

RESCALING IMPRISONMENT IN THE BALKANS – THE ‘HOLY GRAIL’ OF RESOCIALIZATION?

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WHY THIS TOPIC???

- **motivation/approach** in picking this lecture topic
- choice of topic originates in **own (scientific) point of view**
- importance for audience vs lecturer – **convenience!**?
- what might be important for you – the audience?
- **38th Victimology Course in Dubrovnik/Croatia**
- what do you know about crime, victimization or offending **in Croatia?**
- what do you know about **Croatian crime policy?**



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HOT TOPICS IN CROATIAN 'CRIMINAL' POLICY

Aggravated Murder of a Female Person nad Lex AP in Context

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ULTIMATE AIM OF LECTURE

provide insight into...

- crime, victimisation and offending in Croatia
- Croatian 'criminal' policy developments and future trends
- examples of 'street justice' and penal populism

facilitate critical thought about...

- evidence-based crime policy vs activist 'criminal politics' (indexing-frenzy)
- the position and role of criminology & victimology
- who & how & why defines certain groups as particularly vulnerable and worthy of (more) protection
- who & how & why defines certain groups as particularly dangerous and deserving (more) punishment



THE RELEVANT CONTEXT



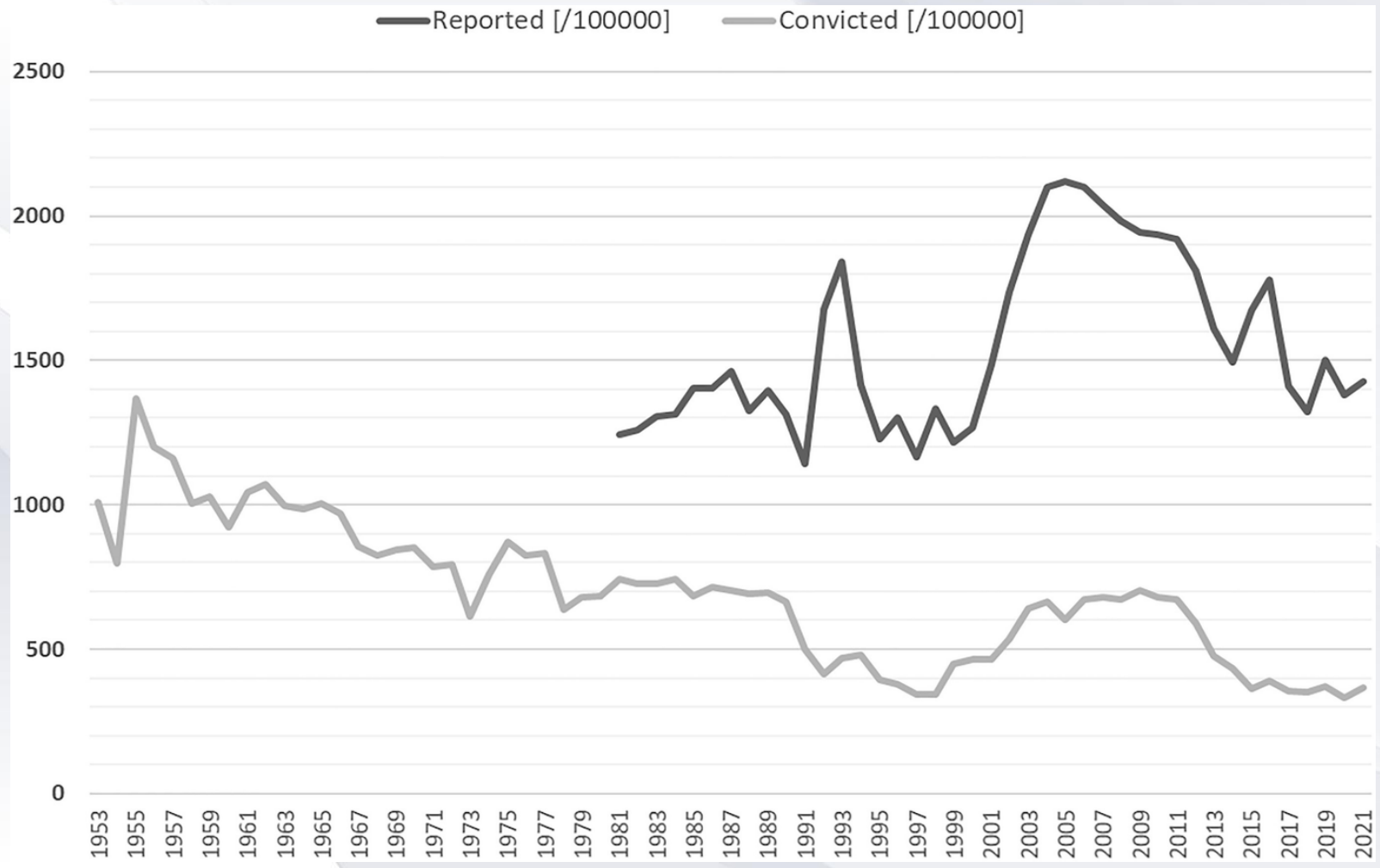
THE RELEVANT CONTEXT

- Croatia, just like the rest of the countries of Southeast Europe, does not fit the profile of a high crime region and appears to be much safer in terms of officially registered street and urban crime
- over the past 70 years, there is a clearly detectable declining trend in the rate of adult persons who have been convicted of having committed a criminal offence, esp. if one disregards the 'war-time drop' occurring during the 1990s



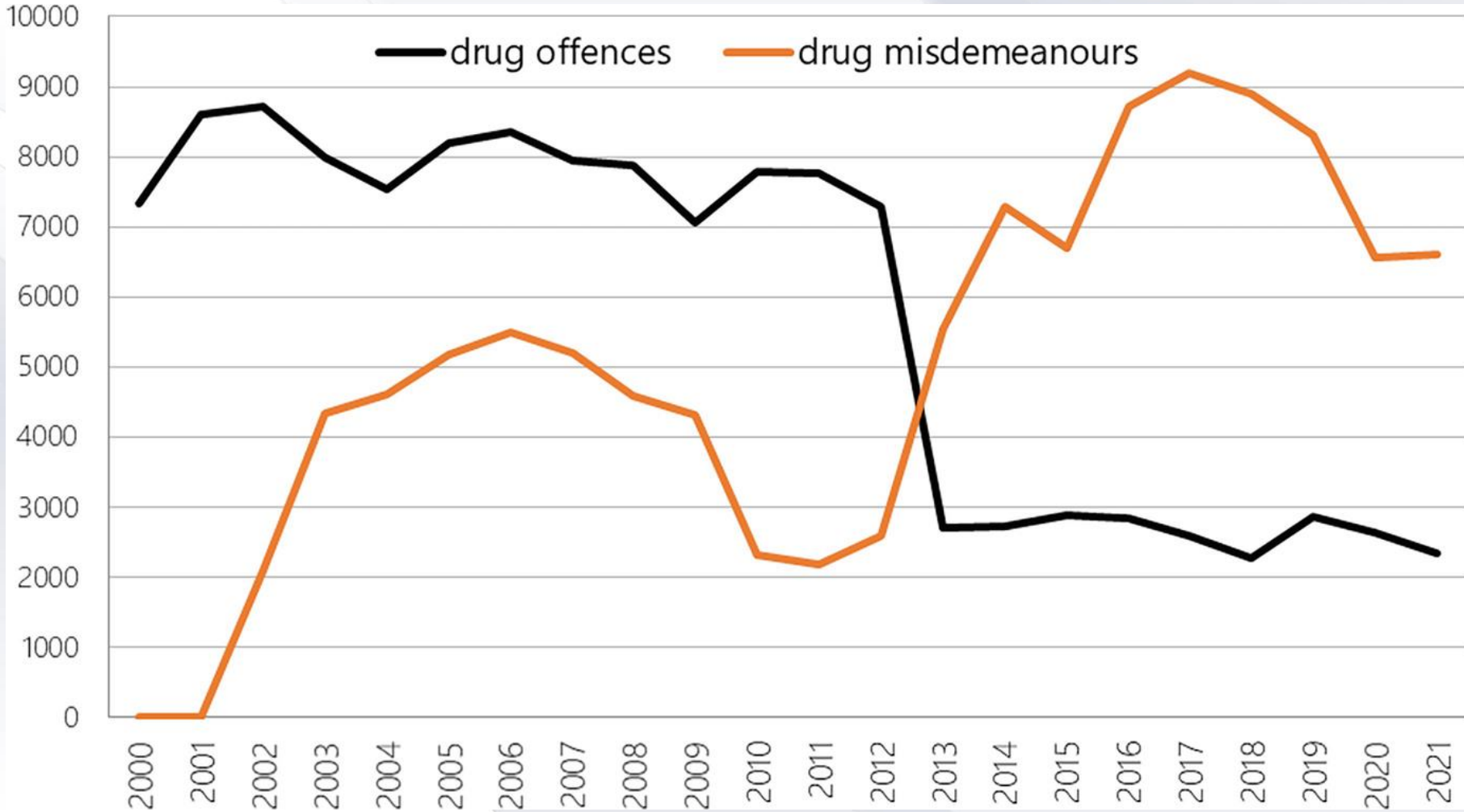


THE RELEVANT CONTEXT





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THE RELEVANT CONTEXT

- overall, Croatian criminality can be described as mainly property related (25.6% theft), with relatively low occurrences of violent crime, particularly its most fatal kind – homicides – in which exceptionality seems to be more of a regional than a national trait
- despite this rather positive crime situation, Croatia has in the past two decades repeatedly strengthened its penal response to crime by introducing harsher sentencing frameworks, in an attempt to toughen up the courts' sentencing practices, which are perceived as rather lenient, particularly when compared with the normatively proscribed sentencing frameworks





THE RELEVANT CONTEXT

- now, one might assume that in light of this Croatian prisons are not very full, but then one would be wrong
- although unconditional prison sentences are the exception (in 2021 they accounted for only 16.6% of all sentences), Croatian prisons are far from empty
- yet, their main occupants are not convicts but detainees who account for as much as 60% of all prison inmates
- the current situation is even worse due to the migration crisis (human smuggling and trafficking in human beings) which has led to a dramatic increase in detainees and overstretched the prison capacities





THE RELEVANT CONTEXT

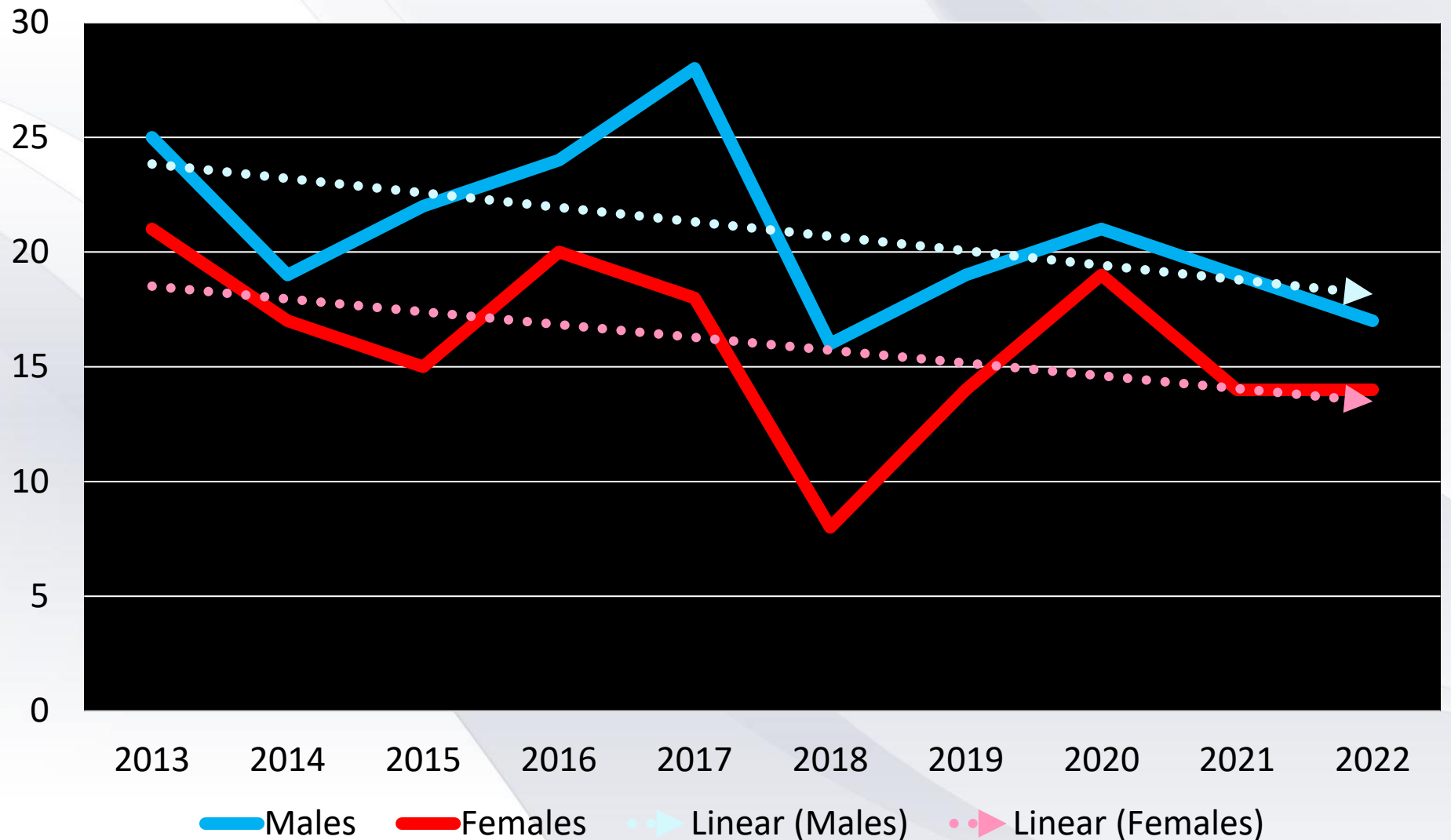
what might be current hot topics in Croatian crime policy – based on crime, victimization and offending data?

- prison overcrowding?
- alternatives to detention?
- handling of human smuggling and THB cases?
- corruption?
- ...
- ...
- **aggravated murder of a female person**
- **Lex AP – penalizing unauthorized leaks from criminal justice investigations to the media/public**

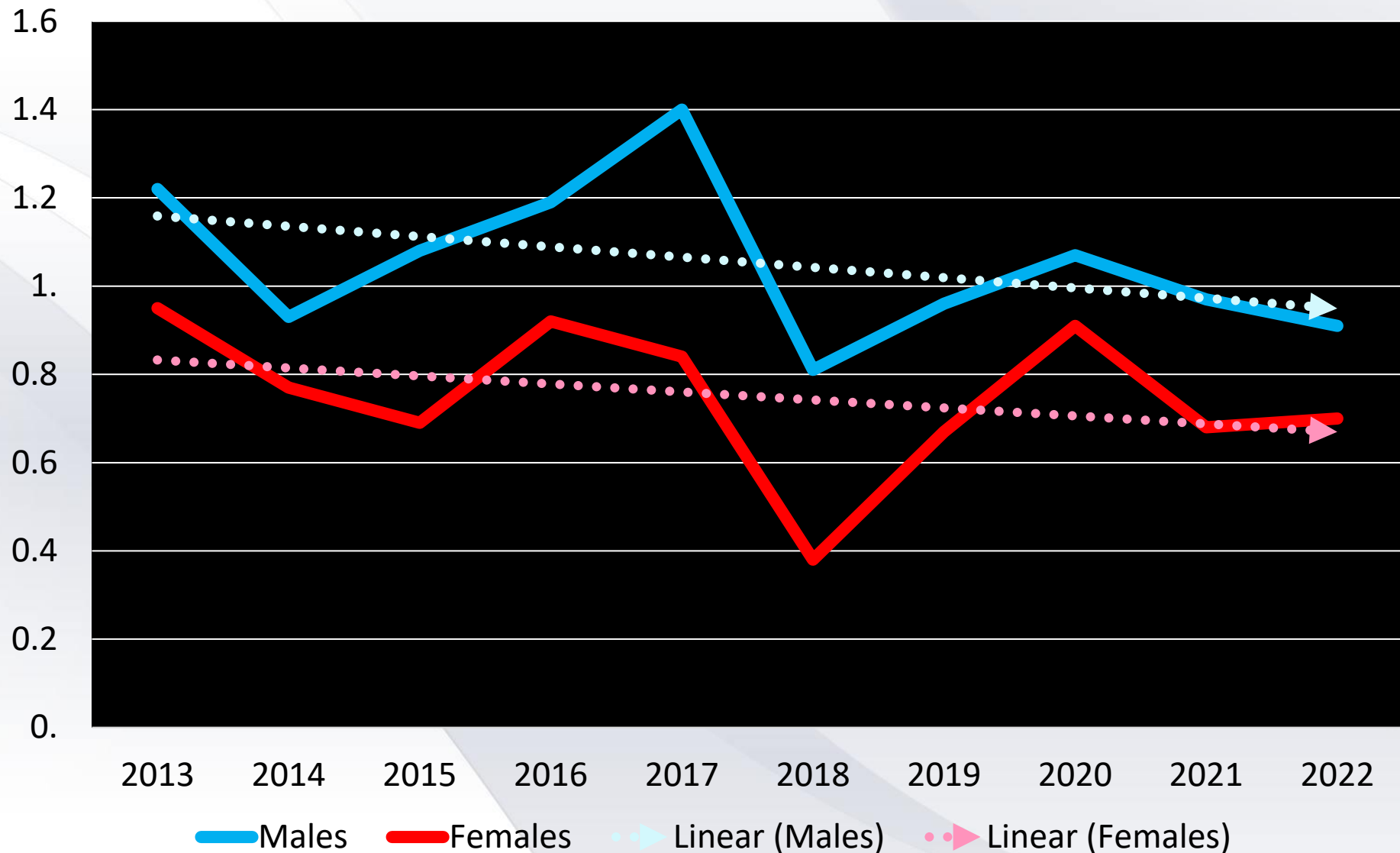


AGGRAVATED MURDER OF A FEMALE PERSON

number of intentional homicide victims by sex (EUROSTAT)



rate of intentional homicide victims by sex (EUROSTAT)





AGGRAVATED MURDER OF A FEMALE PERSON

Aggravated murder of a female person (art. 111.a)

- (1) Who commits a gender based murder of a female person shall be punished with a prison sentence of at least 10 years or a long-termed prison sentence (20-40 years).
- (2) When determining the criminal offence from para. 2. it shall be taken into account that the act has been committed against a close person, a person whom the offender had previously maltreated, a vulnerable person, a person who is in a relation of subordination or dependance, or that the offence has been committed in circumstances of sexual violence or because of a relationship that puts women in an unequal position or that there exist other circumstances that indicate gender based violence.





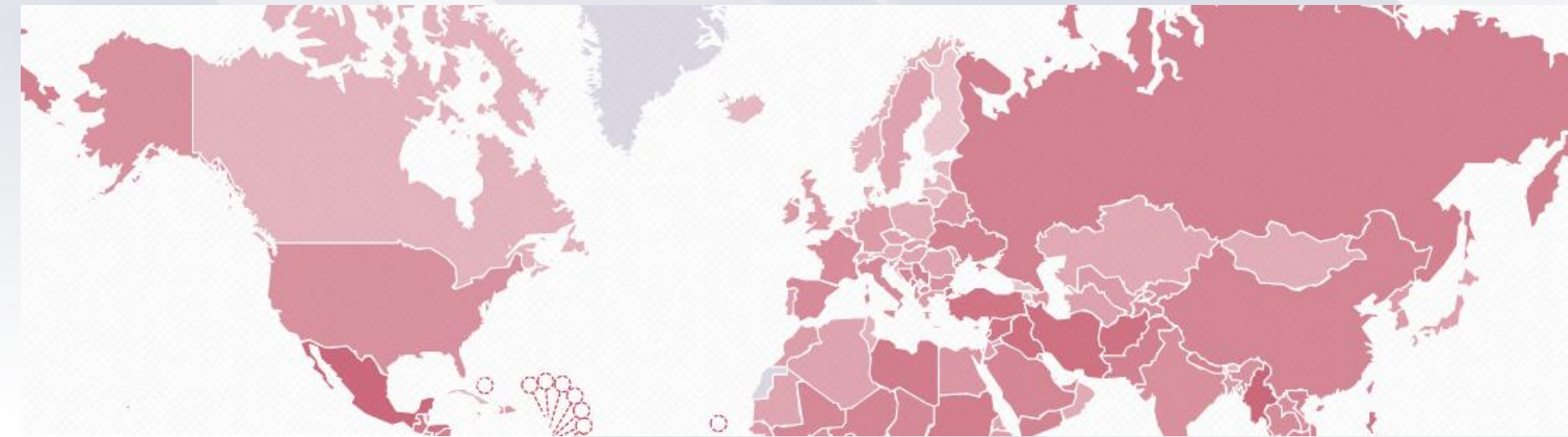
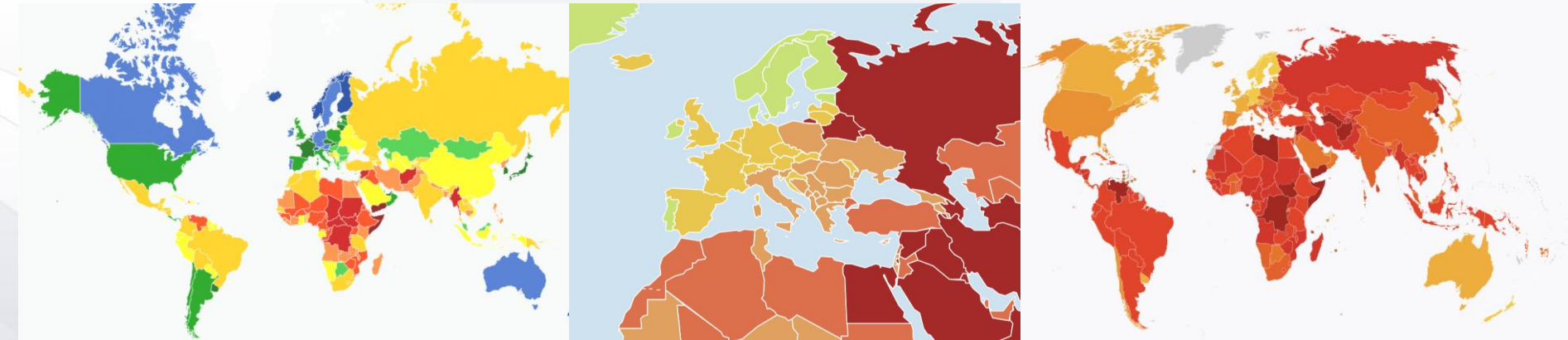
AGGRAVATED MURDER OF A FEMALE PERSON

- same sentencing framework as the 'ordinary' aggravated murder offence
- position of the Croatian High Criminal Court
- Istanbul convention (discrimination/efficient measures!)
- hot topic – why?
- media & activism → penal populism
- grey literature & agenda driven research!





GREY LITERATURE & AGENDA-DRIVEN RESEARCH





GREY LITERATURE & AGENDA-DRIVEN RESEARCH

- examples of how NOT to do it and research NOT to use, or if used – use with extreme caution!
- common mistakes – using constructed INDEXES as facts and figures, although most of them are far away from being that
- [corruption perceptions index](#) & [global corruption barometer](#)
CPI aggregates data from a number of different sources that provide perceptions by business people and country experts of the level of corruption in the public sector
- [failed/fragile states index](#) or [global slavery index](#)
- [world press freedom index](#): responses of experts to questionnaire
- [global organized crime index](#) or [rule of law index](#)





GREY LITERATURE & AGENDA-DRIVEN RESEARCH

AMNESTY
INTERNATIONAL



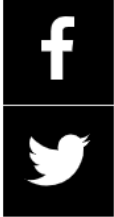
WHO WE ARE

WHAT WE DO

COUNTRIES

GET INVOLVED

SHARE



< PRESS RELEASE

May 21, 2019

Switzerland: One in five women is a victim of sexual violence

Rape and sexual violence levels 'staggeringly high' in Switzerland with women 'failed by dangerous laws'

Unlike the UK, Swiss law still does not define rape on the basis of lack of consent





EXAMPLE FOR AGENDA-DRIVEN RESEARCH



< PRESS RELEASE

WHO WE ARE WHAT WE DO COUNTRY

May 21, 2019 9:00 am

Switzerland: One in five women is a victim of sexual violence

unwanted sexual behaviour

"[...] Have you ever after the age of 16 experienced unwanted sexual behaviour? (in % of women aged 16 and older, lifetime prevalency)

YES 22% NO 72% difficult 6%

current risk of sexual victimisation in Switzerland is rather low (Baier 2019, 36)

out of all female study participants (aged 18 and older) 3.4 % reported having been subject to sexual harassment within the past 12 months, whereas 0.3 % reported having been sexually attacked/raped in the same period





GREY LITERATURE & AGENDA-DRIVEN RESEARCH



GREVIO

**RESPONSIBILITY OF ACADEMIA &
THE CRIMINOLOGICAL COMMUNITY**



Switzerland



LEX AP – anti-leaks offence



LEX AP – anti-leaks offence

Unauthorized disclosure of content of an investigative or evidence measure (art. 307.a)

- (1) A judicial official or a government employee in a judicial body, police employee or official, accused, lawyer, lawyer intern, witness, expert, interpreter, of translator who during the prior/investigative criminal procedure that based on law is considered non-public, unauthorized discloses the content of an investigative or evidence measure, **with the goal to make it publicly available**, shall be punished with a prison sentence up to 3 years.
- (2) The commission, aiding and abetting of the criminal offence from para. 1 **cannot be committed by who conducts the journalistic profession**.
- (3) There is no criminal offence from para. 1 if the act has been committed for the protection of the **victim** of a criminal offence, in the interest of the **defense** in the criminal procedure or in **another mainly public interest**.





LEX AP – anti-leaks offence

- very loud and very negative reaction of Croatian media – ‘attack on the freedom of the press’
- SLAPP suit = Strategic Lawsuit Against Public Participation
- Croatia said to be Europe’s leading SLAPP-country with the highest number of lawsuits against journalists, editors, publishers
- however – very misleading data
- counting lawsuits, not SLAPP-suits
- could high number of lawsuits not also be a reflection of low quality in journalism or corrupt media?





LEX AP – anti-leaks offence

- background of introducing Lex AP
- common practice and longstanding tradition in Croatia that evidence from ongoing investigations ends up in the media – public opinion and alarming effect; pressure on the courts (esp. detention)
- case of Josipa Rimac – unprecedented amount of WhatsApp messages found in her mobile phones
- correspondence with leading government and judicial officials has been regularly leaked via the media to the public in the investigative phase of criminal proceedings
- in several instances AP was mentioned





LEX AP – anti-leaks offence

- most outrage caused by set of messages exchanged between Josipa Rimac and judge Ivan Turudić
- 'beautiful' (di si lipa)
- 'joy' (di si radosti)
- opened the discussion about where public interest ends and harassment begins (media's profit?)
- resulted in criminal law amendments introducing said Lex AP
- journalists are said to be free from criminalization – the offence targets those who have authorized access to information, but then leak it to the media





LEX AP – anti-leaks offence

- media corruption & racketeering in Croatia
- power of the media to destroy lives
- most recent example (judge)











FOOD FOR THOUGHT

- crime, victimization and offending in Croatia – what's the current situation and what are likely future trends?
- what are some other hot topics? e.g. animal protection
- how are (crime) policy agendas created?
- who are the major 'players'?
- why is evidence-based crime policy important?
- what about the victims?



THANK YOU FOR YOUR
ATTENTION!

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