
O. R. Dashkovska, Doctor of Law, Professor, Head of the Department of Theory of State and Law of the Scientific Research Institute of State Building and Local Government of the NALS of Ukraine
ORCID ID :0000-0003-0145-850X

MAIN APPROACHES TO STUDYING AND OVERCOMING THE PROBLEMS OF GENDER-BASED VIOLENCE

Abstract. *This article focuses on gender-based violence and the legal strategies to prevent it in Ukraine and globally. Gender-based violence affects both men and women and includes physical, sexual, and psychological abuse. The article explores the root causes and types of gender-based violence, including sexual harassment and control over reproductive choices. It discusses legal methods like administrative and criminal liability to address this issue, emphasizing that gender-based crimes violate international law. The article also highlights that men can be victims of economic and psychological violence while women and children are primarily victims of sexual and physical violence. The effective prevention of gender-based violence requires strong cooperation between law enforcement and the criminal justice system. The article argues that a non-interventionist approach by states is detrimental to the rule of law and societal well-being. Overall, addressing domestic violence is a crucial problem and the effectiveness of prevention measures by law enforcement is essential.*

Keywords: *gender-oriented violence, types of violent actions, prevention of gender-based violence.*

Introduction. Gender-based violence is a deeply ingrained societal issue that has gained recognition as one of the most painful social problems. It was during the 1960s and 1970s, with the widespread acceptance of the idea of equality between men and women, that society began to condemn such violence. This shift was driven by humanistic ideals that challenged the long-standing silence surrounding domestic violence.

As society became more aware of the prevalence of gender-based violence, it also started to acknowledge other forms of family violence, such as corporal punishment of children, cruelty towards the elderly, and violence against women. The revelation of these various types of violence brought forth a range of moral, ethical, legal, and social issues that required society's attention.

In order to address this complex problem, a comprehensive theoretical exploration of gender-based violence is necessary. This exploration involves analyzing the underlying causes and negative impacts of such violence, scrutinizing the different phenomena encompassed by violence, and developing a classification system to understand its various forms. This approach is crucial within the field of legal science, where understanding the intricacies of gender-based violence and its impact on human rights is of paramount importance.

Domestic violence, as a significant form of gender-based violence, infringes upon various human rights. Victims of domestic violence are denied the right to protection from discrimination, the right to be free from harsh treatment, and the right to life and physical inviolability. Furthermore, domestic violence affects victims' mental and physical health, impinging upon their right to the highest standards of well-being. It is imperative that the state takes prompt action and applies legal measures against the offender to ensure the protection of these fundamental rights.

The process of women's emancipation, which granted women equal rights with men and removed certain traditional 'privileges', that defined societal attitudes toward them as the 'weaker sex' and the 'fair sex', has complicated both intra-family relationships and societal interactions. Despite substantial alterations over recent decades, women continue to concede the resolution of most critical issues

to men, affirming their dominant position within contemporary society.

Research and discussion. The most prevalent form of violence against women by men, regardless if it is a husband, work colleague, or a stranger, is the degradation of their dignity. All forms of gender-based violence are aimed at preventing women from exercising rights and freedoms equally with men in political, economic, social, cultural, and other spheres of life.

The right to personal safety is an essential aspect of family life that is protected by a series of positive state obligations. These obligations, according to international standards, are enshrined in national legislation. The primary objective of these obligations is to prevent the development of domestic violence, protect victims of violence, and provide necessary assistance. It is crucial to note that socio-legal intervention in family relations is justified in cases where it is necessary to safeguard the well-being of family members, particularly women and minors.

Domestic violence has far-reaching consequences that go beyond the individual family unit. It significantly weakens humanistic standards of family upbringing and contributes to the formation of cruelty and immorality among the younger generation. Furthermore, it paves the way for various antisocial behaviors such as neglect, vagrancy, crime, and juvenile prostitution. Consequently, domestic violence has become a widespread social issue with severe consequences.

There is a strong correlation between family adversity, domestic violence, and overall crime rates, underscoring the urgency to address and prevent domestic violence effectively. From a societal perspective, it is crucial to recognize that the decriminalization of family adversity, especially the prevention of domestic violence, demands constant attention and action from the state, law enforcement agencies, and social services. Through collaborative efforts, it is possible to protect the rights and well-being of individuals within the family unit and create a safer, healthier society as a whole.

Statement of main provisions. For a long time, domestic violence was regarded as a private matter, and therefore, the intervention of law enforcement agencies was deemed unacceptable. However, with the

integration process of Ukraine into the European Union and the desire to protect the basic rights and freedoms of individuals, The Council of Europe's Convention «On Protection of Human Rights and Fundamental Freedoms» started to play a more active role. Legislative actions are now in effect, providing criminal liability for domestic violence. Indeed, according to Article 126–1 of the Criminal Code of Ukraine, domestic violence is not considered a private affair, but a crime, punishable by public works for a period from one hundred fifty to two hundred forty hours, or arrest for up to six months, or restriction of freedom for up to five years, or imprisonment for up to two years.

Domestic violence can take various forms, ranging from physical and psychological (beatings, threats, blackmail, bullying) to sexual and economic (forcing unwanted sexual relations, property blackmail, deprivation of food and water) violence.

Gender-based violence is defined as an illicit act and is punishable in most countries worldwide. According to Article 3 of the Council of Europe's Convention «On Protection of Human Rights and Basic Freedoms», no one should be subjected to torture or inhumane or degrading treatment or punishment. A social survey conducted in 2019 in the Federal Republic of Germany (henceforth – FRG) found that every third day in the FRG, a woman died at the hands of a former or current husband or lover [5].

The equality of men and women is guaranteed in Ukraine by the Law «On Ensuring Equal Rights and Opportunities for Women and Men,» which defines one of the manifestations of gender-based violence as both verbally expressed (threats, intimidation, obscene remarks) and physically executed (touching, slapping) sexual actions that demean or offend individuals who are in relationships of work, official, material or other subordination. This law outlines protection procedures against instances of gender and sexual harassment discrimination, as well as the possibility of compensation for material losses and moral damages caused by gender discrimination or sexual harassment [5]. Ukrainian laws impose both administrative and criminal penalties for gender-based violence. However, according to the UN Population Fund as of 2018, over 1.1 million Ukrainian women suffer physical, sexual, or emotional abuse annually [13].

The preamble of the UN Declaration «On the Elimination of Violence Against Women», proclaimed by UN General Assembly resolution 48/104 on December 20, 1993, states that violence against women is a manifestation of an unequal power equation between women and men. Furthermore, the ideological basis for gender-based violence is identified as machismo (sexism) and misogyny [6, p. 60–61].

In the year 2000, the United Nations Security Council (UNSC) made a landmark move towards advancing gender equality by adopting a resolution that proposed several recommendations for increasing the involvement of women in political processes. This also extended to the integration of gender considerations into the operations related to peace and security carried out by the United Nations (UN). This recognition of gender dimensions within such international contexts marked a significant step forward in addressing systemic gender disparities.

The resolution made specific proposals concerning the amplification of women's roles within decision-making environments, particularly those related to peace building processes. This translated into advocacy for greater female participation in negotiations in post-conflict reconstruction, political, and economic decision-making structures, as well as in building and maintaining sustainable peace efforts. It addressed the imperative of having a gender-balanced and inclusive approach to policy formation.

Furthermore, the resolution called for the incorporation of gender perspectives into military training and peacekeeping activities, a considerable leap towards fostering gender sensitivity in professions and situations dominated by masculinity. This involved putting in practice gender-responsive planning and execution of such operations to ensure the unique needs of women and girls are addressed, while also acknowledging and leveraging their contributions to peace initiatives.

Moreover, it advised the integration of gender issues into the UN's reporting system. This significant proposition aimed to ensure that gender issues and the experiences of women in conflict and post-conflict situations are duly recognized, recorded, and addressed. It sought to rectify the often overlooked or underestimated impacts

of conflict on women and girls, by emphasizing the necessity to systematically report and address gender-related issues.

Subsequently, the UNSC demonstrated its ongoing commitment to women's rights, peace, and security by passing another eight resolutions pertaining to this nexus of issues. This dispersed any doubts about the UN's commitment to addressing gender-related issues within contexts of peace and security. Six out of these eight resolutions particularly emphasize on combatting conflict-induced sexual violence. This reiterated the UN's recognition of the need to address this grave violation of human rights that disproportionately affects women and girls in conflict situations, and the pivotal role that women play in fostering global peace and security.

The Council of Europe's convention on «Preventing and Combating Violence Against Women and Domestic Violence» (the Istanbul Convention) of 2011 delineates a system of responsibilities for convention member states concerning the protection of refugees and asylum seekers from domestic and gender-based violence. It also establishes a range of safeguards for this specific group. Article 60 of the convention obliges member states to implement all possible measures to ensure that violence against women based on gender is recognized as a form of persecution [7, p. 43].

At present, sexual and gender-based crimes are considered severe breaches of international law. They are, in essence, an assault on a person's fundamental human rights. Depending on the method and context in which these offenses are carried out, they can be classified into different categories falling under the umbrella of international law.

Handling these appalling actions is complex due to the varied nature of the offenses. These can range from, but are not limited to, sexual violence, sexual slavery, forced prostitution, and forced marriage. In some instances, these acts may be diligently planned and systematically carried out, constituting war crimes. As war crimes, they are serious violations of established customary and treaty rules of warfare that all nations accept as binding.

In contrast, when these actions are widespread or systematic and directed against a civilian population, they can be classified as crimes against humanity. This classification suggests that such actions are not

only acts which are grossly inhumane, they are also actions of a serious nature that deliberately infringe upon human dignity.

Moreover, in even more disturbing instances, these gender and sexual-based crimes can qualify as acts of genocide. This refers to instances when such acts are committed with the intent to destroy, in whole or in part, a particular ethnic, racial, religious, or national group.

It's essential to note, however, that the same crime can fall into different categories depending on the context and surroundings. A violation that is classified as a war crime in one scenario might be a crime against humanity, or even an act of genocide, in another. This complexity in categorization underscores the gravity with which these crimes are treated under international law.

Examining the concept of gender-based violence, it is imperative to note that not only women can be victims of domestic violence. There are cases where men suffer moral oppression from their wives but mostly tend not to publicize this. A. Krivulyak, the director of the National «Hotlines» Department of the public organization «La Strada-Ukraine», has noted that 13% of the total calls are from men who, on a larger scale, suffer from economic and psychological violence, whereas women and children predominantly fall victims to sexual and physical abuse [8, p. 11].

It is important to mention that the complaints from men about violence against them are significantly fewer, as men often feel embarrassed to admit their vulnerability. It is perceived that men, being the «stronger» sex, are not inclined to discuss their issues, regardless of their gravity. This usually occurs due to the adverse influence of societal views. For instance, if a man confides in his friend about being beaten by his wife, the friend is likely to laugh at him instead of contemplating the severity of the situation, adhering to stereotypical beliefs such as «men don't cry» or «you're a man, you should be strong.» Hence it can be broadly generalised that men's gender roles are shaped by «expectations regarding men's dominant role in making decisions concerning household affairs and financial provisioning.» [9, p. 66]

One of the most effective means of combating domestic violence is the fruitful cooperation among workers in the criminal justice

system. A prime example of this is the experience of England and Wales, where effective, albeit complex, legislation is in place that ensures victims of domestic violence receive necessary legal assistance. However, in practice, police officers and justice workers often adopt a stance of non-intervention in family matters, leading to a deepening of this issue.

The concept of «gender-based violence» emerged as a legal category in the 1990s, thus the legal science has not yet developed a clear, succinct, and adequate definition of such a concept. Gender violence is a category of gender law, as it has a direct connection to gender-related issues. Gender violence is a type of violence that includes actions causing physical, psychological, sexual harm or suffering, the threat of such actions, coercion, and other limitations on freedom contrary to the principle of gender equality. In this context, the issue of gender violence is presented from the perspective of sex-based discrimination. This approach is novel and promising for global and national legal science [10, p. 15].

Conclusions. Gender-based violence stands as an urgent, pervasive issue in contemporary societies worldwide, a worrisome trend underscored by both its prevalence and severity. This form of violence, notorious for its reliability to not just physical but also psychological harm, casts a long shadow over a multitude of societies and cultures around the globe.

Regrettably, this deeply impactful issue is often dismissed or underplayed by certain states, who perceive it merely as a private issue and thus inappropriately relegated to the domestic sphere. This perspective frequently results in a policy of non-interference, where the state willingly distances itself from situations seen as familial affairs and domestic disputes. However, in the context of a modern democratic society, such an attitude is frankly unacceptable.

A modern democracy is built on principles of maintaining and upholding human rights and freedoms, which include personal safety and protection from harms such as gender-based violence. Therefore, the task of law enforcement agencies extends far beyond maintaining general peace and order – they also have a fundamental role in protecting vulnerable individuals from domestic abuse in all its forms.

More than that, law enforcement agencies need to diligently monitor instances of domestic violence and to effectively intervene when necessary. Mere response strategies are insufficient – a proactive stance is indispensable. This implies a transition from purely punitive reactions post-occurrence to focus on comprehensive, timely prevention strategies.

Overcoming the scourge of domestic violence is of tremendous importance in contemporary times, a fact underscored by increasing global awareness and advocacy campaigns. Policymakers and law enforcement agencies must view this not merely as a duty but as an urgent moral and societal imperative.

The effective application of preventative measures can significantly contribute to minimizing the profound harm inflicted by gender-based violence on individuals and societies. By doing so, law enforcement agencies can play an instrumental role in preserving the dignity and integrity of democratic states, ultimately fostering a safer, more inclusive society.

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О. Р. Дашковська

**Основні підходи до вивчення та подолання проблем гендерно
зумовленого насильства**

***Анотація.** Ця стаття сфокусована на актуальній проблемі, що загрожує сучасному суспільству — насильству на основі гендеру — та юридичних стратегіях його запобігання в Україні та в світі. Насильство на основі гендеру застосовне і до чоловіків, і жінок, проявляючи всеосяжність своєї присутності у сучасних суспільствах. Стаття глибоко аналізує корені цієї проблеми та можливі шляхи її вирішення.*

Встановлено, що виходячи з владних дисбалансів між чоловіками та жінками, насильство на основі гендеру має фізичний, сексуальний та психологічний аспекти, використовуючи тактики залякування, домінування, примусу та навіть підпорядкування у родинних або суспільних контекстах. Одна із основних цілей аналізу, здійсненого в цій статті — розкриття основних типів насильства на основі гендеру та їх співвідношення з гендерними конструкціями. Серед них слід виділити сексуальне насильство, примушування жінок до абортів, примусову вагітність, надмірні ревності, обмеження спілкування з іншими людьми, заборону працювати та інше.

Відзначено, що жертвами такого насильства виявляються не тільки жінки, як це зазвичай сприймається суспільством, а й чоловіки. Форми насильства, яким піддаються чоловіки, відрізняються від тих, які переживають жінки та діти. Чоловіки зазвичай стають більш вразливими до різних форм психологічного насильства. Це можуть бути погрози, приниження, ігнорування, маніпуляції, домінування, постійна критика, а також покарання за непокору.

З іншої сторони, жінки та діти переважно страждають від сексуального та фізичного насильства. Це містить в собі не тільки безпосередні фізичні напади, але й насильницькі сексуальні дії. Більш того, жінки часто стають об'єктами тілесного покарання та домашнього насильства,

що включає побої, жорстоке поводження та інші форми фізичного знущання. Щодо дітей, вони, на жаль, часто стають жертвами сексуального насильства або ж небалого ставлення.

Стаття надає детальний огляд юридичних методів вирішення цих проблем, які включають адміністративну та кримінальну відповідальність, посилення державної присутності у відповідній сфері суспільних відносин, забезпечення додаткових превентивних механізмів та інші. Зазначається, що злочини на основі статі та гендеру представляють в сучасному світі порушення в тому числі міжнародного права і можуть виникати не лише в межах сімейних відносин, але і в якості супутніх проявів при здійсненні інших злочинів.

На прикладах окремих країн Європи (Англії та Уельсу) в статті наводиться обґрунтування тези про те, що найефективнішим способом боротьби з насильством на основі гендеру є посилення співпраці між правоохоронними органами та системою кримінальної юстиції. Наголошується, що позиція держав щодо невторчання в ці справи суперечить принципу верховенства права, а наслідки насильства на основі гендеру негативно відображається на житті не лише на окремих сімей або осіб, а й суспільства в цілому.

Ключові слова: гендерно-орієнтоване насильство, види насильницьких дій, попередження гендерно-орієнтованого насильства.