“When I got married I lost my life”

Unveiling the Epidemic of Domestic Violence Against Women in Tajikistan

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Introduction

“There are so many women like me, they don't know where to go, they are afraid to leave, they are threatened.” Survivor of domestic violence

“Women who don't know their rights fall into a kind of slavery. We need more seminars in rural villages and in schools. Some kids grow up thinking it's normal to beat one's wife. We need more legal help, and psychologists. And we urgently need more support for single women with social housing and childcare!” Survivor of domestic violence

This report focuses on the pervasive problem of domestic violence against women in Tajikistan, taking stock of what has changed in recent years, identifying protection gaps in domestic legislation and practice and providing recommendations to the Tajikistani government on how to prevent domestic violence and proactively protect women and the vulnerable.

In recent years several United Nations (UN) treaty bodies have issued recommendations to Tajikistan to improve the protection of women against gender-based violence, including by a) criminalising all forms of violence against women, including domestic violence, marital rape and other sexual violence within the marriage; b) ensuring that all cases of gender-based violence are investigated and perpetrators prosecuted; c) providing effective remedies and accessible rehabilitation services, safe housing etc. for victims of gender based violence and d) conducting a survey on the prevalence of gender based violence against women and girls, including women living in remote, rural areas and women and girls belonging to disadvantaged groups.

International Partnership for Human Rights (IPHR), a non-profit organisation based in Brussels which was founded in 2008, has a mandate to support local civil society groups in their work to eradicate violations of human rights and to draw attention to their concerns at the international level. In order to research information for this report IPHR researchers travelled to Tajikistan in November 2023 and interviewed over 25 women survivors of violence, national and international experts, activists, lawyers and human rights defenders.

This report has been prepared by IPHR together with three Tajikistan-based organisations, Public Foundation Nota Bene, Public Foundation Vash Vybor’ (Your Choice) and Public Foundation Ташаббуси хукуки (Legal Initiative). Nota Bene has 14 years’ experience of legal analysis and human rights training. It was a member of the State established Anti-Discrimination Working Group and coordinated civil society input into the drafting of the 2023 Law on Equality and Elimination of all Forms of Discrimination (Anti-Discrimination Law). Vash Vybor is a women’s rights organisation which monitors women’s rights in relation to issues such as domestic violence and women living with HIV. Legal Initiative has worked for over ten years to protect children’s rights in Tajikistan.

Previously IPHR, Nota Bene, Helsinki Foundation for Human Rights and Vash Vybor cooperated on the preparation of a report on domestic violence in Tajikistan that was published in 2017, and two submissions to the Committee on the Elimination of Discrimination against Women (CEDAW) for the review of Tajikistan's sixth and seventh periodic reports in 2018 and 2024.

**Government steps to address domestic violence**

The Tajikistani authorities have taken some positive steps to combat domestic violence since IPHR and partners last comprehensive report on this issue was published in 2017. **Three sub-working groups**, which were set up by the Presidential Administration\(^2\) in 2017 continue to work on legislative reform in the field of women’s rights, combating gender stereotypes and preventing domestic violence.

Additionally, in autumn 2023, the Presidential Working Group that is tasked with drafting a new Criminal Code submitted a revised draft to the Presidential Administration which includes a separate article on domestic violence (**Article 153**). The proposed article punishes physical violence, isolation, intimidation, control and economic deprivation and neglect. However, the definition in draft Article 153 does not cover all types of violence as recommended by UN treaty bodies,\(^3\) notably psychological violence, marital rape and sexual assault. Penalties under draft Article 153 include fines, correctional labour or up to 40 days’ detention for causing minor harm to a family member. Causing minor harm to several family members or moderate harm to one or several family members; committing violence while a protection order is in place; and acts of violence against a pregnant woman, a minor or a vulnerable person or in the presence of a minor are punishable by up to three years’ imprisonment in the draft. However, the punishments provided under draft Article 153 should be increased to ensure that they are **commensurate with the crimes committed and that the punishments are equivalent to corresponding crimes committed outside the home**. At the time of writing of this report, no information is available about when the draft will be adopted, and in its latest concluding observations the CEDAW expressed concern at “delays in the adoption of the new draft criminal code, which will criminalise domestic violence.”

Compared to 2017, the Tajikistani government has also made some progress on the provision of **medical care, safe housing and counselling services** to victims of domestic violence including through setting up a helpline. For example, in August 2021, a Republican Centre for Social Services for Victims of Human Trafficking and Domestic Violence was opened under the Ministry of Health and Social Protection of the Population (MHSPP). A shelter operates under the centre, which provided temporary help to 14 women with children in 2021, and 68 people in the first nine months of 2022, including in 56 cases of domestic violence.\(^4\)

During the Covid-19 pandemic, 10 new medical rooms for domestic violence survivors were opened in addition to the 12 rooms already in operation, and specialised services were provided to 26 female domestic violence survivors.\(^5\) The state is also working with two NGOs in the southern Khatlon region and in Dushanbe to provide services to survivors of domestic violence. The State Committee for Women’s and Family Affairs (CoWFA) runs a hotline.

\(^2\) Order of the Chief of Staff of the President of Tajikistan No. 32/10-225 of 1 November 2017.

\(^3\) UN CAT’s Concluding Observations on Tajikistan (para. 48), CAT/C/TJK/CO/3, 18 June 2018, CEDAW Concluding Observations on Tajikistan (para. 26), CEDAW/C/TJK/CO/6, 14 November 2018 and CEDAW Concluding Observations on Tajikistan (para 36), 19 February 2024. In this context, the Committee criticised in its latest concluding observations also the “absence of a consent-based definition of rape” in the Tajikistani Criminal Code and that “sexual harassment is not specifically criminalized but prosecuted as “petty hooliganism”” (para 36).


\(^5\) Ibid.
Despite these steps, IPHR and partners were concerned to see that the overall situation for victims of domestic violence in Tajikistan has not changed. Since IPHR and partners issued its last report on domestic violence in Tajikistan in 2017, the government has failed to take decisive, effective and implement nationwide structural reforms that would send a clear message to victims: that the state takes the problem seriously, that the state will protect them by removing obstacles to justice, holding perpetrators accountable and investing appropriate financial means and other resources in victim protection initiatives.

Despite the massive scale of the problem, the authorities have not adopted a victim-centred approach and there are many obstacles to justice for victims, including the failure to classify domestic violence as a separate crime, and to ensure that perpetrators are effectively prosecuted.

Victims of domestic violence find themselves with many additional burdens on their shoulders as they try to protect their rights and call for their abusers to be punished: they have to file a complaint with the police and often face double victimisation by being mocked by police officials when they ask for help at police station; they have to find and fund a lawyer to file a private complaint with the court and gather the necessary evidence by way of medical examination and witness accounts because in Tajikistan most domestic violence cases have to be initiated by the victims and they carry the burden of proof; they typically face pressure from police and courts to reconcile with the abuser; they have to find a safe place to stay and the resources to build a new life without support from the state. All in all, this difficult process more often than not discourages victims from fighting for justice.

The highly professional and active civil society in Tajikistan supports victims - but the services they provide can only reach a few women, and represent a drop in the ocean.

The Tajikistani authorities must fulfil their responsibilities to provide effective protection to women victims of domestic violence by swiftly criminalising domestic violence and promoting other, much needed legal reforms. In addition, they should ensure that prevention and protection measures are implemented in a victim-centred way and that sufficient, sustainable funding is made available.

IPHR, Notabene, Vash Vybor and Legal Initiative call on the Tajikistani authorities to step up their efforts to respect, protect, fulfil and promote the rights of women to lead a life free from violence.

**Stocktaking on the 10th anniversary of the Law on Prevention of Violence in the Family**

“*Violence against women is increasingly recognised as a societal issue - rather than just a family matter as it used to be. Some high profile cases are monitored and featured in the press, but not the daily violence women are subjected to - these cases are still perceived as normal and do not cause an outcry.*” Women’s NGO representative

“*There is no specialised knowledge at state level about the gendered nature of domestic violence, that it is about power and control of men over women - until now domestic violence is mainly viewed as an administrative offence.*” Women’s rights expert
Although the introduction of the Law on Prevention of Violence in the Family in 2013 was welcomed by civil society and its adoption led to increased public awareness and discussion of domestic violence as a societal problem, the law has unfortunately proved an ineffective protection tool.

Experts interviewed by IPHR in Tajikistan in November 2023 were concerned that the law remains preventive rather than protective in nature and prioritises preserving family relations, despite the fact that violence is regularly perpetrated in the family. They also highlighted gaps in the definition of “family violence”: The law is formulated in gender-neutral terms, and fails to define domestic violence as a gendered, patriarchal phenomenon, where women are disproportionately the victims of violence perpetrated by their intimate partners and in-laws. The wording of the law does not reflect the specific power and control relationship between abusers and victims, which is important as police and other officials sometimes engage in victim blaming and claim that women perpetrate violence as much as men. Furthermore, the definition of domestic violence refers to violent actions, but violence can also be shown through inaction or lack of action (e.g. neglect, ignoring, failure to provide resources etc.).

The law regulates a limited range of family relations mainly based on cohabitation and marriage (either official or unofficial, but does not cover other intimate relations, relations with former spouses or cohabitants, or relations of dependency/guardianship/trusteeship etc.). Also of concern is that the law is not victim-centred and does not provide effective protection to women and child victims of violence. This is reflected in the objectives set out in the law: the main objective being “legal protection of the family as the foundation of society” (Article 2), and not the protection of victims from violence. It does not address the specifics of sexual violence, the situation of pregnant women, and other vulnerable groups of women. It does not reflect the special situation of children who are victims of or witness domestic violence. It fails to provide for free rehabilitation services for women who have suffered violence, and falls short of international standards of victim safety and access to justice (i.e. with respect to measures such as allowing video evidence in court to avoid a victim having to meet her abuser). Additionally, there is no legislative provision establishing a high-level inter-agency body which would coordinate the activities of the various agencies working with victims of domestic violence, clarify their responsibilities and oversee an effective referral mechanism. The law omits references to prosecutor's offices, courts or local committees on religious affairs as agencies responsible for conducting domestic violence prevention activities and referrals. Additionally, although the law refers to protection orders as a preventative measure, in the 11 years since its adoption it has not been amended to set out procedures for their issuance that are in line with international standards and recommendations. Thus the Law has failed to create a safe environment for victims.

The Law has not been amended since its adoption and important interim measures that could provide protection to victims have not been introduced. Important amendments would include to enable the courts to order a perpetrator to provide financial assistance to the victim/survivor for the payment of medical bills, counselling services or temporary accommodation/shelter, financial compensation, etc.; or to prohibit the abuser from contacting the victim, ordering him to leave the home where the victim lives, even if this home is his property.

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7 See Article 4 of the Law on the Prevention of Violence in the Family: “This Law shall apply to citizens of the Republic of Tajikistan, foreign citizens and stateless persons residing in the Republic of Tajikistan who are married and members of their families, as well as persons living together and maintaining a common household”, https://ncz.tj/content/ [...].
And finally, the Law fails to define the notion of an “aggressor”, and does not provide mandatory correctional (anti-violence) training programmes for aggressors. There is no government standard for the provision of such services although work with aggressors has recently begun in the town of Levakand in Khatlon region, in Dushanbe and in the northern Sughd region.

**Weak implementation of legislation and Action Plan**

In 2014, Tajikistan adopted the State Programme and Action Plan for the Prevention of Domestic Violence for 2014-2023 (further Action Plan), aimed at ensuring the implementation of the Law on Prevention of Violence in the Family and influencing public opinion on domestic violence. The Action Plan provides a list of implementing state agencies and names the CoWFA as the body responsible for overall coordination and implementation. However, despite repeated recommendations by NGOs and expert bodies, the Action Plan has not been amended to detail the responsibilities of relevant state agencies involved in domestic violence responses. Today CoWFA has a predominantly analytical and informational role and does not play the leading coordination role foreseen in the Action Plan, due in part to CoWFA’s lack of ministerial status, as well as underfunding and high staff turnover which have negatively impacted the effective implementation of the Action Plan.

This was demonstrated by two monitoring exercises that CoWFA conducted in 2019 and 2022 which highlighted problems of poor coordination with other government agencies and showed that preventive activities foreseen in the Law are conducted predominantly with international donor support and are not systemic.

Additionally, the Action Plan does not set out a timeframe for implementation nor specific indicators to measure impact and progress. Although recommendations were made by civil society in 2017 and 2018 to include these, no action has been taken to date.

Another problem which has not been addressed is the lack of sufficient budgetary provisions for combating domestic violence. The Action Plan stipulates that the activities it sets out should be carried out “at the expense of the state budget and other extra-budgetary resources.” However, as the CoWFA monitoring surveys from 2019 and 2022 concluded, there is no separate funding for the State Programme for the Prevention of Domestic Violence. Responses to enquiries for those surveys showed that no ministry had allocated funding for the implementation of the State Programme, except for the Ministry of Health and Social Protection of the Population and that local executive bodies also often fail to allocate funds for the implementation of the State Programme from their budgets.

As we understand, action plans are implemented from Ministries’ existing budgets which are not increased to allow for the extra costs incurred, nor additional staff costs. As a result, new activities are implemented using funds which are left over once a Ministry’s core activities have been covered. In practice, activities linked to the implementation of action plans, especially information and awareness-raising activities, depend largely on donors and NGOs.

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8 This does not only apply to the action plan against domestic violence. According to human rights defenders, also other human rights Action Plans and strategies do not contain indicators for measuring impact and progress (with the exception of the action plan for the Development Strategy).

IPHR's research conducted in November and December 2023 indicated that the awareness raising activities carried out by ministries and local executive bodies over the past 7-10 years have not been as effective as hoped in terms of changing public attitudes towards domestic violence. An expert analysis of the State Programme for the Prevention of Domestic Violence conducted for the UN Development Programme (UNDP)/European Union “Ray of Light” initiative in 2022 concluded that a gender-oriented approach is missing from the internal regulations and policies of ministries and agencies working on preventing, detecting, responding and recording domestic violence. Gender considerations are insufficiently taken into account in police reform processes, and there are few women police officers.

As was the case in 2018, other relevant ministries (such as those responsible for education and health) and judicial authorities have to date failed to set up special coordinating bodies on domestic violence, and policies, laws and regulations do not stipulate mandatory training for police officers, prosecutors and judges on domestic violence, discrimination against women, gender-sensitivity, sexual assault and harassment, and non-discrimination.10

Numerous recommendations for improvements to the Law on the Prevention of Family Violence and related legislation have been made in recent years: both by the above-mentioned three sub-working groups (under the presidential administration), but also by other legal expert groups and parliamentarians supported by UNDP and UNFPA.11 The last discussion, chaired by the head of the Presidential Department of Constitutional Guarantees of the Rights of Citizens, took place in Autumn 2023 when all groups gathered to discuss their recommendations. However, according to women’s rights experts, the proposed measures lack support from the government and most members of parliament.

In 2022, the Law on Equality and the Elimination of All Forms of Discrimination was adopted, which improved compliance with international human rights standards, although it is too early to fully determine its impact on women’s lives. Furthermore, several grounds of discrimination, including sex, gender, gender identity and sexual orientation, which were included in the initial draft law were excluded before the adoption of the law. This may create practical problems in the implementation of the law when considering certain cases of violence occurring as a consequence of stigma and discrimination.

### The scope of domestic violence and limited data collection

After its 7th review of Tajikistan in February 2024, CEDAW expressed concern about the “lack of systematic data collection on gender-based violence against women.”

Today, as in 2018, it remains difficult to assess the extent of domestic violence in Tajikistan - firstly because the government does not publish comprehensive statistics and also because of underreporting of abuse due to societal stigma and fear of reprisals. However, it is estimated that at least one in two women in Tajikistan have been subjected to physical, psychological or economic abuse at some time in their lives by their husbands, in-laws or other family members.12 The UN Human Rights Committee

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11 With the support of the Ray of Light Initiative.

12 Haar, Robin 2005: Violence against Women in Marriage: a general population study in Khatlon oblast, Tajikistan, p.11.
noted in 2019 that a 2017 demographic survey conducted by the State Statistical Agency revealed that as many as eight out of every 10 women in Tajikistan experienced domestic violence once in their lifetimes.\(^{13}\)

The 2017 survey showed that among married women who reported physical violence, the most common perpetrator was the current husband (8 in 10), followed by the ex-husband (1 in 10). Among women who had never been married, the most common perpetrators were mothers/stepmothers (8 in 10) and sisters/brothers (3 in 10).\(^{14}\)

A UNICEF baseline study assessing the perception of violence against women and girls from 2022 questioning 1203 respondents from across Tajikistan revealed some awareness of the problem among the population: 75.2 per cent of the respondents thought violence against women and girls is prevalent and a serious problem in society, but only 40.7 per cent said that it is prevalent in their community. Shockingly, 47.4 per cent agreed with the statement that violence against women is a "private matter for each family. No one should interfere", and 41 per cent (on average) of the respondents believed it is justified to beat the partner for a variety of reasons, inter alia: refuses to obey (34.3 per cent), argues (40.7 per cent), doesn't handle household chores (28.2 per cent), refuses to have sex (22 per cent), cheats (79.8 per cent). Worryingly enough, 16.8 per cent of the 97 representatives of state authorities interviewed also agreed that violence against the partner can be justified.\(^{15}\) As part of this study, 100 victims were interviewed, most of whom "are not let out of the house by their husbands or other relatives; they do not communicate with anyone they know or neighbours, and if they do go out, they are only accompanied by their husbands or other relatives".\(^{16}\) The majority of them stated that they were subjected to physical, psychological (especially controlling behaviour such as not being allowed to leave the house alone, to contact parents or siblings; the husband controls clothes and phone calls) and economic violence (e.g. not allowed to work). Most of the victim respondents believed that girls between 15-17 years were subjected to psychological violence at home by parents and in-laws who controlled their behaviour (e.g. not letting them out of the house to see friends), and prevent them from getting secondary education in order to marry them off as quickly as possible.

Another baseline study from 2017, where 500 people in five districts were interviewed, found that 65 per cent of respondents believed that violence must be tolerated to keep families together and 52 per cent said that they would not intervene if their neighbour beat his wife.\(^{17}\) Worryingly, the results of a new baseline study conducted by UNDP and the EU in 2021 indicate that public opinion about domestic violence has become less progressive in recent years. According to the 2021 survey, which was conducted in Dushanbe and six regions of the country,\(^{18}\) 58 per cent of respondents agreed that violence against women is widespread. However, although 75 per cent of respondents considered domestic violence against women to be a serious societal problem, 72 per cent nevertheless believed it to be a private

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16 Ibid. p13.
18 Isfara, B.Gafurov, Rudaki, Gissar, Vose and Yavan.
family matter and 75 per cent said that they would not intervene. This can be compared to the 2017 study where only 52 per cent of respondents said that they would not intervene if their neighbour beat his wife.\(^\text{19}\)

Women with disabilities are particularly vulnerable, according to another recent baseline study under the EU/UN Spotlight Initiative, where all female respondents with a disability who were interviewed had suffered violence in the family.\(^\text{20}\)

**No unified, disaggregated statistics on domestic violence**

Although individual state bodies record statistics on domestic violence disaggregated by sex, they do not systematically record the relationship between victims and perpetrators and there is no unified database recording domestic violence incidents, nor any regularly updated, publicly accessible statistical information.

The Tajikistani State report to CEDAW from 2023 states that the Agency for Statistics is working with UN-FPA to provide harmonised statistical data which should be available from 2024.\(^\text{21}\) At the time of writing, no unified statistics were available. Different government agencies published their own statistics, which makes it difficult to accurately assess the scale of the problem of domestic violence and to adopt effective prevention and protection measures and policies. For example, in its replies to the list of issues in relation to its seventh periodic report the Government of Tajikistan states in para. 32 that in 2022 local police received 4244 statements and complaints; in para. 33 that 1931 administrative offences related to DV were registered, that the police issued 2147 protection orders and held 7676 so called “explanatory conversations” with perpetrators; in para. 34 the General Prosecutor’s office recorded 115 crimes related to DV; in para. 35 that from 2019 - 2023 courts reviewed 1667 criminal cases related to DV and issued 1507 sentences against 1554 persons (392 of whom were given terms of imprisonment). But para. 39 states that from 2021–2022, courts considered 982 criminal cases related to DV, in which 192 persons were sentenced to imprisonment.

In addition, the official statistics provided in the State report submitted to CEDAW in October 2023 do not tally, for example, with those provided by the Ombudsperson's office in 2022 (see “Impunity prevails” below).

According to the Ombudsperson's annual report for 2022,\(^\text{22}\) police received 5091 complaints about domestic violence during the year - 4188 against men, 885 against women and 18 against children. In comparison, the total number of domestic violence complaints was 4194 in 2021; and 3258 in 2019. In 2022, courts considered 441 criminal cases of domestic violence, of which 391 ended with a conviction. Women activists and experts repeatedly told IPHR that the number of women turning to the police and

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\(^{19}\) Tahlilil va Mashwarat 2021: Baseline study “Public Knowledge, Attitudes, Beliefs and Behavioural Practices on Sexual and Gender-Based Violence” (within the framework of the joint UN-European Union “Ray of Light” initiative).

\(^{20}\) See Tahlil va Mashvarat: Baseline Study 2022 of the EU/UN Spotlight Initiative, [https://www.spotlightinitiative.org/sites/default/files/publication/Spotlight_Baseline_-_KAPB_Summary_0.pdf](https://www.spotlightinitiative.org/sites/default/files/publication/Spotlight_Baseline_-_KAPB_Summary_0.pdf)

\(^{21}\) Replies of Tajikistan to the list of issues and questions in relation to its seventh periodic report; 23 October 2023, para. 31

\(^{22}\) Report of the Human Rights Commissioner of Tajikistan, 2022, p337.
filing complaints about domestic abuse is only the tip of the iceberg, and that there are high numbers of unreported cases.

**Impunity prevails**

Surveys among women confirm that most victims do not trust the police to help them. Women’s rights activists reported that in those cases where women do turn to the police, the perpetrators are rarely successfully prosecuted. In addition, judges in charge of considering domestic violence cases in court usually seek “reconciliation” between the victims and perpetrators and put pressure on the victims to drop criminal proceedings. This reflects the authorities’ approach to violence against women: instead of encouraging women victims to take action against perpetrators and supporting them to do so, authorities prioritise family unity over women’s safety. As a result, the vast majority of perpetrators go unpunished, and impunity is the norm.

Therefore despite the small positive steps mentioned above, little has improved for the victims since IPHR’s last report in 2017 and the stories women told us in 2023 are worryingly similar to those we heard seven years ago:

Nigina: Violence from in-laws while her husband worked abroad

Nigina is 32 years old and has two children. She got married when she was 20 and moved into her husband’s house with his parents, two brothers and their families.

Nigina said: “My ordeal began when my husband moved to Russia to work. After he left, his relatives began to treat me and my children very badly, they stopped giving us food and we often went hungry.”

Nigina told IPHR that she never received the money her husband sent from Russia for her via one of his brothers. She remembers how her mother and sisters-in-law used to beat her severely and her brothers-in-law would insult and humiliate her. After three years her husband returned from Russia. He got into a fight with his brothers about money and was detained and sentenced to a long prison term. After that her in-laws forced her and her children to leave the house and she had to move into her father’s house. Her father is 66, and his small pension can barely keep them afloat. Nigina’s father did not let her attend school after the 9th grade. Now, as the children are still small, she cannot work but is good at traditional handicrafts, and would like to become even more involved in the future. Nigina never reported the violence she had suffered because she was too afraid.

Nigina says: “I would like to know more about women’s rights, and attend awareness raising courses. My dream for my daughter is to get higher education, and become a confident, well-educated woman.”

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23 According to the Tajikistan Demography and Health Study only one in 10 women survivors of domestic violence sought help to stop the violence they had experienced. Only six women out of every 100 sought help from the police, and 10 women out of every 100 sought help from a lawyer, cf. State Statistical Agency 2017: Tajikistan Demography and Health Study, p 215.

24 All names of the women interviewed and some distinguishing features of their cases have been changed for security reasons.
Obstacles to protection, justice and redress

“I didn’t go to the police; my relatives told me that it wouldn’t do any good as I was only the third, unregistered wife.”

Survivor of domestic violence, Kulob district in southern Tajikistan

Over the last seven years, Tajikistan has made little progress on protecting survivors of domestic violence and ensuring their access to justice and redress. As described above, domestic violence is not yet criminalised and other articles of the Criminal Code are used to prosecute violent domestic incidents. Currently, only domestic violence offences which result in serious injury are prosecuted ex-officio by the state, and women victims of minor bodily harm are required to pursue complaints as “private prosecutions” through the ordinary criminal courts. This system puts the burden on victims and hinders both effective protection for victims as well as their access to justice. For example, if a victim of domestic violence who has sustained “minor injuries”\(^{25}\) turns to the police for help, they often advise her to pursue the court complaint herself. This means that the victim must find and pay for a lawyer to file a court complaint and gather the necessary evidence (medical examination conclusions and witnesses) while in a vulnerable physical and emotional state.

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25 According to Tajikistan’s Criminal Code the definition of a minor injury contains the loss of one third of the capability to work (Article 111 (1)): “Intentional minor bodily injury which is not life threatening and does not result in consequences provided for in Article 110 of the present Code, but causes continuing health problems or major physical disability with the loss of 1/3 of the capability to work is punishable by up to 2 years of correctional labour, or up to 3 years of imprisonment.”

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Lola is a nurse who has always loved her job. “But my life changed when I married a very violent husband”. He used to beat her when she was pregnant, causing her to have three miscarriages. They left Tajikistan to work in Russia, and her husband again beat her so severely when she was pregnant that she began bleeding. As her husband had told her that he did not want to have a child, Lola believed that he deliberately beat her to cause another miscarriage.

Lola was treated in hospital, and this time she did not lose the child and later gave birth to a son: “From the moment I had the little one in my arms, I realised that I had to protect myself and my baby and get away from my husband.” She filed for divorce and returned to Tajikistan alone with her son. They stayed at her father’s place for a few months, but then - after she had participated in training on women’s rights, she moved to a crisis centre. Her ex-husband was never held accountable for his violent actions.

When asked what should be improved to better protect women victims of violence in Tajikistan, Lola says that employment opportunities and social benefits for vulnerable women including divorced women, victims of domestic violence and single mothers are crucial.
No victim centred approach

Regarding the procedural rights of victims of domestic violence - the Criminal Procedure Code (CPC) does not make any special provisions for victims of domestic violence at either the investigation or trial stages. As described above, many survivors of domestic violence bear the burden of proof, including obtaining forensic medical examinations and presenting evidence to court (see next chapter “No access to forensic expertise for survivors of domestic violence”). These obstacles inevitably discourage domestic violence survivors from reporting violence and attempting to hold their abusers accountable. The problem is compounded by the lack of free secondary legal aid for domestic violence survivors, as they are not listed as an eligible group in the legislation governing free legal aid. This directly contradicts the state’s obligation to exercise due diligence under CEDAW. Legal counselling is not enough for survivors of domestic violence; they need legal support at all stages of the cases against their aggressors, both in criminal and administrative proceedings whereas in fact, only a few crisis centres and NGOs provide free legal counselling, and most depend on funding from international donors.

In its concluding observations from February 2024, the CEDAW urged Tajikistan to “strengthen programmes to raise women’s and girls’ access to justice, awareness of their rights and the remedies available to claim them, in close collaboration with traditional and community leaders and civil society organizations” and to “strengthen victim protection in the justice system”.

No access to forensic expertise for survivors of domestic violence

In Tajikistan, a forensic medical report is considered to be a crucial element for assessing the impact of domestic violence on a victim’s physical and mental health and the possibility of recovering material and moral damages, as well as the punishment of the perpetrator.

As in 2017, victims of domestic violence are only exempt from paying for a medical examination if they have been referred by police. The referral is enshrined in Paragraph 18 of the police guidelines “Instruction on Preventing, Eliminating and Responding to domestic violence for police officers” (more information on the police instructions and police response in the chapter below): “In case of physical violence, an employee of the internal affairs body shall issue a pass to the victim for forensic medical examination to give an opinion on the bodily injury inflicted and its severity”. Without a referral, the victims have to pay. If the woman is referred for a medical examination by the police, the medical findings are often sent directly to the police station and not to the victim herself.

Although national legislation provides that the state covers the expenses of forensic examinations ordered by a court, investigator or prosecutor, this is not the case in practice. As a result, the burden of payment for such services is placed on victims of domestic violence violence, often even those who are involved in criminal prosecutions against their aggressors.

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27 CEDAW Concluding Observations, CEDAW/C/TJK/CO/7, published 19 February 2024, para 22.
28 Procedure for Payment of State Forensic Examination funds to individuals and legal entities; Decree of Government of Tajikistan № 661 of 30.12.2011
Although forensic medical examinations can provide more legal certainty for a possible trial, the victim’s own photo documentation or injuries documented by a General Medical Practitioner (GP) should also be valid in court. This would correspond to a victim-centred approach, as access to GPs is easier and thus presents fewer barriers for the victim.

When law enforcement authorities delay initiating criminal proceedings and referrals to forensic medical experts, the physical signs of violence naturally disappear. This frequently occurs in domestic violence cases and therefore lawyers advise domestic violence victims to undergo medical examinations in forensic medical centres and inter-district departments at their own expense.

**Insufficient emergency police response to domestic violence**

“You have a child, it’ll be ok, you should stay together.”
Response of a police officer to a survivor of domestic violence seeking help

“Victims of domestic violence only turn to the police as a last resort.”
Women’s NGO representative

Police guidelines “Instruction on Preventing, Eliminating and Responding to domestic violence for police officers” (further the Instruction) have been in force for almost eight years. They were approved by the Ministry of Interior in April 2016 and aimed at improving the responsiveness of police in domestic violence cases. However, many domestic violence victims and lawyers report that the police are still failing in their duty to adequately protect victims of domestic violence. Reports of violence are often not taken seriously, and victims are sent home or even blamed for the violence. Frequently, we were told by activists and victims alike that state officials pressure victims to reconcile with the perpetrator so as not to “destroy” the family.

**Tajikistani lawyers** and activists working on domestic violence told IPHR that women continue to suffer from this lack of effective and adequate response from officials.

**Nilufar’s story**

After Nilufar and her husband’s first child was born her husband began to beat and abuse her, regularly throwing her into the street. Once, he threatened to kill her and throw her into a ditch.

In late 2020 Nilufar’s husband began beating her at midnight in front of the children. He woke up the children and threw them into the street, even though it was cold and rainy outside. Nilufar and the children went to the prosecutor’s office to complain but it was closed, so they went to the police to lodge a complaint. The police officers on duty promised that they would visit in the morning and sort it out. But they never came.

The next morning her husband took all of the family’s savings and left. He returned a week later and broke the windows and doors of the house, threatening to kill her and the children if they did not leave the house. She called the police and asked for help, but again the police did not react.
Some months later during another fight Nilufar’s husband broke her arm and took her for treatment. When the doctor asked her how she had broken her arm, she replied that she had fallen.

The children witnessed the severe physical and sexual abuse of their mother. Her aunt has witnessed the abuse, as well as others. However, the police replied to her, refusing to open an investigation due to the alleged lack of evidence of a crime. Although she tried to pursue the complaint against her husband, eventually a judge told them to reconcile and they did. A forensic examination was ordered in the case, but as the victim had reconciled with her husband she refused further legal assistance.

Nilufar has attempted suicide in the past, but the lawyer has now lost contact with her.

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**Nargis - Police told her to stay with her abuser for the sake of the children**

In another recent case which IPHR learned about, an abusive husband reportedly cut his wife’s face with a knife and threatened to rape her daughter. However, the police did nothing to protect the woman and her daughter: instead they played down the violence and tried to persuade the couple to reconcile, telling them “You have children, it’ll be ok, you should stay together.”

After suffering extreme violence from her husband for some years, Nargis, a mother of four girls, contacted the district prosecutor’s office who answered that the husband’s actions “contained signs of a crime under Article 112 of the Criminal Code (deliberate infliction of minor bodily harm)” – and that “such crimes in accordance with Part 2 of Art. 24 of the Code of Criminal Procedure are cases of private prosecution” and recommended that she apply to court.

A private complaint was submitted to court. However, the judge was reportedly unable to find the accused and schedule a date for the trial. Nargis’s lawyer filed a complaint with the Supreme Court and the General Prosecutor’s Office regarding the judge’s inaction and the delay in the case. The Supreme Court took action to encourage the judge to review the case speedily.

In the meantime Nargis’s husband continued to follow and threaten her and so she applied for a protective order. Although by law this document must be issued within 24 hours, in this case the request was forwarded to a local police officer and the protective order was not issued. Nargis’s lawyer lodged a complaint to the Ministry of the Interior about this, but received no reply.

Some months later, the district court ruled to apply amnesty to Nargis’s abuser and thus he was never held to account for the violence against his wife.
Pressure to reconcile despite physical and sexual violence

In 2023 there was another case when a woman was beaten and raped by her husband in a hotel. When she called the police, they did not issue a protection order but tried to reconcile the couple instead. The woman submitted written complaints to all the law-enforcement bodies but they failed to take her complaints seriously and investigate the case.

Umeda’s story

Umeda has four young children and is in an unregistered marriage. Some years into their marriage, her husband began beating her and making the children stand in the cold outside, so their mother could see them suffering. When he left to go to work, he locked Umeda and the children in the house, meaning it was difficult for them to seek help.

When her husband used to arrive home, the children used to scream in fear, and he used to throw things at the windows and doors of the house.

In 2022, her husband beat her when pregnant and Umeda lost the baby. The beatings continued although Umeda did not understand why. Her children woke up in tears at night from fear.

In early 2023, Umeda lodged a complaint with the local prosecutor’s office but she heard nothing for several months. Her husband threatened that he would take custody of the children if she did not withdraw the complaint. A women’s crisis center eventually supported Umeda to leave her husband.

“Honestly, I don’t see police doing anything against abusers - no administrative or criminal procedures are brought; no protection orders are issued - I don’t think I’ve even seen one of those”. Human rights lawyer speaking to IPHR in November 2023.

This approach illustrates deep-rooted patriarchal attitudes and stereotypes about gender roles which persist in Tajikistan amongst some officials including police officers, prosecutors and judges. Despite efforts, the government has failed to communicate a consistent public message of zero tolerance of domestic violence, which contributes to a culture of violence and a climate of impunity for perpetrators.

Many women’s NGOs representatives emphasised the need for thorough police training. One crisis centre representative told us that “systematic and thorough training of law enforcement officials” is necessary to combat their “stereotypical view of gender roles”: “Most of them see domestic violence as normal, they say: is it your husband? You just have to put up with it, and reconcile. So we still see that the police are not gender sensitive at all, and this is an additional factor why victims do not trust the police and rarely turn to them. Victim-blaming still prevails - even in suicide cases. And we have to say, although much police training has been carried out in recent years, no real change in their attitudes has been observed”. Another women’s rights expert suggested including “Violence against Women” as a compulsory subject into the police academy curriculum in order to ensure comprehensive basic police training and to counteract stereotypical narratives. She explained: “Officials just blame “our mentality” ("nash mentalitet"). This attitude prevents real change, and leads to impunity.”
There are critical gaps in the above-mentioned police Instruction: Many experts with whom IPHR spoke pointed out that it is aimed at giving “priority of preventive measures over accountability measures in cases of violence in the family” (para 4). It does not set out a standard operating procedure for police nor clear procedures for risk assessment in cases of domestic violence. The definition of “violence in the family” refers to married couples and not to other intimate relationships, and the instructions repeatedly refer to “conflicts” instead of violence, the “preservation of the family” and the police’s task as being to carry out “preventive measures to strengthen the family” (para 6). For example, the passage on identification of victims of domestic violence in the police instructions contains the following question: “When identifying the real victim, the internal affairs officer shall answer the following questions: who started the conflict and where it started” (para 23). Behind this question is the clear assumption that violence against women is framed as a “conflict”, a dispute between two people, which obscures the gender-specific nature of this crime, the power imbalance between victim and perpetrator, and often the systematic use of repeated violence by the partner at all levels to control his wife/partner. This perspective on violence and the police measures derived from it do not meet international standards and are far from meeting the requirements of a victim-centred approach.

The officers responsible for responding to an emergency are mainly local police officers and special gender-violence prevention police inspectors (17 of whom work across Tajikistan). However, there are not enough police officers - particularly in remote, rural areas.

Additionally, the Instruction does not contain detailed procedures on how to respond to cases of sexual violence in the family, itself a topic that is considered taboo in Tajikistan. The Instruction stipulates that in rape cases, the victim should be assisted in accessing health services but provides no further guidance on what support police should provide to victims of sexual violence.

Many police officers still have little awareness about domestic violence (the different types of violence, controlling behaviour, the cycle of violence, etc.) and gender sensitivity. As a result, many police officers fail to take victims seriously, blame the victims for their predicament and see violence as a “family quarrel” to which reconciliation is the answer.

In November 2023 several women’s activists told IPHR that in rural areas police find it hard to respond to domestic violence cases, accompany the victim to access support services or to oversee compliance of the perpetrator with a protection order. According to unofficial information, in some districts there is only one neighbourhood police inspector per 12 000-15 000 people although the ratio should be 1 inspector per 5000 people in cities and 1 per 7000 people outside cities.

Protection orders are ineffective

“I’ll kill you and the children if you leave.” Husband of a domestic violence survivor

“There is only one thing to say about protection orders - they are not working.” Crisis centre representative

29 This number slightly increased since 2017 when it was 11, but according to women’s rights experts this is still far too low.

The Law on Prevention of Violence in the Family provides for protection orders.\(^{31}\) However, many activists and victims with whom we spoke reported that these protection orders have proven to be ineffective and that they urgently need to be reformed.

Protection orders can be issued by the head or deputy head police officer of a local police station to perpetrators of domestic violence within 24 hours of the abuse being reported. Some civil society activists and experts told IPHR that in practice this slows down the process considerably and that all police officers should be able to issue protection orders. Protection orders are valid for 15 days, but can be extended for up to 30 days at the victim’s or her lawyer’s request (with prosecutorial approval). The Law provides that while a protection order is in force the perpetrator should not be violent towards a victim, or undertake any conversations, relations or behaviour (including following her) which would limit the victim’s freedom and also avoid consuming alcohol and drugs. Failure to abide by these terms can lead to the perpetrator incurring an administrative fine or being subjected to administrative detention from five to 15 days.

Unlike the legislation in place in many other countries, the law in Tajikistan does not provide that those subjected to protection orders can be ordered to leave the family home or be prohibited from contacting or approaching the victim or her children or other dependents altogether. Quite to the contrary, the Law stipulates that, when necessary, a protection order can stipulate that the abuser should return home at a “reasonable” hour.

Therefore, the protection order serves primarily as a tool of police intervention, to let the abuser know his behaviour is being monitored, rather than as an emergency tool of protective intervention preventing further violence towards the victim. An additional shortcoming with the current system of protection orders is that they are issued for only up to 15 days with a maximum extension of another 30 days. During this period a perpetrator can be prosecuted for administrative offences if the violence continues. However, there is wide consensus that this time period is very short, and that it undermines the effective protection of victims. The short validity of protection orders also affects the ability of police inspectors to protect victims of domestic violence as it means that they are not able to monitor the behaviour of the perpetrator once the protection order has expired.

Many victims and NGO representatives reported that police rarely issue protection orders and that they do not function in practice. As already mentioned, few women victims of domestic violence turn to the police, and if they do, they are often discouraged from applying for a protection order.

According to government data, there was a slight increase in the use of protection orders between 2019 (1859 protection orders issued) and 2020 (2325), followed by a decrease over the following two years (2212 protection orders issued in 2021, and 2147 issued in 2022).\(^{32}\) In the same period, the number of “educational conversations” increased significantly: from 4674 in 2019 to 7676 in 2022. This is further evidence that the approach is rather to settle “family disputes” instead of to protect the victim and prosecute the perpetrators.

While a protection order is in effect, police officers must visit the offender’s place of residence at least once a week to monitor compliance and conduct a preventive “explanatory” conversation with the offender.

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\(^{31}\) Article 21; furthermore the implementation of protection orders is enshrined in the Police Instructions, para 11-18.

\(^{32}\) Replies of Tajikistan to the list of issues and questions in relation to its seventh periodic report, CEDAW/C/TJK/ RQ/7, published on 31 October 2023, p. 5.
Women’s NGOs report that police practices in meeting these requirements vary. Some officers telephone the victim to inquire if the offender is respecting the protection order. Others call the chair of the local government body (Makhalla Committee) to find out about the situation. Inspectors sometimes visit families if they are nearby but none of them reported that they were planning special visits to check on offenders and victims at their place of residence. Some Family Violence Prevention Police Officers expressed concern about the short validity of a protection order, saying that it is not possible to draw conclusions about changes in an offender’s behaviour after 15 or 30 days of monitoring, since behavioural change is a long-term process and the duration of a protection order would need to last up to six months to have any long-term effect. Women’s rights experts pointed out that the main aim of the protection order is to protect the victim and give her more time to plan further steps, and that according to international best practice it should be possible for courts to extend protection orders for up to one year (interim court injunctions). As far as we are aware no official monitoring of how police officers implement the provisions on protection orders in practice has been conducted.

Lack of comprehensive integrated services for domestic violence survivors

“We urgently need more finances for state shelters and crisis centres, and we need to open many more! … There should be a state fund where NGOs can apply for funding through a transparent procedure.” Representative of a women’s crisis centre

“I’d advise young girls not to wait for help but to find out about their rights and to ask other women for help if they are threatened or hurt.” Survivor of domestic violence

“When no one pays attention to a woman victim of violence, she feels abandoned and useless but when she is helped and supported, she can defend her rights.” Survivor of domestic violence

As stated above, the government has made some progress on providing medical care, safe housing and counselling services, for instance, by establishing a nationwide helpline (1313) for survivors and a Centre for Social Services for Victims of Human Trafficking and Domestic Violence that runs a shelter for victims, and medical cabinets in some hospitals. However, one government shelter with 25 beds and three non-governmental shelters with unsustainable funding do not begin to meet the needs of domestic violence survivors for safe housing, especially when the law does not provide for the urgent removal of the aggressor from the family home or another safe mechanism to prevent him from approaching the survivor of domestic violence.

Additionally, according to information from CoWFA, there are 33 crisis centres and three shelters run by NGOs which are funded by international development partners. These centres generally provide legal, medical and psychological services. The NGO shelters and crisis centres do extremely important work, but the number of places is insufficient and dependence on international donors makes it difficult for the organisations running them to ensure the sustainability of their operations.

33 UNDP Focus group discussions with inspectors for the prevention of family violence and local police inspectors of the Rudaki and Dushanbe districts, on 16 June 2022.
In its Concluding Observations on Tajikistan adopted in 2018, CEDAW expressed concerns that “there are inadequate support services for women and girls who are victims of gender-based violence”, and that “civil society organisations mainly lead the work of combating gender-based violence” in Tajikistan. In 2024 CEDAW reiterated similar concerns about “the absence of support services for victims of gender-based violence other than in cases domestic violence, that only one out of four shelters for victims of domestic violence is State-funded, and the lack of victim support services that are accessible for women with disabilities” and urged the government to: “provide or adequately fund support services and shelters for survivors of gender-based violence against women, including domestic violence, that are accessible and tailored to the needs of women in all their diversity, including women with disabilities, including by establishing publicly funded services and shelters and providing financial support to non-governmental organizations who provide services and shelters”.35

It is particularly problematic that services for domestic violence victims often are not funded from the state budget. For example, hotline 1313 (mentioned above) is supported by UNDP, and medical rooms are often opened and supported by various donors for short term projects which run for a few years. While funding for some medical premises targeted at victims of domestic violence does come from the state budget (with the government spending an estimated average of between USD 3000 and USD 4500 annually per such facility),36 several civil society activists told IPHR that women whom they have referred to such medical rooms have not always received adequate support.

All four shelters (three NGO-run and one state-run) for domestic violence and trafficking victims have restrictions on services for girls and women living with HIV due to stigma and discrimination and are mostly inaccessible to girls and women with disabilities. All the experts to whom IPHR spoke agreed that four shelters are insufficient for the whole country and that more accommodation facilities for victims are urgently needed, especially in rural areas (outside district centres).

Another obstacle to an integrated, coordinated victim response is that the interaction between the various stakeholders is not yet enshrined in law: After the adoption of the Law on the Prevention of Violence in the Family, the authorities adopted by-laws regulating the activities of certain agencies who work with victims/survivors of domestic violence, but these have not been registered with the Ministry of Justice, as required by Article 89 of the Law on Normative Legal Acts, and thus have no legal force.

The Police Instruction from 2016 contains a paragraph on referral of the victim (para 24: “The law enforcement officer shall inform the victim of the possibility of placement in centres for victims of domestic violence or elsewhere (relatives, friends) for safety reasons and to address potential and possible risks, at the victim’s choice. In these cases, the victim’s consent is required for placement”). In cities with established shelters, staff report that they have good cooperation with the police and the women’s committee, who refer victims to them. However, many crisis centre staff and lawyers from other locations who were interviewed by IPHR report that victims are neither taken seriously nor referred to support organisations by the police.

Most of the victims of domestic violence interviewed report that they could only escape their desperate situations with the help of specialised women crisis centres or social workers from women’s NGOs which they found via friends or relatives. In order to facilitate women’s access to such support centres, a systematic referral mechanism, vastly improved cooperation between authorities, doctors and NGOs is urgently needed.

35 Cedaw Concluding Observations, CEDAW/C/TJK/CO/7, published 19 February 2024, para 37(c).
Furthermore, women must also receive adequate help if they decide that they no longer want to live with their abuser and want to separate. Women NGO representatives emphasise that there is still far too little support in this area and that women are often left to fend for themselves: “After the shelter, women have nowhere to go, often the court allocates a room in the husband's house to them...what kind of solution is this, to force them to live with their abusers? The state should support them more - including on issues of property, alimony, unemployment benefits.”

Furthermore, the government has to actively reach out to the population — especially in rural areas — through a nationwide campaign in order to disseminate this information widely, because, as one expert explained: “The government's information campaign is not effective, where and how should a woman find these services, where is the information about the law against violence in the family and so on and so forth...this information should be promoted more systematically and be made accessible to people.”

Gulchehra - saved from violence with the help of a women's NGO

Gulchehra comes from a big family but was brought up by her aunt. She was married at 22. Her husband and his family treated her very badly from the moment her first child was born: “They were beating and insulting me, and they didn't let me see my child but took it away. When I was ill they insulted me and I returned to my aunt's house but she took me back to my husband's family.”

After her second child was born, her mother-in-law threw her out of the house and took the children. Gulchehra returned to her aunt's house and lived there for three months but was not allowed to see her children. She returned to her husband's house and her in-laws started their violent behaviour again. Gulchehra nevertheless had two more children. One day she asked to see a dentist for a toothache and all of a sudden her husband grabbed her by the hair and smashed her head against the window. Gulchehra lost consciousness. Her mother-in-law told her aunt to take her back. Gulchehra was so stressed that her leg became paralysed and she had to spend three months in hospital. Her neighbours raised funds for her treatment - she was not able to work. After hospital she returned to her aunt's but her sister sent her back to live with her husband where his family continued to insult her. One day she received the address of a women's NGO from her friend. The NGO workers went to get her and the three children that were at home but her eldest daughter was out with her mother-in-law. First they took her to a hospital for treatment, then the four lived in a shelter.

Gulchehra was not able to see her daughter often although shelter staff took her to see her daughter at school from time to time. They went on her birthday with a cake and presents and the daughter clung to her and cried and cried. She was unkempt and dirty. The school teachers could not let her go home with her mother but that same night the daughter left of her own accord and now lives with Gulchehra, who has found a job.

She says that it is crucial for the state to help women find work, to offer social housing to single women in need, to provide for psychological counselling to victims of domestic violence - including children - and to reduce nursery fees for single mothers.
Harmful practices: early and forced marriages

“When I got married - I lost my life.” Survivor of domestic violence

“The Committee notes with concern that the State party has the highest rate of child marriage in the Central Asian region, with the percentage of girls who are married, divorced or in an informal union amounts to 14.3 per cent. It notes with concern that child marriage is often administered as a religious ceremony, facilitated by the use of falsified birth certificates, and the frequent use of an exception under article 13 of the Family Code.”*37

CEDAW concluding observations 2024

A significant barrier to accessing education, and the greatest risk of future exposure to domestic violence is forced and early marriage. Although the age limit was increased to 18 in 2010, courts can grant those aged 17 permission to marry in exceptional cases. National legislation does not clearly define the term “exceptional cases,” which allows for broad interpretation of the law, as revealed by a joint UN Women and Ministry of Justice review of court decisions for the period 2014-2017.38

This loophole is increasingly used by families who want to marry off their underage daughters: According to the Ombudsman’s Office, more than 4000 persons (mostly girls) married at the age of 17 with a court's approval in Tajikistan in 2022. This is a significant increase compared with 2018, when 2500 cases were officially registered.39

The most common family model in Tajikistan is the traditional, multi-generational patrilineal model where the bride moves to her husband’s/in-law’s house following marriage. The prevalence of these types of households is related to the fact that over 70 per cent of the population lives in rural areas. Forced and early marriages are often still considered the “norm” resulting in many young girls being married off and moving into their husbands’ home unprepared for independent life and without professional education and skills. In accordance with the multigenerational family model, a significant portion of women’s time is devoted to household and childcare duties. Accordingly, in the labour market, women are over-represented in low-income niches that allow them to combine work and housework.40 Domestic work is largely invisible and unpaid.41

In addition to official early marriages (0.8 per cent of all registered marriages), other early marriages are concluded unofficially through the Muslim nikoh ritual. The State Committee on Religion, Regulation of Traditions, Celebrations and Ceremonies has recommended that clergy only conduct wedding ceremonies when the couple presents an official marriage certificate. However, the Law on the Regulation of Traditions, Celebrations and Rituals does not prohibit the conduct of a religious marriage ceremony without an official marriage registration certificate. As a result, there are many cases in which underage girls are married in nikoh ceremonies or involving “second” or “third” wives. After a nikoh marriage, girls are typically under strict control of the husband’s relatives. The girls’ rights to education and freedom of movement are severely restricted, they are often socially isolated, economically dependent on their

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37 Cedaw Concluding Observations, CEDAW/C/TJK/CO/7, published 19 February 2024, para 34.
39 Quoted in https://www.rferl.org/a/tajikistan-underage-marriages/32788788.html
40 See Agency of Statistics Tajikistan and IFC International 2013: Health and Demographic Survey of Tajikistan.
husband’s families and prevented from independent personal development. As a result, they are at heightened risk of different forms of domestic violence.

Deeply rooted gender stereotypes

“Girls are born with the label of victim on their foreheads - that they have to endure everything. That’s why we have low self esteem. We have to support each other and rebuild it.”
Survivor of domestic violence

“Shame. This is a major cultural factor in Tajikistan. If a woman leaves her husband and their marriage breaks down she brings much shame on herself and her family.”
Women’s NGO representative

In 2018, CEDAW expressed concern about the “persistent discriminatory gender stereotypes regarding the roles and responsibilities of women and men in the family and in society”, and recommended the Tajikistani authorities, inter alia, to “expeditiously design, adopt and implement a comprehensive strategy to eradicate gender stereotypes and patriarchal attitudes towards women and girls, in particular the dominant and discriminatory perception of the role of women in society and in the family”.

Six years later, the Committee reiterated its concerns: “The Committee remains concerned that the State party has still not adopted a comprehensive strategy to eliminate gender stereotypes and notes that patriarchal stereotypes remain deeply entrenched in society. It also notes with concern the absence of measures to ensure that teaching materials at all levels of education promote a non-stereotypical portrayal of women and men, despite a recommendation made to that effect by the working group on improving laws and regulations, eliminating gender stereotypes, protecting the rights of women and preventing domestic violence to the Ministry of Education and Science”, and urges the government to swiftly “design, adopt and implement a comprehensive strategy to eradicate gender stereotypes and patriarchal attitudes towards women and girls, in particular the dominant and discriminatory perception of the role of women in society and in the family”.

The women IPHR researchers interviewed repeatedly emphasised that deep-rooted traditional gender stereotypes have a profoundly negative impact on women’s rights in Tajikistan. A recently published World Bank gender assessment study confirms these impressions from the field and suggests that women’s rights continue to be severely restricted in the country because of widespread gender stereotypes combined with a lack of financial resources, time, and family support of women. The study found that in many population groups “marriage is negatively correlated with women’s employment status” as many husbands prohibit their wives from working: only 25 per cent of married women and 19 per cent of women who were never married are currently in employment. Furthermore, women in Tajikistan often have very little decision-making power in their domestic lives.

Narrowly defined gender roles are also promoted on state television, as a recent broadcast criticising women wearing western-style clothing demonstrates. The moderator stated that “female artists keep trying every day to shorten their dresses, to make them more see-through and revealing,” and that “with their behaviour, these singers propagate American and European clothing styles”, allegedly not car-

42 Cedaw Concluding Observations, CEDAW/C/TJK/CO/7, published 19 February 2024, para 32.
44 ibid., p16.
45 ibid., p16.
ing for the Tajikistani national dress, and suggesting that “the authorities should consider introducing legislation bringing in fines or jail time for performers who “spread immorality.”46

The set ideas of how a “good woman” should behave also include enduring violence in silence and staying with her husband and his family. Divorcing a husband still means bringing shame onto the family, as many interviewees reported. The NGO-run Women’s crisis centre Gulrukhsor states in their 2023 submission to CEDAW: “There’s a huge stigma surrounding divorced women. No one wants to be divorced. Society judges that it must have been the woman who is at fault for the divorce. Divorced women face harassment from men; unwanted looks, compliments, offers of dinner, sex, constant phone calls. Divorced women are seen as unclean. When other people are getting married, their presence is seen to bring bad luck on the new couple, so they are asked to stay away, particularly from the religious parts of the ceremony. In your national passport your marital status is stated. As soon as you need to prove your identity, you are identified as divorced. This sometimes stops women being recruited into jobs or from renting a flat.”47

Munisa’s case illustrates the predicament in which many divorced women find themselves.

Munisa - almost murdered by her husband, and despised by the village after her divorce

“When I got married I lost my life”

Munisa was brought up by her mother, a single parent and a teacher. Munisa studied at the Pedagogical Institute. She loved her education and was sad when her relatives told her she should marry. Munisa would have liked to finish her studies first but her family insisted as, at 24, she was already considered old. Like many marriages in Tajikistan, Munisa’s was an arranged marriage. Her husband’s family wanted her to work at home and in the fields and not continue her education.

Munisa found it hard to finish the housework and gardening that her in-laws required. The family was large, and she could never bake enough bread fast enough in the big stone bread oven. She tried her best but felt increasingly exhausted, and missed her studies and books: “I loved studying and reading so much, and it was very hard for me to spend all day doing housework and get told off at the end of the day.”

Munisa’s husband and his relatives regularly beat and humiliated her because they claimed she did a poor job of the housework and fieldwork. After a year and a half Munisa and her husband got divorced.

One time her husband took her to the allotment several kilometres away from the house and abused her for a whole day until 2am. Munisa tried to run away but he grabbed and choked her, held a razor blade to her throat and told her to recite the final prayers (Qoran). To appease him, she said she would stay with him and he calmed down. They crossed paths with a policeman on the way home but Munisa was too scared to alert him to her plight. She eventually got home to her mother’s and her sister helped her lodge a complaint. The police opened a criminal investigation for kidnapping and attempted murder and her husband left the village. But in the end Munisa withdrew the complaint because, as she explains, “I felt bad pursuing the case against him ... I blame myself”. Eventually her husband returned to the area.

46 https://eurasianet.org/tajikistan-takes-swipe-at-womens-immoral-western-clothing
47 Gulrukhsor 2023: Submission to CEDAW, Pre-Sessional Working Group for the 87th session, pp4.
In his speech in December 2023, President Rahmon declared 2024 to be the year of legal education in Tajikistan. In this context, the implementation of gender equality that exists on paper in Tajikistan must become a priority, not least through providing ongoing legal education to judges, police and civil servants.

Economic factors contributing to domestic violence

An important underlying cause of domestic violence is the economic and financial dependence of women on the husband and his family. Barriers to women’s economic empowerment include women’s limited access to resources (land, finance, property, education, information, etc.); a gender gap in vocational education and training; unpaid domestic work and care work; the impact of gender stereotypes about the subordinate role of women in the family; and women’s lack of decision-making power on issues concerning themselves and their children. According to the findings of a recent survey, conducted by the NGO “Gender and Development”, 64 per cent of women surveyed assess their economic opportunities as average, while 20 per cent of women surveyed classified themselves as belonging to a low-income group. Women’s limited employment opportunities also negatively affect their access to social security benefits. For example, at the end of 2019, the average pension for women was equivalent to only 69 per cent to that of men.48

According to World Bank data, in 2022 the labour force participation rate of women was 31.3 per cent compared to 51.2 per cent for men, and only 8 per cent of all business owners are female.49 The estimated income earned by women is 4.5 times lower than that of men.50 It is precisely this economic dependency — in conjunction with social shame and victim blaming — that leads to women victims of violence having nowhere else to go and being forced to live with their abusers.

Munisa moved back in with her mother who would tell her from time to time that she was a burden — and her uncle looked for a new husband for her. Because she was divorced, the people in the village turned against her, whispered about her and moved away when she walked past. They carried out small acts of intimidation, for example by driving past her and deliberately splashing her with water from a puddle.

Munisa suffered deeply from this behaviour which she described as psychological violence.

“In Khatlon 90 per cent of married women are treated as slaves by their husbands and mothers-in-law, they have no right to speak, or to follow their dreams. When I was going through this, I didn’t respect myself, and thought of suicide many times - I lost my path.”

The rumours of her “bad behaviour” still follow her, and at 38 years old she has deep emotional wounds. Over 12 years later, Munisa blames herself and feels guilty for wanting a career and not being a good housewife. “I should have learnt more about my culture, I should have learnt more religious texts.” She does not wish to get married again — as she feels she has no self confidence.

49 https://genderdata.worldbank.org/countries/tajikistan/
50 World Bank 2021: Tajikistan Country Gender Assessment, pXIII: https://documents1.worldbank.org/curated/en/874641637562869105/pdf/Tajikistan-Country-Gender-Assessment.pdf: Based on Gross National Income measure, estimated male earned income per capita in 2019 was $6,427 (in 2017 PPP terms) whereas the estimated female earned income per capita was only $1,440 (in 2017 PPP terms).
We also spoke to victims who have experienced physical, psychological and economic violence from their mothers-in-law. One of our interviewees was chased out of the house by her husband's relatives.

Favziya - thrown out of the house and not allowed to see her children

"You have no money, you'll never manage to look after them!"

Favziya was married against her will in a nikoh ceremony when she was 17. She became her cousin’s third wife. “That was the start of all my unhappiness”, she recalls.

This was 22 years ago and she still suffers. At first she got on with her husband's family but her mother-in-law became jealous and told her son to make Favziya leave the house. When he refused she sent her son off to Dushanbe so he did not see his young wife so often.

When he was away her mother-in-law and her sister-in-law beat her regularly and told her to leave. Favziya refused. They said that she was not good enough for him. She had a girl and two boys and when her son was seven years old they threw her out of the house. When she left she tried to take the children with her but her husband’s family said that she would never manage to look after them as she had no money. They told her “We can buy off the police and the judge” and “if you complain you won’t see your children again.”

Her husband’s relatives used to beat her when her husband was away travelling for work. Her mother-in-law looked for the smallest pretexts to beat her, saying the tea was cold etc. Favziya says: “We are rural women, we don’t complain, and we can’t get to places where we could complain.”

One time her mother-in-law beat Favziya with a stick causing severe bruising and her relatives dragged her by the hair. When her husband returned he saw the bruises and understood what had happened. He told his mother to stop but she dismissed him, saying “I only have one son and that’s why I bother her so much”.

When Favziya was eventually thrown out of the house she had nowhere to live, no money and no access to her children. She had finished school at 15 and did not even have a school leaving certificate. She was depressed and stayed at home, until she found out about a women's initiative group close to her village. Encouraged by the contact with other women, she started looking for work. Currently, she works as a cook in a café, but she has not been able to see her two eldest children and was not invited to her son’s wedding. She cannot speak to her daughter – but hears rumours from others. Her daughter was young when she was forced to leave and her in-laws told the young child many negative things about her mother. At Favziya's daughter’s wedding they reportedly told the other relatives that the daughter's mother was dead. Favziya now only sees her youngest son, who was given back to her.

Favziya never complained to the police about the beatings because her relatives said that she would not be taken seriously as her marriage was not registered. Favziya says that many women are in similar situations: “I’d advise young girls not to wait alone for help but to find out about their rights and to ask other women for help if they are threatened or hurt. I lost so much time with my children!”

She describes her dream: “I’ll never be like my mother-in-law – I hope my youngest son will marry and I’ll be a good mother-in-law to his wife.”
Vulnerable groups of women

Stigmatisation of women living with HIV and domestic violence

People living with HIV are subject to particular discrimination, stigmatisation and criminalisation in Tajikistan. In recent years numerous people have been imprisoned for “putting another person at risk of infection with human immunodeficiency virus” (Article 125, part 1 of the Criminal Code) of Tajikistan, even though in many cases there was no evidence that they had infected anyone. Many were not actually infectious because their virus count was low thanks to regular antiretroviral treatment, or they took other effective precautions. In a recent positive step, on 26 December 2023, the Plenum of the Supreme Court adopted a document to provide guidance to judges when considering cases opened under Article 125.18 For example, the document stipulates the need to establish whether the accused underwent regular antiretroviral treatment, whether the virus count was below the risk threshold and whether protective measures were used such as male or female condoms. It is now crucial that judges consistently implement the recent Supreme Court decision and that civil society groups monitor cases opened under Article 125. Article 125 of the Criminal Code must also be amended accordingly.51

HIV-positive female ex-prisoners, as one expert told IPHR, are vulnerable to multiple discrimination: “They are discriminated against and stigmatised at all levels, let’s just take employment: women get fired as soon as the employer learns about their criminal record - and it is obligatory now to show the records. Another very problematic area is the access to basic services and needs: registration, passport, housing - a vicious circle.”

As a result, victims of domestic violence who are HIV-positive typically do not report even the most serious physical injuries for fear of the authorities and disclosure of their status, and the perpetrators are never brought to justice.

Another problem interviewees reported to us is that shelters in Tajikistan do not accept women living with HIV.

A human rights defender shared the story of a client whose husband and mother-in-law beat her while she was pregnant, causing her to fall out of a window, lose the baby and break her back. The police went to the hospital but the woman claimed she had been washing the windows and had fallen out. Reportedly, the woman was HIV-positive and afraid that if she lodged a complaint her status would be revealed and she would face criminal charges.

In another case a husband chased his wife and small children out of the house in winter. The lawyer wrote to the Prosecutor General but instead of pursuing the husband they opened a criminal case under Article 125, part 1 against the woman because she was HIV positive.

51 For more background information on the legislative development see also IPHR’s report Rights for all? LGBTIQ persons in Tajikistan systematically denied human rights, February 2024.
Women with disabilities and women with children with disabilities

“People with disabilities are stigmatised and shamed throughout their lives in Tajikistan. There is a lot of societal pressure, especially towards the mothers of children with disabilities. They are blamed and ostracised for having given birth to a child with a disability.”

NGO representative

“Mothers who care for their children with disabilities do not receive any social support until the child turns 18. They cannot go to work and will have no or only a very small allowance. Many are pressured to send their children to residential schools where conditions are awful. After the child's 18th birthday there is no structure in place, no day care centre, nothing. That's why young people with disabilities are often placed in old people's homes.”

NGO representative

People with disabilities (PWD) are among the most vulnerable people in Tajikistan. They face serious obstacles to accessing many areas of rights including health, education and work. Women and girls with disabilities are subjected to multiple forms of discrimination due to their gender, their disability, and often poverty as well. Girls are less likely to receive an education and thus be able to access employment than boys as many parents believe it is less important for girls, and more so for those with disabilities, to be educated. They are often kept at home, “hidden” away from society and prevented from marrying. Furthermore, mothers of children with disabilities are often blamed for their child's condition or seen as being less capable mothers. They face a higher risk of domestic abuse, an increased probability of divorce, separation or abandonment.

Experts and activists highlighted that it is even more difficult for women and girls with disabilities who are victims of domestic violence to receive the protection and support they need: Many are socially isolated as their families do not allow them to leave their homes because of the “shame” they would bring to their families. Domestic violence (including sexual violence) remains even more hidden than is otherwise the case because these women and girls have no one to turn to. Women with disabilities affected by violence rarely turn to specialised NGOs or the police. Furthermore, police officers are not trained to interview people with mental disabilities, and reportedly exclude their allegations and evidence based on discriminatory assumptions that “they are prone to lying”. The shelters are not equipped to meet requirements of women with disabilities. It is particularly difficult for women with mental illnesses to find help. There are no psychiatric support services in Tajikistan that meet international standards. One expert told us: “Women who have been severely affected by violence often suffer from unrecognised post-traumatic disorders or other mental illnesses. It is almost impossible to find adequate help for them. After all, it is the environment that has made them ill - violence, the daily tormenting and undermining of their dignity and self-worth, that leaves its mark on body and soul. We are desperate when a client ends up in a psychiatric ward because we know that she won’t be helped there.”

This is also reflected in a recent UNICEF baseline study under the “Spotlight Initiative to End Violence against Women and Girls” which concludes: “all women with disabilities [whom they interviewed] have experienced violence themselves at least once. Rural women in particular stress the urgency of this problem. All women in this cohort, without exception, believe that women with disabilities are much more frequently sub-

52 See also the paragraph on women with disabilities in the Joint Alternative CEDAW report of Equality Now, Women's Lawyers for -Development and Vash Vybor, December 2023, p10.
jected to various types of violence compared to other women. All women with disabilities, first and foremost, face violence on the part of family members where they live. In addition to domestic violence, women with disabilities face violence on the street by neighbours and strangers. Among the most common types of violence, physical violence ranks first, followed by psychological violence and then economic violence. Sexual violence was also noted among respondents with disabilities, which was not mentioned by respondents from other examined groups. We believe that this fact clearly confirms the greater vulnerability of women with disabilities compared to other groups.53

When asked why women with disabilities were disproportionately affected by violence, the most common answers were: because of the disability itself; societal stereotypes and preconceptions about it which were prevalent even among family members; and those planning state programmes and policies lack awareness of their rights and needs. Furthermore, respondents raised the lack of opportunities for education and employment for women with disabilities.

Disadvantaged women in particular need a comprehensive, low-threshold and non-discriminatory support system in order to realise their rights. Barriers to accessing counselling and protection structures must be removed.

**Makhbuba’s story**

Makhbuba lives with a disability. She was not brought up by her own parents, but lived with her foster parents at the dormitory of a local factory. Her foster family did not send her to school. Although she did not want to get married, her foster parents married her off to a disabled husband and she had to live with him in a remote village. Makhbuba, who is very petite and slight, had to do heavy physical labour in the house and garden, as well as caring for her husband and regularly lifting him out of his wheelchair. Her health suffered over the nine years they were together and she had to have three operations. Makhbuba told IPHR: “My husband wasn’t a bad man, but my mother-in-law treated me very cruelly – when I went to Dushanbe for the third operation my husband rang me and said I shouldn’t take it personally but I should not return home as his mother had found him another wife”.

Makhbuba returned to the dormitory to live with her foster family and their friends as she had nowhere else to turn. They said they were sorry for marrying her off. But later they began to treat her badly – they made fun of her and physically abused her.

“I wanted to get out but kept thinking, where will I go? And so I stayed for several years.” One day she met someone who told her about the shelter. When she got to the shelter and talked to counsellors “all the heavy feelings of pain and shame and fear started to lift from me.”

“When a woman has no one to help her she feels abandoned and useless but when she is supported she can defend her rights. Women need protection so they understand that they are not abandoned”.

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53 UNICEF 2022: Baseline study on people’s perception of violence against women and girls in Tajikistan within the Spotlight Initiative, pp14.
Violence against children

“Children are not considered to be victims of domestic violence. But children suffer when they witness domestic violence, or are subjected to violence themselves. There is no focus on them, and Tajikistan has to do more to protect them.”
Women’s NGO representative

Although the main focus of this report is on domestic violence against women, this chapter provides an overview of domestic violence affecting children, either because they are subjected to violence by parents and other family members, or because they witness violence against their mothers. Violence against children in the family is a pervasive problem in Tajikistan and reports indicate that it has risen in the last two years. This is a worrying development as insufficient protection is available, both in law and practice, for children who are witnesses or victims of domestic violence.54


Tajikistan recently strengthened legal safeguards aimed at protecting children from violence. For example, in January 2024, Article 11(1) was added to the Law on the Protection of the Rights of the Child, which prohibits the use or threat of violence. In addition, the age restriction on the right to express an opinion was removed from the Family Code (Article 57 (1)). Previously, children under the age of 10 were not allowed by law to express their opinion in matters affecting them. In 2021, the Ministry of Education, the Ministry of Health, the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Labour, the Office of the Ombudsman and the CoWFA developed and approved procedures for considering a child’s complaint. Previously, the law restricted children under 14 from lodging complaints, only allowing them to do so through a legal representative.

However, critical gaps remain which lead to children being exposed to violence and left unprotected. For example, the Law on the Protection of the Rights of the Child does not set out the necessary protection and support measures for child victims and witnesses of crimes. The United Nations Development Fund for Women (UNIFEM) and other child rights experts note that corporal punishment and other types of violence against children are viewed “as the norm rather than as a problem requiring attention”, and that measures against this treatment are often ineffective.55

Although it is difficult to obtain clear official data, some studies have proved the frequent use of violent punishment against children; according to a global UNICEF study from 2017, more than two thirds of 2-4 year olds in Tajikistan experienced a form of violent discipline in the past month, almost 17 per cent experienced severe physical punishment in the past month, 17 per cent of the population aged 15 and above believe that physical punishment is necessary to properly raise or educate children, one out

55 https://www.unicef.org/tajikistan/ending-violence-against-children
of five children under the age of four witnessed domestic violence inflicted on their mothers (physical, sexual or psychological violence committed by a husband or partner) during the past 12 months.\textsuperscript{56}

The Law on the Prevention of Violence in the Family, the Law on the Responsibility of Parents for the Education and Upbringing of Children (further: Parents Responsibility Law) and the Family Code are aimed at protecting the child from violence in the family. However, in practice there have been no real improvements in child protection, child rights experts told IPHR in 2023. According to them, existing protective legislation is often not implemented; there is no dedicated national strategy or action plan focusing on this issue; and there are no comprehensive studies on the issue that could inform policy change.

In 2017, a Regulation on Commissions on the Rights of the Child was approved in Tajikistan, setting up commissions within the local administrations in all regions of the country. The commissions were tasked with taking measures to ensure the protection of the child from physical, sexual, psychological and other forms of violence, and participation in the organisation of work to identify child abuse. In practice, however, the commissions do not sufficiently fulfil their function of protecting children from violence. The commissions are not made up of experts, but local politicians, and are only convened on an ad hoc basis. Child rights experts criticise that they lack knowledge and understanding about violence against children.

The awareness-raising work carried out by State bodies in schools and among the public is mainly aimed at preventing offences among children and adolescents and at explaining the Parent's Responsibility Law. Reportedly it does not inform about legislation protecting children from cruel treatment and violence.

For many children who witness violence in the family, this has a direct effect on their psychological well-being. Child rights experts told IPHR about the urgent need to conduct awareness-raising campaigns on violence against children. In addition, funds for child victim support services are urgently needed across the country such as psychological counselling and legal support. As one NGO representative summarised: “Violence is such a trauma for children, and yet no attention is paid to them as victims. In fact, there are no paediatric psychologists in Tajikistan, and not enough psychologists or therapists in general.”

Experts also stress that the Commission on the Rights of the Child must swiftly adopt proactive and effective measures to protect children, and that the Juvenile Affairs Departments of Police Criminal Investigation Departments should step up efforts to prevent and effectively investigate child-related offences.

**Sexual violence against children**

Some child right’s experts and social workers from women’s NGOs told IPHR that media reporting and public debate about sexual offences against children had recently increased in Tajikistan - especially during the Covid-19 lockdowns. However, the extent of the problem of sexual abuse of children in Tajikistan is unknown, as many cases are not reported by either the abused children and/or parents (legal guardians) themselves, and some are hushed up by parents and relatives due to shame and fear of social condemnation.

In 2020 alone, 16 high-profile cases of sexual violence against children under 15 years old were reported, with the youngest only three years old.

Local law enforcement agencies often fail to respond to cases of violence against children until the regional authorities or Prosecutor General’s Office takes an interest in the case.

Law enforcement agencies lack specialised training and knowledge and often overlook violence against a child, qualifying the actions of the perpetrator as non-violent. Most law enforcement and judicial officials lack sufficient skills in dealing with children who have been sexually abused. Additionally, there are very few qualified psychologists in the country who have the skills to work with child victims of sexual violence.

Victim protection standards are not applied - for example, questioning in separate and “child friendly” rooms so that the child victim does not meet the perpetrator. Until now, in the course of investigation and court proceedings, the child victim and the perpetrator typically meet several times, and there is a risk of retraumatization.

In July 2022, the Criminal Code was amended to increase criminal liability for sexual offences, including those against children, and to prohibit perpetrators from engaging in activities related to the upbringing and education of children.

However, Tajikistan’s criminal legislation has a protection gap in relation to the minimum age for consensual sexual relations.

National legislation does not outline special procedures for investigating sexual offences against children and nor sufficient safeguards for the rights and interests of child victims of sexual violence.

For example, under Tajikistani law, rape can be committed only against a female person. Sexual intercourse with a boy by force or threat of force is not considered rape by law , and the perpetrator is prosecuted under another article of the Criminal Code, which carries a lighter penalty than rape.57

Tajikistan’s legislation does not provide for effective assistance and protection measures for child victims and witnesses of the offence and their families.

Tajikistan lacks a state funded system of rehabilitation services for child victims of violence such as accessible, around-the-clock support services and child rehabilitation and reintegration services. Medical, psychological and social rehabilitation services as well as legal assistance to victims and their families are mainly provided by public organisations and foundations.

57 In para. 36 of its Concluding Observations, published on 19 February 2024, CEDAW criticised the “absence of a consent-based definition of rape” in the Tajikistani Criminal Code.
Recommendations to the authorities of Tajikistan

AMEND LEGISLATION AND POLICIES ON DOMESTIC VIOLENCE

• In line with CEDAW's recommendation from 2024 swiftly amend and adopt the draft Criminal Code providing for a separate article criminalising domestic violence, and ensure that the penalties foreseen are proportionate to the crime committed, “base the definition of rape in the absence of free and voluntary expression of consent only, and specifically criminalize marital rape”.58

• Recognise domestic violence as a criminal offence which must always be prosecuted ex officio by the public prosecutor's office rather than at the initiative of individual victims.

• Enshrine a victim-centred approach in the Criminal Procedure Code that places the victim at the centre, including by ensuring that victims are informed of their rights, the progress of their complaint and that they are supported throughout the judicial process, and provided with free legal aid where necessary.

• Ensure the right of survivors of domestic violence to receive free legal aid in all cases by making relevant amendments to the Law on Legal Aid. Ensure that medical examinations are free of charge in all cases for victims of domestic violence.

• Develop and adopt special rules for the investigation of criminal offences related to domestic violence. Improve police infrastructure and equipment (including by providing vehicles) to ensure adequate emergency responses to domestic violence cases and the effective enforcement of protection orders.

• Amend the Law on “Prevention of Violence in the Family”, taking into account UN standards. Introduce a comprehensive concept of gender-based violence both perpetrated by private individuals in the family or in public places, and by representatives of the state; set up an Inter-agency Coordination Council to combat domestic violence and gender-based violence at the highest level, a referral mechanism for victims, comprehensive rehabilitation services for survivors of domestic violence; and ensure their access to justice. The law should also include provisions for children of victims and witnesses of violence.

• As per CEDAW recommendations from 2024 “Provide or adequately fund support services and shelters for survivors of gender-based violence against women, including domestic violence, that are accessible and tailored to the needs of women in all their diversity, including women with disabilities, including by establishing publicly funded services and shelters and providing financial support to non-governmental organizations who provide services and shelters”.59

• Amend the Family Code to eliminate the possibility of requesting court permission to lower the marriageable age by one year.

• Introduce mandatory anti-violence programmes for aggressors.

58 CEDAW Concluding Observations, published on 19 February 2024, para 37(a).
59 CEDAW Concluding Observations, published on 19 February 2024, para 37(c).
ADDRESS OTHER OBSTACLES TO JUSTICE FOR DOMESTIC VIOLENCE VICTIMS

- Adopt a comprehensive programme to combat all types of domestic violence, providing for measurable indicators, achievable results and the allocation of sufficient human and financial resources.

- Introduce protection and emergency orders in accordance with UN standards and CEDAW’s recommendations⁶⁰ and ensure that police issue them rapidly; that they provide for the removal of the abuser/offender from the home; and can be extended for up to one year. Introduce a clear and understandable risk assessment procedure into the work of police agencies.

- Allocate sufficient state funding to implement the state Action Plan to combat domestic violence. Some of these resources should also be made available to civil society, especially regarding shelters, housing, and social support for victims.

- Provide for a ban on mediation at investigation and trial stages which aim to reconcile the victim and the perpetrator in domestic violence cases.

- Develop a unified database to record cases of domestic violence in all its forms, including the relationship between the victim and the perpetrator, services provided, and the results of the victim’s appeal.

- Introduce standard operating procedures for police and prosecutors that work in the field of domestic violence and for all dedicated services, including “helplines”.

- Provide women and children who have suffered from domestic violence and gender-based violence and children who have witnessed violence with a range of free rehabilitation services, compensation for moral and material damage and safe and affordable housing.

- Conduct systematic training for all specialists (doctors, psychologists, forensic experts, social workers, police and prosecutors, lawyers and government lawyers) providing services to victims of gender-based violence.

- Develop and adopt a comprehensive government Policy and Communication Strategy aimed at achieving gender equality, combating gender stereotypes and promoting zero tolerance towards domestic violence.

- Carry out large-scale, systematic, gender-equality legal education programmes for judges, police and civil servants, in order to thoroughly combat and transform entrenched gender stereotypes.

- Carry out a nationwide, prominent “Zero Tolerance” campaign against domestic violence across state TV and radio, featuring strong, public messages by high-level officials.

- Establish special protective measures for women with disabilities, including campaigns to destigmatise people with disabilities, adequate social support and social security for caregivers of children with disabilities, day-care structures for children over the age of 18, and barrier-free access to all public buildings (including educational institutions).

⁶⁰ CEDAW Concluding Observations, published on 19 February 2024, para 37(c).
• Take concrete steps to address the stigmatisation and discrimination faced by persons living with HIV/AIDS - particularly women, including in law and in practice, as suggested by many various human rights treaty bodies and UPR.

• Amend Article 125 of the Criminal Code to the effect that no charges are brought when there is no conclusive evidence of HIV transmission to another person, e.g. when a person has an undetectable viral load and is not infectious; when the person took precautions such as male or female condoms; or when the sexual partner has no claims against the HIV-positive person.

• Review all past convictions handed down under Article 125, part 1, and release all those who were convicted without evidence of HIV-transmission to another person.

VIOLENCE AGAINST CHILDREN

• Amend national legislation to explicitly prohibit and prevent all corporal punishment of children in all areas of a child’s life, not only in the family and educational institutions.

• Legislate to ensure the protection and subsequent rehabilitation of child victims of violence and/or abuse and allow children the status of separate entities in cases involving violence, to ensure that they are better protected from abusive family members.

• Develop guidelines for the staff of the Office of the Commissioner on the Rights of the Child on how to respond to cases of violence against children and on preventing violence against children.

• Train teachers on the prevention of violence and on recognising the signs of violence against children and instigate a monitoring system in all educational institutions.

• Develop and implement programmes to prevent sexual violence against children with the involvement of Tajikistan’s civil society.

• Strengthen the work of the Commissioner for Children’s Rights and the Commission on the Rights of the Child to prevent and stop sexual violence against children.

• Include the minimum age of consent to sexual intercourse as 14 in Tajikistan’s criminal legislation.

• Exclude the possibility of amnesty and pardon for those who are convicted of sexual offences against children.

• Amend legislation to provide for a special procedure for the consideration of cases of sexual offences against children.

• Ensure that cases of sexual violence against children are investigated and tried by specially trained investigators and judges.

• Strengthen the role of the psychologist in cases of sexual offences against children.

• Ensure that child victims of violence, including sexual violence, are guaranteed complex protection and support measures aimed at their rehabilitation.