

Agents of action against child abuse in families

Суб'єкти протидії насильства в сім'ї щодо дітей

Galyna Tereshchuk

Key words:

violence, domestic violence, prevention, resistance.

Ключові слова:

насильство, насильство в сім'ї, попередження, протидія.

Child abuse doesn't know any borders. Abuse affects all races, classes, religions and cultures. There are children in all countries of the world that continue to fear and undergo abuse. All countries and regions are vulnerable to abuse. Soon after the United Nations was established, the international community accepted that there was a need for the protection of children's rights. In "Convention on the Rights of the Child" it is noted: State parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. State parties shall ensure that the institutions, offices and authorities responsible for children and their protection, have to pass the standards that have been set out by appointing authorities, particularly in the field of health safety and protection and from the point of view of staff numbering and aptitude, also competent supervision.

Additionally, the problem of child abuse in families refers not only to the action, but also psychology, pedagogics, morals and even religion. This shameful phenomenon is inhibited by a lot of state institutions and public organizations, as well as the law enforcement establishment that plays the role of preventers and responders. So, the role and effect of different types of action towards preventing child abuse in families is, of course, important and warrants attention from the part of legal science.

Different aspects of incidents of family violence are described in the works of native researchers (A.I. Antonow, L.I. Alpern, A.A. Besiedina, O.W. Boiko, O.W. Kowaliowa, M.C. Matskowskii, A.G. Charchew, I.A. Chosratkulowa, T.W. Shypunowa, H.B. Shamruk and others).

The activities of action against child abuse are holistic in nature and take into account socio-economic, pedagogic, psychological-correctional and law enforcement entities. National strategies or action plans focusing on the question of child abuse have to include the necessary components for achieving all aims and solutions: abuse prevention in every environment, the care and rehabilitation of children, the victims of violence, increasing the level of knowledge, educational level development, and the collection of necessary data. The fulfillment of the aforementioned national strategies and action plans should be supported by qualified human and financial resources and should be systematically rated according to target goals and timetables.

The Act of Ukraine, "On Family Violence prevention", places the responsibility of implementing measures for family violence prevention on the given authorities:

A central executive body that provides state policy formation in terms of family violence prevention;

A central executive body that implements policy against family violence prevention;

Authorized departments of national police bodies;

Guardianship and wardship authorities.

Specialized institutions for persons that have committed violence in families and the victims of such violence:

crisis centers for family members in which violence has occurred or where there is a real danger of its commitment (further – crisis centers);

the centers of medical and social rehabilitation of victims of violence in the families.

A system of regulatory legal acts, either general, meaning legal relations, or special, guide the organizational and legal framework of the interaction of the state bodies and social institutions that act against abuse in families.

Offices for Youth, Family and Sport Affairs:

- coordinate the activities of the Offices of children's services, Department of Children, Youth and Family Services and internal affairs bodies concerning family violence prevention;
- send the victims of violence in families and vulnerable family members to specialized institutions for the victims of family violence;
- control the specialized institutions for victims of family violence and their activity;
- inform the community about organizations, institutions and bodies that support family members that are the victims of violence or vulnerable to it;
- initiate further actions to assist victims of domestic violence or those vulnerable to it as designated by a deliberative body according to the combined Act of the Ministry of Family, Youth and Sports, Ministry of Health, Ministry for Education and Science, Ministry of Labour, Ministry of Transport and Communication, Ministry of Internal Affairs, and State Department of Corrections of Ukraine by 14.06.2006 N 1983/388/452/221/556/596/106 "On approval sequence of subjects of social work with families in difficult life circumstances".

Guardianship and wardship authorities:

- support the restoration of violated rights and defend the legal interests of children that have parents and live with them, orphans and children deprived of parental care and grow up in foster care, adopted families, and family-style children's homes;
- support the family members deemed incapable, in cases where they are the victims of violence or vulnerable to it;
- represent in court the interests of minors and disabled people that have been the victim of family violence.

The centers of medical and social rehabilitation of victims of violence in the families:

- support victims of family violence by giving primary health care and psychological aid, some kinds of psychiatric care, on the grounds of and as prescribed by the law "About Psychiatric Care" and others legislative and regulatory acts;
- inform about incidences of family violence.

Victims of family violence are placed in the centers of medical and social rehabilitation for the necessary amount of time for their treatment and psycho-social rehabilitation. Optionally, they can undergo a course of treatment and psycho-social rehabilitation on an ambulatory basis.

The crisis centers are set up by local public administrations as requested by special authorized bodies of executive power regarding family violence and according to the region's social needs. They are also set up by local government authorities, institutions, organizations, enterprises, charity funds, citizen groups and individuals through agreements with special authorized bodies of executive power of family violence prevention and are registered according to the procedure established by legislation.

The employees of crisis centers:

Confer with people that have committed family violence for the duration of their correctional program;

- organize the giving of psychological, pedagogic, medical and legal support to family members that are vulnerable to or the victims of domestic violence;
- establish correctional programs and organize their operations by people that have committed family violence;
- according to the situation, provide commarancy for the family members that can become or have already been the victims of family violence;

– interact with mass media and public institutions to spread awareness of family violence prevention.

It is necessary to emphasize that the activity of law enforcement in this sphere plays a very important role due to that fact that these authorities are endowed with the power to apply and enforce regulatory actions.

It is necessary to agree with the opinion of O.D. Kolomoiets that one can estimate the activity of law enforcement and other agents of family violence prevention differently, but it is essential to note that the activity of the state in the sphere that has been studied doesn't correspond to the present reality because it doesn't fully grant the protection of rights of victims of family violence as described in the international regulations and domestic statutory regulations.

Of particular concern is the absence of an essential mechanism that could immediately halt violence against a victim. A concrete step towards solving this problem can be implementing measures that increase the level of interaction and coordination of all state bodies and encouraging closer cooperation of law enforcement and nongovernmental organizations¹.

We agree with the opinion of N.B. Shamruk that the action against abuse in families is a social-pedagogical complex of legal steps of special authorized state bodies and institutions of civil society that covers warnings, detection and suspension of abusers in families, holding them responsible and correcting their behavior, as well as giving social support to the victims of violence. The author emphasizes the key components of family violence that require a response from a constitutional state:

- family violence is a deeply rooted, systemic issue that is based on economic, physical or intersexual domination in family relations;
- family violence affects the behavior of a dependant family member (victim of violence) either directly or indirectly;
- violent acts in the family are connected with the problems of pecuniary and non-pecuniary damage;
- family violence is a violation of the private rights and freedom of the abuser's spouse;
- family violence is such a type of violation of private rights that, through different opportunities of the abuser and the victim, jeopardizes one's ability to defend themselves and demands intervention from the side of the state and society².

Considering the above-mentioned points, we would like to highlight the following items:

Firstly, law enforcement continues to play a very important role in preventing the violation, neglect, and endangerment of minors;

Secondly, for the years-long duration of the given activity, there is accumulated positive experience and if it is not fully considered it can lead to a reduction of resulting character in the sphere that has been studied;

Thirdly, scientifically-based coordination is required to attain positive outcomes by the agents taking action against abuse, particularly the departments of national police bodies considering legal segregation of functions and authorities;

Fourthly, in order to increase the standard of living for the families, maternity and childhood protection by the state is essential.

Ukraine N 2 "On National Defence of the Court and Law Enforcement Officials" outlines that the law enforcement authorities are: prosecution agencies, national police, Security Service, military police in the Armed Forces of Ukraine, National Anti-Corruption Bureau of Ukraine, national border control bodies, Inland Revenue bodies, bodies and institutions of the execution of punishments, pretrial detention centers, state financial bodies, fishery protection bodies, state forest protection bodies and other bodies that function in a law-enforcement capacity³.

¹ Коломоєць О.Д. Адміністративно-правове регулювання відповідальності за вчинення насильства в сім'ї, невиконання захисного припису або непроходження корекційної програми: дис. на здобуття наук. ступеня канд. юрид. наук : 12.00.07 / О.Д. Коломоєць. – Класичний приватний університет, Запоріжжя, 2010. – 223 с.

² Шамрук Н.Б. Адміністративно-правові засади взаємодії суб'єктів протидії насильства в сім'ї: автореф. дис. на здобуття наук. ступ. кандидат. юрид. наук: за спеціальністю 12.00.07 / Н.Б. Шамрук. – Національний авіаційний університет. – К., 2012. – 20 с.

³ Про державний захист працівників суду і правоохоронних органів : Закон України № 3781-XII від 23 грудня 1993 р. // Відомості Верховної Ради України (ВВР), 1994, № 11. – Ст. 50.

Regarding our research, most of the stated above bodies don't have any authorities for carrying out of measures of action against child abuse, because there is no need for rigorous research of their activity. Instead of this we can separate such main subjects of law enforcement system that have deal with the activity in the sphere of action against abuse. Among them, to our mind, we can separate such state institutions: prosecutor's office, court and internal affairs bodies. Also, indirectly we can add to this group bodies and institutions of execution of punishments, and pretrial detention centers.

Among non-governmental law enforcement institutions, it is advocateship.

The article of the law of Ukraine N 6 "On family violence prevention" states that measures regarding family violence prevention in the internal affairs bodies fulfill authorized departments of National police that: determine the reasons and conditions that conduce expressions of family violence, take measures to their elimination within their power; put into preventive register persons that are violently inclined, take measures of educational and preventive work with them; visit the families, members of those are put into preventive register, according to their place of residence and carry out preventive work with them; give official caution to family members about impermissibility to commit violence; take and handle the applications and the messages about family violence or the real danger of its commitment within their power and as ascertained by statute; take appropriate measures to stop family violence, and family members actions that are directed to perform real danger of violence commitment; inform family members, where is a real danger of violence commitment or it has been already done, about the rights, measures and services they can take; direct the victim of family violence to specialized institutions for persons that have committed family violence and victims of such violence; pass protective order in cases prescribed by this law; control the satisfying the requirements of protective; direct persons that have committed family violence to the crisis centers for correctional program passing; interact with central executive body that provides establishing and implement the state policy regarding family violence prevention with guardianship and wardship authorities and specialized institutions for persons that have committed family violence; give information regarding family violence prevention on the request form of the authorized bodies; exercise other powers and authorities regarding family violence prevention prescribed by the law.

It is necessary to agree with that fact that to the main methods of violence prevention are persuasion and coercion. By the way, the methods of care assistance, of positive example, of counteraction of negative impact of the environment, of surveillance and infusion should be used. All the methods that district police officer uses in course of family violence prevention have to be combined with one another for results achievement of treatment. The method of persuasion is fulfilled in these ways: slap on the wrist, legal education, legal education, legal propaganda, behavior discussion on the job or according to their place of residence. The method of coercion is used in course of individual prophylactic work, if persuasion didn't give a desired result and is fulfilled by giving official caution about impermissibility to commit violence; giving official caution about impermissibility to victim behavior; putting into preventive register persons that have committed family violence; passing protective order and other forms⁴.

Main directions of special departments of National police should be: performance of individual prophylactic work with minors and their parents, identification of the persons that involve minors to the wrongdoing and (or) other antisocial actions or persons that do towards minors other wrongful acts, and the minors parents or their legal representative and office holders that don't perform their duties or improperly perform their duties regarding upbringing, education and (or) minors allowance; organizational arrangements regarding detection of minors, put on the wanted list, also minors that need support from the state and according to the regulations direct such persons to the appropriate bodies or institutions; proceedings in the application and messages about violation of law done by minors and children who haven't reached the legal age and nonfulfillment or improper fulfillment of the duties regarding upbringing, study and (or) minors allowance by their parents or legal representative and office holders; participation in content generation concerning enquiry into the possibility of putting the teenager to the temporary secure facility the underage lawbreaker.

So, the activity of National police bodies takes the key place in the questions regarding action against child abuse in families, because very this institution is properly responsible to perform series of preventive and preclusive plan.

⁴ Ковальова О.В. Діяльність служби дільничних інспекторів міліції щодо попередження насильства в сім'ї: дис. ... канд. юрид. наук / О.В. Ковальова. – Харківський національний університет внутрішніх справ, Харків, 2008. – 240 с.

To improve social efficiency of the functions, have been performed of action against child abuse, also of preventive care of neglect, of homelessness and endangerment of minors next tasks have to be solved: a) employees' professional development improvement; b) dynamic implementation into the daily activities computer-controlled registers, formal form-sheets, electronic card-files; c) increase the level of material and technical resources of the employee work space, including modern computerized means; d) further development and improvement of the information-computer and research nets, steady upgrade of the integrated data bank that will contribute to timely and prompt response on the violation detected.

Summary

The article is devoted to theoretical aspects of the essence of prevention of domestic violence among children. The article is based on an analysis of different views of scientists on the problem of domestic violence among children, revealed its concept and essence, and determines problem areas, also determined role of National polis in this field.

Анотація

Охарактеризовано теоретичні аспекти визначення сутності попередження насильства в сім'ї щодо дітей. На основі аналізу різних поглядів учених на проблему протидії насильству в сім'ї щодо дітей розкрито її поняття та сутність, а також визначаються проблеми, роль Національної поліції в цій сфері.

Використана література:

1. Коломоєць О.Д. Адміністративно-правове регулювання відповідальності за вчинення насильства в сім'ї, невиконання захисного припису або непроходження корекційної програми: дис. на здобуття наук. ступеня канд. юрид. наук : 12.00.07 / О.Д. Коломоєць. – Класичний приватний університет, Запоріжжя, 2010. – 223 с.
2. Про державний захист працівників суду і правоохоронних органів : Закон України № 3781-XII від 23 грудня 1993 р. // Відомості Верховної Ради України (ВВР), 1994, № 11. – Ст. 50.
3. Шамрук Н.Б. Адміністративно-правові засади взаємодії суб'єктів протидії насильства в сім'ї: автореф. дис. на здобуття наук. ступ. кандидат. юрид. наук: за спеціальністю 12.00.07 / Н.Б. Шамрук. – Національний авіаційний університет. – К., 2012. – 20 с.
4. Ковальова О.В. Діяльність служби дільничних інспекторів міліції щодо попередження насильства в сім'ї: дис. ... канд. юрид. наук / О.В. Ковальова. – Харківський національний університет внутрішніх справ, Харків, 2008. – 240 с.

Galyna Tereshchuk,

*Candidate of Law Sciences, Associate Professor,
Department of administrative Law and Process, Law Faculty
«Ternopil National Economic University»*