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# SEXUAL HARASSMENT AS A MANIFESTATION OF GENDER DISCRIMINATION AND HUMAN RIGHTS VIOLATIONS

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**Annotation.** Sexual harassment is a serious problem that often goes unnoticed and under-researched in society. It not only violates the fundamental human rights to safety and dignity, but also deepens social inequalities and feelings of vulnerability among victims. This study focuses on the analysis of sexual harassment as a form of gender discrimination and human rights violation. The article examines the causes and consequences of sexual harassment, its impact on the mental and physical health of victims, as well as the legal context and measures to prevent and combat this problem. The causes of violence are identified. The state of domestic violence during martial law is analyzed. The experience of foreign countries in regulating offenses related to sexual harassment is presented. Positive international experience in taking preventive actions in the field of research is identified. Based on the study, the author draws conclusions regarding the improvement of legislation, implementation of prevention programs and provision of support to victims. It is established that sexual harassment is a serious violation of human rights and a manifestation of gender discrimination. Preventing and combating this problem requires a comprehensive approach, which includes improving legislation, raising public awareness and providing support to victims.

**Key words:** sexual harassment, gender equality, legislative regulation, violation of rights, liability.

**Introduction.** Sexual harassment is an unacceptable form of human rights violation, primarily rooted in gender discrimination. This issue is global, as it is prevalent in all countries worldwide, regardless of cultural and social contexts. Therefore, the purpose of this article is to examine sexual harassment as a manifestation of gender discrimination and human rights violation. The main task is to analyze the causes and consequences of sexual harassment, study the legal context, and consider possible measures to prevent and combat this problem. To achieve the stated goal, the following research methods are employed. Literature review: conducting a systematic review of scholarly sources, including articles,

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books, studies, and legislation related to sexual harassment. This method allows for an overview of existing data and approaches to the topic. **Observation:** through the study of specific causes of sexual harassment, factors contributing to this phenomenon have been identified. This method may include analysis of incidents, event reports, and other sources of information. **Comparison method:** comparing approaches to regulating sexual harassment in different countries or contexts has allowed for the evaluation of the effectiveness of various prevention and intervention strategies for this issue.

#### **Results:**

1. Identification of causes and consequences of sexual harassment: the role of gender stereotypes, power dynamics, and other factors in the occurrence of sexual harassment, as well as its impact on victims and society as a whole, has been analyzed.

2. Overview of the legal context: an analysis of the legal regulation experience of various countries regarding sexual harassment and an evaluation of its effectiveness in combating this problem have been conducted.

3. Development of measures for prevention and combating sexual harassment: based on the research findings, conclusions have been drawn regarding the improvement of legislation, implementation of prevention programs, and provision of support to victims.

Overall, the results of the article aim to deepen the understanding of sexual harassment as a form of discrimination and to develop recommendations for its prevention and effective control.

**Research Status.** Several scholarly works, including those by I.O. Bandurka, V.I. Gryshko, O.O. Dudorov, B.S. Kyrychuk, T.M. Malinovska, M.I. Khavroniuk, among others, have addressed the topic of violations of gender equality rights. However, the issue of legal regulation of sexual harassment remains unresolved, and legislation requires updating and amendment. Additionally, in the context of a state of war, preventing offenses related to sexual harassment has become particularly relevant.

**Main Material Exposition.** The UN Women's report for 2020, covering the eastern part of Ukraine, highlights a clear link between factors such as proximity to the front line, military activity, and increased military presence, and the high risk and frequency of sexual harassment and other forms of sexual violence against women and girls in public places. Since the beginning of the full-scale invasion on February 24, 2022, in Ukraine, incidents of sexual harassment have significantly increased. Due to population displacement, high levels of violence, militarization, and the destruction of social ties and infrastructure, women and girls have become more vulnerable to gender-based violence in both public and private spaces [1].

The increase in cases of sexual harassment in Ukraine in recent years is a complex problem that requires comprehensive analysis. In our opinion, several key reasons contribute to this trend:

Firstly, the increase in unemployment and the deterioration of the economic situation for a large portion of citizens contribute to heightened tension in society and the emergence of conflicts that may escalate into violence.

Secondly, social and emotional burdens arising from wartime conditions, societal changes, or economic shifts can elevate stress levels.

Thirdly, inadequate implementation and effectiveness of protective mechanisms, such as prevention laws, holding perpetrators accountable, and combating sexual harassment, may foster impunity among offenders and the risk of recurrence.

Fourthly, societal stereotypes regarding the roles of men and women, which lead to inequality and control in relationships, can create a breeding ground for sexual harassment.

Fifthly, insufficient awareness of rights and protection opportunities, as well as inadequate education about the harm caused by sexual harassment, may lead victims to refrain from seeking help or recognizing sexual harassment as a problem.

Based on the above, legal regulation cannot be limited solely to national legislation; it is important to adhere to international standards, which not only establish prohibitions but also define mechanisms for protecting victims, placing responsibility on the state and human rights institutions.

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), ratified by Ukraine in 2022, holds significant social importance and value for the full implementation in Ukraine concerning access to justice, support for victims, and violence prevention [2].

The mentioned Convention is the broadest international treaty for comprehensive combating violence against women, without suppressing the rights of other victims, as anyone, regardless of gender, can potentially become a victim of violence. Therefore, at the core of any measures for its implementation, the human rights of all individuals should be prioritized, as stated in Article 12 of the Istanbul Convention.

Today, in the democratic legal world, the provisions approved by the Council of Europe back in 2011 have not only retained their relevance but, on the contrary, stimulate national processes to improve legal measures and practices to ensure the consistent implementation of the Convention by states. This is particularly evident when examining the results of the systematic monitoring conducted by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) regarding the compliance of member states with the Istanbul Convention.

I.O. Bandurka and T.M. Malinosvska argue that within academic circles, there are active debates regarding the necessity of unquestionably reproducing the formulations proposed by the Istanbul Convention concerning relevant crimes in national criminal codes. Obviously, the answer to this question is not straightforward, as international human rights conventions typically do not provide direct instructions on specific legal formulations but rather aim to achieve certain outcomes. However, the Istanbul Convention is the result of long-term efforts by recognized international experts. Each provision therein embodies the best practical experience in regulating the prevention of domestic and gender-based violence, which has proven its effectiveness in practice. Such

deliberations seem to provide sufficient argumentation in favor of including the formulations proposed by the Convention in national legislation and/or interpreting its provisions in light of the goals, principles, and requirements of the Convention [3].

The application of the fundamental norms of the Istanbul Convention in the context of the implementation of the state of war and emergency was investigated by V.I. Gryshko and B.S. Kyrychuk. In their opinion, the Istanbul Convention emphasizes that violence against women can no longer be considered a private matter, and therefore, the state must take comprehensive measures to reduce the risk of such violations. It is noted that in modern conditions, as Ukraine integrates into the European community and is influenced by the state of war, there is an increasing need to bring national legislation into line with international standards. The ratification of the Istanbul Convention will confirm Ukraine's European orientation and increase its authority in the international community. The Convention reflects modern social relations, so the use of outdated terms such as «gender» will only slow down the mechanism for protecting fundamental human rights and freedoms [4].

It is worth noting that domestic violence leads to other hidden consequences. For example, 65% of people engaged in prostitution have experienced sexual violence in childhood; children who are victims of domestic violence are 10 times more likely to attempt suicide, and 50% of them run away from home or become homeless. Women who suffer from domestic violence in Ukraine incur annual losses of up to \$190 million, including property losses, expenses for relocation and housing rental, loss of income due to job loss, expenses for legal and psychological assistance, treatment, and medical services. Additionally, healthcare facilities and law enforcement agencies spend approximately \$12 million annually to combat the consequences of domestic violence [5].

In the context of the movement to combat domestic violence, the issue of sexual harassment becomes even more pertinent. Ensuring the safety and protection of women's rights is one of the main goals for many governments and non-governmental organizations.

The Law of Ukraine «On Ensuring Equal Rights and Opportunities for Women and Men» provides a definition of sexual harassment as actions of a sexual nature, expressed verbally (threats, intimidation, indecent remarks) or physically (touching, patting), which demean or offend individuals who are in relationships of employment, service, material or other subordination. However, the provisions of this Law also obligate the employer to «take measures to prevent cases of sexual harassment» [6].

Sexual harassment encompasses a wide range of unacceptable behaviors, from indecent comments and intrusive remarks to physical and psychological attacks on individuals. It is important to distinguish between these forms, as they can have different impacts on the victims and require different protective measures.

However, Article 24 of the aforementioned Law establishes civil, administrative, and criminal liability for violations of the legislation on ensuring equal rights and opportunities for women and men.

However, these provisions of the Law, nor any other legislative act, do not envisage administrative or criminal liability for sexual harassment. At the same time, the victim has the right to file a complaint and demand compensation for material damages or physical harm, which falls under civil proceedings. Therefore, in our opinion, such a type of offense as sexual harassment remains overlooked by the legislature and requires separate legal regulation.

Taking into account this ambiguity and with the aim of implementing the norms of international law, as well as legislatively regulating the type of liability for sexual harassment, in 2023, the Ministry of Internal Affairs of Ukraine, together with the parliamentary body, developed the draft Law of Ukraine «On Amendments to the Code of Ukraine on Administrative Offenses in connection with the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)» registration number 8329 dated January 2, 2023 [7].

The adoption of the aforementioned bill represents critical steps towards ensuring the safety and protection of citizens' rights. Its provisions propose introducing administrative liability for sexual harassment and define actions that constitute such offenses.

In our opinion, establishing clear mechanisms for holding perpetrators accountable will create stricter consequences for those who violate laws regarding sexual harassment. This may deter potential offenders and reduce impulses to commit offenses, thus ensuring citizens' safety.

However, holding perpetrators accountable should also consider ensuring that victims can receive prompt and effective assistance without resorting to complex and lengthy legal procedures.

Public recognition of certain actions as indicators of sexual harassment will contribute to increasing public awareness of the issue of sexual violence. This may lead to a change in cultural stereotypes, reduced tolerance for such actions, and attention to the necessity of preventing this type of offense.

Since gender stereotypes, power dynamics, inequality in relationships, as well as cultural and social factors are among the main causes of sexual harassment, clear identification of the offense being investigated will help address the associated issues.

International experience in combating sexual harassment includes various approaches and strategies aimed at preventing this type of violence and protecting the rights of potential victims.

As mentioned, target and framework documents such as the Istanbul Convention are important foundations for international cooperation in this field. Other documents, such as the Beijing Declaration and Platform for Action, also outline important principles for combating sexual harassment and violence against women [8].

Many countries are developing and implementing special laws and policies aimed at preventing sexual violence and protecting citizens' rights. These laws often include definitions of sexual harassment, increased penalties for offenders, and improvements in mechanisms for victim protection. For example, in September 2020, the Indian parliament passed a law that

strengthened accountability for sexual violence, particularly by introducing severe punishments for violence against women and children. This law included the death penalty for sexual violence against children. It also provided for expedited investigative actions and judicial proceedings in such cases to ensure the efficiency of the judicial process and the protection of victims' rights [9].

Many countries are also developing social and educational programs aimed at raising public awareness of sexual harassment and violence, establishing inter-sectoral cooperation, and providing support to victims.

For example, in Sweden, there is a program called «Equal Opportunities,» which includes social campaigns, lectures, and trainings aimed at raising public awareness of sexual violence and accountability for its commission. Educational events are also held in schools and universities to promote healthy relationships, ensure safety, and protect individuals' rights. The Swedish Agency for Gender Equality has developed a website where employers, training providers, as well as children and adults who have experienced sexual harassment, can find information about legislation, rules, and obligations, as well as who to contact in case they become victims of such unlawful actions [10].

Countries collaborate with international organizations and other nations to exchange best practices and develop joint strategies to combat sexual harassment. One such example is Canada. The country actively engages with various international organizations, such as the United Nations, the Council of Europe, and Interpol, to jointly develop and implement strategies to combat sexual harassment.

An important aspect of combating sexual harassment is the creation of support and protection mechanisms for victims, including access to medical care, legal assistance, and psychological support. For example, in Norway, there are various organizations and programs aimed at supporting individuals who have been victims of sexual violence. The country has a number of medical centers and clinics where medical care is provided, including examinations and emotional support. Additionally, legal organizations and law firms in Norway provide legal consultation and protection for victims of sexual violence. There are also psychological support centers where professionals offer counseling and therapeutic assistance [11].

Overall, the international experience in combating sexual harassment is reflected in a wide range of approaches and initiatives aimed at preventing this form of violence and protecting the rights of victims.

The legal regulation of offenses related to sexual harassment in Ukraine is currently undergoing active development. The bodies of the Ministry of Internal Affairs of Ukraine (MIA) have actively participated in the development of the Implementation Plan for the implementation of the Framework Cooperation Program between the Government of Ukraine and the UN on prevention and response to conflict-related sexual violence [12]. A number of measures in the Implementation Plan are aimed at preventing and countering discrimination and sexual harassment.

As part of the implementation of the Implementation Plan in this area, and taking into account all legislative changes, the MIA has decided to develop a unified

document that will encompass all mechanisms for preventing and countering discrimination based on gender and sexual harassment in the workplace within the MIA. In 2023, the Gender Unit of the MIA developed a Methodology for the prevention and counteraction of discrimination based on gender and sexual harassment in the workplace within the bodies of the MIA [13].

This methodology encompasses a list of normative legal acts and legislative acts that regulate the response to and the procedure for conducting official investigations within the MIA and other specialized state authorities regarding instances of discrimination based on gender and sexual harassment. It also outlines the rights and obligations of the victim as well as the person who committed such offenses.

In order to increase awareness in this area, the methodology has been disseminated throughout the entire MIA system, and a series of training sessions have been conducted for the management and personnel of the MIA's bodies and units to acquire skills and abilities to identify such offenses and respond to them properly, taking into account new changes in legislation. Additionally, the methodology has been posted on the official website of the MIA in the section «Equal Rights and Opportunities,» where all necessary and updated information regarding the implementation of gender equality in the MIA's activities is accumulated.

**Conclusion.** Sexual harassment constitutes a serious violation of human rights and a manifestation of gender discrimination. Preventing and combating this problem requires a comprehensive approach, including improving legislation, raising societal awareness, and providing support to victims. It is essential to pay proper attention to the researched issue and act together to ensure the safety and protection of every individual's rights.

During times of conflict, the need for creating a safe and secure environment, where every person has the right to dignity and safety, becomes particularly acute.

In addition to the legal regulation of the investigated offense and establishing accountability for it, it is crucial to promote cultural transformation that influences respect and recognition of the equal rights of women and men.

Conducting informational campaigns and educational, psychological interventions to raise awareness of the issue of sexual harassment, disseminating information about the rights of victims and the procedures for seeking assistance, can also be significant steps in protecting rights and preventing the spread of this problem.

It is also important to consider international experience and ensure access to free medical, legal, and psychological services for victims of sexual violence, creating safe spaces for providing assistance and support. Engaging the public in combating sexual violence through active participation in preventive measures, supporting victims, and public campaigns against harassment should be encouraged.

#### References:

1. Ending violence against women and girls. UN Women: <https://ukraine.unwomen.org/uk/shcho-my-robymo/podolannya-nasylstva-shchod-zhinok-ta-divchat>.

2. Council of Europe Convention on preventing and combating violence against women and domestic violence. Council of Europe of 11.05.2011 №994\_001-11. URL: [https://zakon.rada.gov.ua/laws/show/994\\_001-11#Text](https://zakon.rada.gov.ua/laws/show/994_001-11#Text).
3. Bandurka IO, Malynovska TM (2020). Implementation of the Istanbul Convention in the context of combating domestic violence. *Pravo.ua. Series «Criminal Law and Criminalistics»*. № 3. C. 142–146.
4. Hryshko V.I., Kirichuk B.S. (2023). The Importance of Implementing the Istanbul Convention in the Context of Counteracting Violence During the Martial Law Regime in Ukraine. *Scientific Bulletin of Uzhhorod National University. Series PRAVO. Issue 80: part 2. C. 284–289*.
5. Dudorov OO, Khavroniuk M.I. (2019). Responsibility for domestic violence and gender-based violence (scientific and practical commentary on the novels of the Criminal Code of Ukraine) / edited by M.I. Khavroniuk. K.: Vaite, 288 c.
6. On Ensuring Equal Rights and Opportunities for Women and Men: Law of Ukraine of 08.09.2005 № 2866-IV. Verkhovna Rada of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/2866-15#Text>.
7. On Amendments to the Code of Administrative Offenses of Ukraine in connection with the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention): Draft Law No. 8329 of 02.01.2023 URL: <https://itd.rada.gov.ua/billInfo/Bills/Card/41104>.
8. Beijing Declaration. United Nations. 1995. URL: [https://zakon.rada.gov.ua/laws/show/995\\_507#Text](https://zakon.rada.gov.ua/laws/show/995_507#Text).
9. Fox Mandal (2022). Child Abuse Laws in India: Fortifying the Formative Years. *Lexology*. URL: <https://www.lexology.com/library/detail.aspx?g=81085a3e-dd44-4dc4-ab5e-94dbe3d1fdab>.
10. Sweden's response to the Secretary-General of the United Nations relating to the implementation of the General Assembly resolutions. *Unwomen*. 2020. URL: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/A-75-274-Submission-Sweden-en.pdf>.
11. Seek help if you experience domestic violence. (2021). Ministry of Justice and Public Security. URL: <https://www.regjeringen.no/en/historical-archive/solbergs-government/andre-dokumenter/hod/2021/seek-help-if-you-experience-violence/id2696812/>.
12. Framework for Cooperation between the Government of Ukraine and the United Nations on Preventing and Responding to Conflict-Related Sexual Violence. Cabinet of Ministers of Ukraine. 2022. URL: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.kmu.gov.ua/storage/app/sites/1/uploaded-files/UN-UKRAINE-ua-no-QR.pdf>.
13. Methodology for preventing and combating gender discrimination and sexual harassment in the workplace in the bodies of the Ministry of Internal Affairs of Ukraine. (2023). Ministry of Internal Affairs. URL: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mvs.gov.ua/upload/1/5/8/0/3/9/metodika.pdf>.