

DOMINIKA BEK<sup>a</sup>

## DIVERSITY AS A SOCIAL VALUE AND OBJECT OF PROTECTION IN POLISH PENAL LAW

### RÓŻNORODNOŚĆ JAKO WARTOŚĆ SPOŁECZNA I PRZEDMIOT OCHRONY W POLSKIM PRAWIE KARNYM

The article deals with Polish constitutional and penal law issues centred around the question of whether social diversity is an object of protection under penal law. The article defines diversity, including social diversity, before examining views on its social value in different areas and contexts, including from ontological and legal perspectives. In presenting a spectrum of approaches to diversity, it uses the example of social and political reactions to the multitude of cultures (multiculturalism). The recognition of the value of diversity makes it possible to identify manifestations of its protection in the Polish Constitution. The Constitution treats primarily national and ethnic diversity, as well as religious and worldview diversity, as a legal good. The Penal Code turns out to be axiologically consistent with the Constitution. The analysed individual types of prohibited acts may be identified as protecting mainly manifestations of cultural differentiation (including national, ethnic, racial and religious diversity). To a narrower extent and indirectly, the law also protects diversity in other respects by protecting freedom to choose one's conduct. The article also discusses manifestations of social diversity that are directly criminalized, such as bigamy, forced marriage, and female genital mutilation. The article takes into account the Act of 6 March 2025 amending the Penal Code in relation to so-called hate crimes and expanding the scope of diversity protection in penal law to include disability, age, gender, and sexual orientation. However, the Act was deemed unconstitutional.

Keywords: diversity; multiculturalism; equality; legal good; hate crimes

---

Artykuł porusza zagadnienia konstytucyjne i karnoprawne koncentrujące się wokół odpowiedzi na pytanie o to, czy różnorodność społeczna stanowi przedmiot ochrony przepisów polskiego prawa karnego. Autorka definiuje różnorodność (*diversity*), także tę społeczną. Następnie dokonuje przeglądu stanowisk dotyczących jej wartości społecznej w różnych obszarach i kontekstach, m.in. w ujęciu ontologicznym i prawnym. Prezentując spektrum podejść do różnorodności, posługuje się przykładem reakcji społecznych i politycznych na wielość kultur (multikulturalizm). Dostrzeżenie wartości różnorodności pozwala na poszukiwanie przejawów jej ochrony w Konstytucji RP. Ustawa zasadnicza postrzega jako dobro prawne przede wszystkim różnorodność narodową i etniczną oraz religijną i światopoglądową. Kodeks karny okazuje się aksjologicznie spójny z Konstytucją. Za przedmiot ochrony poszczególnych analizowanych typów czynów zabronionych uznać można głównie przejawy zróżnicowania kulturowego (m.in. narodowego, etnicznego, rasowego)

---

<sup>a</sup> University of Silesia in Katowice, Poland / Uniwersytet Śląski w Katowicach, Polska  
dominika.bek@us.edu.pl, <https://orcid.org/0000-0003-4560-808X>

i wyznaniowego). W węższym zakresie i pośrednio ustawa chroni także różnorodność pod innymi względami poprzez ochronę wolności wyboru postępowania. Artykuł prezentuje i takie przejawy różnorodności społecznej, które są wprost penalizowane, jak bigamię, zmuszanie do małżeństwa czy genitalne okaleczenie kobiet. W artykule uwzględniono ustawę z 6 marca 2025 r. o zmianie ustawy – Kodeks karny nowelizującą tzw. przestępstwa z nienawiści i poszerzającą zakres ochrony różnorodności w prawie karnym o kwestie niepełnosprawności, wieku, płci i orientacji seksualnej. Ustawa uznana została jednak za niekonstytucyjną.

Słowa kluczowe: różnorodność; wielokulturowość; równość; dobro prawne; przestępstwa z nienawiści

---

## I. INTRODUCTION

The concept of diversity is increasingly prominent today, both in academic discourse across many disciplines and numerous measures adopted by universities. ‘Diversity’ appears in the names of institutions<sup>1</sup> and internal legal acts.<sup>2</sup> The phenomenon does not exist in isolation and is part of a more general trend. Waldemar Czajkowski (2018) recognizes the increasing academic and practical popularity (including political) of the concept of diversity in recent decades and traces its origin to the interest in biodiversity (pp. 103–104). Today, the concept is also linked to the social sciences, and social diversity is growing in importance. At the same time, the phenomenon of diversity is frequently seen as a value.

This study seeks to examine whether the value of social diversity has also been taken into account in penal law, which is to say, whether diversity is an object of protection under penal law provisions. This objective is to be met first by determining the significance of the concept of diversity, including social diversity. Then it is necessary to verify the proposition that the value of diversity is positive. Confirmation that diversity is a social value will encourage the search for *de lege lata* legal measures that protect that diversity. The *ultima ratio* principle of penal law requires that the search should start outside of penal law. In the area of penal law, however, it is impossible to ignore the Act of 6 March 2025 amending the Act – the Penal Code (Amending Act of 6 March), which, despite being adopted by Parliament, was deemed unconstitutional by the Constitutional Tribunal’s judgment of 30 September 2025 (Kp 3/25).<sup>3</sup> This Amending Act aimed to change the statutory features of so-called hate crimes, which are so important for assessing the level of protection of social diversity in Poland.

The discussion will draw on a selection of literature in the broad field of sociology and philosophy, particularly, the sociology and philosophy of law, and

---

<sup>1</sup> For example, the Rector’s Plenipotentiary for Cultural Diversity of the University of Warsaw or the Committee for Equality and Diversity at the University of Silesia in Katowice.

<sup>2</sup> In particular, in the plans for gender equality.

<sup>3</sup> <https://www.sejm.gov.pl/Sejm10.nsf/PrzebiegProc.xsp?nr=876>

works by constitutional and penal law scholars and commentators. It is also necessary to make a direct analysis of legal acts. The leading research method adopted in this text is the dogmatic-legal method. The choice of the indicated methods and areas of research is determined by the research question posed. Determining whether and to what extent social diversity is protected by penal law requires the interpretation of selected legal provisions in a broader social context. The crucial thing is to determine the objects of protection of selected types of offences.

## II. THE CONCEPT OF DIVERSITY

According to the Polish language dictionary (*Słownik języka polskiego PWN*, n.d.-b), ‘diverse’ (Polish *różnorodność*) is an adjective meaning ‘composed of things, persons, etc., of various kinds’. Diversity can therefore be a feature of various communities that are not internally homogeneous. As an ontological category, ‘diversity’ can describe various spheres of reality and, as a concept, it can be related to various fields of study (Czajkowski, 2018, p. 105). In the legal scholarship itself, diversity is linked both to biological diversity (so-called biodiversity)<sup>4</sup> and the different variants of social diversity, including cultural diversity.<sup>5</sup>

Czajkowski (2018) sees the recognition of the value of biological and cultural diversity as manifestations of the same trend – the process of formation of global subjectivity (p. 108). Focusing on a social context, the writer notes that ‘The way how the diversity of “the social world” (“human world”) is perceived seems at least “at first glance” to be somewhere “between” the perception of the diversity of inanimate and animate nature’ (p. 106).<sup>6</sup> Social diversity refers to multiple characteristics that make up individual and collective identities, including race, gender, age, religion, sexual orientation, ethnicity, national origin, socio-economic status, language, and physical ability (Jarosz et al., 2024, p. 22). This perspective encompasses both biological and cultural characteristics.

In public discourse, social diversity frequently appears as part of a triad along with equity and inclusion: Diversity, Equity and Inclusion (DEI). The triad sheds some light on the axiological dimension of diversity. The central concept of equity is one of the concepts intensively explored in the social sciences, and the principle of equity and non-discrimination appears at the beginning of almost every instrument of international law and several constitutions.<sup>7</sup> In the triad, the recognition of diversity seems to be the basis for

<sup>4</sup> See, e.g. the United Nations Convention on Biological Diversity of 5 June, 1992.

<sup>5</sup> See, e.g. the UNESCO Universal Convention on Cultural Diversity of 2 November, 2001.

<sup>6</sup> English translations of quotes, unless otherwise stated, come from the author of the article.

<sup>7</sup> By way of illustration, reference can be made in particular to Article 26 of the International Covenant on Civil and Political Rights of 16 December, 1966, Article 14 of the European Convention on Human Rights of 4 November, 1950, Articles 20 and 21 of Charter of Fundamental

acknowledging the need for inclusion and a necessary basis for ensuring equity. According to Czajkowski (2018), ‘Precisely because people are different, it makes sense to formulate an axiological ideal of equity’ (p. 114). He also highlights the link between diversity and the guarantee of individual freedom, particularly ‘freedom to choose oneself’ (p. 114). The question is whether diversity is a value in itself or only insofar as respect for it is a condition for the exercise of freedom and equity in the various areas of social life.

### III. DIVERSITY AS A VALUE

The above question concerning the value of diversity has resulted in numerous, often mutually exclusive answers. One topic that has generated a particularly lively axiological debate is the cultural differentiation of societies. The concept of multiculturalism, which has become so prominent in recent years, is related both to the very phenomenon of multiculturalism (in the descriptive sense) and a conscious, sympathetic response to that phenomenon by state authorities and societies (multiculturalism as a policy or ideology) (Burszta, 1998, p. 152; Golka, 2007, p. 224). The multitude of approaches and classifications of multiculturalism amply illustrates the extent to which we are willing to see diversity as a value in its own right.

Stanley Fish (1997), distinguishing between ‘strong multiculturalism’ and ‘boutique multiculturalism’ (pp. 378–395), points out the major problem of denying the presence of fundamental differences between representatives of different cultures. Boutique multiculturalism treats the phenomenon of cultural differentiation superficially, reducing culture to mere folklore (Burszta, 2008, p. 69). Fish (1997) believes that ‘boutique’ thinking is rooted in the misconception, also held by scholars, that universal identity as human beings, and thus also universal rationality, prevails over particular identities related to nationality, gender, race, or ethnic origin (p. 379; see also Czajkowski, 2018, p. 108; Rockefeller, 1992, 88). This approach generates easy enthusiasm for colourful folklore multiculturalism, while ignoring, for example, differences in ethical systems (Bek, 2018, pp. 82–84).

In the analysed context, reference should also be made to Andrzej Szahaj’s (2010, pp. 149–152) classification of approaches to cultural plurality. Szahaj’s division is based on the attitudes observed in the Western discourse on multiculturalism. Szahaj distinguishes four possible approaches which, as Michał Dudek (2011, pp. 48–49) specifies, can be called fundamentalist, conservative, moderate and idealistic. The fundamentalist approach posits the existence of ‘The Only Right Standard for Everything,’ and anything that does not fit within the standard is a deviation that requires elimination by all available means. This approach is a clear manifestation of ‘militant’ eth-

---

Rights of the European Union of 7 December, 2000, Article 32 of the Constitution of the Republic of Poland of 2 April, 1997 (Constitution), *Journal of Laws of the Republic of Poland [JL]* 1997, No. 78, item 483.

nocentrism striving for monoculturalism, even by means of violence (Szahaj, 2010, pp. 149–150). It does not deny the presence of cultural differences, but it attributes a decidedly negative value to otherness. Diversity is a problem that must be overcome.

The conservative approach, by contrast, is expressed in the perception of cultural plurality as a negative phenomenon that is tolerated out of necessity. Under the conservative approach, members of a majority group abandon the pursuit of their desired state of monoculture not out of respect for diversity but because of an aversion to coercive measures (Szahaj, 2010, pp. 149–150). The moderate approach implies the recognition of the benefits of multicultural contact. It appreciates the opportunity to learn about and enrich each other's cultures, but it does not require uncritical acceptance of every difference and or the multiplication of differences. It is aware of the dangers of unifying tendencies and of the dangers posed by an accumulation of differences that prevents communication (Szahaj, 2010, pp. 149–151). Therefore, diversity is seen as a value, but not as an objective in itself.

In turn, the idealistic approach affirms and celebrates the plurality of cultures. Difference and plurality are seen as values in their own right, and an increase in diversity is a desirable objective of social action (Szahaj, 2010, p. 151). It may be said that the idealistic approach treats cultural diversity similarly to biodiversity, and therefore as a condition for survival – in this case – the survival of humanity (Czajkowski, 2018, p. 113). In that case, the survival of the human species is not tantamount to the survival of nations or cultures as we know them today.

Attitudes similar to the above described above can also be observed towards forms of social diversity other than culture. They range from the denial of the real importance of differences, through a negative evaluation and even opposition to them, to the appreciation or even idealization of diversity. As is generally the case, extreme attitudes are rare (Bek, 2018, pp. 85–86). Both the 'conservative' and 'moderate' approaches rely on the recognition of the presence of differences and their social significance. The 'conservative' approach, as it were, does not entirely exclude the pursuit of individual freedom and equity, but rejects diversity as an independent value worthy of protection. By contrast, the 'moderate' approach is aware of the real differences between individuals making up a society and it appreciates the enriching effects of diversity, while at the same time respecting freedom and equity as core values for Western societies.

The perception of diversity as a value fundamentally fosters respect for the individual's freedom of self-determination and is in accord with individualistic tendencies. In turn, taking differences between people seriously is a condition for the development of mechanisms ensuring equity in social life. The mere attribution of importance to difference has many times in history been a pretext for discrimination, whether sexual, racial, or otherwise, and an increase in diversity is a great challenge in terms of respect for the principle of equity; for example, it generates a discussion on the legitimacy of so-called positive discrimination. In turn, the nurturing of differences between social groups can

limit the freedom of individuals from those groups, which is connected with intersectionality.

The phenomenon of multiculturalism can serve as a comprehensive illustration of the above problems. Even the very interpretation of the principle of equity is contentious. A distinctive feature of the contemporary view of equity is the recognition that formal equity based on identical treatment leads to actual inequality arising from the differing needs of legal subjects (Safjan & Mikłaszewicz, 2011, pp. 31–32). What is disputed, however, is whether and which differences justify different treatment (Bek, 2018, pp. 121–123). Moreover, a particularly important feminist critique is also characteristic of the discourse on multiculturalism (Okin, 1999, pp. 9–24). Critics point out that forbearance towards the different cultural patterns of members of minority cultures can lead to the perpetuation of practices harmful to vulnerable groups, such as women and children (Renteln, 2004, pp. 192–193). Increased sensitivity to perpetrators' culture can lead to decreased sensitivity to the harm suffered by their victims, who frequently come from the same cultural group. Ayelet Shachar (2001) calls this phenomenon the paradox of multicultural vulnerability, in the sense that 'individuals inside the group can be injured by the very reforms that are designed to promote their status as group members in the accommodating, multicultural state' (p. 3; see also Dudek, 2011, p. 54). Ensuring equality in a multicultural society is also a huge political challenge that has seen various solutions – not free from criticism (Śliz & Szczepański, 2021, pp. 13–44).

#### IV. DIVERSITY AS A LEGAL GOOD

The above shows very clearly that diversity is relatively rarely seen as an autonomous value. The phenomenon of diversity presents a challenge but, under the moderate or idealistic approach, also an opportunity for the mutual enrichment of members of the public and society as a whole. Organizational theory mentions the paradox of diversity, according to which diversity enhances innovation but can undermine the unity necessary for an organization to operate (Jaremczuk, 2010, pp. 39–46). The recognition of inequalities is a condition for the effective introduction of equality before the law, and the wise protection of diversity promotes individual freedom. However, regardless of the conditions under which and the contexts in which diversity is a value, the legal protection of its various dimensions may prove legitimate. The question is whether diversity is a value that should be protected by means of criminal law.

Although the concept of a legal good (*Rechtsgut*) is derived from the German dogma of penal law and was transferred to Polish law by Władysław Wolter, a penal law specialist (Gruszecka, 2008, pp. 137–140), its contemporary role extends beyond penal law scholarship. A good acquires the value of a legal good as soon as it is given protection by the legislator (e.g. Tarapata,

2016, p. 17; Zoll, 2007, p. 14), but its origin lies outside the law: it is a social value (e.g. Cieślak, 1995, p. 25). One should also be aware of the so-called dematerialization of the concept of legal good – the term is used to describe the phenomenon of giving protection to increasingly abstract values, such as safety in traffic or the security of monetary transactions, valuable insofar as they are underpinned by values that are easier to imagine, such as life, health or property (Gruszecka, 2008, pp. 140–142). The subsidiarity of penal law dictates that legal goods should be searched for in other acts of international and national law, and primarily in the Basic Law. The question is whether the Constitution recognizes the independent or at least relative value of diversity.

Even the very wording of the Preamble of the Constitution<sup>8</sup> shows acceptance for certain dimensions of (religious) diversity, while at the same time recognizing a community of specific values treated there as universal. As indicated above, the recognition of the presence of differences does not mean that they are taken seriously or, still less, that diversity is given independent value. The recognition of religious differences in the Preamble does not go hand in hand with the recognition of the presence of ethical, or any other, differences, and the emphasis on differentiation seems to be only a prelude to highlighting the principle of equality of citizens before the law. The formula dividing the public by religion or nondenominational status caused controversy from the outset, and the use of precisely that dividing criterion was dictated by the historical moment at which the Constitution was drawn up (Piechowiak, 2016, para. 50). Thus, it can hardly be argued that the Preamble recognizes diversity, in particular religious diversity, as an independent legal good, but it certainly expresses acceptance of its existence.

It comes as no surprise that ‘diversity’ does not appear *ad litteram* in the wording of the Constitution. It is therefore necessary to look for signs of the protection of selected dimensions of diversity and related values. Naturally, the Constitution envisages the protection of both the various dimensions of freedom and equality before the law.

Article 31 of the Constitution provides that the freedom of every person shall receive legal protection. Freedom is understood there in the broadest possible sense: ‘from natural freedom of thought to the freedom to form conventional acts and the collective exercise of freedom’ (Szydło, 2016, para. 3). Although today the Constitution does not introduce an anti-discriminatory clause in the area of freedom,<sup>9</sup> the protection of freedom is enjoyed by everyone, irrespective of their membership of social groups or minorities. Given the general wording of the principle of human freedom, it is impossible to take

---

<sup>8</sup> I refer in particular to the following passage: ‘We, The Polish Nation – all citizens of the Republic; both those who believe in God as the source of truth, justice, good and beauty, as well as those not sharing such faith but respecting those universal values as arising from other sources, equal in rights and obligations towards the common good – Poland.’

<sup>9</sup> The so called March Constitution (Constitution of the Republic of Poland of 17 March, 1921, JL 1921, No. 44, item 267) ensured in Article 95 that ‘The Republic of Poland shall provide within its territory complete protection of life, liberty, property to all without distinction of origin, nationality, language, race or religion’. See also Szydło (2016, para. 9).

it as the basis for the argument about the constitutional protection of social diversity.

The principle of broadly understood equality before the law and non-discrimination is enshrined in Article 32 (1) and (2) of the Constitution of the Republic of Poland, which provide that 'All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever.' In the light of the case law of the Constitutional Tribunal, it is indisputable that differentiation in the legal standing of various legal subjects must be justified by diversity in terms of a relevant characteristic; otherwise, it may be considered discriminatory (Masternak-Kubiak, 2002, pp. 122–123; Ziółkowski, 2015, p. 99). The basis for different treatment of otherwise similar subjects must be the indication of a characteristic differentiating those legal subjects. The equality test well-established in case law requires: (1) an assessment of similarity between the compared subjects; (2) an indication of the criterion of differentiation; (3) an assessment of the constitutional permissibility of differentiation by reference to relevance, proportionality and axiological adequacy, that is, the constitutional status of arguments for the introduction of differentiation (Garlicki, 2003, pp. 22–24; Ziółkowski, 2015, p. 105). The last stage, namely an assessment of the constitutional permissibility of differentiation, is particularly significant, and its elements have been further developed in the case law of the Constitutional Tribunal.<sup>10</sup>

Relevance means that the differentiation criterion must 'be directly related to the aim and the essential content of the provisions in which the norm under review is contained and serve to achieve that aim and content'. Proportionality amounts to the recognition that 'the importance of the interest served by the differentiation in the standing of the addressees of the standard must be in proportion to the importance of the interests that will be prejudiced as a result of the unequal treatment of similar subjects.' Finally, axiological adequacy means that differentiation criteria 'must bear some relation to other values, principles or constitutional norms justifying different treatment of similar subjects.'<sup>11</sup> Moreover, legal scholars have occasionally made lists of absolutely unacceptable criteria for differentiation in legal standing. They include criteria that violate human dignity, such as race, skin colour, gender, sexual orientation, the structure of the human genome, national or ethnic origin, linguistic, moral, cultural, philosophical or religious convictions, and personal characteristics over which the addressee of the norm has no influence (e.g. disability; Garlicki, 2003, pp. 20–22; Winczorek, 2008, p. 87; Ziółkowski, 2015, pp. 107–109 and the case law of the Constitutional Tribunal indicated there). The interpretation of Article 32 shows that the Constitution is aware of social diversity and that existing differ-

<sup>10</sup> See, in particular, Constitutional Tribunal judgments of 3 September 1996, K 10/96, OTK 4/1996, item 33; 16 December 1996, U 1/96, OTK 6/1996, item 55; and 16 December 1997, K 8/97, OTK 5-6/1997, item 70.

<sup>11</sup> All three quotations come from a judgment delivered by the Constitutional Tribunal on 16 December 1997, K 8/97, OTK 5-6/1997, item 70.

ences can be the basis for different treatment, as long as this does not lead to discrimination. However, Article 32 can hardly be seen as an expression of the protection of diversity as a legal good.

Gender is a significant dimension of equity and diversity. In formulating the principle of gender equality, the Constitution distinguishes two sexes. Under Article 33, men and women in the Republic of Poland shall have equal rights in family, political, social and economic life, in particular, with regard to the right to education, employment and promotion, equal remuneration for work of similar value, social security, holding office and exercising functions, and receiving public honours and decorations. The origin of this regulation lies in historically and culturally conditioned discrimination against women, which has no place in a democratic state (Borysiak, 2016, para. 51). The point is not to strengthen social diversity in terms of gender but to prevent discrimination against either of the two sexes. By contrast, the LGBT+ minority is not taken into account separately in the Constitution.

Diversity is quite strongly marked in the national and ethnic sphere. Article 37 of the Constitution introduces the principle that everyone under the authority of the Polish State shall enjoy the freedoms and rights ensured by the Constitution. Exceptions to this principle with respect to foreigners shall be specified by statute. Some exceptions are envisaged by the Constitution itself, which introduces a list of rights and freedoms enjoyed only by citizens (civil rights and freedoms; Banaszak, 2015, p. 376). In particular, Article 35 provides that ‘The Republic of Poland shall ensure Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture.’ This provision of the Polish Basic Law takes into account national and ethnic minorities, but it expressly limits the rights set out in Article 35 to Polish citizens. Nonetheless, it can be concluded that Article 35(1) of the Polish Constitution provides a legal basis for the recognition of the ‘national and ethnic diversity of the Polish Nation (within the meaning that follows from the introductory passage of the Preamble) as a specific “natural state”, which entails the general prohibition on assimilationist actions aimed at causing individuals belonging to national or ethnic minorities to give up their own identity in this respect and to join the Polish Nation in the ethnic sense (“prohibition of Polonization”)’ (Czarny, 2016, para. 32). Diversity in this area is therefore explicitly protected.

The legally guaranteed freedom of thought, conscience and religion is an important dimension of diversity. This freedom is ensured, *inter alia*, by Article 53 of the Constitution. Freedom of thought and conscience shapes the sphere of intellectual and ethical inner experiences of an individual, forming his/her worldview. This concept has a scope that is clearly broader than the concept of religion or religious denomination (Pyclik, 2002, pp. 436–440).<sup>12</sup> Therefore, the point is freedom in terms of accepting and rejecting various views on life, particularly religious views. The provision also ensures the free-

<sup>12</sup> See also the Judgement of the Supreme Court of 20 September 2013, II CSK 1/13.

dom to manifest one's philosophy of life and religion, pointing to the freedom to 'manifest such religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing rites or teaching.' Article 53(6) of the Polish Constitution prescribes that 'No one shall be compelled to participate or not participate in religious practices.' In turn, Article 54 of the Constitution envisages freedom to express one's opinions. Freedom of speech is one of the most important instruments for guaranteeing the achievement of pluralism of worldviews, openness and tolerance towards the views of others, including minority views (Sadomski, 2016, para. 6). Diversity in the religious and philosophical area is thus seen as a value worthy of protection.

The protection of selected dimensions of diversity is also indicated by Article 47 of the Constitution, which includes, among other things, the right to the legal protection of private and family life and the right to make decisions about one's personal life, namely, to shape the various aspects of one's life as one wishes, without the control of others. In the opinion of Winczorek (2008), the concept of making decisions about one's personal life encompasses the choice of lifestyle and philosophy of life (p. 115). Młynarska-Sobaczewska (2009, p. 397) points out, for example, intimate life, health, and opportunities for personality development without outside interference. Consequently, the sphere of human private activity, understood as non-public activity focused on family and personal life (Winczorek, 2008, p. 114; Zawadzka, 2013, pp. 112–119), should generally remain outside the scope of state interference, which makes it possible to preserve diversity in that area. Those guarantees are extended to the parents' right to raise their children in accordance with their own convictions. This right is defined, for example, in Article 48 of the Polish Constitution. It is specified as part of the right to freedom, in particular, freedom of conscience and religious denomination (Skrzydło, 2013, p. 58). The protection of family life is suggested by Article 18 of the Constitution. In addition to the protection of the family, maternity and parenthood, the provision highlights the protection of marriage as 'a union of a man and a woman'. Some legal scholars point out that this term implies not only a heterosexual marriage but also a monogamous one (Banaszak, 2012, p. 147; Banaszkiewicz, 2013, pp. 602–604). Other models of family life do not enjoy similar protection, indicating a lack of protection for diversity in this respect.

The diversity criteria also include age and physical ability. A significant guarantee of equity for the youngest, individuals weakened by advanced age or otherwise less able, is equal access to publicly-funded health care services. Moreover, Article 68(3) of the Constitution imposes on public authorities the duty to ensure special health care for children, pregnant women, people with disabilities and individuals of advanced age. People with disabilities can also count on state assistance in securing their subsistence, adaptation to work, and social communication (Article 69 of the Constitution). Besides, the Constitution is aware of the disparity in citizens' wealth, as Article 68(2) guarantees citizens equal access to health care services regardless of their material situation. It is clear that the differentiation of the public in terms of health and

physical ability or economic status is more of a challenge than a value requiring protection. Consequently, it can hardly be argued that diversity is a legal good in that respect.

## V. TYPES OF PROHIBITED ACTS SAFEGUARDING DIVERSITY

The interpretation of the Constitution indicates that it sees diversity as a value, or legal good, only in selected areas. National and ethnic diversity, and religious and philosophical diversity, that is, primarily cultural diversity, can be considered a legal good. Moreover, equity and freedom in its various dimensions are also legal goods, and diversity can be, as it were, a ‘side effect’ of their protection. Are these goods objects of protection in the Penal Code?<sup>13</sup>

The category of acts detrimental to social diversity include behaviour defined in Article 118 and Article 119 PC. These provisions refer to the category of individual or group national, ethnic, racial, political and religious affiliation of individuals or groups.<sup>14</sup> The generic object of protection of both Article 118 and Article 119 covers ‘humankind as a collective of diverse races, nationalities and beliefs’ (Budyn-Kulik, 2015a, p. 364), ‘humankind, the human race in the broad sense of its existence’ (Szewczyk, 2013a, p. 35 and 2013b, p. 50), ‘a national, ethnic, racial, political, religious or philosophical group and the individuals belonging to it’ (Drózdź, 2013, p. 14). From the perspective of this study, special mention must be made of the recognition of certain rights such as the right to have and preserve one’s national, ethnic, racial, political, religious and philosophical identity (Kłaczyńska, 2014a, p. 23), freedom of religious beliefs and equity (Budyn-Kulik, 2015a, p. 358) as individual objects of protection of Article 118 PC. Penal law scholars point out the group dimension of the rights protected under Article 118 PC (Fleming & Wojciechowska, 2006, pp. 20–21; Kłaczyńska, 2014a, p. 23). Fleming and Wojciechowska (2006, p. 20) argue that ‘protection includes the right of such groups to live in dignity, to preserve, profess and develop their separate existence, to cherish their traditions, to lead a way of life recognized as their own’. In the case of Article 119 PC, the object of protection has often been referred to as ‘freedom from discrimination’ (Budyn-Kulik, 2015b, p. 364; Gardocki, 2013, p. 31; Kłaczyńska, 2014b, pp. 32–33; Woiński, 2014, p. 179). In addition to freedom from the use of violence and threats, Kłaczyńska (2014b) points out ‘the right to preserve one’s identity and distinctiveness’ (p. 32) which implies the protection of social diversity.

References to diversity can be found among crimes against public order. In the case of Article 256 PC, the object of protection includes the proper func-

<sup>13</sup> Act of 6 June 1997, Penal Code, JL 2025, item 383 (the Penal Code, PC).

<sup>14</sup> Article 118 also mentions groups defined by a specific worldview, and Article 119 mentions nondenominational status. Moreover, the Amending Act of 6 March provided for the extension of the catalogue in Article 119 to include disability, age, sex/gender, and sexual orientation (<https://www.sejm.gov.pl/Sejm10.nsf/PrzebiegProc.xsp?nr=876>, retrieved 23 May 2025).

tioning of the state in a democratic manner and, generally, human rights (Bojarski, 2013a, p. 768; Ćwiakalski, 2013a, p. 1379; Gruszecka, 2014a, p. 913; Mozgawa, 2015, p. 687). In this context, mention is also made of minority groups, whether national, ethnic, racial, or religious (Plywaczewski, 2006a, p. 417), or more precisely, ‘minority rights, including national, religious and ethnic rights’ (Gruszecka, 2014a, p. 913), ‘proper coexistence of national, ethnic, racial or religious minorities in the state’ (Bojarski, 2013a, p. 768), or ‘the right to equal enjoyment of rights and freedoms by all individuals irrespective of differences between them’ (Wiak, 2015, p. 1201).<sup>15</sup>

As regards Article 257 PC, there is a dispute over which legal good can be called a direct and indirect object of protection (Herzog, 2015, p. 1637; Plywaczewski, 2006b, pp. 419–420; Stefański, 2006, pp. 25–26). Generally, it is assumed that the provision aims to protect public order and human dignity and bodily integrity (Bojarski, 2013b, p. 771; Ćwiakalski, 2013b, p. 1388; Herzog, 2015, p. 1640; Mozgawa, 2015, p. 690; Plywaczewski, 2006b, pp. 419–420; Woźniński, 2014, p. 158).

This idea was interestingly developed by Gruszecka (2014b), who argued that the object of protection under Article 257 PC

is the honour and bodily integrity of the human being, considered, however, not so much in its individual dimension, but in relation to the functioning of the public order as a whole, a pillar of which is pluralism and respect for the fundamental rights and freedoms of others, and thus combating all forms of persecution, intolerance and social exclusion. Penal law protection against so-called hate crimes is part of a democratic state’s anti-discrimination policy [see, e.g. Article 32 (2) of the Constitution of the Republic of Poland]. Moreover, hostility based on race, religion or nationality is a source of serious social tensions. Consequently, this provision was placed in Chapter XXXII, which groups together acts directed primarily against public order. (p. 970)

The above direction of interpretation is also indicated by Wiak (2015, p. 1205) and Michalska-Warias (2013, pp. 338–339).

Provisions safeguarding the manifestation of diversity can also be found in Chapter XXIV of the Penal Code, which includes crimes against the freedom of conscience and the freedom of religion. Special mention must be made of Article 195 PC. As scholars unanimously agree, this provision safeguards the freedom to manifest one’s religion publicly, privately or collectively (external freedom of religion), and in § 2, it also safeguards the honour given to the dead and the feelings of participants in religious or secular funeral ceremonies and rites (Kłaczyńska, 2014c, p. 504; Kozłowska-Kalisz, 2015, pp. 530–531; Sobczak, 2015, pp. 1205–1206; Wróbel, 2013, p. 652).

Given the significant role played by anti-discriminatory provisions in labour law,<sup>16</sup> the penal-law protection of diversity can be sought in Chap-

<sup>15</sup> It should be added that the amending Act of 6 March provided for the extension of the catalogue from Article 256 to include the criteria of disability, age, sex/gender, and sexual orientation (<https://www.sejm.gov.pl/Sejm10.nsf/PrzebiegProc.xsp?nr=876>).

<sup>16</sup> See Chapter IIa of the Act of 26 June 1974, Labour Code, JL 2025, item 277 (Labour Code).

ter XVIII PC. Account should be taken of Article 218 PC, which penalizes malicious and persistent infringement of the rights of an employee arising from employment or social security law. A person may be held liable on this basis where, *inter alia*, he or she violates the principle of equal treatment of employees when performing activities in matters of labour and social security (Tokarczyk, 2021, p. 69). Discrimination against an individual or a group based on unacceptable criteria can lead not only to a violation of human rights but also to a reduction of diversity desired in an organization. The list of these criteria is very long. Under Article 18<sup>3a</sup>(1) of the Labour Code, 'Employees should be treated equally in relation to establishing and terminating an employment relationship, employment conditions, promotion conditions, as well as access to training in order to improve professional qualifications, in particular regardless of sex, age, disability, race, religion, nationality, political beliefs, trade union membership, ethnic origin, creed, sexual orientation, as well as regardless of employment for a definite or indefinite period of time or full time or part time employment.'

As indicated above, social diversity is also protected indirectly, particularly by the protection of freedom of choice in action. The criminalization of behaviour such as the use of threat (Article 190 PC) or compulsion (Article 191 PC) fosters the shaping of an individual's life in accordance with his or her philosophy of life or established cultural patterns, including those of minorities.

The Penal Code is consistent with the constitutional axiology in the analysed area because, similarly to the Constitution, it practically does not protect social differentiation in terms of gender, gender identity, sexual orientation or family model. Moreover, some of those models are criminalized. The most striking examples of limiting certain dimensions of cultural diversity include those relating to marriage and sexual intercourse. Article 206 PC explicitly penalizes bigamy, that is, contracting a marriage despite being validly married. This behaviour is not legalized by the acceptance of bigamy by all the interested spouses. Besides, some authors argue that a person contracting a marriage with a bigamist and being aware of that characteristic of the perpetrator may be held liable for joint perpetration or incitement under Article 206 PC (Kosonoga-Zygmunt, 2024, p. 1061). Another family model, criminalized directly only recently, is the behaviour defined in Article 191b(1): 'whoever uses force, an unlawful threat or abuses a relation of dependence or uses a critical position to compel another person to contract a marriage or a relationship that corresponds to a marriage within the perpetrator's religious or cultural background.' Thus, the most drastic forms of inducing another person to contract an arranged marriage, irrespective of the age of the prospective spouses, are punishable in Poland. Other crimes also include sexual intercourse with a minor under 15 years of age, incest, sexual intercourse with an animal, and various forms of violation of human sexual freedom. On the other hand, the idea of a cultural defence, aiming at least partially to justify culturally motivated crimes, is making a comeback in Polish legal discourse (Bek, 2018; Berg-Bajraszewska, 2024). The above examples only confirm how complex the perception of diversity and its value is. What for some is a manifestation of

cultural diversity is, for others, a gross violation of another person's goods or morals. From the perspective of an individual's rights and the public good, not all diversity is valuable.

Similarly to the Polish Constitution, the Penal Code is aware of the differentiation of the public in terms of age and physical ability, but in essence, it does not make that diversity an object of protection.<sup>17</sup> For example, the category of 'a person who is helpless due to that person's age, mental or physical condition' (or similar expressions) appears in the Penal Code to identify the person against whom the prohibited act is committed and results in increased criminality by creating qualified types of prohibited acts (Sitarz & Bek, 2017, pp. 8–24). The legislator sees those categories of individuals as requiring stronger protection. However, it can hardly be concluded that the object of protection was the very diversity in the aforementioned respects.

## VI. CONCLUSIONS

Social diversity is increasingly seen not only as a challenging phenomenon but also as a value. The axiological assessment of social differentiation depends on both the differentiation criterion and the context of assessment. For example, biological diversity of humankind is a fact, but also a major challenge in the area of health and physical ability. However, from the perspective of an organization, the diversity of a team of people in terms of physical ability can prove valuable in enriching the perspectives available to the team, which will likely translate into the development of more universal solutions.

The legislator is aware of social differentiation and its value but, in a sense, only in a piecemeal way. In principle, this should not come as a surprise because not every difference is necessarily socially valuable. The legislator sees primarily national and ethnic diversity and religious and philosophical diversity as legal goods. The Polish Penal Code is consistent with the Constitution in this respect, and this fact cannot be assessed negatively. Therefore, penal law primarily respects and even protects the cultural and philosophical diversity of the public.<sup>18</sup> The protection has its justified limits, and certain manifestations of cultural and philosophical differentiation are prohibited acts, for example, female genital mutilation, even where culturally motivated, is a crime (Article 156(1)(3) PC), and the propagation of a totalitarian regime is a misdemeanour (Article 256(1) PC). Diversity in other respects is protected indirectly, for example, by the criminalization of some cases of discrimination in employment (Article 218 PC), as the equal treatment of employees representing minority groups promotes the preservation of team diversity. In the

---

<sup>17</sup> This assessment would have to be revised if the Act of 6 March amending, among others, Articles 119, 256 and 257 or another similar solution enters into force (<https://www.sejm.gov.pl/Sejm10.nsf/PrzebiegProc.xsp?nr=876>).

<sup>18</sup> Here I do not attempt to make an assessment of that protection.

current state of the law, the legislator recognizes and respects certain expressions of diversity, but generally does not see it as a legal good.

The above assessment will need to be verified if a change in regulations similar to that in the Amending Act of 6 March comes into force. The attempt to expand of the catalogue of criteria shaping the statutory features of hate crimes (Articles 119, 256, and 257 PC) to include disability, age, sex/gender or sexual orientation allows one to ask whether the legislator is beginning to attach greater importance to social diversity than before.<sup>19</sup> First of all, a reservation must be made about the meaning of the Polish word 'płeć', which was used by the legislator. This word can mean both, biological sex and gender identity.<sup>20</sup> To highlight this, when translating the catalogue of differences, I refer to sex and gender at the same time. Such a significant expansion of the spectrum of differences perceived by the legislator reflects the social reality. The drafters of the new regulations rightly pointed to research showing high levels of aggression towards people with disabilities, women, older people and people belonging to the LGBT community.<sup>21</sup> Recognizing a threat to the personal rights of persons belonging to the above categories is not tantamount to recognizing the value of social diversity in further areas. However, there is no doubt that more intensive protection against the most serious manifestations of discrimination helps maintain social diversity. Indirectly, it can be said that the provisions adopted by the Sejm on 6 March 2025 also served to protect social differentiation. However, there is no doubt that more intensive protection against the most serious manifestations of discrimination helps maintain social diversity. Indirectly, it can be said that the provisions of the Amending Act of 6 March also served to protect social diversity and thus strengthen the criminal law protection of freedom. This allows one to assume that the differentiation of society based on sex, gender, age, ability and sexual orientation constitutes a legal good on this ground.

It may be noted with some satisfaction that the Polish legislator increasingly perceives social diversity as a value and a legal good. If the amending Act of 6 March were to come into force, it could also be possible to say that in the field of penal law, social diversity is protected to an increasingly wide extent. However, it is hard to resist the impression that the value of diversity

---

<sup>19</sup> In my commentary, I will focus solely on the expansion of the catalogue, and will omit other envisaged changes in Articles 119, 256, and 257 PC, which are also important but are of a secondary nature for the subject of this article.

<sup>20</sup> Polish language dictionary (*Słownik języka polskiego PWN*, n.d.-a) characterizes this word as 'a set of properties characterizing the organisms of male and female individuals and contrasting them with each other.' This therefore refers to both biological and any other features. This interpretational intention is also expressed by the drafters (Justification for the draft act amending the Penal Code, p. 18). <https://orka.sejm.gov.pl/Druki10ka.nsf/0/9AE968A71B6305E7C1258BE704EABD5/%24File/876.pdf>. The same interpretation should be adopted on the basis of the Polish Labour Code in the light of the judgment of the European Court of Justice of 30 April 1996 – *P v S and Cornwall County Council*. Reference for a preliminary ruling: Industrial Tribunal, Truro – United Kingdom. Equal treatment for men and women – Dismissal of a transsexual – Case C-13/94 (see, e.g. Błaszczak-Banasiak et al., 2016, pp. 20–21).

<sup>21</sup> Justification for the draft act amending the Penal Code, pp. 11–12.

in Polish law is perceived selectively. Penal law protection against the most serious manifestations of discrimination does not go hand in hand with perceiving the value of various aspects of social differentiation, for example, at the constitutional level. The changes to the Penal Code provided for in the discussed amendment were partly the result of the increase in the diversity of ways of life in Poland. Unfortunately, to an even greater extent, they were the result of the observed increase in aggression against people who differ from the aggressor according to specific criteria. The response to the radicalization of views and attitudes towards diversity cannot be penal law alone, which constitutes the *ultima ratio* of social policy.

**Author contributions / Indywidualny wkład autora (CRedit):** Dominika Bek – 100% (Conceptualization / Konceptualizacja; Investigation / Przeprowadzenie badań; Writing – original draft / Pisanie – pierwszy szkic; Writing – review & editing / Pisanie – recenzja i edycja).

**Conflict of interest / Konflikt interesów:** The author declares no conflict of interest. / Autorka nie zgłosiła konfliktu interesów.

**Funding / Finansowanie:** The author declares no institutional funding. / Autorka oświadczyła, że nie korzystała z finansowania instytucjonalnego.

**The use of AI tools / Wykorzystanie narzędzi AI:** The author declares no use of AI tools. / Autorka oświadczyła, że nie korzystała z narzędzi AI.

**Data availability / Dostępność danych:** Not applicable. / Nie dotyczy.

## References / Bibliografia

- Banaszak, B. (2012). *Konstytucja Rzeczypospolitej Polskiej. Komentarz* [Constitution of the Republic of Poland. Commentary]. C. H. Beck.
- Banaszak, B. (2015). *Prawo konstytucyjne* [Constitutional law]. C. H. Beck.
- Banaszkiewicz, B. (2013). „Małżeństwo jako związek kobiety i mężczyzny”. O niektórych implikacjach art. 18 Konstytucji RP [Marriage, being a union of a woman and a man. On some implications of Article 18 of the Constitution of the Republic of Poland]. *Kwartalnik Prawa Prywatnego*, 3, 591–656.
- Bek, D. (2018). *Obrona przez kulturę. Analiza na gruncie polskiego prawa karnego* [Cultural defense: An analysis in Polish penal law]. C. H. Beck.
- Berg-Bajraszewska, J. (2024). *Zbrodnie „honorowe”. Zagadnienia karnoprawne i kryminologiczne w świetle problematyki obrony przez kulturę* [‘Honour’ crimes: Penal law and criminology issues in the light of cultural defense]. C. H. Beck.
- Błaszczak-Banasiak, A., Kuruś, M., Mazurczak, A., Nowek, P., & Wilkońska-Żurowska, K. (2016). Równe traktowanie w zatrudnieniu bez względu na tożsamość płciową. Analiza i zalecenia [Equal treatment in employment regardless of gender identity: Analysis and recommendations]. *Biuletyn Rzecznika Praw Obywatelskich*, 6. [https://bip.brpo.gov.pl/sites/default/files/Rowne\\_traktowanie\\_w\\_zatrudnieniu\\_bez\\_wzgledu\\_na\\_tozsamosc\\_plciowa.pdf](https://bip.brpo.gov.pl/sites/default/files/Rowne_traktowanie_w_zatrudnieniu_bez_wzgledu_na_tozsamosc_plciowa.pdf)
- Bojarski, M. (2013a). Publiczne propagowanie faszyzmu [Public promotion of fascism]. In L. Gardocki (Ed.), *System prawa karnego: Vol. 8. Przepisy przeciwko państwu i dobrom zbiorowym* (pp. 767–770). C. H. Beck.
- Bojarski, M. (2013b). Publiczne znieważenie grupy ludności [Public insulting of a group of people]. In L. Gardocki (Ed.), *System prawa karnego: Vol. 8. Przepisy przeciwko państwu i dobrom zbiorowym* (pp. 770–772). C. H. Beck.

- Borysiak, W. (2016). Komentarz do art. 33 [Commentary on Article 33]. In M. Safjan & L. Bosek (Eds.), *Konstytucja RP: Vol. 1. Komentarz do art. 1–86* (para. 1–137). C. H. Beck.
- Budyn-Kulik, M. (2015a). Komentarz do art. 118 [Commentary on Article 118]. In M. Mozgawa (Ed.), *Kodeks karny. Komentarz* (pp. 357–359). Wolters Kluwer.
- Budyn-Kulik, M. (2015b). Komentarz do art. 119 [Commentary on Article 119]. In M. Mozgawa (Ed.), *Kodeks karny. Komentarz* (pp. 364–365). Wolters Kluwer.
- Burszta, W. J. (1998). *Antropologia kultury* [Cultural anthropology]. Zysk i S-ka.
- Burszta, W. J. (2008). *Świat jako więzienie kultury. Pomyślenia* [The world as a prison of culture: Thoughts]. Państwowy Instytut Wydawniczy.
- Cieślak, M. (1995). *Polskie prawo karne* [Polish penal law]. Wydawnictwa Prawnicze PWN.
- Czajkowski, W. (2018). Uwagi o „różnorodności” jako kategorii ontologicznej i aksjologicznej [Remarks on “diversity” as an ontological and axiological category]. *Zeszyty Naukowe Politechniki Śląskiej, Seria: Organizacja i Zarządzanie*, 123, 103–116.
- Czarny, P. (2016). Komentarz do art. 35 [Commentary on Article 35]. In M. Safjan & L. Bosek (Eds.), *Konstytucja RP: Vol. 1. Komentarz do art. 1–86* (para. 1–47). C. H. Beck.
- Ćwiąkalski, Z. (2013a). Komentarz do art. 256 [Commentary on Article 256]. In A. Zoll (Ed.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 117–277 KK* (pp. 1378–1385). Wolters Kluwer.
- Ćwiąkalski, Z. (2013b). Komentarz do art. 257 [Commentary on Article 257]. In A. Zoll (Ed.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 117–277 KK* (pp. 1385–1390). Wolters Kluwer.
- Drózd, D. (2013). Komentarz do art. 118 [Commentary on Article 118]. In M. Królikowski & R. Zawlocki (Eds.), *Kodeks karny. Część szczególna: Vol. 1. Komentarz do art. 117–221* (pp. 12–20). C. H. Beck.
- Dudek, M. (2011). Czy każda kultura zasługuje na obronę? Kilka wątpliwości dotyczących cultural defense i prawa karnego w dobie multikulturalizmu [Does every culture deserve a defence? Few queries concerning cultural defence and criminal law in the age of multiculturalism]. *Archiwum Filozofii Prawa i Filozofii Społecznej*, 2(3), 47–60.
- Fish, S. (1997). Boutique multiculturalism, or why liberals are incapable of thinking about hate speech. *Critical Inquiry*, 2(23), 378–395. <https://www.jstor.org/stable/1343988>
- Fleming, M., & Wojciechowska, J. (2006). Komentarz do art. 118 [Commentary on Article 118]. In A. Wąsek (Ed.), *Kodeks karny. Część szczególna: Vol. 1. Komentarz do art. 117–221* (pp. 19–25). C. H. Beck.
- Garlicki, L. (Ed.). (2003). *Konstytucja Rzeczypospolitej Polskiej. Komentarz* [Constitution of the Republic of Poland. Commentary] (vol. 3). Wolters Kluwer.
- Golka, M. (2007). *Socjologia kultury* [Sociology of culture]. Scholar.
- Gruszecka, D. (2008). Pojęcie dobra prawnego w prawie karnym [The concept of legal good in criminal law]. *Wrocławskie Studia Erazmiańskie. Zeszyty Studenckie*, 1, 135–155.
- Gruszecka, D. (2014a). Komentarz do art. 256 [Commentary on Article 256]. In J. Giezek (Ed.), *Kodeks karny. Część szczególna. Komentarz* (pp. 912–918). Wolters Kluwer.
- Gruszecka, D. (2014a). Komentarz do art. 257 [Commentary on Article 257]. In J. Giezek (Ed.), *Kodeks karny. Część szczególna. Komentarz* (pp. 918–922). Wolters Kluwer.
- Herzog, A. (2015). Komentarz do art. 257 [Commentary on Article 257]. In R. Stefański (Ed.), *Kodeks karny. Komentarz* (pp. 163–1641). C. H. Beck.
- Jaremczuk, K. (Ed.). (2010). *Uwarunkowania przedsiębiorczości. Różnorodność i jedność* [Entrepreneurship conditions: Diversity and unity] (vol. 1). Wydawnictwo Państwowej Wyższej Szkoły Zawodowej im. prof. S. Tarnowskiego.
- Jarosz, E., Klimczak, J., & Margiel, M. K. (Eds.). (2024). *W stronę równości płci, różnorodności i inkluzji. Przewodnik metodologiczny* [Towards gender equality, diversity, and inclusion: A methodological handbook]. Avanguardia 21 Edizioni. [https://gepard-project.eu/file/risorse/Handbook-GEPARD-DEF---POL\\_ok2.pdf](https://gepard-project.eu/file/risorse/Handbook-GEPARD-DEF---POL_ok2.pdf)
- Kłaczyńska, N. (2014a). Komentarz do art. 118 [Commentary on Article 118]. In J. Giezek (Ed.), *Kodeks karny. Część szczególna. Komentarz* (pp. 22–25). Wolters Kluwer.
- Kłaczyńska, N. (2014b). Komentarz do art. 119 [Commentary on Article 119]. In J. Giezek (Ed.), *Kodeks karny. Część szczególna. Komentarz* (pp. 31–35). Wolters Kluwer.

- Kłaczyńska, N. (2014c). Komentarz do art. 195 [Commentary on Article 195]. In J. Giezek (Ed.), *Kodeks karny. Część szczególna. Komentarz* (pp. 504–508). Wolters Kluwer.
- Kosonoga-Zygmunt, J. (2024). Komentarz do art. 206 [Commentary on Article 206]. In J. Majewski (Ed.), *Kodeks karny. Komentarz* (pp. 1060–1061). Wolters Kluwer.
- Kozłowska-Kalisz, P. (2015). Komentarz do art. 195 [Commentary on Article 195]. In M. Mozgawa (Ed.), *Kodeks karny. Komentarz* (pp. 530–531). Wolters Kluwer.
- Masternak-Kubiak, M. (2002). Prawo do równego traktowania [The right to equal treatment]. In B. Banaszak & A. Preisner (Eds.), *Prawa i wolności obywatelskie w Konstytucji RP* (pp. 122–123). C. H. Beck.
- Michalska-Warias, A. (2013). Komentarz do art. 257 [Commentary on Article 257]. In M. Królikowski & R. Zawłocki (Eds.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 222–316* (pp. 337–349). C. H. Beck.
- Młynarska-Sobaczewska, A. (2009). Komentarz do art. 47 [Commentary on Article 47]. In W. Skrzydło, G. Grabowska & S. Grabowski (Eds.), *Konstytucja Rzeczypospolitej Polskiej. Komentarz encyklopedyczny* (pp. 396–398). Wolters Kluwer.
- Okin, S. M. (1999). Is Multiculturalism Bad for Women? In J. Cohen, M. Howard & M. C. Nussbaum (Eds.), *Is multiculturalism bad for women?* (pp. 7–24). Princeton University Press.
- Piechowiak, M. (2016). Komentarz do Preambule [Commentary on the Preamble]. In M. Safjan & L. Bosek (Eds.), *Konstytucja RP: Vol. 1. Komentarz do art. 1–86* (para. 1–150). C. H. Beck.
- Pływaczewski, E. (2006a). Komentarz do art. 256 [Commentary on Article 256]. In A. Wąsek (Ed.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 222–316* (pp. 417–418). C. H. Beck.
- Pływaczewski, E. (2006b). Komentarz do art. 257 [Commentary on Article 257]. In A. Wąsek (Ed.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 222–316* (pp. 419–420). C. H. Beck.
- Pyclik, K. (2002). Wolność sumienia i wyznania Rzeczypospolitej Polskiej (założenia filozoficzno-prawne) [Freedom of conscience and religion in the Republic of Poland (philosophical and legal assumptions)]. In B. Banaszak & A. Preisner (Eds.), *Prawa i wolności obywatelskie w Konstytucji RP* (pp. 436–440). C. H. Beck.
- Renteln, A. (2004). *The cultural defense*. Oxford University Press.
- Rockefeller, S. C. (1992). Comment. In A. Gutmann (Ed.), *Multiculturalism and “the politics of recognition”: An essay* (pp. 87–98). Princeton University Press.
- Sadomski, J. (2016). Komentarz do art. 54 [Commentary on Article 54]. In M. Safjan & L. Bosek (Eds.), *Konstytucja RP: Vol. 1. Komentarz do art. 1–86* (para. 1–35). C. H. Beck.
- Safjan, M., & Mikłaszewicz, P. (2011). Granice uprzywilejowania wyrównawczego [Limits of compensatory privilege]. *Przegląd Sejmowy*, 6, 31–46.
- Shachar, A. (2001). *Multicultural jurisdictions: Cultural differences and women’s rights*. Cambridge University Press.
- Sitarz, O., & Bek, D. (2017). Czy zasadnie i skutecznie ustawodawca podwyższył poziom ochrony małoletnich? Krytyczna analiza nowelizacji Kodeksu karnego z 23 marca 2017 r. [Has the Polish legislator reasonably and effectively increased the level of child protection? A critical analysis of the Amendment of March 23, 2017 to the Penal Code]. *Forum Prawnicze*, 6, 8–24. [https://forumprawnicze.eu/wp-content/uploads/2018/11/fp44-Sitarz\\_Bek.pdf](https://forumprawnicze.eu/wp-content/uploads/2018/11/fp44-Sitarz_Bek.pdf)
- Skrzydło, W. (2013). *Konstytucja Rzeczypospolitej Polskiej. Komentarz* [Constitution of the Republic of Poland: Commentary]. Wolters Kluwer.
- Słownik języka polskiego PWN*. (n.d.-a). Pleć [Sex/Gender]. Retrieved 23 May 2025, from <https://sjp.pwn.pl/slownik-synonimow/p%C5%82e%C4%87.html>
- Słownik języka polskiego PWN*. (n.d.-b). Różnorodność [Diverse]. Retrieved 23 May 2025, from <https://sjp.pwn.pl/slowniki/r%C3%B3%C5%BCnorodno%C5%9B%C4%87.html>
- Sobczak, J. (2015). Komentarz do art. 195 [Commentary on Article 195]. In R. Stefański (Ed.), *Kodeks karny. Komentarz* (pp. 1205–1206). C. H. Beck.
- Stefański, R. A. (2006). Przepęstwo publicznego znieważenia grupy ludności lub osoby z powodu dyskryminacyjnego [The crime of publicly insulting a group of people or a person for discriminatory reasons]. *Prokuratura i Prawo*, 6, 24–38.
- Szahaj, A. (2010). *E pluribus unum? Dylematy wielokulturowości i politycznej poprawności* [E pluribus unum? Dilemmas of multiculturalism and political correctness]. Universitas.

- Szewczyk, M. (2013a). Komentarz do art. 118 [Commentary on Article 118]. In A. Zoll (Ed.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 117–277 KK* (pp. 34–49). Wolters Kluwer.
- Szewczyk, M. (2013b). Komentarz do art. 119 [Commentary on Article 119]. In A. Zoll (Ed.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 117–277 KK* (pp. 49–55). Wolters Kluwer.
- Szydło, W. (2016). Komentarz do art. 31 [Commentary on Article 31]. In M. Safjan & L. Bosek (Eds.), *Konstytucja RP: Vol. 1. Komentarz do art. 1–86* (para. 1–154). C. H. Beck.
- Śliz, A., & Szczepański, M. S. (2021). Różnorodność a równość. Projekty wielokulturowości w perspektywie socjologicznej [Diversity and equality: Projects of multiculturalism from a sociological perspective]. *Studia Socjologiczne*, 2(241), 13–44. <https://doi.org/10.24425/sts.2021.137287>
- Tarapata, S. (2016). *Dobro prawne w strukturze przestępstwa. Analiza teoretyczna i dogmatyczna* [Legal good in the structure of crime. Theoretical and dogmatic analysis]. Wolters Kluwer.
- Tokarczyk, D. (2021). *Przestępstwa i wykroczenia związane z zatrudnieniem. Komentarz* [Employment-related crimes and offenses: Commentary]. Wolters Kluwer.
- Wiak, K. (2015). Komentarz do art. 256 [Commentary on Article 256]. In A. Grześkowiak & K. Wiak (Eds.), *Kodeks karny. Komentarz* (pp. 1201–1205). C. H. Beck.
- Winczorek, P. (2008). *Komentarz do Konstytucji Rzeczypospolitej Polski z dnia 2 kwietnia 1997 roku* [Commentary on the Constitution of the Republic of Poland of 2 April 1997]. Liber.
- Woiński, M. (2014). *Prawnokarne aspekty zwalczania mowy nienawiści* [Criminal law aspects of combating hate speech]. LexisNexis.
- Wróbel, W. (2013). Komentarz do art. 195 [Commentary on Article 195]. In A. Zoll (Ed.), *Kodeks karny. Część szczególna: Vol. 2. Komentarz do art. 117–277 KK* (pp. 650–662). Wolters Kluwer.
- Zawadzka, Z. (2013). *Wolność prasy a ochrona prywatności osób wykonujących działalność publiczną. Problem rozstrzygnięcia konfliktu zasad* [Freedom of the press and the protection of the privacy of persons performing public duties. The problem of resolving conflicts of principles]. Wolters Kluwer.
- Ziółkowski, M. (2015). Zasada równości w prawie [The principle of equality in law]. *Państwo i Prawo*, 70(5), 94–111.
- Zoll, A. (2007). Odpowiedzialność karna za czyn niesprowadzający zagrożenia dla dobra prawnego w świetle Konstytucji [Criminal liability for an act that does not pose a threat to the legal interest in the light of the Constitution]. In J. Majewski (Ed.), *Formy stadialne i postacie zjawiskowe popełnienia przestępstwa* (pp. 9–21). Towarzystwo Naukowe Organizacji i Kierownictwa Stowarzyszenie Wyższej Użyteczności „Dom Organizatora”.

