

**Оксана МИСЛИВА**  
**ЗЛОЧИНИ ТА ПОКАРАННЯ У СФЕРІ ТРАНСПЛАНТАЦІЇ:**  
**ПОРІВНЯЛЬНИЙ АНАЛІЗ**

**Анотація.** У сучасній медицині здоров'я або смерть однієї людини ефективно використовується заради порятунку життя або лікування хвороб іншої, у науці, косметології, фармакології. Йдеться про спеціальний метод хірургічного втручання, що полягає у вилученні органів та (або) іншого анатомічного матеріалу у донора з одночасним його вживлянням реципієнту. Медичний прогрес неминуче супроводжують правові, економічні, соціальні та моральні фактори. Без сумніву, з моральної та соціальної точки зору мета порятунку життя і здоров'я людини (реципієнта) благородна, але погіршення стану здоров'я чи позбавлення життя донора – з юридичної точки зору неоднозначна, навіть, незважаючи на його бажання чи згоду, оскільки заподіюється безсумнівна шкода життю та здоров'ю. Крім того, випадки споживчого ставлення до тіла людини призвели до виникнення та поширення незаконної діяльності в сфері трансплантації.

У статті зауважено на причинах і умовах виникнення та поширення незаконної діяльності у сфері трансплантації, наведено відомі форми, способи та учасники вчинення. На підставі порівняльного аналізу законодавчих моделей злочинів та покарань у країнах ближнього зарубіжжя з ідентичною правовою системою акцентовано увагу на необхідності уніфікації законодавчого визначення форм та видів злочинної діяльності у сфері трансплантації, зокрема, забезпечення взаємодії та співпраці з правоохоронними органами інших країн. Розглядаються шляхи протидії злочинам у сфері трансплантації шляхи запозичення позитивного міжнародного досвіду.

**Ключові слова:** *незаконна діяльність у сфері трансплантації, донорство, органи та інший анатомічний матеріал людини, злочин, покарання*

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**VICTIMIZATION OF A WOMAN VICTIM OF GENDER-BASED VIOLENCE**

**Abstract.** The article analyzes the properties of a woman - a victim of gender-based violence. The author notes that the origins of gender-based violence stem from the historical inequality of women and men. The most common type of gender-based violence is intimate partner domestic violence. Gender-based violence is not only the product of marginalized environments. Any woman, regardless of her status and position in society, can become a victim of violence. Women suffer four times as much from such violence as men. The victimization of a victim of gender-based violence is manifested in a conscious finding in a social situation in which she exposes herself to the risk of becoming a victim of a crime by her actions.

**Keywords:** *gender, conditional violence, domestic violence, victim, victimization, victimology.*

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**Relevance of the study.** Freedom from violence is one of the fundamental human rights. In today's dynamically developing world, violence against women and men is a complex, structural and social problem. The roots of gender-based violence stem from historical inequalities between women and men. In this regard, ensuring equal rights for women and men both at the legislative and law enforcement levels is central to preventing and countering gender-based violence.

In order to effectively counteract any destructive phenomenon, it is necessary first of all to study and understand its essence, characteristic features. Traditionally, the special interest of practitioners and scientists is the personality of the offender, his attitude to the perfect act, motivation, awareness of wrongfulness. However, the analysis of victimization and its components allows a deeper understanding of the phenomenon of the victim, to develop the necessary and socially justified measures for the victimological prevention of offenses. The study of victimization allows us to get an answer to the main question of victimology: as a result of the influence of what reasons and under what conditions do some persons become victims of crimes, while others will pass this danger?

**Recent publications review.** The phenomenon of victim behavior remains insufficiently developed in criminological science. Certain aspects of this problem were studied in the works of V. Vasilevich, V. Golina, B. Golovkin, A. Dzhuzhi, V. Kvashis, N. Kulakova, A. Litvinov, Yu. Levchenko, G. Khetinga, L. Frank, V. Minskoy, E. Moiseev, V. Polubinsky, V. Rivman, V. Rybalskoy, V. Tulyakov, G. Chechelya, L. Frank and others [1-9]. Through the efforts of these and other scientists, the conceptual apparatus of victimology was formulated, general ideas about victim behavior were developed, its mechanism was considered, a classification of such behavior was developed, a typology of victims of crime was proposed.

Despite fundamental research, scientists continue to seek answers to the questions: why the human psyche does not recognize the criminal danger well; how people become victims of crime; what is the peculiarity of victim behavior; how victim behavior influences the choice of a particular person as a victim of a crime; what are the features of the thinking of a victim of a crime in a situation of interaction with a criminal? [1, pp. 201, 202].

Even more questions arise when it comes to the victimological component of gender-based violence (gender-based violence). In this regard, the purpose of the article is to study the victimological characteristics of victims of gender-based violence, to establish the factors that influence acceptance, to create a situation of physical, mental, economic or sexual violence or the threat of such violence.

**The article's objective** is to investigate the features of a woman victim of gender based violence.

**Discussion.** According to the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" dated September 8, 2005, No. 2866-IV, gender-based violence is acts aimed at persons because of their gender, or customs and traditions widespread in society (stereotypical notions on the social functions (position, duties, etc.) of women and men), or acts that primarily concern persons of a certain gender or violate them disproportionately, which cause physical, sexual, psychological or economic harm or suffering, including threats of such actions, in a public or private life [2].

As a result of the sociological research, it was found that the most widespread type of gender-based violence is domestic violence by a marriage partner. Women suffer from such violence four times more than men [3]. According to the United Nations, every second murder is committed by a family member or former partner. According to the official statistics of the General Prosecutor's Office of Ukraine for 2020, 49,728 criminal offenses were committed against women. Also, in 2020, 3,165 crimes related to domestic violence were registered, which is 20% (611 crimes) more than in 2019. For 10 months of 2021, 4,146 criminal offenses were registered. The number of registered crimes under Art. 1261 of the Criminal Code of Ukraine "Domestic Violence": in 2019, 1,068 crimes were registered, and in 2020 – 2,212 (+ 51.71%) crimes, for 10 months of 2021 – 2,194 crimes. The number of appeals to the prosecutor's office on the facts of domestic violence is actively increasing: 140 thousand in 2019, more than 200 thousand against the background of quarantine restrictions in 2020. 86% of requests come from women, 12% from men and 2% from children. Every day, law enforcement officers register about 570 reports from victims of violence [4].

Domestic violence is not a one-time occurrence, it is not an isolated case of violent behavior of an aggressive husband, and it is not just an outdated custom. At its core, domestic violence and the threat of violence are mechanisms of power and control that exist to deprive

women of freedom and opportunities for self-realization, and in the context of general discrimination against women in the world are one of the manifestations of general violence against women [5, p. 2]. In connection with the current trend towards an increase in the facts of gender-based violence, it is important to establish the personality traits that make it victimized. Victimization of a victim of gender-based violence is manifested in a conscious finding in a social situation in which she, by her actions, exposes herself to the danger of becoming a victim of a crime. According to the dynamic concept of crime and criminal behavior, the victim of a crime is seen as an active subject of the criminalization process (G. Hentig).

According to A. Elizarov, the prerequisites for the formation of victim behavior in women in the family may be the consequences of violence experienced in childhood. Considering this issue, the scientist notes the development in people who experienced violence in childhood, such qualities as loyalty to their tormentors, readiness for self-sacrifice, a tendency to choose a negative personality as a leader, as well as traits of a codependent personality (the desire to help others to the detriment of oneself, acceptance on themselves guilt and responsibility, dependence on the environment) [6, p. 36].

The study of scientific and judicial materials allows us to form a classic portrait of a victim of domestic violence as the most widespread type of gender-based violence: this is a woman who has given birth several times, performing a "standard", historically established female task - to protect the family hearth; financially dependent on her husband, as a result of which she is constantly subjected to psychological and economic violence, as she is forced to ask her husband for money and report on where she spent it. The society has formed and rooted in the minds of people of the belief that in order to meet social expectations, women should put the family above all else. More than half (51%) of women believe that their friends would agree that "it is important for a husband to show his wife / partner who is in charge". Almost every fifth woman (19%) believes that sexual intercourse with a woman without her consent is justified if it occurs between spouses or between partners living together. Approximately one in four women (24%) accuses victims of violence, for example, believing that violence against women is often provoked by the victims themselves [7, p. 3].

Financial dependence on her husband creates total self-doubt, which is accompanied by depression and disappointment in life. Such a woman has to suppress her desires and constantly ask her husband for money. Feeling his superiority over his wife, the abusive husband develops an attitude of control and power over his wife. He ceases to treat her as an equal member of family relations, allowing him to manifest various types of violence against his wife. The victim of domestic violence, as a rule, has come to terms with the role of the victim and does not believe that her life can change. She has low self-esteem. Also, this is a woman who does not know where to go for help or is already disillusioned with the role of law enforcement agencies to help her solve the problem of constant bullying. Self-doubt gives rise to fear of condemnation from relatives and acquaintances. She is afraid that after reporting to the police, the aggression of her rapist husband will be even stronger.

The study showed that women, for the most part, do not have access to appropriate services in the event of violence. Only half of women (50%) consider themselves somewhat informed about what to do in the event of violence, and about half of women (47%) consider themselves to be little informed or do not know at all what to do in such situations [7, p. 6]. The victimhood of a woman has traditionally been formed in the process of upbringing and the formation of family values. If a child has observed such violence in his family, then when she herself is in the role of a wife, and violence is used against her, such a situation is perceived as normal, since it corresponds to a subconsciously formed family model. It should be noted that the victimization of a woman who is a victim of violence is conditioned by the following social stereotypes: "the task of a woman is to protect the family hearth", "the man is the head of the family, as he said, so it will be", "a woman – know your place", "beats means she loves" etc. Under the influence of the latter, women develop the conviction that they do not "catch up" with men in various aspects, that they are more stupid, emotionally weaker, they can and should be led. Under the influence of such factors, women develop misogyny, as a result of which they tend to idealize men and are not up to assessing their own capabilities and their own significance.

Also, it is necessary to understand that aggressors in the family, quite often in society, are characterized as successful, positive people, leaders who achieve their goals. Society does not believe that this person can commit violence in the family against relatives, for them he is different, but in the family he has a completely different model of behavior. He is in charge in

the family, he does not accept disobedience. The wives of such husbands also do not want to state their problem, since they will have to prove the facts of violence, collect evidence to fight the positive image of the husband that has developed in society. For example, half (50%) of female victims did not tell anyone about their serious incident of sexual violence after it happened. For example, some respondents believe that violence is not worth reporting to someone, because it is often not considered something serious enough, and also because no one is able to help them with their opinion. It was found that shame, financial issues, lack of trust in relevant institutions (such as the police) and fear of retaliation by the abuser became a barrier to reporting abuse, as well as a low level of awareness of rights and opportunities to exercise them. Almost half of the women who reported cases of violence to the police remained dissatisfied with the result of such treatment [7, p. 4]. Many victims of violence, who are often subjected to various types of violence from their husbands, develop "Stockholm Syndrome", that is, a kind of self-defense, as a result of which they lose their bearings and distort the perception of reality. With regular violent actions, the woman-victim begins to get used to the violence, and justifies her husband-abuser. This is a defensive reaction of the human psyche to violence, bullying and humiliation. It is easier for the victim's psyche to choose a scenario to justify the rapist than to admit that she is not loved, appreciated, humiliated, beaten, etc. [8, 9].

**Conclusions.** Thus, we note that the victimization of women includes a huge range of personal conditions and properties, a combination of internal and external factors that determine the personal predisposition of women to turn them into a victim of domestic violence. Gender-based violence is not only a product of the marginalized environment. Any woman can become a victim of violence, regardless of her status and position in society.

Only by changing the social perception of violence; active involvement of citizens; raising the level of public awareness about ways to get help; the formation of intolerance among the population towards manifestations of violence: promotion of peaceful coexistence of citizens of different genders; inadmissibility of the victim's conviction (victim blaming); promoting nonviolent relations in the family; adequate qualified assistance from the police, prosecutors, judges, specialists in the social, educational, medical spheres, authorized to prevent and combat domestic violence and gender-based violence, it will become possible to reduce the level of tolerance to gender-based violence and reduce the facts of violence against women. And this, in turn, will contribute to the formation of a non-violent family model, stabilization of the psychological state of women and the economic development of society.

*Conflict of Interest and other Ethics Statements*

The author declares no conflict of interest.

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### ВІКТИМНІСТЬ ЖІНКИ-ЖЕРТВИ ГЕНДЕРНО ЗУМВОЛЕНОГО НАСИЛЬСТВА

**Анотація.** У статті аналізуються характерні властивості жінки, схильної стати жертвою гендерно обумовленого насильства. Автором зазначається, що витoki гендерного насильства походять з історично нерівності жінок і чоловіків.

Найпоширенішим видом гендерного насильства є насильство в сім'ї з боку інтимного партнера. Гендерне насильство є породженням не лише маргінального середовища. Жертвою насильства може стати будь-яка жінка незалежно від статусу та становища у суспільстві. Жінки страждають від такого насильства вчетверо більше, ніж чоловіки. Віктимність жертви гендерного насильства проявляється в усвідомленому знаходженні в такій соціальній ситуації, в якій вона своїми діями і наражає себе на небезпеку стати жертвою злочину.

Автор доходить висновків, що для зниження рівня віктимності від гендерно зумовленого насильства необхідно: змінити соціальне та індивідуальне сприйняття насильства; підвищувати рівень інформування суспільства щодо способів отримання допомоги; формувати у населення нетерпимість до проявів насильства; здійснювати пропаганду мирного співіснування громадян різних гендерів; не допускати засудження та звинувачення жертви за те, що вона постраждала від насильства; пропагандувати ненасильницьких взаємини у сім'ї; надавати кваліфіковану допомогу боку поліції, прокурорів, суддів, фахівців соціальної, освітньої, медичної сфер, уповноважених з питань запобігання та протидії домашньому насильству та насильству за ознакою статі.

**Ключові слова:** гендер, гендерно обумовлене насильство, домашнє насильство, жертва, віктимність, віктимологія.

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### SECURITY AS A CONDITION FOR ORGANIZING AND CONDUCTING INVESTIGATIVE (SEARCH) ACTIONS DURING AN EPIDEMIC (PANDEMIC)

**Abstract.** The article is devoted to the consideration of the security of participants in investigative actions in the context of an pandemic. The article considers the content of the concept of «security» and states that its provision is a complex multidimensional system of measures and means in its implementation. It is noted that the provisions of the laws and regulations in question, particularly: They are designed to protect the participants in criminal proceedings from the possibility of pressure and to ensure their physical and mental safety, and do not take into account the condition of carrying out investigative actions such as an pandemic. It is argued that the security of participants in an investigation should be considered as a multidimensional category, which requires a comprehensive approach to its assessment and decision in criminal proceedings. It is noted that due attention should be paid by researchers to the development of reasoned proposals for legislative changes, expanding the rights to ensure the security of criminal operators in the context of an pandemic.

**Keywords:** conditions of preparation and conduct of investigative actions, security, pandemic, pressure authorized person, risk of infection.

**Relevance of the study.** Human activity in general and such a type as the organization and conduct of investigative (search) actions is always accompanied by risks and threats that can affect the results of its implementation. A person, his life and health, honor and dignity,

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