

PROBLEMS OF IDENTIFICATION AND PREVENTION OF DOMESTIC VIOLENCE AGAINST WOMEN IN THE MODERN CRIMINAL LAW POLICY OF THE REPUBLIC OF KAZAKHSTAN

KAINAR E.K. 

Kainar Erbolat Erzhanovich - Doctor of philosophy (PhD), associate professor, police colonel, deputy head, Aktobe law institute of the ministry of internal affairs of the Republic of Kazakhstan named after M. Bukenbayev, Aktobe, Kazakhstan
E-mail: kainar-1986@mail.ru, <https://orcid.org/0009-0001-5301-9464>

Abstract. The article provides an overview of the current state of offenses committed mainly against women in the Republic of Kazakhstan. The emphasis in the study is on cases of domestic violence when female victims are spouses or are in another dependent position on men. An analysis is also carried out of the state of the legal framework on the prevention of domestic violence, the latest changes in the legislation of the republic to tighten responsibility for attacks against women and children. The authors study the factors and causes of the increase in domestic violence, paying attention to the high latency of this type of offense and the discrepancy between official data and the real crime picture in various regions of Kazakhstan. The study pays special attention to the problem of the lack of a real mechanism for responding to cases of violence against women and the inability to fully legally ensure the safety of their lives and health. Only high-profile offenses against women and girls, which have led to the most dire consequences, attract the attention of the public and government agencies. The study recommends certain measures that can improve the situation to prevent attacks on women in family relationships, ensure the protection of their rights and interests and, most importantly, preserve their life and health.

Key words: family and domestic violence, assault on women, prevention of domestic violence, crime, gender equality, administrative responsibility, criminal liability.

Introduction

Modern civilization, distinguished by the development of a developed legal system, cannot fully resolve a number of problems and fill legal gaps, including the problem of violence against women. This issue is in no way connected to the concept of gender equality. In most countries, including the Republic of Kazakhstan, equal opportunities for women and men in all spheres of public, social, and political life are legally established [1]. According to experts, Kazakhstan leads Central Asia in gender equality, and the country has created genuine conditions for women to obtain all types of education. However, the problem is that women continue to be the target of constant violence at the hands of men, often in very severe forms, from rape to murder. Ensuring the safety and health of women holds a very important place in legal scholarship and literature.

Issues and problems related to violence against women have always played a leading role in the criminal justice policy of the Republic of Kazakhstan, and the resolution of these problems has been primarily determined by our state's international relations. In 2009, the Law «On the Prevention of Domestic Violence» was adopted in Kazakhstan, which laid the foundation for a legal definition of violence against women. Criminal legislation also reflects provisions aimed at protecting women's interests, their lives, and their health. In 2016, the Concept of Family and Gender Policy in the Republic of Kazakhstan until 2030 was approved. All these regulations are based on international principles established in UN documents on the protection of women's rights. Despite all the steps taken to protect women from violence and ensure their rights are respected, domestic violence continues to rise in Kazakhstan, with high-profile crimes committed against women.

The authors of the study aim to examine the reasons for the increase in attacks on women, as well as the psychological and legal factors that contribute to and influence the inability of society and the state to fully protect the lives and health of women from male violence.

Characteristic of domestic violence is that it often remains hidden. Victims often fail to seek help

due to fear, economic dependence, psychological pressure, or the desire to keep the family together. As a result, violence can persist for a long time and gradually take on more dangerous forms. The most common manifestations of domestic violence include physical violence, pressure psychological threats, economic deprivation and other forms of abuse.

The problem of detecting domestic violence is of particular scientific importance. One of the characteristics of this type of crime is its high latency. Significant proportion of violence of cases remain unnoticed by law enforcement agencies, as female victims often do not seek help due to fear, economic dependence and social pressure or institutions of distrust state. Therefore, studying the factors affecting the latent nature of such crimes will allow us to improve detection mechanisms and increase the effectiveness of law enforcement activities.

Academic interest of the state's is the analysis criminal law policy in combating domestic violence. Criminal law policy reflects the state's strategy for combating crime and includes a system of legal norms, institutions, and measures for dealing with offenders. Policy studying allows us to assess the effectiveness of current legislation, identify existing gaps and contradictions and propose ways was improve it.

Materials and methods of research

According to official WHO data published on social media, 35 percent of women worldwide have experienced violence at least once in their lives. The survey was conducted in a large number of countries, including Africa, Asia, and Europe, and aimed to identify all forms of violence against the women surveyed. It should be remembered that these data were obtained only from a survey of a relatively small number of respondents, which raises the question of the even greater number of women who have been subjected to violence or harassment on the basis of gender.

As for the Republic of Kazakhstan, according to the Prosecutor General's Office, approximately 80 women die annually in our country as a result of domestic violence committed by men, and even more are seriously injured [2].

The Law «On the Prevention of Domestic Violence», which sets out the key concepts characterizing the signs of domestic violence, as well as the list of institutions authorized to deal with issues of preventing cases of domestic violence, was updated in August 2024. Unfortunately, the law only defines the framework for interaction between agencies and institutions in cases of domestic violence. It was with this law that commissions on women's affairs and socio-demographic policy in the regions and under the President of the Republic of Kazakhstan began to operate. However, to date, these commissions have only performed formalized functions and have not addressed the pressing issues related to protecting women from violence. Of course, the role of these institutions is significant in generalizing and analyzing the state of domestic violence in the regions and developing general recommendations for its prevention, but, nevertheless, real assistance and protection of women who have become victims is much more significant and necessary at the present stage [3].

The Republic of Kazakhstan's state policy has long included efforts to ensure the protection of women's rights. A prime example is the Concept of Family and Gender Policy in the Republic of Kazakhstan until 2030, adopted in 2016 and amended in 2022. The concept included an analysis of judicial practice on domestic violence against women. It noted a worsening situation and an increase in registered cases of assault on women and domestic violence against women and children. An analysis of the causes and factors contributing to the rise in domestic violence was conducted. Thus, contributing factors were identified as socio-economic factors, alcoholism, drug addiction, psychological disorders and illnesses, low culture and behavioral stereotypes, as well as the established societal tolerance of domestic violence [4]. Despite the fact that the above-mentioned program included effective steps to reduce domestic violence, such incidents have become more frequent in recent years.

Regarding violence against women, this primarily concerns domestic violence perpetrated by spouses. The majority of such cases occur within marriages, with beatings and abuse against women

most often committed by their legal spouses. Ninety-nine percent of all registered administrative and criminal cases involve physical violence: beatings, bodily harm, torture, murder, kidnapping, and others. All of these offenses are accompanied by instances of psychological and sexual violence in the case files. All regulations governing liability for domestic violence define such types of violence as physical, psychological, and sexual, but only physical violence becomes the main factor in considering the victim's application.

An analysis of domestic violence statistics in Kazakhstan for 2023 revealed that the highest number of such offenses were recorded in the Almaty, Pavlodar, and East Kazakhstan regions. It's important to remember that these are registered cases, meaning victims reported them to law enforcement. For women who didn't report the incidents, the latency rate is very high. Many victims of domestic violence never turn to official bodies, considering it shameful or fearing condemnation from loved ones or society. Moreover, the majority of domestic violence cases occur in the southern regions of Kazakhstan -Turkestan, Atyrau, Zhambyl, and Kyzylorda regions. Firstly, these regions have a high population density. Secondly, patriarchal Kazakh family and marriage traditions are more common here -kalyn mal (price of marriage), kalym (a payment for the bride, so to speak), where a woman is practically paid for at marriage. Also, among the population in the south, the role of a daughter-in-law and wife is more commonly believed to be limited to serving her husband and his parents. All of this raises a number of questions. It's unlikely that these regions, as official statistics show, have low rates of domestic violence; it's impossible to imagine that gender equality flourishes here compared to other regions. The lack of registered cases of violence against women in these regions is explained not by the actual situation, but by the fact that victims of domestic violence do not report it to law enforcement [5].

Results and its discussion

The problem lies in women's attitudes toward domestic violence, particularly among older women, who don't condemn acts of violence but, in some cases, even support violence against their daughters-in-law and children. The reasons for this can be attributed to the entrenched public perception of women's diminished role and their subordination to men. Undoubtedly, in recent years, the issue of the need to protect victims of domestic violence and to increase penalties for offenses in the family and domestic sphere, particularly for attacks against women and children, has been systematically raised in Kazakhstani society.

Cases of violence against women have become increasingly common in the media, and female victims themselves have begun publicly reporting their abusive husbands. The government has been forced to urgently introduce some changes to criminal legislation in response to public condemnation of domestic abuse against women. However, stricter legal penalties alone will not completely resolve this problem. A comprehensive approach aimed at addressing gender equality issues in our modern society is required.

The ideas of gender equality and the protection of women from all forms of violence proclaimed in our state and society, unfortunately, are not realized in reality. This cannot be blamed on government policy, the legislative framework, or any official barriers or restrictions on career advancement for women. There are no civil service positions for women, yet the number of women holding positions in the civil service and law enforcement agencies is significantly lower than that of men [6].

An effective step in reducing violence against women and domestic violence will, of course, be tightening legislation to criminalize certain unlawful acts against women and children. One of the manifestations of the policy of protecting and ensuring women's safety is a revision of the educational process. This concerns the upbringing of children and the theory of a new generation who will grow up intolerant of domestic violence in all its forms. The preschool and secondary education system must support educational and developmental programs aimed at instilling in young people an attitude of respect for the opposite sex, rejection of war, and a caring attitude toward others and children. Given that today's children will start families in the future, their upbringing will play a key role in preventing the

rise of domestic violence in the future [7].

Of course, it's not just the education system that should work in this direction. Preventing domestic violence is, first and foremost, a national responsibility, requiring significant financial, socioeconomic, and political investment. The most important aspect of ensuring the safety and health of women in the family and reducing violence against them is the family itself, the family environment, and healthy relationships between family members, spouses, parents, and children. Often, violence occurs behind closed doors, with wives and children being beaten and defenseless family members intimidated and unable to stand up for themselves. Furthermore, social norms and the influence of public opinion on attitudes toward domestic violence play a significant role. It is essential to conduct systematic informational, cultural, and public awareness campaigns to promote zero tolerance for any form of violence against women and children.

Tougher penalties for crimes against women and children could also make a significant contribution to ensuring the safety and health of women. Of course, criminalizing the intentional infliction of minor bodily harm and battery is a necessity in today's criminal law policy.

One of the key prevention tools is the application of protective measures and special behavioral requirements for offenders. These measures make it possible to temporarily limit contact between the aggressor and the victim, prohibiting them from approaching or communicating with the victim's place of residence. Such measures are aimed at preventing repeat offenses and creating a safe environment for victims.

In addition, the police actively cooperates with other government agencies and public organizations. Social services, educational authorities, medical institutions and crisis centers are involved in the prevention of domestic crimes. Such interagency cooperation allows not only to respond to crimes that have already been committed, but also to identify families at risk.

Police officers play a special role in the prevention system. They are often the first to receive information about family conflicts, conduct preventive conversations, register people who are prone to committing crimes, and monitor their behavior. Regular monitoring of such individuals makes it possible to identify signs of potential violence in a timely manner and take measures to prevent it.

The conversion of these offenses from administrative to criminal offenses aims to increase penalties for domestic violence, as assaults are generally committed within the family. However, the procedural mechanism for holding husbands accountable for assaulting their wives remains a problem: firstly, in most cases, or rather, in all cases, the wife withdraws her complaint; secondly, while the case is being heard in court, husbands may continue their violence, sometimes in retaliation for the wife's reporting it to law enforcement. [8]

The legal basis for preventing domestic violence against women is based on increasing penalties for such acts under administrative and criminal law.

Conclusion

Thus, increasing penalties is a very important way to prevent domestic crime. Increasing penalties does not mean increasing punishment. We know that no matter how severe the penalties, they are sometimes insufficient to reduce the rise in crimes against women and children [9]. Of course, changes to criminal and administrative legislation are important, in particular the criminalization of battery, the introduction of criminal liability for sexual harassment and incitement to suicide, and the introduction of concepts of bullying and harassment into the Code of Administrative Offenses will make a significant contribution to preventing crimes against women and children. The mechanism for responding to violence against women needs to be revised.

Law enforcement agencies primarily take action in cases of formal complaints from women, and their response consists of only a superficial examination of the complaint and testimony of the victim and perpetrator, who are often in marital relationships. While this data is being processed, women often remain vulnerable, which ultimately leads to them abandoning their complaint. It's essential to create

conditions whereby a woman, if she files a report of spousal violence with law enforcement, can effectively isolate herself and her children from the perpetrator, or where the perpetrator cannot communicate with the victim. Beyond establishing the fundamental principles of family support centers, which are supposed to provide specialized social services to victims of domestic violence, the types, methods, and amounts-or, more precisely, their criteria-are not specified [10].

Preventing domestic crime in Kazakhstan requires a comprehensive approach encompassing legal, social, and preventative measures. Police play a crucial role in this system, not only responding to incidents of violence but also actively implementing preventative measures aimed at preventing crime and protecting the rights and safety of citizens. Effective cooperation between law enforcement agencies, government agencies, and society as a whole is key to reducing domestic crime and strengthening the institution of the family.

Another important step in the fight against domestic violence must be increased awareness. Simply informing about domestic violence is not enough; women, children, and all victims must know how and to whom they can turn in cases of abuse, and what real legal, domestic, and psychological support they can count on. This information should be disseminated through all media, especially social media.

This information in Kazakh is especially important for the southern regions of the republic, where the population is predominantly Kazakh-speaking and where the rate of hidden cases of domestic violence is high. To more effectively prevent and combat domestic violence, the professionalism of law enforcement agencies is essential, as they are the ones with the authority to stop crimes. And in such a case, it is entirely reasonable for police officers to have experience in dealing with such cases. Specialization of staff is necessary [11]; it would be appropriate to create separate services in the police department that would deal with domestic violence. These services should include district officers and investigators who will examine cases of battery, minor and moderate bodily harm, sexual violence and harassment committed primarily within the family, marital and family relationships, as well as cases of violence against women in the service and at work. This will help police officers to better understand these cases and identify the causes and factors that contribute to domestic violence, which will subsequently contribute to a fair trial.

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ҚАЗАҚСТАН РЕСПУБЛИКАСЫНЫҢ ҚАЗІРГІ ҚЫЛМЫСТЫҚ-ҚҰҚЫҚТЫҚ САЯСАТЫНДАҒЫ ӘЙЕЛДЕРГЕ ҚАТЫСТЫ ТҮРМЫСТЫҚ ЗОРЛЫҚ-ЗОМБЫЛЫҚТЫ АНЫҚТАУ ЖӘНЕ АЛДЫН АЛУ МӘСЕЛЕЛЕРІ

КАЙНАР Е.Е. 

Кайнар Ерболат Ержанович - Философия ғылымдарының докторы (PhD), қауымдастырылған профессор (доцент), полиция полковнигі, бастық орынбасары, Қазақстан Республикасы Ішкі істер министрлігі М.Бөкенбаев атындағы Ақтөбе заң институты, Ақтөбе қ., Қазақстан
E-mail: kainar-1986@mail.ru, <https://orcid.org/0009-0001-5301-9464>

Андатпа. Мақалада Қазақстан Республикасында әйелдерге қатысты жасалатын құқық бұзушылықтардың қазіргі жағдайына талдау жасалады. Зерттеуде құрбан болған әйелдер ерлі-зайыптылар немесе ерлерге басқа тәуелді позицияда болған кездегі тұрмыстық зорлық-зомбылық жағдайларына бас назар аударылады. Сондай-ақ тұрмыстық зорлық-зомбылықтың алдын алу бойынша құқықтық базаның жай-күйіне, әйелдер мен балаларға жасалған әрекеттер үшін жауапкершілікті күшейтуге бағытталған республика заңнамасындағы соңғы өзгерістерге талдау жүргізілді. Авторлар отбасылық зорлық-зомбылықтың өсу факторлары мен себептерін зерттеп, құқық бұзушылықтың осы түрінің жоғары латенттігіне және Қазақстанның әртүрлі аймақтарындағы ресми деректер мен нақты қылмыс көрінісінің сәйкес келмеуіне назар аударады. Зерттеуде әйелдерге қатысты зорлық-зомбылық жағдайларына ден қоюдың нақты тетігінің жоқтығы және олардың өмірі мен денсаулығының қауіпсіздігін заңды түрде толық қамтамасыз ету мүмкін еместігі мәселесіне ерекше назар аударылған. Тек әйелдер мен қыздарға қатысты ең қорқынышты зардаптарға әкеп соқтырған үлкен қылмыстар қоғам мен мемлекеттік органдардың назарын аударуда. Зерттеуде отбасылық қатынастарда әйелдерге қол сұғудың алдын алу, олардың құқықтары мен мүдделерін қорғауды қамтамасыз ету және ең бастысы өмірі мен денсаулығын сақтау үшін жағдайды жақсартуға болатын белгілі бір шаралар ұсынылады.

Түйін сөздер: тұрмыстық зорлық-зомбылық, әйелдерге қол сұғушылық, тұрмыстық зорлық-зомбылықтың алдын алу, құқық бұзушылық, гендерлік теңдік, әкімшілік жауапкершілік, қылмыстық жауапкершілік.

ПРОБЛЕМЫ ВЫЯВЛЕНИЯ И ПРЕДУПРЕЖДЕНИЯ ДОМАШНЕГО НАСИЛИЯ В ОТНОШЕНИИ ЖЕНЩИН В СОВРЕМЕННОЙ УГОЛОВНО-ПРАВОВОЙ ПОЛИТИКИ РЕСПУБЛИКИ КАЗАХСТАН

КАЙНАР Е.Е. 

Кайнар Ерболат Ержанович - Доктор философии (PhD), ассоциированный профессор (доцент), полковник полиции, заместитель начальника, Актюбинский юридический институт МВД Республики Казахстан имени М. Букенбаева, г. Актөбе, Казахстан

E-mail: kainar-1986@mail.ru, <https://orcid.org/0009-0001-5301-9464>

Аннотация. В статье проводится обзор современного состояния правонарушений, совершаемого в основном в отношении женщин в Республике Казахстан. Акцент в исследовании сделан на случаи семейного насилия, когда женщины-потерпевшие являются супругами или находятся в ином зависимом положении от мужчин. Также проводится анализ состояния правовой базы по вопросам профилактики семейно-бытового насилия, последних изменений законодательства республики по ужесточению ответственности за посягательства против женщин и детей. Автор изучает факторы и причины роста домашнего насилия, обращая внимание на высокую латентность такого рода правонарушений, несоответствие официальных данных реальной криминогенной картине в различных регионах Казахстана. Особое внимание в исследовании уделяется проблеме отсутствия реального механизма реагирования на факты насилия в отношении женщин и невозможности в полной правовой мере обеспечить безопасность их жизни и здоровья. Лишь резонансные правонарушения против женщин и девушек, повлекшие самые ужасные последствия, обращают внимание общественности и государственных органов. В исследовании рекомендуются определенные мероприятия, которые смогут улучшить ситуацию по предотвращению посягательств на женщин в семейных отношениях, обеспечить защиту их прав и интересов и, самое главное, сохранить их жизнь и здоровье.

Ключевые слова: семейно-бытовое насилие, посягательства на женщин, профилактика бытового насилия, правонарушения, гендерное равенство, административная ответственность, уголовная ответственность