and Resilience: Police work exposes officers to traumatic incidents, leading to the risk of developing mental health conditions like post-traumatic stress disorder (PTSD). By implementing stress mitigation strategies, law enforcement agencies can build resilience in their officers and provide support to cope with the emotional toll of their profession [7].

6. Workforce Morale: A work environment that addresses occupational stress and prioritizes officer well-being fosters higher morale among officers. This positive atmosphere can increase job satisfaction and create a more cohesive and supportive team [14].

7. Legal and Ethical Implications: High stress levels can impact an officer's ability to uphold legal and ethical standards. By managing stress effectively, law enforcement agencies can ensure that their officers maintain the highest professionalism and adherence to the law [14].

In summary, mitigating occupational stress in law enforcement is essential for maintaining officers' physical and mental well-being, enhancing their performance and effectiveness, improving public safety, reducing burnout and turnover, building resilience, boosting workforce morale, and upholding legal and ethical standards. By prioritizing officer well-being and implementing stress reduction measures, law enforcement agencies can create a healthier, more effective police force that better serves and protects their communities.

6. Conclusion

Organizational, operational, and personal factors significantly affect the occupational stress of law enforcement officers. Research has highlighted a positive correlation between improved public safety and the well-being of officers. Implementing police wellness policies and programs has positively impacted the officers, their agencies, and the communities they serve. From an ethical standpoint, employers, including police leaders, have a moral obligation to ensure the health and safety of their workforce, as emphasized in the article "Ruthless Exploiters or Ethical Guardians of the Workforce? Powerful CEOs and their Impact on Workplace Safety and Health [14]," published by the Journal of Business Ethics.

While providing a reasonably safe working environment through wellness policies is essential, police leaders also face balancing this obligation with the associated costs. The financial burden of implementing such policies can be significant, leading to a cost conundrum for law enforcement agencies. However, proper budgeting and reaching out to philanthropic organizations and corporations can help offset some of these financial burdens [16].

Modern-day police leaders must recognize the importance of mitigating occupational stress among their officers. Establishing effective wellness programs can provide officers with the necessary tools and support to cope with the stressors of their profession, leading to a healthier and more resilient workforce that can better serve and protect their communities. Balancing the cost considerations with the commitment to officer well-being and public safety remains a critical responsibility for police leaders as they strive to create a positive and supportive work environment for their personnel.

The literature on police stress highlights that occupational stress concerns law enforcement leaders, line-level officers, and the community. Coping strategies to mitigate stressors vary depending on each law enforcement agency's specific programs and policies [1]. Based on the existing literature and my professional experience, several research-based strategies appear to be beneficial for police leaders to consider implementing to reduce officer stressors in the workplace:

1. Formal Fitness and Wellness Programs: Implementing structured physical fitness and wellness programs can significantly decrease the risk of job-related physical and mental health issues for first responders, including police officers [17]. Studies have shown that organizations with such programs achieve better health-related outcomes than those without them, as evidenced by a systematic review of health promotion intervention studies in law enforcement [12].

2. Wellness Policies: Enacting wellness and self-care policies that address social support and promote healthy lifestyles is critical to fostering an effective and healthy workforce. Quantitative and qualitative studies have demonstrated that wellness policies can reduce occupational risk, stress, and unhealthy behaviors among police officers [13]. Thus, incorporating wellness policies throughout the law enforcement community is a promising strategy to mitigate officer stress.

3. Family Support: Acknowledging family members' crucial role in stress management for police officers is vital. Unstable family support can lead to work-family conflicts, negatively impacting an officer's physical and mental well-being [16]. While officers are trained to handle such situations, research indicates that strong familial support can alleviate conflicts between work and family life [12, 17]. Therefore, it is reasonable for law enforcement leaders to develop policies and programs that incorporate familial support to help improve officer stress.

By implementing these research-based strategies, law enforcement leaders can foster a healthier and more resilient workforce, thereby reducing the adverse effects of occupational stress on their officers and enhancing overall well-being and effectiveness within the law enforcement community.

Conflict of interest

The authors declare no conflict of interest.

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Chapter 2

Enforcement of Gender-Based Violence Legislation in South Africa: The Need for a Paradigm Shift

Lizelle Ramaccio Calvino and Mafuku Tholaine Matadi

Abstract

Gender-based violence (GBV) is particularly rife in countries facing socioeconomic challenges such as inequality, and violence perpetuated by discriminatory and prejudiced structures. It is therefore not surprising that South Africa has one of the highest numbers of GBV cases and that, in attempting to curb the same, the South African government adopted the third set of GBV Amendments Acts on 14 April 2023. It is envisaged that by inter alia expanding on several definitions and types of domestic abuse, the introduction of an electronic submission system as well as obligations for the implementation of an electronic communications service provider, the Domestic Violence Amendment Act 14 of 2021 (DVAA) will contribute towards restricting GBV cases in South Africa. Adopting a legal feminist theory considering the unequal power distribution between men and women and the macrosystem theory, this chapter analyses the effective enforcement of GBV legislation in particular to what extent, considering the societal nature of GBV, South Africa's history of gender discrimination, and society's dependence on structural drivers, a strong GBV legislative framework can curb GBV. Drawing on gender-based violence prevention research, recommendations are made for a multi-sectoral approach to the effective enforcement of a GBV legislative framework.

Keywords: abuse, enforcement, gender-based violence, inequality, legislative framework

1. Introduction

The Constitution of the Republic of South Africa, 1996, stands as an enduring pillar, upholding the core principles of human dignity, equality, and the advancement of human rights and freedom. Central to this fundamental framework is section 12(1)(c), which solidifies the right to freedom and security, encompassing the inherent entitlement to live free from all forms of violence [1]. This constitutional

commitment serves as the bedrock for safeguarding the rights and well-being of all individuals within the nation.

In tandem with the Constitution, South Africa has taken noteworthy strides by enacting a plethora of laws and policies dedicated to addressing violence and violent crimes in South Africa. Recent statistics however serve as a stark reminder of the reality, revealing that three children and twelve women per day, over 90 days spanning from October to December 2022, fell victim because of gender norms [2]. Gender-based violence (GBV) therefore, despite the formidable efforts, remains a chronic and persisting scourge in South Africa, which undermines the principles of equality and human rights [3].

In response to this distressing reality, the South African government took yet another step forward by adopting the third set of what is referred to as the GBV Amendments Acts on 14 April 2023 [4]. It is anticipated that by inter alia enhancing the protection for victims and strengthening measures against perpetrators, the amendments would strengthen the legislative framework in curbing GBV.

This chapter consists of four sections. Firstly, the chapter delves into the profound issue of GBV in South Africa by inter alia considering the significance of socio-economic challenges, inequality, and the complex web of societal norms, cultural attitudes, and economic disparities that may perpetuate the cycle of violence, impede progress towards gender equality, and undermine the efforts to eradicate GBV.

Secondly, the amendments made in terms of the Domestic Violence Amendment Act 14 of 2021 (DVAA) are critically analysed. By considering the sociocultural complexities surrounding GBV, light is shed on the potential effectiveness of the recent amendments as well as identifying areas where further action is needed. By examining the legislative measures and their alignment with societal realities. Thirdly the chapter discusses the theoretical framework along with drivers of GBV. Thereafter, the chapter concludes with recommendations to pave the way for informed decision-making to address this pressing human rights issue in South Africa.

2. GBV: the scourge that affects society

In recent years, gender-based violence (GBV) has emerged as a deeply concerning and multifaceted issue, capturing the attention of global communities and institutions. As per the perspective of the European Union, GBV is defined as encompassing acts of violence or harm inflicted upon an individual without their consent, driven by their gender identity [5]. This definition also encompasses violence that disproportionately affects individuals of specific genders or gender orientations. Moreover, the term GBV has expanded to encompass deliberate acts of violence targeting LGBTQI+ communities, particularly when linked to prevailing notions of masculinity, femininity, and established gender norms [5]. Although GBV does not discriminate based on age, race, or social status, its impact is most acutely felt by women and children [6].

The reality of GBV's impact is starkly illuminated by the 2022 South African Police Statistics. These statistics reveal an alarming trend between July and September 2022, where thirteen thousand women experienced assault with intent to cause grievous bodily harm, one thousand two hundred and seventy-seven endured attempted murder, and nine hundred and eighty-nine lost their lives to homicide [7]. Equally tragic, five hundred and fifty-eight children lost their lives, while one thousand eight hundred and ninety-five cases of assault causing grievous bodily harm were reported, with children as victims, during the same period [7].

This vulnerability to violence isn't a result of inherent susceptibility; instead, it's a manifestation of deeply entrenched discrimination and power imbalances within societal and cultural frameworks [8]. This persistence is often perpetuated by a culture of silence and a refusal to acknowledge the issue [9]. GBV manifests in a myriad of forms, ranging from sexual and physical violence to verbal and psychological abuse, spanning from instances of hate speech within online platforms to the most severe transgressions like rape and murder [10].

Compounding the troubling nature of this phenomenon is the diversity of perpetrators. Those responsible for GBV span a range of profiles, including current or former partners, family members, colleagues, classmates, friends, unfamiliar individuals, and even those acting under the auspices of cultural, religious, state, or governmental institutions [7]. This complexity poses an additional challenge to documenting, reporting, intervening, and preventing GBV across various societal domains [10].

Within South Africa, GBV's severity is particularly pronounced, earning the nation the reputation of the "rape capital of the world" [3]. The South African Police Statistics for the 2022/2023 period revealed that a staggering 62% of reported rape cases between July and September 2022 occurred within victims' residences or perpetrators' dwellings [6]. This troubling trend is further evident in the fact that women killed by intimate partners in South Africa is five times higher than the global average [11].

These alarming statistics emphasise the pressing need for more efficient and all-encompassing measures to address the ongoing challenge of GBV in South Africa. The recent amendments to the Domestic Violence Act 116 of 1998 are expected to signify a positive advancement in addressing this concern.

3. The domestic violence amendment act 14 of 2021

In 1995, South Africa exhibited its unwavering commitment to eradicating violence against women through its ratification of the Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW") [12]. This pivotal moment underscored the nation's resolve to safeguard women's rights and advance gender equality. The ratification of CEDAW subsequently catalysed the enactment of various domestic laws designed to protect the rights of women and children, and among these legislative achievements, the enactment of the Domestic Violence Act 116 of 1998 (DVA) stands out. In acknowledgment of disconcerting reality, two decades later, the South African government took a momentous stride by embracing the Domestic Violence Amendment Act (DVAA) on 14 April 2023, constituting the third series of amendments to the legislation addressing gender-based violence (GBV). The enactment of this Act signifies a crucial endeavour to fortify the legal framework and mechanisms aimed at addressing and combating GBV within the country. Although the DVAA seeks to strengthen the existing legal framework by introducing all-inclusive enhancements and adjustments, an analysis of the specific content and intricacies of these amendments necessitates a closer examination of the legislative modifications implemented.

3.1 Enhancing the domestic violence principle

The DVAA introduced significant modifications to the Domestic Violence Act (DVA). These revisions include a variety of aspects of domestic abuse, encompassing additions such as "coercive behaviour," "controlling behaviour," "elder abuse,"

"exposing a child to domestic violence," "sexual harassment," and "spiritual abuse" [13]. Additionally, section 1 amendments entail the refinement of established definitions, including alterations to terms like "harassment," "physical abuse," "sexual abuse," "emotional, verbal, or psychological abuse," and "intimidation," among others. This expansion is exemplified in terms of section 1 of the DVAA, by broadening the definition of "domestic violence," which now encompasses new categories such as the mistreatment of elderly individuals and the exposure of children to violent domestic environments across various forms of abuse [13]. Additionally, the recognition of "sexual harassment" in terms of section 2(v) of the Act, as a distinct category with its sub-categories signifies a significant stride toward addressing diverse forms of violence and harassment within domestic contexts [13].

The introduction of "spiritual abuse" in terms of section 2(w) of the Act, as a concept involving the use or denial of spiritual beliefs to exert control and dominance over an individual, reflects a holistic consideration of cultural dynamics, individual backgrounds, and the factual context in which such behaviour is deemed abusive. Moreover, section 2 (s) of the DVAA also outlines physical abuse as encompassing any act or threatened act of physical violence directed towards a complainant or a related individual. In the case of a complainant who is a child, the definition involves abuse as defined in section 1 of the Children's Act, 2005.

The DVAA also presents, in terms of section 2(u), a comprehensive definition of sexual abuse as any behaviour that exploits, humiliates, debases, or otherwise violates the sexual integrity of the complainant or a related individual. This definition covers conduct that may or may not qualify as a sexual offense as defined in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), and, in the case of a complainant who is a child, aligns with the definition of sexual abuse as outlined in the Children's Act, 2005.

To ensure precision, section 2(y) of the DVAA expands the definition of "weapon" to include objects capable of causing dangerous bodily harm. Section 2(c) of the Act also broadens the concept of domestic abuse within a relationship by introducing two novel definitions: "coercive behaviour" and "controlling behaviour" [13]. In this regard, coercive behaviour encompasses abusive actions or acts of force, intimidation, or undue pressure intended to coerce a complainant or a related individual into specific actions, inactions, or experiences against their will. Meanwhile, controlling behaviour in terms of sections 2(c) and (d) of the Act pertains to actions that result in the complainant, or a related person becoming dependent on or subordinate to the respondent.

These changes underscore a progressive shift toward a more holistic and encompassing legal framework for combating GBV.

3.2 Procedural changes

The DVAA has also brought about modifications in terms of technical and procedural aspects.

By furnishing explicit guidelines for law enforcement agencies and relevant institutions, section 3 of the Act endeavours to establish a more streamlined and responsive system for handling GBV cases [13]. This initiative includes, in terms of section 18B of the Act, the implementation of training programs to equip law enforcement officers with the sensitivity and competence necessary to address intricate cases with empathy. Consequently, the DVAA underscores the importance of a robust support system for survivors of GBV. Section 18B of the Act seeks to enhance access to crucial

services such as counselling, medical assistance, and legal aid, thereby empowering survivors to seek help and justice without fear of reprisal [13]. Furthermore, the establishment of specialised support centers tailored to the needs of GBV survivors is an integral part of this effort. In addition, the DVAA also considers the fact that many instances of GBV go unreported due to factors like fear, stigma, or lack of awareness. To mitigate these barriers and encourage victims and witnesses to come forward, section 2A of the Act introduces anonymity and whistleblower safeguards protections.

Under section 4(1) (bb) of the DVAA, victims of domestic violence are now granted the ability to apply for protection orders electronically, eliminating the necessity to physically attend court. This innovation, which enables secure online submissions for protection orders and in terms of section 6A of the Act establishes an integrated electronic repository, undeniably alleviates the burden on complainants seeking urgent protection.

Moreover, section 4A of the DVAA introduces a provision that allows a complainant who shares a residence with a respondent and holds a reasonable suspicion that the respondent poses a threat to their safety to apply for a Notice in addition to a protection order. This Notice empowers the South African Police Service (SAPS) to establish regular contact or visits with the complainant at their residence for a court-determined duration, ensuring the ongoing safety of the complainant.

The evolving landscape of technology brings forth new avenues for perpetrating violence. In recognition of this reality, the Act acknowledges the emerging threat of electronic and cyber-based violence against women and includes provisions designed to effectively address these modern challenges. Section 5B of the DVAA now grants courts the authority to direct electronic communications service providers to furnish specific information to the courts when an electronic communication, such as on social media, is allegedly employed to commit an act of domestic violence.

Regarding reporting obligations, certain professionals, including medical practitioners, health care personnel, social workers, educators, and caregivers, who reasonably believe or suspect that an act of domestic violence has been perpetrated against a child, a disabled person, or an older person, are required to report their belief or suspicion to a social worker or the SAPS [13]. Furthermore, section 2B of the DVAA now mandates that adults, who become aware of an act of domestic violence committed against another adult, must also relay this information to either a social worker or the police. Failure to comply, in terms of section 2B of the DVAA, with this obligation constitutes a criminal offense, although concerns about potential exposure to retaliatory harm have been raised. Despite these concerns, the amendment is well-intentioned.

Lastly, it is important to note that section 2B of the DVAA also establishes that no prosecutor may decline to prosecute an individual who has violated the terms of a protection order.

The DVAA accordingly expands the purview of the Act to encompass an array of emerging patterns of violence, aiming to provide more robust protection for victims. The effectiveness of the DVAA can however only be evaluated in the context of South Africa where GBV is a deeply entrenched social problem.

4. Theoretical framework underpinning this study

In evaluating whether the amendments encompassed in the DVAA can contribute towards more effective measures to curb GBV, the protection of women and children must be considered by adopting the critical feminist theory. In addition, the

ecological system theory will in turn be applied in analysing the drivers of GBV. For purposes of this research, the drivers of GBV are restricted to socio-economic factors, interpersonal relationships, and community factors [14].

Feminist theory critically addresses women's actual social experiences to highlight the need for improved conditions [15]. The critical component also examines power roles within society from a critical perspective by identifying the structural causes of inequality. In this regard, women may experience a disconnect between their perception of marginalisation and the patriarchal state apparatus, which is ultimately in charge of achieving many of their laudable life goals [16]. It thus asserts that women have always been treated less favourably by the law. According to this theory, men are socially and economically more powerful than women in all facets of society. It contends that, despite the law's outward appearance of neutrality, it favours men [17].

The feminist legal theory, therefore, aims to transform women's status through legal reform. According to Bowman and Schneider formal equality theory, cultural feminism, dominance theory, and post-modern or anti-essentialist theory are the four main schools of feminist legal theory [18]. According to formal equality theory, men and women should be treated equally. Cultural feminism, however, maintains that there are distinctions between men and women that should be taken into consideration [17]. The experience of being pregnant and becoming a mother is used as evidence by cultural feminism proponents to support their position. The dominance theory, which avoids both ideas, instead focuses more on the inherent power structures that tend to establish masculine qualities as the dominant standard that establishes the axis around which the difference between men and women rotates. Furthermore, the harms of violence against women, in contexts including the family (domestic violence), rape (law and order), and sexual harassment (culture), are noted. The research thus advocates the feminist legal theory, which emphasises the dominance theory, as the dominance theory reveals the underlying injustices that allow patriarchal systems of power to persist in society. The patriarchal systems of power, in turn, support the exclusion of women and the ensuing continuation of societal violence against them.

Although authors such as Mtotywa et al. place the source of violence solely on patriarchy and male dominance, they also suggest that the ecological systems theory may be more apt in terms of stratifying the drivers of GBV. The conceptual framework of twenty GBVF drivers is provided by these authors and is divided into four sections: the microsystem, which relates to personal history and individual factors, the mesosystem, which arises from interpersonal relationships, the ecosystem, which is connected to community factors, the macrosystem, which includes social factors, and the chronosystem, which emphasises significant changes over time [14].

While the research acknowledges the presence of various ecological systems, it primarily centers on dissecting the microsystem and macrosystem components that align with the identified drivers. In the context of the microsystem, a multifaceted range of impactful components comes into play. These encompass, though are not confined to, aspects like the effects of upbringing-related aggression, ingrained stereotypical role models, inflexible gender expectations, and prevailing stereotypes [14]. Alongside these, individual factors like substance misuse must be considered. Concurrently, broader societal influences, such as the endorsement of physical dominance among men, specific religious principles, and customs, can further propagate detrimental behaviours that have become ingrained norms within numerous South African communities [14].

The multifaceted drivers of GBV are slated for comprehensive examination and evaluation in the ensuing discussions of the study. These deliberations will encompass an in-depth analysis of the intricate dynamics between the identified drivers and the occurrence of GBV. By scrutinizing these macro-level factors, the research endeavours to unravel the nuanced interconnections that underlie and perpetuate gender-based violence. This approach thus aims to offer a holistic understanding of the problem, fostering a more comprehensive foundation for effective interventions and policy reforms.

5. Drivers of GBV

Recent research done by Mtotywa indicates several drivers of gender-based violence and femicide [14].

5.1 Physical and sexual abuse

In many households' verbal and physical abuse is perceived as normal. Especially men in South Africa use physical force as the norm in society [14]. Furthermore, it can be argued that patriarchal and sexist views legitimise violence to ensure the dominance and superiority of men. Other cultural factors include gender stereotypes and prejudice, normative expectations of femininity and masculinity, the socialization of gender, an understanding of the family sphere as private and under male authority, and a general acceptance of violence as part of the public sphere (e.g., street sexual harassment of women), and/or as an acceptable means to solve conflict and assert oneself.

Moreover, sexuality is also tied to the concept of so-called family honour in many societies. Traditional norms in these societies allow the killing of women suspected of defiling the honour of the family by indulging in forbidden sex or marrying and divorcing without the consent of the family. Norms around sexuality also help to account for the high numbers of homeless LGBT+ young people, and the prevalence of hate crimes against them, because they are considered a "threat" to societal norms. These norms covering sexuality can help to account for the mass rape of women in South Africa.

5.2 Equality and human rights dynamics

It is stated that the South African government has adopted several mechanisms to combat GBV, although the progress remains unsatisfactory [19]. The Constitution as well as the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (Equality Act) prohibits unfair discrimination on the ground of gender, origin more so traditional and cultural practices [20]. However, in practice, there is still a lot that needs to be achieved to ensure equal access to opportunities for all of South Africa. There is a need to shift minds specifically from men who may not agree that they are equal to women. Therefore, the legacy and culture supporting men's headship is a drive to GBV [14].

5.3 Poverty and unemployment

The central concern lies in the intricate relationship between poverty, unemployment, and Gender-Based Violence and Femicide (GBVF), where these socioeconomic factors intertwine to create a complex web of vulnerability and perpetuation [14]. The

core issue stems from the fact that poverty and unemployment play pivotal roles in exacerbating the occurrences of GBVF, as evidenced by the interplay of dependency dynamics, power differentials, targeting patterns, and high prevalence of GBVF incidents in certain settings such as unemployed women in households, pubs, and shebeens. This, in turn, contributes to a notable underreporting of GBVF incidents [21].

In the context of modern South African families, the widespread prevalence of unemployment and poverty amplifies the challenges associated with economic provision within households. This economic strain further magnifies women's susceptibility to GBV, particularly due to their dependence on male interactions for financial support [22]. The high unemployment rates prevailing in the region significantly contribute to the vulnerability of women, as they become financially reliant on their male partners. This, in turn, becomes a significant impediment for women seeking to leave abusive relationships, as their lack of economic independence creates an insurmountable barrier to breaking free from harmful dynamics.

To effectively counter the pervasive tide of GBVF, it becomes paramount to prioritize and actively support women's empowerment initiatives. By bolstering women's economic autonomy and self-sufficiency, the cycle of dependency and vulnerability can be disrupted. It is crucial to recognize that one of the primary root causes of GBV is the absence of economic independence among women, making them susceptible to abusive situations due to financial constraints. Empowering women with the means to support themselves economically provides them with the agency to escape abusive relationships and reduces their susceptibility to exploitation [23].

The Department of Social Development's assertion that inequality, poverty, and unemployment constitute an interconnected "triple challenge" resonates deeply in the context of GBVF. These socio-economic phenomena collectively drive the occurrences of GBVF by perpetuating unequal power dynamics, limited opportunities, and financial dependence. Recognizing and addressing this triple challenge through comprehensive policy measures, economic support, and empowerment initiatives should be at the forefront of strategies aimed at tackling GBVF effectively [14].

5.4 Religious practices and certain ideologies

Human action and behaviour are shaped by religion and its practices. South Africa is a violent and religious society, with churches ranking second only to the government in terms of power [14]. It is through religious teachings and practices that the foundation for attitudes, norms, and behaviours is often laid.

Religion, as a driving force, promotes specific ideologies concerning family structures and the roles of individuals within these constructs. This outlook often fosters a patriarchal society that perpetuates gender disparities. Such disparities are evident in the form of unequal distribution of power, with men traditionally occupying higher-level positions while women are relegated to lower-status roles. These established gender roles are rooted in religious interpretations that prescribe distinct responsibilities for men and women within the context of married life. This religiously propagated framework contributes to the perpetuation of gender inequality, limiting opportunities for women and hindering their pursuit of socioeconomic advancement.

Furthermore, the elevation of the family system to a sacred pedestal within religious contexts can create challenges when addressing instances of abuse. Religious teachings that emphasize the sanctity of the family unit can inadvertently hinder individuals from disclosing instances of abuse or seeking help. The perceived sacredness of the family can generate feelings of shame, guilt, and fear of tarnishing the religious

community's image. This often results in victims of abuse remaining silent, preventing them from accessing the support and protection they desperately need.

To navigate these complexities and mitigate the negative consequences of religious influence on gender dynamics, it is crucial to promote a more nuanced understanding of religious teachings. Encouraging religious leaders and communities to interpret and contextualize religious doctrines in ways that endorse equality, respect, and non-violence can foster positive change. Moreover, fostering open dialogues that address the intersection of religion, gender, and violence can help dismantle harmful norms and encourage a shift towards more inclusive and just societal norms [24].

5.5 Ineffective justice system

Despite a progressive Constitution and solid legislation, South Africa's GBV cases remain alarmingly high whilst the economic and social impact of GBV is enormous. The DVAA is not sufficiently gender sensitive thus disregarding the inequality of gender roles which is often perpetuated by police officials that is disinclined to assist victims of domestic disputes as they often regard GBV as a private matter [25]. In addition, studies have shown that inaccessibility to courts and police stations, especially in rural areas, unfamiliarity with the court process, and delays in processing domestic violence applications due to staff shortages and/or a lack of inter-departmental cohesion discourage victims to obtain the necessary protection provided for in terms of the DVAA. Inadequate training of law enforcement members, insufficient resources needed to successfully conduct their work, and a lack of accountability were central to the justice system's ineffectiveness. The consequent lack of accountability only serves to embolden abusers, as they perceive a system that permits their reprehensible behaviour to persist without consequences [26].

While laws undoubtedly constitute a significant policy commitment and catalyst for societal transformation, their effectiveness is curtailed by several formidable obstacles. One such obstacle is the pervasive lack of awareness among potential perpetrators and victims alike, rendering the legal ramifications of GBV less impactful as a deterrent. The probability of apprehension remains distressingly low, further undermining the credibility of the legal framework. Complicating matters is the coexistence of customary and religious regulations that often conflict with established legislation, creating confusion and diluting the strength of legal protections.

6. Recommendations

The DVAA has made noteworthy changes that may contribute to curbing GBV in South Africa. That being said, some of the provisions, be they well intended, may not adequately take into account the societal norms of South Africa and thus require further consideration. To enhance the recommendation for combating GBV in South Africa, the following points can be considered:

6.1 Culturally competent training for law enforcement

The recommendation rightly emphasises the need for comprehensive training for law enforcement officials, but it could further emphasise the importance of culturally competent training. This entails delivering instruction that transcends a mere grasp of legal complexities, immersing officers in cultural sensibilities, historical

backgrounds, and indigenous norms that shape the interpretation and reporting of GBV incidents [3]. Such an approach would empower law enforcement to react with greater efficacy and empathy towards victims, thereby nurturing an environment of trust and collaboration.

6.2 Collaboration with civil society organisations

Although the proposal acknowledges the significance of allocating resources and enhancing capabilities, there is an opportunity to delve deeper into the importance of synergising governmental entities with non-governmental organisations (NGOs) dedicated to addressing GBV [12]. These NGOs frequently possess specialised knowledge, practical experience, and community credibility that can significantly augment the effectiveness of endeavours. Collaborating with these organisations enables the government to access grassroots insights, enabling the customisation of interventions to precisely match the requirements of particular communities.

6.3 Inclusive financial assistance programs

The idea of financial assistance programs for women and GBV victims is commendable. However, there is room for enhancement by promoting programs that encompass a wide spectrum of needs. These programs should consider women from marginalised backgrounds, including LGBTQ+ individuals, people with disabilities, and those from different racial and ethnic groups, to ensure that assistance reaches all those affected by GBV [9].

6.4 Integrated approach to prevention

The mere existence of a legal framework does not automatically guarantee awareness of its existence. Although the recommendation acknowledges the importance of prevention, there's an opportunity for further elaboration on a multifaceted prevention strategy. Alongside the imperative engagement of boys and men, an encompassing approach to prevention might incorporate comprehensive sexuality education within educational institutions, awareness campaigns that confront detrimental gender stereotypes, and community-driven endeavors that foster healthy relationships and effective communication [27].

6.5 Accessible platforms for information and reporting

The introduction of an online platform for domestic violence applications is indeed a step forward, but it's crucial to acknowledge the digital divide. To bridge this gap, the government could consider a dual approach—developing both online and offline channels for accessing information, reporting cases, and seeking support. This could involve toll-free helplines, community-based information centers, and mobile outreach units.

6.6 Youth engagement and education

Legislative amendments alone cannot address deeply ingrained attitudinal changes. This is of particular concern where the persistence of societal acceptance of violence within households and public spaces poses an enduring challenge. In South

Africa, this phenomenon is further perpetuated by religious, cultural, and traditional norms that foster discrimination, inequality, and a patriarchal ethos. While the recommendation touches on preventive measures, it could underscore the pivotal role of integrating GBV education into early-age school curricula. This viewpoint aligns with President Ramaphosa's recent assertion that "We must now continue the task of preventing abuse from occurring in the first place. This task entails men and boys checking their own values and behaviours that cause them to regard women and girls as targets of control and abuse" [28]. By fostering an understanding of healthy relationships, consent, and respectful behaviour from childhood, societal attitudes can be shifted over time [27]. The use of media including television, radio, and social media, as well as arts and culture, can play a significant role in raising awareness about GBV. Engaging with popular culture to challenge harmful narratives and promote positive messaging by way of anti-patriarchal and anti-GBV ideas can therefore help catalyse attitudinal shifts within society [29].

6.7 Data collection and research

Encouraging the collection and analysis of comprehensive data on GBV cases, their outcomes, and societal attitudes can provide valuable insights for policy adjustments and targeted interventions. This could also involve partnerships with academic institutions to conduct research that informs evidence-based policies.

6.8 International collaboration

GBV is a global issue, and learning from successful strategies in other countries can be pivotal to exchanging knowledge and adapting best practices to align with the unique circumstances of South Africa.

7. Conclusion

This research endeavors to comprehensively assess the efficacy of a robust legislative framework against the backdrop of South Africa's historical gender inequalities, the pervasive societal roots of gender-based violence (GBV), and the structural factors perpetuating it. To achieve this objective, the chapter is structured into four key sections.

The initial section delves into the profound and intricate issue of GBV within South Africa, dissecting its dimensions and impacts. Subsequently, a critical analysis is conducted on the amendments introduced by the DVAA, evaluating their significance and implications. This paves the way for the third section, which explores the theoretical framework underpinning GBV, along with its multifaceted drivers. These drivers, encompassing physical and sexual abuse, notions of equality and human rights, economic disparities, religious doctrines, and flawed justice mechanisms, are examined through the lens of feminist legal theory and the macrosystem theory which delves into the bedrock of GBV drivers and its sociocultural context.

The research uncovers a compelling imperative for a legislative framework that transcends current limitations, aligning with the gravity of South Africa's disquieting GBV statistics. The amendments enshrined within the DVAA undoubtedly represent crucial strategies aimed at tackling the scourge of gender-based violence. The DVAA's introduction, encompassing nuanced definitions such as 'spiritual abuse', represents a

noteworthy evolution. Additionally, the DVAA streamlines the process for addressing domestic violence, offering more effective avenues for intervention.

However, this study contends that the DVAA's impact hinges on a comprehensive, multi-faceted approach that addresses systemic barriers ingrained within the social fabric of South Africa. Incorporating these additional aspects into the recommendation can help to foster a culture of respect and equality by moving away from the passive acceptance of GBV as a societal norm, toward a resounding rejection of such behaviour and ultimately creating a more holistic and effective approach to combating GBV in South Africa.

In this regard, it is recommended that the synergy of diverse agencies and stakeholders, necessitating a robust managerial approach characterised by seamless multi-agency collaboration is crucial in addressing GBV. This approach entails establishing unequivocal lines of communication, shared protocols, and inter-agency coordination mechanisms. The harmonious convergence of law enforcement, social services, healthcare providers, and grassroots organisations is thus paramount to fostering comprehensive intervention and holistic support. Moreover, the study contends that unless a comprehensive understanding of the societal dynamics and power structures that contribute to GBV is achieved, the credibility of the legal framework will remain undermined. The promotion of transformative change is thus paramount to the success of the implementation of the DVAA. In this regard it proposes that instead of perpetuating the existing status quo, the DVAA's operational mechanisms should be tailored to actively drive social change, fostering a society that repudiates violence and inequality.

Thus, a holistic approach is indispensable, one that synergises legal provisions with societal education and systemic enhancements. By orchestrating this symphony of efforts, the aspiration for women to live free from discrimination and violence in a safer, more equitable society can be realised.

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Chapter 3

Perspective Chapter: Lifers before the European Court of Human Rights

Maria Niełaczna and Ewa Dawidziuk

Abstract

In the chapter, we discuss the current policy of toughening sentences in Poland against the standards of dealing with prisoners, especially those sentenced to life imprisonment. However, the similar tendention is observed in other European countries. Policy regarding prisoner's treatment should be related to human rights standards. Showing the universality of the international community's approach as expressed in the recommendations of the Council of Europe gives a new contribution to the knowledge of the development of human rights even in relation to life prisoners. We present a unique study of 241 cases of life-sentenced prisoners that the European Court of Human Rights (ECtHR) decided between 1962 and 2019. This new knowledge concerns the following aspects: a statistical analysis of the problems that the complainants raised before the ECtHR and that, for the most part, constituted violations of the ECHR, the identification of specific problems due to the length of the sentence, the determination of whether the ECtHR applies a double standard due to the diversity of the respondent states, the evolution of the Court's case law on the complaints of the life prisoners. It turns out that for lifers alone, the ECtHR 'created' two new rights.

Keywords: life sentence, penal policy, European court of human rights, European standards, rehabilitation, right to hope

1. Introduction

A sentence of life imprisonment is an exceptional punishment in terms of its length and the severity of its conditions of execution. It places an indefinite obligation on the prison system to make an impact—not just to meet basic human needs but also to offer a meaningful and concrete offer of rehabilitation in the form of programmes, therapies and activities that rehabilitate and integrate the offender. In the light of contemporary standards and court jurisprudence, the prison system is meant to be a system of opportunity for rehabilitation, a system of creating opportunities for responsible life in prison and free society. An analysis of the current approach of the Polish authorities, as well as the authorities of other countries, proves that 'opportunity' in the case of prisoners of this most severe punishment is still an abstract value.

Although it is too early to categorically assess the future[1], contrary to the official goals and values of the justice system, the jurisprudence and execution of life imprisonment in Poland confirms its eliminative nature from life in a free society:

Life imprisonment and 25 years' imprisonment fulfil the function of safeguarding law and order by eliminating a particularly dangerous offender from society. In the case of life imprisonment, the preference for the re-adaptive purpose gives way to the function of safeguarding society [1, 2].

Life imprisonment—for the wicked and incorrigible—fulfils alternative functions to the death penalty, that is, elimination, justice, isolation, and retribution—such are not only social expectations, but also the requirements of modern criminal policy [3].

Elimination manifests itself in the necessity for the offender to remain in isolation for at least a quarter of a century and the complete ban on parole advocated by politicians, which introduces the absolute sentence of life imprisonment into the catalogue of punishments. The dispute over the parole of prisoners sentenced to life imprisonment has a long history and provides evidence that from an indefinite sentence, its opponents want to make a fixed-term sentence [4]. And proponents of its absolute nature subscribe to the notion that, by its very nature, it is the negation of corrective influence and is more in the nature of a protective measure that society is supposed to accept [5, 6].

However, this is not the European point of view. The Council of Europe (CoE) defines the common denominator of penal policies of state parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) of 4 November 1960. The CoE postulates the corrective and integrative purpose of imprisonment and emphasises the rehabilitation of the offender, the consequence of which is to return him to society.

In June 2019, the Polish Parliament proposed an amendment to the Penal Code (PC), making a radical change parole (Article 77 §3 and 4 PC). When imposing life imprisonment, the court could impose a ban on parole when the offender, after a final sentence for another crime to life imprisonment or imprisonment for a term of not less than 20 years, has committed another crime, as well as if the nature and circumstances of the act and the personal characteristics of the offender indicate that his/her remaining at liberty would cause a permanent danger to the life, health, freedom or sexual freedom of others.

The Polish legislature has therefore proposed a law contrary to Art. 3 ECHR. It granted the court the power to decide whether to prohibit a life sentence inmate from applying for parole. Contrary to the sanctioned right to hope, it deprived life prisoners of this right and thus precluded their rehabilitation, progression and return to life in a free society. In defending the irreducibility of life imprisonment, the Sejm explained that the parole ban should apply to the most dangerous offenders, in whose case both considerations of justice and prevention argue for not making any modifications to the sentence at the stage of execution. The current 25-year period is too short in relation to the presumed eliminative nature of this punishment; in fact, it may reduce its execution to the period of the longest term sentence imposed. For this reason, it is necessary to increase the period of time served essential to apply for parole to 35 years.

The amendment bill was not passed, but in March 2022, the idea of an absolute life sentence returned. The Ministry of Justice has prepared a draconian reform of the Penal Code. The bill calls for a maximum sentence of 30 years in prison and an

[1] According to CZSW statistics as of 20.9.2021, eleven Polish life sentence convicts have acquired the right to apply for parole, but none of them have been released.

absolute life sentence because 'the most dangerous thugs need to be isolated from society. Here the state must show an iron hand' [7].

The legislature assumed in advance that any positive change in a life sentence inmate's behaviour would never occur, and even if it did, it would remain irrelevant to his fate. The proposed regulations are in fact a hidden death penalty, which is unacceptable in civilised countries that respect the values of the ECHR.

Similarly, under the standards for prisoner treatment, a prisoner sentenced to life imprisonment should know after what period of time he or she will be able to seek court review of the need to continue to serve the sentence. After all, a possible scenario is that he or she will improve and rehabilitate him- or herself, that he or she will cease to threaten such goods as health, life and the legal order. The lack of even a chance for the court to review this scenario leads to a violation of Art. 3 ECHR. The Strasbourg Court emphasised this in the following judgements:

- *Vinter & others v United Kingdom*, Applications No 66069/09, 130/10, 3896/10, Merits and Just Satisfaction, 9 July 2013,
- *Öcalan v Turkey* (No 2), Applications No 24069/03, 197/04, 6201/06, 10,464/07, Merits and Just Satisfaction, 18 March 2014,
- *Laszló Magyar v. Hungary*, Application No 73593/10, Merits and Just Satisfaction, 20 May 2014,
- *Harakchiev and Tolumov v Bulgaria*, Applications No 15018/11, 61,199/12, Merits and Just Satisfaction, 8 July 2014,
- *Trabelsi v Belgium*, Application No 140/10 Merits and Just Satisfaction, 4 September 2014,
- *Manolov v Bulgaria*, Application No 23810/05, Merits and Just Satisfaction, 4 November 2014,
- *Bodein v France*, Application No 40014/1014, Merits and Just Satisfaction, 13 November 2014,
- *Kaytan v Turkey*, Application No 27422, Merits and Just Satisfaction, 15 September 2015,
- *Murray v Netherlands*, Application No 10511/10, Merits and Just Satisfaction, 26 April 2016,
- *T.P. and A.T. v Hungary*, Application No. 37871/14, Merits and Just Satisfaction, 4 October 2016,
- *Matiošaitis and others v Lithuania*, Applications No. 22662/13, 51,059/13, 58,823/13, 59,692/13, 59,700/13,60,115/13, 69,425/13, 72,824/13, Merits and Just Satisfaction, May 23, 2017,
- *Petukhov v Ukraine* (no. 2), Application No. 41216/1315, Merits and Just Satisfaction, March 12, 2019,

- *Marcello Viola v Italy* (no 2), Application No 77633/16, Merits and Just Satisfaction 13 June 2019.

Life imprisonment without the right to parole is a cruel punishment because of human nature, which includes the potential for change and the hope that the offender will be freed from the burden of punishment, though not from the burden of guilt. Absolute life imprisonment, isolating the perpetrator for the rest of their life, removes any hope that they will ever be able to redeem their guilt and improve themselves so as to go free. The sole purpose of a punishment shaped in this way is to isolate the offender from society for the rest of his life, and in this sense, it ceases to be a punishment and becomes merely a means of social defence against the disease of crime [8–11]. Thus, it repeats the mistakes of the justice system of the last century. The Polish legislator explained that the criminal law is intended to satisfy the social sense of security and justice, and in order to achieve these goals, it is necessary to appropriately shape the type and amount of criminal sanction threatening a given type of crime, taking into account the need for severe repression against the perpetrators of those acts that arouse a strong social need for retribution and stigmatisation.

In a further argument, the legislature admitted to 'increasing criminal repression' and 'increasing the degree of punitiveness'—but did not explain how this hyper-repression would affect crime prevention and did not support its claims with the results of scientific research, which for several years have demonstrated a decrease in crime against life and health in Poland.

The proposed amendment increased the period of sentence that must be served for a convicted person to file a first application for parole, from 25 to 35 years, (Article 78 §3 of the Penal Code) and the period of probation, from 10 years to life (Article 80 §3 of the Penal Code). Thus, the amendment to the law tightened the criminal sanction and shifted the administration of justice from the judges to the legislature, which thus shapes not only criminal policy but also specific decisions in specific cases. This regulation raises doubts as to its compliance with the principle of legal certainty and security and the protection of confidence in the state and the law and the principle of the separation of powers as expressed in the Polish Constitution.

The Polish Senate proved to be rational, providing for the possibility of granting lifetime prisoners parole, introducing the optionality of absolute life imprisonment and passes during the sentence with the consent of the judge and with mandatory electronic monitoring of the place of stay.

Many groups, including the Citizen's Rights Ombudsman, have expressed negative opinions about the draft amendments to the Penal Code. The office received 22 oppositional opinions prepared by national and international human rights bodies and organisations, academia and legislative experts.

The public outcry thus expressed and the ECtHR's rulings, which clearly enunciate the right of life-term prisoners to hope, are proof that the harshest custodial sentence continues to be controversial and verifies the rule of law of the state and its policies towards the perpetrators of the most serious crimes.

It raises questions about the real—rather than declared—purpose of imprisonment and the effectiveness of the prison service in achieving it. It reminds us of the infamous temptation of total and crushing state power over the perpetrator of a crime. It places at the centre not so much ideals as rationality, common sense and the findings of science, which argue that a convicted man has the potential to change and that his actions are not sufficient evidence of who he is.

Despite the fact that the crimes committed by those sentenced to life imprisonment must carry the highest penalty—not least because of the time they need to make attempts at rehabilitation and improvement—despite the destruction and harm they have caused, and despite the shadow of the victims and their families who are 'ordered by law to remain silent' during the penalty phase, absolute, life imprisonment is an excess of legislative power not only against the convicts themselves but also against the courts and the prison service, for it contradicts the well-established principles of their work: independence, individualisation, resocialisation and rehabilitation.

The amendment was also indifferent to scientific facts—the results of research on long-term imprisonment. The results of Polish research indicate that paroled murder convicts commit crimes less frequently than perpetrators of other crimes (recidivism rates range from 7 to 12%) [12], while most lifelong prisoners adapt positively to the conditions and expectations of prison life, stabilise their behaviour and develop socially desirable attitudes [13]. Results from overseas studies support these findings. Long-term incarceration socialises [14, 15]; interrupts the constant dangers and anguish of life on the streets; captures rehabilitation in personal terms of introspection, emotional development and perseverance [16]; provides opportunities for self-improvement through education, work and programmes [17] and leads to the formation of a new identity and, through that, change for the better [18]. Research shows that most long-term inmates do not pose a particular security risk [19]. Their risk of reoffending decreases with age, in part because they undergo significant personality change in isolation [20]. Long-term incarceration is a turning point in their lives that allows them to give up their criminal lifestyle [21, 22]. During the probation period, paroled convicts positively adapt to the conditions of free life [23].

The project of increasing the threshold for applying for conditional release has not been finally adopted. However, last year's amendment to the Executive Penal Code shows that the Polish authorities effectively seek to deprive life prisoners of this chance. The amendment to the regulations has led to the extension of the period after which life sentence convicts will be able to continue serving their sentence in lighter-security prisons (in the case of transfer to a semi-open prison, from 15 to 20 years, and in the case of transfer to an open prison, from 20 to 25 years). The extension of the period was dictated by the implementation of the statutory obligation to ensure security.

In the chapter, we discuss the current policy of toughening sentences in Poland, especially referring to lifers, which policy is an example of penal populism. Following this, we discuss the universality of the international community's approach expressed in the recommendations of the Council of Europe and the United Nations papers. Finally, we present a unique study of 241 cases of life-sentenced prisoners that the ECtHR decided between 1962 and 2019 in the following aspects: (1) statistical analysis of the problems revealed in the complainants raised before the ECtHR, (2) the identification of specific problems due to the length of the sentence, (3) a double standard of the ECtHR due to the diversity of the respondent states (west-east Europe) and (4) the evolution of the Court's case law on the complaints of the life prisoners. To conclude, it turns out that for lifers alone, the European Court of Human Rights (ECtHR) 'created' two new rights: the right to hope and the right to rehabilitation, and it is more challenging for the correctional system to enforce a life sentence than a term sentence (with real possibility to be freed).

2. International benchmark

The ECtHR is rational—it does not deny the existence of this harshest penalty and concludes that it does not become an unabridged penalty simply because it can in practice be served in full. So, it assumes that some of those sentenced to it will die in prison. All that is demanded—because of the potential for good in a person and the state's respect for that fact—is the prospect of release enshrined in law and the opportunity to review the reasonableness and length of isolation, to assess the changes in the convict's life and his progress in rehabilitation. The latter is the essence and duty of the European prison system.

Generally applicable international law does not contain regulations concerning the category of prisoners in question nor does it specify long-, medium- or short-term sentences. The laws that apply to life and long-term prisoners are written in soft law, also called standards, rules and guidelines. We present 13 such documents in chronological order.

2.1 CoE resolution (70) 1 practical organisation of supervision and care measures for conditionally sentenced or paroled offenders of 26 January 1970

In Rule 2(b), the Resolution recommends that states ensure the applicability of parole by making periodic assessments of the circumstances of life-sentence prisoners, or at least provide for the possibility of applying the right of clemency to them, after examining their personal characteristics and taking into account the need to protect society [24].

2.2 CoE resolution (76) 2 on the treatment of long-term prisoners adopted by the Committee of Ministers on 14 February 1976

In two rules, the Resolution recommends that the same principles that apply to long-term sentences (Rule 11) be adapted to life sentences and that each case of a life prisoner be reviewed (considered) to determine whether he or she can be granted parole after 8 years, or at most 14 years, of imprisonment. Such review is to be repeated at regular intervals (Rule 12 in conjunction with Rule 9).

2.3 United Nations standard minimum rules for the treatment of prisoners, December 10, 1984

This document considers the length of the sentence in three rules, 65, 66 and 69, dealing with the purpose of imprisonment and the modelling of impact measures to be appropriate to the length of the sentence and post-release prospects. It also makes the quality and quantity of information collected about the prisoner and the development of an individualised programme for dealing with the prisoner dependent on the length of the sentence. The rules make clear the need to recognise the prisoner—his or her personality and physical and mental health, lifeline and criminal career, individual needs, abilities and aptitudes. These rules are reiterated in the 1987 European Prison Rules and the revised 2015 UN Minimum Rules (Mandela Rules).

Noteworthy is the rational approach to the purpose of the execution of the sentence—if the length of the sentence allows, the purpose is to form in the convicted person the will and ability to lead a life that is lawful and provides him with a means of livelihood upon release.

2.4 European prison rules (recommendation No. R (87) 3 to the member states of the Council of Europe adopted by its Committee of Ministers on 12 February 1987)

The European Prison Rules emphasise that the length of the sentence is relevant to the reality of the purpose of the sentence, the classification of the prisoner (Rules 3 and 10(1)), the disposition (Rule 11(1)) and the offering of appropriate measures of influence (Rule 68).

2.5 XI CPT general report of September 3, 2001

In the Report in question and ultimately in the 2015 Report, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) formulated standards for the treatment of life and long-term prisoners as it noted an increase in this category of prisoners in the prison population [25]. Previously, it had incidentally drawn attention to the problems associated with the execution of a long-term sentence.

In the report, it is stressed that the very fact of long-term imprisonment makes the situation of these prisoners more difficult than that of others. Long-term incarceration affects the prisoner's assessment of physical conditions, inmate activities and interpersonal opportunities. The differences identified by the CPT relate to the specific restrictions automatically applied to lifers: segregation from the rest of the prison population, being handcuffed while out of cell, being prohibited from communicating with other prisoners and limiting the number of visits they are entitled to. These restrictions compound the harmful effects of long-term incarceration. The long time spent in isolation alienates socially and causes desocialising effects. Inmates acquire the characteristics of a total institution such as prison and assimilate its values and customs essential to the continuance of the prison community—possibly experiencing psychological problems such as loss of self-esteem, loss of social skills and exhibiting tendencies towards increasing detachment from the rest of society to which most will eventually return. Therefore, the treatment of this category of prisoners should actively offset these harmful effects.

In formulating guidelines for dealing with life prisoners and shaping the conditions of their life in isolation, the CPT emphasised the principle of standardisation, as formulated in the 2003 Recommendation on the Management of Long-Term and Life sentences. The conditions of life in prison should, as much as possible, be similar to the conditions of life in freedom. It is also necessary to make sense of the time spent in isolation—convicts should be able to make meaningful use of the time spent in prison and have the opportunity to study and work, play sports and develop interests and pro-social behaviour. The opportunity for convicts to use their positive sides and their potential and to implement themselves in a normal life is essential for a sense of autonomy and personal responsibility and, consequently, to give up crime.

The CPT believes that if the goal of life imprisonment is to return the convict to society, it will not do so without assistance from the prison system. In order for a prisoner to cope with long-term incarceration and prepare to leave prison in his or her own time, the system should help him or her develop an individualised custody plan and offer appropriate psychosocial support. The final element of a well-organised and effective system mentioned in the report is to allow life prisoners to maintain contact with the outside world.

2.6 CoE recommendation (2003) 22 on parole of 24 September 2003

Chronologically, this document is prior to the Recommendation on the Execution of Life Imprisonment and Other Long-Term Prison Sentences, which is why the preamble refers to Resolution (76) 2 on the Treatment of Prisoners on Long-Term Prison Sentences. In fact, only one rule explicitly incorporates life imprisonment (Rule 4a), emphasising that the law should ensure that all convicted prisoners, including those facing the harshest sentence, have the opportunity to benefit from parole.

Life inmates should not be denied the hope of parole for two reasons. First, no one can reasonably claim that they will all pose a threat to society for the rest of their lives. Second, the incarceration of inmates who have no hope of parole leads to serious problems in the management and execution of this sentence—it is difficult to motivate or encourage these inmates to cooperate and participate in programmes aimed at changing their destructive behaviour or personal development programmes or organising sentence plans and security. Each state's law should create opportunities for life sentence review after several years, at regular intervals, to determine whether the lifer can serve the remainder of his or her sentence in the community and, if so, under what conditions and what supervision measures should be used. This rationale will be repeated in subsequent international standards. It is about ensuring the consistency of the decision-making process—which is problematic in the light of the ECtHR's findings and guidelines, as they are sometimes arbitrary, too discretionary and unclear.

We find further references to life imprisonment in the Explanatory Report. The authors of the Recommendation note that there are two systems of parole—automatic and discretionary. Rule 7 of the Recommendation and the commentary thereon point to the economics of an automated system, the application of which, however, may be limited in the case of life imprisonment. In view of this, a combination of parole systems is possible depending on the length of the sentence. There are countries that use a discretionary system for life prisoners, as opposed to term sentences. The basis for adopting a mixed release system is the need to assess the readiness of this category of prisoners for release in terms of the risk they may pose to society.

The Explanatory Report refers to life prisoners, commenting on Rule 10 governing the conditions or measures of supervision in the case of parole, which should be imposed for a term reasonably proportionate to the unexpired portion of the sentence. The duration of supervision measures should be proportional to the portion of the sentence not served in isolation. This is the case with life prisoners whose period of supervision can last for the rest of their lives, provided that it is necessary for the protection of society and that the existence of this need is regularly reviewed. The Recommendation also sets out the conditions for discretionary parole (Rule 5, 16–21). Primarily, state law should provide clear and clearly defined criteria that an inmate must meet in order to be eligible for parole. These criteria are to take into account the inmate's personality traits, social and economic circumstances and the availability of programmes to return to life in society.

2.7 Recommendation (2003) 23 on the execution of life imprisonment and other long terms of imprisonment by prison administrations 9 October 2003

According to the preamble of the Recommendation, the execution of a sentence of imprisonment requires a balance between the objectives of ensuring security,

order and discipline and providing prisoners with decent living conditions, including opportunities for constructive spending of time and preparing them for release.

The Council of Europe recognises that the essence of long-term punishment is linked to the need for security in no other way than through isolation. This long-term isolation, however, is neither about retaliation nor about satisfying a sense of justice, or about exclusion or elimination. Its purpose is to prepare for release, as provided by the previously discussed standards for imprisonment per se, regardless of length.

Deprivation of liberty is not limited to its function of isolating and preventing the commission of crimes. Respect for human dignity requires that punishment perform the following functions: corrective, resocialising and rehabilitative.

2.8 European prison rules of January 11, 2006

Confirming the value and usefulness of a 'sentencing plan' is the only rule in the modernised EPRs that addresses life and long-term prisoners, recommending that appropriate plans and conducive sentencing systems be provided (Rule 103(8)).

The EPR Explanatory Report makes no reference to this category of prisoners. The commentary to Rule 103 explains that involving the prisoner in planning his or her 'career in prison' is the starting point and allows the prisoner to make the most use of the infrastructure and programmes offered by the system. Plans are an integral part of the penalty, except for very short penalties. Rule 103 further refers to the 2003 Recommendation on the Management of life imprisonment and Long-Term Penalties.

2.9 *Actual/real life sentences* Jørgen Worsaae Rasmussen, memorandum of 27 June 2007

In his Memorandum, the author analyses the various approaches to life imprisonment in CoE states, especially with regard to the length of implementation—actual or legal, which depends on the gravity of the crime committed or the type of life imprisonment. He notes that life imprisonment is a legacy of the death penalty in terms of both severity and conditions of isolation, as it implies social isolation, segregation and a very restrictive regime.

From a comparative perspective, the author aptly notes that life imprisonment is a 'choice in penal policy', and the manner in which that choice is implemented has far-reaching implications for the number and percentage of life prisoners in prison and the manner in which they are to be treated [26].

The legislation and practice of European countries show that life imprisonment does not necessarily mean deprivation of liberty for the rest of the natural life of convicts. Under international law, 'lifelong' measures of freedom, such as indefinite surveillance, are possible. Even a potentially dangerous offender can be released and placed under supervision for the rest of their life in the community. 'Lifetime' supervision can be permanent or intermittent. This option stems from the premise that prisoners sentenced to life imprisonment should not automatically be considered a permanent threat to the community once and for all and be denied the hope of being granted parole—its possibility should be available to all prisoners, including lifers [26]. This is the first international document and the first author to talk about the right to hope.

The author relates that all states that have enacted life imprisonment provide a mechanism for presidential pardon or release on personal grounds (compassionate reasons) or upon recommendation of the parole board or court. Providing only a pardon is not sufficient, however, because the president's decisions—preceded by

the opinion of the government, the court or the relevant minister—are coloured by political positions. The decision is unpredictable and based on changing criteria, depending on the ruling parties and power interests. As Rasmussen aptly notes: '[t]he question arises to what extent it is compatible with the European Convention on Human Rights for the executive, rather than the court, to decide a parole case'.[2]

2.10 *Short overview on life sentences* Mauro Palma document dated March 4, 2008 (CPT (2008) 26)

The document was authored by the Committee for the Prevention of Torture (CPT) president from 2007 to 2011. He presented the legal status of life imprisonment in CoE countries in 2008. Analysis of the document allows us to conclude that the regulations, although different in each country, do not differ significantly in their essence. The author of the study highlighted in which states the law does not provide clarity on the actual length of this penalty and the possibility of reducing it. This is a fundamental problem from a criminal policy and human rights perspective. Until March 2008, the ECHR has not had occasion to comment on the humanitarianism of life imprisonment, with the exception of the case of *Kafkaris v. Cyprus*. In this case, it found that there was a violation of Art. 7 of the Convention in relation to the quality of the law-governing life prisoners in Cyprus.

In his study, Palma classifies countries into two groups: those whose laws do not provide for life imprisonment but for long sentences of 20 to 40 years and those that provide for imprisonment with the possibility of parole after many years of imprisonment.

2.11 XXI CPT general report of 10/11/2011

After another 10 years of monitoring prisons, the CPT again recommended 'improving the regime of prisoners placed in long-term solitary confinement who require special attention to minimise the harm this measure may cause them' [27]. It emphasised that these prisoners should not be subjected to additional restrictions unless necessary for their safety and proper confinement and that any restriction should be applied only when appropriate given the estimated risk to the prisoner's individual safety.

The Committee also flagged the problem of prolonged imprisonment of terminally and seriously ill prisoners. Their incarceration in solitary confinement may create an intolerable situation for them, and then, an alternative means of liberty must be considered.

2.12 UN model minimum rules for the treatment of prisoners (Mandela rules), 7/10/2015

The rules repeat provisions from the 1984 Model Minimum Rules for the Treatment of Prisoners. They relate to the length of the sentence, the purpose of the treatment of prisoners (Rule 91), the measures to be applied in accordance with the individual needs of each prisoner (Rule 92) and the programme for dealing with them in the light of the knowledge obtained of his individual needs, abilities and inclinations (Rule 94).

[2] This issue was the subject of *Stafford v United Kingdom*, Application no 46295/99, Merits and Just Satisfaction, 24 April 2002.

2.13 XXV CPT general report dated 1.04.2016, *situation of life-sentenced prisoners*

In the 2015 activity report, the CPT isolates and expands standards for the treatment of life prisoners. It explains what conditional life imprisonment is and how it is thought of in European societies. Historically, this punishment has been linked to the abolition of the death penalty—it is the natural cost of abolishing the latter. Thus, it is considered a humane and more lenient punishment, unlike in the past, where life imprisonment meant a lifetime of gruelling labour and a life of almost complete isolation, in civilian death. Today, 'life imprisonment' is an indeterminate sentence and lasts either for the natural life of the convict or until he is released after it is determined that he is not a danger to society. The decision to release is discretionary. The court or quasi-judicial body takes it up after the minimum period of sentence served as required by law. For example, in Western European countries, such as Denmark, Austria, Belgium, Germany and Switzerland, it is 12 or 15 years and 20 or 25 years in most other countries. Turkey stands out in terms of the length—40 years.

Many states have failed to develop a system designed for life prisoners, tailored to their individual circumstances; rather they have all been deemed 'dangerous' and in need of strict control [28]. The automaticity of this approach is a mistake, as over time, life prisoners will be able to apply for parole. Meanwhile, failure to prepare for release or plan for reintegration could seriously impair their ability to function in the outside world.

There are also states that do not set any minimum period and consequently do not have a parole system. Lifers may apply for a pardon or release for personal reasons (such as illness). Under such a system, in practice, life imprisonment means absolute life imprisonment, as there is little chance and little likelihood of regaining freedom despite progress in rehabilitation. It is a natural requirement that the prison system created by the state provides lifelong inmates with conditions and regimes that serve both to preserve their humanity and to prepare them for release. Authorities are to develop practices to maintain respect for prisoners' rights during their indefinite time in isolation. This indeterminacy or uncertainty about the future and isolation, in fact, creates special psychological pressures. This primarily involves individual assessment during the sentence; enabling and supporting contact with family, society and humanitarian organisations and offering them work and study, targeted to complement their individual needs and deficits.

The observations that the CPT made in the Report, which it believed distinguished the treatment of life prisoners from the prison population, were:

1. inadequate material conditions and segregation of prisoners (separation from other prisoners);

2. a very impoverished regime, limited to confinement in a cell for most of the day;

3. failure to provide meaningful activities for lifers;

4. failure to provide sufficient human contact;

5. special restrictions and draconian security measures, which by their very nature exacerbate the harmful effects of prolonged incarceration.

The fundamental problem, however, is absolute 'life imprisonment', that is, the lack of a realistic prospect of release, whether by legal or factual conditions, which the Committee criticised. The approach that a man sentenced to life imprisonment once and for all is considered dangerous (a threat to society) is questionable. A sentence of imprisonment that offers no possibility of release excludes one of the fundamental justifications for imprisonment itself, namely, the possibility of rehabilitation; the exclusion from the outset of any hope of rehabilitation and return of the convict to the community effectively dehumanises the convict. It removes the hope of parole based on the convict's change and positive prognosis.

Absolute life imprisonment—depriving a person of the chance to regain his freedom—is incompatible with human dignity and therefore contrary to Art. 3 of the Convention. Therefore, three main conclusions can be drawn from the ECtHR case law. Member states' legislation at the appropriate time of serving the sentence must provide 'the opportunity to review (revise, evaluate) the sentence. It must establish its procedure, and the prison isolation itself must be arranged in such a way as to enable the prisoners to progress in their rehabilitation' [28].

The CPT gives guidance on what specifically to do for a state to meet these three conditions. It is therefore necessary to individualise the execution of the life imprisonment through the *sentence plan* created based on an assessment of the prisoner's situation and provide at some stage of the sentence for a review of the sentence against the individual goals set out at the beginning of the isolation in the *sentence plan*, and the review is to take place at regular intervals.

Then, it is necessary to give the prisoner a date for the first evaluation in the context of parole and develop a tailored individual programme, as appropriate, that provides a realistic prospect of improvement and early release. The prison officers should use accredited risk and needs assessment tools, supplemented by expert opinion. These analyses and the individual plan should be developed with the prisoner and then made available to him.

Candidates for absolute life imprisonment behind bars exist. However, the implementation of this punishment raises reasonable doubts—as to its course and its effectiveness on those promising and susceptible. Questionable aspects of performing life imprisonment are revealed by aforementioned soft law documents, written by the hands of experts, practitioners, prison officers, psychologists and judges, as well as empirical and practical experiences described by researchers. Continued doubt arises concerning:

1. the side effects of long-term isolation, such as uncertainty about one's situation and prospects, prisonisation and the psychological consequences of long-term isolation [29, 30];

2. the difficult situation of imprisonment, rationing of needs and permanent dependence on the decisions of one's superiors; strict limitations on autonomy and manifestations of personal, family and social life that deviate from normality [30];

3. the sentence plan and prison system offerings to be offered for a minimum of a quarter century. The CPT audit and the research literature [31–35] demonstrate that the prison regime remain poor, monotonous and focused on isolation and control, and

4. prison regime continues to deprivation of life perspective, the right to self-improvement and the right to a future, despite the passage of time and improvement [36].

3. Summary

The international documents we have analysed state that the ultimate goal of the execution of life imprisonment is the return of the convicted person to a life of freedom. Achieving this goal is not possible without certain conditions being met by both parties—the state and the convict. According to Recommendation (2003) 23, the ultimate goal of incarceration is to 'expand and improve opportunities for inmates to successfully re-enter society and lead law-abiding lives upon release'. Achieving this goal involves keeping the public safe. It is not enough to isolate for prison punishment to be effective. You have to invest in it. The standards emphasise the importance of rehabilitation, which is the focus of European penal policy—the common denominator of the penitentiary policies of European countries [37].

The axiology articulated in soft law and the jurisprudence of international bodies obliges us to look at life imprisonment from the perspective of a decent and rational state that respects human dignity and its fundamental rights and freedoms. The manner in which the state and society treat an offender of aggravated murder sentenced to life imprisonment is a test of civilisation for both entities [38–40].

Regardless of the prisoner's act or personal characteristics, a civilised prison should be geared towards maintaining the prisoner's hope for change. The prison system should look out for his deficits and needs and support his efforts to rehabilitate and choose a life free of crime. Only by doing so will the principle of humane treatment be respected and the public's safety guaranteed.

Therefore, all soft law documents refer to the corrective purpose of life imprisonment; the guiding principles of conduct, the most frequently cited of which is the principle of individualisation, normalisation and progression and the methods and means of conduct, that is, the use of both adequate protective measures and rehabilitative interventions. The most essential tool for working with a life prisoner, and the tool for implementing the principles and purpose of sentence enforcement, is the sentence plan.

From an analysis of international standards, there is a correlation between security and respect for the human rights of the life prisoner, expressed not only in the right to hope but also in the right to rehabilitation [41, 42] and to the concrete offer of a restorative prison system. Providing opportunities during the execution of this sentence (at least for 25 years) for improvement and rehabilitation, for personal and social strengthening and for the development of a realistic chance to strive for parole, means respecting the fundamental rights of those sentenced to life imprisonment and ensuring the safety of society.

4. Analysis of 241 cases of those sentenced to life imprisonment suing before the ECtHR

4.1 Research aims, objectives and methodologies

The purposes of the research were: (1) a statistical analysis of the problems that the complainants-condemned prisoners raised before the ECtHR and which, for the most part, constituted violations of the ECHR, (2) the identification of specific problems due to the length of the sentence, (3) the determination of whether the ECtHR

applies a double standard due to the diversity of the respondent states—their level of democratisation and the persistence of the tradition of respect for fundamental rights and (4) the analysis of the evolution of the Court's case law on the complaints of the life prisoners.

We assumed that some of the problems that convicts sentenced to life imprisonment signal in their complaints to the ECtHR are different from those of other complainants. The research goal was to capture this distinctiveness and qualitatively different matters.

We assumed that the peculiarities of the adjudication and execution of this extreme punishment are expressed in its purpose, in the conditions of imprisonment and in the regime applied, while the perpetrators sentenced to it will take them into account in their complaints to the ECtHR and thus accentuate what is common to them, what they experience regardless of which state they are suing.

We assumed that it would also be valuable to track the cases of complainant life prisoners who report problems independent of the life sentence, primarily procedural failures during their sentencing process. However, we have given priority to the remaining research objectives, which focus on the specifics of this extreme punishment, especially in relation to the rise of political punitiveness in Poland and the world [43–46]. Complaints that are directly related to the length of punishment and the manner in which it is carried out will be qualitatively different and perhaps reveal new systemic problems faced by plaintiffs and state authorities.

We used a subject criterion to select cases: we assumed that plaintiffs in the country of origin are perpetrators of serious crimes with the highest social and economic costs, that they most burden society and the justice system. The subject criterion allowed the assumption that among the cases brought by the plaintiffs, there would be the same ones initiated by other plaintiffs regardless of the sentence and therefore that the research material would show that life prisoners share with others the systemic failures of the justice system and the problems associated with them, that up to a certain stage of their imprisonment, they experience the same discomforts as the rest of the prison community in that they are housed in similar or the same prison units, are users of the same facilities, are potential participants in the same rehabilitation offerings and are subject to the same restrictions and prohibitions as others. At the same time, we assumed that the study group was unique in terms of the punishment and all that its execution carries in an uncertain time frame. Therefore, there will be other qualitative problems that they point out in their complaints to the Court. This aspect of the research will be most interesting and will add new value to the knowledge of life prisoners and the punishment they experience.

Adopting the subject criterion meant that we examined cases of plaintiffs before the ECtHR who had been sentenced to life imprisonment by at least a court of first instance, cases that ended in a judgement or a decision or settlement between 1962 (the first case) and the end of 2019, against all states that have recognised the Court's cognisance. After setting appropriate filters in the HUDOC database, we quantitatively and qualitatively analysed 241 cases. Most of the plaintiffs had been finally sentenced to life imprisonment, including after commutation of the death penalty (23) or when they faced life imprisonment if extradited (19). In 27 cases, the sentence was changed in the second instance (acquitted, sentenced to a lower punishment, released from custody).

In the cases analysed, the parties were countries that varied in their entrenchment of democracy and human rights. Therefore, we divided them into four groups:

i. Western Europe (Austria, Belgium, France, Germany, Ireland, Italy, Netherlands, Norway, Spain, United Kingdom);

ii. Central Europe and the Balkans (Bulgaria, Cyprus, Greece, Hungary, Poland, Romania, Slovakia);

iii. Eastern Europe (Estonia, Latvia, Lithuania, Moldova, Russia, Ukraine);

iv. 'Asian' Europe, different in culture and civilisation (Albania, Armenia, Azerbaijan, Turkey).

We divided the countries into groups to examine whether there is a common denominator in their approach to extreme punishment and, if so, in what it is expressed and whether the ECtHR is aware of it when arguing its decisions.

Taking into account the objectives of the analysis, the research questions were: (1) allegations of violations of the provisions of the Convention, (2) the chronology of their communication according to a specific state or a specific group of states from the four above, (3) the number and frequency of violations of specific provisions and (4) violations that are justified by life imprisonment (specific problems).

Statistical and qualitative analysis of the research material—241 cases of plaintiffs sentenced to life imprisonment—provided answers to the questions:

1. Which states led the way in terms of the number of cases filed by plaintiffs?

2. What did the violations consist of and which articles of the Convention were most frequently affected?

3. Which state led the way in violating a specific article?

4. What was the growth of plaintiffs' cases over the 57 years covered by the analysis?

5. What new problems has the ECtHR identified because of the size of the penalty?

A more extensive statistical analysis—although edited differently, emphasising other problems and considering a shorter period, the years 1962–2017—was included in the published monograph [47].

4.2 Statistical findings

The plaintiffs—the authors of all complaints, including the joint ones—numbered 294, of which life prisoner plaintiffs were 281. In 17 cases, the life plaintiffs were members of organised criminal groups, while in 54, they committed crimes of a terrorist or political nature, in most cases, as part of separatist political organisations, usually of an armed nature, to which they belonged.

Table 1 shows that Turkey had the most cases, followed by the United Kingdom and three countries in Groups II and III, which is significant because the first two countries joined the CoE in 1949, as did France and Italy, ranked lower, with fewer cases, while Bulgaria, Ukraine and Russia joined in 1992, 1995, and 1996, respectively. Azerbaijan, which joined the CoE in 2001, has as many cases as Germany, whose accession date is 1950. Despite their chronological difference and democratic maturity, the old and new democratic states equate in the number of violations of the Convention in life prisoner cases. As we develop further below, the issues raised by

the plaintiffs and the violations found are essentially the same. The differences concern certain aspects of the violations of the articles of the Convention, their intensity or their nature. An analysis of the chronology of state violations of individual rights and freedoms reveals a history of disagreement with this harsh and indefinite punishment and a history of understanding its limits and content, since—in addition to the standard problems that arise with other punishments or the limits and guarantees of imprisonment—many of the ECtHR's complaints and deliberations focus on the meaningfulness of life imprisonment and its reducibility.

Table 2 shows that the largest number of cases won by plaintiffs concerned violations of the prohibition of torture or inhuman treatment, followed by unfair criminal trial and illegal incarceration (too long or insufficiently justified). A relatively large

State	Number of cases
Turkey	45
United Kingdom	35
Ukraine	30
Bulgaria	26
Poland	22
Russia	14
France	10
Germany	9
Italy	7
Azerbaijan	6
Albania	5
Hungary	4
Austria	3
Netherlands	3
Greece	3
Slovakia	3
Spain	2
Belgium	2
Romania	2
Latvia	2
Moldova	2
Estonia	1
Armenia	1
Cyprus	1
Ireland	1
Total	240

Source: own elaboration.

Table 1.
Number of cases (complaints) against the state.

Article	Number of pleas won, ECtHR agreed with plaintiff and found a violation of Convention provision
Art. 3 of the Convention	60
Art. 5 of the Convention	35
Art. 6 of the Convention	49
Art. 7 of the Convention	2
Art. 8 of the Convention	15
Art. 9 of the Convention	1
Art. 10 of the Convention	0
Art. 13 of the Convention	24
Art. 14 of the Convention	0
Art. 18 of the Convention	0
Art. 34 of the Convention	12
Art. 3 of Protocol No. 1	3
Art. 2 of Protocol No. 4	0
Art. 4 of Protocol No. 7	0
Total	201

Source: own elaboration.

Table 2.
Number of cases won by plaintiffs in relation to the ECHR provision.

number of violations concerned the state's failure to provide an effective remedy to protect fundamental rights and freedoms.

As for the states leading in violations of specific provisions of the Convention, Bulgaria and Ukraine violated the prohibition of torture or inhuman treatment of detainees the most times, while Turkey and the UK and Poland violated the personal liberty of plaintiffs. Turkey and Ukraine failed to provide a fair trial the most times, while Bulgaria most often violated a life prisoner's right to a private or family life and the right to an effective remedy to protect basic human needs encoded in the ECHR (**Table 3**).

Table 4 illustrates the upward trend of cases of plaintiffs sentenced to life imprisonment pending before the Court.

In terms of damages awarded (*non-pecuniary damage*), the ECtHR awarded the highest amount to the lead plaintiff in the case *Ilaşcu and Others v. Moldova and Russia* (180,000 Euros) and the lowest to each of the two applicants in *Laryagin* and *Aristov v. Russia* (500 Euros each). In total—to all lifetime plaintiffs in their cases (including the compensation paid as a result of the plaintiff's settlement with the government in 15 Polish cases)—the ECtHR awarded the sum of €2,750,270. In the 22 of the cases that were won, the ECtHR held that it is sufficient satisfaction for a plaintiff simply to establish that there has been a violation of the Convention.

4.3 Qualitative analysis—the most common violations of the convention

In the qualitative analysis, we determined what the most common violations of the Convention consisted of, which we present below with an indication of specific cases.

State	Art. 3	Art. 5	Art. 6	Art. 7	Art. 8	Art. 9	Art. 13	Art. 14	Art. 34	Art. 3 of Protocol No. 1
Bulgaria	17	—	4	—	8	—	14	—	—	1
Poland	2	7	3	—	—	—	1	—	—	—
Russia	7	4	9	—	—	—	1	—	4	—
Turkey	7	20	35	—	—	—	1	—	—	—
Ukraine	13	2	12	—	5	1	2	—	5	—
United Kingdom	2	15	6	—	3	—	—	—	—	1

Source: own elaboration.

Table 3.
Leading countries in violations of the convention – Comparison.

1962–1999	2000–2010	2011–2016
18	114	108

Source: own elaboration.

Table 4.
Increase in life prisoner cases before the ECtHR.

Violation of Article 3

1. harsh and degrading prison living conditions (*Aliev v. Ukraine, Neshkov et al. v. Bulgaria*);

2. a special and restrictive regime, often automatically linked to the sentence, independent of the individual assessment of the convict (*Öcalan v. Turkey*, *Baybasin v. Netherlands*, *Kwiek v. Poland*);

3. (3) irreducible and absolute life sentence and deprivation of the right to hope (*Vinter v. United Kingdom*, *Trabelsi v. Belgium*, *Murray v. Netherlands Čačko v. Slovakia*).

Violation of Article 5

1. Unjustified and prolonged detention, insufficient grounds for detention (Article 5(3)) (*Tkachev v. Ukraine*, *Moskovets v. Russia* and the Polish cases: *Bielski v. Poland and Germany*, *Bieniek v. Poland*, *Chmiel v. Poland*, *Golek v. Poland*, *Hołowczak v. Poland*, *Kowalczyk v. Poland*, *Ruprecht v. Poland*, *Raducki v. Poland*);

2. Lack of judicial review of decisions on incarceration if continued; violation of the right to appeal to a court in cases of arrest or detention and unclear procedure for parole (art. 5 para. 4) (*Ismoilov et al. v. Russia*, *Černák v. Slovakia*, *Karņejevs v. Latvia*, *Von Bülow v. United Kingdom*, *Betteridge v. United Kingdom*).

Two record-breaking cases in terms of length of pretrial detention are worth noting, *Mehmet Kaya v. Turkey* and *İzmirli v. Turkey*in, for which the periods were 25 and 20 years, respectively. The average length of imprisonment found unlawful by the court was almost 7 years.

Violation of Article 6

1. failure of the court to hear the case within a reasonable time (*Martin v. United Kingdom, Pakkan v. Turkey, Karmo v. Bulgaria, Shugayev v. Russia, Kashavelov v. Bulgaria, Kwiek v. Poland*);

2. violation of the impartiality or independence of the court (*Remli v. France*);

3. failure to ensure the right to defence and free legal aid (*Dovzhenko v. Ukraine*, *Leonid Lazarenko v. Ukraine*);

4. violation of the presumption of innocence (*Shagin v. Ukraine*, *Maksim Petrov v. Russia*, *Popovici v. Moldova*);

5. inability to prepare for defence (*Iglin v. Ukraine*).

Violation of Article 8

1. unlawful inspection of correspondence with a lawyer or ECtHR, unlawful wire-tapping (*Chervenkov v. Bulgaria*, *Halil Adem Hasan v. Bulgaria*, *Oreshkov v. Bulgaria*, *Shahanov v. Bulgaria*);

2. excessive restrictions on contact with loved ones or decisions to conceive a child (*Trosin v. Ukraine*, *Khoroshenko v. Russia*, *Dickson v. United Kingdom*).

Violation of Article 13

1. the lack of an effective legal remedy to ensure that the inhumane conditions of prison life are changed (*Lenev v. Bulgaria* and *Shahanov v. Bulgaria*),

2. the impossibility of challenging decisions extending the application of the special regime or interrupting the length of proceedings (*Ramirez Sanchez v. France*, *Kaemena* and *Thöneböhn v. Germany*).

5. Discussion and conclusion

The analysis of the cases studied shows that the community of plaintiffs—whether at the stage of trial or execution of sentence—shares the problems resulting from the dysfunction of the justice system as such. Their complaints expose its vulnerability to goods such as personal freedom and the uncertainty of conviction (long-term detention), family ties, the restrictive and harsh prison regime applied over the years and the offer of treatment and the possibility of rehabilitation. The judgements of national courts, examined by the Strasbourg Court, show a greater emphasis on the protective aspect than on the corrective and rehabilitative aspect, which is the purpose of imprisonment. The Court does not apply a double standard in assessing

the magnitude of violations of the Convention—both states grounded in democracy and a tradition of respect for human rights and those 'learning' violate the fundamental rights of defendants and prisoners. However, the ECtHR's sensitivity to violations of the Convention and the associated expectations of states for positive obligations is growing [48–51].

Through our research, we can identify problems specific to life imprisonment, related to its essence and specificity.

First, in the light of the case law of the ECtHR, from Art. 3 of the ECHR can be derived the right to hope, which is understood as the right of the convicted person to change their situation depending on the progress of their rehabilitation and trustworthiness. The change involves directing them to school, work and rehabilitation programs and qualifying them for a lighter prison regime and eventually to life in a society of freedom under parole. As a result of these interactions and decisions, which, as proven by research and practice, stabilise life, good habits and desirable attitudes, the prison administration should come to the conclusion that the convict is no longer a threat to society.

Secondly, the right to hope and humane treatment cannot be reconciled with an absolute life sentence. The irreducibility of life imprisonment was found to be a violation of Art. 3 ECHR, as it deprives the convicted person of dignity. Also problematic is an overly discretionary parole or pardon system that verges on arbitrariness and a lack of correctional programmes. The criteria for parole are to be precisely defined in the law; they should not raise doubts. It is their concretisation that makes it possible to create a plan for the execution of the sentence and to get the convict to cooperate in the rehabilitation offer proposed to them. This provides the prisoner with the knowledge necessary to understand and accept their situation and the opportunity to change it.

Thirdly, from the right to hope, the ECtHR thus derives the right to an appropriate offer of activities, effective interventions and rehabilitation. A prisoner has the right to undergo socialisation to the best of his or her ability, which can be accomplished through inclusion in education, work, therapy or other effective intervention. The purpose of these interventions is to form in the convict proper habits of conduct and to change their behaviour and attitude in such a way that they do not pose a threat to society, but can live in freedom from crime. Rehabilitation is a complex concept [32, 52–59], but in the case of life prisoners, it primarily means restoring their lost rights and good reputation and erasing the effects of their conviction.

Fourthly, the right to hope is also expressed in criticism of the automaticity and unnecessary restrictions that the prison system applies to this category of prisoners. In the absence of individual treatment of lifers, it is possible to speak of automatism in the application of a strict regime, which is characterised by social isolation, seclusion, poor offer of activities and, as a result, poor chances for rehabilitation. The ECtHR emphasises that lifers remain human beings with the same needs and potential as people at large, requiring assistance and dignity like any of us. Thus, the potential for change in a lifer cannot be ruled out. Individualised treatment forces correctional officers to find the prisoner's strengths and support them. In this context, the ECtHR uses value-oriented phrases such as hope, opportunity, rehabilitation, change, improvement, repentance and reformation. The Court clearly reads the new right available to life prisoners—the right to hope—and at the same time clarifies the positive obligations of the state that flow from it. This is a far-reaching but necessary intrusion into the practice of life sentencing in European countries.

An analysis of all life prisoner rulings to date shows that the Court treats all states and all prisoners sentenced to this with the most severe punishment equally. We did not note a double standard.

At the same time, it is more challenging for the correctional system to enforce a life sentence than a term sentence. The ECtHR formulates certain requirements related to a completely new right, which is the right to hope, progression and rehabilitation.

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Section 2

Practice

Chapter 4

Domestic Violence, Law Enforcement, and Traditional Practices in Fiji Islands: A Comprehensive Examination

Nikolaos Stamatakis

Abstract

Domestic violence is a pervasive global issue that transcends geographical, cultural, and socioeconomic boundaries. In the Fiji Islands, domestic violence is a multifaceted problem deeply rooted in cultural traditions, socio-economic factors, and historical influences. This comprehensive essay explores the intricate relationship between domestic violence, law enforcement, and traditional practices in Fiji. It delves into the prevalence of domestic violence, the role of law enforcement, the influence of cultural traditions, and the complexities involved in combating this issue. By examining the cultural and historical context of Fiji, as well as the legal framework in place, support services, and collaborative efforts with traditional practices, this essay seeks to gain a comprehensive understanding of the interplay of these factors in addressing domestic violence in the Fiji Islands.

Keywords: domestic violence, law enforcement, traditional practices, Fiji Islands, challenges

1. Introduction

Domestic violence is a global concern that affects individuals and communities across the world, transcending geographical, cultural, and socioeconomic boundaries. In the Fiji Islands, this problem is deeply rooted in cultural traditions, socio-economic conditions, and historical influences [1]. This essay aims to provide a comprehensive understanding of the complex relationship between domestic violence, law enforcement, and traditional practices in Fiji. By examining the cultural and historical context of Fiji, the legal framework in place, police responses, support services, and collaborative efforts with traditional practices, this essay seeks to gain insight into how these factors of traditional practices, which are deeply embedded in Fijian culture, interplay in addressing domestic violence in Fiji Islands. The goal is to shed light on the complexities of the issue and suggest ways to reconcile tradition and human rights.

In the present research, the term "domestic violence" as defined by the United Nations (UN) is adopted. More specifically, domestic violence, also called "domestic

abuse" or "intimate partner violence", is here viewed as a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner. Abuse can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that frighten, intimidate, terrorize, manipulate, hurt, humiliate, blame, injure, or wound someone [2].

The purpose of this study—the first of its kind—is to explore the intricate relationship between domestic violence, law enforcement, and traditional practices, such as *iBulubulu* (or *iSoro*), in Fiji. "iBulubulu" is a Fijian term that refers to a traditional reconciliation ceremony that is practiced in some communities in Fiji [3]. This ceremony is part of Fiji's cultural and social fabric and is often used to resolve disputes, conflicts, or grievances within the community [4]. By delving into the cultural and historical context of Fiji, we aim to gain a comprehensive understanding of the challenges and tensions that exist in addressing domestic violence.

The research methodology for this study includes a thorough literature review, analysis of secondary, statistical data, and examination of government reports and documents. Qualitative information is gathered through unstructured interviews with individuals, chiefs and elders from Lau and Viti Levu Islands in Fiji, involved in addressing domestic violence and traditional practices in Fiji (as shown on map below, **Figure 1**). The potential interviewees were recruited following the snowball or chain sampling technique. This participant was purposefully chosen based on his experience in dealing with domestic violence issues at local level. The researcher initially started with a knowledgeable chief/elder who met the criteria of the study. After the first interview, the participant was asked if he knew of others who might also fit in the study's criteria with similar experience. Upon his positive response, the researcher was referred to potential new participants. All participants were fully informed consent, voluntarily engaged, and free to withdraw at any stage of data

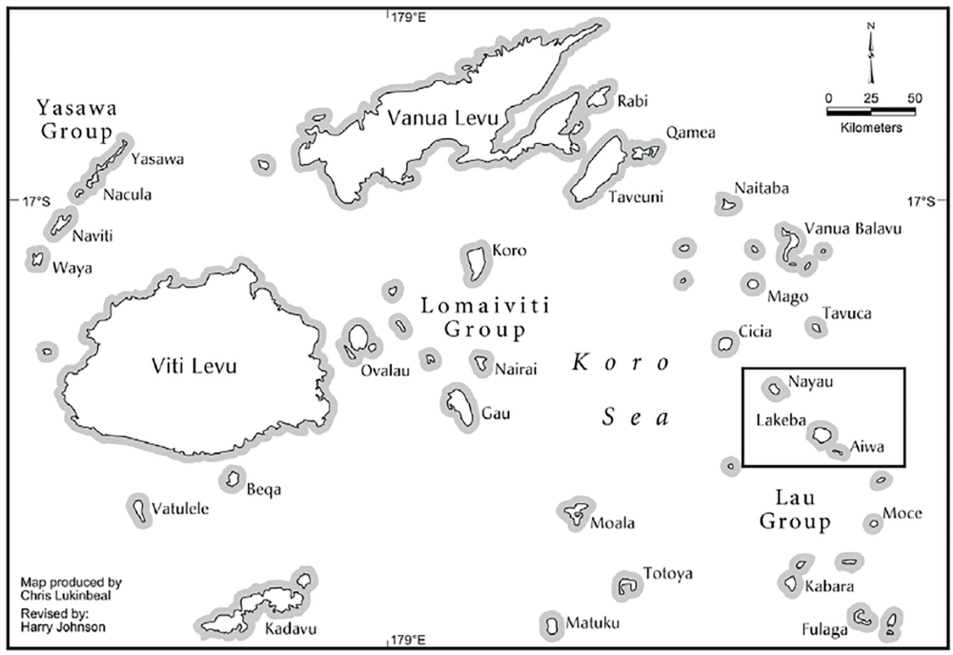

Figure 1.
Map of Fiji Islands.

collection. The process continued until a saturation point was reached, where no new participants were introduced or able to provide significantly different insights and information [5]. The particular sampling technique was helpful in the present research, in which social or cultural trust is crucial, combined with practical difficulties in accessing traditional villages and coming in contact with their elders.

Regarding the method employed, the unstructured interviews—being highly flexible and adaptable—enabled the researcher to explore a wide range of subtopics related to domestic violence and uncover unexpected insights allowing the conversation to flow naturally. This type of empirical research appeared ideal as it provided more in-depth information compared to structured interviews because it allowed for open-ended questions that encouraged respondents to express their perspectives, experiences, and emotions freely while helping the researcher to better comprehend the nuances of the interviewees. Unstructured interviews were also well-suited for this exploratory research, where the goal was to uncover new issues that may not have been previously identified and generate hypotheses or areas that warrant further investigation. Thus, the combination of these sources allowed for a holistic understanding of the issue of domestic violence in Fiji Islands.

2. Domestic violence in Fiji: prevalence and challenges

Fiji is an archipelago/islands nation and archipelago in the notoriously friendly[1] region of the South Pacific Ocean with an estimated population of less than 1 million (936.275 as of 2023) containing 322 islands, of which only 106 are inhabited. The 87% of the total population lives on two largest islands, Viti Levu and Vanua Levu. Despite the country's motto, international organizations confirm that violence against women in Fiji is perversive, with high rates of abuse reported among intimate partners [6]. In fact, Fiji has one of the highest statistics in the world on domestic violence [7]. In fact, "a range of social, political, economic, and cultural factors combine to create an environment where women are particularly vulnerable to abuse" ([8], pp. 6–7). Most recent data from the Fiji Women's Crisis Centre [9] report that approximately 64% of Fijian women have experienced physical or sexual violence by an intimate partner during their lifetime (including 61% who were physically attacked and 34% who were sexually abused) [10]. FWCC specifically mentions that "*domestic violence figures range from 40 to 80 percent of women beaten, usually repeatedly, indicating that the home is the most dangerous place for women and frequently the site of cruelty and torture*" (Human Rights Quarterly, Vol. 12, No. 4).

FWCC keeps record of domestic violence cases reported to them per year (**Figure 2**). The diagram below refers to all these cases in the last 40 years depicting a fluctuation in women-victims' tendency to seek assistance from FWCC as victims of domestic abuse.

Despite the prevalence of domestic violence and the available data as shown in **Figure 2**, it remains underreported, largely due to cultural factors, stigma, and fear of retaliation. NGO counselors believe that Fiji Police records are not representative, as women who have been assaulted do not report it because it is hard to accept violence or due to family pressure [11]. In general, accurate statistics on domestic violence in Fiji are challenging to obtain due to cultural norms that discourage

[1] The national motto of Fiji Islands as promoted by the Ministry of Commerce, Trade, Tourism and Transport is: "Where Happiness Comes Naturally".

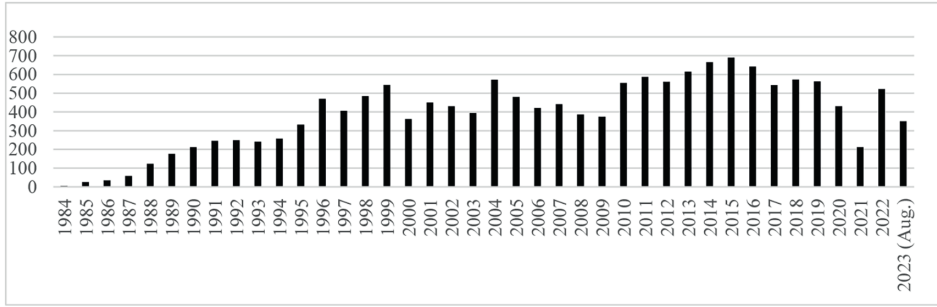

Figure 2.
Domestic violence in Fiji 1984–2023 (number of reported cases per year). Source: FWCC (see, http://www.fijiwomen.com).

reporting and the normalization of abuse within relationships [12]. On one side, the fear of retribution and the stigma associated with being labeled a victim further inhibit the reporting of abuse. On the other side, the economic dependence on the abuser can hinder victims from reporting; hence, economic factors, such as financial insecurity (especially during the Covid-19 pandemic), can make it difficult for victims to leave abusive situations and hinder reporting [13, 14]. Many victims of domestic violence in Fiji do not report incidents due to fear, cultural stigma, or a lack of confidence in the justice system. A 2019 study conducted by the International Finance Corporation, 34% of survey participants in employment (2 in 5 women and 1 in 5 men) had experienced domestic or sexual violence in their lifetime [15]. Comparing these ratios with the FWCC's counterparts, is manifest that only half of domestic violence victims in Fiji are employed and financially independent. So, it is not a coincidence that many incidents of domestic violence remain hidden from official statistics [16].

This underreporting results in a significant gap in the available data. In addition, domestic violence is often viewed as a private matter, and victims may face social stigma if they come forward deterring victims from seeking help or reporting the abuse. Some victims may also not be aware of the available support services, their legal rights, or the resources to escape abusive situations. Bearing in mind Fiji's geography, with many remote and isolated islands, can make it even more challenging to reach and provide support to victims [17]. Yet, even when data is collected using the limited available resources, it may vary in quality and consistency. Different agencies and organizations (governmental/police & NGOs) in Fiji Islands use different methods and definitions for data collection, making it challenging to compare and analyze information deriving from, eventually, fragmented, and incomplete data [18].

3. Combating domestic violence in Fiji

3.1 The legal framework

The Fijian government has taken significant steps to address domestic violence through legislative measures. Both the Constitution of the Republic of Fiji

(Section 41)[2] and the Domestic Violence Decree of 2009[3] provide a legal framework for the protection of survivors and the prevention of domestic violence [19, 20]. It allows for the issuance of protection orders, mandates the reporting of domestic violence, and provides for penalties for offenders. Since 1995, Fiji has also ratified international agreements, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Beijing Declaration and Platform for Action, further committing to addressing gender-based violence. In Fiji, domestic violence is generally addressed through various pieces of legislation and regulations, including the Crimes Act (2009) and the Family Law Act (2003). Nonetheless, the most important piece of legislation is the Domestic Violence Act [21]. This act provides legal protection and remedies for victims of domestic violence. It defines domestic violence broadly, including physical, sexual, emotional, and economic abuse. It also establishes the legal framework for obtaining protection orders, which can restrict the actions of alleged perpetrators.

In line with this legislation, the Family Court of Fiji handles family law matters, including those related to domestic violence, child custody, and protection orders. The Family Court works closely with the Ministry of Women, Children, and Poverty Alleviation, which is responsible for addressing gender-based violence and providing support services for victims [22].

3.2 Support services for victims

Support services for domestic violence victims, both emotional and material, are vital in assisting survivors and ensuring their safety. The Fijian government, in collaboration with non-governmental organizations and civil society, has established and maintains such services. These services include safe houses, protection, counseling, and legal aid where individuals can seek assistance and report abuse. Additionally, local communities and religious organizations also offer support and assistance to victims of domestic violence [23].

Most notably, the Fiji Women's Crisis Centre (FWCC) is a prominent organization that offers support to women and children who have experienced domestic violence, sexual assault, and other forms of gender-based violence. They provide crisis legal assistance, and advocacy for victims. A similar organization is Empower Pacific that provides counseling, mental health support, and social services. They can assist victims of domestic violence in dealing with trauma and emotional well-being. For the same purpose, Fiji created a national helpline to aid and support victims of domestic violence [18].

4. Cultural and traditional practices in Fiji

4.1 Conflict resolution

A significant tension exists between domestic violence and traditional practices for conflict resolution in Fiji. It is claimed that pacific island countries, including Fiji, value "communal cohesiveness" over women's right to safety and redress from gender-based violence [24]. Traditional Fijian societies may adhere to customary

[2] See, http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf

[3] See, https://judiciary.gov.fj/wp-content/uploads/2020/04/Domestic-Violence-Decree-2009.pdf

laws and practices when resolving conflicts based on their own values and traditions. Traditional practices often prioritize reconciliation and maintaining family unity, which may involve community leaders mediating disputes. While this approach can be effective in some cases, it may inadvertently pressure victims to reconcile with their abusers or dissuade them from seeking legal intervention. In Fiji, conflict resolution has traditionally been an essential part of the culture, and many indigenous Fijian communities have their own traditional practices and mechanisms for resolving disputes. These traditional methods of conflict resolution are often deeply rooted in the cultural and social fabric of the Fijian people [3].

Focusing on conflict resolution and traditional practices in Fiji, one key aspect is the Yavusa System. Traditional Fijian society is organized into kinship groups called "*yavusa*." These yavusa groups often play a significant role in conflict resolution. Disputes that involve members of the same yavusa are often resolved within the group, with the elders and leaders of the yavusa acting as mediators. In addition to yavusa, Fijian society is organized into tribes or clans known as "*mataqali*." Each mataqali has a council of elders who play a key role in resolving conflicts within the clan. These tribal councils often have significant influence in traditional dispute resolution.

When a dispute arises, the conflict resolution takes place in "*tambuwalu*"[4] or "*bulubulu*"[5]. Both are traditional Fijian ceremonies in which disputing parties come together with their respective mataqali and yavusa representatives. They are essential tools for maintaining peace and resolving disputes without resorting to more formal legal processes. The purpose of these ceremonies is to discuss the dispute, find common ground, seek reconciliation, and restore social harmony within the community. Reconciliation through these ceremonies often emphasizes the preservation of community ties, as many Fijian communities are closely knit and rely on mutual support. The tambuwalu and bulubulu involve the exchange of gifts, traditional ceremonies, and dialog, as well as the emergence of an apology from the perpetrator and forgiveness from the victim. Apologies and forgiveness are essential aspects of Fijian conflict resolution. Often, disputes are resolved through parties acknowledging their wrongdoings, apologizing, and seeking forgiveness from the aggrieved party. This process can be facilitated by community leaders and elders, who play a crucial role in resolving conflicts. They are often seen as wise and impartial figures who mediate disputes and guide the process of reconciliation.

It's important to note that while traditional practices continue to play a role in conflict resolution in Fiji, tambuwalu and bulubulu are not a substitute for the formal legal system. The country also has a modern legal system that addresses disputes, including civil and criminal matters. Nowadays, many iTaukei Fijians (the indigenous people of Fiji) may opt for a combination of traditional and legal mechanisms to resolve conflicts, depending on the nature of the dispute and the preferences of the parties involved. In cases involving criminal offenses or violations of the law, the formal legal system may still be employed, and reconciliation ceremonies do not exempt individuals from legal consequences.

In recent years, efforts have been made to incorporate traditional practices like tambuwalu and bulubulu into the legal system in Fiji, recognizing their cultural and community significance. Fiji has seen efforts to bridge the gap between traditional

[4] It is more closely associated with the Lau Islands in the eastern part of Fiji, where the Lauan culture has its unique traditions.

[5] It is more commonly associated with communities in western Fiji, where it is a recognized cultural practice.

and modern conflict resolution methods, recognizing the value of both in addressing the diverse needs of its population. In this process, government and non-governmental organizations have been involved in promoting alternative dispute resolution mechanisms to provide efficient and culturally sensitive solutions to conflicts.

4.2 Impact on victims

Traditional practices in Fiji, as in other South Pacific societies, can have both positive and negative impacts on victims, particularly in the context of conflict resolution. The impact on victims may vary depending on the specific practice, the community, and the individuals involved. The most obvious positive impact is the preservation of culture. Traditional practices keep cultural heritage and the values of the Fijian people alive, and victims may feel a stronger connection to their cultural identity and community. Another pivotal positive impact of traditional practices on victims in Fiji is reconciliation and healing. Many traditional Fijian practices are designed to promote reconciliation, forgiveness, and healing; and victims may find these practices to be emotionally cathartic and helpful in moving forward after a conflict or harm. Furthermore, traditional practices often involve the wider community, including elders and community leaders from whom victims receive support and solidarity, which can be essential in their recovery process. Some traditional practices, also, involve the payment of compensation or restitution by the perpetrator to the victim, which helps victims recover losses or damages they may have incurred.

Nevertheless, as domestic violence is complicated as a crime and a social phenomenon, the influence of traditional practices can have a profound negative impact on such victims. Traditional practices in Fiji, like in many other traditional societies, may sometimes reinforce gender inequalities and roles. Women may face additional challenges in seeking justice or resolution in situations of domestic violence or other gender-based violence. Although cultural barriers resulting from cultural practices, beliefs, and norms can discourage victims from reporting domestic violence, traditional norms are often used to mediate conflicts instead of reporting them to authorities. This means that traditional practices may not always provide the same legal protections as the formal legal system. Victims may find themselves without recourse if their rights are not adequately protected in traditional dispute resolution processes. The effectiveness and outcomes of traditional practices can vary widely depending on the community, the individuals involved, and the knowledge and experience of the elders and leaders. Some victims may not receive a fair or consistent resolution.

Victims might, also, experience social pressure to conform to traditional practices, which may not always align with their personal wishes or needs. Some may feel obligated to endure abuse to avoid bringing shame to their families or communities. The stigma associated with divorce or separation in traditional Fijian culture can contribute to the perpetuation of abusive relationships; especially if the perpetrator is not held accountable or if the community does not adequately protect the victim.

5. Balancing tradition and human rights

The challenge for law enforcement agencies in Fiji is to strike a balance between respecting and preserving cultural traditions and upholding human rights, particularly the right to live free from violence. This requires a nuanced approach that

respects cultural practices while ensuring that they do not perpetuate or justify domestic violence. It's essential to recognize that Fiji is a diverse country with various traditional practices, and the impact on victims can differ significantly between communities. Moreover, there has been a growing recognition of the need to balance traditional practices with legal protections, particularly in cases involving gender-based violence and human rights. For this, strengthening legal protection against discrimination in Fiji is vital [25]. Efforts have been made to address some of the shortcomings of traditional practices through legal reforms, awareness campaigns, and the promotion of women's rights and gender equality. However, challenges remain in ensuring that traditional practices align with human rights and provide fair and just outcomes for all victims. To address the challenges and tensions between law enforcement and traditional practices, a multisectoral approach is crucial. Collaboration among various sectors, including government, non-governmental organizations, traditional leaders, and law enforcement, is necessary to develop strategies that both respect cultural traditions and protect the rights of victims.

Raising awareness about the intersection of domestic violence and traditional practices is vital. Initially, law enforcement agencies should receive training that emphasizes both legal and cultural sensitivity. This training can help police officers navigate the complexities of domestic violence cases, particularly those involving traditional practices, in a way that respects cultural norms while prioritizing the safety and rights of victims. In parallel, educational programs that target communities, traditional leaders, and the general public can promote dialog and understanding, potentially leading to cultural adaptations that align with human rights and gender equality. Traditions are not static; they can evolve over time. Fijian communities can work towards adapting traditional practices to align with modern values of gender equality and human rights. This adaptation might involve revising or reinterpreting traditional rituals and customs to ensure they do not perpetuate or justify domestic violence.

Preserving cultural heritage is essential while promoting human rights and gender equality. A delicate balance can be achieved by preserving traditional practices that do not infringe or undermine human rights—particularly the rights of victims to live free from violence—but reinforce the elimination of gender-based discrimination.

6. Limitations

The current research sought to highlight these challenges and find viable solutions toward the elimination of domestic violence while preserving traditional practices. As with all empirical studies, this research bears a number of limitations, mainly associated with its methodology and the scarce bibliography on domestic violence in the South Pacific. The snowball sampling technique embeds a risk of bias, as referred participants rely heavily on social networks [5]. In addition, unstructured interviews often lead to inconsistencies in data collection due to their narrative nature raising the risk of interviewer bias, who may interpret responses differently, and their personal biases can influence the direction of the interview. The lack of standardization in unstructured interviews can, also, make it difficult for other researchers to replicate the study or verify the findings. However, past training and experience of the interviewer helped to mitigate some of the subjectivity and interviewer bias associated with unstructured interviews.

7. Conclusions and recommendations

Domestic violence, law enforcement, and traditional practices intersect in complex ways in the Fiji Islands. Domestic violence is a significant issue with deep cultural and historical roots, as well as severe social and economic repercussions at country level [26]. Sexual and gender-based violence permeates all facets of life in Fiji impeding any efforts towards gender equality. Law enforcement agencies are tasked with upholding human rights and ensuring the safety of victims. This interplay often leads to challenges and tensions between traditional practices and modern legal frameworks. To address these challenges, Fiji must engage in a multisectoral approach that prioritizes cultural sensitivity and human rights from a public health perspective [27], as women seem to have different risk and exposure factors that require different interventions [28]. Examples of such initiatives include public awareness campaigns, cultural sensitivity training for service providers, legal reforms, and improved coordination among government agencies and NGOs. The role of NGOs is pivotal in advocating ratification and implementation of international human rights treaties [6]. Fiji should continue to strengthen its legal framework for combating domestic violence. This includes enforcing existing laws, enhancing penalties for offenders, and improving the implementation of protection orders. Legal reforms can also consider the intersection of traditional practices with domestic violence to ensure that victims' rights are protected.

Similarly, law enforcement agencies should prioritize cultural sensitivity training to equip personnel with the skills and understanding needed to navigate cases involving traditional practices. This training can facilitate better communication with communities and victims while respecting cultural norms. In combination with education programs that promote gender equality and human rights [14], it can also empower women and communities to challenge harmful traditional practices and advocate for change within their communities and households for a more egalitarian relationship with their spouse, which leads to less violence or power imbalances [29]. Lastly, improving research and data collection on the intersection of domestic violence and traditional practices is essential. Reliable statistics and in-depth research are crucial for understanding the scope of the issue and guiding evidence-based policies and interventions.

In conclusion, overcoming these challenges to gain a better understanding of domestic violence in Fiji could be the stepping-stone for the implementation of effective prevention and intervention measures. While traditional practices hold cultural significance, adaptation and evolution are necessary to ensure they do not perpetuate domestic violence, because preserving cultural heritage while protecting human rights should be the ultimate goal.

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Chapter 5

Corruption in Ghana's Justice System in the Eyes of Police Officers

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Abstract

Corruption is a topical issue worldwide particularly when criminal justice systems and institutions that ensure compliance with the law and play a key role in controlling corruption are affected. Evidence from research shows that citizens of developing countries in Africa and elsewhere perceived criminal justice institutions in their countries, especially the police and judiciary, as among the most corrupt public institutions. However, little research has considered the views of criminal justice officials themselves when it comes to corruption in criminal justice systems. Through a survey of 616 Ghanaian police officers, this study examines police officers' views of corruption in Ghana's criminal justice system. Descriptive statistical analyses were conducted to ascertain police officers' views of the nature, prevalence, levels, and initiators of corruption. A key finding is that police officers perceive corruption as prevalent in Ghana's criminal justice system and as a serious problem. In addition, high public perceptions of corruption in the police and judiciary recorded in public perception surveys are corroborated by this study. Consistent with prior studies, lawyers, suspects/accused persons, and other judicial officers were identified as common initiators of corruption in the justice system. However, contrary to previous studies, many police officers stated that corruption in criminal justice institutions in Ghana has decreased in the past 5 years. The chapter concludes that leaders of criminal justice institutions should desist from denying corruption allegations and research finds their institutions among the most corrupt. Such denials appear to be influencing officers in the front line. Rather, efforts should be made to address the perception or reality of corruption in criminal justice institutions.

Keywords: corruption, criminal justice system, justice official, initiator of corruption, police officer, blame game

1. Introduction

Corruption is a major problem worldwide, which seriously hinders democratic governance and economic advancement. Evidence shows that corruption diverts resources away from essential public services, causes inefficiencies in public institutions, and exacerbates inequalities [1–5]. The consequences of corruption become

more serious when justice officials who are expected to ensure compliance with the law and play a key role in preventing corruption engage in corruption [6, 7]. Evidence from various studies exploring public perceptions of corruption shows that citizens perceive criminal justice institutions, especially the police and judiciary, as among the most corrupt public institutions [8–12]. This is the case in Africa [4, 12–14], Europe [15], Latin America [16, 17], and Asia [18, 19]. However, a scan of the literature suggests that most studies on corruption in justice systems often rely on the views of members of the public.

Measuring public perceptions of corruption is important to develop strategies for fighting corruption and detecting weaknesses in formulated and implemented policies [20]. Thus, public perception studies facilitate public involvement in anti-corruption reforms and give policymakers and members of the public an indication of progress and trends [7, 20, 21]. In addition, studies based on public opinion allow us to ascertain the public's view that helps to define and frame issues of corruption, raise awareness, encourage public debate on corruption, and advance reforms [21]. Public opinion surveys provide feedback on the extent of corruption across key institutions, which supplements expert views and ensures the credibility of anti-corruption efforts [20]. Foreign investors, governments, civil society, and aid agencies often use public perception surveys to gauge the prevalence of corruption and public confidence in governance structures and to plan anti-corruption policies and work.

Because no measurement of corruption is flawless, public perceptions surveys have been criticised as not keeping pace with reforms and improvements in anti-corruption and often do not reflect the most current state of progress [20]. Furthermore, public perception studies neglect the views of justice officials such as police officers, judges, auxiliary court staff, prosecutors, and lawyers who are directly involved in justice administration and usually stand accused. For instance, in the Ghanaian context, little research explored corruption in justice institutions from the perspectives of justice officials (see [4, 7, 14, 22]). Addressing the lack of scholarly attention to the views of justice officials regarding corruption in justice systems, this study explores police officers' perceptions of corruption in Ghana's justice system through a survey. Exploring the views of police officers who are direct stakeholders allows us to evaluate the true level of corruption in institutions and identify attitudes and perceptions of officials towards corruption. In the end, anti-corruption policies and plans that account for justice officials' opinions can be formulated and implemented to tackle corruption.

The succeeding parts of the chapter review literature focus on the nature and extent, prevalence, levels, and initiators of corruption. The literature review provides the foundation for the current study and highlights gaps that will be addressed. Then, the context of the study and the methods used to conduct the study are described, focusing on the data, setting, sampling, data collection, measures, data analysis, and sample characteristics. Finally, the results of the study are reported and key findings are discussed before a conclusion is presented.

2. Literature review

This section reviews the literature on the perceptions of corruption with a specific focus on corruption in criminal justice systems. Areas to be covered include evaluation of corruption, corruption prevalence, levels of corruption over time, and initiators of corruption.

2.1 Corruption evaluation

Corruption is an illicit and secretive activity, which is often difficult or impossible to observe and directly measure. To navigate the observability or direct measurement problem, scholars devise and use surveys and interviews to measure the nature, prevalence, causes, and effects of corruption (see [23–35]). To help understand the problem of corruption and develop measures to address it, some researchers evaluate past corruption incidents or ask participants to evaluate corrupt behaviours. For example, Albanese and Artello evaluated the nature and typologies of discovered and prosecuted corruption cases in the United States [36]. In addition, in a bribery experiment to test whether distributive fairness makes well-paid public officials less corruptible, Abbink asked participants to evaluate transcripts of videos containing interactive decision-making wherein corruption could be committed [37].

Similarly, in the World Business Environment and Business Environment and Enterprise Performance surveys between 2000 and 2005, the World Bank and the European Bank for Reconstruction and Development asked firm managers to evaluate corruption in their countries [38]. In addition, the Due Process of Law Foundation (DPLF) asks experts to evaluate the level of judicial corruption in Central America and Panama and the mechanisms for combating it [39]. Other studies ask participants to evaluate scenarios describing corrupt behaviours that occur in different institutions. The studies often focus on the likelihood of occurrence, seriousness of behaviour, preferred and expected sanctions, and willingness to report corrupt behaviours [40–45]. The current study follows that path by asking police officers to evaluate some corrupt behaviours that can occur in the police service.

2.2 Corruption prevalence

Corruption prevalence referring to the 'widespread nature of corruption' [7] is always a subject of interest to scholars and anti-corruption institutions [11, 12, 14, 46–50]. One of the most recognised and acceptable measures of corruption prevalence around the world is the Corruption Perception Index (CPI) by Transparency International (TI). TI has published a CPI yearly since 1995 when the first report involving 41 countries was released (see https://www.transparency.org/en/cpi). The latest CPI released in January 2023 ranks 180 countries and territories around the world by their perceived levels of public sector corruption, scoring on a scale of 0 (highly corrupt) to 100 (very clean) [51]. The report concludes that most countries are failing to stop corruption with more than two-thirds of countries scoring below 50. The global average remains unchanged at 43 out of 100, with 155 countries making no significant progress against corruption and 26 countries falling to their lowest scores [51].

Evidence shows that most research or probes into the prevalence of corruption often include or focus on criminal justice institutions and officials and report them as the most corrupt. For instance, the 2015 CPI reports that people who encountered the courts (28%) and police (27%) were most likely to pay bribes compared with healthcare facilities (12%), government identification services (13%), schools (18%), and utility service providers (19%) [52]. Similarly, the 2012 CPI reports that on average, one in four citizens globally paid a bribe to justice institutions: 31% of participants who encountered the police paid bribes followed by 24% for the judiciary [53]. Participants also perceived the police and judiciary as the most corrupt, most often bribed, and most bribery-prone institutions [14]. Other studies found

corruption as more prevalent in the police and judiciary compared with other public institutions such as parliament, hospitals, and schools [54, 55].

Using secondary data, Salihu and Gholami explored the prevalence of corruption in the Nigerian justice system [50]. They concluded that the prevalence of corruption in the judicial system is widespread and is an obstacle to the fight against corruption in Nigeria. Warf examined the global prevalence of corruption in and among countries using data from TI: Over 76% of countries in the world are very or extremely corrupt [56]. In addition, Chak man Lee through interviews and surveys of the public and police officers explored the prevalence of police corruption in China and India [57]. He found that petty police corruption is more pervasive and less subtle in India compared with China. Amagnya through interviews with judges, police officers, prosecutors, lawyers, and anti-corruption officials explored corruption patterns and prevalence in Ghana's criminal justice system [14]. A majority of participants regard corruption as a huge problem in Ghana, with the police service and granting bail being the justice institution and process as the most corrupt or most prone to corruption [14]. Even police officers who talk about corruption prevalence in criminal justice institutions regard the police service as the most corrupt or more prone to corruption institution [4, 14].

Perceptions of the prevalence of corruption in institutions or countries can impact officials' support for as well as engagement in corruption. Perceiving corruption as widespread creates a normative expectation that corruption is okay, which makes it easy for officials to justify their engagement in corruption. Furthermore, corruption prevalence has a negative impact on the social, political, and economic health of states and compounds the crime problem [58]. Brownsberger [59] noted that the prevalence of corruption can provide an incentive to youths who need money to enter government, distract civil servants from the business of governing, and discourage public service by weakening administrations. However, the relationship between corruption prevalence and support or engagement in corruption is scanty in the literature. A few studies showed that perceptions of corruption prevalence highly correlate with and predict officials' engagement in and support of corruption (e.g., [7, 60, 61]).

Criminal justice systems, institutions, and officials should investigate, identify, and remedy the prevalence of corruption and the reasons accounting for it even if perceptions of corruption prevalence are wrong [7, 14, 62]. Nonetheless, some corruption perception studies are not always reliable due to exaggeration by members of the public to cover up their corrupt behaviours [62, 63]. This is especially so because many studies of corruption prevalence focus on the perceptions of members of the public, which neglects the perspectives of public officials who are often indicted in research. Neglecting the views of public officials may lead to corruption prevention measures, missing aspects that are important to ensuring effectiveness. Addressing this lacuna, the current study explores police officers' views of corruption prevalence in Ghana's justice system. Exploring corruption prevalence from the perspectives of critical stakeholders could confirm, contradict, or complement public perceptions of corruption and provide a foundation for developing effective corruption prevention measures.

2.3 Change in levels of corruption

Scholars and institutions are often interested in measuring the level of corruption because corruption levels can change over time. One of the universally recognised measures of corruption levels is the TI's public perception or opinion survey known as

the Global Corruption Barometer (GCB). In the 2003 and 2004 GCB surveys, for instance, participants were asked to indicate whether corruption will increase or decrease in the next 3 years. While 42% of participants in 2003 thought corruption would increase to some degree, 45% of participants in 2004 thought it would increase [64]. In the 2016 GCB focusing on corruption in the Middle East and North Africa, participants were asked whether the level of corruption in their country had changed or stayed the same in the last 12 months before the survey. Results show that 61% of participants stated that corruption increased to some degree, with only 15% saying it decreased and 19% indicating it stayed the same [65]. The perceived increase in corruption was worst for some countries such as Lebanon (92%), Yemen (84%), and Jordan (75%) compared with countries such as Egypt (28%) and Morocco (26%).

In other GCB reports, a majority of participants stated that corruption has increased to some degree over the past year: 58% in the 2015 survey and 55% in 2019 [52, 55]. However, perceptions often vary between developed and developing jurisdictions: 32% of participants in Europe thought that corruption has increased compared with 38% in Asia, 55% in Africa, and 56% in the Pacific [55, 66–68]. Beyond GCB reports, scholars make efforts to measure changes in the levels of corruption in countries and institutions as admonished by Kobonbaev [69]. In his doctoral study, Malinowski asked police officers in Chicago whether they think corruption in their departments has increased or decreased since they joined the police. However, the results were not reported [70]. Using survey data from the Latinobarómetro that measures public opinion in 18 countries in Latin America, Rose-Ackerman examined whether corruption has increased or decreased [71]. She reported that an overwhelming majority of participants stated that corruption has increased to some degree over the past year. The current study adds to the few studies that explore variations in the levels of corruption from the perspectives of public officials.

2.4 Initiators of corruption

Significant efforts have been targeted at studying corruption from the supply and demand perspectives especially after the Lockheed and Watergate scandals in the 1970s (e.g., [72, 73]). As noted by AlHussaini, the literature usually treats people and firms as victims of the greed of corrupt politicians, legislators, or officials who initiate corrupt transactions from a demand-side [38]. However, this does not portray a full picture of corruption, a phenomenon that always involves two or more parties, any of whom could initiate a corrupt activity [6, 74]. People and firms could initiate corrupt transactions or encourage bribe payments when faced with rigid laws, market uncertainties, weak legal protections, corrupt systems, rare and lucrative opportunities, or competition. Recognising that corruption always involves at least two parties, any of whom could initiate it, AlHussaini defined corruption as the 'willingness and ability of a private party to present a benefit (monetary or nonmonetary) to a public party with the object of inducing them to give special consideration to the interests of the donor (s)' [38]. This definition shows that corruption can be initiated by private parties (e.g., giving payment or gifts in exchange for illegal or legal rights) or public officials (e.g., requiring payments or gifts in exchange for performing their duties or buying votes to reach a political office).

Notwithstanding initiators of corruption being mentioned or discussed in the literature, few studies explore the topic. One of the few studies is Sadigov's examination of initiators of bribes in Azerbaijani higher education by [75, 76]. He found that both demand and offer of bribes were practised widely in higher education but with

the rates of bribes offered greater than bribes demanded. Significantly, professors or administrators refrain from initiating bribes compared with students [76]. Another study that explores initiators of corruption is Graycar's work on corruption in procurement [2]. He examined 42 real cases of public sector procurement corruption in Australia and found that 75% of corrupt activities were initiated by public servants and 25% were initiated by external companies or private persons [2]. The present study contributes to this scant literature by asking Ghanaian police officers to determine who commonly initiates corruption in Ghana's criminal justice system. Thus, the study considers both the supply and demand sides as initiators of corruption.

3. Context of the current study

The study was conducted in Ghana, a country that is praised for its democratic consolidation and is regarded as a beacon of hope for Africa [77–79]. However, evidence shows that Ghanaian criminal justice agencies and officials sometimes do not adhere to due processes [80]. In addition, there are reports and evidence of widespread public perceptions of corruption, which can be detrimental to the country's democracy and economic development [7, 14, 81]. For instance, Ghana scored 43 in the 2020, 2021 and 2022 TI's CPI on a scale of 0 ('highly corrupt') to 100 ('very clean'), which is similar to its 2019 and 2018 scores of 41 [9–12]. The scores from 2018 to 2022 are the lowest for Ghana since 2012, suggesting growing perceptions of institutional corruption and a lack of adequate efforts to tackle corruption in Ghana [82]. The CPI reports also feature the police among the most perceived corruption and corruption-prone public institutions in Ghana.

The policing architecture in Ghana was instituted by British colonial administrators in 1831 to facilitate trading activities and the extraction of agricultural and mineral resources [83]. As a result, the Ghana Police Service has been facing public mistrust, which is compounded by officers' misuse of power during arrest, investigations, and criminal prosecution, and widespread perceptions or reality of corruption [7, 82–84]. Evidence from the recent Afrobarometer surveys shows that over 90% of Ghanaians believed that some, most, or all police officers are corrupt [85, 86]. In terms of trust in the police, a low percentage of Ghanaians expressed high trust in police officers in 2020 (15%) and 2021 (10%). Beyond public perceptions of corruption, reports of police officers using the threat of prosecution to collect bribes from motorists suspected of breaking the rules and people who come into contact with the police are widespread [87, 88]. Despite widespread allegations and perceptions of corruption in the police, few studies examine corruption from the perspectives of Ghanaian police officers [4, 7, 14, 22, 81]. This study contributes to addressing this gap by exploring police officers' perceptions of corruption in Ghana's justice system.

4. Methods

4.1 Data

The study uses cross-sectional survey data from police officers collected across three regions in Ghana: Greater Accra, Ashanti, and Upper East. Whereas the Upper East Region represents rural dynamics and the Ashanti and Greater Accra regions provide urban dynamics. Between July 2017 and February 2018, questionnaires were

administered to police officers in the three regions after ethical approval from Griffith University and permission from the Ghana Police Service (see Appendix A for a sample of the questionnaire). The researcher visited various police stations and briefed police officers present at the stations about the study and informed them of the voluntary, anonymous, and confidential nature of the study. Questionnaires were then left with commanders to be distributed to all police officers at each station visited. Furthermore, participants were asked to seal the questionnaires in envelopes provided before dropping them in boxes placed at commanders' offices. This ensures that nobody knew the officers who completed the questionnaires.

On average, a questionnaire took 25 minutes to complete. The researcher went back to each station to collect questionnaires that had been dropped in the boxes at least 2 weeks after distributing questionnaires. Out of 900 questionnaires distributed, 780 were returned. After cleaning, 164 questionnaires that were uncompleted at all or not fully completed were excluded from the data. Therefore, 616 questionnaires representing a 68% response rate were used for the analysis. **Table 1** presents the characteristics of the sample. Participants were largely evenly distributed across the three regions comprising 38% from Upper East, 33% from Greater Accra, and 29% from Ashanti. 61% of participants stated that they work in urban areas, which largely corresponds to the proportion of participants from the urban regions of Greater Accra and Ashanti. However, further scrutiny of the data shows that about 24% of participants from the urban regions of Greater Accra and Ashanti described their places of work as rural areas. Conversely, 36% of participants from the rural Upper East Region described their place of work as urban.

With gender, about 64% of participants were males and 36% were females: These results are consistent with the work gender distribution in the police service and Ghanaian formal sector. Whereas about 55% of participants had education below the tertiary level, 82.2% of participants earned GH₵2000 or less, suggesting that some officers with tertiary qualifications were not earning an income above GH₵2000. It is common knowledge that some police officers in Ghana pursue further studies without approval from the police due to the difficulty of obtaining approval for further studies. Such police officers often do not submit additional qualifications to the police as they may be investigated and disciplined for pursuing studies without approval. Most officers were ranked below the inspectorate level (77.7%) and worked at the General Policing and Administration (51.4%) and Criminal Investigation Department (40.1%). With an average of 37 years, participants' age ranges from 20 to 59 years with work experience ranging between 1 and 40 years, averaging 14 years.

4.2 Measures

The study focuses on four main areas: (i) evaluation of corruption and corrupt behaviours, (ii) corruption prevalence, (iii) changes in levels of corruption, and (iv) initiators of corruption. How each of the areas of focus was measured is discussed subsequently.

Evaluating corrupt behaviours: This part of the study focuses on assessing police officers' views of some wrongdoings that police officers may engage in, which amount to corruption. Officers were presented with six statements describing corruption and corrupt acts and asked to indicate their level of agreement or disagreement with those statements. Examples of the items are 'It is okay to bend the rules in order to get the job done,' 'The end always justifies the means in police work,' and 'It is acceptable for an officer to hide evidence that may help the prosecution of a case.' They were

Items	Valid n	Mean/percent	SD	Min	Max
Age	568	37yrs	8.29	20	59
Years of service	590	14yrs	7.91	1	40
Gender	616			0	1
Male		64.3%			
Female		35.7%			
Area of work	596			0	1
Urban		60.9%			
Rural		39.1%			
Education	611			0	1
High school or less		55.3%			
Tertiary		44.7%			
Monthly income				0	1
GH₵2000 or less		82.2%			
Above GH₵2000		17.8%			
Region	616			1	3
Upper East		38.3%			
Greater Accra		32.6%			
Ashanti		29.1%			
Rank	613			1	3
Constable/corporal		59.4%			
Sergeant		18.3%			
Inspector and above		22.3%			
Department/unit	612			1	3
CID		40.0%			
GPA		51.5%			
MTTU		8.5%			

Note: CID: Criminal Investigation Department; GPA: General Policing and Administration; MTTU: Motto Traffic and Transport Unit.

Table 1.
Descriptive statistics of sample characteristics.

measured on a five-point scale ranging from 'Strongly Disagree' to 'Strongly Agree'. However, to simplify the analysis and results, agree and strongly agree were combined into one category known as 'agree' and disagree and strongly disagree were combined into one category called 'disagree.'

Corruption prevalence: This part of the study addresses officers' assessment of corruption prevalence among different criminal justice institutions. Officers were asked to indicate the extent to which they believe each of the justice institutions (i.e., Police, Judiciary, A-G's Department, and Legal Profession) are corrupt. The response categories for each institution were measured on a four-point scale ranging from 'Not Corrupt at All' to 'Extremely Corrupt.'

Level of corruption: Another measured area is changes in the levels of corruption, which focuses on police officers' perceptions of the levels of corruption in various justice institutions over the past 5 years. The question was as follows: Over the past 5 years, has the level of corruption in the following parts of the criminal justice system increased a lot, increased somewhat, stayed the same, decreased somewhat, or decreased a lot? The justice institutions were Police Service, Judiciary/Courts, Attorney-General's Department/Prosecution, and Legal Profession/Lawyers.

Initiators of corruption: The last area focuses on police officers' perceptions of the initiators of corruption in the criminal justice system. Officers were presented with the question: Who initiates bribe payment in the criminal justice system either by offering it or asking for it? There were four response categories (Not Common At All, Not Really Common, Common, and Very Common) for each of the actors in the criminal justice system: police officers, judges/magistrates, prosecutors, lawyers, victims, suspects/accused persons, and other judicial officers.

4.3 Data analysis

The data for this chapter was analysed through descriptive statistics focusing on frequencies and proportions of participants' responses to the various questions and categories. Frequencies and percentages for each item were analysed to ascertain participants' aggregated responses. Descriptive statistical analysis is appropriate for this study because the chapter seeks to understand the general perceptions of police officers regarding corruption in Ghana's justice system. The descriptive statistics used allows the data to be visualised and presented in a meaningful and understandable way that allows for a simplified interpretation of the data set. It helps to understand the characteristics, patterns, and trends of the data and compare different groups or variables [89]. A key limitation of an exploratory study and descriptive statistics is not being able to draw conclusions or make predictions about the general population. However, this was not the intention of the current study. Nonetheless, it should be noted that exploratory studies and descriptive statistical analysis are important for scientific research and are used widely [89].

5. Results

This section presents the results of the study, focusing on officers' evaluation of corrupt behaviours, the prevalence of corruption in criminal justice institutions, the level of corruption in criminal justice institutions over time, and the initiators of corruption in a justice system.

5.1 Evaluation of corrupt behaviours

The first results focus on police officers' evaluation of corruption and corrupt behaviours, which are presented in **Table 2**. As can be seen in the table, the majority of officers accept that corruption is an abuse of their power or authority for private gain (66%) and a serious problem in the Ghana Police Service (64%). However, a lower proportion of officers agree with the specific acts of corruption presented to them. For instance, 48, 25, and 16% of officers believed that the end always justifies the means in policing, it is okay to bend the rules in order to get the job done, and it is okay for an officer to hide evidence to help a suspect, respectively. Almost half of

Items	Disagree	Neutral	Agree	Total
Corruption is an abuse of authority or power for private gain	161 (26%)	47 (8%)	393 (66%)	601 (100%)
Corruption in the police is a serious problem	163 (27%)	58 (10%)	385 (63%)	604 (100%)
When it comes to police work, the end justifies the means	229 (38%)	82 (14%)	291 (48%)	602 (100%)
It is okay for an officer to hide evidence to help a suspect	493 (81%)	16 (3%)	97 (16%)	606 (100%)
It is okay to bend the rules in order to get the job done	312 (68%)	40 (7%)	151 (25%)	603 (100%)
It is the public that corrupt justice officials	101 (17%)	74 (12%)	430 (71%)	605 (100%)

Table 2.
Evaluation of corruption and corrupt behaviours.

police officers agreeing that the end justifies the means in police work is substantial and can have serious implications for policing. For instance, officers thinking that way may do anything including committing corrupt acts to achieve results in the end. Interestingly, a substantial number of officers (71%) believed that it is the public that bribes justice officials including the police. The results suggest that although police officers regard corruption as a serious problem in the police and justice system, they blame the public for the presence and persistence of corruption in the justice system.

5.2 Prevalence of corruption among criminal justice institutions

The study also assesses officers' views of corruption prevalence in and among criminal justice institutions. The results are captured in **Table 3**. Although the figures show variation across the different response categories and institutions, it can be said that a significant proportion of officers believe all criminal justice institutions are corrupt to some extent. With the police, for instance, 77% of officers indicated that they are either slightly, quite, or extremely corrupt, which is similar to the judiciary (85%), A-G's Department (83%), and the legal profession (83%). Although it is expected that police officers will present a good image of their institution compared with other institutions, differences in the number of participants regarding the police as corrupt compared with the other institutions are low and not statistically significant. Nonetheless, 77% of police officers asserting that there is some form of corruption in the police service is a significant result worth noting. The results for the police and judiciary are consistent with the results from public perception corruption surveys (see [52, 55, 65, 85, 90–92]). The 85% of officers regarding the A-G's Department

Item	Not at all corrupt	Slightly corrupt	Quite corrupt	Extremely corrupt	Total
Police service	137 (23%)	246 (40%)	171 (28%)	57 (9%)	611
Judiciary/court	91 (15%)	184 (30%)	213 (35%)	123 (20%)	611
A-G's Department	108 (18%)	229 (37%)	181 (30%)	92 (15%)	610
Legal profession	94 (15%)	183 (30%)	195 (32%)	138 (23%)	610

Table 3.
Prevalence of corruption among criminal justice institutions.

as corrupt contradict Amagnya's finding of much not heard of the A-G's Department on issues of corruption [4].

5.3 Level of corruption over 5 years

Officers were also asked to assess the level of corruption in four criminal justice institutions over the past 5 years. Results are captured in **Table 4**. More officers believed that corruption in the four justice institutions has decreased over the past 5 years compared with those who thought it had increased. Specifically, 52% of officers believed that corruption in the police decreased somewhat or a lot compared with increasing (26%) or staying the same (22%). A majority of police officers indicating that corruption in the police has decreased over the past 5 years are expected because police officers across all fronts often deny research describing the police as the most perceived corrupt institution by the public (see [93–95]). For the judiciary, 42% of officers thought corruption decreased somewhat or a lot, which is similar to the A-G's Department (44%) and the legal profession (37%). The high percentage of participants stating that corruption in the four justice institutions has decreased is higher than the 36%, 19%, and 6% recorded in the 2017, 2020, and 2021 Afrobarometer surveys, respectively [86, 91, 92].

5.4 Initiators of corruption

The last area of focus is initiators of corruption in the criminal justice system. Participants were asked to indicate stakeholders that commonly initiate bribe payments in the justice system. The results are presented in **Table 5**. Only 37% of officers believed that police officers commonly initiate bribe payments during criminal justice encounters. This result is suspicious because of evidence of police officers regularly demanding bribes from motorists at road checkpoints in full view of members of the public even in instances wherein motorists committed no offence [96, 97]. It is common in Ghana to see police officers mounting road checks in the early part of the day, a peak period when commercial drivers transport people to business centres and markets. During such operations, motorists especially commercial drivers usually pay bribes to police officers in full view of passengers in the vehicles to avoid being arrested or delayed.

Fewer proportions of participants regard prosecutors (39%), judges or magistrates (31%), and victims (26%) as common initiators of bribe payments. However, a majority of police officers believed that suspects or accused persons (78%), lawyers (53%), and other judicial officials (50%) were common initiators of bribe payment in

Item	Increased a lot	Increased somewhat	Stayed same	Decreased somewhat	Decreased a lot	Total
Police Service	84 (14%)	73 (12%)	131 (22%)	154 (25%)	164 (27%)	606
judiciary	84 (14%)	120 (20%)	148 (25%)	153 (25%)	100 (17%)	605
A-G's department	77 (13%)	103 (17%)	159 (26%)	144 (24%)	120 (20%)	603
Legal profession	97 (16%)	107 (18%)	179 (30%)	131 (22%)	90 (15%)	604

Table 4.
Changes in corruption levels over the past five years.

Item	Not at all common	Not really common	Common	Very common	Total
Police officers	162 (27%)	221 (36%)	170 (28%)	52 (9%)	605
Judges/magistrates	134 (22%)	285 (47%)	137 (23%)	47 (8%)	603
Prosecutors	117 (19%)	253 (42%)	183 (30%)	52 (9%)	605
Lawyers	94 (16%)	187 (31%)	207 (34%)	117 (19%)	605
Suspects/accused persons	45 (7%)	88 (15%)	183 (30%)	292 (48%)	608
Victims	168 (28%)	280 (46%)	110 (18%)	47 (8%)	605
Other judicial officials	95 (15%)	209 (35%)	209 (35%)	91 (15%)	604

Table 5.
Common initiators of corruption in the criminal justice system.

the justice system. Suspects or accused persons, lawyers, and other judicial officials being regarded as common initiators of bribe payments are consistent with the findings in qualitative studies by Amagnya [4, 14]. Suspects or accused persons emerging as the most common initiator of bribe payment makes sense because their freedom is often under threat and they could do anything to retain their freedom including initiating and paying bribes to justice officials. In the same vein, lawyers can initiate bribes because they always want to win cases for their clients so that they can attract more clients and earn more income. The public-facing and intermediary role of other judicial officials such as court clerks, secretaries, and bailiffs may account for them being regarded as common initiators of corruption.

6. Discussion

An important finding worth discussing is the blame game wherein police officers blame the public for corruption in the justice system by indicating that it is the public that corrupts the police and justice officials. This finding is similar to Amagnya's studies wherein judges/magistrates, police officers, and prosecutors blamed other justice officials for corruption in Ghana's justice system [4, 14]. In this study, blaming others is unsurprising considering that people who engage in corruption usually blame or accuse other actors as a way of covering up their corrupt activities or justifying the presence of corruption in their institutions [14, 62, 63, 98]. The posture of blaming others for the existence of corruption suggests that police officers may not recognise, accept, and take responsibility for their role in creating and sustaining corruption. This could be inimical to corruption control because recognising and acknowledging one's role or contribution to a problem is vital in finding a solution to the problem. If police officers do not recognise, acknowledge, and accept responsibility for contributing to the creation and/or persistence of corruption in their institution, then they may not think of or work towards addressing their complicity and the corruption problem. Leaders of the police and justice institutions should stop denying allegations and reports of corruption in their institutions because such denials appear to be influencing frontline officers' attitudes towards corruption.

The study also found that participants believed that corruption is prevalent in all criminal justice institutions particularly the police and judiciary or court system. This

result is consistent with the results of Amagnya wherein a majority of justice officials admitted that corruption is widespread in the police and judiciary in Ghana and public perception surveys in Ghana and elsewhere [4, 8–17, 99]. The result not only confirms public perceptions of corruption in the justice system but also suggests that corruption is a real problem in the justice sector: Police officers' views about corruption in the justice system are based on actual experiences of corruption as they work across all aspects of the justice system from arrest to sentencing. Leaders of various justice institutions need to admit the existence of corruption in their institutions and adopt measures to deal with corruption allegations to improve perceptions among staff and members of the public.

Contrary to the results of previous studies (e.g., [86, 91, 92]), a significant proportion of participants in this study thought that corruption in all the justice institutions has decreased over the past 5 years. The high percentage of participants indicating that corruption has decreased over the past 5 years may be because of the change in government in January 2017 from the Mahama-Amissah Arthur's-led NDC to Akuffo-Addo-Bawumia's-led NPP. This may be particularly so because the NPP's victory in the 2016 elections was largely due to labelling the NDC government as corrupt. In addition, new governments often enjoyed goodwill and optimism in their first couple of years when it came to the issue of corruption [100]. The new government's efforts of enacting an Office of Special Prosecutor Act, establishing an Office of Special Prosecutor, and appointing a special prosecutor in the person of Martin Amidu (see [81, 101]) may have given police officers some optimism about the government's ability to tackle corruption. It is also possible that police officers were optimistic about corruption because they see themselves as part of the government and often at the receiving end of corruption accusations by members of the public. Future studies should segregate and compare the views of members of the public and justice officials when measuring changes in levels of corruption.

It has also emerged that participants regarded lawyers, suspects/accused persons, and other judicial officers as common initiators of bribe payment in the justice system. These three actors emerging as common initiators of bribe payment operate at the pretrial stages of the justice system, which is consistent with the findings of Amagnya [4, 14]: Corruption is most prevalent at pretrial stages and involves court clerks, lawyers, and bailiffs. Surprisingly, police officers who operate at an entry point to the justice system identified as the most corruption-prone stage [14] are not regarded as one of the most common initiators of bribe payment. Although police officers presenting a positive image of their institution may account for this unexpected result, suspects/accused persons and lawyers may be the actors who initiate bribe payments during encounters with police officers at the entry stage. Based on the result, it is proposed that efforts to tackle corruption in justice systems should be targeted at pretrial stages and entry points to justice institutions.

7. Conclusion

This study explores the nature and extent of corruption in Ghana's criminal justice system from the perspectives of police officers. Although this study has remarkable strengths such as covering three regions of Ghana including a large sample and multiple measures, some limitations should be noted. First, conclusions drawn should be treated cautiously because the data analysis is descriptive and most of the participants are junior officers who are only a subset of police officers. In addition, there is

limited scope for generalisation because the data came from a nonrandom sample and the analysis is descriptive. Furthermore, because the study measured police officers' perceptions of corruption in the criminal justice system, the results may be affected by desirability bias—the tendency for police officers to present their institution or departments in a positive light (see [14, 102]). Future studies need to include a representative and multiple sample and use experimental design that can better capture corruption issues.

Nonetheless, the results or findings are revealing in that they corroborate public perceptions of corruption in the justice system. Most participants believed that corruption is prevalent and is a serious problem in the justice system, which is consistent with previous studies in which members of the public and justice officials were participants. The results suggest that leaders of justice institutions' continuous denial of research reports on corruption and allegations of corruption are gaining ground with frontline officials and influencing their attitudes towards corruption. This is manifested in participants stating that corruption in the four criminal justice institutions has decreased over the past 5 years, a result that contradicts the findings of public perception surveys. The current findings' implication for corruption control is that leaders of justice institutions need to stop denying corruption allegations and research that finds criminal justice institutions and officials as among the most corrupt. Rather, leaders should collaborate with complainants and researchers to identify the source of the problem and think of measures needed to address it. This will improve public confidence and trust in criminal justice institutions and reduce the high perceptions of corruption in criminal justice institutions by staff and members of the public.

Appendix: Questionnaire for police officer

JUSTICE-SECTOR CORRUPTION SURVEY, 2017/2018

Our survey starts with some questions about yourself. Please answer the following questions.

1. You are? **(Please tick one)**
☐Male ☐Female

2. How old are you? **(Please write down your age)**
.....(# of years)

3. What is your religious background? **(Please only tick one)**
☐No religious affiliation
☐Muslim
☐Traditional Practice
☐Catholic
☐Anglican
☐Methodist
☐Protestant/Pentecostal
☐Other, please specify _____

4. What is your **highest** educational qualification? **(Please only tick one)**
☐Primary school completed (6 years)
☐Junior Secondary School completed (12 years)
☐Senior secondary school (SSS/SHS) completed
☐Training College completed
☐Completing/completed a polytechnic course

☐Completing/completed an undergraduate course
☐Completing/completed a graduate university course

5. What is your **present** rank in the Police Service? **(Please only tick one)**
☐Constable
☐Lance Corporal
☐Corporal
☐Sergeant
☐Inspector
☐Chief Inspector

6. How **long** have you been a police officer? **(Please give the number of years in the police service)**
.....(# of years)

7. Which department in the police service do you work with **presently**? **(Please only tick one)**
☐General Policing and Administration
☐Motor Transport and Traffic Department (MTTD)
☐Criminal Investigation Department (CID)

8. Where have you worked most of the time **(Please only tick one)**
☐Rural areas ☐Urban areas

9. What is your average monthly range of salary after taxes, that is what you and your family can spend (**Please only tick one)**
☐GH¢2,000 or less
☐ Above GH¢2,000

10. People differ in their opinion about corruption in criminal justice agencies (i.e. Police, Judiciary/ Courts, Attorney-General's Department and Lawyers). What is your opinion? Please indicate whether you Strongly Agree (SA); Agree (A); Neither Agree nor Disagree (NA/D); Disagree (D); or Strongly Disagree (SD) with each statement. **(Tick only one for each statement).**

	SA	A	NA/D	D	SD
a. Corruption is an abuse of police authority/power for gain	☐	☐	☐	☐	☐
b. It is okay to bend the rules in order to get the job done.	☐	☐	☐	☐	☐
c. When it comes to police work, the end justifies the means.	☐	☐	☐	☐	☐
d. It is a good thing for an officer to hide evidence that may help the case of a suspect.	☐	☐	☐	☐	☐
e. Corruption in the Ghana police is a serious problem	☐	☐	☐	☐	☐
f. It is the public that corrupt police officers	☐	☐	☐	☐	☐

11. Different parts of the criminal justice system are more affected by corruption than others. What do you think about the following branches of the criminal justice system? Are they Extremely Corrupt; Quite Corrupt; Slightly Corrupt; or Not at All Corrupt. **Please tick one for each institution.**

	Extremely Corrupt	Quite Corrupt	Slightly Corrupt	Not at all Corrupt
a. Police Service	☐	☐	☐	☐
b. Judiciary/Courts	☐	☐	☐	☐
c. Attorney-General's Department	☐	☐	☐	☐
d. Lawyers.	☐	☐	☐	☐

12. Over the past five years, has the level of corruption in the following parts of the criminal justice system Increased a Lot; Increase Somewhat; Stayed the Same; Decreased Somewhat; or Decreased a Lot? **Please tick one for each institution.**

	Increased a Lot	Increased Somewhat	Stayed Same	Decreased Somewhat	Decreased a Lot
a. Police Service	☐	☐	☐	☐	☐
b. Judiciary/Courts	☐	☐	☐	☐	☐
c. Attorney-General's Department	☐	☐	☐	☐	☐
d. Lawyers.	☐	☐	☐	☐	☐

16. **Who initiates** bribe payment in the criminal justice system, either by offering it or asking for it? Please indicate for each group whether offering or asking for a bribe is Very Common; Common; Not Really Common; or Not Common at All? **(Please tick one for each group).**

Initiating bribe paying in this group is	Very Common	Common	Not Really Common	Not Common at All
a. Suspects/Accused Persons	☐	☐	☐	☐
b. Victims	☐	☐	☐	☐
c. Police Officers	☐	☐	☐	☐
d. Judges	☐	☐	☐	☐
e. Prosecutors	☐	☐	☐	☐
f. Lawyers	☐	☐	☐	☐
g. Other Judicial Officers	☐	☐	☐	☐

Thank you for completing the questionnaire and your support of the research. Please put the completed survey into the brown envelope, seal it, and drop it into the SURVEY box provided at your police station.

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Chapter 6

Sun, Fun and Science: Using Technology to Engage Minority Youth in Miami Beach

Noel Castillo, Arthur Martineau, Deborah Martineau and Elise Spina-Taylor

Abstract

This case study describes how a multiorganizational partnership between the Miami Beach Police Department (MBPD), Miami Beach Police Athletic League (MBPAL) and Axon's Global Strategic Community Impact Team was formed to address a community concern. The concern centered around the lack of minority youth's participation and perceived interest in science, technology, engineering, and math (STEM) programs. A coalition of caring cops, counselors, and consultants set out to address the situation, using drones and related technology to connect with youth at the local MBPAL. This initiative also helped youth to create positive experiences with the police and their community. Due to the exploratory nature of this program, this initiative lacked measurable outcomes, apart from anecdotal accounts. It was recommended that the MBPAL pursue programs which measure such outcomes, of which they did. This experience helped the MBPAL to focus on youth interventions that included measurable outcomes. Ultimately, it served as a springboard for other grant funded programs that required performance measures.

Keywords: STEM, community policing, minority youth, drones, Miami Beach

1. Introduction

One mentions the City of Miami Beach (CMB) and the first thing that may cross your mind is tourism, sun, and fun. It certainly does for the thousands of tourists that come from across the country and all over the world. You may imagine picturesque beaches populated by famous people, with the paparazzi pressing for a picture. Sexy people sitting in exotic cars, as you stroll down the famous Ocean Drive, helps to scintillate your senses, as your mind races faster than the motorcycles cruising on the causeways. Your attention then shifts to the iconic Art Deco architecture, that transports you back to a time of glitz and glamor. When the sun inevitably goes down, your thoughts wander to the wondrous nightlife that welcomes you to throw caution to the wind. But be wary weary traveler, do not judge a book by its cover. For some of the pages of this modern fairy tale are written in invisible ink, visible only to the nameless

faces that toil behind the scenes, career criminals who prey on unsuspecting victims, and the police officers that interact with all of them.

Traditionally in South Florida, those who work under the hot tropical sun, provide manual labor to the hotels, and are tourists' service providers, tend to be minorities earning comparatively lower wages. 13.7% of the CMB's population lives below the poverty line, slightly higher than the national average [1]. The most common racial/ethnic group that forms part of this statistic is categorized as Hispanic [1]. The literature suggests that there is a correlation between growing up in poverty and crime, particularly for minority populations in the United States (US) [2].

Historically, criminal activity in the CMB revolves around tourism, nightlife and the often-accompanied sale and use of illegal drugs [3]. The sordid stories related to these phenomena have made headlines, humiliated some, and served as the inspiration for countless books and movies. Unfortunately, this criminal activity is not only reserved for adults. At times, police encounter juvenile victims, witnesses, and offenders in the performance of their duties.

Less than a decade ago it appeared that juvenile crime was on the decline nationwide in the US [4]. This included status offenses, non-property crimes, and violent crimes. The research has shown that juvenile related property, drug, and other offenses were at their lowest levels since 2005 [5]. Local numbers in Miami-Dade County (MDC), of which the CMB is a part of, tended to reflect the national data, with some notable exceptions [6].

MDC, consistently experienced drops in juvenile arrests every fiscal year (FY) from 2018 to 2021 [6]. This included drops of 4% (2018–2019), 29% (2019–2020), and 36% (2020–2021) [6]. The drops in juvenile crime during and in the immediate aftermath of the COVID-19 pandemic, certainly sparked an interesting discussion. Some contended that restrictions imposed during the pandemic led to factors that may have contributed to the reductions in juvenile crime, to include less social interaction with others, and increased parental involvement at home [7, 8].

Unfortunately, these trends did not continue. For FY 2021–2022, MDC reported a 24% increase in juvenile arrests [6]. Interestingly, the CMB experienced a 51% decrease in juvenile arrests during the same fiscal year [6]. Citing the cause of this decline has proven difficult, but we may have identified some correlating factors, to include afterschool programs, organized youth activities, and informal deterrence measures.

Past studies have indicated that there is a 'prime time' for juvenile crime, between the hours of 2 pm and 6 pm [9, 10]. This information has often served as an impetus for the use of afterschool programs in the US. One could argue that if youth are engaged in positive activities (i.e. extracurricular activities in school, athletics, afterschool programs) during this prime time for crime, it limits their exposure to criminal activity. Furthermore, the peers, mentors, and facilitators of such programs/activities could provide a form of informal deterrence to criminal and deviant acts which youth in their programs may contemplate committing. Informal deterrence and its accompanying efficacy can be defined as the true or expected communal reactions toward those who commit crimes/deviant acts, that help to avert the commission or repetition of said acts [11]. The literature has demonstrated that informal deterrence, initiated by family members, peers, or one's own moral code, can be more effective than other deterrence models such as certitude of arrest or gravity of punishment [11–13].

The CMB has a population of almost 60,000 children [14]. Approximately 15.3% of these children live below the poverty line [14]. Sixty three percent of them are

categorized as being Hispanic or Black [14]. Jerry Libbin is the president and CEO of the Miami Beach Chamber of Commerce. He also served as a Miami Beach City Commissioner from 2005 to 2013. He once commented, "...believe it or not, people have a perception of Miami Beach as this "well off" community, but there's extreme contrast. You do have super wealthy people buying $10 million and $20 million condos, but you have got about 90% of the children on the free lunch program. So, that's surprising for people to hear that in Miami Beach so many kids are on a free lunch program because they qualify by federal standards [15]."

Anecdotal accounts shared with MBPAL staff members indicated that these children come from immigrant families who earn low wages, face increasing rental costs, and cannot afford quality afterschool activities or are unaware of resources available to them. Recent data indicated a pattern of migration out of MDC, due in part to a low-wage economy and excessively high housing costs [16]. Thankfully, reputable, and affordable afterschool programs/youth activities in the CMB are plentiful.

The Children's Trust (TCT) was established via a voter referendum over 21 years ago and it serves as a committed source of revenue obtained from property taxes [14]. Their mission has been to cooperate with the community to plan, promote and pay for judicious investments that help the lives of all children and families in MDC. There are 24 providers funded by TCT in the CMB. These providers manage programs related to community awareness and advocacy, early childhood development, health and wellness, parenting, and youth development. In addition, there are three TCT funded afterschool programs, located in three different parks in the CMB.

The CMB sponsors and supports several programs and initiatives for children of all ages. Youth programs and initiatives include a college scholarship fund, teen-only job fairs, and a Miami Beach Youth Commission [17]. For the past 5 years the CMB has help fund activities that help to develop and implement an afterschool enrichment program at public schools in Miami Beach with limited access to Science, Technology, Engineering, and Mathematics (STEM) activities [17]. They understood that there was a need in this community for these types of programs. The research has shown that for minority youth being raised in poverty-stricken homes and communities, there is a sizeable gap in achievement and interest in STEM related subjects [18].

One notable CMB initiative, (of which the program we focus on this chapter drew inspiration from) is the STEAM Plus program [19]. It is a Miami Beach Commission sanctioned program that was a collaborative effort between the CMB, local Miami-Dade Public Schools and The Bass Museum of Art. The program brings cultural groups and artists to seven local Miami Beach public schools, to include elementary, middle, and high school level. "The objective of the STEAM Plus program is to integrate high quality visual and performing arts into science and math classes as part of the Miami-Dade school district's STEAM initiative, which stands for science, technology, engineering, art and math [19]."

Goodrich et al. [20] noted that a critical point of intervention with youth was to create positive experiences with the police and provide opportunities for youth to connect with their community in a positive manner. The question for local leaders was could a STEM program run by cops, connect with kids in their local community, particularly minority youth. One organization was uniquely positioned to spearhead such an initiative. It was the Miami Beach Police Athletic League (MBPAL).

The title of this book is Global Trends in Law Enforcement-Theory and Practice. What follows is an account of the manner in which caring cops, counselors, and consultants set out to put theory into practice. It delves into who these individuals were and what motivated them to engage with local youth. This chapter will also

breakdown how the program was implemented in three main phases; namely, a drone boot camp, visit to Axon headquarters, and body-worn camera familiarization. Lastly, this account will conclude with examples of other youth-based initiatives this program helped to spawn. Initiatives which would require performance measures and measurable outcomes.

2. Caring cops, counselors, and consultants

What we know matters, but who we are matters more. – Dr. Brene Brown [21]

Since the first Police Athletic League (PAL) opened its doors in New York City (NYC) in 1936, many cities throughout the US and around the world have pursued similar initiatives. The literature suggests that PALS have positively influenced the behavior of participants who engaged in their activities, preventing them from committing crimes or participating in socially deviant behavior [22].

Since 2010, Miami Beach Police Officer Arthur Martineau has been the Executive Director of MBPAL. Arthur was born and spent his formative years in NYC, coincidentally, home of the first PAL. He was raised by his Grenadian grandparents, thus forging a powerful connection with his family's immigrant past. This experience would help develop his empathy for the immigrant children he would help serve at the MBPAL. Arthur would later serve in the US Air Force (USAF) Reserve, work for the Florida Department of Corrections, and ultimately become a Miami Beach Police Officer in 1997. His time in the USAF exposed Arthur to cutting edge technology. He would eventually use technology to help connect with local youth.

The Miami Beach Police Athletic League (MBPAL) was first established in 1958, making it the oldest police athletic league in the state of Florida. "The mission of the Miami Beach Police Athletic League is to foster positive relationships between youths and law enforcement; As well as cultivate and improve the moral and civic standards of the youth in our community [23]." One could argue that in 1958, the MBPAL was ahead of its time regarding police community outreach efforts to youth, particularly in the state of Florida. This was important, since 1959 would usher in substantive changes to MDC, including Miami Beach.

After the Cuban Revolution in 1959, Cuban exiles poured into the Miami area, to include Miami Beach [24]. They would ultimately be joined by successive waves of immigrants from Latin America and throughout the Caribbean. More than half of the CMB's population is foreign-born (53.7%), considerably higher than the national average of 13.5% [1]. This influx of Hispanic immigrants would forever fundamentally change the social, economic, and cultural fabric of South Florida. All the authors of this chapter can trace their family's lineage through successive immigrant waves in the US, including from Europe, Latin America, and the Caribbean.

In 1959, desegregation efforts would begin in Dade County (today known as MDC) and continue until 1972, when the courts announced that the local school system was deemed unitary [25]. Throughout the 1950's and 1960's cultural icons like Sammy Davis Jr. and Muhammad Ali could work, train, and entertain audiences in Miami Beach, but could not spend the night there, because of segregation laws [26].

Newly appointed Miami Beach Police Chief Wayne Jones is the CMB's first Black police chief. He recently recounted a story from his youth to the media:

> *Years earlier, when Jones was a teen living in South Florida, his dad advised him to stay away from Miami Beach because of perceived racial tensions. "He was told that because there is this perception that if you're young and black and male driving through these cities at any given time, you could be arbitrarily stopped, ticketed, and or maybe even arrested simply because of the color of your skin," said Jones [27].*

Chief Jones was then asked a follow-up question, which was accompanied by an insightful reply, "What do you think is the perception of how people of color, African-Americans, are treated by the police department here in Miami Beach? "It's changed significantly because this is not the police department of 50 years ago," added Jones. He attributes that to internal accountability. "We're always striving to get better at what we do," said Jones [27]."

Part of getting better at what one does in police work often involves embracing new technologies and community outreach efforts. One of the leaders in these areas is Axon. Axon (formerly TASER) had gradually transitioned from a small company focused on non-lethal conducted electrical weapons (CEWs), to a platform-based company connecting various technologies [28]. These include both body-worn and in-car cameras, CEWs, signal side-arm technology, and the management of data and digital evidence [28]. Chief Jones was familiar with these technologies. The MBPD was the first police department in South Florida to implement body-worn-cameras (BWC's), while simultaneously conducting a study measuring its effects on court outcomes and examining its effects on officer's attitudes and policing behaviors [3, 29, 30]. What intrigued Jones was Axon's community outreach efforts in the form of its Global Strategic Community Impact Team.

Axon's overall mission is to protect life, principally using technology [31]. Axon's Global Strategic Community Impact Team attempted to align the company's mission with local community needs to construct a more secure and equitable future for all [31]. Their community engagement model consisted of:

> *Bringing diverse community voices and ethical expertise into the product development process to ensure that Axon's products meet the highest ethical and equitable standard in the market. Strategically investing in community-led local and national organizations to further our mutual goals of protecting life and accelerating justice. Bringing public safety agencies and their local community together to support the co-creation of public safety and build mutual understanding [31].*

Unbeknownst to Jones, Arthur Martineau was inquiring about the same Axon community outreach efforts. Both men would come together to help launch this initiative, but these men were not alone. The proverb, "Behind every great man is a great woman," is fitting in the recounting of the genesis of this initiative [32]. MBPD Officer Deborah Martineau would play an instrumental role in this cause as well.

Deborah was born in London, England and was the daughter of Guyanese immigrants. She was raised in a loving household, along with her five siblings. In her home love was plentiful, but money was not. The family struggled financially and eventually emigrated to the US. While living in Boston she had her first encounter with racist neighbors after her family settled in a neighborhood devoid of minorities. Her parent's immigrant work ethic and entrepreneurial spirit led the family to New York City, where her parents opened a restaurant. Growing up in NYC during the 1980's gave Deborah a front row seat to the crack cocaine epidemic and the detrimental effects it had on the youth of her neighborhood.

In an effort to make a difference, Deborah joined the NYC Department of Corrections as a Corrections Officer. She would watch as youth entered her correctional facility on a daily basis. Deborah felt in her heart that there had to be a better alternative to incarceration for most of the juvenile offenders. The literature appeared to support her conclusions [4, 33]. Research indicated that initiatives which were conducted in the youth's community were more beneficial than incarceration [4]. Further concerns associated with juvenile detention include negative psychological effects of incarceration (particularly on their developing minds) and effective post detention efforts that reinforce the informal deterrence of positive peers, mentors, and family members [4].

Deborah's experiences would lead her to begin volunteering in local churches and community events catered toward youth. In 2000, Deborah would move down to South Florida and become a police officer. Eventually, she began to volunteer at the MBPAL through its mentorship programs. She currently works in the MBPD's Community Affairs Unit, a unit that is responsible for most of the department's community outreach efforts. The MBPAL has a slogan emblazoned on the side of their van which reads, "Filling playgrounds not prisons." Through their work with MBPAL and the MBPD, Arthur and Deborah had made it a point to turn this slogan into significant action.

At the time, the MBPAL offered a host of programs that ran the gamut of youth engagement to include athletics, mentorship, early engagement, and assistance to local youth [23]. The demographics (i.e. race/ethnicity, family's income level) of the youth engaged in these programs are representative of the local community. Athletic programs included boxing, soccer, lacrosse, and American football. Mentorship initiatives consisted of the Boy Scouts of America, Police Explorers (A program that provides high-school aged youth an opportunity to learn about a career in law enforcement), a teen mentoring project, and a teen work summer program. Early engagement efforts focused on the Kindergarten Cop program, where kindergarteners welcomed an MBPD officer into their classroom monthly to learn basic safety skills. Events catered for underprivileged youth and their families included a Thanksgiving Turkey Giveaway and Back to School backpack/school supplies distribution. The MBPD Community Affairs Unit officers often helped to implement these programs.

What was missing from these efforts was the use of technology to engage with local youth. The thoughtful trifecta of Jones and the Martineaus began planning and discussing options with Axon's Global Strategic Community Impact Team to implement their collective vision of engaging local youth. This thoughtful trifecta supported by the efforts of a host of other MBPD officers would serve as the caring cops of this story. MBPAL civilian staff would assist as youth counselors. Axon's Global Strategic Community Impact Team would provide both youth counselors and consultants. Whereas the MBPAL programs as a whole, looked to fill playgrounds not prisons, this collective partnership looked to have youth put away their phones and learn about drones. They wanted the participants to focus on police body-worn cameras and not their iPhone cameras.

3. Program implementation

> *Dreams can become a reality when we possess a vision that is characterized by the willingness to work hard, a desire for excellence, and a belief in our right and our responsibility to be equal members of society. – Janet Jackson [34]*

At first, Chief Jones reached out to Lieutenant Elise Spina-Taylor (PsyD) of MBPD's Training Unit. Her unit was responsible for putting on a Citizen's Police Academy (CPA). The CPA is an award winning 12-week program that allows those who work or live on Miami Beach to develop a better understanding of how the MBPD operates [35]. CPA applicants must be 18 years or older to attend the course. Chief Jones wanted to conduct a dry run of the course with the CPA students and wanted Elise to help evaluate its effectiveness in engaging with the participants. Dr. Spina-Taylor's experience in the field of psychology and officer wellness evaluations made her an ideal person to include in discussions related to the implementation of this initiative [36, 37].

Axon's Global Strategic Community Impact Team provided a three-hour class to the CPA students that focused on the use of body-worn cameras (BWC) and drones. Unlike other technologically focused classes, Axon's consultants did not focus solely on the mechanics of the technology. Instead they also attempted to understand how their products effected policing in Miami Beach by engaging in discussion with the CPA students. The entire enjoyed the presentation, however some of the older students seemed to be bewildered at times by the technology. Interestingly enough, the younger CPA students in attendance (ages 18–25) were mesmerized by the presentation. It was evident to Elise and the members of her Training Unit that this program would connect with youthful audiences who were more familiar with technology than older students. The stage was set to roll out the program to the MBPAL youth participants.

The first phase of this initiative consisted of a drone boot camp. MBPAL teen participants were selected from the Police Explorers and Mentoring Program. This two-day training consisted of a thorough and engaging experience, led by Axon's experts in drone technology. The goal of the boot camp was to expose the teens to technology used by police departments around the world and to build bonds between these same teen participants and the MBPD police officers who assisted in the instruction. MBPD Sergeant Tony Loperfido of the Technical Operations Unit, would play a pivotal role in this instruction as well, given his responsibilities in implementing the MBPD's drone program.

The first day (Saturday, February 26, 2022) consisted of basic drone training in a classroom setting. Axon's counselors and consultants went over the scientific and legal aspects of drone technology, giving the participants a better understanding of the rules and ethics behind using this advanced technology. The next day (Sunday, February 27, 2022) the MBPAL students were given the opportunity to put what they learned the previous day into action. Every participant was able to fly high-tech, state-of-the art drones. Ultimately, the day culminated in an exciting relay competition that had everyone on the edge of their seats (including the adults). This phase was documented in an engaging and informative video [38].

The second phase of this initiative took place during the first weekend of March 2022. It consisted of a unique and special experience. A handful of exemplary MBPAL students were selected for an all-expenses-paid trip to the Axon headquarters in Scottsdale, Arizona. There the students learned more advanced techniques related to drone technology. These teens were able to tour Axon's state of the art facility and participate in hands-on activities with leading experts in the field of drones and BWC's. Many of the activities were held on Axon's 50-acre outdoor facility that housed state-of-the-art training tools and simulated crash sites. The students loved learning about what a drone could do to assist first responders during an accident (i.e. vehicular traffic accident, plane crash), building fire, rescue missions after a natural disaster

(i.e. flooding, hurricanes, forest fires, earthquakes) or other high-risk events like a hostage situation. Moreover, they were impressed by the drone's ability to stream live footage to first responders en route to an emergency.

The third phase of this initiative was collaboratively taught by Axon personnel and by Master Sergeant Alex Bello (MBPD's BWC Program Manager). It took place on Saturday, May 21, 2022. The days' worth of instruction focused on BWC's. Topics included:

- The importance of body-worn cameras (evidence and transparency)
- General rules and policies regarding recordings of BWC footage (privacy, resident/public access, etc.)
- How the transition to body-worn cameras has taken place at MBPD (as explained to our students by MBPD Officers who experienced the shift in technology first-hand)
- The changes in society as body-worn cameras have become a normal part of life for police officers and those they encounter
- A glimpse into other ways Axon impacts the work of law enforcement

The day culminated in the students (along with their instructors) spending over an hour recording different interactions at nearby Flamingo Park. A follow-up class then taught the participants how to extract their footage.

Both parents and students gave anecdotal accounts of how this collective experience helped to positively impact their lives. For some students, science and technology came alive in an interactive, fun, and engaging manner. One student remarked how his experience with drones helped him conquer his fear of heights. Several parents were grateful to staff with providing their children with experiences they themselves could not afford to replicate given the prohibitive costs of drone for economically disadvantaged families. One student noted how her involvement in the program sparked her interest in a law enforcement career.

Youth interest in joining the ranks of the police profession in the US is critically important, given the current crisis in the retention and recruitment of police officers in the US. The National Fraternal Order of Police (FOP) recently reported a result from one of their surveys which indicated that several police departments throughout the country were short 18% of their authorized strength [39]. The FOP recommended that providing young people with an opportunity to experience police work through programs like the Police Explorers could aid in future recruitment efforts.

4. Conclusions

> *One of the great liabilities of history is that all too many people fail to remain awake through great periods of social change. Every society has its protectors of status quo and its fraternities of the indifferent who are notorious for sleeping through revolutions. Today, our very survival depends on our ability to stay awake, to adjust to new ideas, to remain vigilant and to face the challenge of change. - Rev. Dr. Martin Luther King [40]*

This chapter described how a partnership between private business (Axon), local government (MBPD), and a nonprofit entity (MBPAL) managed to positively engage youth using a STEM based collaboration. Research has shown that sports-based community crime prevention programs consisted of a similar private/public partnership [41]. The MBPAL already had a plethora of sports-based programs. They chose instead to address the lack of minority youth's participation and perceived interest in STEM programs.

This coalition of caring cops, counselors, and consultants addressed the situation, using drones and BWC's to positively influence the young lives of their students. This initiative helped to build a bridge of understanding, trust, and shared experience. It did so through multiple positive experiences between the police and local youth.

Unfortunately, what this initiative lacked was measurable outcomes, apart from positive anecdotal accounts from participants and their parents. This program was exploratory in nature and thus lacked formal performance measures. All participants were expected to engage in the program so there were no control/experimental groups or randomized sampling.

MBPAL Executive Director Martineau acknowledged the limitations of this initiative and understood the organization had to do better. The MBPAL then began focusing on youth interventions that required performance measures and measurable outcomes (as recommended in part by authors of this piece). Some of these programs were even grant-funded. These initiatives would include a youth mentoring program, school safety program, and STEAM classes for pre-school aged children.

In the spring of 2022, the MBPAL was selected to participate in the National PAL's Mentoring Program, funded through the U.S. Department of Justice, Office of.

Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP). The purpose of this initiative was to implement, solidify and grow youth mentoring programs that provide services to at-risk youth [42]. The performance measures for this endeavor included increasing the participant's view of law enforcement, understanding of the dangers related to drug use and gang involvement, and increasing their perceptions of social support [42].

Arthur Martineau also serves local youth through his role as President of the PALS of South Florida, which includes the MBPAL and the PAL's of North Miami, North Miami Beach, Davie, and Key West. The PALS of South Florida mission is to create a safe environment to provide educational and athletic mentorship paired with crime prevention activities through a cooperative partnership between the police and community. On September 29, 2022, Arthur was informed that the PALS of South Florida was awarded funding through the Students, Teachers, and Officers Preventing School Violence Act of 2018 (STOP School Violence Act of 2018). It provided funding to improve security at schools through evidence-based school safety programs and technology [43].

The PALS of South Florida chose to use the Positive Action® as its evidence-based school safety program. Positive Action® is an evidence-based curriculum that addresses the root causes of school violence and reduces problem behaviors in students [44]. Once again teen students from the Police Explorers and Teen Mentoring Program will fill the ranks of program participants. Like the mentoring program, this initiative also requires performance measures.

The last and arguably most innovative program to spin-off from the collaborative efforts highlighted in this chapter is the Little Innovators initiative [45]. This program is for children ages three to four. It helps these children (along with their parents), experience STEAM classes at MBPAL. The inaugural class focused on the wonders of

h2o and culminated with the participants making snow! The last time it snowed in Miami Beach was January 19, 1977 [46]. The youth of Miami Beach are truly special, as unique as snow in Florida.

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Conflict of interest

The authors declare no conflict of interest.

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Lastly, we would like to dedicate this literary work to fallen Officer Eddie Perez. Eddie died from complications of contracting COVID-19 in the line of duty while assisting with recovery efforts at the collapse of the Champlain Towers South condominium building in Surfside, Florida. He served with the Miami Beach Police Department for 25 years. He is survived by his wife, daughter, parents, and two sisters.

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Chapter 7

Perspective Chapter: The Impacts of Maternal Imprisonment on Children

Donna Arrondelle, Naomi Gadian and Emma Plugge

Abstract

Taking a global perspective, this chapter examines socio-economic and health and wellbeing impacts on children with experience of maternal imprisonment. Whilst we know the approximate numbers of women and girls imprisoned is approximately 6.9% of the global prison population there is no official recording of how many children lose their primary caregiver when women are imprisoned. Although estimates suggest the majority of imprisoned women are mothers. Drawing upon secondary data, we reveal the global knowledge base on the impacts of maternal imprisonment on children is incredibly limited with most understanding drawn from the US. The extant literature shows that children with experience of maternal imprisonment lose essential economic and social capital associated with educational deficits and suffer a range of physical and mental health risk factors. Responding to the evidence we draw six distinct conclusions and argue that for reductions in the various harms outlined separation of mother–child should be a last resort. We make the case for community-based residential alternatives to custodial sentencing for women with accompanying monitoring and evaluation to ameliorate the negative socio-economic and health and wellbeing impacts associated with this form of maternal deprivation.

Keywords: maternal imprisonment, maternal incarceration, maternal deprivation, women, children, children's outcomes, health, wellbeing, socio-economic, prison alternatives, custodial alternatives, alternative to incarceration

1. Introduction

Women and girls make up approximately 6.9% of the global prison population. Since around 2000 the numbers of women and girls being imprisoned has increased by approximately 53% [1] with increases in each continent. More often than not mothers in prison have been the primary caregiver of their children before entering prison [2]. Based upon estimates, approximately 100,000 women are imprisoned in European countries with a corresponding 10,000 infants under two impacted [3]. Some piecemeal national level data exists but even here it is not comprised of official statistics but estimates gathered from other sources.

In the UK, it is estimated that 17,000 children experience maternal imprisonment annually [4]. According to the Prison Reform Trust, 75% of children stay with their

mother when fathers are imprisoned contrasted with 9% remaining with their father when mothers are imprisoned. Of these, 5% remain in the family home [4]. In the United States, where incarceration rates are the highest, it was estimated that there were a quarter of a million children whose mothers were incarcerated in 1998 [5]. In Europe approximately 800,000 on any given day have a parent in prison [5]. In South Korea, 54,000 children have an incarcerated parent and in China more than one million children have at least one of their parents in prison [6, 7].

In reports focusing on imprisonment and the family, the benefits to the imprisoned parent are often emphasised whilst the benefits to the children are secondary; children are mostly seen as instrumental in their parent's rehabilitation and their needs are largely ignored. However, the issue of maternal incarceration is increasing in salience in the Global North [8]. The impacts of maternal versus paternal imprisonment are likely to be very different; the negative health consequences on children may be much greater if a mother is imprisoned [9–11]. Taking a global perspective this chapter unpacks the effects of maternal imprisonment on children focusing on socio-economic and health and wellbeing impacts although we acknowledge these impacts are not exhaustive. Drawing on secondary data, the subsequent sections discuss socio-economic, and health and wellbeing risk factors associated with maternal imprisonment. In light of the evidence, we then draw six distinct conclusions and argue for alternatives to custodial sentencing to ameliorate the negative socio-economic and health and wellbeing impacts associated with this form of maternal deprivation.

2. Socio-economic outcomes

2.1 Educational attainment

Globally, there is scant research addressing socio-economic impacts with single studies being present across a handful of mostly English first language speaking countries (including Australia, Colombia, Ethiopia, Hong Kong, New Zealand, South Africa) and no English published papers for the vast proportion of the majority world. A number of these papers whilst addressing educational attainment linked to parental attainment do not disaggregate between mothers and fathers. Haskin's (2012) and Shaw's (2019) US studies being cases in point demonstrating the negative effect of parental incarceration on educational attainment, performance and school unhappiness, inferring negative intergenerational impacts of adolescence school unhappiness and restricted educational mobility into adulthood [12, 13]. Luk et al's (2022) systematic review gives an indication of the dearth of studies available with 46 of 57 studies drawn from the US, and 10 of those (18%) exclusively focusing on maternal incarceration [14].

The majority of quantitative studies examining socio-economic effects assess educational attainment during school years. A cluster of overwhelmingly US-based studies find a negative association for maternal incarceration, that is children attain lower grades than their counterparts without mothers in prison and higher rates of incompletion of school [15–17]. Despite fathers being incarcerated at a higher rate, the effect threshold is lower and for educational attainment the negative impact tends to be greater for those where mothers have been imprisoned [15]. Trice and Brewster (2004) examined children with mothers imprisoned in Virginia state prisons and found they were twice as likely to have received fail grades than the control group of children not experiencing parental imprisonment [16]. Similarly, Cho (2008) found

that grade retention is less likely with children experiencing maternal imprisonment compared to their counterparts for the years immediately following incarceration, for kindergarten to eighth grade in Chicago public schools from 1991 to 2004 [18]. An earlier study in California by Stanton reported that half of the children of the incarcerated mothers were rated by teachers as showing poor or below-average school behaviour, compared with 22% of controls, and 70% of the children of gaoled mothers had below-average academic performance, compared with just 17% of those children whose mothers were on probation [19]. Haskins (2012) found where mothers were incarcerated with children between the ages of 1–4 there was increased grade (school year) repetition [12]. Longitudinal studies for educational impacts for maternal imprisonment are non-existent Nichols and Loper's (2012) study tracked academic outcomes for children experiencing parental incarceration across 11 waves finding that failure to graduate high school was almost double compared to their counterparts [20].

A report by the UK based New Economics Foundation highlighted a higher likelihood that children with experience of maternal imprisonment are especially vulnerable to being unemployed or not in post-school studies, so called NEET "not in education or employment", after leaving school [21].

Against these dismal analyses, counter findings from Cho (2009) reported no decline in reading or mathematical ability for children experiencing maternal imprisonment [22]. Dargis (2022) found visiting to be a mitigating factor, with improved academic attainment for children visiting their mothers in prison [23].

Away from the US, a study from Colombia demonstrates that parental incarceration had a positive effect of grade attainment, increasing the scores. However, it did not disaggregate maternal from paternal imprisonment [24].

It is not only children of the incarcerated who are affected, Hagan and Foster's US analysis evidence spillover effects that go beyond the children with experience of maternal imprisonment to their counterparts with non-imprisoned mothers in schools with elevated levels of maternal imprisonment. These children were also found to have educational deficits [15].

2.2 Financial wellbeing

Qualitative data in Ethiopia and the UK highlights shared cross-cultural effects of financial difficulty experienced by families and children with maternal imprisonment. Such as highlighted in two distinct rural and urban contexts, as an Ethiopian family report that due to visiting, "our farming land is not properly cultivated; our cattle are not managed; and our living cost has been raised" (p. 71) [25]. Similarly, a UK family reflects, "It's like 75 miles there and 75 miles back and also when you're on benefits and stuff like that it does take quite a chunk out of your money each week…, but the kids had been saying that they wanted to see their Mum and I'm not going to stop them from coming to see their Mum" (p.104) [26]. Time spent visiting the mother by caregivers is a double-edged sword with importance of mother–child bonding on the one hand but oftentimes at the expense of familial income on the other. Family members choosing to care for the child whilst their mother is in prison may give up work to do so adding strain, especially with infants [27].

Later life socio-economic effects have also been minimally considered. The US-based Pew Center for Charitable Trusts notes familial financial difficulties and educational detriment following parental imprisonment so that "prospects for upward economic mobility become significantly dimmer" (p.8) for those children [28].

The singular longitudinal study in this area to date, again US based, measured young adult outcomes as indicators of social exclusion across four waves: personal income, household income, perceived socioeconomic status, and feelings of powerlessness. The study found that maternal incarceration significantly contributes to social exclusion for these children in their twenties and thirties. Importantly, the study moves beyond purely financial exclusion to lack of social integration and insufficient social participation (and powerlessness) showing the ongoing negative impacts stretching across the life course [29]. Similarly, Minson's (2020) qualitative study also found social exclusion and marginalisation experiences by children of maternal imprisonment, with a trend of mistrust for the police by these children [30].

Many of the socio-economic focused studies treat children as a somewhat homogenous group, not digging down into differences across characteristics, such as ethnicity, type of replacement caregiver, age at incarceration and so forth. Dowell et al. (2018) are a notable exception [31]. They used linked administrative data for children in Western Australia showing experience of higher rates of social economic disadvantage for children impacted by maternal incarceration for both indigenous and White children compared to their counterparts not experiencing maternal imprisonment.

Taken together the extant literature shows that children lose essential economic and social capital as a result of maternal imprisonment.

3. Health and wellbeing outcomes

Given the socioeconomic consequences on families of maternal imprisonment, and the strong relationship between low socioeconomic status and poor health, it is not surprising that the available evidence suggests that parental imprisonment has a negative impact on the mental and physical health of these children [32]. However, the evidence is not of high quality and most of it comes from one country, the USA. Much of the research examining the health impacts of maternal imprisonment is qualitative with small, non-representative samples, and the quantitative studies are usually cross-sectional surveys although a few studies do look at longitudinal data. Understanding the true impact of maternal imprisonment on their children's health is further complicated by numerous other issues. Not all studies account for the range of possible confounders such as household poverty and the presence in the household of adults who use drugs and/or alcohol. It is also important to consider the age at which the child experienced maternal imprisonment and the sex of the child as it is likely that the impacts vary depending on such variables. Added to this, there is a paucity of data because most studies focus on the impact of the paternal imprisonment, probably because, as already noted, women make up a small proportion of imprisoned people. Nonetheless, the studies published to date suggest wide-ranging impacts on the health of children whose mothers are imprisoned, and these are discussed further below.

3.1 Impacts on mental health and wellbeing

Several studies have examined the impact of parental imprisonment on the mental health and wellbeing of their children; the majority have shown a relationship between parental imprisonment and poor mental health across a range of disorders. Studies consistently show that children who experience maternal imprisonment are more likely to be diagnosed with anxiety and/or depression than their peers in the community who do not have an imprisoned parent [33–35].

Tasca et al. (2014) found that children in the USA who experienced parental incarceration were statistically significantly more likely to have poorer mental wellbeing but that the risk of harm to the mental health of children with imprisoned mothers was about two times higher than for children with imprisoned fathers, when demographic variables were accounted for [36]. Woo et al.'s study in South Korea showed that parents were more likely report their child having symptoms of depression if the mother was imprisoned compared to the father being in prison [37]. In the USA, Thomson found that children who experienced maternal imprisonment were more likely to experience affective psychopathy than compared to children whose fathers were in prison (Odds Ratio 1.27) but were significantly less likely so experience interpersonal psychopathy (Odds Ratio 0.82) [38].

Gualtieri et al. (2020) conducted a systematic review examining Post-Traumatic Stress Disorder (PTSD) in children with imprisoned parents. They found six studies with 2512 participants and found that 15% of children had PTSD. The parents' sex was significantly associated with the effect sizes suggesting that the prevalence of PTSD was higher in children whose mothers were imprisoned. This is of particular concern and a prevalence of 15% contrasts sharply with the prevalence in the general population of children [39]. In the UK, the British National Survey of Mental Health of over 10,000 children and young people reported the incidence of post-traumatic stress disorder in the UK to be 0.2% for children 5–15 years of age [40]. A large US study of adolescents aged 13–18 years, revealed a prevalence of 5% [41].

A number of studies have examined outcomes relating to substance and alcohol by children of imprisoned parents. In general, studies indicate that children of imprisoned parents are more likely to use drugs or alcohol than their peers who do not have an imprisoned parent. Heard-Garris (2018) showed that children with an imprisoned parent were more likely to smoke cigarettes, use prescription drugs, demonstrate 'problem drinking' and 'problem drug use' than other children [42]. Work conducted by Foster (2013) supported the association between parental imprisonment and 'problem drug use' although Kopak's work (2018) revealed the opposite of this [35, 43]. In none of these studies was it shown that the effect on the children was greater if the mother as opposed to the father was imprisoned.

Despite the apparent level of mental health needs, it is likely that these largely go unmet. The COPING study which looked specifically at the mental health needs of children with imprisoned parents in four European countries (Germany, Sweden, Romania and the UK) found a lack of specialised services in the community for children across all countries and high levels of perceived unmet need [44].

3.2 Impacts on physical health

The physical health and wellbeing of children whose mother is imprisoned have been explored in a number of studies. Physical health outcomes that studies have examined include cancer, high cholesterol, hypertension, diabetes, asthma; migraine, epilepsy, hepatitis, and human immunodeficiency and acquired immunodeficiency syndrome (HIV/AIDS), sexual health, weight, and mortality. The mortality data, from a large Danish database, demonstrated that imprisonment of a parent did have an influence on child mortality but that the sex of the child and the imprisoned parent were important [45]. There was no clear association between maternal imprisonment and mortality in female children. In boys however, mortality was almost doubled if the mother was imprisoned. The authors' conclusions were based on a number of

models that they ran, taking account of a number of potential confounding factors including the age of the child when the parent was imprisoned, household income and parental age [45].

Unfortunately, it is hard to draw conclusions form the available data as studies examine different physical health outcomes and therefore meta-analysis or other meaningful collation of findings is not possible. This is compounded by the small number of events; as far fewer women than men are imprisoned, the data on their children is very limited and the number of events (the occurrence of disease) is even smaller. The data therefore on diagnoses of high cholesterol, asthma, migraine and HIV/AIDS, is limited and shows no difference between those who experience maternal imprisonment and those who do not [33, 46].

Branigan and Wildeman (2019) found that children of imprisoned mothers were 57% less likely than their peers whose parents were not imprisoned to be overweight; this was statistically significant [42]. In contrast, Lee et al. (2013) found no statistically significant difference in obesity rates between children whose mother was imprisoned and children not experiencing parental imprisonment [33]. Such findings were not anticipated given other research by Jackson et al. (2017) showed that there was significantly higher consumption of sugary drinks, salty snacks, starch and/or sweet consumption by children whose mothers were imprisoned compared to children whose did not have imprisoned parents [46]. Heard-Garris et al. (2018) did not find any significant association relating to consumption of sugary drink/soda [42].

A number of studies looked at sexual health outcomes. Two studies looked at early age sexual initiation but showed contradictory findings [47, 48]. Le et al. found that those who experienced maternal imprisonment were significantly more likely to have 'early sex' (defined as under 15 years of age) when compared to children whose parents were not imprisoned but Nebbit et al. using an early sex definition of under 13 years of age, found no statistically significant association. Both studies were based in the USA [47, 48].

Le et al. (2019) also found that children whose mother was imprisoned were over five times more likely to have a sexually transmitted infections (STI) (adjusted Odds Ratio 5.5, 95%CI (1.7,17.6)) when compared to children whose parents were not imprisoned and more likely than those whose father was imprisoned [47]. Roettger and Houle (2021) examined lifetime risk of STI, finding that children with imprisoned mothers were not significantly more likely to have had an STI when compared to children whose parents had not been imprisoned. The strength of their study was that they were able to adjust for confounding variables [49].

3.3 Health care use

Heard-Garris et al. (2018) examined health service usage by children who had either a father or mother imprisoned and compared this to the general population. For children with an imprisoned mother, they were significantly less likely to have had an annual dental exam when compared to children whose parents were not imprisoned (Odds Ratio 0.67 (0.50–0.90)) [42]. Interestingly, this was not the case for children whose father was imprisoned; they were no less likely to have taken part in this important preventive medicine activity. Children of imprisoned mothers were also more likely to have foregone health care (Odds Ratio 1.65 (1.20–2.27)) and used the emergency department as their source of care (Odds Ratio 2.36 (1.51–3.68)) than other children. Children of imprisoned fathers were not more likely to have used the hospital emergency department as a source of care than children without imprisoned

parents. These findings suggest that children of imprisoned mothers in particular are less likely to seek health care despite their high health needs. Their pattern of use is sub-optimal for their health and wellbeing with their low levels of preventive health-care uptake and high levels of emergency care use. That this seems to be particular to the children of imprisoned mothers rather than fathers might be related to the family circumstances. Whilst the children of most imprisoned fathers remain with their primary care giver (their mother), this is not the case with imprisoned mothers whose children often have to leave the family home and their communities. This disruption is likely to impact on their ability to access health services in a timely and appropriate manner.

4. Conclusions

This chapter has drawn attention to the damage of maternal incarceration for children of women sentenced to prison, highlighting evidence across a range of negative socio-economic and health and wellbeing outcomes. The global knowledge base is incredibly limited with most understanding drawn from the US. Given the heterogenous nature of imprisonment circumstances it is impossible to draw firm conclusions across the board, nonetheless there is strong evidence that maternal imprisonment is harmful. Children suffer impairments across the four domains of wellbeing: education, health, behaviour, and deprivation when their mothers are incarcerated [50].

To improve these children's life prospects, making them visible and literally count by officially recording their numbers in national government statistics is an essential prerequisite to directly addressing the harms inflicted by maternal imprisonment. Beyond the number of children affected crucial factors such a sentence length or where the child is routed for caregiving not captured. Despite the substantial number of children affected worldwide we have an insufficient understanding of these factors. In essence, these children are desperately underserved by government systems and structures meant to support them, and official poor data capture has contributed to this.

Whilst the extant evidence is heavily skewed to the Global North, particularly North America, the valuable albeit tiny literature from the Global South demonstrates some similar impacts. Context matters and more research is needed in each country affected to understand nuances, similarities, and differences. Moreover, long term impacts are underexplored. Longitudinal research for socio-economic outcomes is scant and again skewed to North America. Although the existing research is not largely of high quality, nor is it extensive, what is available points in one direction: maternal imprisonment has a range of potential negative effects on the health and wellbeing of the children. These might be adverse effects on mental health or on physical health and will be affected by numerous other factors at the individual, family and societal level. However, the quantitative evidence is of poor quality and few studies have effectively disentangled the impact of parental imprisonment from socio-economic factors. The research demonstrates no consistently positive impact on children and does not reveal any successful interventions when the imprisonment of a mother has been seized as an opportunity to intervene early to protect the health and wellbeing of these vulnerable young people.

It is acknowledged that the socio-economic and health and wellbeing impacts discussed in this chapter do not operate independently. For instance, education is a social determinant of health and failure to graduate high school is considered a

serious indicator for poor life adjustment (e.g., related to lower lifetime income, increased chances of being unemployed, welfare-dependent, and incarcerated). A study by Yu-Tzu Wu et al. (2020) focused on health ageing and found that early life differential educational attainment is strongly associated with disparities for a large, multi-country cohort of older people [51]. Therefore, the intersections of the various impacts highlighted require serious scholarly interrogation. Given the intertwined nature of the impacts of maternal imprisonment, alternatives must also incorporate holistic and networked interventions in their services.

Whilst there may be mitigating effects, again little is known about these with the exception of Dargis' work examining family visits to prison. Yet, visits can only go so far not least because of the burden they generate. Due to the comparatively small amount of women's prisons to men's, often families have much further to travel for visiting incarcerated mothers which is more burdensome in terms of time and finances [26]. This suggests caution and a more holistic approach is needed in examination of mitigating factors also.

For a reduction in the various harms outlined separation of mother–child should be a last resort. As demonstrated by Baldwin and Epstein (2017), Booth (2020), Masson (2021), Minson (2021), and others, short term prison sentences wreak havoc not only for the woman sentenced but for her children and family [26, 30, 52, 53]. The immense disruption and harms which ensue are disproportionate to the large majority of sentences often lasting a number of weeks for majority petty theft (shoplifting) and non-violent crimes [53].

This chapter has also shown community spillover effects highlighting the knock-on impacts on society writ large. In essence, a ripple effect, as illustrated by Hagan and Foster's findings on educational deficit. It is unlikely that spillover effects[1] are isolated to this one domain. Elsewhere, negative spillover effects have been studies in relation to violent crime and community mental health. These studies indicate the importance of a more expansive approach to researching the diverse risk factors at play.

Residential community-based alternatives to prison where children are not separated from their mothers are therefore essential. This proposal is less controversial in some countries than others. Whilst the importance of mother–child relationships and alternative residential-based alternatives are recognised by some governments such as the UK and Australia [54–57] as a better way of responding to criminalised women the pace of change is incredibly slow. These government-funded residential alternatives tend to de-emphasise the importance of being located within the community.

Globally, there are a small number of community-based alternative to imprisonment facilities for women however, which enable children to stay with their mothers whilst the women serve their sentences and undertake both psychological and employment-related rehabilitative work. These are mostly operational in the USA and typically run by non-government organisations. Qualitatively, these facilities are understood to work but policymaking relevant evidence, i.e., robust statistical analysis is lacking. A total of four mixed-methods evaluations have been conducted, all in the USA with only one including children in the evaluation design [58–61].

[1] Although one study has been conducted in relation to children of parental incarceration and spillover effects, elsewhere positive community spillover effects have been studied, relating to children's education (Anderberg, 2003) and negative community spillover effects relating to violent crime (Bencsik, 2018) suggesting the importance of understanding spillover effects 2e572a_49438f41751c4f868240c372f10d94f4.pdf (wixstatic.com).

At the time of writing, an additional mixed-methods evaluation is underway in the UK for a newly opened gender-responsive, trauma-informed residential community-based alternative facility in England, 'Hope Street' which includes an evaluation of the health and wellbeing impacts of children residents as well as their mothers' [62]. Therefore, alternative facilities need to be accompanied by in depth evaluations to accelerate the policy debate and yield concrete change to improve the life prospects of children with mothers facing a prison sentence.

Returning to the point of spillover effects, this is worth keeping in mind when considering interventions that may initially appear too generous to the public imagination. Taking trauma-informed gender-responsive residential community alternatives as a case in point. We suggest not only do these facilities and services potentially serve the women to rebuild their lives, directly impacting their children but they may also positively impact the local community and broader society by eliminating the boundaries between community and sentenced women and reducing stigma. Where children's outcomes can be improved there are potential positive spillover effects into the community.

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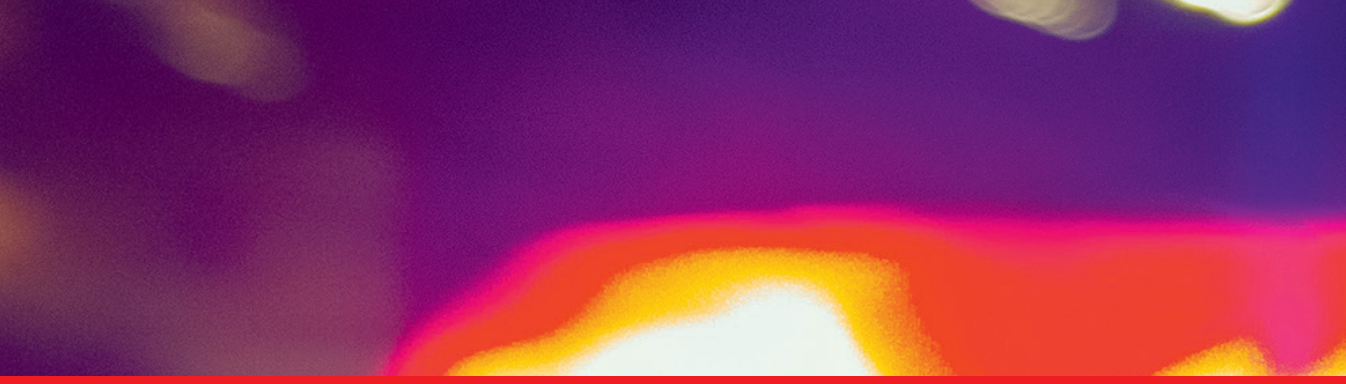

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