

## **CRIMINAL LAW AND CRIMINOLOGY. CRIMINAL AND PENAL LAW**

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### **THE PROBLEM OF DOMESTIC VIOLENCE IN WAR REALITIES AND WAYS TO SOLVE IT**

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Lasting in Ukraine full-scale war hasn't stopped the commission of crimes that were widespread in our country even before. Domestic violence is one of those phenomena that can only get worse in times of war and at the same time remain invisible.

Violence is a primordial problem of humanity. And as practice shows, domestic violence has no geographical boundaries or borders, it exists in all peoples, classes and religions. By using violence, the perpetrator violates the most important human rights and, above all, to life and health, and therefore is held accountable [1, 494]. Lawyers sound the alarm: domestic violence is increasing during the war.

What are the peculiarities of the phenomenon of domestic violence during the war? Let's remember that the phenomenon of domestic violence requires its independent study from different points of view – legal, sociological, psychological, pedagogical, historical, ethnographic, etc. and try to implement them into the situation of war or armed conflict, taking into account several aspects:

- firstly, the history of the development and modern state of the family and marriage;
- secondly, violence as a type of behavior;
- thirdly, violence in the family as a socio-legal phenomenon [2, 7].

War, like any extreme situation, sharpens the problems of people who were there before. In particular, it concerns violence in families. It should be

reminded that the manifestation of a specific fragment (episode) of domestic violence depends on interconnected, interdependent indicators of economic, moral and psychological sections. Forms of psychological conflict generators can be: threats, humiliation, sarcasm, destructive criticism, gaslighting, humiliating judgments, admonitions, reproaches, etc. [3; 10].

The segment of socially vulnerable segments of the population has expanded significantly: most of Ukrainian families have become socially vulnerable, separated from their relatives, have lost shelter, and are unable to adequately defend their legal rights and interests. The state, in its turn, is unable to provide guarantees of quantitative and qualitative parameters of social security of various social segments in the realities of war. A person with post-traumatic syndrome habitually returns home with weapons in his hands and with a heightened sense of justice. Thus a situation may arise when a military man can become a source of danger in everyday life.

Domestic violence in times of war is a common phenomenon that becomes even more dangerous than in times of peace. Nowadays it is more difficult for people who have experienced such violence now to find a way out – they are often limited in their movement, they have no one to ask for help, and they are even more dependent on the offenders physically and materially.

Ukrainian researcher Taras Chabaiovskyi claims that domestic violence has become increasingly cruel and aggressive since the war. According to the scientist, the complication of the problem is explained by the availability and increase of the number of domestic violence, and psycho-emotional stress experienced by people due to fear, uncertainty of the future, loss of beloved ones, property, work, forced relocation, etc. acts as a certain catalyst for committing domestic violence [4; 217].

The possibility of violence also increases in families that has lost their usual circle of communication. For example, in cases where they have moved to a safer city and a family member is experiencing domestic violence: they have no longer either beloved ones, or friends, relatives nearby to ask for help, as well as they have no place to go away from offender.

This also concerns families who were forced to go abroad, where they found themselves completely outside the usual order of things: according to new laws, rules, cultural and language environment.

Sometimes a family stays in its community but finds itself in the situation of uncertainty due to a sudden change in lifestyle. There are no friends or colleagues nearby, who often become a deterrent to the abuser or an external force that breaks the cycle of domestic violence by reporting it to the police or social services. For objective reasons, there is a certain reduction in domestic violence statistics. However, in reality, the number of women who became victims of domestic violence for the first time during the war significantly increased [5; 593].

If violence occurs in the family, it should be stopped. This is possible even in the situation of occupation and in the combat zone, but here you will have to settle the conflict without the help of law enforcement officers. In crisis situations, if there is a telephone connection or the Internet, you can contact a specialist by calling the "hot line" for victims of domestic violence, and get psychological help or advice on how to resolve and change the situation.

According to T. Chabayovskyi, violence (regardless its type and manifestation) negatively affects the psycho-emotional state of the victim's health, which is already vulnerable during wartime, therefore a person who commits an offense during war is subject to increased responsibility for such actions. He refers to Clause 11 Part 1 Article 67 CC Ukraine on the commission of a crime using the conditions of martial law, according to which such actions may belong to the circumstances that aggravate the punishment. From a legal point of view, it is difficult to disagree with this opinion, but in a number of cases, on our point of view, the state, which, for example, did not provide timely and adequate assistance to a war veteran, should be responsible as well. Servicemen who have returned from the front are also at risk. They may suffer from depression, post-traumatic syndrome and other mental health diseases and, if they do not have access to relevant psychological rehabilitation, this may contribute to an increase in domestic violence [4; 218].

The trauma of war is compounded every day and will unfortunately soon be directly linked to domestic violence due to post-traumatic syndrome, loss of jobs, homes, and so on. Currently, it is extremely important for Ukraine to increase the effectiveness of the principle of combating domestic violence in war conditions, namely to improve the legislation in terms of bringing responsibility for domestic violence, to improve approaches to the investigation of offenses related to domestic violence, and also for the society to focus its attention on the nuances of the problem. At the same time, the need for mental and psychological support of people in Ukraine will remain relevant for many years to come.

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**PURPOSE AS A MANDATORY FEATURE  
OF THE SUBJECTIVE SIDE OF TAKING A REPRESENTATIVE  
OF THE AUTHORITIES OR AN EMPLOYEE  
OF A LAW ENFORCEMENT AGENCY AS A HOSTAGE**

**МЕТА ЯК ОБОВ'ЯЗКОВА ОЗНАКА СУБ'ЄКТИВНОЇ СТОРОНИ  
ЗАХОПЛЕННЯ ПРЕДСТАВНИКА ВЛАДИ АБО ПРАЦІВНИКА  
ПРАВООХОРОННОГО ОРГАНУ ЯК ЗАРУЧНИКА**

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Обов'язковою ознакою суб'єктивної сторони захоплення представника влади або працівника правоохоронного органу як заручника є вчинення цього діяння з метою спонукання державної чи іншої установи, підприємства, організації або службової особи вчинити або утриматися від вчинення будь-якої дії як умови звільнення заручника. Ця мета очевидно може стосуватися спонукання зазначених суб'єктів до вчинення як законної, так і незаконної дії. Мета також має альтернативний характер: спонукання може стосуватися як вчинення певної дії чи утримання від її вчинення.

У Єдиному державному реєстрі судових рішень відсутні обвинувальні вироки за ст. 349 КК України. Тому варто звернути увагу на інші судові рішення. Аналіз зазначених рішень свідчить про помилкове тлумачення правозастовними органами мети як обов'язкової ознака суб'єктивної сторони захоплення представника влади або працівника правоохоронного органу як заручника. *Наприклад, дії організатора злочинної організації Особи-7 кваліфіковано зокрема за ч.*