

The essence of domestic violence: Introductory issues

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Abstract

This article addresses the essence of domestic violence. A detailed analysis of the issue of domestic violence undoubtedly first requires an understanding of the mechanism of violence itself, in the common understanding of this phenomenon, and an indication of its types, because all domestic violence is a type of violence, but not all violence can be classified as domestic violence. The article includes, in particular, the definitions of domestic violence used by the authors of various legal publications, from the perspective of criminology, as well as those used by the legislator. The author also presents issues related to types of violence and characteristics of perpetrators of domestic violence, concluding with current statistics on the topic.

Keywords: domestic violence, types of violence, characteristics of perpetrators of domestic violence, mechanism of violence.

This article addresses the essence of domestic violence. A detailed analysis of the issue of domestic violence undoubtedly first requires an understanding of the mechanism of violence itself, in the common understanding of this phenomenon, and an indication of its types, because all domestic violence is a type of violence, but not all violence can be classified as domestic violence.

For the sake of clarity, it should be noted here that until the entry into force of the Act of 9 March 2023 amending the Act on Counteracting

Domestic Violence and certain other acts,¹ i.e., until 22 June 2023, the legislator and representatives of the doctrine used the concept of in-family violence (Author's note: this will be the term used to reference the old term of domestic violence within the article for the sake of clarity), while the aforementioned Act changed the terminology used so far by introducing the concept of domestic violence. To understand the issue under discussion, this article will provide an overview of the previously used definition of in-family violence as well as the currently applicable definition of domestic violence.

There are various definitions of violence. According to the dictionary, violence is “an advantage used to impose one’s will on someone, to force something on someone; power imposed on someone unlawfully; the use of physical force against someone’s will.”² This definition, however, is not broad enough to include all types of behaviour that constitute the phenomenon of violence, therefore, in the alternative, one should also take into account the definitions appearing in the literature on the subject, describing the violence that is characteristic of contemporary society, often referred to as consumer society and mass culture.

In the opinion of Ewa Muszyńska, violence is an intentional human action carried out with the use of physical force, aimed at breaking the resistance of and subordinating the other person against whom violence is used and whose aspirations and behaviours are in conflict with those of the person using violence. Violence therefore constitutes coercion through the use of force.³ This phenomenon is characterized by the predominance of force on the side of the perpetrator, whose goal, through taking conscious actions, is to harm, cause suffering, and/or humiliate the victim, by endangering their health and life.⁴ Violence is always associated with the violation of another person’s personal rights of, manipulation,

¹ Act of 9 March 2023 amending the Act on Counteracting Domestic Violence and certain other acts, Journal of Laws of Laws of 2023, item 535.

² See “przemoc,” *Słownik języka polskiego PWN*, <https://sjp.pwn.pl/slowniki/przemoc.html> (accessed: 12.08.2024).

³ E. Muszyńska, *Swoboda, przymus i przemoc w relacjach dziecko-dorosły*, Poznań 1998, p. 35.

⁴ J. Helios, W. Jedlecka, *Współczesne oblicza przemocy. Zagadnienia wybrane*, Wrocław 2017, p. 15.

and the infliction of pain.⁵ Irena Pospiszyl, on the other hand, considers violence to be any non-random act that violates the personal freedom of an individual, which contributes to the physical or mental harm of another person, going beyond the social norms of mutual interpersonal contacts.⁶ This definition considers both the intensity of the perpetrator's actions and the effects of violence in terms of psychological and physical damage.

In criminology, violence is defined as “the actual use of physical force against a person or the threat of its use, if the perpetrator's intention is to cause physical harm in the form of death or bodily injury, regardless of whether the perpetrator's action was an end in itself or was of an institutional nature.”⁷ This concept of violence differs from the definition adopted by substantive criminal law, which defines violence as a physical impact that enables the coerced person to undertake or implement their will or, by influencing their motivational processes, is to direct their decision in the direction desired by the perpetrator.⁸ In this approach, violence is always a specific instrumental action by the perpetrator, an intentional act aimed at causing a specific effect.⁹

The above definitions indicate that violence is usually not a one-off, easily defined phenomenon; in many cases it consists of individual acts that are repeated over the years and follow specific patterns. All the definitions of violence found in the literature always point to one common feature that accompanies this phenomenon, which is undoubtedly the perpetrator's desire to subjugate the victim of violence.¹⁰

In the literature, violence is most often defined in the general sense as one or more of the following: physical, psychological, sexual, economic, and neglectful violence. Some behaviours of the perpetrator may manifest in several of these forms at the same time.¹¹ For the purposes of this

⁵ I. Pospiszyl, *Przemoc w rodzinie*, Warszawa 1994, p. 7.

⁶ I. Pospiszyl, “Praktyczna użyteczność definicji przemocy,” [in:] *Razem przeciw przemocy*, ed. I. Pospiszyl, Warszawa 1999, p. 16.

⁷ J. Błachut, A. Geberle, K. Krajewski, *Kryminologia*, Gdańsk 2007, p. 262.

⁸ A. Marek, *Kodeks karny. Komentarz*, Warszawa 2006, p. 367.

⁹ J. Błachut, A. Geberle, K. Krajewski, *Kryminologia*, p. 262.

¹⁰ M. Markiewicz-Matyja, “Przemoc jako zjawisko społeczne,” [in:] *Socjologiczne i psychopedagogiczne aspekty przemocy*, ed. J. Wawrzyniak, Łódź 2007, p. 42.

¹¹ J. Mazur, *Przemoc w rodzinie. Teoria i rzeczywistość*, Warszawa 2006, p. 54.

article, domestic violence will be discussed in relation to the criminal offence of abuse outlined in Chapter XXVI of the Penal Code, entitled “Przestępstwa przeciwko opiece i rodzinie” (crimes against care and the family), specifically Article 207.¹² The author will also refer to other cases of this phenomenon.

In the literature concerning in-family violence, prior to the amendment of the Act on Counteracting Domestic Violence, the term “domestic violence” was also used, which makes it necessary to consider the scope of meaning of these terms and the distinction between the phenomena to which they refer. Some authors have even used these terms interchangeably,¹³ but, a detailed analysis of these definitions does not allow us to consider them as the same.

Domestic violence is any form of violence that occurs between people who live together in one household. The encyclopaedia defines a „household” as a group of people living together and supporting themselves, most often connected by biological ties, i.e., a family. Households may also consist of individuals who are not related but live and support each other.¹⁴ Jerzy Mellibruda, on the other hand, indicates the definition of domestic violence used by Polish specialists, which is “an act or omission committed within a family by one of its members against the others, using the existing or circumstantial advantage of force or power, violating their rights or personal property and, above all, their life and health (physical or mental), which causes them harm or suffering.”¹⁵

The types of violence indicated are usually interconnected and affect all family members. It is rare to find situations in which only one form of violence is present.¹⁶

¹² The Act of 6 June 1997, The Penal Code, Journal of Laws of 1997, no. 88, item 588.

¹³ S. Spurek in her study *Izolacja sprawcy od ofiary. Instrumenty przeciwdziałania przemocy w rodzinie*, Warszawa 2013, pp. 17–18, uses the terms “in-family violence” and “domestic violence” interchangeably, referring to the definition of domestic violence used in The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence of 2011.

¹⁴ See “gospodarstwo domowe,” *Encyklopedia PWN*, <https://encyklopedia.pwn.pl/haslo/gospodarstwo-domowe;3906934.html> (accessed: 12.08.2024).

¹⁵ J. Mellibruda, *Przeciwdziałanie przemocy domowej*, Warszawa 2009, p. 10.

¹⁶ W. Jedlecka, *Formy i rodzaje przemocy*, <https://www.repozytorium.uni.wroc.pl/formats/pdf/web/viewer.html?file=https%3A%2F%2Fwww.repozytorium.uni.wroc>.

In-family violence refers to violence occurring in a strictly family environment, involving related persons. This term is most often used in criminology, forensic psychology, or victimology. Studies describing this phenomenon also use the terms “partner violence,” “domestic violence,” or “violence in relationships” interchangeably.¹⁷ The perpetrator’s behaviour, due to the actions undertaken, may take any of the previously mentioned forms of violence, namely physical, psychological, sexual, or economic. In terms of the subject, i.e., regarding the victim of domestic violence, we can distinguish domestic violence occurring between spouses or partners, as well as between parents and children, children and parents, or grandparents.¹⁸

Domestic violence (currently in-family violence) is not only physical and psychological, but also sexual, economic, and social isolation.¹⁹ These forms of violence often occur together and in various combinations. The problem of in-family violence (domestic violence) affects not only families from the so-called “margins,” but also the wealthy ones, across all levels of society. The victims of this violence are primarily children and women, less often elderly people or men, and the perpetrators are generally men. The perpetrator’s behaviour is usually intentional, manipulative, and repetitive, aimed at demonstrating strength and power, and is harmful to other family members.²⁰ As Sylwia Spurek rightly points out, in instances of violence, one party’s power prevails over the other, leading to the violation of the rights of the weaker party and endangering their health.²¹ The concept of in-family violence (domestic

pl%2FContent%2F89200%2FPDF%2F02_Jedlecka_W_Formy_i_rodzaje_przemocy.pdf%3Fhandler%3Dpdf (accessed: 12.08.2024).

¹⁷ A. Lipowska-Teutsh, “Przemoc wobec kobiet.” [in:] *Wobec przemocy*, eds. D. Kubacka-Jasiecka, A. Lipowska-Teutsh, Kraków 1997, p. 20.

¹⁸ M. Budyn-Kulik, “Wybrane psychologiczne i wiktymologiczne aspekty znęcania się,” [in:] *Znęcanie się*, ed. M. Mozgawa, Warszawa 2020, pp. 71 ff.

¹⁹ J. Cichła, “Formy pomocy ofiarom przemocy w rodzinie w kontekście teorii i doświadczeń praktycznych,” [in:] *Wybrane aspekty przemocy*, eds. R.M. Ilnicka, J. Cichła, Toruń 2009, p. 109.

²⁰ A. Widera-Wysoczańska, *Mechanizmy przemocy w rodzinie*, Warszawa 2010, pp. 24–25.

²¹ S. Spurek, *Przeciwdziałanie przemocy w rodzinie. Komentarz*, Warszawa 2019, p. 94.

violence) is, however, quite broad and covers parental violence against a child, violence against a partner in a relationship, violence against older family members, and mutual violence in partnerships or marriages.²²

When describing this phenomenon in the early 1990s, Hans Joachim Schneider rightly emphasized that it is the most widespread, yet least controlled and most underestimated form of violence in terms of frequency. Participants and those who know about it—such as perpetrators, victims, relatives, friends, and family members—tend to view it as a private matter that should not be interfered with.²³ This social attitude has led to the acceptance of certain behaviours that should not be tolerated in any civilized society. After almost twenty years, this perspective remains relevant because the problem of domestic violence is complex, and its scale, despite the passage of time, has not yet been precisely determined, partially due to the fact that victims of violence often conceal their experiences from friends and family members. They are afraid of disclosing the problem, reopening the wounds, and facing unfair judgments from society. It is worth pointing out that this is probably due to the fact that in the case of in-family violence, there is a specific toxic bond between the perpetrator and the victim that does not occur in external relationships. In the context of the special relations that prevail in the family, violence becomes something referred to as “a secret within the four walls,”²⁴ it usually persists over time and leads, leading to the humiliation of the individual and the violation of their dignity and personal rights, both physically and mentally.²⁵

American psychologist Leonora E. Walker, while studying women experiencing domestic violence, described certain cyclical events they undergo.²⁶ The cyclical nature of this phenomenon can be discussed from

²² W. Badura-Madej, A. Dobrzyńska-Mesterhazy, *Przemoc w rodzinie*, Kraków 2000, p. 12.

²³ J.H. Schneider, *Kriminologie der Gewalt*, Stuttgart–Leipzig 1994, p. 125.

²⁴ J. Cichla, “Ośrodek Interwencji Kryzysowej jako instytucja wsparcia dla kobiet—ofiar przemocy domowej,” [in:] *Antyspołeczność, diagnoza, profilaktyka, interwencja*, eds. Z. Bartkiewicz, J. Rejman, Tarnobrzeg 2009, p. 443.

²⁵ J.R. Ackerman, S. Pickering, *Zanim będzie za późno: przemoc i kontrola w rodzinie*, Gdańsk 2002, p. 160.

²⁶ See Zespół Stowarzyszenia “Niebieska Linia,” *Cykle przemocy domowej*, <http://www.niebieskalinia.info/index.php/przemoc-w-rodzinie/30-cykle-przemocy-w-rodzinie> (accessed: 29.10.2020); E.L. Walker, *The Battered Woman*, New York 1979, pp. 55 ff.

a victimological perspective, referring to the concept of the perpetrator—victim. Most often, this term is applied to perpetrators of domestic violence who, as children, experienced violence against them, becoming victims in their own right and thus learning certain patterns of behaviour that prevail between women and men. Certain learned, even unconscious, behaviours are then activated in adult life, so that the abuser takes on a dual role—that of the victim of domestic violence experienced as a child, and that of its perpetrator as an adult.²⁷ In this context, domestic violence can also affect the victim, who may experience violence multiple times, starting in the family home, either directly from one or both parents, or indirectly as a witness to violence between parents, and then fall victim to violence again as an adult. In this situation, certain patterns of behaviour, unconsciously learned by the individual in childhood, are repeated and become the only known patterns in adulthood. The psychological and criminological significance, in turn, relates to the repeatability of the perpetrator's behaviour.²⁸

Most often, the literature indicates a constant cycle of violence, divided into specific phases, such as:

1) The phase of growing tension when the perpetrator experiences increasing tension and aggression. At this stage, the perpetrator often provokes certain situations in search of a reason to argue. In contrast, the victim tries to calm the atmosphere and prevent a fight, which can lead to various physical ailments, such as headaches, stomach aches, or insomnia. Occasionally, the victim may also provoke the perpetrator in an attempt to instigate a quarrel, believing that conflict is inevitable. According to Jadwiga Mazur, increased alcohol consumption and the use of narcotics are in this phase accompanying factors.²⁹

2) The phase of acute violence manifests itself in inflicting mental and physical pain on the victim through uncontrolled outbursts of aggression. Psychological abuse involves making statements directed at the victim

²⁷ L. Bakiera, "Rodzina z perspektywy socjologicznej i psychologicznej: ciągłość i zmiana," *Roczniki socjologii rodziny* 17, 2006, pp. 108–110; H. Ellenberger, *Relations psychologiques entre le criminel et la victime* [in:] *Wiktymologia*, ed. L. Falandysz, Warszawa 1979, p. 87.

²⁸ M. Budyn-Kulik, *Wybrane psychologiczne i wiktymologiczne...*, p. 76.

²⁹ J. Mazur, *Przemoc w rodzinie*, p. 34.

that are intended to deeply hurt and humiliate them, thereby lowering their self-esteem. Inflicting physical pain and causing bodily harm leaves the victim feeling shocked, terrified, and helpless. The perpetrator often takes steps to isolate the victim from the family and friends. According to J. Mazur, “the victim, at the time of committing the act of violence, tries to calm the partner and protect themselves, he or she feels helpless because their efforts do not soothe the perpetrators anger. Therefore, one passively submits to violence, and after this phase is over, the victim of violence is usually in shock, cannot believe what has happened, and represses the event from his or her consciousness. The victim is stunned and often feels ashamed and terrified. He or she may also fall into apathy, incapable of taking any action.”³⁰ At this stage, the victim of violence is frightened and shocked by their partner’s behaviour and may sometimes decide to file a report about the possibility of a crime being committed, leading to the initiation of preparatory proceedings.

3) The honeymoon phase. It is usually at this stage that the perpetrator, having already vented their aggression, realizes the meaning and consequences of their actions. The victim, on the other hand, wanting to calm the situation and hoping to improve the relationship, trusts that the violence was incidental. After this phase, which is relatively the shortest, the first phase often repeats itself, usually with greater intensity than before.³¹ Importantly, at this stage, perpetrators often try to pressure the victim who has decided to report the crime, to withdraw their claims or refuse to testify. Unfortunately, deposits submitted by victims of domestic violence often constitute the only evidence against the perpetrator. Without them, the proceedings are frequently discontinued due to the lack of data sufficiently justifying the commission of the offence under Article 17 § 1 Item 1 of the Code of Criminal Procedure.

When discussing dysfunctions in families, attention should also be paid to pathological elements that contribute to the development of violence, such as crime, alcohol, or drug abuse by one of the family members. Of the above-mentioned pathologies, alcoholism is the most

³⁰ Ibid.

³¹ J. Helios, W. Jedlecka, *Współczesne oblicza przemocy...*, p. 17.

common factor of violence in Polish families.³² A family is considered to have an alcohol problem if at least one member struggles with alcohol. An individual raised in such an environment lacks a normal environment or a sense of security, instead developing skills that allow them to survive in an abnormal environment.³³ Alcohol abuse within the family is often associated with criminal behaviour. Joanna Cichla, following Kenneth E. Leonard, emphasizes that it is a risk factor for the occurrence of domestic violence. She explains the co-occurrence of domestic violence and alcohol abuse through the social inheritance of aggressive behaviour and drinking patterns, which include, among others, frequent expressions of anger, rage, hostility, low self-esteem, or reduced social support.³⁴ As pointed out by S. Spurek,³⁵ currently, contrary to popular belief, the cause of domestic violence is not alcohol, but other pathologies. While alcohol can be a co-occurring factor, it is not a direct source of violence, as evidenced by the number of perpetrators under the influence of alcohol during domestic interventions conducted by the police at the scene.

Identifying the characteristics of perpetrators of domestic violence is not easy, as they usually remain hidden, avoiding discussions about their situation, and refrain from subjecting their psyche and personality to examination. Usually, the perpetrators of domestic violence are men; however, they often play the roles of both perpetrator and victim, because by hurting their loved ones, they also hurt themselves, which makes them increasingly aggressive towards their victims.³⁶ In the literature,

³² B. Kowalska-Ehrlich, "System postępowania z młodzieżą nieprzystosowaną społecznie w Polsce," [in:] *Prawne aspekty przemocy*, eds. B. Kowalska-Ehrlich, S. Walczak, p. 85; Institute of Market and Opinion Research Millward Brown SMG/KRC, *Diagnoza dotycząca osób stosujących przemoc w rodzinie: przemoc w rodzinie z perspektywy dorosłej populacji Polski*, report on the research conducted for the Ministry of Labor and Social Policy, 2012, pp. 25 ff.; J. Roszak, *Kulturowe usankcjonowanie alkoholu i przemocy* [in:] *Różne spojrzenia na przemoc*, R. Szczepanik, J. Wawrzyniak, Łódź 2008, p. 175.

³³ D.J. Wilmes, *Jak wychować dziecko, które mówi—Nie!!! alkoholowi i narkotykom. To książka dla rodziców troszczących się o swoje dziecko*, Gdańsk 2002, p. 169.

³⁴ J. Cichla, *Dynamika i uwarunkowania przemian psychospołecznego funkcjonowania kobiet—ofiar przemocy domowej—w trakcie procesu terapeutycznego*, Katowice 2014, p. 62.

³⁵ S. Spurek, *Przeciwdziałanie przemocy w rodzinie*, p. 20.

³⁶ A. Widera-Wysoczańska, *Mechanizmy przemocy...*, p. 25.

personality traits often attributed to perpetrators of aggressive behaviour include emotional immaturity, impulsiveness, low values, alienation, egocentrism, lack of empathy, a sense of insecurity, low self-esteem, rigidity of personality, and an inability to compromise.³⁷ These characteristics are manifested by the perpetrators in psychopathological behaviours coupled with aggression, such as dissatisfaction with life, dependency, impulsiveness, tendency to rape, and the use of defence mechanisms.

With the entry into force of the aforementioned amendment to the Act on Counteracting In-Family Violence, a uniform definition of domestic violence was introduced in Article 2, Section 1, Item 1 of the Act: “a single or repeated intentional action or omission that violates the rights or personal rights of a person experiencing domestic violence, in particular exposing this person to the risk of losing life, health, or property; endangering their dignity, physical integrity, or freedom (including sexual freedom); causing damage to their physical or mental health; inflicting suffering or harm; limiting or depriving access to financial resources or the possibility of taking up employment or gaining financial independence; or significantly violating privacy or instilling a sense of threat, humiliation, or torment, including actions undertaken with force via electronic means of communication. The amendment also provided a different perspective on individuals experiencing violence; previously, it could only refer to a family member where such violence may occur, but now the definition has been expanded to include former partners who do not live together and children who witness domestic violence. This change reflects the reality that violent behaviour may also occur between former spouses who no longer constitute a family under the applicable law, as well as between persons in informal relationships. New elements have also been introduced to the definition—currently, for the perpetrator’s action or omission to be classified as domestic violence, it must be characterized by a physical, psychological, or economic advantage over the person experiencing the violence. The legislator also introduced the concept of economic violence into the definition of domestic violence. Previously, the regulations addressed only physical, psychological, and sexual violence, but the use

³⁷ S. Tucholska, “Charakterystyka sprawców przemocy w rodzinie,” *Problemy Opiekuńczo-Wychowawcze* 1, 2002, pp. 34–38.

of the term “in particular” allowed for the inclusion of economic violence, thereby keeping the catalogue open to additional forms of abuse.

The importance of domestic violence as a social problem is primarily demonstrated by current statistics on the number of filed Blue Card forms. In 2022, a total of 61,645 Blue Card forms were completed, including 52,569 forms initiating the Blue Card procedure. During the same period, 131,813 incidents involving specific types of violence were recorded, of which 64,624 were psychological violence; 47,405 were physical violence; 1,758 were sexual violence; 1,630 were economic violence; and 16,369 were other types of violence. The analysis of this data shows that the largest group affected by domestic violence is women (51,935), constituting 72.50% of all victims, while the perpetrators of domestic violence are mainly men. In 2023, prison sentences were imposed on 3,962 legally convicted perpetrators of domestic violence.³⁸

According to the results of public opinion polls, some Poles still subscribe to stereotypes about domestic violence. Respondents indicate that misunderstandings and conflicts occur in the vast majority of families (71%), and in most of them they occur very rarely (54%), while in every sixth family (17%) there are quarrels at least several times a month. Society largely condemns the use of physical violence in relationships. A significant proportion of respondents (88%) completely condemn violence against women, but 8% believe that such violence can be justified under certain circumstances.³⁹

It should be emphasized, however, that the presented statistical data regarding domestic violence do not reflect its actual scale, because the information collected by the police does not show the full extent of the actual criminal problem, but only the crimes that have been reported.⁴⁰ The lack of precise data is related to the fear of disclosing domestic violence, which is still prevalent among victims, as well as the attitude of the perpetrators themselves, who effectively intimidate their victims. Moreover, the lack of an appropriate response from the victims

³⁸ Służba Więzienna, *Roczna informacja statystyczna za rok 2023*, <https://www.sw.gov.pl/strona/statystyka-roczna> (accessed: 12.08.2024).

³⁹ See survey by CBOS, *Przemoc i konflikty w domu*, https://www.cbos.pl/SPISKOM.POL/2019/K_048_19.PDF (accessed: 13.08.2024).

⁴⁰ J. Błachut, A. Geberle, K. Krajewski, *Kryminologia*, p. 199.

is related to their belief that they live in a patriarchal family model, where the man holds the dominant position, requiring total subordination from the other family members. People with such a distorted image of family relations, very often assume that a man shapes family relations through violence.⁴¹ Social indifference also significantly contributes to the discrepancy between the actual state of domestic violence and the state reflected in police statistics. The prevailing view in society is that it is better not to get involved in the problems of others, especially in a situation where a crime is registered, shifting the responsibility to the law enforcement agencies, which often lack the necessary information that should be provided by the people in the victims' environment.

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⁴¹ K. Czekał, "Dezorganizacja rodziny w zmieniającym się społeczeństwie," [in:] *Labirynty współczesnego społeczeństwa*, eds. K. Czekał, K. Górlach, M. Leśniak, Katowice 1998, p. 228.

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