

On The Contradictory Perception of Domestic Violence in Estonia and Problems Related to Punishments by the State

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Introduction

The issue of domestic violence in Estonia has been actively addressed since 2000. In the initial period, the initiative of the Estonian police became decisive as the police declared the issue one of its priorities (2004). This was followed by a victims' support service, hotlines for children and adults. A national strategy for combating domestic violence has been developed twice in Estonia: for the years 2010–2015 and for 2015–2020 (covering violence between children, abuse of children, domestic and intimate partnership violence, sexual abuse, human trafficking). Numerous campaigns have been carried out in order to encourage victims to seek for help.

Nevertheless Estonia still lacks a systemic legal regulation (legal act) for the prevention and for combating domestic violence. The covering letter⁴ to the resolution of the Riigikogu (parliament) "General principles of legislative policy until 2030" points out that the Estonian legal practice has regrettably developed in a direction where the measures of primary legal regulation are based on punitive law with its repressive norms rather than civil and administrative law. The authors of the article agree that the choice of the punitive law certainly plays its role in preventing domestic violence, but this cannot be viewed as a "cure" of all social vices,

Domestic violence is still widely spread in Estonia and the number of cases reveals a growing trend. The statistics of the past three years show that while there were 2632 registered cases of domestic violence crimes in 2017, there were 3607 cases in 2018 and as many as 4119 cases in 2019.⁵ Every second violent crime committed in Estonia is a domestic violence crime. In at least 30 percent of domestic violence crimes, children are either victims or witnesses of violence between the parents. At least 46 people have lost their lives due to domestic violence during the past five years.⁶

This article studies the situation of structured perception of domestic violence in Estonia in the past years; the contradictory nature of that perception; the impact of the corona virus epidemic on the increase of mental domestic violence; the posture of blaming the victim and the attitude towards punishment by the state regarding public crime and domestic violence.

1. Perception of types of domestic violence as violence in 2014-2019

The term "violence" covers the deliberate use of physical force as well as making threats against an individual or a group. One of the forms of violence is domestic violence (or intimate partnership violence), which is differentiated from family conflicts/quarrels by the fact that this is a person's deliberate desire to dominate, to demonstrate one's power and superiority, to cause another person emotional or physical harm (e.g. humiliate, intimidate or cause physical injury). Domestic abuse is a repeated and systematic subordination of a member of the family to one's will. The abuser can use physical, mental, economic and sexual violence, all of which can be expressed in a number of different forms.

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⁴ Covering letter to the Riigikogu draft resolution "Guidelines for development of legislative policy until 2030". -

https://www.just.ee/sites/www.just.ee/files/oiguspoliitika_pohialused_aastani_2030_sk_luhike_versioon.pdf (25.01.2021)

⁵ Crime in Estonia 2018. Ministry of Justice (Kuritegevus Eestis 2018. Justiitsministeerium. Tallinn 2019). - <https://www.kriminaalpoliitika.ee/et/kuritegevus-estis-2018>; Kuritegevus Eestis 2019. Justiitsministeerium. Tallinn 2020. - <https://www.kriminaalpoliitika.ee/kuritegevuse-statistika/> (28.10.2020)

⁶ Kuritegevus Eestis 2019. Justiitsministeerium. Tallinn 2020. - <https://www.kriminaalpoliitika.ee/kuritegevuse-statistika/> (28.10.2020)

The Istanbul Convention⁷ as a legally binding document confirms the obligation of the state to create and support various support services for the victims of violence. This document should also encourage the victims of violence to report the cases of abuse. Unfortunately, “only every fourth case of domestic violence handled by the police in Estonia reaches the court; in turn only 13 percent of cases lead to actual prison sentence “.⁸

The results of expert studies⁹ carried out in cooperation between the Estonian Institute of Open Society Research and the faculty of law of the University of Tartu in 2014 and 2017 show (Table 1) that, according to the respondents, victims retract their charges under the influence of the abuser as well as due to their change of mind regarding presenting the charges.

Table 1. Why do the victims often retract their initial statements and retract the charges? (%)

		Police detectives		Prosecutors		Judges		Attorneys	
		2014	2017	2014	2017	2014	2017	2014	2017
Influence of the violent party	The reason	92,4	90,9	97,6	94,7	92,0	90,0	93,3	84,2
	Not the reason	5,1	4,5	2,4	...	4,0	...	6,7	5,3
	Cannot decide	2,5	4,5	...	5,3	4,0	10,0	...	10,5
Recommendations of Relatives, friends, acquaintances	The reason	69,7	75,0	59,5	68,4	64,0	65,0	53,4	55,3
	Not the reason	22,8	18,2	31,0	15,8	24,0	10,0	40,0	34,2
	Cannot decide	7,6	6,8	9,5	15,8	12,0	25,0	6,7	10,5
Victim's change of mind	The reason	89,8	95,5	100,0	97,4	96,0	90,0	100,0	81,6
	Not the reason	7,6	2,3	2,6
	Cannot decide	2,5	2,3	...	2,6	4,0	10,0	...	15,8
Recommendations of officers of law	The reason	3,8	4,6	2,4	2,6	4,0	5,0	26,7	18,4
	Not the reason	86,1	86,4	88,1	86,8	64,0	65,0	46,7	50,0
	Cannot decide	10,1	9,1	9,5	10,5	32,0	30,0	26,7	31,6

Source: Estonian Institute of Open Society Research and University of Tartu faculty of law, 2014 and 2017

The opinion that the recommendations of friends, acquaintances and relatives play an important role in the retraction of charges by victims has seen a surprising increase. This attitude is probably related to the widely spread stereotypical views of blaming the victim. Of course, there can be other reasons for retracting the report.

⁷ Council of Europe Convention on preventing and combating violence against women and domestic violence. Istanbul, 11V.2011. - <https://rm.coe.int/1680462531> (24.11.2020)

⁸ J. Salla, L. Surva. Pervägivalatsetjate retsidiivsus. Kriminaalpoliitika analüüs Nr 8/2012, lk 2. - [file:///C:/Users/skaugia/Downloads/12_8Perevagivalatsetjate_retsidiivsus_justiitsministeerium_2012%20\(2\).pdf](file:///C:/Users/skaugia/Downloads/12_8Perevagivalatsetjate_retsidiivsus_justiitsministeerium_2012%20(2).pdf) (24.10.2020)

⁹ The methodology for the 2014 survey was developed by the Estonian Institute for Open Society Research (Ivi Proos and Iris Pettai) in cooperation with the University of Tartu Institute of Public Law (Silvia Kaugia, Raul Narits, Jüri Saar) and consultant Kati Arumäe of the Police and Border Guard Board. The methodology for the 2017 survey was developed by the Estonian Institute for Open Society Research (Iris Pettai) in cooperation with the University of Tartu Faculty of Law (Silvia Kaugia and Raul Narits). The online questionnaires of both surveys addressed prosecutors, judges, attorneys and other legal experts as well as police investigators in Estonia who deal with domestic violence victims. Participation in the survey was voluntary and anonymous. The 2014 survey included 203 and the 2017 survey 158 experts.

For instance, the desire to keep the family together at any cost, the hope that the violent party will change his behaviour, fear of retribution, economic and psychological dependence, the prejudice that the police would not take their appeal seriously. The failure to report may also be caused by the victim's feeling of shame and hope that the violent partner would change his manners. The results of the 2019 study of Estonia's population (1,003 respondents) carried out by the aforementioned organisations and individuals complement this list with the possibility that the victims fail to recognise violence.

The responses of the 2019 study of Estonia's population to the question about which forms of violence are recognised as such show that:

1) all types of behaviour listed by the researchers (brutal insulting or humiliation of spouse (partner), forbidding the spouse (partner) to attend work, restricting or forbidding spouse's (partner's) communication with friends/relatives, seizing personal funds of spouse (partner), registering spouse's (partner's) property as one's own, failure to pay alimony, threatening spouse (partner) with violence for failure to follow orders, using physical violence against spouse (partner), torturing the pet of spouse (partner), forced sexual intercourse with spouse (partner), use of physical force to make spouse (partner) agree with sexual intercourse), which can be treated as domestic violence, were also recognised as such by a majority of the respondents. The statement that the listed acts constitute violence was accepted as follows: failure to pay alimony was viewed as violence by the smallest number of respondents (51%), grievous insulting or humiliation (57%) and forbidding to attend work (58%); the largest number recognised sexual intercourse against the spouse's (partner's) will, use of physical force (striking) and use of physical force to make spouse (partner) agree with sexual intercourse. Women are more likely than men to consider all the listed types of behaviour as violence – by 10–20 percentage points;

2) a relatively large share of respondents fail to recognise the violent nature of the acts of violence. For instance, 8% of the respondents do not think that taking away cash from the spouse (partner) constitutes violence, 11% that forbidding the spouse (partner) to go work and 8% that registering the spouse's (partner's) property as one's own constitute violence. Another worrying aspect is that in the opinion of 4% of respondents threatening one's spouse (partner) with the use of force, in the opinion of 3% the use of physical force against the spouse (partner) or the use of force to make the spouse (partner) agree with sexual intercourse, as well as sexual intercourse against the spouse's (partner's) will do not constitute violence. This viewpoint was expressed by men and women, respondents in all age groups from 15 to 75+ years and of different ethnicities. It is also telling that a relatively large percentage of respondents was unable to determine whether the listed violent acts constituted violence. The breakdown in percent as per types of violence is as follows: threatening the spouse (partner) with violence for disobedience – 6%; using physical force against the spouse (partner) (e.g. hitting or pushing) – 6%; sexual intercourse against the spouse's (partner's) will – 7%; using physical force to make the spouse (partner) agree with sexual intercourse - 6%.

Defining the listed types of violence as such becomes more difficult as the age advances – the option “cannot decide” was mostly chosen by the 75+ age group. As per ethnicity, the Estonians were the least frequent to choose this option compared with other ethnicities. Gender breakdown shows that men are more likely to state that the listed acts do not constitute violence, or they are unable to judge these acts from the aspect of violence.

More important than the knowledge whether and how the existing laws judge the acts of violence cited in the study is whether or not people perceive such behaviour as violence. The victim will approach the police in case she perceives the behaviour towards her as violence she should not suffer or tolerate. This “knowledge” would allow the victim reject being blamed for abuse and try to break the circle of violence. When violence is not perceived as such it is difficult to object to it, let alone prevent or combat it.

Despite its wide extent, the issues related to domestic violence have been for a long time a subject not discussed in public. Since the acts of violence take place within the family, the opinion that this is a purely family matter persists. On the one hand it is expressed by the fact that the parties involved in a violent relationship are unwilling to discuss it; on the other hand third parties refrain from reacting since they do not want to interfere with other people's family affairs.

Domestic violence is turned into a hidden problem not only by the attitudes established in the society but also by the fact that certain forms of domestic violence are difficult to detect. Physical abuse does not obviously pose problems since it generally causes physical changes to a person's body (injuries, disturbances to the functioning of organs, etc.), which can be viewed and recorded.

Mental abuse is a much more difficult problem, since it cannot be measured and is not easy to define or recognise. The situation is further complicated by the fact that victims of both mental and physical abuse are ashamed of talking about it and appealing for help.¹⁰

Mental (or emotional) violence causes psychological harm to others and undermines their self-esteem. Mental violence is persistent and deliberate injury of other person's feelings. This is the widest-spread type of violence, which is usually combined with physical, sexual and economic violence and which is, as pointed out previously, difficult to prove.

A large share of participants of the 2019 study admits their inability to judge the extent of the problem posed by mental violence in Estonia. Twenty-seven percent of all respondents choose the option "unable to say". This answer was chosen by 37% of men, 18% of women; 24% of Estonians, 32% of Russians, 38% of other ethnicities. Out of all age groups (15-19; 20-29; 30-39; 40-49; 50-59; 60-74; 75+) more than 30% were unable to answer the question while out of respondents in the age group of 15-19 as many as 47% chose the option "unable to say".

2. The corona epidemic contributed to the increase of mental domestic violence

The year 2020 has been complicated for Estonia as well as many other countries of the world due to the corona pandemic. The first corona virus infection took place on February 27, 2020, and the virus then rapidly spread all over the country, resulting in considerable restrictions to travel. A majority of Estonia's population had to endure restrictions and being confined to their homes in the period of March-June 2020. We studied its effect on family relations and the level of domestic violence.¹¹

Table 2. Please estimate the impact of the corona crisis on your family relations. During the period of confinement, have your relations with your spouse/partner... (All respondents %-s)

	All respondents	Women	Men
Improved	13	11	13
Remained unchanged	68	69	69
Deteriorated	6	5	7
Unable to decide	13	15	11
Total	100	100	100

Source: *Estonian Institute for Open Society Research, Estonia's population study, 1021 respondents 2020*

The study showed that the corona crisis did not have a major impact on family relations. Only 6% of respondents claimed that their relations with spouses or partners deteriorated. Family relations predominantly remained unchanged just as before the pandemic (68%) and actually improved in 13% of cases while 14 % expressed neutral opinion. (Table 2).

Significant changes in the number of domestic violence victims cannot be observed either. Table 3 compares the results of the population survey carried out in May 2020, during the peak of the corona virus pandemic, with those of a survey carried out a year before, in July 2019. Compared with the survey of the previous year, the number of victims of mental violence has somewhat increased, 3% in case of women and 6% in case of men. There were no changes in the number of victims of physical violence; the number of female victims was 24% in 2019 and 2020 and that of male victims 30% and 29%, a decrease of 1%. The number of people experiencing sexual violence remained practically at the same level, 19% of women experienced sexual violence in 2019 and 20% in 2020 with an increase of one percent. In case of men 2% experienced sexual violence in either year. (Table 3). Thus the fears that the corona crisis would result in high and uncontrollable level of domestic violence were not realised.

¹⁰ Survey of the Estonian population's awareness of gender-based violence and human trafficking. Survey report. Carried out by TNS Emor. 2014, lk 27-28. – https://www.sm.ee/sites/default/files/content-editors/eesmargid_ja_tegevused/Norra_toetused/Koduse_ja_soopohise_vagivalla_vahendamise_programm/elanike_hoiakud_soopohise_vagivalla_ja_inimkaubanduse_valdkonnas2014_aruanne_tns_emor_loplik.pdf (24.10.2020).

¹¹ The nationwide representative survey was carried out in May 2020 during the peak of the corona virus epidemic; the families had been predominantly confined to their residences since mid-March 2020.

Table 3. Have you personally experienced mental, physical or sexual abuse from the age of 15 up to now? (%)

	Women 2019	Women 2020	Men 2019	Men 2020
Mental abuse	34	37	19	25
Physical abuse	24	24	30	29
Sexual abuse	19	20	2	2

Source: Survey of Estonia's population, Estonian Institute of Open Society Research and University of Tartu faculty of law, 1003 respondents, 2019; Survey of Estonia's population, Estonian Institute of Open Society Research, 1021 respondents, 2020

Although the impact of the corona crisis on domestic violence has been limited, the level of domestic violence in Estonia is high and its influence on its victims is considerable. The 2020 study asked about the feelings of the victims and the consequences of violence. It appeared that every fifth female and every tenth male victim live in constant fear of continued violence. Domestic violence has caused physical injuries to 18% of female and 26% of male victims. The victims (predominantly women) complain about excessive jealousy of the violent party, incessant control, stalking, harassment etc.

Table 4. What are the consequences of experienced violence? (Answers of victims of violence to the scale point „yes“, %)

	All victims	Women	Men
Are you afraid that abuse will continue?	16	19	9
Has abuse caused you (physical) injury?	21	18	26
Is the violent party excessively jealous?	14	18	8
Do you have or have you had conflicts over relations with child?	13	15	9
Does the violent party attempt to control all your actions?	10	13	6
Is the abusive party stalking or harassing you constantly: calling, writing, making contact?	6	7	3
Is the abuse becoming more serious and dangerous?	6	5	8
Do you feel isolated from family/friends because the violent party attempts to prevent you from meeting with friends/family/doctor/others?	4	4	3

Source: Estonian Institute for Open Society Research, Estonia's population study, 1021 respondents 2020

Six percent of the victims live in a critical situation where violence is becoming increasingly serious and threatening for them (Table 4). Many male victims (8%) also live in a critical situation but this does not mean that they suffer from the violence of their wives (spouses/partners). The studied carried out by the Estonian Institute for Open Society Research show that men primarily suffer from violence perpetrated by other men: relatives, neighbours, friends, acquaintances etc.; this applies to mental, physical and sexual abuse.¹²

3. Domestic violence in Estonia is considered a serious problem and a violation of human rights

The primary victims of domestic violence are women. More than half of Estonia's population (50-61%) considers violence against women either a very serious or quite serious problem (Table 5).

Table 5. How serious a problem is violence against women in your opinion? (answers to the options "Very serious +quite serious problem") (%)

	All respondents	Women	Men
Mental abuse	61	76	44
Physical abuse	59	70	47
Sexual abuse	50	61	38

Source: Study of Estonia's population, Estonian Institute of Open Society Research and University of Tartu faculty of law, 1003 respondents, 2019

Women are more likely to agree with the statement with 76% considering mental, 70% physical and 61% sexual abuse a serious problem. Men tend to disagree to a larger extent and thus less than a half of the respondents

¹² Pettai, I., Proos, I., Laidmäe, V-I. Pere- ja naistevastane vägivald ja ohvrite tervis. Tallinn: Eesti Avatud Ühiskonna Instituut 2016.

(44%) consider mental abuse a serious problem, physical abuse is considered a serious problem by 47% and sexual abuse by 38% of men.

Violence against women is viewed in the world as a violation of human rights, which requires the interference of the state; the state bears responsibility and obligations towards its citizens, the international public and law. Domestic abuse violates human rights like everyone's right to equal protection under the law, the right to be protected against gender-based discrimination, right to be protected against cruel, inhuman, degrading treatment or punishment, the right to highest standard attainable of physical and mental health.

A person's private life and behaviour in everyday life, including in the family circle, became a political issue in its own right within the concept of liberal rights only in the 1970s. Incidents of domestic abuse began to reach the public attention, their number increased and the state (beginning with the USA and the UK) was no longer able to watch them impassively without interfering. Violence against women, which is predominant in domestic abuse, is one of the most widely spread forms of human rights violations in the world.¹³

The UN declaration on the elimination of violence against women (1993) declares that "violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men". According to the UN, "violence against women in the family and society was pervasive and cut across lines of income, class and culture"¹⁴

Domestic violence is considered a serious violation of human rights in Estonia as well. More than a half of Estonia's population (58%) perceive problems with ensuring the victims' human rights, 14% can see no problems and nearly every third was unable to form an opinion (Table 6).

Table 6. Do you perceive problems in Estonia with the ensuring of human rights of domestic violence victims?

Answers to options	All respondents	Women	Men
Very serious problems	16	20	9
Some problems	42	39	45
No problems	14	8	21
Cannot decide	28	33	25
Total	100	100	100

Source: *Estonian Institute for Open Society Research, Estonia's population study, 1021 respondents 2020*

Women consider the human rights violation of domestic abuse victims more serious and every fifth respondent finds that this is a very serious problem, while 39% believe that there are some problems. Only 9% of men believe that this is a very serious problem, 45% think that there are some problems and one fifth cannot perceive any problems.

Judgements of the ensuring of human rights of domestic violence victims is closely related to the appreciation of gender equality. Two thirds of Estonia's population (67%) consider gender equality personally important and only every fifth respondent considers it insignificant. (Table 7)

Table 7. How important for you personally is gender equality, ensuring equal rights for women and men? (%)

Answers to options	All respondents	Men	Women
Very important	26	17	34
More or less important	41	39	42
Cannot decide	13	15	12
More or less unimportant	12	16	9
Totally unimportant	8	14	4
Total	100	100	100

¹³ Fried, Susana T. (2003). "Violence against women". *Health and Human Rights Journal*. Harvard University Press. 6 (2): 88–111. doi:10.2307/4065431. JSTOR 4065431.

¹⁴ Declaration on the Elimination of Violence against Women. - https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.21_declaration%20elimination%20vaw.pdf (10.12.2020)

Source: *Estonian Institute for Open Society Research, Estonia's population study, 1021 respondents 2020*

The opinions of men and women on the importance of gender equality differ greatly. Every third woman considers gender equality very important while only 17% men share the same position. Generally 3/4 of women (76%) and every second man (56%) consider gender equality important. This sphere is unimportant for every third man and only for 13% of women.

73% of women and 63% of men who appreciate gender equality perceive problems with ensuring the human rights of victims of domestic violence. Those considering gender equality unimportant perceive the same problems to a much lesser degree: 47% of women and 39% of men.

It can be concluded that the population's awareness of domestic violence as a serious violation of human rights increases together with the advance of gender equality in Estonia; more attention is paid to the victims' problems and expectations grow that the state would take more effective measures to solve them. The preamble of the Istanbul Convention also states that "the realisation of *de jure* and *de facto* equality between women and men is a key element in the prevention of violence against women".

4. Attitude towards domestic violence is contradictory in Estonia

Although more than half of the population consider domestic violence a serious problem and a violation of human rights, every third respondent (41% of men and 19% of women) believe that the problem of domestic violence is exaggerated and nothing like that happens among their acquaintances and where they live. (Table 8). Most women (62%) and 43% of men disagree with this statement.

Table 8. Responses to the statement: "The problem of domestic violence is exaggerated; nothing like that happens among my acquaintances and where I live " (%)

	All respondents	Women	Men
Agree completely	9	7	13
Agree more or less	22	17	28
Disagree more or less	26	28	25
Definitely disagree	27	34	18
Cannot decide	16	15	16
Total	100	100	100

Source: *Estonian Institute for Open Society Research, Estonia's population study, 1021 respondents 2020*

Another quite widely spread opinion in Estonia holds that domestic violence is a part of the life of some couples who cannot settle their disagreements any other way – nearly every third man (29%) and every fourth woman thinks like that (Table 9).

Table 9. Responses to the statement: "Domestic violence is a part of the life of some families; these couples cannot settle their differences any other way " (%)

	All respondents	Women	Men
Agree completely	5	5	4
Agree more or less	22	20	25
Disagree more or less	17	16	18
Definitely disagree	35	39	30
Cannot decide	21	20	22
Total	100	100	100

Source: *Estonian Institute for Open Society Research, Estonia's population study, 1021 respondents 2020*

Approximately half of men (48%) and more than half of women (55%) disagree with the statement while every fifth respondent is unable to form an opinion.

5. Blaming the victim is a widely spread practice

More than a half of Estonia's residents – 57% – consider the woman directly responsible for provoking physical or sexual violence by her behaviour. (Table 10).

Table 10. Why do women become victims of physical or sexual violence? The blame lies with the women who provoke men to violence by constantly nagging (%)

	All respondents	Women	Men
Primarily yes	14	9	20
Yes, among other causes	43	39	48
No	26	37	13
Cannot decide	17	15	19
Total	100	100	100

Source: *Study of Estonia's population, Estonian Institute of Open Society Research and University of Tartu faculty of law, 1003 respondents, 2019*

Two thirds of men and approximately half of women believe that women provoke men to commit physical or sexual violence by constant nagging. Only one third of women (37%) and 13% of men believe that women's nagging is not a cause of violence.

It seems to people that women provoke men to use violence by nagging and therefore deserve violent treatment. This attitude essentially reflects tolerance towards violence and unwillingness to notice and understand the actual cases of violence. Men are granted the right to be "the master of the house" and shut up the incessantly nagging wife; if necessary, by using physical violence. This mindset is centuries old, this behaviour by men seems quite proper and he is entitled to asserting himself. Although researchers of numerous countries have proven that women's nagging can in no way serve as a cause of violence and that a violent man striving towards complete control over his wife and children can find any reasons for violence, this stereotypical mindset dies hard.

Blaming the victim is also related to the idea that in case of domestic violence it is frequently difficult to tell the victim from the violent party and that both parties are equally responsible. (Table 11).

Table 11. Responses to the statement: "In cases of domestic violence it is frequently difficult to understand, who is the violent party and who is the victim; both are equally responsible" (%)

	All respondents	Women	Men
Agree completely	7	4	10
Agree more or less	34	28	40
Disagree more or less	28	32	23
Definitely disagree	16	22	9
Cannot decide	16	14	18
Total	100	100	100

Source: *Representative study of Estonia's population, Estonian Institute of Open Society Research, 1021 respondents 2020*

Forty-one percent of all respondents are convinced in blaming the perpetrator and the victim equally, every second male and every third female respondent. Every second woman (55%) and every third man disagrees. It can be concluded that domestic violence is a vague and incomprehensible phenomenon for a large share of people in Estonia who lack scientifically based knowledge of the nature and extent of domestic violence. Knowledge is replaced by random stereotypes and prejudice.

Another widely spread viewpoint states that if the woman does not leave the violent husband/partner, it is her own choice and willingness to be subjected to physical attacks; it is supported by 38% of all respondents, 44% of men and 33% of women. (Table 12)

Table 12. Responses to the statement: "If a woman does not leave a violent man, it is her own choice and willingness to be beaten now and then" (%)

	All respondents	Women	Men
Agree completely	8	7	8
Agree more or less	30	26	36
Disagree more or less	21	22	19
Definitely disagree	28	33	20
Cannot decide	14	12	16
Total	100	100	100

Source: *Representative study of Estonia's population, Estonian Institute of Open Society Research, 1021 respondents 2020*

In fact, cohabitation with a violent male partner is never the best choice for a woman. Studies show that victimised women who are being brutally treated, are usually not passive victims, but attempt to protect themselves and their children to the best of their ability by using different strategies. Some women offer resistance, others attempt to flee, some try to maintain calm and agree to the husband's demands. The absence of women's dignified response to violence does not mean that they agree with violent treatment. They assess the situation dependent on what has to be done to endure marriage/cohabitation and to protect themselves and their children at the same time. The woman's reaction is often caused by her limited opportunities to respond to brutal treatment.

Women remain trapped in violent relations by various reasons: fear of retribution, economic considerations, concern over children, emotional dependence, absence of support by family and friends, deep-rooted belief that the husband will improve his manners. Another reason may be a feeling of shame over not being married and children being brought up without a father.

Table 13. Responses to the statement: "Domestic violence is a type of crime where the victims need immediate help and protection " (%)

	All respondents	Women	Men
Agree completely	61	71	48
Agree more or less	24	18	31
Disagree more or less	4	2	6
Definitely disagree	4	5	4
Cannot decide	8	5	10
Total	100	100	100

Source: *Representative study of Estonia's population, Estonian Institute of Open Society Research, 1021 respondents 2020*

Despite contradictory assessments and strong blaming of the victim, a majority of the respondents (85%) consider domestic violence a crime where the victims need immediate aid and protection (Table 13). Nearly 3/4 (71%) of women agree with the statement completely and 18% more or less, out of men roughly half (48%) agree completely and 31% agree more or less.

6. Attitude towards punishment by the state in case of public crime and domestic violence

Cases of domestic violence in Estonia in past five years were dominated by cases of physical maltreatment: 2015 – 85%; 2016 – 85%; 2017 – 86%; 2018 – 83%; 2019 – 86%.¹⁵ In 2016, crimes of domestic violence amounted to slightly more than half of all crimes involving physical maltreatment. Compared with 2015, the share of physical maltreatment cases related to domestic violence out of all such cases had increased by approximately 8% – this significant increase was caused by changes to the procedure practice: starting from spring 2015, violent crimes committed in public are registered as severe breach of public order rather than physical maltreatment. Accordingly, the number of crimes recorded according to Article 263 of the Penal Code (severe breach of public order) has increased while fewer crimes are recorded according to Article 121 of the Penal Code (KarS § 121 – physical maltreatment).¹⁶ Amendments to the Penal Code (§ 121 lg 2 p 2) came in force on January 1, 2015, stipulating stricter punishment for physical maltreatment committed in intimate relationship or relationship of dependency. Approximately 520 individuals were found guilty according to this article in 2016.¹⁷

This is also the sole article of the penal code which refers to domestic violence. It is significant that domestic violence as a term is reflected in the existing laws, which emphasises the need to differentiate between domestic violence as a specific type of violence and other types of violence.

Besides Article 121 of the Penal Code (KarS § 121) all other articles of the Penal Code involving violence can be used to bring perpetrators of violence to justice. Criminal punishment is stipulated for threats to kill, cause bodily harm or significant property damage or property destruction if there is reason to believe that the threat could be realised; damaging another person's health, as well as striking, beating or other physical maltreatment causing pain or physical maltreatment causing continuous or serious pain.

¹⁵ Crime in Estonia 2015–2019. Yearbooks, Ministry of Justice (Kuritegevus Eestis 2015-2019. Eraldi aastaraamatud. Justiitsministeerium). Tallinn 2016; 2017; 2018.

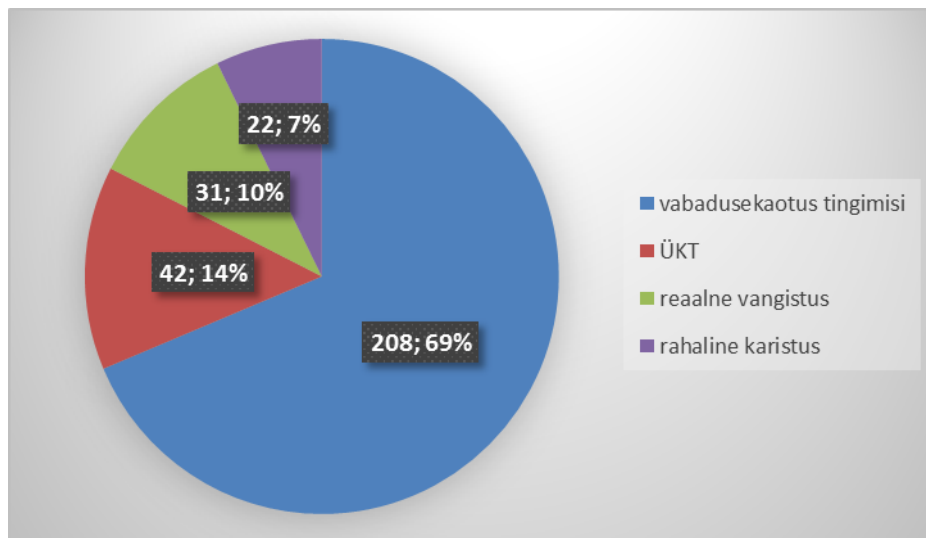
¹⁶ Crime in Estonia 2016 (Kuritegevus Eestis 2016). Justiitsministeerium. Tallinn 2017.

¹⁷ Crime in Estonia 2016 (Kuritegevus Eestis 2016). Justiitsministeerium. Tallinn 2017.

In order to gain an overview of the practice of punishing of domestic violation perpetrators, primarily about the types of sentences passed on them, we analysed the criminal court plea bargain rulings concerning individuals who had committed physical abuse of intimate partners. The analysis included 303 case files. The time range of the analysed rulings was 2012-2020.

The passed sentences as to the frequency of their use are: suspended prison sentence – 208; community service – 42; actual prison sentence – 31; monetary penalty – 22. (Figure 1). Restraining order was applied in four cases.

Figure 1. Sentences passed



The included figure shows that more than half of the cases led to suspended sentences (KarS § 73). In case of conditional sentence the imposed punishment would be partially or fully suspended unless the perpetrator will commit another intentional crime during the court-appointed probation period and will comply with the control requirements and obligations imposed according to Article 75 section 1 of the Penal Code during the probation period: 1) live in permanent residence determined by the court; 2) report to the parole office for registration after periods determined by the parole officer; 3) be subjected to the parole officer's control at the residence and present information about meeting one's obligation and payment of alimony; 4) receive permission of the parole officer to leave residence within the limits of Estonia for more than 15 days; 5) receive permission from the parole officer to change residence, place of employment or study; 6) receive permission from the parole officer to leave Estonia's territory and stay outside Estonia's borders.

Article 75, section 2 of the penal code (KarS § 75 lg 2) stipulates that dependent on the circumstances of the crime and the person of the perpetrator, the court may rule that the perpetrator is obliged during the monitoring of conduct: 1) to compensate the damage caused through the crime by date established by the court; 2) to abstain from alcohol; 2¹) to abstain from using and possessing narcotic and psychotropic substances; 3) not to possess, carry or use firearms; 4) to find employment, obtain comprehensive education or speciality by date established by the court; 5) be subjected to prescribed treatment in case of previous agreement; 6) to comply with the obligation of paying alimony; 7) not to visit locations specified by the court or to abstain from communication with persons specified by the court; 8) attend social programme; [RT I, 12.07.2014, 1 – in force 01.01.2015]; 9) be subjected to electronic surveillance in case of previous agreement; 10) to be subjected to electronic control of abstaining from alcohol in case of earlier agreement.

In the 2019 survey of the population (1,003 respondents) we inquired among other issues about the respondents' assessment of the sentences currently passed in Estonia on people charged with domestic violence, who have attacked and injured the members of their family. (Table 14), and which crimes listed in the questionnaire should bring along the toughest sentence (Table 15).

Table 14. How do you judge the sentences currently passed in Estonia on persons charged with domestic violence, who have attacked their family members and caused them injury?

	TOTAL	MEN	WOMEN
The sentences are extremely lenient	30%	26%	34%
The sentences tend towards lenient	41%	40%	41%
The sentences are adequate	5%	7%	3%
The sentences tend towards strict	1%	2%	1%
The sentences are too strict	0%	0%	0%
Unable to decide	24%	26%	22%

Source: Estonian Institute of Open Society Research and University of Tartu faculty of law, 2019

According to the respondents' opinion, the sentences passed on perpetrators of domestic violence in Estonia at present tend towards leniency or are extremely lenient. This testifies to the fact that the respondents comprehend the seriousness of domestic violence and consider it a problem. Approximately one fourth of the respondents were unable to decide in the sentences passed on perpetrators of domestic violence, which is apparently explained by their lack of personal experience of the problem.

Table 15 lists various crimes which were ranked by the respondents based on which of them deserved tougher or lenient punishment.

Table 15. Which of the listed perpetrators should receive the strictest punishment in your opinion? Rank the persons with 1 designating the toughest and 5 the most lenient punishment.

	Burglar stealing 100 euros from apartment	Street mugger taking 100 euros by force	Civil servant embezzling 1000 euros of state funds	Man using force at home causing slight bodily harm to wife	Attacker in street causing slight bodily harm to stranger
1 The strictest punishment	6%	15%	17%	36%	25%
2	8%	19%	10%	28%	35%
3	15%	30%	23%	16%	16%
4	33%	27%	16%	12%	12%
5 The most lenient punishment	38%	9%	34%	8%	11%

Source: Estonian Institute of Open Society Research and University of Tartu faculty of law, 2019

In the opinion of the respondents, crimes against individuals deserve stricter punishment than crimes against property, while the perpetrators of domestic violence were deemed deserving the toughest punishment – 36% of respondents decided that way. While domestic violence could receive the most lenient punishment according to 8% of respondents, 11% believed that causing slight bodily harm to a stranger should deserve the most lenient punishment.

Summary

Contradictory attitude towards domestic violence is characteristic of the Estonian people. On the one hand domestic violence is viewed as a serious problem and a violation of human rights, a crime which warrants rapid interference and aid of the state. In this respect the state certainly needs to make considerable effort to develop and pass a systemic legal regulation (law) for preventing and combating domestic violence. On the other hand, there is also a widely spread attitude according to which the domestic violence issue has been exaggerated since nothing like that ever happens or that it is a natural part of family life since some couples are unable to settle their differences in any other way. Blaming the victims is a very widely spread attitude in Estonia, it is believed that the victims could prevent violent incidents by behaving differently and not provoking men to violence. It is also argued that the victims have always the opportunity to leave and failure to do so is their own free choice and the victims' desire to live with violent men.

This contradictory attitude shows that the cultural norms in Estonia frequently do not view domestic violence as a crime but as a private family matter or a regular part of life. This forms the base of the tolerant attitude which promotes the persistence of domestic violence.

The attitudes and concepts justifying domestic violence are highly persistent; changing them is time-consuming and complicated. There are two decisive factors. First, stopping the blaming of the victim.

The development of violent behaviour depends on how the society is viewing violence. It is not possible to stop violence as long as the society has not become empathic towards the victim, is not showing compassion but is rather seeking for blame and cause of violence in the victim's own actions. Secondly, the development of gender equality. Gender inequality and patriarchal attitudes which emphasize the man's leading role and the woman's secondary role have a very strong effect on the persistence of domestic violence.

Besides the aforementioned and related to that, there is a concerning fact that a relatively large share of the participants in the population study do not comprehend the violence of domestic abuse. This aspect is certainly related to the stereotypical attitude towards domestic violence which may complicate the victim's approaching the police. The knowledge of whether and how the existing laws classify violent acts is not as significant as whether or not the people recognise these acts of behaviour as violence. The victim approaches the police for help if she interprets her treatment as violence she should not tolerate or endure. This "knowledge" will allow the victim reject blaming herself and attempt to break out from the circle of violence. Failure to recognise violence makes it difficult to oppose it, let alone preventing or combating. A premise for effective prevention of domestic violence could be the perception and elimination of possible signs of threat which could lead to domestic violence. The more developed the society is and the more are there various organisations and their cooperation, the more effective will combating domestic violence become. The authors of the article believe that a law on preventing domestic violence could significantly contribute to the coordination of cooperation between different institutions and the prevention of domestic violence; therefore Estonia should closely consider introducing such law.