



LEGAL MODELS FOR COMBATING DOMESTIC VIOLENCE

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<https://doi.org/10.5281/zenodo.14988209>

Abstract: This study analyzes the concepts of various legal models for combating domestic violence and their practical significance. The author studies the criminal justice model, civil law model, public health model, and restorative justice model, describing their role and effectiveness in eliminating domestic violence. Each model is based on different theoretical approaches and practical methods, and due attention is paid to specific aspects of domestic violence. This study shows how each model affects the legal process and the possibilities of achieving effective results by complementing each other.

Keywords: criminal justice model, civil justice model, public health model, restorative justice model.

By the end of the last century, the fight against domestic violence had entered a new phase, influenced by various political and social events. To date, various legal models have been formed in legal practice and literature around the world to combat domestic violence. These models are based on various theoretical and doctrinal views and represent a system ranging from the content of domestic violence to the mechanism for combating it. The content and structure of these models cover the phenomenon of domestic violence in different contexts and criteria and do not present a single picture, but rather complement each other and help achieve overall effectiveness. We will consider these models below.

The Criminal Justice Model focuses on combating domestic violence through criminal legal mechanisms, distinguishing it as a separate criminal offense, as well as creating separate mechanisms for prosecution, investigation and punishment in the fight against it. The scientific and theoretical literature on this model, including the scientific research of the scientist Buzawa, was devoted to the criminal-legal attitude and response, that is, to recognizing the social danger of domestic violence, distinguishing it from other forms of violence by its important features, identifying it through special socio-legal measures and punishing it more effectively[1].

The main feature of this model is that, according to it, it is necessary to investigate this act and bring the accusation to court, regardless of the victim's wishes (Prosecution Policies). This completely removes domestic violence from the sphere of privacy and family life and turns it into a socially dangerous





phenomenon. That is, if a domestic violence incident is detected in a healthcare process or in another form, prompt information should be transmitted to law enforcement agencies, the relevant special body or official (prosecutor) should carry out and support the state prosecution in this regard, initiate an investigation and bring it to justice. Another political and legal mechanism that makes this model attractive is the Mandatory Arrest Policies.[2] This political and legal mechanism envisages the mandatory arrest of the perpetrator in cases of clear and obvious domestic violence, thereby preventing the continuation of violence and illegal actions aimed at persuading the victim. In addition, the establishment of separate courts specifically for criminal and administrative cases related to domestic violence is also proposed within the framework of this model, which aims to overcome the traffic in the courts and the misunderstandings that the victim may face, the difficulties with evidence and proof, and other traditional and women-discriminatory phenomena.

The Civil Law Model, in addition to criminal law mechanisms, provides for the recovery of damages, the issuance of protection orders, the prompt and non-violent resolution of family legal issues (housing, children, etc.), and the fight against violence through civil law[3]. It should be emphasized that this model includes not only the mechanisms of civil law in our national legal doctrine, but also the institution of violence prevention, such as a protection order. The main reason why all of this is called civil law in legal literature and foreign (mainly US) practice is that the orders are issued precisely on the basis of marital relations and other family ties, and they are not directly criminal or administrative measures. In addition, other important elements in this model include important events, actions, and facts such as divorce due to domestic violence, division of property, and discrimination against women in deciding who children should live with, taking into account their influential (relatively powerless, susceptible) social position.

The Public Health Model, on the other hand, is a health-focused approach that emphasizes the harm (mental and physical) to women and children from domestic violence, and emphasizes this from a health perspective. One of the most influential scientific studies in this regard is the work of scientist Whitaker, who believes that the most important tasks in combating domestic violence are to conduct regular health examinations, monitor and treat health damage, keep separate records, and examine injuries in cases of domestic violence.[4] This scientific direction, starting with early screening and health monitoring of minor injuries, is important not only for preserving the health of victims, but also for





identifying crimes and imposing fair and proportionate punishment on them, since the difficulty of combating domestic violence through traditional legal mechanisms lies not in promoting health, but in promoting traditional cultural concepts (for example, the belief that the supremacy of men in the family should be ensured in any form). Similarly, O'Doherty's ideas about the role of screening in combating domestic violence emphasize that legal mechanisms should pass through the line of health protection and control [5]. This is a very important fact, since the structure of the crime of domestic violence is directly related to physical injury, and the object of the structure of domestic violence in national law is also health. Therefore, it is also correct that the current legal mechanism for combating domestic violence is connected precisely through public health and control.

The next legal model is **the Restorative Justice Model**, in which the main goal is to punish the perpetrator and restore the rights of the victim in cases of domestic violence. For example, Braithwaite[6], one of the influential scholars of the theory of restorative justice, emphasizes that if rights are not restored, the effectiveness of the punitive, that is, punitive system will decrease, and therefore restorative justice is superior in all respects. Also, the most important conditions for restorative justice in domestic violence are the relative equality of the parties, the real possibility for the victim to demand restoration of rights, and the absence of pressure from the perpetrator and his relatives, especially the victim's relatives and law enforcement agencies. In national law, judicial practice also clearly shows the widespread use of the most basic form of restorative justice in cases of domestic violence - the institution of reconciliation. Although domestic violence criminal cases are initiated mainly after administrative liability (except for the more serious ones), it seems that violence is not committed for the first time and in this case, reconciliation mechanisms should be studied very carefully. In addition, many human rights activists, as well as studies[7], emphasize that they are concerned about the use of the institution of reconciliation in domestic violence criminal cases, especially in the second and more serious parts. Although these concerns seem justified, the lack of alternative measures such as restorative reconciliation also makes us think that relying solely on punitive legal mechanisms cannot be effective. The discussion of this model is important from the point of view of understanding the legal mechanism of domestic violence crime, its context and goals. Because without this, it is difficult to have a proper approach to correcting the behavior of the





abuser, influencing the violence (including punitive goals such as punishment and showing the consequences to others) in the fight against domestic violence.

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