



UKRAINE: DOMESTIC VIOLENCE

Joint Stakeholder Report for the United Nations Universal Periodic Review

Submitted by

The Advocates for Human Rights, a non-governmental organization with special consultative status since 1996

and

Center “Women’s Perspectives,” a non-governmental organization based in Lviv, Ukraine

for the 28th Session of the Working Group on the Universal Periodic Review

6 – 17 November 2017

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Center “Women’s Perspectives” is a women’s non-governmental organization that during its 19 years of existence has become one of the leading third sector organizations in Ukraine. The Center registered as an NGO at the Lviv Department of Justice on 6 April 1998. The organization’s aims are to protect women’s rights and ensure equal rights and opportunities for women and men in all spheres of life. The organization provides direct services for women victims of violence and discrimination, in particular domestic violence; works with law enforcement, the judiciary, and governmental bodies to improve the state response to issues of violence against women and gender discrimination; conducts research and monitoring; works on preventing violence against women and gender discrimination; actively works on legislation and policies on combatting violence against women and ensuring gender equality development and implementation.

The Advocates for Human Rights (The Advocates) is a non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates’ Women’s Human Rights Program has published 27 reports on violence against women as a human rights issue, frequently provides consultation and commentary on drafting laws on domestic violence, and trains lawyers, police, prosecutors, and judges to effectively implement new and existing laws to better protect women and promote women’s rights.

The Advocates and Center “Women’s Perspectives” jointly submit this report to the U.N. Human Rights Council for Ukraine’s third Universal Periodic Review.

I. EXECUTIVE SUMMARY

Domestic violence in Ukraine is a pervasive problem. Sources have described the rates of domestic violence as “widespread,” “common,” and the number of women victims as “high.”¹ For 2016, the Ministry of Social Policy recorded 96,143 complaints of domestic violence, of which 85,037 were from women.² Official data indicates that these registrations have been on the rise by 10 percent per year.³ These ongoing conflict in Eastern Ukraine has exacerbated the problem, contributing to increasing rates of domestic violence and impunity for offenders who have served as combatants.

The government has generally deflected responsibility by attributing discrimination against women to women’s lack of awareness about their rights, instead of to state actors responsible for responding to violence.⁴ Overall, sex-disaggregated data collection on domestic violence is currently inadequate.⁵ In addition, women face barriers to accessing justice because of harmful attitudes or laws that discriminate on their face or are ineffectively implemented. A recent study undertaken highlighted the need for legislative reform to bring Ukraine’s laws into compliance with its international legal obligations, developing the capacity across inter-agency service providers to strengthen coordination, strengthening support for victims of violence, and increasing public information campaigns.⁶ This stakeholder submission sets forth the national legal framework pertaining to domestic violence, gaps in the government response to domestic violence, and recommendations.

II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

1. During its second UPR in 2012, Ukraine received four recommendations relating to domestic violence. Ukraine accepted three of these recommendations and rejected one recommendation. The following recommendations were made to Ukraine in its last UPR:

Recommendation	Response
97.11 Ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Portugal)	Not accepted. Ukraine signed the Council of Europe Convention in 2011. It has not ratified it.
97.76 Continue to strengthen provisions to address domestic violence, and programmes to reinforce mechanisms for the protection of women and children (Chile)	Accepted.
97.77 Respect the principles and standards provided by the Council of Europe Convention on preventing and combatting violence against women and domestic	Accepted.

violence, even prior to its ratification and entry into force (Italy)	
97.78 Continue to work towards a comprehensive approach to preventing and addressing all forms of violence against women (Republic of Moldova)	Accepted.

2. Ukraine ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981, the International Covenant on Civil and Political Rights (ICCPR) in 1973, and the Conventional Against Torture (CAT) in 1987. Ukraine also ratified the Optional Protocol to CEDAW in 2003 and the first Optional Protocol to the ICCPR in 1991.
3. Treaty body reviews have highlighted concerns related to domestic violence and made recommendations. In Ukraine’s 2013 review, the Human Rights Committee expressed concern over the continued prevalence of domestic violence.⁷ It urged Ukraine to adopt a new law on domestic violence, take steps to encourage victim reporting, undertake investigations and prosecutions of perpetrators, and ensure that victims can avail themselves of effective remedies and protections, including shelters.⁸ It further recommended trainings on domestic violence for systems actors and public education measures.⁹
4. In Ukraine’s 2014 review, CAT commended Ukraine for the 2001 adoption of the Prevention of Domestic Violence Act, but expressed concern over the prevalence of domestic violence.¹⁰ It also deplored the lack of an effective framework to address domestic violence and the absence of remedies for victims.¹¹ CAT urged the government to reform its laws to criminalize domestic violence and ensure their effective implementation, ensure that victims can access remedies and services, provide appropriate training to systems actors who respond to domestic violence, investigate and prosecute reports of domestic violence, and provide CAT with data on domestic violence.¹²
5. In Ukraine’s 2017 review, CEDAW welcomed the government’s efforts to reform its laws and policies, including the adoption of the Law on Prevention and Combating Domestic Violence (2016), as well as the development of the Concept of the National Program on Prevention and Combating Domestic Violence.¹³ The committee regretted that Ukraine has not yet created a specific crime of domestic violence nor specifically defined gender-based violence in its laws.¹⁴ CEDAW also expressed concern over the use of mediation in domestic violence cases by judges.¹⁵ It recommended that Ukraine criminalize domestic violence, expedite the ratification process of the Istanbul Convention, and ensure that judges refrain from using mediation in domestic violence cases.¹⁶

III. OVERVIEW OF NATIONAL LEGAL FRAMEWORK ON DOMESTIC VIOLENCE

6. Despite past treaty body recommendations to do so, **Ukraine still does not have a specific crime of domestic violence.** The Criminal Code prohibits bodily injury, battery, and torture,¹⁷ but less serious crimes committed within the family are subject to private prosecution.¹⁸ Because the majority of cases of domestic violence result in minor bodily

injuries, these crimes are typically prosecuted under Article 125, Intentional Minor Bodily Injury, of the Criminal Code. Infliction of minor injuries can be punished by a fine, community service, corrective labor, and, in the case of short-term disability or harm, imprisonment for up to two years.¹⁹ Furthermore, less serious crimes committed within the family are subject to private prosecution.²⁰ Spousal rape is prosecuted under Article 152 on rape.²¹ Due to widespread stereotypes and misperceptions regarding women's expected obligations in marriage, however, such cases are neither routinely investigated nor do they reach the courts.

7. **Ukraine adopted its domestic violence law in 2001.** The law allows victims of violence to file a civil report of domestic violence, after which he or she can apply for a protection order or file a civil claim against the offender for financial damages.²² The law defines domestic violence as “any intentional action committed by one family member towards another family member which violates the constitutional rights and freedoms of the family member and causes harm to his or her physical, mental or moral health.”²³ The order for protection provides remedies to bar the offender from committing further acts of violence against the victim, seeking information about the victim's residence, and a no contact order.²⁴
8. **A newly proposed package of laws to address violence against women was submitted to Parliament in November 2016.** The package of laws included a new domestic violence law, On the Prevention and Counteraction to Domestic Violence, amendments to the criminal and civil laws, including criminalization of domestic violence, and ratification of the Istanbul Convention. The package of laws passed the first hearing in 2016 in Parliament and was expected to be adopted; instead, however, the legislative package was returned to the Working Group for further changes on the basis that it would harm traditional family values²⁵ and because of certain terms, including “gender” and “sexual orientation” in the treaty.²⁶ One of the conditions was to include representatives of the Ukrainian Council of Churches and Religious Organizations in the Working Group, despite the fact that their inclusion contradicts Article 35 of the Constitution of Ukraine, under which “Church and religious organizations in Ukraine are separated from the state, and the school - from the Church. No religion shall be recognized by the State as mandatory.” At the roundtable with Members of Parliament on March 23, 2017, the Ukrainian Council of Churches and Religious Organizations set forth their position against ratification of the Istanbul Convention.²⁷
9. **The Family Code contains provisions that discriminate against women:**
 - a. Articles 124 and 129 remove the capacity of a woman to determine her child's paternity.
 - b. Article 110 prohibits divorce if a woman is pregnant or has a child under one year of age. An exception exists if the party can prove domestic violence with a criminal court decision, but as discussed below, the criminal process is fraught with delays and often closed.
 - c. Articles 182, 185, and 197 define child support as 30 percent of the minimum cost of living for children of a certain age. Because women constitute more than 95 percent of applicants in child support cases, these provisions have a disparate impact on them. And those who have custody (usually women) are responsible for 70 percent of a

child's expenses, while those who do not (usually men) are only required to pay 30 percent of the expenses for their child.²⁸

IV. COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

a. Access to Justice

10. **Women victims of domestic violence face a number of barriers in accessing justice in Ukraine.** Center “Women’s Perspectives” conducted research in 2015 and 2016 to identify obstacles faced by women in access to justice and problems in the application of CEDAW,²⁹ the European Convention of Human Rights, and Ukraine’s anti-discrimination legislation.³⁰ Notwithstanding the discriminatory Family Code provisions described above and the absence of a specific crime of domestic violence, the study also found that **harmful misperceptions among government officials, police, judges and lawyers create barriers for women seeking to access justice.** Eighty-eight percent of respondents believe that there are no problems with access to justice for women in Ukraine.³¹ Yet, reports of frustrations with law enforcement and judiciary’s responses prevail, and an NGO-operated hotline reported 225 complaints about authorities’ failure to respond to domestic violence in 2013.³²
11. **Reports indicate that police attitudes deter victims from reporting violence.** Police beliefs that domestic violence is a private family matter result in ineffective responses, such as heavier reliance on warnings in domestic violence cases.³³ Another source noted that police turn away women who report domestic violence to them, at times out of empathy for abusers who are ex-combatants.³⁴ There have been some state efforts to address the police response. For example, interactive training rooms were created in three cities to train police on responding to domestic violence,³⁵ but the content used in these trainings and their compliance with best practice standards is unknown.
12. **Forty-seven percent of women victims of domestic violence reported perceiving that the judge was prejudiced against them** or held a favorable attitude to the other party in their proceeding (the husband or former husband), demonstrating the influence of stereotypes and tolerance of domestic violence by judges.³⁶ Judicial prejudices are especially problematic in cases relating to child support and property disputes.
13. The study noted **widespread stereotypes among the general public**, as well. In focus groups, 68 percent of judge and lawyer respondents agreed with the statement that “women sometimes provoke violence in the family and this must be taken into account during considering case in the court.”³⁷ In another survey, a majority viewed it as acceptable for men to demonstrate “who is the boss in the family” to their spouses.
14. **Victims of domestic violence face additional hurdles in criminal cases and prosecution of their abusers.** Many cases are closed during the pre-trial investigation stage for “lack of evidence and witnesses,” even if there are witnesses available.³⁸ Delays in proceedings also result in the closure of criminal cases during the trial. Statute of limitations also bar certain cases, and under Article 49 of the Criminal Code, a person is exempt from criminal liability if more than two years have passed since committing a minor offense. Many domestic violence cases qualify as minor offenses under this provision and are also closed during the trial. This renders it impossible for victims to seek compensation for moral and other

damages in a civil proceeding because they cannot prove that the damage was caused by a domestic violence crime once the case is closed.³⁹

15. Even if a criminal case proceeds through a trial to sentencing, **judges do not consider previous history of domestic violence or that a perpetrator committed the violence in front of a child when determining punishment or moral damages.** In addition, 39 percent of victims reported long trials or delays in the proceedings, 15 percent reported judicial attempts to force reconciliation with a violent husband, and 12 percent reported judicial accusations that the victim provoked the violence.⁴⁰ Defense attorneys and judges cite Article 88 of the Criminal Procedure Code to exclude the perpetrator's history of domestic violence and previous convictions in criminal cases or compensation in civil cases. Consequently, punishments for domestic violence tend to be lighter sanctions, such as fines, administrative arrests, and community service.⁴¹

b. Order for Protection Remedies

16. As described above, **efforts to amend the domestic violence law have stalled in Parliament and are now before the Working Group again.** Until then, the current domestic violence law remains in effect. 2015 statistics suggest that, within the period of a half-year, police issued 38,000 orders for protection and warnings.⁴² This number is not disaggregated by orders for protection and warnings, however, and it is unclear how often victims are obtaining remedies under the protection order. Earlier statistics collected by the Ukrainian Helsinki Human Rights Union in 2013 found that authorities issued 89,168 warnings but only 6,160 orders for protection in domestic violence cases,⁴³ indicating that victims may not be securing protection under the domestic violence law as often as other statistics may suggest.
17. Although Article 15 of Ukraine's domestic violence law authorizes criminal, administrative and civil penalties for domestic violence, **perpetrators typically face only administrative penalties.** Thus, a person who commits domestic violence, violates a protective order, or fails to participate in a corrective program may typically be fined three to five times their personal exemption, forced to provide up to one month of corrective labor with a 20 percent salary deduction, or receive up to five days of administrative arrest.⁴⁴

c. Victim Services

18. **Ukraine falls far short in complying with international standards on victim services.** Based on its population, international standards indicate that Ukraine should have 4,270 shelter beds available to victims of domestic violence. According to a 2015 report, Ukraine has two shelters with an unknown number of available beds.⁴⁵ Ukraine's legislation directs the government to ensure that shelters are available in all major cities, but this standard remains unmet due to shortages in municipal funding.⁴⁶ Those shelters that are financed by municipalities or private funds are not consistently available to victims; they are often full, closed for periods of time, and overall, operate on limited resources.⁴⁷ While NGOs strive to meet the need for centers for domestic violence, many have been forced to close due to shortages in funding.⁴⁸

19. **There are no rape crisis centers, sexual assault centers, centers for girls experiencing sexual abuse, intervention centers, regional crisis centers for victims of domestic violence, or centers for women victims of trafficking; there are only three women's centers.**⁴⁹ Approximately 19 centers for social and psychological assistance and 9 centers for legal and psychological help are available throughout the country.⁵⁰ An NGO, La Strada, operates a hotline for victims of violence and reported receiving 24,000 calls in a nine-month period, one-third of which related to domestic or sexual violence.⁵¹

d. Other Factors

20. **The ongoing conflict in Eastern Ukraine has exacerbated the problem of domestic violence.** The data that is available on violence against women is likely under-representative of the actual problem, as victims are deterred from seeking help because of ineffective laws, socio-cultural obstacles, lack of awareness of available services, lack of appropriate services, distrust, and the context itself.⁵² In the conflict setting, women's vulnerability to violence increases, and especially so for internally displaced women, whose incidence of violence was triple that of non-displaced women in the region.⁵³ The conflict in Ukraine has significantly impacted women, and the majority of persons displaced internally by the fighting are women and children.⁵⁴ Additionally, post-traumatic stress disorder affecting men returning from the war has aggravated rates of domestic violence. The NGO La Strada Ukraine noted that approximately 72 percent of complaints received in 2014 pertained to domestic violence.⁵⁵ The NGO received nearly 6,000 requests for help within the first half of 2015.⁵⁶

V. RECOMMENDATIONS

21. As a priority, **expedite the Working Group's work on the legislative package on violence against women, including ratification the Istanbul Convention, for presentation to Parliament**, including the domestic violence law, in full consultation with NGOs that serve victims of violence. In compliance with the Constitution of Ukraine, representatives of Ukrainian Council of Churches and Religious Organizations should be excluded from the Working Group on this legislative package.
22. **Ensure the reform of criminal legislation** to specifically criminalize domestic violence and spousal rape. These crimes should be subject to public prosecution, and penalties should be commensurate with the severity of the offense.
23. **Ratify the Istanbul Convention.**
24. **Strengthen data collection within the judiciary** related to domestic violence cases, including disaggregated data to identify the sex of the victims, relationship between the victim and accused, location of the crime, and level of injury.⁵⁷
25. **Mandate ongoing and regular training** on domestic violence and best practice responses, in consultation with or led by NGOs that serve victims of domestic violence.
26. **Provide adequate funding and support to shelters and the NGOs** that operate them to ensure their accessibility to victims throughout the country in all major cities as mandated by law.

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- ¹ Immigration and Refugee Board of Canada, *Ukraine: Domestic violence, including legislation, recourse, state protection and support services available to victims, including those who are stalked or harassed by their perpetrator; the effect of residence registration on victims that try to relocate (2013-June 2015)*, 10 July 2015, UKR105203.EF, <http://www.refworld.org/docid/55bf562c4.html> (citations omitted).
- ² Personal Communication from NGO to The Advocates for Human Rights, via email, Mar. 29, 2017 (on file with authors).
- ³ *New Study on Court Practice to Help Judges Fight Domestic Violence More Effectively*, UNDP Ukraine, May 26, 2014.
- ⁴ Information Note, Women's Perspectives, received Mar. 28, 2017, (on file with authors).
- ⁵ Nina Teggarty, *A Hashtag to Help Abuse Victims in Ukraine*, PRI, Aug. 9, 2016.
- ⁶ Gender-Based Violence in the Conflict-Affected Regions of Ukraine, Ukrainian Centre for Social Reforms, Nov. 2015, at 6.
- ⁷ Concluding Observations on the Seventh Periodic Report of Ukraine, ICCPR, Aug. 22, 2013, U.N. Doc. CCPR/C/UKR/CO/7, at para. 14.
- ⁸ *Id.*
- ⁹ *Id.*
- ¹⁰ Concluding Observations on the Sixth Periodic Report of Ukraine, CAT, Dec. 12, 2014, U.N. Doc. CAT/C/UKR/CO/6, at para. 14.
- ¹¹ *Id.*
- ¹² *Id.*
- ¹³ Concluding Observations on the Eighth Periodic Report of Ukraine, CEDAW, Mar. 3, 2017, U.N. Doc. CEDAW/C/UKR/CO/8, at paras. 4a, 5b.
- ¹⁴ *Id.*, at para. 28.
- ¹⁵ *Id.*, at para. 46.
- ¹⁶ *Id.*, at para. 29(a), 47(b).
- ¹⁷ Ukraine Criminal Code, arts. 121-25, 126-27 (2010).
- ¹⁸ Immigration and Refugee Board of Canada, *Ukraine: Domestic violence, including legislation, recourse, state protection and support services available to victims, including those who are stalked or harassed by their perpetrator; the effect of residence registration on victims that try to relocate (2013-June 2015)*, 10 July 2015, UKR105203.EF, <http://www.refworld.org/docid/55bf562c4.html>.
- ¹⁹ Criminal Code, Art. 125 (amended 2016).
- ²⁰ Domestic Violence Country Assessment (citations omitted).
- ²¹ Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ²² Law of Ukraine "On Prevention of Domestic Violence," No. 2789-III, art. 4 (November 15, 2001).
- ²³ *Id.*, Art. 1.
- ²⁴ *Id.*, Art. 4.
- ²⁵ Personal Communication from NGO to The Advocates for Human Rights, via email, Mar. 29, 2017 (on file with authors).
- ²⁶ *Why Ratification of the Istanbul Convention, a Tool to Prevent Domestic Violence, Is Being Blocked?* Ukraine Crisis Media Center, Mar. 10, 2017.
- ²⁷ Personal Communication from NGO to The Advocates for Human Rights, via email, Mar. 29, 2017 (on file with authors).
- ²⁸ Information Note, Women's Perspectives, received Mar. 28, 2017, (on file with authors).
- ²⁹ Ukraine ratified CEDAW in 1981.
- ³⁰ Information Note, Women's Perspectives, received Mar. 28, 2017, (on file with authors).
- ³¹ *Id.*

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- ³² Immigration and Refugee Board of Canada, *Ukraine: Domestic violence, including legislation, recourse, state protection and support services available to victims, including those who are stalked or harassed by their perpetrator; the effect of residence registration on victims that try to relocate (2013-June 2015)*, 10 July 2015, UKR105203.EF, <http://www.refworld.org/docid/55bf562c4.html>.
- ³³ Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ³⁴ Immigration and Refugee Board of Canada, *Ukraine: Domestic violence, including legislation, recourse, state protection and support services available to victims, including those who are stalked or harassed by their perpetrator; the effect of residence registration on victims that try to relocate (2013-June 2015)*, 10 July 2015, UKR105203.EF, <http://www.refworld.org/docid/55bf562c4.html>.
- ³⁵ Laura E. Kirkpatrick, *In Eastern Ukraine, Questions Abound Regarding Violence against Women*, PassBlue, Mar. 10, 2015.
- ³⁶ Information Note, Women's Perspectives, received Mar. 28, 2017, (on file with authors).
- ³⁷ Information Note, Women's Perspectives, received Mar. 28, 2017, (on file with authors).
- ³⁸ Information Note, Women's Perspectives, received Mar. 28, 2017, (on file with authors).
- ³⁹ *Id.*
- ⁴⁰ *Id.*
- ⁴¹ Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ⁴² *Id.*
- ⁴³ Immigration and Refugee Board of Canada, *Ukraine: Domestic violence, including legislation, recourse, state protection and support services available to victims, including those who are stalked or harassed by their perpetrator; the effect of residence registration on victims that try to relocate (2013-June 2015)*, 10 July 2015, UKR105203.EF, <http://www.refworld.org/docid/55bf562c4.html> (citation omitted).
- ⁴⁴ Ukraine Code of Administrative Offenses, Arts. 172-3 ('Committing domestic violence, violation of protective order, non-participation in corrective programme').
- ⁴⁵ Rosa Logar and WAVE Team, *WAVE Report 2015 on the Role of Specialist Women's Support Services in Europe* (2016), Table 13, at 92.
- ⁴⁶ Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ⁴⁷ Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ⁴⁸ *Assessment of Domestic Violence Laws, Policies, and Practices in Central and Eastern Europe and Former Soviet Union*, The Advocates for Human Rights (2016) (citations omitted); Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ⁴⁹ Rosa Logar and WAVE Team, *WAVE Report 2015 on the Role of Specialist Women's Support Services in Europe* (2016), Table 21, at 96.
- ⁵⁰ Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ⁵¹ Country Reports on Human Rights Practices for 2016: Ukraine, U.S. Dep't of State, Bureau of Democracy, Human Rights, and Labor.
- ⁵² Gender-Based Violence in the Conflict-Affected Regions of Ukraine, Ukrainian Centre for Social Reforms, Nov. 2015, at 4, 5.
- ⁵³ *Id.*
- ⁵⁴ Clair Bigg and Levko Stek, "In Focus: Ukraine's Refugee Crisis," *Radio Free Europe, Radio Liberty*, July 24, 2014.
- ⁵⁵ Gender-Based Violence in the Conflict-Affected Regions of Ukraine, Ukrainian Centre for Social Reforms, Nov. 2015, at 20.
- ⁵⁶ *Id.*
- ⁵⁷ Supplementary Information on Ukraine Scheduled for Review by CEDAW during Its 66th Session, Women's Perspectives, July 20, 2016 (on file with authors).