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ACADEMIC SYMPOSIUM ON METHODOLOGICAL DETERMINANTS OF PUBLIC SECURITY

On 19 May 2022, the War Studies University hosted an academic symposium on methodological determinants of public security as an element of the system of national (state) security. The event was organised by the Department of Public Security in the State Security Institute of the university's Faculty of National Security, under a research project titled "Methodological Determinants of National (State) Security".¹ The symposium served to enable scholarly discussion of contemporary perceptions of public security, changes of priorities, and challenges in academic research. It featured an expert debate chaired by Dr Marek Fałdowski.²

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¹ The project is led by Dr Justyna Kurek, associate professor at the War Studies University and head of the Department of System Security in the State Security Institute. The aim of the project is the systematisation and methodological organisation of the values, goals, and national interests that define the boundaries of national (state) security.

² Dr Marek Fałdowski, associate professor at the War Studies University, in the Department of Public Security (State Security Institute).

Speakers included **Dr Mariusz Nepelski**,³ **Dr Włodzimierz Fehler**,⁴ **Dr Robert Socha**,⁵ and **Chief Superintendent (Retd.) Dr Krzysztof Justyński**.⁶

The debate concerned three key questions relevant to the shape of current and proposed scientific research in the area of public security, namely: What should determine the limits of the definition of public security – does it concern legally protected goods under the constitution, the tasks of the state as a guarantor of security in countering threats to public security, or perhaps values and interests derived from primary supranational principles, often viewed as “natural rights”? Is or should the notion of public security be universal in nature, or should it be determined by a dynamic perception conditioned by historical experiences and current existential threats to the state? Finally, what are the key needs of academic research in the area of public security and the limitations on the dissemination of its results, and what are the roles of historical research, comparative studies, and inter- and multidisciplinary research?

Introducing the debate, **Dr Justyna Kurek** noted that it is worthwhile to consider the notion of public security and the research methods devoted to it – should they focus on historical research, or is it also necessary to analyse other systems and the functioning of bodies responsible for public security in other countries?

The chairman, **Marek Fałdowski**, after presenting the scientific accomplishments of the participants, noted that further considerations should take account of the principles set forth in the constitution, and noted that “constitutional norms have an axiological justification as a certain ordered system of values.”

Next, the first topic – determination of the limits of the definition of public security – was addressed by **Mariusz Nepelski**, who expressed the opinion that such limits “will be difficult for us to formulate”. Using the example of a hypothetical street survey on the meaning of public security, he said that “the understanding of the notion would probably be varied, and no doubt most people would not answer at all.” Regarding semantic issues, Dr Nepelski went on: “Unfortunately, it does not help to reduce or expand the meaning of words. This is a kind of disservice to the Polish language, but also to the understanding of the meaning of words by all

³ Dr Mariusz Nepelski, associate professor at the Central Fire Service School.

⁴ Dr Włodzimierz Fehler, associate professor at the University of Natural Sciences and Humanities.

⁵ Dr Robert Socha, associate professor at WSB University, director of its Centre for Trans-Border Security Studies.

⁶ Chief Superintendent (Retd.) Dr Krzysztof Justyński, former provincial police commander in Katowice.

of us – it is also a kind of deficiency on the part of the writers of definitions. I think that we try to fit some definition and words probably to our own beliefs, and this is seen particularly in scholarly works by people who have had a long professional connection with the field of public security, with the police, for example.” He continued: “In trying to determine the boundaries of public security, we might pay more attention to the word ‘public’ [...] this phrasing has already been included in so many legal instruments that it poses great problems of interpretation [...] in a judgment of 22 December 1993, I believe, the Supreme Court defined it as the entire system of order and devices protecting citizens from dangers to life or health or threats of serious losses to the national economy.” Referring to, among others, the work of Włodzimierz Fehler, **Dr Nepelski** noted that “many definitions limit the notion to situations within the state. But the Court of Justice of the European Union itself has recognised in its judgments that public security also includes the external security of the state – a threat may come from, for example, the transit of goods that may be intended for military purposes. Of course, considering internal security through the lens of, as it were, the internal situation in the state, certainly, but considering it in the sense of national security, which is what we are discussing, should a restriction of this kind be made or not?”

The next speaker was **Włodzimierz Fehler**, who stated the view that “we always have a certain basic set of values in mind, and further we have state policy, we have security policy, which is one of the main streams in the former, we have internal security policy and external security policy. And we also have the state’s political system.” He went on: “In considerations of public security, spheres of social life are a tool that help us mark out the limits of its definition. Please note how the matter of security has changed, in that part of public security relating to security of transportation, due to the building of motorways, due to the opening – so far in our capital – of an underground railway, high-speed rail, and so on and so forth, and so these developmental needs will also have an impact.” In the context of definitions, Dr Fehler said that “as a researcher I don’t give up. And where I can, of course, I protest and try to present arguments for using certain notions correctly [...] they are often not only imprecise, erroneous, blurred, they distort the meaning of the terms used, and this, of course, has negative consequences. This not only causes chaotic thinking, but can also lead to the creation of imprecise and even erroneous solutions [...] If someone fails to distinguish such notions as ‘public order’ and ‘public security’, well, they might end up deploying close-order troops against, say, underdressed teenagers, treating them as a threat to public security.”

Marek Fałdowski, commenting on the previous speaker's contribution, added that "what draws our attention is, of course, the progress of civilisation, the development of society, newly emerging threats – these will always determine those elements that influence definitions, the development of certain terms."

Next to speak was **Robert Socha**, who, referring to contemporary dictionary and encyclopaedic definitions that identify public security as "a state of readiness of the competent authorities of public administration to counter threats to the interest of the state, public order – or the totality of conditions and institutions that protect life, national assets, the political system, state sovereignty – lead to a blurring of the differences between public security and state security. Hence, excessive freedom in interpreting the notion of 'public security', in my opinion, causes it to become a kind of catch-all repository into which all sorts of matters are placed." He added that, in analysing "dozens of different approaches to public security, almost any problem with any kind of danger to any kind of subject becomes a matter for action in the field of public security. I emphasise – this is my subjective observation based on analysis of the many different approaches to these issues." Referring to the words of Włodzimierz Fehler, **Robert Socha** raised the question of the justifiability of separately identifying such a thing as general security, as do many researchers who deal with issues of state security. In his view, "it is necessary to perform a proper semantic analysis of the words 'general' and 'public' – words that are equivalent in meaning, or similar enough to be substituted for each other in the right context. This is not just a whim of mine, as we can find it confirmed in a dictionary of Polish synonyms, among others, which not only clarifies the scope of use of these two words." He went on to note that definitions of general security generally link it to natural disasters, while such an approach is not reflected, for example, in the Criminal Code, where Chapter XX (offences against general security) lists acts relating to, among other things, building collapse, landslides and the detonation of explosives, but also the collection or offering of means of payment with the intention of financing a terrorist crime, or seizure of control of a vessel or aircraft – that is, "we see a completely different kind of events placed on the list of offences against general security." **Dr Socha** added "I consider public security to be the provision of protection both from actions that are incompatible with social norms and from the effects of natural disaster [...] and the identification of general security as a field of state security seems to be, colloquially speaking, pointless [...] analysis clearly shows that based both on existing scholarship, on semantic analysis, and on the analysis of legal instruments, public security

defines a state of affairs in which the beneficiaries of that security are assured protection from harm that threatens them from any source, and not only, as some often understand it, the countering of threats associated with criminal acts.” The speaker concluded by adding: “It is difficult to define the exact boundary of this type of security [...] it is really a very broad area for further scientific research to be conducted.”

Another of the experts participating in the debate, **Krzysztof Justyński**, noted that security in the context of a citizen’s perception cannot be narrowed down to the provisions of criminal law exclusively, or to selected categories of offences. In his opinion, for citizens it is important to feel safe, and this holds in any concept through which security is interpreted by them. He went on to refer to the limits of the definition of public security, which “should be found, and are found, in the Constitution.” In Dr Justyński’s view, a very important factor here is “the examples of recent months, which show how one can have problems later with the interpretation of security if the very regulations that concern it are unclear.” The inexactness of regulatory acts can therefore cause “some openness to various kinds of discussion, and these discussions later go in different directions, not necessarily convergent [...] and the interpretation of certain regulations concerning this security is different from the point of view of the addressee of such regulations, and is sometimes perceived differently from the point of view of the institutions responsible for security.”

Reflecting on the dynamics of the perception of public security and on its universal nature, **Marek Fałdowski** acknowledged that “the analysis of various laws, including the Constitution, taking account of linguistic, purposive and logical interpretations, can lead one ‘down the wrong path’.” Taking the example of the wording of, among others, Articles 1 and 18b of the Police Law, the chairman noted that these provisions juxtapose “public order and security” or “public order and the security of citizens”, and that there are many other examples in various other legal instruments. Dr Fałdowski added that these expressions “include different meanings, which naturally do not necessarily exclude each other, and their material scope is certainly overlapping”, but the lack of a single universal definition has been influenced by at least the development of civilisation and certain processes of globalisation that compel states to make changes to legal regulations. He went on to refer to the definition of public security put forward by Professor Eugeniusz Ochendowski, for whom it consists in “maintenance of the inviolability of life, health, dignity and freedom of property, the legal order and the basic devices of the state, and also common interests, while he understands public order to mean the totality

of unwritten rules of individual behaviour in public places, the observance of which, according to prevailing views, is a necessary prerequisite for the orderly coexistence of citizens, and in this context, undoubtedly, internal security includes both public security and public order within its scope.” Dr Fałdowski referred to the wording of Article 146 of the Constitution, which lays down the competences of the Council of Ministers; these include “ensuring the internal security of the state and public order”, which by way of linguistic interpretation might lead to the conclusion that “internal security” does not include “public order”.

The next speaker, **Włodzimierz Fehler**, expressed the view that “public security is one of the most important known significant elements that make up the space of the internal security of the state.” He continued: “There are obvious situations that public order in its manifestations is often included in the framework of public security”, but he considered the compounding of the notions “public order and security” to be unjustified, since there is wide variation in what the two notions designate. Referring to Marek Fałdowski’s observations on the wording of Article 146 of the Constitution, the speaker went on: “Internal security of the state and public order? Meaning what, public order is left on the outside, as if it were a separate entity, unrelated to the security of the state?” He added: “Let’s leave these, I think editorial mistakes, alone. This is one more proof that legislators go their way, scholars go theirs, and then practitioners, as the General [Dr Justyński] said, have to make an interpretation. This brings danger. Always so for those to whom a specific solution is applied, but also for those applying it. Can we succeed in creating a universal definition, and should we even do this? In my humble opinion, we should create framework descriptions and expand on them by pointing out specific component elements, indicate the levels on which these events, changes and processes that are most important for public security play out.” Recalling Robert Socha’s words, the speaker referred to the regulations contained in the Criminal Code: “Where did this come from? Well it came from the fact that lawyers had done the same in the Makarewicz Code [the criminal code from 1932] during the Second Republic. They went back to it because they wanted to group these offences somehow, well, for them it was a name – it was around the start of the 1990s, I even know the author who started it, well, he wanted to be original, other authors followed in his path, and now there is a problem.”

Referring to the previous speaker’s words, **Marek Fałdowski** agreed with Dr Fehler that “in the interwar period, in the provisions of the law, but also in the doctrine of constitutional or administrative law, we will in fact seek in vain the concepts we are discussing today”, adding

that “the use of the term ‘public order and security’ does not mean that the notions are identical, although it can be concluded that they are quite similar, and in many cases overlapping, although their precise, unambiguous and unquestionable demarcation appears very difficult [...] a reasonable endeavour, although certainly difficult to achieve, would be the creation of a universal definition of public security that would include public order.”

Robert Socha stated that “the boundaries of public security should be defined by an instrument of the highest rank, namely the Constitution”, but noted that the formula does not appear even once in that document. The speaker added that he did not fully accept the position that in the phrase “public order and security” there is contained both “public security” and “public order”. He went on to give the example of the control of infectious diseases, indicating that “it was only when causal links were established between the spread of infection and the lack of hygiene that the police were charged with overseeing various issues. As can be seen from, among other things, the analysis of infectious diseases, it was only with the development of science, and as we say, the progress of civilisation, that countries paid attention to the need to take preventive measures to reduce the possibility of the disease spreading, or in other words, broadening the extent of the danger posed to the public. Another example, which we have already talked about, of the changeable nature of public security and its time-dependence is the progress of civilisation that was just mentioned [...] let us consider, from the point of view of the police and public safety, the development of motor transport. As we know, before we discovered these new means of road transportation other than pedestrian traffic, there was no public danger associated with road traffic. Thus, there was no danger to the individual from that source. I emphasise – the individual as a member of the whole. For me, in defining public security, it is important that it must concern the individual as a member of the whole, and the emergence of new means of transport led to the police being given new tasks related to traffic control.” The speaker added: “In just the two examples I have given, it can be observed how public security is dependent on progress in both science and civilisation, because with scientific progress, the emergence of new technologies, the scope of police action in the area of public security expands.”

Krzysztof Justyński said that “in principle, the topic of protecting public security should reduce to creating a framework for the safe functioning of society in a particular country through some building of rules [...] covering the protection of public order, above all the maintenance of that state of affairs, but also the taking of action against people violating those

norms, and if I had to answer the question of whether it is worthwhile to create some kind of universal definition, I would say – yes, it is worthwhile. And if that definition, that universal approach caused these certain divisions, different approaches to the subject matter to become clearer, to reach all addressees in a simpler way, of course it would have great significance.” He then referred to the words of Robert Socha, observing: “When I see a mechanic who is universal, I immediately know that he is a poor mechanic. Yes, because his having knowledge over such a wide range means that he is someone who knows a little bit of everything. However, when we get into more complicated aspects of a particular mechanical fault, then there is a problem defining it, and so in this context too it would probably be difficult to build in a very simple way something that would develop in a universal manner, or put an end to these doubts that are arising among us today in this discussion.”

Speaking next, **Mariusz Nepelski** said that “the optimal solution would be to take away from the notion of public security this universal character, and to bring about a kind of uniform understanding of this type security, on the ground of both doctrine and law. The best solution would be simply for these two areas to come together. After all, we can see that in law there has long been a split, and then if there is a split between law and doctrine? I will fully admit that no one understands any more what this public security really is.” He added: “In the doctrine of administrative law, it has become an established view that the content of the notion of ‘public security’ is dynamic in nature, changeable, constantly being adapted to changing social, political and economic conditions. This is generally what we can read in many studies. I believe that such a view actually has its dark side, as it results in a kind of interpretative freedom, but for the courts, unfortunately, which can also have negative consequences for citizens. Moreover, given the current state of the law, it seems simply impossible for this view to change, because we would then have to shake up our Polish law completely, discard it and recreate it. I think that nowadays, unfortunately, the only possibility is to adopt a dynamic perception of the conceptual scope of public security, because the law cannot be changed so quickly, although as scientists, we should talk about this and point out these errors of interpretation.” Dr Nepelski indicated that “the main limit of the definition should be the non-public sphere, that is, the private, individual, personal sphere. And if we were to take this dictionary definition and approach the issue in that way, we could try to define the notion [of public security], in [a manner] very close to the definition that was long ago formulated by Professor Kitler [...] he indicated then that public security is a state of absence of threats to the

legal order in the state, and also to social norms and customs, life and health, but we should also add here: public order. After all, this, among other things, is included in public security. These are completely separate concepts, although public security necessarily contains many different kinds of elements that can have some kind of impact, and so this could also not be overlooked, but there is also the environment. And so if we wanted to try to give an indication of such a core of a definition, it is these protective elements that we would point to.”

The chairman of the debate, **Marek Fałdowski**, then asked the experts to address the third question posed: what are the key needs of scientific research in the area of public security, the limits on the dissemination of its results, and the roles of historical, comparative, and multidisciplinary research?

Addressing these matters, **Robert Socha** again drew attention to the phrase “public order and security”, expressing the view that “one thing these two notions have in common is that they do not have in law, whether national or international – there was a mention of such an international provision, but it does not describe the meaning of the concept – they do not have legal definitions that would allow one to assign them uniform content and a uniform semantic range, which in my opinion is already an indication that scholarly work should continue in this area.” He continued: “One could cite many researchers who quote Article 1 of the Police Law and write that the police force is established to ensure public security, that is, the phrase ‘public order and security’ is treated as containing synonyms, but I would like to draw particular attention to this very clause, which Professor Fałdowski mentioned [...] in my opinion, in Article 1, in the first paragraph, yes, there is mention of the maintenance of public order and the maintenance of security, but without specifying what kind of security [...] we speak a lot here about the principles of law-making – we know that literal lexical repetitions are a basic means of creating formal consistency in the texts of legal instruments, and this is a very important thing. It is even frequently referred to as a condition for the coherence of texts of this type.” Dr Socha concluded: “I see this as one of the areas where scholarly research should be continued – is the mission of the police to protect ‘public security’ and ‘public order’, or to protect ‘public order and security’?”

Krzysztof Justyński took the view that “looked at in this context relating to the police, the protection of public order and security also does not, of course, fully reflect the totality of the tasks that the police carry out, because often in our work we take up broader aspects of protection, concerning the protection of private property.” Addressing the questions posed by

the chairman, he said that he sees research needs in the area of public security in terms of the need to link research with the response “to a situation that exists at a given time in a given place, so that we are able to perceive these changes in the internal and external environment. Today’s dynamic is a determinant, and these changes are huge in number, having a wide impact on the functioning of, among others, the institutions responsible for security. The conclusions that might possibly be obtained, that will be drawn from such research, should certainly be dedicated appropriately to the institutions that subsequently have an influence on legislation at least, on the ongoing formulation of priorities or goals in security policy. Here I see a crucial need for scientific research in the area of security, to ensure, first of all, a constant but also substantive supply of important information affecting how this security is perceived.”

Włodzimierz Fehler quoted a definition that he had formulated, according to which “public security is a law-based state of affairs and series of such states within a country where conditions are provided for the efficient functioning of the state organisation, pursuing common and individual goals, duties are effectively enforced and the rights of individuals living in that organisation are protected, with particular emphasis on life, health and property, and there exist resources and enforcement mechanisms enabling effective response to situations that violate that state of affairs.” He continued: “This is, of course, an attempt at what is very much a framework definition. I have tried and am still trying to make this notion more specific, by indicating the spheres of social life in which there occurs the greatest number of events that shape the level of public security. We have talked about them here: sanitary and epidemiological security, security relating to fires, architecture, the environment and technology, public events and gatherings, or social customs. And let us remember – this must be emphasised – that the effective protection of public security influences the maintenance of public order, and in turn, the strengthening of public order enables us to maintain public security. To take a small example – if the rules of order are observed during gatherings or public events, this not only has positive consequences for ensuring public order, but also enables the maintenance of a certain state of public security where there are no threats to life, health, property – whether of the participants in the events or gatherings, or of third parties.” Dr Fehler concluded by saying that “we should certainly pay attention to what we have been doing at the moment, that is, reaching the most contemporary understanding of public security – with all the caveats that we have mentioned, that it is not possible to create some kind of legal, universally valid definition of this notion. However, we should make such an attempt, and focus

in particular on the study of the various spheres of public security. And here we should take account of theoretical findings, of thought in this area, but we should also make efforts to analyse various concrete factual and legal situations. Our research should most certainly take such forms as benchmark comparisons; this is a method that can be universally applicable with the right approach. Certainly, interdisciplinary studies with obvious links between, in this case, security science and, for example, the legal sciences. Methods of research – I think also historical research, because this can also provide certain answers.”

Summing up what the previous speaker had said, **Marek Fałdowski** expressed the view that “it is difficult not to agree with the position that there are, of course, great needs relating to research in the area of security”, including the need to seek rational definitions that would make certain notions more precise.

Mariusz Nepelski stated that “certainly the research should focus, firstly, on the limits of definitions, which will allow us to better understand and actually apply this conceptual scope of public security, certainly we should focus on threats to public security, certainly on the organisation of the operations of the bodies responsible for it, but also on the means, including new technologies, which inevitably constantly emerge, leading to changes in how the work is organised.”

This concluded the debate, and **Marek Fałdowski** and **Justyna Kurek** thanked the speakers.

Summing up the outcome of the debate, we may note that the contributions of the invited experts indicated the need for further scientific research in the area of public security, including historical and interdisciplinary research. According to the views expressed by the speakers, it is no longer easy to define the boundaries of this type of security, and the difficulties are not reduced by the use in regulatory instruments of various phrases referring to public security and public order, or the lack of reference to public security in such documents as the constitution. Another important issue would appear to be that raised by Robert Socha concerning the overlap in scope between the notions of “public security” and “general security”, which also requires further consideration. Research should be conducted continuously in relation to threats to public security and the functioning of the bodies responsible for maintaining it, with attention to the changes resulting from globalisation and the progress of civilisation.



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