

# Chapter 15

## Protection of Women from Violence and Domestic Violence in the Context of Digitalization



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**Abstract** Nowadays, digital economics are rapidly changing the world around us, and artificial intelligence and big data are being actively used. These circumstances, while providing states and their citizens with new possibilities, call for modernization of legal and regulatory framework of various areas of public life. In this article, the authors analyze in what way digitalization affects human rights, and in particular how it affects women's rights to be protected from violence, including domestic violence. Different factors due to which women are more vulnerable to violence have been highlighted. These factors include deep-rooted patriarchal views, physiological features of women, strict legal protection of family and personal life inviolability, marginalization, and society underdevelopment and migration crisis. Since recently, the digitalization of society can be noted as one of these factors. It is stressed that the right to personal data protection is inseparable from the right to personal life protection. The article underlines the role of the Council of Europe, in particular the European Court for Human Rights, in the field of preventing and combatting violence against women and domestic violence, provides examples of the case law in part of violation of confidentiality of electronic mail and virtual harassment. In the conclusion, the authors summarize that in conditions of digitalization, there is an ongoing development of new human rights protection mechanisms on the international level. Nonetheless, the issues of women's private life protection and their right to be protected from all forms of violence require a more in-depth examination.

**Keywords** Digitalization · Human rights · Protection of women · Domestic violence · Virtual intimidation · Privacy protection · Istanbul Convention

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## 15.1 Introduction

The development of information technology is currently leading to the formation of a new so-called virtual reality. According to V. Zorkin, the fundamental human rights, guaranteed by international legal acts and national legislation, including the right to protection of honor and dignity, personal and family privacy, inviolability of private life, the right to secrecy of correspondence, and others are in need to be articulated in the context of digital reality Zorkin (2018). Some authors note that the application of modern digital technology requires the legislators to define the modalities of data circulation, the rights and obligations of participants of “digital” legal relations, the limits of digital technology application, and so on (Chernysheva, 2019).

Digitalization has affected many areas of social life (Inshakova et al., 2018), specifically the prevalence rate of violence against women, most notably, domestic violence.

According to the UN Secretary-General Report, in 2017, there were 137 women murdered daily by their intimate partner or a different family member (Women, Business, and the Law, 2020). According to other sources, more than a billion women are not protected from sexual violence by their intimate partner or a family member, and almost 1.4 billion are not protected from economic violence. The number of women lacking protection from sexual harassment in the sectors of employment, education, and public spaces is 359 million, 1.5 billion, and 2.2 billion, respectively (GREVIO’s (Baseline) Evaluation Report, 2018).

Notwithstanding some progress made in improving national anti-violence legislation (Review and appraisal of the implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session of the General Assembly, 2020), there are still many challenges concerning countering violence against women and domestic violence. For instance, one in three states lacks a specific legal instrument, as a result of which legal protection against sexual violence as a form of domestic violence remains ineffective. The matters of defense against economic violence are not regulated in as much as half of the UN member states. Two-thirds of states that have legislation against domestic violence do not apply it to unmarried intimate partners. Criminal punishment for sexual harassment is stipulated in a little over 30% of the states worldwide (GREVIO’s (Baseline) Evaluation Report, 2018).

Since the 1980s, the international community has been taking different measures to eliminate discrimination against women, which is fundamentally related to the issue of protecting women from violence and domestic violence. These efforts have led to the adoption of international legal instruments aimed at preventing these phenomena either directly or indirectly. However, more of them, including those accepted at the universal level, are recommendatory.

In contemporary international human rights law, there is only one binding international legal action in this area, which is the special regional Convention of the Council of Europe on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention), adopted on April 7, 2011. This

Convention qualifies some acts as criminal offenses that are subject to the implementation in the national legislation of its member states and establishes a special monitoring mechanism, which has been following the realization of the obligations of the state parties to the Convention.

Today, the subject of violence against women and domestic violence prevention is included in the international human rights agenda; we can see an increase in the number of international mechanisms aimed at their prevention (Inshakova et al., 2020). Naturally, it is impossible to analyze all the trends and issues of protecting women from these offenses in just one article. The authors seek to examine the factors due to which women are more vulnerable to violent acts and to consider the practices of the European Court for Human Rights in regard to this issue with an emphasis on private and family life protection.

## 15.2 Methodology

Despite the high level of development of the factors influencing the spread of violence against women and domestic violence at the doctrinal level Bell & Naugle (2008), Bettman (2009), Goncharenko (2021), Hunnicutt (2009), Inshakova et al. (2018, 2020), Krug (2002), Leikman (1998), Matytsin (2021) and the efforts made by international organizations to combat these phenomena, the problem of the impact of digitalization on the rate of violence has not been sufficiently studied and has not been included in the national and international agenda.

The methodological basis of the study includes a combination of general scientific (analytical, deductive, dialectical, historical, inductive) and private scientific methods (comparative legal, dynamic, formal legal, interpretative, procedural, statistical).

## 15.3 Results

The obligations of states, international intergovernmental organizations on the universal, regional and subregional levels endowed with human rights functions, including the prevention and combating all forms of violence against women and domestic violence, follow from the statutory provisions of the United Nations (henceforth—the UN) (the preambles, para. 1 of art. 1, para. (c) of art. 55 of the UN Charter) and the International Bill of Human Rights, which recognize the inherent dignity of all family members, as well as equal and inalienable rights as the fundamental rights and freedoms of every person without any discrimination.

The universal framework on non-discrimination has been strengthened by international Conventions on the elimination of all forms of racial discrimination and discrimination against women, as well as by regional instruments aimed at human rights and freedoms protection, including the rights of certain vulnerable social

groups, which include women and children according to contemporary international human rights law.

Since the commencement of its activities, the UN has been addressing the issues of women as of a vulnerable social group, which is confirmed by the fact of a simultaneous creation of the Commission on the Status of Women by the UN Economic and Social Council (henceforth—the ECOSOC) and the Commission on Human Rights. Subsequently, the issue of ensuring gender equality on the human rights protection agenda becomes an object of constant attention of the international community and acquires a broad scope, including the task of eliminating all forms of violence against women.

Unfortunately, as it is reflected in the UN Secretary-General Report on the review and appraisal of the implementation of the Beijing Declaration and Platform for Action, presented in March 2020 on the session of the Commission on the Status of Women, “violence against women and girls remains widespread” (Ending violence against women and girls, global and regional trends in women’s legal protection against domestic violence and sexual harassment, 2018). A specific regional European international legal act on combating violence against women and domestic violence, the Istanbul Convention, has been adopted within the Council of Europe. The Convention was preceded by numerous circumstances, which acted as a premise to its development. The relevant provisions on gender equality and non-discrimination on the grounds of a person’s sex of the Statute of the Council of Europe, as well as of the European Convention on Human Rights, being an essential European treaty on human rights protection and promotion, served as a general legal basis. To ensure that states comply with the provisions of the Convention, the European Court of Human Rights (henceforth—the ECHR), which is competent to adjudicate individual complaints and provide advisory opinions on legal issues (art. 47), was established as provided by art.19 of the Convention.

An analysis of initiatives to combat violence against women, including domestic violence, taken on the universal and regional levels, suggests that since the 1980s and to the present day, attempts have been made by the UN and the Council of Europe to eliminate the phenomenon of violence that is consequent to entrenched discrimination against women.

The fact that women are more likely than men to be exposed to violence, including such violence inside a family, can be explained by many factors. The WHO Report on violence and its impact on health suggest the so-called ecological model of violence, according to which a combination of personal, situational, social, and cultural factors can influence violence against women and domestic violence, thereby highlighting the multifaceted nature of this phenomenon (global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence, 2013.).

Such factors include, among others:

- the dominance of men over women in family relations;
- traditional distribution of roles between men and women;
- physical inequality between the genders;

- condemnation of women unwilling to adhere to the roles assigned to them by the society (e.g., those who do not want to have a child or want to work in a trade normally attributed to men);
- ineffective measures to prevent violence against women and domestic violence, or a complete absence of such measures.

First and foremost, such factors are referred to deep-rooted patriarchal views in many states (Bell & Naugle, 2008), the position of domination of men over women in contemporary families, and their commitment to traditional gender roles (Hunnicut, (2009). Patriarchal views on men–women relationships have significantly influenced the formation of family values in most countries of the world, while existing cultural practices and customs allowed the use of domestic violence (Bettman, 2009).

The entrenched patriarchy has led to a social, economic, and political gap between women and men. Moreover, pregnant women and young mothers who are responsible for raising children oftentimes suffer discrimination in employment, which aggravates their financial situation and makes them dependent on men (Matytsin, 2021). In due time, these views formed the basis of feminist economic theory, studied in detail by such researchers as Gunderson, Brown, Bergmann, and others.

Another factor is the obligation of states to comply with national and international legislation on the inviolability of private life, thereby avoiding interference in family affairs. For the same reason, many states do not transfer the cases of domestic violence from private to public prosecution.

As practice has shown, legal definitions of “violence against women” and “domestic violence” are lacking in many national jurisdictions, thus demonstrating the absence of special legislation aimed at combatting these acts. Consequently, the state authorities are not vested with the relevant mandate and do not have the power to prevent and investigate such cases.

Even though these phenomena are common for developing and developed countries, a social factor should be also taken into account. For example, women with disabilities, those having a low income, belonging to religious minorities, alcohol or drug users are subject to cross-discrimination, which means that they suffer discrimination on several grounds in parallel (Krug et al., 2002).

The international community in its present state faces numerous threats, challenges, and global risks, which are fraught with negative consequences of multiple scales, which in turn would result in general worsening of the condition of humanity. Such consequences include poverty, society underdevelopment, and, to a larger extent, the European migration crisis which creates negative implications for women, making them even more vulnerable and in need of special protection. Migrant women regardless of their legal status as well as women-asylum seekers are at an increased risk of violence and face similar challenges in coping with that risk.

With the spread of the COVID-19 pandemic in the year 2020, international organizations and researchers in the field of violence against women and domestic violence have identified new factors that make women more likely to be exposed

to these offenses: a difficult sanitary and epidemiological situation as well as emergency human rights restrictions aimed to reduce the number of cases of infection transmission and to protect the population (Goncharenko, 2021).

Digitalization is yet another factor, which contributes to the increase of the rate of violence against women and domestic violence. It is quite obvious that the spread of digital technologies has created serious problems for ensuring personal privacy and protecting honor and dignity (Tarakanov et al., 2019).

According to Chernysheva (2019), the right to personal data protection derives from the right to privacy. The theft of personal information from personal electronic devices or social networks by cybercriminals is becoming the most common phenomenon and is used for personal or economic purposes to discredit another person, to spread information that inflicts damage to the dignity and business reputation (Martinov, 2018).

In this regard, notable are the recommendations provided by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO's (Baseline) Evaluation Report, 2018) in the Baseline Evaluation Report on legislative and other measures giving effect to the provisions of the Istanbul Convention. One of these recommendations calls on the Turkish authorities to legislate the crime of stalking, including stalking on the Internet.

That recommendation looks appropriate given the decision of the European Court of Human Rights in the case of "Buturuga v. Romania," in which the issue of ineffectiveness of domestic violence investigation, breach of e-mail confidentiality, and virtual intimidation of the applicant have been addressed for the first time in the case law of the court. In its decision, ECHR found a breach of art. 8 of the European Convention of Human Rights (right to respect for private and family life), as well as the need to respect the confidentiality of electronic correspondence, thereby recognizing virtual intimidation as a form of violence against women, which can be expressed in the form of interference with privacy on the Internet, infiltration of a computer or other electronic devices, dissemination of information or images related to the victim including one's data (Case of Buturuga vs. Romania, 2020).

The development of international law in the field of protecting women from violence and domestic violence, including in the context of digitalization, on the one hand, testifies to the intention of the international community to combat these phenomena. On the other hand, to date, no comprehensive analysis of the relation between the impact of digital reality and the rights of women to protection from all forms of violence has been carried out, and no practical recommendations have been proposed for their protection and elimination of these offenses. It seems that this issue could be reflected in one of the general recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW) or GREVIO.

## 15.4 Conclusion

The authors argue that there is an obvious correlation between the level of prevalence of violence against women/domestic violence, on one hand, and the societal realities including the digital environment on the other. The latter also serves as a fertile ground and as a framework within which various factors grow and evolve. Despite the progress in identifying the correlated duo of the protection of women from violence and digitalization, we believe there has been inadequately limited in-depth research in this area.

The lack of proper academic research into the role of digitalization as a crucial factor in the field of the prevalence of violence against women and domestic violence explains the lack of so needful new international and national standards in this area.

Nonetheless, it is important to note the current developments of the practice of the European Court of Human Rights on interference with privacy on the Internet in the context of domestic violence, which potentially provides grounds for resolving this issue at the national, regional, and universal levels.

## References

- Bell, M., & Naugle, A. E. (2008). Intimate partner violence theoretical considerations: Moving towards a contextual framework. *Clinical Psychology Review*, 28(7), 1096–1107.
- Bettman, C. (2009). Patriarchy: The predominant discourse and fount of domestic violence. *Australian and New Zealand Journal of Family Therapy*, 30(1), 15–28.
- Case of Buturuga vs. Romania. (2020). Application No. 56867/15. <http://hudoc.echr.coe.int/eng?i=001-200842> Accessed 28 January 2021.
- Chernysheva, Y. (2019). Human rights in a digitalized society. *Psychology and Law*, 9(4), 92–102. <https://doi.org/10.17759/psylaw.2019090407>
- Ending violence against women and girls, global and regional trends in women's legal protection against domestic violence and sexual harassment*, 2018. <http://pubdocs.worldbank.org/en/679221517425064052/EndingViolenceAgainstWomenandGirls-GBVLaws-Feb2018.pdf> Accessed 28 January 2021.
- Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*, 2013. [https://apps.who.int/iris/bitstream/handle/10665/85241/WHO\\_RHR\\_HRP\\_13.06\\_eng.pdf?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/85241/WHO_RHR_HRP_13.06_eng.pdf?sequence=1). Accessed 28 January 2021.
- Goncharenko, O. (2021). Challenges to the protection of women from domestic violence during the COVID-19 pandemic. *The legal world*, 1.
- GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) Turkey, 2018. <https://rm.coe.int/eng-gre-vio-report-turquie/16808e5283> Accessed 28 January 2021.
- Hunnicut, G. (2009). Varieties of patriarchy and violence against women: Resurrecting “patriarchy” as a theoretical tool. *Violence against Women*, 15, 553–573.
- Inshakova, A. O., Frolov, D. P., Davydova, M. L., & Marushchak, I. V. (2018). Institutional factors of evolution and strategic development of general purpose technologies. *Espacios*, 39(1), 5.
- Inshakova, A. O., Goncharov, A. I., & Ershova, I. V. (2020). Digital blockchain registration of legally significant stages of complex good's export-import supplies by business entities of the EAEU and BRICS jurisdictions. In A. O. Inshakova, Inshakova, E. (Eds.) *Competitive Russia:*

- Foresight model of economic and legal development in the digital age*. CRFMELD 2019. Lecture Notes in Networks and Systems (Vol. 110, pp. 328–336). Springer. [https://doi.org/10.1007/978-3-030-45913-0\\_37](https://doi.org/10.1007/978-3-030-45913-0_37)
- Krug, E. G., et al. (2002). *World report on violence and health*. World Health Organization.
- Leikman, L. (1998). From theory to practice. *Crisis Center for Women: Experience of Creation and Work*, 12.
- Martinov, A. V. (2018). *Human rights in the digital age*. Materials of the II International Conference “Human rights protection in Eurasia: Exchange of Best Practices of Ombudsmen”, pp. 224–232.
- Matytsin, D. E. (2021). Internet-investing as a remote algorithm of retail investment financing. In *Modern global economic system: evolutionary development vs. revolutionary leap*. Lecture Notes in Networks and Systems. Springer Nature.
- Review and appraisal of the implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session of the General Assembly*, 2020. <https://undocs.org/en/E/CN.6/2020/3>. Accessed 28 January 2021.
- Tarakanov, V. V., Inshakova, A. O., & Dolinskaya, V. V. (2019). Information society, digital economy, and law. In E. G. Popkova (Ed.), *Ubiquitous computing and the internet of things: Prerequisites for the development of ICT/Studies in computational intelligence* (Vol. 826, pp. 3–15). Springer.
- Women, Business and the Law. (2020). *Report of the World Bank*. <https://openknowledge.worldbank.org/bitstream/handle/10986/32639/9781464815324.pdf> Accessed 28 January 2021.
- Zorkin, V. (2018). Law in the digital world. *Russian Newspaper*, 7578(115).