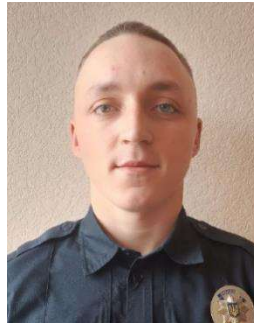


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PREVENTING AND COMBATING DOMESTIC VIOLENCE UNDER MARITAL LAW: CHALLENGES AND PROBLEM SOLUTIONS

Каріна Пісоцька, Ігор Крушеницький. ЗАПОБІГАННЯ ТА ПРОТИДІЯ ДОМАШНЬОМУ НАСИЛЬСТВУ В УМОВАХ ВОЄННОГО СТАНУ: ВИКЛИКИ ТА ВИРІШЕННЯ ПРОБЛЕМИ. Повномасштабне вторгнення військ країни-агресора на територію України не зупиняє вчинення правопорушень, які були поширеними в нашій державі у мирний час. Так, одним із таких правопорушень є домашнє насильство, яке виступає таким явищем, яке у період воєнного стану може лише загострюватися і при цьому залишатися невидимим.

В статті проаналізовано особливості та актуальні аспекти запобігання та протидії вчиненню домашнього насильства в умовах дії правового режиму воєнного стану. Нами було здійснено дослідження нормативно-правових актів, які регулюють норми протидії домашньому насильству, а також здійснено аналіз наявних в умовах сучасності змін національного законодавства України, які набрали чинності після введення правового режиму воєнного стану.

Крім того, в даній статті було звернено увагу на можливі напрями удосконалення наявних на сьогодні засобів та способів запобігання та протидії домашньому насильству, а також звернено увагу на суб'єктів, які уповноважені на здійснення такої діяльності. Зокрема, в статі визначено, що домашнє насильство в Україні під час дії правового режиму воєнного стану не втратило своєї та проблема набрала поширеності в суспільстві, в умовах сьогодення.

Щодо способів та засобів запобігання та попередження вчинення домашнього насильства саме в умовах воєнного стану, визначено, що доцільним є проведення регулярних профілактичних бесід із сім'ями, які пережили виїхали із тимчасово окупованих територій: сім'ями, які втратили близьких родичів; сім'ями, в яких близькі родичі воєнні тощо. Тобто, під час воєнного стану досить важливо, щоб загальні та спеціалізовані служби підтримки постраждалих осіб здійснювали належні профілактичні заходи щодо попередження насильства в сім'ї.

Ключові слова: правовий режим воєнного стану, домашнє насильство, адміністративна відповідальність, форми домашнього насильства, протидія правопорушенням.

Relevance of the study. In modern conditions, our state must fight not only with the external enemy, but also in a certain way ensure that the rights of its citizens are not violated in the middle of the state. Unfortunately, each citizen of Ukraine reacts differently to what is happening in the country. This is due to the fact that people, being in constant stress and fear, begin to behave differently, and one of these consequences is an increase in the level of violence in families.

Let's pay attention to the fact that many cases of downplaying the problem of domestic violence were observed at the beginning of the full-scale invasion of the occupying forces of the Russian Federation. Currently, the corresponding situation is improving, in particular, thanks to the subjects of response to such offenses, including the police officers, who directly improve the mechanisms of response to cases of domestic violence to the current conditions.

Recent publications review. The issue we investigated regarding the prevention and

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counteraction of domestic violence was highlighted in the works of many domestic scientists, namely: N. Novytska, T. Malinovska, U. Mytnyk, T. Pertseva, V. Ogorenko, V. Nesterchuk, K. Cherevko, O. Haran, O. Stepanenko, A. Vozniuk, L. Sukmanovska, M. Repan, R. Myronyuk and others. Although the indicated experts have studied the issue of prevention of domestic violence and possible means and methods of combating this offense, in modern conditions there are still a number of unresolved issues that directly relate to the prevention and combating of domestic violence precisely in the conditions of the legal regime of martial law. Dialectical materialism was used as a general method of cognition to achieve the goal of the research and to fulfill the set tasks. The research is based on general scientific (analysis, synthesis, comparison of deduction, induction, analogy, etc.) and private scientific research methods (comparative legal, formal legal, etc.).

The article's objective is to conduct an analysis and research of current issues related to the effective use of means and methods of prevention and counteraction to the commission of domestic violence in the conditions of the legal regime of martial law.

Discussion. The activities of the National Police of Ukraine are directly related to ensuring the protection of the rights, freedoms and legitimate interests of every person, which are defined as fundamental and inviolable by the current Constitution of our country. Any threats to human life or health require the immediate intervention of law enforcement officers, who can use their special skills and knowledge to eradicate negative circumstances that entail certain dangerous consequences.

Specialists and experts note that domestic violence during martial law is a widespread phenomenon that becomes even more dangerous than in peacetime. Low incomes, unemployment, loss of residence – all these are socio-political and economic catalysts for the growth of domestic violence. In addition, it is more difficult for people who have experienced such violence now to find a way out, because they are often limited in their movement, they are even more dependent on the offenders physically and materially, that is, they are in the so-called "circle of violence".

In modern conditions, the occurrence of cases of domestic violence in the family is defined as an actual problem. Every day, the National Police receives statements from people who witnessed or directly suffered from such violent acts. Police officers who respond to this call must analyze the possibilities of a certain threat, as well as plan all further actions and determine the range of methods and means that can be used in that situation. Thus, in accordance with the Law of Ukraine "On the National Police", police officers are authorized in certain cases to apply measures of a preventive and coercive nature [1]. It should also be remembered that this Law does not create certain limits in the activities of the police, because the police can apply any other measures of influence that are clearly defined by the current legislation of Ukraine.

According to statistics, the National Hotline for Prevention of Domestic Violence, Human Trafficking and Gender Discrimination recorded 39,472 calls in 2022, 0,551 in the first quarter of 2023, more than 92 percent of calls related to domestic violence. In addition, in 2022, the police registered 244,281 calls for domestic violence. For example, according to the data of the Lutsk District Police Department, as of 15/05/2023, 1,189 reports of domestic violence were received from citizens, correspondingly the same number of visits to the scene were made, 232 protocols on administrative offenses were drawn up, provided for in Article 173-2 of the Code of Ukraine on Administrative Offenses. 140 urgent injunctions were issued. Regarding the Dnipropetrovsk region, we can note that since the beginning of 2023, almost 12 thousand administrative protocols and more than 7.3 thousand urgent prohibitory orders have been drawn up in the Dnipropetrovsk region. According to Article 126-1 (domestic violence) of the Criminal Code of Ukraine, 213 criminal proceedings have been opened, and in general, 10,000 domestic abusers have been registered with the police [4].

It should be noted that one of the main legislative acts in the researched area is the Law of Ukraine "On Prevention and Counteraction of Domestic Violence", which in the content of its provisions stipulates that domestic violence is an act (action or inaction) of physical, sexual, psychological or economic violence committed in the family or within the limits of the place of residence or between relatives, or between former or current spouses, or between other persons who live (lived) together in the same family, but are not (were not) in family relations or married to each other, regardless of whether the person who committed domestic violence lives (has lived) in the same place as the victim, as well as threats to commit such acts [2]. In addition, in the content of the researched normative legal act, namely in part 3 of Article 6, it is

clearly defined that the entities that carry out measures in the field of prevention and counteraction of domestic violence are authorized units of the National Police of Ukraine. Their powers include entering a person's home without a reasoned court order in urgent cases that are directly related to stopping an act of domestic violence, as well as in case of danger to the life or health of the victim [2].

If we take into account certain statistics of the Institute of Sociological Research of Ukraine, we note the fact that 68 % of women are abused in the family, and a quarter of them suffer from beatings. As stated in Article 3 of the Council of Europe Convention on the prevention of violence against women and domestic violence, and the fight against these phenomena, domestic violence is a complex of all acts of physical, sexual, psychological and economic violence that occur in the family or within immediate place of residence, or between former or current partners, regardless of whether the offender lives in the same place as the victim or not [3].

In addition, when considering domestic violence, it should be noted that it should be considered as a separate type of violent actions during martial law, because it, like any stressful situation, affects the worldview of both the perpetrator and the victim. Certain reasons for such manifestations can be: stereotypes of family upbringing, tensions, conflicts, violence in society, lack of decent living conditions, lack of conscious parenthood and family values, lack of reproductive culture in the population, alcoholism, drug addiction, etc. [5, p. 45].

Regarding the forms of domestic violence, we note that both in peacetime and wartime, violence includes: physical (for example, illegal deprivation of liberty, beatings, slapping, slapping, etc.); psychological (verbal insults, any manifestations of threats, humiliation, harassment, etc.); sexual (sexual harassment, coercion, etc.); economic (deprivation of food, money, housing, documents, etc.); cyber-violence (intimidation through e-mails, hacking of pages in social networks, distribution of false information, personal photos, videos, etc.) [7, p. 24]. The first four forms of domestic violence are defined as those that were identified in peacetime, and regarding the last one identified above, we note that this form is quite widespread in the conditions of martial law.

Specialists and practitioners point out that the most effective, today, is a special measure against domestic violence, which consists in an urgent restraining order (hereinafter, a restraining order). As indicated by the legislator, the latter is used by the authorized units of the National Police of Ukraine as a response to the facts of domestic violence and is aimed at the immediate cessation of domestic violence, elimination of danger to the life and health of the affected persons and prevention of continuation or repetition of such violence. In turn, the patrol, which goes to the incidents of domestic violence, conducts an assessment of the risks of domestic violence at the scene and determines the level of danger, which can be high, medium, or low. Guided by this, the police conduct preventive conversations with the offender to prevent the commission of domestic violence and impose a 10-day tzp. This fact means that during this period, the offender cannot approach the place of residence of the victim (even if he is the owner of the real estate), cannot call, talk, or generally contact the victim of the offense. Based on the results of the review of the materials, the employee of the authorized police unit makes a decision to place the offender on preventive registration [8, p. 118].

Regarding the methods of further prevention of domestic violence, we can note that the court, when deciding on the issue of imposing a penalty for an administrative offense, has the right to simultaneously decide on the issue of sending a person to undergo a program for such persons (offenders). In turn, the main goal of such programs is to provide psychological assistance to persons (often men) prone to aggressive behavior, with the aim of overcoming an aggressive communication style and forming partnership skills in a social environment.

Tasks of programs for work with offenders: 1) to identify and overcome the state of mental stress; 2) feel the limits of one's own personality and build relationships taking into account the recognition of the limits of one's own personality and family members; 3) resolve conflicts constructively; 4) partnership skills; 5) evaluate negative thoughts taking into account their realism and change them to constructive ones that more fully reflect reality and do not cause anxiety, anger, fear, etc. In addition, the specified program makes it possible to provide psychological support: in acquiring skills not to hide one's problems from loved ones and to effectively use the support of others; in overcoming self-doubt and fears that lead to aggressiveness; in overcoming shame for one's own imbalance [9, p. 143]. To the above, it should also be added that in order for police officers to effectively carry out their professional duties, in particular in cases of detection and prevention of domestic violence in the family,

these persons must possess special skills and be able to use physical force, if necessary (in cases of threat to their lives or health or surrounding persons).

It is important to note that during martial law, men return from the front straight home, carrying with them all the experience of armed conflict and the trauma of war. They often become more aggressive, assuming more authority over their mothers, wives and sisters, leading to unequal distribution of power within the family and deepening the causes of domestic and gender-based violence. Women are returning to their traditional roles as caregivers for children, the elderly, and the infirm, and are judged by the amount of burden the family carries. Due to the complete lack of special rehabilitation and reintegration strategies, women must take care of family members of combatants who may have psychological or physical injuries as a result of the armed conflict [10, p. 8].

For example, it is appropriate to pay attention to the fact that local authorities, non-governmental organizations with the support of international organizations and foundations joined the development of assistance services for various categories of war victims, in particular due to gender-based violence and domestic violence. For example, within the framework of the UNICEF war response program "Together" – an interdisciplinary platform for the provision of integrated services, social cohesion, community involvement and behavior change measures during 2022, more than 300 locations and mobile groups were prepared in 2 regions of Ukraine. The multidisciplinary mobile team is a rapid response team that provides socio-psychological assistance to families with children and other people affected by the war. In turn, the team includes a psychologist, a social worker, a lawyer and a doctor. Mobile teams work in support centers for displaced people, drive their own cars to places where help is needed, and also consult victims remotely – by phone or via video link [11, p. 357].

Conclusions. So, we can conclude that domestic violence in Ukraine during the legal regime of martial law has not lost its relevance, and therefore there is no doubt about the prevalence of this problem in society, especially in modern conditions. In the course of the research, it was determined that the armed conflict in itself exacerbates the problem of domestic violence, because aggression, a change in the usual rhythm of life, the need to adapt to new life circumstances can be the factors that directly affect the perpetration of domestic violence.

Regarding the ways and means of preventing and preventing the commission of domestic violence in the conditions of martial law, we can note that it is advisable to hold regular conversations with families who survived and left the temporarily occupied territories: families who lost close relatives; families in which close relatives are in the military, etc. That is, during martial law, it is quite important that general and specialized support services for victims take appropriate preventive measures regarding the operation of legislation, as well as interact with each other as much as possible.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The full-scale invasion of the troops of the aggressor country on the territory of Ukraine does not stop the commission of crimes that were widespread in our country in peacetime. Yes, one of these offenses is domestic violence, which is such a phenomenon that during the period of martial law can only worsen and at the same time remain invisible. The article analyzes the specifics and actual aspects of preventing and countering the perpetration of domestic violence in the conditions of the legal regime of martial law.

We carried out a study of legal acts that regulate the norms of combating domestic violence, as well as an analysis of the current changes in the national legislation of Ukraine, which came into force after the introduction of the legal regime of martial law. In addition, this article drew attention to possible ways of improving the currently available means and methods of preventing and countering domestic violence, as well as drawing attention to the entities authorized to carry out such activities.

In particular, the article determined that domestic violence in Ukraine during the legal regime of martial law has not lost its significance and the problem has become widespread in society, in today's conditions. Regarding the ways and means of preventing and preventing the commission of domestic

violence in the conditions of martial law, it is determined that it is appropriate to hold regular preventive discussions with families who survived and left the temporarily occupied territories: families who lost close relatives; families in which close relatives are in the military, etc. That is, during martial law, it is quite important that general and specialized support services for victims take appropriate preventive measures to prevent domestic violence.

Keywords: *legal regime of martial law, domestic violence, administrative responsibility, forms of domestic violence, combating crimes.*

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THE ETYMOLOGY OF THE CONCEPT OF "DESECRATION" IN CRIMINAL LAW OF UKRAINE

Ірина Циб. ЕТИМОЛОГІЯ ПОНЯТТЯ «НАРУГА» У КРИМІНАЛЬНОМУ ЗАКОНОДАВСТВІ УКРАЇНИ. У статті досліджуються етимологічні витoki поняття «наруга» в кримінальному праві України. Автор вказує, що ґрунтовне та всеохоплююче дослідження будь-якого кримінально-правового явища потребує дослідження його етимологічних витоків. Таке дослідження сприяє накопиченню знань про сутність явища як такого, та його використання/застосування в залежності від демократичних та правових цінностей людства на кожному наступному етапі його розвитку. Наразі поняття «наруга» використовується у кримінальному законодавстві у двох статтях КК України – ст. 297 «Наруга над могилою, іншим місцем поховання або над тілом померлого» та ст. 338 «Наруга над державними символами». В той же час Кримінальний кодекс України не вказує, які дії слід вважати кримінально-караною наругою.

Дослідивши наявні у словниках визначення поняття «наруги» автор робить висновок, що вони не зовсім вдало співвідносяться із діями, які утворюють об'єктивну сторону кримінальних правопорушень, ознакою яких є «наруга». Саме поняття «наруга» має значну кількість синонімів, проте жоден з них не в змозі повністю охопити ті дії, які входять в поняття «наруга». Також робиться висновок, що використання в назві та диспозиції кримінального правопорушення, передбаченого ст. 297 КК України поняття «осквернення/оскверняти» є більш доцільним, оскільки воно охоплює як дії, які характеризуються поняттям «наруга» згідно словників української мови, так і дії, які утворюють об'єктивну сторону кримінального правопорушення, передбаченого ст. 297 КК України та дії, які закріплені у Законі України «Про поховання та похоронну справу».

Що стосується використання в назві та диспозиції кримінального правопорушення, передбаченого ст. 338 КК України поняття «зневага/зневаження», то автором робиться висновок про доцільність використання саме цього поняття, оскільки поняття «зневага» є протилежним за значенням поняттям поняттю «повага», а в Конституції України закріплено обов'язок громадян виявляти шану державним символам України, тобто поважати їх.

Ключові слова: *наруга, осквернення, зневага, повага, наруга над могилою, наруга над державними символами.*

Relevance of the study. A thorough and comprehensive study of any criminal phenomenon requires a study of its etymological origins. Such a study contributes to the accumulation of knowledge about the nature of the phenomenon as such and its use/application depending on the democratic and legal values of humanity at each subsequent stage of its