

THE SIGNIFICANCE OF TERMINOLOGY: GENDER-BASED VIOLENCE AGAINST WOMEN

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This brief is developed under the Council of Europe project "Combating violence against women in Ukraine – phase II (COVAW-II)"

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The first anniversary of the Istanbul Convention's entry into force in Ukraine calls for a moment of reflection on the significance of its lengthy, formal title — the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. As evidenced by its official name, it constitutes a regional human rights instrument carefully honed to address violence against women and domestic violence. Various terminologies for the forms of violence it covers have emerged, each one revealing important aspects about the meaning and purpose of the convention.

While many people and institutions loosely use the terms "gender-based violence" and "violence against women" interchangeably, their definitions are in fact distinct, albeit inter-related. The Explanatory Report to the convention refers to gender-based violence (GBV) as that in which the "victim's gender is the primary motive for the acts of violence". GBV is thus violence perpetrated against any person. The use of the word "gender" here does not refer to any particular gender characteristic of the victim.

"Gender" is defined as "the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men". GBV is thus understood as "deeply rooted in the social and cultural structures, norms and values that govern society". This concept of gender is intrinsic to an understanding of the Istanbul Convention.

By contrast, the convention defines violence against women (VAW) as "all acts of gender-based violence" that cause harm and suffering to women. The focus here is on women (and girls). The Preamble to the convention further refers to violence against women as one manifestation of gender-based violence, and recognises that "women and girls are exposed to a higher risk of gender-based violence than men".

The Istanbul Convention employs the conjoined term "gender-based violence against women," which emphasises that such violence "is directed against a woman because she is a woman or [...] affects women disproportionately". It makes explicit both the disproportionate impact of such violence on women and the gendered nature of the violence. Namely, that it is considered as both a cause and a consequence of unequal power relations based on perceived differences between women and men.

Further shedding light on the term "violence against women" are the forms of violence that Parties to the convention commit to address through criminal or other sanctions. These include: female genital mutilation, forced abortion and forced sterilisation, in addition to rape and sexual violence — all of which affect women either exclusively or disproportionately.

The definition of VAW contains an additional element: it is legally considered as a human rights violation and a form of discrimination against women. It is on this basis that the European Court of Human Rights has invoked the Article 14 prohibition on discrimination set forth in the European Convention on Human Rights when adjudicating cases involving violence against women and domestic violence.

The Istanbul Convention's application of a gendered understanding of violence against women and domestic violence requires that Parties address them in the broader context of the prevailing inequalities between women and men. By doing so, it positions these forms of violence as barriers to achieving substantive equality between men and women, the overall aim.

In sum, the convention obliges contracting States to prevent and combat violence against women within the wider context of achieving gender equality. It is with this framework and objective in mind that those working to implement the Istanbul Convention prefer using the term "violence against women," rather than gender based violence.



1 Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Explanatory Report), para 44.

2 Article 3(c), Istanbul Convention.

3 Explanatory Report, para 44.

4 Article 3(a), Istanbul Convention.

5 In line with Article 3 of the Istanbul Convention, the term "women" also encompasses women and girls, while "men" includes both men and boys.

6 Article 3(d), Istanbul Convention; Explanatory Report, para 44.