Nowhere to go:
Access to justice for women survivors of gender-based violence in Tajikistan

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I. Introduction

Gender-based violence (GBV) is one of the most pressing issues in modern Tajikistan, where women face significant barriers to seeking assistance, leaving abusive relationships, and accessing justice.[1] Deeply entrenched societal attitudes, harmful gender stereotypes, and discriminatory prejudices all facilitate the perpetuation of violence, with men typically the perpetrators and women the survivors.[2]

While the Criminal Code and the Code of Administrative Offences penalize GBV, and the Family Code and the Law on the Prevention of Domestic Violence provide legal protections, GBV in Tajikistan remains insufficiently addressed in practice, as it is not sufficiently publicly condemned by State officials and is widely tolerated.[3] Despite Tajikistan's ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[4] in 2014, and the high incidence of violence against women, no complaints have been decided by the Committee on the Elimination of Discrimination against Women (CEDAW Committee).[5] Besides, Tajikistan maintains a reservation to Articles 8 and 9 of the Optional Protocol, which allow the Committee to initiate inquiries in cases of grave or systematic violations. Tajikistan has also acceded to the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR); however, since its accession in 1999, no communications relating to GBV against women have been brought before the Human Rights Committee.

Tajikistan has a legal obligation under the CEDAW to prevent, investigate, prosecute and punish all forms of GBV and provide for effective remedies and reparation to survivors,[6] eliminate discriminatory legal interpretations,[7] and uphold the principles of non-discrimination and gender equality across all sectors.[8] Similar Obligations arise under the ICCPR, as reaffirmed by the Human Rights Committee, which called on Tajikistan to strengthen reporting, ensure effective investigation and prosecution, and guarantee access to protection and remedies for survivors of violence against women.[9]

In February 2024, the CEDAW Committee issued its Concluding Observations on the seventh periodic report of Tajikistan.[10] While the Committee acknowledged certain positive steps taken by Tajikistan, including the adoption of the Law on Equality and Elimination of All Forms of Discrimination (2022), the National Strategy for Promoting the Role of Women (2021–2030), and the establishment of the Union of Women Judges (2022),[11] it also identified continuing shortcomings in addressing GBV and discrimination. The Committee expressed concern at the absence of a comprehensive strategy to eliminate deeply entrenched patriarchal and discriminatory stereotypes[12] and the persistence of harmful

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[1] Human Rights Watch. 2019. *"Violence With Every Step" Weak State Response to Domestic Violence in Tajikistan*. https://www.hrw.org/sites/default/files/report_pdf/tajikistan0919_web.pdf, p. 18.
[2] International Commission of Jurists. 2024. *Tajikistan: ICJ concludes mission on access to justice for women survivors of gender-based violence.* https://www.icj.org/tajikistan-icj-concludes-mission-on-access-to-justice-for-women-survivors-of-gender-based-violence/.
[3] Mia Tarp Nurmagambetova. 2024. *Tajikistan's Epidemic of Domestic Violence Against Women*. https://thediplomat.com/2024/03/tajikistans-epidemic-of-domestic-violence-against-women/
[4] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the General Assembly as part of Resolution 34/180, 18 December 1979.
[5] IPHR. 2023. *Joint NGO submission to List of Issues: Tajikistan*. https://www.iphronline.org/wp-content/uploads/2023/06/CEDAW-Tajikistan-final-1.pdf, p. 2.
[6] CEDAW Committee, General Recommendation No. 35: on gender-based violence against women, updating general recommendation No.19, CEDAW/C/GC/35, 26 July 2017 (CEDAW Committee GR No. 35), para. 24(2)(b).
[7] CEDAW, art. 2(f) and CEDAW GR No. 33, para. 26.
[8] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the General Assembly as part of Resolution 34/180, 18 December 1979.
[9] Human Rights Committee, Concluding observations on the third periodic report of Tajikistan, CCPR/C/TJK/CO/3, 22 August 2019, para. 20.
[10] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024.
[11] *Ibid,* paras. 4-5.
[12] *Ibid,* para. 32.

practices such as early and forced marriages.[13] The Committee also highlighted major gaps in the legal framework, including the failure to criminalize domestic violence, marital rape, sexual harassment, and online violence.[14] It noted the absence of a consent-based definition of rape, inadequacy of victim support services, especially for women with disabilities, a lack of systematic data collection on GBV, weak enforcement of protection orders, and the limited availability of State-funded shelters.[15]

In line with its CEDAW obligations, Tajikistan has adopted the Law on Equality and the Elimination of All Forms of Discrimination in 2022, which strengthened the legal foundation for combating discrimination.[16] With a view to further promoting gender equality and strengthen institutional responses to GBV, Tajikistan has adopted several strategic frameworks, including the National Strategy for Promoting the Role of Women (2021–2030) and its Action Plan (2021–2025),[17] the Human Rights Strategy (2023–2038),[18] the State Programme for Women's Entrepreneurship Development (2023–2027), and the State Programme for Education and Leadership of Women (2023–2030).[19] The State Programme to Prevent Domestic Violence for 2025–2030 was adopted in December 2024.[20] Additionally, an interdepartmental council on the prevention of domestic violence has been established to strengthen coordination among State agencies.[21]

Yet, domestic legal practices continue to fall short of Tajikistan's international human rights law obligations, including under both the CEDAW and ICCPR.

With a view to addressing these concerns, the International Commission of Jurists (ICJ) conducted a mission to Tajikistan to assess the barriers women face in accessing justice in GBV cases.[22] Drawing on research and mission findings, this report identifies key shortcomings in the legal framework and judicial practices, highlights the gaps between Tajikistan's international obligations and their domestic implementation, and sets out recommendations to strengthen access to justice for women survivors of GBV.

1. The mission

The ICJ, in collaboration with the Regional Office for Central Asia (ROCA) of the Office of the High Commissioner for Human Rights (OHCHR) undertook a four-day mission to Tajikistan from 16 to 19 September 2024.[23] The primary focus of the mission was to map, research and propose concrete recommendations to improve access to justice for women survivors of GBV, contributing to the broader project objective of promoting gender equality, eradicating discrimination, and enhancing human rights through equitable access

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[13] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, paras. 34-35.
[14] *Ibid,* para. 36.
[15] *Ibid,* paras. 36-37.
[16] *However, several grounds of discrimination, such as sex, gender, gender identity, and sexual orientation, which were included in the initial draft, were excluded before the law's adoption. This omission may create practical challenges in implementing the law, particularly in addressing cases of violence stemming from stigma and discrimination*. IPHR. 2024. *"When I got married I lost my life": Unveiling the Epidemic of Domestic Violence Against Women in Tajikistan.* https://iphronline.org/wp-content/uploads/2024/03/eng-tajikistan-dv-report-march-2024.pdf, p.8.
[17] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 5(f).
[18] UN Office at Geneva. 2024. *Experts of the Committee on the Elimination of Discrimination against Women Commend Tajikistan on the New Equality Act, Ask About Female Refugees from Afghanistan and Gender-Based Violence.* *https://www.ungeneva.org/en/news-media/meeting-summary/2024/01/examen-du-tadjikistan-devant-le-cedaw-lattention-des-experts-se*
[19] *Ibid.*
[20] Resolution of the Government of the Republic of Tajikistan No. 689 of 26 December 2024 "On the State Programme to Prevent Domestic Violence in the Republic of Tajikistan for 2025–2030."
[21] Avesta.tj. 2025. *An interdepartmental council for the prevention of domestic violence has been created in Tajikistan.* https://avesta.tj/2025/03/31/v-tadzhikistane-sozdan-mezhvedomstvennyj-sovet-po-predotvrashheniyu-nasiliya-v-seme/
[22] ICJ. 2024. *Tajikistan: ICJ concludes mission on access to justice for women survivors of gender-based violence.* https://www.icj.org/tajikistan-icj-concludes-mission-on-access-to-justice-for-women-survivors-of-gender-based-violence/
[23] *Ibid.*

to justice in Tajikistan. This report consolidates extensive background research, legal analysis, and key findings, offering recommendations based on the outcomes of the mission.

The ICJ delegation included Patricia Schulz, ICJ Commissioner and a former member of the CEDAW Committee; Santiago Canton, ICJ Secretary General; Temur Shakirov, Acting Director of the ICJ Europe and Central Asia Programme; and Karolína Babická, Senior Legal Adviser of the ICJ Europe and Central Asia Programme. The mission was carried out in cooperation with Rights and Prosperity, and national experts Dilbar Turakhanova and Parvina Navruzova.

Throughout the mission, ICJ representatives engaged with civil society organizations, gender equality experts, and State officials, including members of the Committee on Women and Family Affairs (CWFA), the Ombudsman's Office, members of the Parliament, and Supreme Court judges, as well as legal professionals, international organizations and diplomatic representations. Discussions explored the challenges and opportunities in addressing GBV in Tajikistan. An expert roundtable, held during the mission, brought together representatives from the judiciary, law enforcement, the legal profession, civil society, and international experts. This roundtable facilitated an open dialogue on improving legal frameworks, judicial practices, and support systems for GBV survivors, contributing to the findings presented in this report.

2. The report

This report was prepared by members of the ICJ mission team, with additional contributions from ICJ Legal Researcher Viktoryia Konashava. Ian Seiderman, ICJ Senior Legal and Policy Director provided legal and policy review. In the preparation for the mission, Dilbar Turakhanova conducted legal research and analysis of court cases, parts of which were used for this report.[24]

The ICJ expresses its gratitude to all those with whom it engaged for their openness and willingness to discuss the challenges women survivors of GBV face in accessing justice.

The report includes five parts. Part I outlines the objectives, scope and methodology of the mission. Part II provides the broader equality context and the functioning of the justice system in Tajikistan. Part III sets out the applicable international human rights law and standards and examines the relevant national legal framework concerning five issues: domestic violence, harmful practices, sexual violence, sexual harassment, online violence. Part IV considers the operation of the justice system in practice, including procedural issues, the conduct of police, prosecutors and courts, the availability of legal aid and support services, and other obstacles faced by survivors in seeking justice. Part V provides the conclusions and recommendations. The annexes facilitate finding relevant provisions of national law and provide references to some international instruments and Treaty Bodies documents.

[24] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom*. https://shorturl.at/zDEnN

II. Structural and socio-cultural barriers to gender equality in Tajikistan

1. Gender stereotypes, cultural attitudes, and discriminatory prejudices

Patriarchal values and gender norms remain deeply rooted in Tajik society, despite formal legal commitments to equality[25] during both the Soviet era and the post-independence period.[26] These attitudes serve to create substantial barriers to women's and girls' access to education and economic independence, severely affecting their quality of life,[27] and significantly contributing to domestic violence and other forms of GBV.[28]

Cultural attitudes, especially in rural areas where 70 per cent of the population resides, further serve to restrict women's autonomy. In these areas, women are often subject to stringent controls by family members, who may prevent them from leaving home or accessing services without permission.[29] By way of example, the mission received reports that young women are often discouraged from using smartphones or social media, as these tools may be perceived as incompatible with the image of a "virtuous young woman," further curtailing their freedom.[30]

Tajikistan's patrilineal family structure, in which new wives are traditionally expected to move into their husbands' family homes and are generally perceived as having a lower social status, reinforces women's dependence and discourages them from leaving abusive relationships, particularly due to fears of losing housing or custody of their children.[31] Additional barriers include economic dependence on male relatives, social isolation,[32] and strong cultural taboos surrounding divorce, which is often regarded as a source of family shame.[33] According to the Women's Crisis Centre Gulrukhsor, divorced women frequently experience harassment, are blamed for failed marriages, and are treated as "unclean,"[34] which negatively affects their social interactions, employment opportunities, and even access to housing.[35]

2. Lack of economic independence of women

Women's economic dependence remains a fundamental obstacle to gender equality in Tajikistan, exacerbated by persistent assumed gender roles that position men as primary earners.[36] The resulting limitations in access to education, credit, property, and social protection prevent many women from achieving financial independence.

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[25] Constitution of the Republic of Tajikistan, 6 November 1994 (with amendments and additions as of 22 May 2016), art. 17; Law of the Republic of Tajikistan On the State Guarantees of Equality between Men and Women and Equal Opportunities for Their Implementation of March 1, 2005, No. 89 (with amendments from 24 December 2022), art. 5.

[26] Equal Future. 2023. *Tajikistan*. https://www.equalfuture-eurasia.org/womens-representation-in-politics-and-public-administration/tajikistan

[27] Ozan Sevimli and Alisher Rajabov. 2022. *Working towards gender equality in Tajikistan's labor market*. https://blogs.worldbank.org/en/europeandcentralasia/working-towards-gender-equality-tajikistans-labor-market

[28] Mia Tarp Nurmagambetova. 2024. *Tajikistan's Epidemic of Domestic Violence Against Women*. https://thediplomat.com/2024/03/tajikistans-epidemic-of-domestic-violence-against-women/

[29] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.

[30] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.

[31] Human Rights Watch. 2019. *"Violence With Every Step" Weak State Response to Domestic Violence in Tajikistan*. https://www.hrw.org/sites/default/files/report_pdf/tajikistan0919_web.pdf, pp. 69-70.

[32] Safeworld. *Starting a conversation on domestic violence in Tajikistan.* https://www.saferworld-global.org/en-stories-of-change/starting-a-conversation-on-domestic-violence-in-tajikistan

[33] IPHR. 2024. *"When I got married I lost my life": Unveiling the Epidemic of Domestic Violence Against Women in Tajikistan.* https://iphronline.org/wp-content/uploads/2024/03/eng-tajikistan-dv-report-march-2024.pdf, p. 24.

[34] Gulrukhsor. Submission to CEDAW, Pre-Sessional Working Group for the 87th session INT_CEDAW_ICO_TJK_52293_E (11 April 2023), p. 5.

[35] *Ibid,* p. 5.

[36] Shamsiya Rakhimshoeva. 2021. *Tajikistan: Peacebuilding through a gender lens.* https://www.saferworld-global.org/resources/publications/1376-tajikistan-peacebuilding-through-a-gender-lens, p. 7.

Reportedly, only seven per cent of married women have a say in how their husband's earnings are spent, while 49 per cent report that their husbands make such decisions independently.[37] Joint decision-making is more common in relation to the wife's income (46 per cent) than the husband's (38 per cent).[38] When men migrate for work, as is common in modern Tajikistan,[39] remittances are often sent to the household head, typically the migrant's father or mother, rather than to their wives.[40] This practice reinforces the wives' subordinate status within the family and their dependence on the husband's relatives, even when the men reside abroad

The gender pay gap in Tajikistan remains substantial, with men earning on average 30 per cent more than women, and up to 50 per cent more in rural areas.[41] Most women are employed in low-paid or informal sectors such as agriculture, healthcare, and education, with 72.5 per cent of employed women in unskilled roles, primarily engaged in household work after marriage.[42] A survey conducted by the NGO Gender and Development found that 64 per cent of women assessed their economic opportunities as "average", while 20 per cent classified themselves as belonging to a low-income group.[43] According to the ranking, Tajikistan in 2025 fell to 129th place from 112th in 2024 out of 146 countries globally,[44] making it the lowest-ranked country among Central Asian States.[45]

Widespread gender stereotypes and financial limitations remain significant barriers to gender equality.[46] Marriage often negatively impacts women's employment, with only 25 per cent of married women and 19 per cent of never-married women currently employed, compared to 51 per cent of divorced, separated, or widowed women.[47]

Additionally, many women lack decision-making power within their households and are expected to conform to traditional family roles, which prioritize domestic and childcare responsibilities over professional or personal development.[48]

The adoption of the prevalent family model, with a traditional multi-generational patrilineal structure, often results in young girls being married off without preparation for independent life or professional skills.[49] After marriage, many are prevented from working or continuing their studies, leading to social isolation and control within the household.[50] Domestic work remains largely unpaid and under-recognized, further contributing to

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[37] State Statistical Agency. 2018. *Tajikistan: Demographic and Health Survey 2017.* https://dhsprogram.com/pubs/pdf/FR341/FR341.pdf, p. 233.
[38]State Statistical Agency. 2025. *Tajikistan: Demographic and Health Survey 2023*. https://www.stat.tj/wp-content/uploads/2025/06/2023-tjdhs-final-report-en-final.pdf, pp. 278-279.
[39] Tajikistan is experiencing a large scale outflow of labour migration, with around tenth of Tajikistan's population being employed abroad. IOM. *Labour migration*. https://tajikistan.iom.int/labour-migration
[40] Asian Development Bank. 2016. *Tajikistan: Country Gender Assessment*, https://www.adb.org/sites/default/files/institutional-document/185615/tajikistan-cga.pdf, p. xvii.
[41] United Nations Economic and Social Committee for Asia and the Pacific. 2018. *Examining women's economic empowerment in SPECA countries*. https://www.unescap.org/sites/default/files/SPECA_WEE_final_Eng.pdf, p. 8.
[42]Shamsiya Rakhimshoeva. 2021. *Tajikistan: Peacebuilding through a gender lens.* https://www.saferworld-global.org/resources/publications/1376-tajikistan-peacebuilding-through-a-gender-lens, p. 7.
[43] IPHR. 2024. *"When I got married I lost my life": Unveiling the Epidemic of Domestic Violence Against Women in Tajikistan.* https://iphronline.org/wp-content/uploads/2024/03/eng-tajikistan-dv-report-march-2024.pdf, p. 25.
[44]World Economic Forum. 2024. *Global Gender Gap 2024: Insight Report. June 2024*. https://www3.weforum.org/docs/WEF_GGGR_2024.pdf, p. 339.
[45] World Economic Forum. 2025. *Global Gender Gap 2025: Insight Report. June 2025*. https://reports.weforum.org/docs/WEF_GGGR_2025.pdf, p. 33.
[46] Equal Future. 2023. *Tajikistan*. https://www.equalfuture-eurasia.org/womens-representation-in-politics-and-public-administration/tajikistan
[47]World Bank Group. 2021. *Tajikistan. Country Gender assessment 2021*. https://documents1.worldbank.org/curated/en/874641637562869105/pdf/Tajikistan-Country-Gender-Assessment.pdf, p. 17.
[48]*Ibid,* p. 26.
[49] IPHR, 2024, p. 22.
[50]Mia Tarp Nurmagambetova. 2024. *Tajikistan's Epidemic of Domestic Violence Against Women*. https://thediplomat.com/2024/03/tajikistans-epidemic-of-domestic-violence-against-women/

women's economic dependence.[51] This combination of financial dependence, social isolation, and rigid family hierarchies not only restricts women's opportunities, but also leaves them particularly vulnerable to violence and other abuse. In such circumstances, abuse is frequently tolerated or minimized, and women face significant obstacles to seeking protection or justice.

3. Normalization and underreporting of violence

Survivors of GBV in Tajikistan rarely report abuse, reflecting both the patriarchal patterns and the central role of family in resolving disputes.[52] With only 10 per cent of women seeking help, most cases remain unreported. Deeply entrenched patriarchal beliefs further normalize abuse. More than 40 per cent of respondents in one survey justified beating a woman for reasons such as "disobedience" (34.3 per cent), arguing (40.7 per cent), not performing household chores (28.2 per cent), refusing sex (22 per cent), or infidelity (79.8 per cent).[53] Nearly 50 per cent also considered violence against women to be a "private matter" for families to address, a view reportedly shared by many within the police force.[54]

The reluctance to report abuse is often driven by fear of retaliation, social pressure, and concern about consequences for children or family reputation.[55] In some cases, women consider the potential consequences for their children's future, such as economic hardship or stigma, if the father is convicted or imprisoned, which can discourage reporting. Many women are unaware of their legal rights, and prevailing societal expectations discourage them from seeking justice.[56] Women with disabilities, particularly those with psychosocial disabilities, report violence even less frequently, as they are less likely to be believed.[57]

Beyond personal risks, survivors face institutional barriers. The mission was told that survivors are often influenced by relatives or close ones, and even when they initially seek help, social pressure often compels them to withdraw complaints.[58] Mistrust of the police is another significant factor, as most women do not believe law enforcement will protect them, and when they do report violence, perpetrators are rarely prosecuted successfully.[59] Official State data shows that only 23 per cent of women who experienced physical or sexual violence sought assistance to stop the abuse.[60] The primary sources of help were their own family (64 per cent), their husband's/intimate partner's family (43 per cent), a friend (seven per cent), lawyers (five per cent), and the police (three per cent).[61]

This lack of institutional support reflects broader patterns of gender inequality in Tajikistan, where women are underrepresented in positions of authority and decision-making. The limited presence of women in political, judicial, and leadership roles not only constrains their ability to influence laws, policies and practices on GBV, but also reinforces societal norms that marginalize women's voices in public life.

4. Underrepresentation in government, judiciary and decision-making roles

Women's representation in Tajikistan's political and judicial governance remains limited, constrained by persistent gender stereotypes, patriarchal norms, and a lack of systemic

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[51] IPHR, 2024, p. 22.
[52] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[53] UNICEF. 2022. *Short summary of Baseline/KAPB study "Spotlight Initiative" to End Violence against Women and Girls*. https://www.spotlightinitiative.org/sites/default/files/publication/Spotlight_Baseline_-_KAPB_Summary_0.pdf, p.19.
[54] *Ibid,* p.19.
[55] REAct. *Combating violence against women in Tajikistan: a path to change*. https://react-aph.org/en/combating-gender-based-violence-in-tajikistan-a-path-to-change/
[56] Human Rights Watch, 2019, p. 36.
[57] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[58] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[59] IPHR, 2024, p. 11.
[60] State Statistical Agency. 2025. *Tajikistan: Demographic and Health Survey 2023*. https://www.stat.tj/wp-content/uploads/2025/06/2023-tjdhs-final-report-en-final.pdf, p. 257.
[61] *Ibid,* p. 257.

support for women's participation in decision-making processes.[62] Despite some progress, such as an increase in female representation in parliament from 2.8 per cent in 1995 to 27 per cent in 2022, the political landscape remains overwhelmingly male-dominated.[63] The 2001-2010 State Programme aimed for 30 per cent female representation across the legislative, executive, and judicial branches, but this target is yet to be achieved.[64] The CEDAW Committee has recommended increasing this target to 50 per cent to ensure equal gender representation without exceptions.[65] Women remain absent from the highest positions of political power in Tajikistan, including the posts of the President, Prime Minister, Parliamentarians, and ambassadors.[66] Women are rarely appointed to leadership positions in law enforcement or the defence sector, and the government does not publicly disclose the representation of women in these areas.[67]

There have been some efforts in place to support women's political participation, such as a requirement that a female deputy be appointed when the head of a government body is male, and a presidential quota aimed at supporting girls from rural areas. However, barriers to women's meaningful participation in decision-making remain significant.[68] Women are better represented in the sectors of education (70 per cent), health (71 per cent), and culture (45 per cent), yet they continue to face obstacles to full participation in political life.[69]

Within the judiciary, performance on gender equality remains similarly poor. Although the Constitution of Tajikistan[70] and the Law on the State Guarantees of Equality between Men and Women and Equal Opportunities for their Implementation,[71] guarantee equal protection of economic, social, civil, political and cultural rights, no specific measures are in place to ensure gender parity within the judiciary. According to government data provided to the CEDAW Committee in 2022, women constituted 21 per cent of all judges (78 out of 374) in courts of general jurisdiction.[72] In 2021, the Constitutional Court had only one woman judge out of seven,[73] while the mission was told that women make up 17 per cent of judges in the Supreme Court.[74] These figures fall short of the government's stated target of 30 per cent female representation in State bodies and 25 per cent in leadership positions.[75]

This underrepresentation limits women's influence in shaping the legal landscape and addressing issues such as GBV and discrimination. Ensuring access to justice requires

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[62] Dilbar Turakhanova. 2021. *Low women's political participation in Tajikistan: Will the anti-discrimination law be a solution?* https://fpc.org.uk/low-womens-political-participation-in-tajikistan-will-the-anti-discrimination-law-be-a-solution/

[63] Equal Future. 2023. *Tajikistan*. https://www.equalfuture-eurasia.org/womens-representation-in-politics-and-public-administration/tajikistan

[64] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 42.

[65] *Ibid,* para. 43.

[66] Dilbar Turakhanova. 2021. *Low women's political participation in Tajikistan: Will the anti-discrimination law be a solution?* https://fpc.org.uk/low-womens-political-participation-in-tajikistan-will-the-anti-discrimination-law-be-a-solution/

[67] *Ibid.*

[68] Based on a stakeholder meeting held on 19 September 2024 during the ICJ mission to Tajikistan.

[69] Based on a stakeholder meeting held on 19 September 2024 during the ICJ mission to Tajikistan.

[70] Constitution of the Republic of Tajikistan, 6 November 1994 (with amendments and additions as of 22 May 2016), art. 17.

[71] Law of the Republic of Tajikistan on the State Guarantees of Equality between Men and Women and Equal Opportunities for Their Implementation of March 1, 2005, No. 89 (with amendments from 24 December 2022), art. 5.

[72] CEDAW Seventh periodic report submitted by Tajikistan under article 18 of the Convention, due in 2022 CEDAW/C/TJK/7, 12 December 2022, para. 149.

[73]Dilbar Turakhanova. 2021. *Low women's political participation in Tajikistan: Will the anti-discrimination law be a solution?* https://fpc.org.uk/low-womens-political-participation-in-tajikistan-will-the-anti-discrimination-law-be-a-solution/.

[74] Based on a stakeholder meeting held on 18 September 2024 during the ICJ mission to Tajikistan.

[75] State Program for the Education, Selection, and Placement of Gifted Women and Girls in Leadership Positions for 2023–2030 No 204, 27 April 2022, para. 23. http://portali-huquqi.tj/publicadliya/view_qonunhoview.php?showdetail=&asosi_id=25997

greater presence of female judges, as they can enhance the transparency of the courts and contribute to advancing gender equality.[76]

III. Specific forms and patterns of GBV in Tajikistan

1. Domestic violence

1.1. International law and standards

International human rights law and standards establish a detailed framework on States' obligations to address GBV, including domestic violence. These standards clarify that States must adopt and effectively implement legal, policy and institutional measures to prevent, investigate, prosecute and punish acts of GBV, and provide access to effective remedies and reparations to survivors.

The CEDAW requires States parties to "pursue by all appropriate means and without delay a policy of eliminating discrimination against women."[77] The CEDAW Committee has affirmed that GBV constitutes a form of such discrimination and defines it as "violence that is directed against a woman because she is a woman or that affects women disproportionately."[78] State parties have an obligation to prevent GBV that results "from the acts or omissions of both the State party or its actors, on the one hand, and non-State actors, on the other."[79]

State parties have the obligation to "ensure that laws, policies, programmes and procedures do not discriminate against women" and they must also "have an effective and accessible legal and legal services framework in place to address all forms of gender-based violence against women committed by State agents."[80] With respect to non-State actors, State parties have a due diligence obligation to "take all appropriate measures to prevent, as well as investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women."[81]

The Committee Against Torture (CAT) has also clarified that where State authorities know, or have reasonable grounds to believe, that acts of torture or ill-treatment are being committed by non-State actors and fail to exercise due diligence to prevent, investigate, prosecute, or punish such acts, the State bears responsibility.[82] This principle has been explicitly applied to GBV, including domestic violence, highlighting that inaction or acquiescence by the State can facilitate such abuses and constitutes a violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).[83]

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)[84] defines domestic violence as "all acts of

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[76] Vanessa Ruiz. *The Role of Women Judges and a Gender Perspective in Ensuring Judicial Independence and Integrity.* https://www.unodc.org/dohadeclaration/en/news/2019/01/the-role-of-women-judges-and-a-gender-perspective-in-ensuring-judicial-independence-and-integrity.html; ICJ. 2022. *Bangkok General Guidance for Judges on Applying a Gender Perspective in South and Southeast Asia*. https://www.icj.org/wp-content/uploads/2024/09/ICJ_Bangkok_General_Guidance_2022.pdf, para. 26.
[77] CEDAW, art. 2.
[78] CEDAW Committee, General Recommendation No. 19: Violence against Women, 1992 (CEDAW Committee GR No. 19), para. 6; See also CEDAW GR No. 35, para. 21, "Gender-based violence against women constitutes discrimination against women under Article 1 and therefore engages all obligations under the Convention."
[79] CEDAW Committee GR No. 35, para. 21.
[80] *Ibid,* para. 22.
[81] *Ibid,* para. 24, 2(b).
[82] CAT Committee, General Comment No. 2, CAT/C/GC/2, 24 January 2008, para.18.
[83] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 39/46, 10 December 1984, arts. 2, 16.
[84] The Council of Europe Convention on preventing and combating violence against women and domestic violence, 11 May 2011 (Istanbul Convention). While Tajikistan is not a party to the Istanbul Convention, it remains one of

physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim."[85]

Domestic violence may include "intimate partner violence /IPV/ in marriage and between former spouses, in intimate partnerships, between cohabitants and former cohabitants, between men and women in civil partnerships and in de facto relations, irrespective of the fact whether they are living or lived together, or not."[86]

Domestic violence is not limited to acts committed between legal family members. UN Women reiterates that domestic violence legislation should apply broadly to "individuals who are or have been in an intimate relationship, including marital, non-marital, same sex and non-cohabitating relationships; individuals with family relationships to one another; and members of the same household."[87]

The UN General Assembly has recognized that "domestic violence can take many different forms, including physical, psychological and sexual violence"[88] and that "domestic violence can include economic deprivation and isolation and that such conduct may cause imminent harm to the safety, health or well-being of women."[89]

Moreover, the perpetrator's conduct does not need to be intentional to constitute domestic violence. The CEDAW Committee defines GBV as "including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological, or economic harm or suffering to women ...."[90] The term "likely to cause" would suggest that for purposes of attributing individual liability, conduct may be reckless or negligent, rather than intentional, but still qualify as domestic violence.

Certain factors should be considered as aggravating circumstances in domestic violence cases. According to the Istanbul Convention, such factors include the offence having been committed: by a former or current spouse, family member or cohabitant; repeatedly; against a person in a situation of vulnerability; against or in the presence of a child; by two or more individuals acting together; after or during "extreme levels of violence"; with the use or threat of a weapon; by a perpetrator previously convicted of similar offenses; or the offense ultimately resulting in "severe physical or psychological harm" to the survivor.[91]

The European Court of Human Rights (ECtHR) has underscored that violence need not be repetitive to qualify as domestic violence. It held that States Parties must adopt definitions that encompass "acts that had to be considered as a single course of conduct or a series of related events" to bring them into compliance with the European Convention on Human Rights (ECHR).[92]

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the most comprehensive international instruments addressing GBV. The Convention provides detailed and progressive standards on prevention, protection, prosecution, and integrated policies related to GBV. The CEDAW Committee has, in several of its Concluding Observations, encouraged States to consider ratifying the Istanbul Convention. Accordingly, this report refers to the Convention as a benchmark for international best practices and legal standards on GBV throughout.

[85] Istanbul Convention, art. 3(b).

[86] Working Group on Gender-based Violence. *Domestic Violence as Gender-based Violence under the CEDAW*, 1 August 2023. https://www.ohchr.org/en/documents/tools-and-resources/domestic-violence-gender-based-violence-under-cedaw, para. 2.

[87] UN Women. 2012. *Handbook for Legislation on Violence against Women*. Section 3.4.2.2. https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/12/UNW_Legislation-Handbook%20pdf.pdf

[88] Resolution 58/147 Elimination of domestic violence against women, adopted by the General Assembly on 22 December 2003, A/RES/58/147, para. 1(c).

[89] *Ibid,* para 1 (e).

[90] CEDAW Committee GR No. 35, para. 14.

[91] Istanbul Convention art. 46 a, b, c, d, e, f, g, i, h.

[92] ECtHR, *Tunikova and Others v. Russia*, Application No. 55974/16 and 3 others, Judgment of 14 December 2021, para. 153. Tajikistan is not a State Party to the Convention. The jurisprudence of the European Court may be taken as persuasive, but not binding on the State.

The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stressed that States should specifically criminalize domestic violence.[93] A resolution adopted by the UN General Assembly in 2006 similarly "stresses the need to treat all forms of violence against women and girls as a criminal offense, punishable by law."[94]

The CEDAW Committee has called on States parties to criminalize "all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual, or psychological integrity (…)"[95]. The Committee has indicated that States should ensure "protection through criminal law and criminal public prosecution in order to effectively respond to the problem of domestic violence."[96] Similarly, the Istanbul Convention obliges its parties to criminalize psychological violence, stalking, physical and sexual violence.[97]

Domestic violence should be addressed through the ordinary criminal justice system and "under no circumstances referred to any alternative dispute resolution procedures."[98] The CEDAW Committee affirms that States Parties to the CEDAW should repeal laws that may deter reporting, such as guardianship laws, protective custody practices, restrictive immigration laws, and laws permitting dual arrest or the prosecution of the reporting woman, whereas the perpetrator is acquitted.[99]

A wide range of international legal sources encourages States to provide comprehensive and structural support to survivors, including legal, financial, medical, psychological, and professional assistance.[100] The CEDAW Committee urges contracting States to ensure that survivors have access to "financial assistance, gratis or low-cost, high-quality legal aid, medical, psychosocial and counselling services, education, affordable housing, land, childcare, training and employment opportunities for women who are victims/survivors and their family members."[101] Likewise, the Istanbul Convention directs States parties to ensure that survivors have access to "services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment,"[102] as well as to set up "appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation."[103]

Children also have a right to be free from domestic violence, as guaranteed by the UN Convention on the Rights of the Child (CRC),[104] to which Tajikistan is a Party. The CRC requires States parties to establish "social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-

[93] Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Domestic violence and the prohibition of torture and ill-treatment, A/74/148, 12 July 2019, para. 2.
[94] Intensification of efforts to eliminate all forms of violence against women, adopted by the General Assembly on 19 December 2006 as resolution 61/143, https://www.un.org/womenwatch/daw/vaw/A_RES_61_143.pdf para 4.
[95] CEDAW Committee GR No. 35, para. 29(a).
[96] Working Group on Gender-based Violence. *Domestic Violence as Gender-based Violence under the CEDAW*, 1 August 2023, https://www.ohchr.org/en/documents/tools-and-resources/domestic-violence-gender-based-violence-under-cedaw, para. 3.1. See also CEDAW Committee, *X.Y v. Russian Federation,* Communication No 100/2016, 9 August 2019, CEDAW/C/73/D/100/2016, para. 11; CEDAW Committee, *O.G. v. Russia,* Case 95/2015, 20 November 2017, CEDAW/C/68/D/91/2015, para. 7.7.
[97] Istanbul Convention, art. 33, 34, 35, 36,
[98] CEDAW General Recommendation No. 33: on women's access to justice para. 58(c). See also the Istanbul Convention, art. 48, requiring state parties to "prohibit mandatory alternative dispute resolution processes."
[99] CEDAW Committee GR No. 35, para. 29(c) (iii).
[100] *Ibid,* para. 31(a) (iii); Istanbul Convention, art. 20 (1) and 23; Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995) para 124.
[101] CEDAW Committee GR No. 35, para. 31(a) (iii).
[102] Istanbul Convention, art. 20 (1).
[103] *Ibid,* art. 23.
[104] Convention on the Rights of the Child (CRC), Adopted by the General Assembly as part of Resolution 44/25 on 20 November 1989.

up instances" where violence in the home occurs.[105] In this regard, the CEDAW Committee recalls that in matters of child custody and visitation rights, the best interests of the child must be a central concern, and it systematically recommends that national authorities take into account the existence of GBV or a context of domestic violence when making such decisions.[106] Similarly, the UN Working Group on Violence against Women, has affirmed that "children witnessing GBVAW have a right to be heard and to have their best interests taken into account by all decision makers as a primary consideration, taking also into account the existence of a context of domestic violence."[107]

Adequate support services must also be made available for child witnesses of domestic violence, including age-appropriate psychosocial counselling.[108] The Istanbul Convention likewise recognizes that State support programmes aimed at preventing domestic violence must address "the needs of vulnerable persons, including child victims."[109]

To strengthen institutional responses, States must provide "mandatory, recurrent and effective" education and training for members of the judiciary, lawyers, and law enforcement officers to promote understanding of "the character dynamics that characterize intimate partner violence."[110] Health care workers should also be trained in "adequate ways of interacting with women in the context of their work and eliminating factors that lead to their revictimization."[111] Overall, States should implement support measures with "an approach centered around the victim/survivor, acknowledging women as rights holders and promoting their agency and autonomy."[112]

Preventive and protective measures

Both the CEDAW Committee and the UN Special Rapporteur on violence against women, its causes and consequences (SRVAW) recommend repealing mandatory mediation requirements in divorce proceedings involving domestic violence.[113] UN Women recommends adopting legislation to "explicitly prohibit mediation in all cases of violence against women, both before and during legal proceedings."[114]

Protective orders are also an important mechanism of protection for survivors of domestic violence. The CEDAW Committee calls on States parties to protect survivors with measures such as "immediate risk assessment and... where appropriate, the issuance and monitoring of eviction, protection, restraining or emergency barring orders against alleged perpetrators, including adequate sanctions for non-compliance."[115]

Similarly, the Istanbul Convention requires States parties to protect survivors through emergency barring orders (EBO) or restraining or protection orders.[116] EBO should be used in "situations of immediate danger" to require the perpetrator to vacate the residence of the survivor or to prohibit contact.[117] Restraining or protection orders should be available for immediate protection without undue financial or administrative burdens; be issued for

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[105] Convention on the Rights of the Child (CRC), Adopted by the General Assembly as part of Resolution 44/25 on 20 November 1989, art. 19.
[106] CEDAW Committee, *Angela González Carreño v. Spain*, no. 47/2012, 16 July 2014, para.9.4
[107] Working Group on Gender-based Violence. *Domestic Violence as Gender-based Violence under the CEDAW*, 1 August 2023. https://www.ohchr.org/en/documents/tools-and-resources/domestic-violence-gender-based-violence-under-cedaw, para. 104.
[108] Istanbul Convention, art. 26 (2).
[109] Istanbul Convention art. 18 (3).
[110] Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/35/30, 2 June 2017, para. 30 (e)(ii).
[111] *Ibid,* para. 30 (e)(ii).
[112] *Ibid,* para. 28.
[113] CEDAW Committee, Concluding observations on the sixth periodic report of the Republic of Moldova, CEDAW/C/MDA/CO/6, 10 March 2020, para. 43(c); Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/35/30, 13 June 2017, para. 114.
[114] UN Women. 2012. *Handbook for Legislation on Violence against Women,* p. 37.
[115] CEDAW Committee GR No. 35, para. 31 (a)(ii).
[116] Istanbul Convention art. 52, 53(1).
[117] Istanbul Convention art. 52.

a specified period or until modified or discharged; be available on an *ex parte* basis with immediate effect where necessary; apply irrespective of other legal proceedings; and be allowed to be introduced in subsequent legal proceedings.[118]

Protective orders may "require the perpetrator to maintain a specified distance from the victim at all times; and prohibit the perpetrator from attempting to contact the victim in any way (offline or online)."[119]

One particularly critical measure is requiring the perpetrator to leave the shared home. The SRVAW has stated that "pervasive cultural assumptions about a woman's need to 'leave' a violent household — as opposed to the need to remove a violent partner can undermin[e] women's enjoyment of the right to adequate housing."[120] Accordingly, protective orders should require perpetrators to vacate the survivor's home and stay away from specific places, including workplaces or children's schools, and refrain from contacting the survivor or other persons at risk.[121]

Protective orders should "typically order a perpetrator to vacate the residence of the victim for a sufficient period of time and prohibit the perpetrator from entering the residence or contacting the victim."[122] UN Women, in its Handbook on Legislation on Violence against Women, further recommends that protective orders include measures such as "order[ing] the defendant/perpetrator to stay a specific distance away from the complainant/ survivor and her children."[123] The CEDAW Committee recommends that domestic violence must be taken into consideration when allocating custody and visitation rights.[124] Where children are involved, "visitation by the violent parent must be carefully regulated to ensure that victims and their children are safe."[125]

Breaches of protective orders must be met with effective enforcement.[126] The SRVAW has declared it "absolutely necessary that breaches of orders are criminalized to enable police to arrest the perpetrator."[127] Compliance must be "rigorously and continuously monitored", and violations must be criminalized with "sufficiently dissuasive and deterrent sanctions."[128]

The Istanbul Convention also directs States parties to implement preventative programmes, which are designed to teach perpetrators of domestic violence to adopt non-violent behaviour in their relationships, with the aim of preventing further abuse and transforming violent behavioural patterns.[129] However, these programmes must be

[118] Istanbul Convention art.53 (2).
[119] *Tunikova and Others v. Russia*, ECtHR, Application No. 55974/16 and 3 others, Judgment of 14 December 2021, para. 157.
[120] Report of the Special Rapporteur on violence against women, its causes and consequences 2 June 2017, A/HRC/35/30 para. 82. See also Report of the Special Rapporteur on violence against women, its causes and consequences: Mission to Afghanistan, A/HRC/29/27/Add.3, 12 May 2015, para 44.
[121] Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/35/30, 2 June 2017, para. 61.
[122] Working Group on Gender-based Violence. *Domestic Violence as Gender-based Violence under the CEDAW*, 1 August 2023. https://www.ohchr.org/en/documents/tools-and-resources/domestic-violence-gender-based-violence-under-cedaw, para. 111 (b).
[123] UN Women. 2012. *Handbook for Legislation on Violence against Women,* Section 3.10.3
[124] CEDAW Committee, *Angela González Carreño v. Spain*, no. 47/2012, 16 July 2014, para.9.4
[125] Working Group on Gender-based Violence. *Domestic Violence as Gender-based Violence under the CEDAW*, 1 August 2023, https://www.ohchr.org/en/documents/tools-and-resources/domestic-violence-gender-based-violence-under-cedaw, para. 104.
[126] Istanbul Convention art. 53 (3).
[127] [127] Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/35/30, 2 June 2017, para. 85; See also UN Women, *Handbook for Legislation on Violence against Women,* page 50.
[128]*Tunikova and Others v. Russia*, ECtHR, Application No. 55974/16 and 3 others, Judgment of 14 December 2021, para. 157.
[129] Istanbul Convention art.16 (1).

developed in a way that places the rights and well-being of survivors at the forefront.[130] The goal of perpetrator rehabilitation must not compromise the safety of the survivor.[131]

1.2. National law and practice

Legal framework and definitions

In 2013, Tajikistan adopted the Law on the Prevention of Domestic Violence,[132] which provides a legal basis for protecting survivors and preventing abuse. This law defines domestic violence as: "An intentional unlawful act or threat of an act of a physical, psychological, economic, or sexual nature, as well as neglectful treatment by one family member toward another, which violates or may violate the rights and freedoms of these individuals, demeans their dignity, causes physical or moral harm, or leads to forced or intentional deprivation of liberty." [133]

The law also sets out four distinct forms of domestic violence, providing for an understanding of how abuse may occur within families:

> *Physical domestic violence* is defined as: "An intentional unlawful act by one family member against another, involving the use of physical force that results in physical pain or harm to the victim's health". [134]
>
> *Psychological domestic violence* is defined as: "A threat of physical, sexual, or economic violence, psychological impact, humiliation of the honour and dignity of persons living together and maintaining a common household, leading to the commission of offences or acts that result in a violation of psychological, physical, or personal development, or a violation of rights and freedoms."[135]
>
> Sexual domestic violence is defined as: "An intentional unlawful act by one family member against another that infringes on the sexual integrity and sexual freedom of the person, including sexual acts committed against a minor family member".[136]
>
> *Economic domestic violence* is defined as: "An intentional unlawful act by one family member against another aimed at depriving them of housing, food, clothing, property, or financial means to which the victim has a legal right under the laws of the Republic of Tajikistan. This act may lead to a deterioration of the victim's physical or mental health or result in other adverse conditions." [137]
>
> The law also defines *a victim of domestic violence* as: "A family member who suffered from intentional physical, moral or material harm inflicted by other family member."[138]

These definitions establish a formal framework for identifying and categorizing abusive behaviour. However, their wording also reveals potential limitations that could affect how effectively the law protects survivors in practice.

First, while the definition of domestic violence includes neglectful treatment, its four forms described in the law do not do so. Therefore, the requirement that acts be "intentional" may exclude situations where harm is caused without a clear intent to injure. For example,

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[130] Istanbul Convention art. 16 (3).
[131] UN Women / UNFPA. 2022. *Regional Guidance on Working with Perpetrators of Domestic Violence and Early Intervention: Eastern Partnership Region*. https://eca.unwomen.org/sites/default/files/2023-01/UN%20Woman%20-%20EU%204%20Gender%20Equality%5B3%5D.pdf, p. 9.
[132] Law on the prevention of domestic violence, No. 954, 19 March 2013 (as amended by the Law of the Republic of Tajikistan dated 20.06.2024 No. 2064) (Law on the prevention of domestic violence).
[133] *Ibid,* art. 1.
[134] *Ibid.*
[135] *Ibid.*
[136] *Ibid.*
[137] *Ibid,* art. 6.
[138] *Ibid.*

domestic violence may result from reckless or negligent conduct,[139] which can nonetheless be deeply traumatic or coercive.[140]

Second, the law limits the definition of domestic violence to acts committed by family members. This leaves a substantial protection gap and is inconsistent with international standards, which recognize that intimate partner violence can occur outside formal family structures, including in relationships between unmarried or non-cohabiting partners.[141] As a result, some survivors may fall outside the scope of protection provided by this law.

While the law refers to "family members," which logically includes children, it does not explicitly recognize them as victims or survivors in their own right. Children who are exposed to domestic violence, whether they directly experience abuse or witness it within the household, are profoundly affected and require tailored protection and support. The absence of explicit recognition of children as both direct and indirect victims represents a significant gap in protection and is non-compliant with international law that requires child-sensitive responses to domestic violence.[142]

Overall, the law provides in substantial part a basis for combatting GBV, yet the gaps mentioned above indicate a need to expand and refine the definitions to reflect the full spectrum of abusive behaviours and extend protection to all survivors.

Criminal law and domestic violence

Notwithstanding the international standards and jurisprudence indicating that domestic violence must be made a specific offense in international criminal law, Tajikistan's existing legislation fails to do so.[143] The Mid-term Development Programme for 2021–2025 included a target to criminalize violence within the family by the end of 2023, but this has not so far been realized.[144]

In its 2022 periodic report to the CEDAW Committee, Tajikistan noted that a new draft Criminal Code was under development.[145] In autumn 2023, the working group responsible for the revision submitted a draft to the Presidential Administration, which, for the first time, included a dedicated provision on domestic violence.[146] Article 153 on "Domestic violence" would criminalize acts "committed by one family member against another family

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[139] Criminal Code of the Republic of Tajikistan No. 574 of May 21, 1998 (Criminal Code), Article 29. *Crime Committed through Negligence.*
"A socially dangerous act committed through recklessness or negligence is recognised as a crime committed through negligence.
A crime is considered to be committed through recklessness if the person who committed it foresaw the possibility of socially dangerous consequences of their act (or omission) but, out of overconfidence and without sufficient grounds, relied on preventing those consequences.
A crime is considered to be committed through negligence if the person who committed it did not foresee the possibility of socially dangerous consequences of their act (or omission), although with attentiveness and foresight they should and could have foreseen them."
[140] CEDAW Committee GR No. 35, para. 14.
[141] Working Group on Gender-based Violence. *Domestic Violence as Gender-based Violence under the CEDAW*, 1 August 2023. https://www.ohchr.org/en/documents/tools-and-resources/domestic-violence-gender-based-violence-under-cedaw, providing that domestic violence can occur in relationships "irrespective of the fact whether they are living or lived together", para. 3; see also Istanbul Convention Article 3(b), providing that domestic violence can occur "whether or not the perpetrator shares or has shared the same residence with the victim."
[142] Convention on the Rights of the Child (CRC), Adopted by the General Assembly as part of Resolution 44/25 on 20 November 1989, art. 19; Istanbul Convention, art. 26(1); CRC, General comment No. 13: The right of the child to freedom from all forms of violence, 18 April 2011, para. 54(b).
[143]CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 36; CEDAW Committee, Concluding Observations on Tajikistan CEDAW/C/TJK/CO/6 (14 November 2018), para. 26(a); CESCR, Concluding observations on the fourth periodic report of Tajikistan E/C.12/TJK/CO/4 (10 November 2022), para. 31(a); CAT, Concluding Observations on Tajikistan CAT/C/TJK/CO/3 (18 June 2018), para. 48(c).
[144] Mid-term Development Programme for 2021-2025 adopted by the Resolution of the Government of Tajikistan No.168 on 30 April 2021, https://sud.tj/upload/documents/ru/BMR_2021_2025_ru_web.pdf, p. 224.
[145] CEDAW Seventh periodic report submitted by Tajikistan under Article 18 of the Convention, due in 2022 CEDAW/C/TJK/7 (12 December 2022), para. 121.
[146] IPHR, 2024, p. 4.

member, taking the form of battery or other violent acts involving minor injury to health, isolation, intimidation for the purpose of imposing one's will or exerting personal control over the victim, or financial deprivation, including deprivation of livelihood or neglect causing minor harm to the health of the victim."[147] The draft provision consists of five parts and outlines penalties ranging from mandatory correctional labour to a prison sentence of up to 10 years, depending on the severity of the offence.[148]

While the inclusion of Article 153 in the draft Criminal Code marks a significant shift in recognizing domestic violence as a criminal offence in Tajikistan, adoption in its current form would reproduce several conceptual shortcomings that have long characterized the country's broader approach to such violence. The definition still focuses on physical acts that result in "minor injury," and does not fully reflect internationally recognized dimensions of domestic violence, such as psychological violence, coercive control, and economic abuse, already contained in the law on Domestic Violence. The Draft Criminal Code fails to criminalize marital rape and sexual assault, despite the prescriptions by the CEDAW Committee and the CAT.[149] Furthermore, by limiting perpetrators to "family members," the draft excludes violence by intimate partners who are not cohabiting or legally married, thereby leaving a significant protection gap for women in informal or former relationships. As of December 2025, there was no indication as to when the draft would be considered for adoption, suggesting further delays in legal reform and implementation.

In the absence of a separate criminal offence, domestic violence cases are instead prosecuted under general provisions of the Criminal Code,[150] which address various forms of violence but do not explicitly recognize domestic violence or family relationships. These include Article 110 (intentional infliction of grievous bodily harm),[151] Article 111 (intentional infliction of harm to health of moderate severity),[152] Article 112 (intentional infliction of slight harm to health),[153] Article 116 (beating),[154] Article 117 (tormenting),[155] Article 143-1 (torture),[156] with penalties determined according to the severity of the harm

[147] CEDAW Seventh periodic report submitted by Tajikistan under Article 18 of the Convention, due in 2022 CEDAW/C/TJK/7 (12 December 2022), para. 121.
[148] *Ibid.*
[149] CEDAW Concluding Observations on Tajikistan CEDAW/C/TJK/CO/6 (14 November 2018), para. 26; CEDAW Concluding Observations on Tajikistan CEDAW/C/TJK/CO/7 (19 February 2024), para. 36; CAT Concluding Observations on Tajikistan CAT/C/TJK/CO/3 (18 June 2018), para. 48c.
[150] Criminal Code of the Republic of Tajikistan No. 574 of May 21, 1998.
[151] "*Intentional infliction of grievous bodily harm, dangerous to human life or resulting in the loss of vision, speech, hearing, or any organ, or the loss by an organ of its functions; termination of pregnancy; or causing an indelible disfigurement of the face; as well as causing other harm to health dangerous to life or resulting in a health disorder associated with a significant and lasting loss of general ability to work by at least one third, or with the offender's awareness of a complete loss of professional ability to work, or resulting in a mental illness, drug addiction, or substance abuse disorder".* Criminal Code, art. 110(1).
[152] "*Intentional infliction of bodily harm that is not dangerous to life and has not resulted in the consequences specified in Article 110 of this Code, but has caused a prolonged health disorder or a significant and lasting loss of general ability to work of less than one third".* Criminal Code, art. 111(1).
[153] "*Intentional infliction of slight harm to health, causing a short-term health disorder or resulting in a minor lasting loss of ability to work".* Criminal Code, art. 112.
[154] "*Beating or committing other violent actions that caused physical pain, but did not entail the consequences specified in Article 112 of this Code".* Criminal Code, art. 116.
[155] "*Infliction of physical or mental suffering through systematic beating or other violent means, if this has not resulted in the consequences specified in Articles 110 and 111 of this Code."* Criminal Code, art. 117.
[156] "*The intentional infliction of physical and/or mental suffering committed by a person conducting an inquiry or preliminary investigation, or by another official, or at their instigation, or with their tacit consent or acquiescence, on another person for the purpose of obtaining from that person or a third person information or a confession, or punishing him or her for an act that he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind".* Criminal Code, art. 143-1.

caused.[157] Certain aggravating elements are recognized, such as harm to minors,[158] sexual violence,[159] acts motivated by ethnic or racial hatred,[160] or offences against pregnant women[161] or persons in a helpless state.[162]

Beyond physical violence, psychological violence may sometimes be prosecuted under related offences such as incitement to suicide[163] or tormenting,[164] and sexual violence under crimes against sexual freedom.[165] However, economic violence remains largely unaddressed.[166] While certain Criminal Code provisions, such as Article 149 on unlawful restriction of movement or Article 164 on hindering education, may be invoked indirectly, there are no provisions that specifically address economic abuse in the context of domestic violence.[167]

Administrative responsibility

With the adoption of the Law on the Prevention of Domestic Violence, two administrative offences have been introduced into the Code of Administrative Offences.[168] Article 93(1) penalizes non-criminal forms of domestic violence, such as intentional physical, psychological, or economic abuse or threats within family relationships, with fines ranging from 150 to 375 TJS (12-32 EUR).[169] Article 93(2) addresses violations of protective orders and provides for fines of 375 – 750 TJS (32-64 EUR)[170] or administrative arrest for 5–15 days.[171]

While penalizing such behaviour is a positive step, the use of the administrative law is generally not appropriate for conduct that should arguably fall within the criminal law. The administrative law, for example, should not be used to deprive persons of liberty. Light penalties are unlikely to carry a significant deterrent effect,[172] especially given that the legislation fails to provide for increased penalties in cases of repeat violations.[173] In a review of 40 administrative cases, 39 ended in fines, most at the minimum level allowed

[157] In Tajikistan, sanctions for crimes depend on their gravity, considering additional elements specified by the crime and general mitigating or aggravating factors outlined in the Criminal Code, which courts apply when determining sentences. However, if a crime explicitly includes certain aggravating factors as part of its elements, those factors cannot be additionally applied. Article 18 of the Criminal Code defines the gravity of crimes as follows: minor crimes are punishable by less than two years of imprisonment; crimes of medium gravity by less than five years; grave crimes by less than 12 years; and extremely grave crimes by more than 12 years of imprisonment, life imprisonment, or the death penalty.
[158] Criminal Code, art. 110 (2)(c).
[159] *Ibid,* art. 110 (2)(l).
[160] *Ibid,* art. 111 (2)(f).
[161] *Ibid,* art. 117 (2)(d)
[162] *Ibid,* art. 117 (2)(c)
[163] *Ibid,* art. 109.
[164] *Ibid,* art. 117.
[165] Chapter 18 of the Criminal Code addresses Crimes Against Sexual Freedom and Sexual Inviolability, including offences such as rape (Article 138), violent acts of a sexual nature (Article 139), compulsion to acts of a sexual nature (Article 140), among others.
[166] Dilbar Turakhanova, Preliminary research on the legal framework in Tajikistan drafted for the WEMJUST project, September 2024.
[167] Dilbar Turakhanova, Preliminary research on the legal framework in Tajikistan drafted for the WEMJUST project, September 2024.
[168] Code of Administrative Offences, No. 455, 31 December 2008 (Code of Administrative Offences).
[169] Code of Administrative Offences, art. 93(1). This results in a fine imposed on natural persons in the amount of two to five calculation units, which in 2025 equal 75 TJS each and, as of June 2025, correspond to approximately 12-32 euros, or 15-37 US dollars. https://asiaplustj.info/ru/news/tajikistan/power/20241205/parlament-tadzhikistana-utverdil-gosbyudzhet-na-2025-god.
[170] This results in a fine imposed on natural persons in the amount of five to ten calculation units, which in 2025 equal 75 TJS each and, as of June 2025, correspond to approximately 32 to 64 euros, and 37 to 74 US dollars. https://asiaplustj.info/ru/news/tajikistan/power/20241205/parlament-tadzhikistana-utverdil-gosbyudzhet-na-2025-god.
[171] Code of Administrative Offences, art. 93(2). This results in a fine imposed on natural persons in the amount of five to ten calculation units, which in 2025 equal 75 Tajik Somoni each and, as of June 2025, correspond to approximately 37 to 74 US dollars. https://asiaplustj.info/ru/news/tajikistan/power/20241205/parlament-tadzhikistana-utverdil-gosbyudzhet-na-2025-god.
[172] UN Women. 2012. *Handbook for Legislation on Violence against Women*, p. 50.
[173] *Ibid.*

under Article 93(1).[174] The maximum fine was imposed in just one case under Article 93(2), and only a single instance resulted in short-term detention.[175]

In addition, Article 93(1) applies only to intentional acts and only within the context of family relationships, excluding harmful conduct resulting from negligence or coercion and violence between non-cohabiting or unmarried partners.[176]

Research into 40 administrative cases revealed that internal affairs bodies and courts rarely examined the violence through the lens of coercive control, power imbalances, or restrictions on the survivor's rights and freedoms.[177] They are rather treated as a consequence of superficial or isolated causes, such as alcohol intoxication, jealousy, or mutual animosity.[178]

Protective orders

In Tajikistan, protective orders are issued by the head of the local internal affairs department or their deputies within 24 hours of a complaint, incident, or threat of domestic violence.[179] They apply to mentally competent individuals aged 16 or older[180] and initially last for up to 30 days.[181] As amended in June 2024, protective orders may now be extended to 60 days upon the survivor's request and with the prosecutor's approval (previously, the maximum extension was 30 days), without the possibility of further extension beyond the 60-day maximum.[182]

A protection order issued against a perpetrator in domestic violence cases may include following elements: "a prohibition of any kind of violence against the victim; a ban on search, surveillance, visits, negotiations, or any other relations conducted against the will of the victim that restrict their rights and freedoms; a recommendation for a timely return to the home; and a prohibition on the use of alcoholic beverages and intoxicating substances for the duration of the order."[183] Violating a protective order may result in a fine of approximately 375 – 750 Tajikistani somoni (TJS)[184] or administrative arrest for 5–15 days.[185]

Protective orders can be appealed in court, which must review the appeal within three days.[186] The internal affairs authority that issued the protective order is responsible for monitoring enforcement.[187] In more severe cases, where protective orders are deemed insufficient to ensure safety, law enforcement may apply administrative detention under national law.[188]

The law omits a number of potential protective measures contained in international standards.[189] For example, protective orders in Tajikistan do not contain the possibility of

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[174] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom*. https://shorturl.at/zDEnN, p. 38.
[175] *Ibid.*
[176] UN Women. 2012. *Handbook for Legislation on Violence against Women,* p. 23.
[177] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom*. https://shorturl.at/zDEnN, p. 35.
[178] *Ibid.*
[179] Law on the prevention of domestic violence, art. 21(1), (4).
[180] *Ibid,* art. 21(3).
[181] *Ibid,* art. 21(5).
[182] *Ibid,* art. 21(5).
[183] *Ibid,* art. 21(7).
[184] This results in a fine imposed on natural persons in the amount of five to ten calculation units, which in 2025 equal 75 TJS each and, as of June 2025, correspond to approximately 32 to 64 euros, and 37 to 74 US dollars. https://asiaplustj.info/ru/news/tajikistan/power/20241205/parlament-tadzhikistana-utverdil-gosbyudzhet-na-2025-god
[185] Law on the prevention of domestic violence, art. 21(2); Code of Administrative Offences, No. 455, 31 December 2008, art. 93(2).
[186] Law on the prevention of domestic violence, art. 21(9).
[187] *Ibid,* art. 21(11).
[188] *Ibid,* art. 22.
[189] UN Women. 2012. *Handbook for Legislation on Violence against Women,* p. 44, 3.10.3.

explicit prohibitions on those subject to the order approaching the survivor.[190] Other missing possibilities for safeguards include removal of the perpetrator from the shared home rather than isolating the survivor and their family; access to shelters for survivors;[191] prohibition on the use of shared property,[192] restrictions on contact with children; and the imposition of no-contact conditions.[193] Some provisions, such as the requiring "a prohibition of any kind of violence against the victim," are redundant, since all violence is already prohibited under the Criminal Code.

The mission was also informed that many girls and women who marry move to live with their husband's family, complicating the enforcement of protective measures. Even when those subject to protective orders are removed, survivors may face hostility or social sanctions from extended family members for having exposed domestic abuse. The legislation also fails to address the lack of social housing or safe accommodation options for women who wish to divorce or live separately from their husbands, leaving them with few viable means to escape abusive situations.

While the Law outlines general protective measures, it lacks clear provisions granting the police or judicial authorities the power to issue emergency barring orders — a critical tool for ensuring the immediate safety of survivors. The inclusion of a recommendation for the survivor's "timely return to the home"[194] is deeply problematic as it risks forcing survivors to return into unsafe or abusive environment.[195]

Obtaining protection orders often involves delays and high court fees, and many women lack access to alternative shelters.[196] Moreover, enforcement is typically impeded by limited resources and inadequate monitoring. In remote areas, authorities often fail to assess compliance or follow up with survivors effectively.[197] Courts manage numerous cases related to violations of protective orders, yet there is a lack of oversight. Once the 60-day period expires, no further action is taken, leaving survivors unprotected.[198] This fails to meet the State's international legal obligation to provide protection for a sufficient period of time, as the risk to survivors may persist far longer than the current 60-day limit.[199]

Additionally, the short duration of protective orders and the absence of systematic monitoring of the subject's behaviour or referral to corrective programmes limit the law's effectiveness. The lack of criminal liability for repeated violations of protective orders and reliance solely on fines or administrative detention fails to meet international standards,[200] particularly the State's due diligence obligations to prevent and respond to GBV.[201]

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[190] Article 52 of the Istanbul Convention, requiring parties to ensure that competent authorities have power to prohibit perpetrators of domestic violence from "contacting the victim or person at risk."
[191] See The Beijing Declaration and Platform for Action, para. 125(a), calling on governments to "provide well-funded shelters and relief support for girls and women subject to violence."; See also CEDAW Committee GR No. 33, para 16(b), calling on States to guarantee access to financial aid, crisis centers, shelters, hotlines, and medical, psychosocial and counselling services.
[192] Report of the Special Rapporteur on violence against women, its causes and consequences 2 June 2017, A/HRC/35/30, para. 61.
[193] UN Women. 2012. *Handbook for Legislation on Violence against Women,* p. 44, 3.10.3.
[194] Law on the prevention of domestic violence, art. 21(7).
[195] See also Report of the Special Rapporteur on violence against women, its causes and consequences 2 June 2017, A/HRC/35/30 para. 82: "The Special Rapporteur has noted that there are some pervasive cultural assumptions about a woman's need to "leave" a violent household - as opposed to the need to remove a violent partner that undermines women's enjoyment of the right to adequate housing."
[196] IPHR, 2024, p. 18.
[197] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[198] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[199] Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/35/30, 13 June 2017, para. 112(b).
[200] UN Women. 2012. *Handbook for Legislation on Violence against Women,* p. 49, 3.10.9.
[201] See Report of the Special Rapporteur on violence against women, its causes and consequences 2 June 2017, A/HRC/35/30 para. 85: "it is absolutely necessary that breaches of orders are criminalized to enable police to arrest the perpetrator."; see also UN Women, *Handbook for Legislation on Violence against Women*,

Preventive and protective measures

To protect survivors of domestic violence, the Law on the Prevention of Domestic Violence in Tajikistan also outlines individual preventive measures described as "a targeted influence on the consciousness and behaviour of the person who committed domestic violence, applied in order to prevent them from committing an offence and to ensure the safety of the victim."[202]

According to the Law, these measures include educational conversations, police intervention, issuance of protective orders, administrative detention, compulsory medical treatment, and legal actions such as revoking parental rights or cancelling custody and guardianship.[203] The placement of survivors in support or rehabilitation centres is also provided for.[204] The application of these measures takes into account the subject's individual circumstances and the level of risk they pose.[205] The grounds for initiating preventive measures include a complaint by the victim, reports from individuals or organizations, or cases identified by law enforcement.[206] Special attention is given to educational conversations, protective orders, and administrative detention.

According to the Law, "an educational conversation with the person who committed domestic violence and the victim is conducted by entities responsible for preventing domestic violence, with the aim of identifying the causes and conditions that contributed to the commission of domestic violence, explaining its social and legal consequences, and restoring and strengthening the stability of the family."[207] As a first step, this measure reflects the prevailing societal emphasis in Tajikistan on preserving family unity and promoting reconciliation, often at the expense of prioritizing the survivor's protection. Rather than serving as a deterrent measure, it can frequently perpetuate or provoke further abuse and feeling of lack of effective remedies by the survivors.

Rights and support for survivors

The Law also sets out certain rights of individuals who have experienced domestic abuse, including access to medical, psychological, legal, and social support; the ability to seek compensation for harm suffered; placement in support or rehabilitation centres; access to legal advice and safety information; and the right to report the perpetrator to law enforcement, local authorities, or the courts.[208] Together, these provisions establish a framework for survivor protection. However, the effectiveness of these measures, and survivors' ability to meaningfully exercise their rights, often depends on the adequacy of implementation and prevailing societal attitudes toward domestic violence, as further addressed in Chapter IV, sections 1 and 3.

2. Harmful practices

2.1. International law and standards

Harmful practices are defined by the CEDAW and CRC Committees as those "deeply rooted in social attitudes according to which women and girls are regarded as inferior to men and

page 50; See also CEDAW Committee GR No. 35, para. 31 (a)(ii), requiring states to protect victims by establishing adequate sanctions for non-compliance of protective orders; See also *Tunikova and Others v. Russia*, ECtHR, Application No. 55974/16 and 3 others, Judgment of 14 December 2021, para. 157, requiring breach of protective orders to be "criminalized and accompanied by sufficiently dissuasive and deterrent sanctions."

[202] Law on the prevention of domestic violence, art. 18(1).
[203] *Ibid,* 18(2).
[204] *Ibid,* art. 18(2).
[205] *Ibid,* art. 18(3).
[206] *Ibid,* art. 19(1).
[207] *Ibid,* art. 20.
[208] *Ibid,* art. 6.

boys based on stereotyped roles."[209] These practices are "often associated with serious forms of violence or are themselves a form of violence against women and children."[210]

Harmful practices non-exhaustively include: female genital mutilation,[211] child and/or forced marriage,[212] polygamy, so-called honour crimes, dowry-related violence,[213] neglect of girls/preferential treatment of boys,[214] extreme dietary restrictions including during pregnancy (force-feeding, food taboos), virginity testing, binding, scarring, branding, corporal punishment, stoning, violent initiation rites, widowhood practices, accusations of witchcraft, infanticide, incest, body modifications such as fattening, isolation, or the use of lip discs or neck rings, and breast ironing.[215] The CEDAW and CRC Committees have indicated that consistent with the obligations in their respective treaties, States should "explicitly prohibit by law and adequately sanction or criminalize harmful practices, in accordance with the gravity of the offence and harm caused" and to "provide for means of prevention, protection, recovery, reintegration and redress for victims and combat impunity for harmful practices."[216]

Early marriages

Early marriage, also referred to as child marriage, is defined as "any marriage where at least one of the parties is under 18 years of age."[217] The "overwhelming majority" of early marriages involve girls.[218] According to the CEDAW Convention, "the betrothal and the marriage of a child shall have no legal effect."[219]

CEDAW obliges contracting parties to "specify a minimum age for marriage."[220] The CEDAW Committee and the CRC Committee jointly recommend that, to effectively address and eliminate early marriage, States parties should ensure "that a minimum legal age of marriage for girls and boys, with or without parental consent, is established at 18 years."[221]

Early marriage is also generally inconsistent with States parties' obligations to ensure access to education for women and girls.[222] The CEDAW requires States parties to "ensure to [women] equal rights with men in the field of education."[223] The Committee has recognized that girls subject to child marriage are often prevented from completing their

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[209] Joint general recommendation No.31 of the Committee on the Elimination of Discrimination against Women/ General Comment No. 18 of the Committee on the Rights of the Child on harmful practices UN Doc CEDAW/C/GC/31-CRC/C/GC.18 (2014), para. 6.
[210] *Ibid,* para. 7.
[211] Declaration on the Elimination of Violence against Women (DEVAW), Adopted by the General Assembly as part of Resolution 48/ 104 on 20 December 1993, art. 2.
[212] Committee on Economic, Social and Cultural Rights, General Comment No 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights, requiring state parties to "ensure that men and women have an equal right to choose if, whom and when to marry- in particular, the legal age of marriage for men and women should be the same, and boys and girls should be protected equally from practices that promote child marriage, marriage by proxy, or coercion"
[213] DEVAW, art. 2.
[214] Committee on the Rights of the Child, General Comment No. 13: The right of the child to freedom from all forms of violence, CRC/C/GC/13 (2011) para. 4 and 72(b). In addressing the gender dimensions of violence against children, paragraph 72(b) provides: "States parties should ensure that policies and measures take into account the different risks facing girls and boys in respect of various forms of violence in various settings."
[215] Joint general recommendation No.31 of the Committee on the Elimination of Discrimination against Women/ General Comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC.18, 14 November 2014, (CEDAW Committee/CRC Joint GR No.31), para. 7, 9.
[216] *Ibid,* para. 13.
[217] *Ibid,* para. 20.
[218] *Ibid.*
[219] CEDAW, art. 16(2).
[220] *Ibid.*
[221] CEDAW Committee/CRC Joint GR No.31, para 55(f).
[222] *Ibid,* para. 61.
[223] CEDAW, art. 10; CEDAW Committee, General Recommendation No. 36: on the right of girls and women to education, CEDAW/C/GC/36, 27 November 2017, para. 20.

education due to "forced exclusion from school, social norms confining girls to the home, or stigma."[224]

Forced marriages

Forced marriages are those in which "one or both parties have not personally expressed their full and free consent to the union."[225] Common examples include child marriages, exchange or trade-off marriages, servile and levirate marriages, and the practice of compelling a woman to marry her rapist to shield him from criminal liability.[226] The CEDAW Convention stresses that States parties must ensure that women have "the same right freely to choose a spouse and to enter into marriage only with their free and full consent."[227] To this end, the CEDAW and CRC Committees have jointly recommended the prohibition of practices that facilitate forced marriage, such as "the payment of dowries and bride prices."[228]

Polygamy

The UN Human Rights Committee, in clarifying the obligation of States Parties to ensure the equality between women and men under the ICCPR, has stated that polygamy "should be definitely abolished wherever it continues to exist."[229] Additionally, States parties to the CEDAW have "explicit obligations to discourage and prohibit polygamy because it is contrary to the Convention."[230] The CRC and the CEDAW Committees jointly consider polygamy "contrary to the dignity of women and girls and [an] infringe[ment] on their human rights and freedoms, including equality and protection within the family."[231] The United Nations Children's Fund (UNICEF) has likewise stated that, as part of a comprehensive approach to child marriage, legislation should "protect children from abuse, neglect and harmful practices, including . . . polygamy."[232]

Gaps in civil registration of marriage

All marriages should be registered in an appropriate official register by the competent authority.[233] The CEDAW Convention requires States parties to enact legislation that makes "the registration of marriages in an official registry compulsory."[234] The CEDAW and CRC Committees affirm this requirement and indicate that effective implementation must be supported by "awareness-raising, education and the existence of adequate infrastructure to make registration accessible to all persons within their jurisdiction."[235] In its Concluding Observations, the CEDAW Committee has called on Tajikistan to keep a record of all birth certificates at civil registry offices and to require civil registration of

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[224] CEDAW Committee, GR No. 3, para. 52.
[225] CEDAW Committee/CRC Joint GR No.31, para 23.
[226] *Ibid.*
[227] CEDAW, art. 16(b).
[228] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/ general comment No.18 of the Committee on the Rights of the Child UN Doc CEDAW/C/GC/31 REV.1-CRC/C/GC.18 REV.1 (2019), para. 33.
[229] UN Human Rights Committee (HRC), General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women), CCPR/C/21/Rev.1/Add.10, 29 March 2000, para 24.
[230] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/ general comment No.18 of the Committee on the Rights of the Child UN Doc CEDAW/C/GC/31 REV.1-CRC/C/GC.18 REV.1 (2019), para. 28.
[231] *Ibid,* para. 25.
[232] Child Marriage and the Law: Technical Note for the Global Programme to End Child Marriage, produced by the United Nations Population Fund (UNFPA) and United Nations Children's Fund (UNICEF) in collaboration with Child Frontiers in November 2020, p. 4.
[233] Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Adopted by General Assembly Resolution 1763 A (XVII) on 7 November 1962, art. 3.
[234] CEDAW, art. 16(2); CEDAW Committee, General recommendation No 29 on Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution), CEDAW/C/GC/29, 30 October 2013, paras. 25-26.
[235] CEDAW Committee/CRC Joint GR No.31, para. 55(g).

marriages before any religious wedding ceremony may take place.[236] Recognizing these challenges, UNICEF has stated that "countries have to establish systems for the mandatory registration of births and civil, customary and religious marriages."[237]

2.2. National context concerning harmful practices

Legal framework on early and polygamous marriages

Under Tajikistan's Family Code, marriage can only occur with the mutual consent of both parties once they reach the legal age of marriage, which is set at 18.[238]

Contrary to international standards,[239] and under exceptional circumstances, the marriage age can be reduced by one year, provided both parties request it, and the court approves the reduction.[240] Furthermore, the Family Code[241] and the Law on State Registration of Acts of Civil Status[242] do not provide an exhaustive list of permissible exceptions.

The Criminal Code of Tajikistan sanctions parents or guardians who arrange the marriage of a girl before she reaches the legal age, as well as those who mediate or assist in such marriages.[243] It imposes sanctions on individuals who enter into marriage with an underage person,[244] and criminalizes the practice of polygamy.[245] These provisions prescribe penalties, including fines,[246] correctional labour for up to two years,[247] or imprisonment for up to five years.[248]

The law does not explicitly criminalize forced marriages or forced cohabitation. And it does not criminalize the conclusion of a marriage with a child through a religious rite, nor does it cover cohabitation with a child where the union is not officially registered.[249] Likewise, there are no specific administrative sanctions in place to address these situations.

From 2018 to 2022, Tajik courts handled 14,625 family cases related to lowering the marriage age, with 14,478 applications granted and only 147 denied. This suggests that the use of this provision is fairly widespread rather than an exception.[250]

Gaps in civil registration of marriage

In contravention of the CEDAW requirement that all marriages be subject to mandatory civil registration to prevent harmful practices such as child and forced marriage,[251] Tajikistan's Family Code and the Law on State Registration of Acts of Civil Status do not

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[236] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 35(b).
[237] Child Marriage and the Law: Technical Note for the Global Programme to End Child Marriage, produced by the United Nations Population Fund (UNFPA) and the United Nations Children's Fund (UNICEF)in collaboration with Child Frontiers. November 2020, page 2, https://www.unicef.org/media/86311/file/child-marriage-the-law-2020.pdf.
[238] Family Code, arts. 12(1), 13(1).
[239] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/ general comment No.18 of the Committee on the Rights of the Child UN Doc CEDAW/C/GC/31 REV.1-CRC/C/GC.18 REV.1 (2019) para. 55(f); CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 35(a).
[240] Family Code, art. 13(2).
[241] Family Code of the Republic of Tajikistan, adopted on 13 November 1998 (as amended on 3 January 2024).
[242] Law of the Republic of Tajikistan on State Registration of Acts of Civil Status, No. 2117, adopted on 2 January 2025.
[243] Criminal Code, art. 168.
[244] *Ibid,* art. 169.
[245] *Ibid,* art. 170.
[246] *Ibid,* arts. 169-170. The applicable fine for natural persons ranges from 1,000 to 2,000 calculation units, which in 2025 are valued at 75 TJS per unit. As of July 2025, this corresponds approximately to 75,000 to 150,000 TJS, 6,100 to 12,200 euros, or 7,200 to 14,400 US dollars.
[247] Criminal Code, arts. 168-170.
[248] *Ibid,* arts. 168-170.
[249] Dilbar Turakhanova, Preliminary research on the legal framework in Tajikistan drafted for the WEMJUST project, September 2024.
[250] Replies of Tajikistan to the list of issues and questions in relation to its seventh periodic report, CEDAW/C/TJK/RQ/7, 1 November 2023, para. 209.
[251] CEDAW Committee, GR No. 29, para. 26.

require civil registration before the conclusion of a religious marriage (*nikokh*). This legal gap enables the continuation of unregistered religious unions, which in practice leave women and girls without any of the rights and protections guaranteed under Article 16(1) of the CEDAW Convention, during the marriage or upon its dissolution. As a result, many are denied legal recognition of their marital status, economic security, inheritance rights, and custody protections for their children. The absence of mandatory civil registration before religious ceremonies, therefore, perpetuates serious discrimination and exposes women and girls to heightened risks of underage, polygamous, and forced marriages.[252]

Although the State Committee on Religion, Regulation of Traditions, Celebrations and Ceremonies has issued recommendations requiring civil registration certificates before conducting *nikokh* ceremonies, the Law on the Regulation of Traditions, Celebrations and Rituals[253] does not explicitly prohibit the performance of religious marriages without prior official registration.[254] Moreover, these measures are reported to be weakly enforced and frequently circumvented.[255]

Practice of early marriage in Tajikistan

Despite a 2010 law raising the legal marriage age to 18,[256] the practice of early marriages continues. According to the World Economic Forum's Global Gender Gap Report 2023, 14.3 per cent of girls aged 15-19 were in early marriages,[257] marking the highest rate of child marriage in Central Asia.[258]

Parents in Tajikistan who wish to marry off their daughters early may sometimes inflate their daughters' age and obtain false birth certificates from the civil registry office, which often cannot verify the true age due to limited checks on the validity of medical birth certificates.[259] Addressing this issue, the CEDAW Committee has recommended that Tajikistan keep a record of all birth certificates at the civil registry.[260]

Additionally, societal stereotypes about the importance of marriage and concerns over public perception, believing something is wrong with a girl if she remains unmarried by age 20, play a significant role. Families often control the behaviour of young girls, arranging early marriages to prevent perceived "wrong" behaviour or early pregnancy outside of marriage. In some cases, early marriages are also encouraged to allow older family members to witness their grandchildren's weddings. [261]

Unregistered religious ceremonies are commonly used to conduct early marriages, which, although not legally recognized, often result in girls being placed under the effective control of their husband's family.[262] Because women in such marriages, especially second or subsequent wives in polygamous unions, lack legal status, they are left without

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[252]CEDAW Committee, GR No 29, paras. 25
[253] Law on the Regulation of Traditions, Celebrations and Rituals No. 2048 of June 20, 2024.
[254] IPHR, 2024, p. 22.
[255] Asia-Plus. 2019. *Нужно ли вводить в Таджикистане никох по паспорту? Все «за» и «против».* https://asiaplustj.info/ru/news/tajikistan/society/20190708/nuzhno-li-vvodit-v-tadzhikistane-nikoh-po-pasportu-vse-za-i-protiv
[256] The Law on Amendments and Additions to the Family Code of the Republic of Tajikistan dated July 21, 2010 raised the marriage age from 17 years to 18 years. Family Code of the Republic of Tajikistan, 13 November 1998, art. 13(1).
[257]World Economic Forum. 2024. *Global Gender Gap 2023: Insight Report. June 2023*. https://www3.weforum.org/docs/WEF_GGGR_2023.pdf, p. 340.
[258] CEDAW Concluding Observations on Tajikistan CEDAW/C/TJK/CO/7 (19 February 2024), para. 34.
[259] Information on Tajikistan for consideration by the Committee on the Elimination of Discrimination against Women at its 87th Session (29 January - 16 February 2024) INT_CEDAW_CSS_TJK_56925_E (20 December 2023), para. 26.
[260] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 35 (b).
[261] UNDP. 2021. *Analytical Report: Assessment of the Situation Regarding Gender-Based Violence Against Women and Girls in Target Districts of the Republic of Tajikistan*. https://www.undp.org/sites/g/files/zskgke326/files/migration/tj/UNDP-TJK-Pub_2021_06-1_Final_SurveyRU_12102020.pdf, p. 98.
[262] IPHR 2024, p. 22.

protection or rights to property, inheritance, or custody if the relationship ends.[263] If children are born in such a marriage and they are registered in the father's name, only they can expect any financial support or inheritance, leaving others unprotected.[264] Children born into these unions are similarly deprived of legal safeguards and often face deep social stigma, growing up in an environment shaped by societal prejudice.[265]

The CEDAW Committee has urged Tajikistan to amend civil law to require civil registration before any religious ceremony[266] and to enforce criminal penalties against those who aid and abet child and forced marriages.[267] The Committee has also encouraged systematic collaboration with religious leaders to prevent child marriage through awareness-raising campaigns. [268]

The CEDAW Committee has expressed concern over the increase in polygamous marriages in Tajikistan, despite their legal prohibition.[269] Civil society organizations estimate that up to 10 per cent of men engage in polygamous unions, often with underage girls.[270] Polygamous unions are more common among women with lower education levels or economic status, particularly in the Khatlon region.[271] Economic challenges also push women into becoming second or subsequent wives for financial stability.[272]

3. Sexual violence

3.1. International law and standards

Under various sources of international law,[273] States must prevent, criminalize, investigate, prosecute and punish rape and other forms of sexual violence, such as marital rape,[274] human trafficking for the purposes of sexual exploitation,[275] sexual exploitation of girls,[276] and the involvement of children (i.e., anyone under the age of 18) in sex work or

[263] Human Rights Watch, 2019, p. 76.
[264] Asia Plus, 2024. *Polygamy in Tajikistan as a way of women's survival*. https://asiaplustj.info/en/news/tajikistan/society/20240626/polygamy-in-tajikistan-as-a-way-of-womens-survival
[265] *Ibid.*
[266] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 35(b).
[267] *Ibid,* para. 35(d).
[268] *Ibid,* para. 35(c).
[269] *Ibid,* para. 60(a).
[270]U.S. Department of State. 2022. *Human Rights Report: Tajikistan*. https://www.state.gov/wp-content/uploads/2023/02/415610_TAJIKISTAN-2022-HUMAN-RIGHTS-REPORT.pdf, p. 26.
[271]State Statistical Agency. 2018. *Tajikistan: Demographic and Health Survey 2017*. https://dhsprogram.com/pubs/pdf/FR341/FR341.pdf, p.52.
[272] Human Rights Watch, 2019, p. 75.
[273] On women's access to justice for gender-based violence, see ICJ's *Practitioners' Guide on Women's Access to Justice for Gender-Based Violence*. 2016. https://www.icj.org/wp-content/uploads/2016/03/Universal-Womens-accesss-to-justice-Publications-Practitioners-Guide-Series-2016-ENG.pdf.
[274] UN Declaration on Violence Against Women, adopted by the General Assembly under resolution 48/104 (1993), Article 2(a).
[275]CEDAW, art. 6; Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted by the General Assembly under resolution 55/25 (2000).
[276] Committee on the Rights of the Child, General Comment No. 7 para. 36(g).

prostitution[277] — whether committed by State or non-State actors.[278] They also must provide survivors with access to effective remedies and reparations.[279]

Rape and related offences

The CEDAW Committee has made clear that States parties should "ensure that sexual assault, including rape, is characterized as a crime against the right to personal security and physical, sexual and psychological integrity and that the definition of sexual crimes, including marital and acquaintance or date rape, is based on the lack of freely given consent and takes into account coercive circumstances." [280]

States should criminalize sexual assault within relationships, "either by: providing that sexual assault provisions apply 'irrespective of the nature of the relationship' between the perpetrator and the complainant; or stating that 'no marriage or other relationship shall constitute a defence to a charge of sexual assault under the legislation.'"[281]

The notion that rape does not require the use of force but rather occurs whenever consent was not freely given has been well established,[282] including under the ECtHR's jurisprudence,[283] the CEDAW Committee's case law,[284] and the statute of the International Criminal Court.[285]

Consent cannot be considered freely given under coercive circumstances. States should adopt a definition of sexual assault that "either: requires the existence of 'unequivocal and voluntary agreement' and requiring proof by the accused of steps taken to ascertain whether the complainant/survivor was consenting; or requires that the act take place in 'coercive circumstances' and includes a broad range of coercive circumstances."[286]

The CRC Committee has observed that adolescents who are sexually exploited, whether in prostitution or pornography, are exposed to significant health risks, including unwanted pregnancies, sexually transmitted diseases, unsafe abortion, violence and psychological

[277] Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; The Convention on the Rights of the Child, art. 32 (on economic exploitation), art. 34 (on sexual exploitation, including pornography and prostitution), art. 35 (on trafficking) and art. 36 (on exploitation prejudicial to the child's welfare).
[278] CEDAW Committee GR No. 19, para. 24(b); CEDAW Committee GR No. 35, para. 29 (e); The Istanbul Convention art. 36; *Aydin v. Turkey*, ECtHR, Application No. 23178/94 Judgment of 25 September, paras. 80-88; CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Man and Woman) paras. 8, 11 and 24; Committee against Torture, General Comment No.: Implementation of Article 2 by States parties UN Doc CAT/C/GC/2 (2008), para. 18.
[279] CEDAW Committee GR No. 35, para. 33 (a); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 39/46, 10 December 1984, art. 14; ICCPR, art. 2(3); Human Right Committee, General comment no. 31, The nature of the general legal obligation imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, 26 May 2004, paras. 15-16.
[280] CEDAW Committee GR No. 35, para. 29 (e).
[281] UN Women. 2012. *Handbook for Legislation on Violence against Women,* Section 3.4.3.1.
[282] Refer for more detailed overview to the ICJ's Practitioners Guide on *Women's Access to Justice for Gender-Based Violence*. 2016. https://www.icj.org/wp-content/uploads/2016/03/Universal-Womens-accesss-to-justice-Publications-Practitioners-Guide-Series-2016-ENG.pdf, pp. 196-202.
[283] *M.C. v Bulgaria*, ECtHR, Application No. 39272/98 Judgment of 4 December 2003, para. 181 ("While in practice it may sometimes be difficult to prove lack of consent in the absence of "direct" proof of rape, such as traces of violence . . . The investigation and its conclusions must be centred on the issue of non-consent.").
[284] *Vertido v Philippines*, CEDAW Committee Communication No. 18/2008, Views of 16 July 2010, UN Doc CEDAW/C/46/D/18/2008, para. 8.5 ("the Committee stresses that there should be no assumption in law or in practice that a woman gives her consent because she has not physically resisted the unwanted sexual conduct, regardless of whether the perpetrator threatened to use or used physical violence.")
[285] ICC Elements of the Offences, Article 7(1)(g)-1 (2) ("the invasion was committed by force, or by threat of force or coercion, such as that caused by fear or violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving consent.")
[286] UN Women. 2012. *Handbook for Legislation on Violence against Women,* Section 3.4.3.1.

distress.[287] Accordingly, they have "the right to physical and psychological recovery and social reintegration in an environment that fosters health, self-respect and dignity."[288]

The CRC Committee has also stressed that children must not be criminalized for conduct that would not be considered an offence if committed by an adult, urging States to remove all such "status offences", including in situations in which child victims of sexual exploitation or adolescents engaging in consensual sexual activity with one another are criminalized.[289] Any minimum age of consent must be applied in a non-discriminatory manner, taking into account adolescents' evolving capacities, maturity, and best interests,[290] while ensuring that the law protects children from abuse and exploitation without penalizing them for consensual behaviour.[291]

3.2. National law and practice concerning rape and related offences

Sexual violence as a distinct form of GBV is criminalized in Tajikistan.[292] The Code contains a dedicated chapter on crimes against sexual freedom and sexual inviolability.[293] This chapter includes offences such as rape (Article 138), forcible acts of a sexual character (Article 139), coercion to engage in sexual acts (Article 140), sexual intercourse and other sexual acts with persons under the age of 16 (Article 141), child molestation (Article 142), and sexual intercourse or other acts of a sexual or immoral nature involving the abuse of feelings and religious beliefs (Article 142(1)).

Rape is criminalized under two distinct articles of the Criminal Code 138 and 139. The division of offences between Articles 138 and 139 is based on the victim's gender.

Article 138 defines rape as "sexual intercourse involving the use of violence or the threat of violence against a woman or her close relatives or committed by exploiting the helpless state of the woman."[294] It is punishable by imprisonment for a term of three to seven years.[295] The Criminal Code does not explicitly criminalize marital rape.[296] Although the relevant articles could theoretically apply to spouses or intimate partners, in practice, marital rape is rarely, if ever, prosecuted, leaving many survivors without effective legal protection. This could be due to legal interpretation in practice, corroborated by societal stereotypes about the roles of spouses in marriage, and social stigma.

Article 139 of the Criminal Code of Tajikistan criminalizes same-sex (the Code uses the terms "sodomy" and "lesbianism") and other sexual conduct when it is committed as a violent sexual act with the goal of "satisfying sexual desire using force, threat of force

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[287] CRC Committee, General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child para. 33.
[288] *Ibid.*
[289] "Child victims of sexual exploitation and adolescents who engage with one another in consensual sexual acts are also sometimes criminalized. These acts, also known as status offences, are not considered crimes if committed by adults. The Committee urges States parties to remove status offences from their statutes", CRC, General comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019, para. 12.
[290] CRC, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 September 2016, para. 40; ICJ, 2023. *The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty.* https://www.icj.org/wp-content/uploads/2023/03/Principles-Report_English.pdf, Principle 16.
[291] "In the context of the rights of adolescents to health and development, States parties need to ensure that specific legal provisions are guaranteed under domestic law, including with regard to setting a minimum age for sexual consent, marriage and the possibility of medical treatment without parental consent. These minimum ages should be the same for boys and girls (Article 2 of the Convention) and closely reflect the recognition of the status of human beings under 18 years of age as rights holders, in accordance with their evolving capacity, age and maturity (arts. 5 and 12 to 17)", CRC Committee, General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child para. 5.
[292] This section draws on preliminary research on the legal framework in Tajikistan conducted by GBV expert Dilbar Turakhanova for the WEMJUST project, September 2024.
[293] Chapter 18 of the Criminal Code addresses Crimes Against Sexual Freedom and Sexual Inviolability.
[294] Criminal Code, art. 138(1).
[295] *Ibid.*
[296] CEDAW Concluding Observations on Tajikistan CEDAW/C/TJK/CO/7 (19 February 2024), para. 36(b).

against the victim or others, or by exploiting the victim's helpless state."[297] Unlike Article 138, which specifically defines rape as sexual intercourse with a woman, this article applies to survivors of any gender and encompasses a wider range of non-consensual sexual acts beyond penile-vaginal intercourse.[298]

This offence is punishable by imprisonment for a term of five to seven years,[299] with aggravating circumstances increasing the penalty to seven to 12 years with a lifetime ban on holding certain positions and/or engaging in certain activities,[300] or 12 to 20 years with the same bans.[301] The definitions of force, threat of force, and the concept of a helpless state, as outlined in Article 138, concerning rape, also apply to Article 139.

Articles 138 and 139 of the Criminal Code focus on physical force, threats of force, or the victim's helpless state as the defining criteria for rape and sexual assault. This approach apparently requires proof that the survivor was physically unable to resist or was clearly threatened. To further clarify the provisions of the Criminal Code, the Resolution of the Plenum of the Supreme Court of the Republic of Tajikistan on judicial practice regarding crimes against sexual freedom and sexual inviolability[302] specifies that rape includes cases where the survivor is in a helpless state due to physical or mental incapacity, intoxication, or other conditions limiting her ability to resist, regardless of whether the perpetrator caused that state.[303] In situations involving intoxication, courts are instructed to assess whether the degree of intoxication deprived the victim of the ability to resist; only then can it be considered a helpless state under the law.[304] The Resolution further clarifies that securing a woman's consent through fraud or abuse of trust, such as making false promises (e.g. to marry her), does not constitute rape.[305]

In light of the above, Tajikistan has failed to adopt a consent-based definition of rape, according to which rape is defined as any act of non-consensual sexual penetration, by whatever means, committed against a person who has not given voluntary and genuine consent, contrary to international standards.[306] The CEDAW Committee has recommended amending the law to define rape solely on the basis of the absence of consent, including situations involving coercion.[307]

In addition to sexual violence involving physical force or threats, Tajikistan's legal framework also addresses sexual acts obtained through coercive circumstances. The relevant provision criminalizes "compulsion of a person to sexual intercourse, sodomy, lesbianism or other actions of sexual character by blackmailing, threat of destroying, damaging or taking property, or using official, financial or other dependence of the victim."[308] These dependencies include official relationships (such as between supervisors

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[297] Criminal Code, art. 139(1).
[298] Resolution No. 4 of the Plenum of the Supreme Court of the Republic of Tajikistan on Judicial Practice in Cases of Crimes Against Sexual Freedom or Sexual Integrity, 25 June 2004 (as amended by Plenum Resolutions No. 16 of June 23, 2010, and No. 16 of November 18, 2013) (Resolution No. 4 of the Plenum of the Supreme Court of the Republic of Tajikistan), para. 20. According to clarifications, Article 139 includes acts such as *"simulated sexual intercourse or other sexual contact involving genital or other body parts, performed to satisfy sexual desires when committed through violence, threats, or the victim's inability to resist".*
[299] Criminal Code, art. 139(1).
[300] *Ibid,* art. 139(2).
[301] *Ibid,* art. 139(3).
[302] Resolution No. 4 of the Plenum of the Supreme Court of the Republic of Tajikistan on Judicial Practice in Cases of Crimes Against Sexual Freedom or Sexual Integrity, 25 June 2004 (as amended by Plenum Resolutions No. 16 of June 23, 2010, and No. 16 of November 18, 2013). https://sud.tj/ru/dokumenty/postanovlenie-plenuma-verkhovnogo-suda/postanovleniya-po-ugolovnym-delam/
[303] *Ibid,* para. 5.
[304] *Ibid,* para. 1.
[305] *Ibid,* para. 5.
[306] Special Rapporteur on violence against women, its causes and consequences. A framework for legislation on rape (model rape law), 15 June 2021, A/HRC/47/26/Add.1, para. 15D(a),(c); ICJ. 2016. Practitioners Guide on *Women's Access to Justice for Gender-Based Violence*. https://www.icj.org/wp-content/uploads/2016/03/Universal-Womens-accesss-to-justice-Publications-Practitioners-Guide-Series-2016-ENG.pdf, p. 201.
[307] CEDAW Concluding Observations on Tajikistan CEDAW/C/TJK/CO/7 (19 February 2024), para. 37(a).
[308] Criminal Code, art. 140.

and subordinates or teachers and students), material reliance, and situational dependence (for example, between law enforcement officers and suspects or victims).[309] It does not explicitly include family situations to which it may apply too.[310]

Notably, this offence does not require the use or threat of physical violence, distinguishing it from other sexual violence offences in the Criminal Code.[311] While it acknowledges coercive circumstances and abuses of power dynamics, the penalties prescribed are significantly lighter than those imposed for other forms of sexual violence. Sanctions may include substantial fines,[312] correctional labour, or imprisonment for up to two years.[313]

The reference to "sodomy" and "lesbianism" in the law is inappropriate and is discriminatory and stigmatizes LGBTQI+ persons and is contrary to multiple international human rights treaties. While compelling someone to engage in non-consensual same-sex sexual conduct may already fall under the scope of coercive sexual conduct, the provision shifts the focus of criminalisation from the violation of sexual autonomy to the sexual orientation of the persons involved.[314]

Tajikistan's Criminal Code does not provide explicit guidance on the minimum age for consensual sexual conduct, leaving a significant gap in its legal framework.[315] Although it criminalizes certain non-consensual sexual acts involving minors and prescribes varying punishments depending on the severity of the offence,[316] it lacks clarity on how the concept of consent applies, particularly for minors aged from 14 to 16 years.[317]

The Plenum of the Supreme Court has instructed judges to assess, on a case-by-case basis, whether minors under the age of 16 possess the developmental capacity to understand the nature and consequences of sexual acts.[318] If a child lacks such capacity due to young age, disability, or similar reasons, the offence is to be classified as rape involving a "helpless state."[319] However, there remains no comprehensive legal guidance on how to handle cases such as child molestation or exploitative relationships involving

[309] Resolution No. 4 of the Plenum of the Supreme Court of the Republic of Tajikistan, para. 21.
[310] UN Women. 2012. *Handbook for Legislation on Violence against Women,* Section 3.4.3.1.
[311] Resolution No. 4 of the Plenum of the Supreme Court of the Republic of Tajikistan, para. 21.
[312] The applicable fine for natural persons ranges from five hundred to seven hundred calculation units, which in 2025 are valued at 75 TJS per unit. As of July 2025, this corresponds approximately to 37,500 to 52,500 TJS, 3,200 to 4,500 euros, or 3,800 to 5,300 US dollars.
[313] Criminal Code, art. 140.
[314] Principle 16 of the 8 March Principles provides that the "consensual same-sex, as well as consensual different-sex sexual relations, or consensual sexual relations with or between trans, non-binary and other gender diverse people, or outside marriage – whether pre-marital or extramarital – may, therefore, never be criminalized". ICJ, 2023. *The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty*. https://www.icj.org/wp-content/uploads/2023/03/Principles-Report_English.pdf, principle 16.
[315] Dilbar Turakhanova, Preliminary research on the legal framework in Tajikistan drafted for the WEMJUST project, September 2024.
[316] In Tajikistan, the criminalization of non-consensual sexual acts with minors is addressed under several provisions of the Criminal Code. Article 138 and Article 139 impose higher punishments for rape and sexual violence committed against a child, with special provisions for those victims that are under 14 years of age. Article 141 criminalizes other non-consensual sexual acts, including sexual intercourse, "homosexuality, lesbianism", and other non-consensual sexual acts, committed with a person under 16 years of age, provided these acts do not qualify as rape or violent sexual acts. It also includes aggravating factors such as abuse of office, the transmission of sexually transmitted infections or HIV, or the involvement of a parent, teacher, or other individuals responsible for the upbringing of the child. Article 142 deals with child molestation or "indecent acts" with minors under 16, but it excludes cases that fall under the categories of rape, violent sexual acts, or compulsion to sexual acts.
[317] Dilbar Turakhanova, Preliminary research on the legal framework in Tajikistan drafted for the WEMJUST project, September 2024.
[318] Resolution No. 4 of the Plenum of the Supreme Court of the Republic of Tajikistan, para. 16.
[319] *Ibid,* para. 16.

minors.[320] In line with international standards, there needs to be clear, rights-based legal guidance in Tajikistan to distinguish consensual peer sexual activity from exploitation.[321]

4. Sexual harassment

4.1. International law and standards

The CEDAW Committee describes sexual harassment as encompassing a wide range of behaviours, such as "physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions."[322] The UN Model Policy reinforces this expansive definition, noting that behaviours such as "attempted or actual sexual assault, including rape; sharing or displaying sexually inappropriate images or videos in any format; sending sexually suggestive communications in any format; sharing sexual or lewd anecdotes or jokes; making inappropriate sexual gestures, such as pelvic thrusts; unwelcome touching, including pinching, patting, rubbing, or purposefully brushing up against another person; staring in a sexually suggestive manner; repeatedly asking a person for dates or asking for sex; rating a person's sexuality; making sexual comments about appearance, clothing, or body parts; name-calling or using slurs with a gender/sexual connotation; making derogatory or demeaning comments about someone's sexual orientation or gender identity" would also typically qualify.[323]

The Istanbul Convention requires States parties to "ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction."[324]

Sexual harassment often takes place in professional settings. According to the International Labour Organization, workplace violence and harassment refers to "a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment."[325] Notably, this definition may encompass both single and repeated behaviours, and actions not necessarily intended to cause harm, but which nonetheless result in or are likely to result in harm. As noted by the UN Office of the Special Adviser on Gender Issues and Advancement of Women, "sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome."[326]

The UN System Model Policy on Sexual Harassment confirms that an offence need not be repeated to constitute sexual harassment, stating that "while typically involving a pattern of conduct, sexual harassment may take the form of a single incident"[327] and affirms that the perpetrator need not intend to cause harm to be found responsible, explaining that sexual harassment is conduct that "might reasonably be expected to be perceived or to cause offense or humiliation."[328]

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[320] Dilbar Turakhanova, Preliminary research on the legal framework in Tajikistan drafted for the WEMJUST project, September 2024.
[321] CRC, General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 September 2016, para. 40; ICJ, 2023. *The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty.* https://www.icj.org/wp-content/uploads/2023/03/Principles-Report_English.pdf, Principle 16.
[322] CEDAW Committee GR No. 19, para. 18.
[323] UN System Model Policy on Sexual Harassment, 2018, https://unsceb.org/sites/default/files/imported_files/UN%20System%20Model%20Policy%20on%20Sexual%20Harassment_FINAL_0.pdf, pp. 2-3.
[324] The Istanbul Convention, art. 40.
[325] International Labour Organization Violence and Harassment Convention, 2019 No. 190, art. 1(a).
[326] *What is Sexual Harassment?* https://www.un.org/womenwatch/osagi/pdf/whatissh.pdf
[327] UN System Model Policy on Sexual Harassment, p. 2.
[328] UN System Model Policy on Sexual Harassment, p. 2.

Importantly, the UN Model Policy clarifies that sexual harassment is not limited to conduct perpetrated by a supervisor against a subordinate, but may "be perpetrated by any colleague, including a supervisor, peer or a subordinate."[329] A perpetrator's "status as a supervisor or a senior official" may, however, be treated as an aggravating factor.[330] In the Handbook for Legislation on Violence against Women, the UN Women also affirms that sexual harassment can occur "in both horizontal and vertical relationships."[331]

The CEDAW Committee instructs States parties to require workplaces to enact protocols and procedures to protect workers from sexual harassment, including "effective and accessible internal complaints procedures, the use of which should not exclude recourse to law enforcement authorities and should also address workplace entitlements for victims/ survivors."[332]

4.2. National law and practice

The primary legal framework addressing harassment in Tajikistan is established under the recently adopted Law on Equality and the Elimination of All Forms of Discrimination (Anti-Discrimination Law).[333] The law defines several forms of harassment:[334]

- Harassment is defined as "*any unwanted behaviour based on grounds specified in this Law, with the aim or effect of degrading a person's dignity and/or creating a hostile, destructive, intimidating, humiliating, offensive, or unpleasant environment*".
- Sexual harassment includes "*any verbal, non-verbal, or physical conduct of a sexual nature that aims to insult or undermine the dignity of a person, or creates an intimidating, hostile, degrading, or offensive environment*".
- Workplace harassment is defined as "*any non-physical harassment in the workplace involving repeated actions that have a humiliating effect on an individual, aiming to worsen the working conditions or professional status of the employee".*

While these definitions provide a useful basis, the definition of sexual harassment is problematic as it places emphasis on the perpetrator's aim to insult or undermine the survivor's dignity, while harmful conduct can occur regardless of intent.[335]

The definition of workplace harassment is also limited, as it only applies to repeated actions, disregarding the fact that a single incident can cause significant harm and should be subject to sanction.[336] The law requires proof of intent to worsen working conditions or professional status, thus excluding many forms of harassment where intent may not be provable, but the negative impact is evident.[337]

While Tajikistan legislation contains definitions of harassment, a dedicated provision on sexual harassment is absent from the Criminal Code or the Code on Administrative Violations, necessitating their classification under administrative offences such as "petty hooliganism",[338] "the use of obscene language in public places, offensive harassment of

[329] *Ibid.*
[330] *Ibid.*
[331] UN Women. 2012. *Handbook for Legislation on Violence against Women,* Section 3.4.3.2.
[332] CEDAW Committee GR No. 35, para. 30 (f).
[333] Law of the Republic of Tajikistan on equality and the elimination of all forms of discrimination, No. 1890, 19 July 2022. https://faolex.fao.org/docs/pdf/taj221408.pdf
[334] *Ibid,* art. 6.
[335] What is Sexual Harassment? https://www.un.org/womenwatch/osagi/pdf/whatissh.pdf
[336] ILO, Violence and Harassment Convention, 2019 (No. 190), art. 1.
[337] ILO, 2021. *Violence and harassment in the world of work: A guide on Convention No. 190 and Recommendation No. 206,* https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@gender/documents/publication/wcms_814507.pdf, p. 98; Dilbar Turakhanova, Preliminary research on the legal framework in Tajikistan drafted for the WEMJUST project, September 2024.
[338] CEDAW Committee, Concluding Observations on Tajikistan CEDAW/C/TJK/CO/7 (19 February 2024), para. 36(c).

citizens, and other similar actions that violate public order and the peace of the population".[339] Penalties include a fine[340] or administrative arrest for five to 15 days.[341] This misclassification minimizes the harm inflicted, fails to reflect the gendered nature and seriousness of the acts, and denies survivors meaningful legal protection, while reducing accountability for perpetrators.[342]

5. Online violence

5.1. International law and standards

Online violence against women is defined by the CEDAW Committee as "any act of gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately."[343]

The SRVAW defines newly emerging forms of online violence, such as:

> "35. "Sextortion" refers to the use of ICT to blackmail a victim. In such cases, the perpetrator threatens to release intimate pictures of the victim in order to extort additional explicit photos, videos, sexual acts or sex from the victim.[344]
>
> 36. "Doxing" refers to the publication of private information, such as contact details, on the Internet with malicious intent, usually with the insinuation that the victim is soliciting sex (researching and broadcasting personally identifiable information about an individual without consent, sometimes with the intention of exposing the woman to the "real" world for harassment and/or other purposes). It includes situations where personal information and data retrieved by a perpetrator is made public with malicious intent, clearly violating the right to privacy.
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> 37. "Trolling" consists in the posting of messages, the uploading of images or videos and the creation of hashtags for the purpose of annoying, provoking or inciting violence against women and girls. Many "trolls" are anonymous and use false accounts to generate hate speech.
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> 41. "Revenge porn" consists in the non-consensual online dissemination of intimate images, obtained with or without consent, with the purpose of shaming, stigmatizing or harming the victim."[345]

The CEDAW Committee also recognized that GBV includes "contemporary forms of violence occurring online and in other digital environments".[346] Women human rights defenders, politicians, activists, and journalists are particularly targeted.[347] The Committee highlights the role of media outlets and social media platforms in committing, perpetuating, and

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[339] Code of Administrative Offences, art. 460.
[340] This results in a fine imposed on natural persons in the amount of seven to ten calculation units, which in 2025 equal 75 Tajik Somoni each and, as of July 2025, correspond to approximately 54 to 77 US dollars, or 46 to 66 euros.
[341] Code of Administrative Offences, art. 460.
[342] Sarvinoz Ruhullo and Shahlo Abdullah. 2019. *Tajikistan Proposes Criminal Punishment for Sexual Harassment*. https://rus.ozodi.org/a/30300329.html
[343] Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/ 38/ 47, 18 June 2018, para. 23.
[344] Some sources also define sextortion (or sexual extortion) as a type of online blackmail where someone threatens to send a sexual image or video of a person to other people if the person does not pay them or provide more sexual content. Government of Canada, 2025. *Online Dangers: Sexting and Sextortion.* https://www.canada.ca/en/public-safety-canada/campaigns/online-child-sexual-exploitation/sexting-sextortion.html
[345] Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/ 38/ 47, 18 June 2018, paras. 35-37, 41.
[346] CEDAW Committee GR No. 35, para. 20.
[347] CEDAW Committee, General recommendation No. 40 (2024) on the equal and inclusive representation of women in decision-making systems, 25 October 2024, CEDAW/C/GC/40, para 36.

normalizing GBV against women, as well as the role of political parties in trivializing such violence, including sexual harassment and other misogynistic behaviour within their ranks.[348] The Committee has emphasized holding social media companies accountable, recommending that they implement systems to respond immediately and effectively to user- and AI-generated content constituting online GBV, in line with human rights standards.[349]

As a general matter, online expression also engages the right to freedom of expression and information, as protected under Article 19 of the ICCPR.[350] However, this right is not absolute, but may be subject to certain limitations. Any restriction of freedom of expression, including to address GBV should meet fully the three-part test of lawfulness, legitimate objective, necessity and proportionality, as set out in Article 19(3) ICCPR. Protecting against GBV is certainly a legitimate objective, but restrictions must be necessary to that end, and the means of restrictions must be proportionate.

A joint position of the OHCHR, and independent authorities of three regional bodies- the Organization for Security and Co-operation in Europe (OSCE), the Organization of American States (OAS) and the African Union (AU) have affirmed that: "The prohibition against sexual and gender-based violence applies online as well as offline. Online violence against women has particular significance for freedom of expression as it encompasses harmful speech as well as behaviour facilitated by digital technology, including threats of physical or sexual violence, online bullying and stalking, doxing, harassment, targeted electronic surveillance, coercion and non-consensual exposure of intimate images."[351].

To combat online violence, the CEDAW Committee recommends that State parties encourage "the creating or strengthening of self-regulatory mechanisms by media organizations, including online or social media organizations, aimed at . . . addressing gender-based violence against women that takes place through their services and platforms."[352] The Istanbul Convention similarly requires that States encourage media outlets "to set guidelines and self-regulatory standards to prevent violence against women and to enhance respect for their dignity."[353] The SRVAW also has emphasized that "States have an obligation to take all steps necessary to prevent human rights violations perpetrated abroad by Internet intermediaries over which they exercise influence, whether by regulatory means or by the use of incentives."[354]

The Committee has further addressed the issue of cyberbullying particularly its impact on adolescent girls. This form of violence can include "name calling, spreading of rumours, threats, disclosure of confidential information, images/videos, revenge porn, sexual harassment and sexual advances often from strangers."[355] Survivors may experience a wide range of harms, including feeling of insecurity, social exclusion, anxiety, suicidal thoughts or actions.[356] To address cyberbullying, the CEDAW Committee recommends that schools educate teachers, students and parents on the nature and impact of cyberbullying, offer counselling and psychological support to victims, establish accessible reporting

[348] *Ibid,* para 37.
[349] *Ibid,* para 39(g).
[350] For a more detailed and nuanced discussion of how various forms of online violence correspond to other human rights obligations, including the right to freedom of expression and the right to privacy, see ICJ. 2022. *Avoiding Overreach: Shaping State Responses to Anti-LGBTI Online Hate Speech in Southeast Asia*, https://www.icj.org/resource/avoiding-overreach-shaping-state-responses-to-anti-lgbti-online-hate-speech-in-southeast-asia/
[351] OHCHR, OSCE, OAS, and AU, Joint Declaration on Freedom of Expression and Gender Justice, https://www.ohchr.org/sites/default/files/2022-05/Gender-Joint-Declaration-Freedex.pdf, para. 4(a).
[352] CEDAW Committee GR No. 35, para. 30 (d)(i).
[353] Istanbul Convention, art. 17(1).
[354] Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/ 38/ 47, 18 June 2018, para. 65 (a).
[355] CEDAW Committee GR No. 36, para. 70.
[356] *Ibid,* para 71.

channels, and adopt legislation that defines and penalizes "online harassment of women and girls in all its forms."[357]

The SRVAW has recommended that States "recognize online and ICT-facilitated violence against women as a human rights violation and a form of discrimination and gender-based violence against women, and duly apply core international human rights instruments,"[358] adopt specific legislation to prohibit emerging forms of online violence,[359] take effective measures to prevent the publication of harmful material comprising GBV and to ensure said material's urgent removal,[360] and explicitly prohibit and criminalize online violence against women.[361]

5.2. National law and practice

Manifestations such as sextortion, doxing, trolling, online sexual harassment, cyberstalking, and revenge porn are not explicitly defined or criminalized or otherwise punished under Tajikistan legislation.[362] National law also fails to recognize the specific vulnerabilities of women and girls in digital spaces, nor does it offer adequate mechanisms for redress or protection.

Yet, online violence against women and girls in Tajikistan is a growing concern that remains largely unaddressed in national legislation.[363] Women activists and those in public and political life are particularly vulnerable to these attacks.[364]

The CEDAW Committee also recognized the problem, and recommended that Tajikistan:

"Strengthen regulatory procedures and due diligence mechanisms to hold social media companies accountable for user-generated content used in incidents of online violence and harassment and for prompt removal of such content; ensure that such companies have effective reporting mechanisms; and ensure that there are processes in place for the State party to bring perpetrators of online violence and harassment to justice…"[365]

IV. Procedural and institutional issues impeding access to justice for survivors of GBV

1. Procedural legal challenges in GBV case handling

1.1. International law and standards

Ensuring access to justice for survivors of GBV requires that responsibility for achieving accountability does not fall solely or mainly on survivors. States should ensure that "the primary responsibility for initiating prosecution lies with prosecution authorities,"[366] once they have information revealing a *prima facie* evidence of GBV; and not with complainants/ survivors of violence, regardless of the level or type of injury.[367]

Legislation must also ensure that prosecution remains possible even where survivors are unwilling or unable to testify or otherwise engage directly in proceedings. It should

[357] CEDAW Committee GR No. 36, para. 72 b, d, f.
[358] Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/ 38/ 47, 18 June 2018, para. 93,
[359] *Ibid*, para. 95.
[360] *Ibid*, para. 100.
[361] *Ibid*, para. 101.
[362] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 36(d).
[363] *Ibid,* para. 36(d).
[364] *Ibid,* para. 36(d).
[365] CEDAW Committee, Concluding observations on the seventh periodic report of Tajikistan, CEDAW/C/TJK/CO/7, 19 February 2024, para. 37(b).
[366] Annex to General Assembly resolution 52/86, Crime prevention and criminal justice measures to eliminate violence against women para. 7, Adopted by the UN General Assembly in 1997
[367] UN Women. 2012. *Handbook for Legislation on Violence against Women,* 3.8.2.

"provide the possibility of prosecution in the absence of the complainant/survivor in cases of violence against women, where the complainant/survivor is not able or does not wish to give evidence."[368] The police and law enforcement officials should be able to "carry out investigations and obtain evidence, and to lodge complaints on behalf of victims of domestic violence."[369]

Furthermore, to prevent the arbitrary dismissal of survivors' complaints, legislation must clearly outline procedural obligations for law enforcement and prosecutors. Laws must require that the police respond to every request for assistance and protection in cases of domestic violence and explain to the victims their legal rights.[370] Prosecutors must be legally required to inform survivors of the reasons for discontinuing a case.[371]

Finally, accountability mechanisms must be in place to address institutional failure: as required by international law and reaffirmed by the Istanbul Convention, survivors should have access to "adequate civil remedies against State authorities that have failed in their duty to take the necessary preventative or protective measures within the scope of their powers."[372]

States must ensure access to "financial assistance, gratis or low-cost, high-quality legal aid"[373] "under the conditions provided by their internal law."[374] Survivors of domestic violence should be provided "with free legal advice and assistance before taking legal action" and States should offer specific financial support to NGOs and women's associations assisting such victims.[375]

Beyond access to legal proceedings, the quality and nature of survivors' engagement with the justice system must also be carefully considered. Legal procedures must be trauma-informed and tailored to survivors' needs, particularly when they face ongoing risks. The Declaration on the Elimination of Violence against Women (DEVAW) recognizes the need to avoid secondary victimization caused by insensitive legal frameworks.[376] CEDAW Committee explicitly calls on States to protect survivors from re-victimization in their interactions with law enforcement and judicial authorities and to ensure confidential, respectful, and non-stigmatizing procedures during questioning, evidence collection, and all stages of investigation and trial.[377] To that end, the UN Women's Handbook for Legislation recommends that law enforcement interview parties and witnesses "in separate rooms to ensure there is an opportunity to speak freely."[378]

Additional protective measures suggested include written statements or testimony given via affidavit,[379] in-camera hearings, separate waiting rooms, police escorts, and staggered schedules to avoid confrontation between the survivor and the accused.[380] The Parliamentary Assembly of the Council of Europe (PACE) further recommends increasing procedural flexibility, including private hearings and a reduced burden of proof, to better reflect the realities of GBV cases.[381]

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[368] *Ibid,* section 3.9.5.
[369] Parliamentary Assembly of the Council of Europe (PACE), Recommendation 1582 (2002) on Domestic violence against women, 27 September 2002, para. 7.
[370] Report of the Special Rapporteur on violence against women, its causes and consequences: A framework on model legislation, E/CN.4/1996/53/Add.2, 2 February 1996, para. 13.
[371] UN Women. 2012. *Handbook for Legislation on Violence against Women*, section 3.8.2.
[372] Istanbul Convention, art.29(2).
[373] CEDAW Committee GR No. 35, para 31(a)(iii); CEDAW Committee GR No. 33 para 37, GR No. 28 para 34.
[374] Istanbul Convention Article 57.
[375] PACE Recommendation 1582 (2002) on Domestic violence against women, para.7.
[376] Declaration on the Elimination of Violence against Women (DEVAW), General Assembly resolution 48/104 of 19 December 1993, art. 4(f).
[377] CEDAW GR No. 33, para. 51(c),(g).
[378] Handbook for Legislation on Violence against Women, section 3.8.1. For further international guidance and best practices on protecting victims and their families from intimidation, retaliation, and repeat victimization, see, for example, Article 56 of the Istanbul Convention.
[379] UN Women. 2012. *Handbook for Legislation on Violence against Women,* section 3.9.4.
[380] *Ibid,* section 3.9.4.
[381] PACE, Recommendation 1582 (2002) on Domestic violence against women, 27 September 2002, para. 7.

For these procedural protections to be effective, those implementing them must be adequately trained: "regular and institutionalized gender-sensitivity training and capacity-building on violence against women for public officials."[382] The CEDAW Committee underscores that "gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention."[383] It calls for procedures that empower survivors and are carried out by professionals "specially trained to understand and adequately intervene in cases of gender-based violence," ensuring that interventions are free from stereotyping and re-victimization.[384]

1.2. National framework

Criminal procedural framework

Tajikistan's Code of Criminal Procedure[385] categorizes criminal cases into three types of prosecutions: public, private-public and private.[386] Public prosecutions comprise most of the offences criminalized under the Criminal Code, they cover serious offences such as rape or severe bodily harm and are initiated directly by law enforcement bodies and do not require action by the victim.[387]

Private-public prosecutions, such as those involving moderate bodily harm, require the victim or survivor to initiate proceedings through a formal complaint, although law enforcement authorities may then carry the case forward.[388] In exceptional cases, where there is particular public interest, or where the survivor is unable to protect their rights due to dependence, vulnerability, or other reasons, the prosecutor is authorized to initiate proceedings *ex officio*, without a formal complaint from the survivor.[389]

Private prosecutions apply to offences considered minor, such as the intentional infliction of slight harm[390] or battery,[391] where survivors must initiate proceedings by submitting a formal complaint directly to the court.[392]

Survivors bringing private complaints are required to file a written submission identifying the alleged perpetrator, detailing the incident, including the date and location, naming witnesses prepared to testify, and attaching relevant documentation or other forms of evidence.[393] Where a complaint fails to meet these evidentiary and procedural requirements, the court may request additional information; failure to comply may result in dismissal of the complaint.[394]

Such forms of violence are often difficult to substantiate, particularly in the absence of physical evidence or willing witnesses, who are often family members or neighbours unwilling to intervene.[395] Survivors, many of whom lack legal knowledge or representation, must nonetheless comply with demanding procedural obligations, including paying for legal support, preparing written submissions, and collecting evidence, often while in a

[382] Handbook for Legislation on Violence against Women, section 3.2.3.
[383] CEDAW GR no.19 24(b); CEDAW GR No. 33, paras. 29, 39.
[384] CEDAW GR no. 35 para 32 (b); CEDAW GR No. 33, para. 51.
[385] Code of Criminal Procedure of the Republic of Tajikistan dated 3 December 2009 (as amended and supplemented as of 3 January 2024).
[386] Code of Criminal Procedure, art. 24(1).
[387] Code of Criminal Procedure, art. 146(1).
[388] Code of Criminal Procedure, art. 147(1).
[389] Code of Criminal Procedure, art. 147(2).
[390] Criminal Code, art. 112.
[391] *Ibid,* art. 116.
[392] Code of Criminal Procedure, art. 354(1).
[393] *Ibid,* art. 354(3).
[394] *Ibid,* art. 355(1).
[395] IPHR. 2017. *"He left his footprint on my life". Domestic violence in Tajikistan: Time to right the wrongs.* https://iphronline.org/wp-content/uploads/2017/03/ENG-Domestic-violence-in-Taj-March-2017.pdf (IPHR, 2017), p. 52.

situation of ongoing vulnerability.[396] The legal framework provides no special accommodation for these barriers, even where abuse is continuing.

Both private and private-public proceedings may be terminated where the victim and the accused reconcile, and compensation is paid.[397] Lawyers and human rights defenders reported that the police often pursue informal resolution through couples counselling or mediation, failing to inform survivors about protective measures or legal remedies.[398] The mission was told that in some cases NGOs themselves may resort to facilitating "reconciliation" due to survivors' economic dependence, social stigma surrounding divorce, and concerns about children's future marriage prospects.[399] These approaches often involve facilitating dialogue and providing psychological support, encouraging survivors to return to their families rather than to pursue justice.[400]

Furthermore, the CPC does not contain any special procedural provisions tailored to the needs of survivors of GBV, such as trauma-sensitive interviewing, protective measures during testimony, relaxed evidentiary requirements, or confidentiality guarantees during legal proceedings (see more details in Chapter IV, Section 2).

Administrative procedural framework

Certain GBV-related offences, such as sexual harassment, are not prosecuted under criminal law but instead fall within the administrative justice system, most often under the category of petty hooliganism (see Chapter III, Section 5.2 for further discussion).[401] According to the Procedural Code on Administrative Offences,[402] a case may be initiated based on a complaint from a physical or legal person, referrals from law enforcement or other government bodies, or even media reports containing credible and objective information.[403] These submissions are reviewed by a responsible official, who determines whether there are sufficient grounds that exist for formal initiation of administrative proceedings.[404]

Officials may refuse to initiate proceedings if they judge the evidence insufficient, even before a case is fully investigated. This places a high burden on the complainant to collect and present compelling proof, an unrealistic expectation in many cases involving sexual harassment, where evidence is rarely tangible or supported by witnesses. Considering reports of a lack of professionals trained in gender-related issues (discussed in more detail in Chapter IV, Section 4), this level of discretion is particularly problematic, as decisions may be made without adequate understanding of the dynamics and challenges of GBV.

Domestic violence framework

In addition to criminal and administrative law, Tajikistan has established a framework through the Law on the Prevention of Domestic Violence, which provides survivors of domestic violence with the right to seek protection and accountability through a variety of entities. They may turn to local self-government bodies, community-based organizations, or directly to law enforcement authorities, the prosecutor's office, or the courts to seek accountability.[405] Once a complaint or credible information is submitted, whether by the

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[396] *Ibid.*
[397] Code of Criminal Procedure, art. 24(1),(2).
[398] Human Rights Watch, 2019, p. 55; CEDAW Committee, Concluding observations on the sixth periodic report of the Republic of Moldova, 10 March 2020, CEDAW/C/MDA/CO/6, para. 43(c).
[399] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[400] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[401] Code of Administrative Offences, No. 455, 31 December 2008, art. 460.
[402] Procedural Code on Administrative Offences of the Republic of Tajikistan, 22 July 2013, No. 975 (as amended and supplemented as of January 1, 2025).
[403] Procedural Code on Administrative Offences, art. 81(1).
[404] *Ibid,* art. 81(2).
[405] Law on the prevention of domestic violence, art. 6.

victim or third parties, it triggers a formal duty for internal affairs bodies (the police) to act in accordance with their defined responsibilities.[406]

Upon receiving a complaint, law enforcement bodies have a range of obligations: verifying the facts, informing the victim or survivor of their rights, referring them (with consent) to medical examinations or support services, issuing protective orders, and, where appropriate, initiating administrative or criminal proceedings.[407] Internal Affairs authorities may also monitor families with recurrent violence, maintain official statistics, and require the perpetrator to undergo "preventive conversations" or other behavioural interventions.[408] In this framework, protective orders function as the main instrument of response, and their violation may result in administrative sanctions, including short-term detention.[409]

2. Investigations and case-building gaps

The immediate police response

Survivors of GBV in Tajikistan typically first come into contact with law enforcement by filing a complaint, either themselves or through their legal representative, or another concerned individual or institution.[410] The Code of Criminal Procedure provides that such complaints may be submitted orally or in writing and must be formally registered.[411] In cases of domestic violence, police involvement may be triggered by information from individuals, legal entities, or identified directly by internal affairs bodies.[412]

However, while the legal framework offers a variety of protective mechanisms, it remains underutilized in practice. Inadequate understanding of the typically gendered nature of domestic violence by officials exacerbates the problem, often resulting in survivors not being taken seriously.[413] The mission heard reports of police mocking or dismissing the accounts of survivors.[414] When survivors approach law enforcement about domestic violence, some officials reportedly downplay the severity of the situation, labelling it a "family issue" or "home conflict".[415] Survivors are often questioned as to why they tolerated the abuse or criticized for not producing evidence.[416] Victim-blaming is prevalent, and the police often focus on identifying the "initiator" of the conflict, ignoring the power imbalance in abusive relationships and failing to recognize violence as an act of abuse rather than a mutual dispute.[417] The lack of standard operating procedures for survivors' support enables inconsistent and arbitrary police responses.[418]

Gender stereotyping and discriminatory investigation practices continue to present significant barriers to justice, particularly for survivors of sexual violence.[419] Lawyers report frequent use[420] of an "investigative experiment" procedure,[421] which requires

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[406] *Ibid,* art. 11.
[407] *Ibid.*
[408] *Ibid.*
[409] *Ibid,* art. 18(2).
[410] Code of Criminal Procedure of the Republic of Tajikistan, art. 140.
[411] *Ibid,* art. 141.
[412] Law on the prevention of domestic violence, art. 19(1).
[413] IPHR, 2024, p. 17.
[414] Mia Tarp Nurmagambetova. 2024. *Tajikistan's Epidemic of Domestic Violence Against Women*. https://thediplomat.com/2024/03/tajikistans-epidemic-of-domestic-violence-against-women/
[415] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[416] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[417]Mia Tarp Nurmagambetova. 2024. *Tajikistan's Epidemic of Domestic Violence Against Women*. https://thediplomat.com/2024/03/tajikistans-epidemic-of-domestic-violence-against-women/
[418] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[419] Information on Tajikistan for consideration by the Committee on the Elimination of Discrimination against Women at its 87th Session (29 January - 16 February 2024) INT_CEDAW_CSS_TJK_56925_E (20 December 2023), p. 7.
[420] Equality Now. Information on Tajikistan for consideration by the Committee on the Elimination of Discrimination against Women at its 87th Session (29 January - 16 February 2024) INT_CEDAW_CSS_TJK_56925_E (20 December 2023), para. 18.
[421] Code of Criminal Procedure, art. 188.

survivors to re-enact the crime at the original location, recall details, and identify specific locations in front of police cameras.[422] However, the procedure often fails to add any probative value to the evidence and risks retraumatising survivors.[423] Questions and comments by investigators during this process often implicitly or explicitly judge the survivor's behaviour, suggesting shared responsibility for the crime.

The mission was further informed that various unethical methods may be employed to resolve cases at the investigation stage, including bribery, offering amnesty, or failing to register incidents, thereby allowing perpetrators to avoid accountability.[424] Although, there exist recommendations for improved criminal procedure guidelines for the police, prosecutors, and judges, including prohibiting questioning children in the presence of their abusers, violations of this rule continue to occur, including in cases involving children as young as, for instance, three years old.[425]

Survivors often interact with general criminal investigation officers who lack the specialized training necessary to handle domestic violence cases appropriately.[426] Few police stations have established gender-sensitive units staffed by trained female officers, and the high turnover rate among these officers is problematic. [427]

Most police inspectors handling GBV cases are male, despite legal requirements that inspectors be of the same sex as the survivor, particularly in cases of sexual violence where female officers are mandated to manage such cases.[428] When questioned about the lack of female specialists, the police explained it as a lack of interest in the role, largely due to poor working conditions.[429] The inspectors are said to work long shifts, often without adequate facilities such as showers or sleeping areas, further deterring women from taking up the position.[430]

The mission was told that prosecutors do strive to ensure that all sexual violence crimes are investigated and brought to court, reflecting the current Prosecutor General's particular concern for these cases.[431] However, problematic practices persist, in some instances, involving religious leaders, such as mullahs, in GBV cases, who may pressure the survivor to withdraw her complaint.[432] Law enforcement personnel are reported to often prioritize "reconciliation" and family unity, contacting the husband rather than focusing on the survivor's safety.[433]

Another problematic aspect is that, particularly for domestic violence cases involving slight[434] or moderate harm,[435] as classified by the local forensic institutions, survivors are often required to initiate private or private-public prosecutions.[436] This obliges them to prepare complaints in a legally proper form, submit preliminary evidence, and present lists of witnesses, effectively shifting the burden of ensuring investigation and prosecution onto the survivor. [437] Such requirements constitute a breach of States' obligation to investigate

[422] Equality Now. Information on Tajikistan for consideration by the Committee on the Elimination of Discrimination against Women at its 87th Session (29 January - 16 February 2024) INT_CEDAW_CSS_TJK_56925_E (20 December 2023), para. 18.
[423] *Ibid,* para. 19.
[424] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[425] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[426] Human Rights Watch, 2019, p. 59.
[427] *Ibid,* p. 58.
[428] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[429] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[430] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[431] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[432] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[433] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[434] Slight bodily harm: "Intentional infliction of minor bodily harm that causes a short-term health disorder or results in a slight permanent loss of working capacity." Criminal Code, art. 112.
[435] Moderate bodily harm: "Intentional infliction of bodily harm that is not life-threatening and does not result in the consequences listed in Article 110 of this Code, but causes a prolonged health disorder or a significant permanent loss of general working capacity of less than one-third." Criminal Code, art. 111(1).
[436] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[437] Code of Criminal Procedure, art. 354(3).

and prosecute acts of domestic violence as a crime, regardless of survivors' capacity or willingness to pursue legal action.[438]

Forensic expertise

In Tajikistan, forensic medical reports are required for assessing the impact of domestic violence on survivors' physical and mental health, seeking damages, and holding perpetrators accountable.[439] These medical reports can be used as evidence of violence in criminal proceedings.[440] Based on them, an offence may be qualified as falling under private, private-public, or public category, as described above (See Chapter IV, Section 1.2). Investigators often require survivors to provide official documentation from the forensic body, demanding proof that the survivor has sustained multiple injuries.[441]

Such reports are free if survivors are referred for such examination by the police.[442] In the absence of such a referral, survivors are required to pay for the examinations themselves. Delays by law enforcement in initiating proceedings and referrals result in the disappearance of physical evidence of violence. Consequently, lawyers are reported to advise survivors to undergo examinations at their own expense to ensure timely documentation of injuries.[443]

The 2024 amendments to the Law on the Prevention of Domestic Violence granted survivors of domestic violence the right to free medical, psychological, legal, and social assistance, including access to state medical services.[444] However, this protection remains narrowly defined, applying only to individuals recognized as survivors of domestic violence, and does not extend to survivors of other forms of GBV — a significant gap in the overall protection framework.

An analysis of 40 administrative domestic violence cases revealed that only five included forensic medical reports, all of which had been obtained by the survivors themselves.[445] This demonstrates a lack of proactive engagement by law enforcement in securing medical or psychological assessments to support survivors' claims.[446]

Access to appropriate medical care also remains a significant barrier for survivors. Often, only male doctors are available for examinations, which can deter women from undergoing them,[447] particularly in cases of torture and ill-treatment, including GBV. The absence of female medical professionals creates a substantial obstacle to survivor-centred care.[448] Furthermore, forensic medical examinations are reported to typically be intrusive and extremely traumatizing, particularly when conducted by male experts, despite the fact that the majority of survivors are women.[449]

Harm classification in the law

In Tajikistan, cases of GBV that result in serious bodily injury are subject to prosecution by the State as offences investigated under public prosecution.[450] However, where survivors sustain relatively minor injuries, they are required to initiate private

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[438] Annex to General Assembly resolution 52/86, Crime prevention and criminal justice measures to eliminate violence against women, Adopted by the UN General Assembly in 1997, para. 7.
[439] IPHR, 2024, p. 13.
[440] IPHR, 2017, pp. 40-41.
[441] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[442] IPHR, 2024, p. 13.
[443] *Ibid.*
[444] Law on the prevention of domestic violence, art. 6.
[445] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom.* https://shorturl.at/zDEnN, p. 37.
[446] *Ibid,* p. 37.
[447] IPHR, 2017, p. 41.
[448] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[449] Equality Now. Information on Tajikistan for consideration by the Committee on the Elimination of Discrimination against Women at its 87th Session (29 January - 16 February 2024) INT_CEDAW_CSS_TJK_56925_E (20 December 2023), para. 20.
[450] Code of Criminal Procedure, art. 24.

prosecutions, which places the burden of navigating complex legal procedures entirely on them.[451] This distinction is further complicated by the Criminal Code's definition of "moderate injury," which refers to harm resulting in the loss of up to one-third of an individual's working capacity.[452] Injuries that are classified as "light bodily harm", those requiring fewer than 21 days to recover, are not consistently recognized as prosecutable.[453] This means that even to qualify as light bodily harm, injuries must meet a very high level of severity. Psychological harm, including trauma resulting from GBV, is not included within these categories, leaving such harm effectively unaddressed and outside the scope of prosecutable injury.

During the mission, forensic experts stated that they rely on internal guidelines for assessing health damage. For example, a hand fracture is classified as medium, while shoulder injuries are deemed serious. Concussions may be classified as light or moderate depending on the survivor's reported condition at the time of assessment. Nevertheless, the mission was also informed about a significant lack of clarity in the legal definitions of light, moderate, and grievous bodily harm, with ambiguous criteria used by forensic experts for assessment.[454] These uncertainties create further impediments to access to justice by survivors, as they influence whether a case qualifies for State led prosecution, through a private complaint procedure, or dismissed altogether.

Judicial and procedural obstacles

The mission learned that judges often fail to thoroughly examine domestic violence issues and instead grant couples a two to three month period to "reconcile" prior to issuing a divorce ruling.[455] Survivors are frequently advised to prioritize family unity and the presumed negative impact on their children over accountability, with judges promoting "reconciliation" over prosecution.[456] This happens in divorce cases involving domestic violence,[457] with preservation of the official marriage accorded a greater value than termination of abuse in ensuring the well-being of survivors, including children in those families. In cases of unregistered or religious marriages, survivors face even greater barriers. Such unions often fall outside the formal legal framework, leaving survivors without access to legal remedies such as divorce, protection orders, or child custody arrangements. As a result, survivors in these marriages may have no formal avenue to seek justice or state protection, reinforcing impunity for perpetrators and deepening the cycle of abuse.

Judicial bias or insensitivity also poses a significant barrier. The mission was informed that judges in Tajikistan sometimes appear to reach conclusions before hearing the full body of evidence, placing survivors at a further disadvantage.[458] Most domestic violence cases are handled by administrative courts, where proving abuse is particularly challenging.[459] Survivors are required to submit concrete evidence, yet family members or neighbours are often unwilling to testify, making it difficult for survivors to pursue legal remedies.[460] Survivors rarely appeal initial court decisions due to exhaustion, lack of legal aid, and fear of repercussions.[461]

The mission was told that women who have endured severe abuse, including sexual violence, often pursue divorce rather than criminal prosecution, but continue to encounter significant obstacles when navigating a legal system that resists addressing their needs

[451] IPHR, 2024, p. 12.
[452] Criminal Code of Tajikistan, art. 111(1).
[453] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[454] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[455] IPHR, 2017, pp. 44-45.
[456] IPHR, 2024, p. 11.
[457] IPHR, 2017, pp. 44-45.
[458] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[459] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[460] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[461] Human Rights Watch, 2019, pp. 55, 62, 67.

and offering sufficient support.[462] Additionally, survivors face significant obstacles in accessing long-term post-divorce remedies such as subsidized housing and securing enforcement of alimony payments.[463]

Survivors are often required to confront their abusers directly, including being subjected to direct questioning by the accused.[464] This can lead to further intimidation, emotional trauma, and re-victimization.

The use of protective measures**,** such as courtroom partitions or video testimonies, is rare and left entirely to judicial discretion.[465] Despite repeated calls for procedures to separate survivors from their abusers during court proceedings, only a small number of judges implement such measures.[466] In rare instances, such as in some Dushanbe courts, separate rooms are provided for children, but survivors are still often required to confront their abusers in court. As a result, even when laws allow for closed sessions or limited survivor participation in hearings,[467] survivors still often face their abusers in court.[468] The absence of a distinct, survivor-centred trial process for GBV cases results in inconsistent application of protective measures and fails to provide effective safeguards.[469]

Another major shortcoming concerns the conduct of defence lawyers, who frequently subject survivors to degrading and inappropriate questioning, including the use of evidence about their sexual history,[470] an approach that causes considerable emotional harm to survivors. Judges rarely intervene to stop such practices, and no procedural safeguards exist to prevent such secondary victimization.[471]

Women with disabilities face additional systemic barriers in accessing justice. Court buildings remain largely inaccessible, and the legal system lacks adequate provisions to accommodate women with physical or intellectual disabilities.[472] Misinterpretation of disabilities is common. For example, women with hearing impairments are often mistakenly assumed to have mental disabilities, resulting in their exclusion from proceedings.[473] Sign language interpreters are rarely available due to a lack of government funding, even when requested.[474] These shortcomings significantly deter women with disabilities from reporting abuse and seeking justice.

In cases involving domestic violence, critical contextual factors such as prior abuse are often overlooked.[475] For example, in situations where women are charged with killing their abusive husbands, courts rarely take into account the long-term control and violence women have endured and instead only focus on confessions or remorse.[476] Many women serving prison sentences, convicted for killing family members, including husbands or mothers-in-law, were themselves long-term survivors of domestic violence.[477] These

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[462] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan; Amnesty International, 2009. *Violence is not just a Family Affair Women Face Abuse In Tajikistan*, https://www.amnesty.org/fr/wp-content/uploads/2021/06/eur600012009en.pdf, p. 39.
[463] Human Rights Watch, 2019, p. 71.
[464] Equality Now. Information on Tajikistan for consideration by the Committee on the Elimination of Discrimination against Women at its 87th Session (29 January - 16 February 2024) INT_CEDAW_CSS_TJK_56925_E (20 December 2023), paras. 19, 23.
[465] IPHR, 2017, pp. 55-56.
[466] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[467] Article 282(3) of the Code of Criminal Procedure: At the request of the victim, the judge may exempt them from attending the court hearing, requiring them to appear only at a specified time to give testimony.
[468] IPHR, 2017, pp. 55-56.
[469] *Ibid.*
[470] Equality Now. Information on Tajikistan for consideration by the Committee on the Elimination of Discrimination against Women at its 87th Session (29 January - 16 February 2024) INT_CEDAW_CSS_TJK_56925_E (20 December 2023), para. 19.
[471] *Ibid.*
[472] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[473] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[474] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[475] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[476] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[477] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.

women, who often responded to prolonged periods of abuse, are treated solely as perpetrators under criminal law, with no recognition of their victimization due to the systemic failure that denied them protection.[478]

A number of judges indicated that they may consider prosecutorial recommendations regarding mitigating or aggravating factors.[479] However, they typically adhere strictly to the legal classification of offences, which do not allow for consideration of the relationship dynamics or prolonged abuse as mitigating circumstances.[480] Courts also have the discretion to reduce sentences, but rarely deviate from the prosecutor's classification, even when legally empowered to do so.[481]

Beyond such cases, a broader analysis of court decisions indicates a general pattern of sentencing practices that limit judicial discretion and contextual assessment. In 68 per cent of criminal cases reviewed (70 out of 103), judges imposed sentences below those requested by prosecutors.[482] Almost all cases involved at least one mitigating factor. The most common such factors were: the absence of prior criminal record (87 cases); expression of remorse (85); care responsibilities for minor children (26); the remaining 20 cases involved other circumstances, including cooperation with the investigation in solving the crime, or the person's old age or disability.[483] However, available data do not clarify whether mitigating factors were applied in cases involving survivors of violence.

By contrast, aggravating circumstances were rarely applied. In nearly two-thirds of the cases (72), none were considered. In the small number of cases where aggravating factors were acknowledged, the most frequent were: the crime being committed against a minor or adolescent (9 cases), the offence resulting in severe harm (8), or the perpetrator being intoxicated (6).[484]

3. Gaps in legal support, services, and awareness

Limited access to legal aid for survivors of GBV

The Law on Legal Aid[485] establishes two types of legal assistance: primary legal aid, available to all for consultations and assistance with document preparation (excluding court representation), and secondary legal aid, which applies to criminal, administrative, and civil proceedings, but is limited to specific groups such as suspects or defendants in criminal cases.[486]

While the law identifies specific vulnerable groups entitled to free legal assistance, such as individuals with disabilities and minors, it does not include GBV survivors.[487] Furthermore, the Code of Criminal Procedure contains no specific provisions guaranteeing access to free legal aid for survivors of GBV, including children who have experienced or witnessed domestic violence, as well as survivors of sexual abuse. An additional obstacle is that women survivors cannot apply directly for free legal assistance from the government; instead, lawyers are appointed to them by judges or investigators, which prevents survivors from independently choosing or approaching legal aid providers.[488]

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[478] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[479] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[480] Based on a stakeholder meeting held on 18 September 2024 during the ICJ mission to Tajikistan.
[481] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[482] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom*. https://shorturl.at/zDEnN, p. 27.
[483] *Ibid,* p. 28.
[484] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom*. https://shorturl.at/zDEnN, p. 29.
[485] Law on Legal Aid No. 1694 of 4 July 2020.
[486] CEDAW Seventh periodic report submitted by Tajikistan under Article 18 of the Convention, due in 2022 CEDAW/C/TJK/7, 12 December 2022, paras. 56-57.
[487] Law on Legal Aid No. 1694 of 4 July 2020, arts. 21-23.
[488] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.

The mission was informed that the legal centres through which the government provides legal aid to individuals in GBV cases, are often overcrowded.[489] The centres frequently lack a survivor-centred approach, which is essential for effectively supporting women who face difficulties in leaving abusive marriages.[490] Many legal aid providers are reported to focus on family "reconciliation" rather than addressing the immediate safety and needs of the survivors.[491] Most legal aid cases involve family law matters, particularly divorce and alimony. While lawyers may advise on initiating criminal proceedings, domestic violence is often not cited in petitions.

In practice, survivors of GBV rarely access State-funded secondary legal aid, as the law limits eligibility mainly to suspects or defendants in criminal cases.[492] Instead, most legal assistance for survivors is provided through civil society organizations, such as women's centres and crisis centres. Judges often refer women without legal representation to civil society organizations, as the law does not guarantee to them direct access to State-funded legal aid.[493]

These organizations often work in partnership with licensed lawyers to provide legal representation. Their support primarily focuses on family law matters, including divorce, child support, and paternity claims, while only a small number offer legal assistance in criminal or administrative proceedings.

A review of criminal and administrative cases concerning domestic violence and crimes against sexual integrity and autonomy[494] revealed a significant disparity in legal aid access between perpetrators and survivors. In criminal cases, perpetrators were more likely to benefit from legal assistance than survivors.[495] Approximately half of the perpetrators had legal representation during both the investigation and trial stages. The State appointed defence lawyers in 16 out of 49 investigation-phase cases and in 11 out of 54 trials, primarily in matters involving sexual violence.[496]

By contrast, survivors within the same proceedings were considerably less likely to have access to legal representation. Legal aid was provided in only two cases during investigations, and in 11 trial proceedings, mostly limited to cases of sexual violence.[497] These services were typically offered free of charge by the NGO *Tashabusi Khukuki* (Legal Initiative), which focuses on the protection of children's rights.[498] In the administrative cases reviewed, neither perpetrators nor survivors had legal representation, whether State-provided or privately retained.[499]

This gap in support is further compounded by the overall shortage of lawyers and limited access to free legal aid in Tajikistan.[500] Legislative amendments in 2015 restricted the independence of the legal profession, particularly in the qualification of new members of the Bar Association, reducing the number of practicing lawyers from approximately 2,000 to fewer than 500 for a population of nearly nine million by 2019.[501] Although the number of practicing lawyers increased to 823 by 2023, it remains insufficient to meet the national demand.[502] Shortage of lawyers is particularly acute in rural and remote areas, where

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[489] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan. .
[490] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[491] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[492] Law on Legal Aid No. 1694 of 4 July 2020, arts. 21-23.
[493] Based on a stakeholder meeting held on 18 September 2024 during the ICJ mission to Tajikistan.
[494] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom*. https://shorturl.at/zDEnN.
[495] *Ibid*, p. 25.
[496] Rights and Prosperity. 2025. *Review of Criminal and Administrative Cases on Domestic Violence and Crimes Against Sexual Integrity and Sexual Freedom*. https://shorturl.at/zDEnN, p. 26.
[497] *Ibid,* p. 25.
[498] *Ibid,* p. 25.
[499] *Ibid,* p. 37.
[500] Human Rights Watch, 2019, p. 64.
[501] *Ibid.*
[502]Lawyers for Lawyers. 2023. *Lawyers' Day in Tajikistan*. https://www.lawyersforlawyers.org/lawyers-day-in-tajikistan-3/

often only one or two lawyers may be available.[503] Restrictive procedures associated with obtaining lawyer status further limit access to legal representation. In the absence of legal assistance, many survivors of domestic violence remain uninformed about procedures for seeking a protection order, engaging with investigations, and initiating prosecutions, and may lack the information to respond to delays.[504]

Survivor support services

The Law on the Prevention of Domestic Violence requires support centres to offer temporary shelter.[505] The Committee on Women and Family Affairs (CWFA), the main State agency focused on preventing GBV in Tajikistan, operates State-run consultation centres that provide legal and psychological support to enhance legal awareness and prevent abuse, including domestic violence.[506] To improve outreach in remote areas, the CWFA distribute informational materials and contact information for support services.[507] The mission was also informed that, with government support, the CWFA initiated the construction of a shelter for domestic violence survivors and their children.[508] However, this remains the only such facility planned at the national level, underscoring the severe shortage of safe accommodation across the country, particularly outside major cities. The project is currently on hold due to insufficient donor funding, though plans apparently include adding training courses for shelter residents once operational.

With support from development partners, the CWFA has launched initiatives such as special support rooms designed to address the needs of both domestic violence survivors and perpetrators.[509] These rooms aim to provide survivors with a safe environment for receiving assistance, while also offering psychosocial support to perpetrators with the goal of reducing the risk of reoffending. The CWFA established the crisis hotline 1313, which provides free mobile support for domestic violence prevention.[510] This hotline, available daily except Sundays, offers legal assistance to all survivors through online and in-person consultations with psychologists and lawyers. However, the hotline at the time of this publication is inactive, though the CWFA has indicated its intention to resume the service once a new project is created with development partners.[511]

Tajikistan has five shelters for survivors of domestic violence and human trafficking, most operated by NGOs and relying on project-based funding.[512] NGO-run shelters face chronic funding shortages, making it difficult to sustain operations. For example, the shelter in Bokhtar is currently closed due to a lack of funding.[513] This gap in funding impacts the ability of shelters to meet the needs of domestic violence survivors, particularly given that the legal framework does not mandate the immediate removal of aggressors from the home or provide for other protective measures.[514]

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[503] From the discussions during the Expert Roundtable on access to justice for women in Tajikistan that was held on 18-19 September 2024 in Dushanbe.
[504] Human Rights Watch, 2019, p. 64.
[505] Law on the prevention of domestic violence, art. 16.
[506] UNECE. 2020. *National Review of the Republic of Tajikistan on the Implementation of the Beijing Declaration and Platform for Action (1995) within the scope of implementation of the 2030 Sustainable Development Agenda and the outcomes of the twenty-third special session of the General Assembly (2000) in the context of the twenty-fifth anniversary in 2020 of the Fourth World Conference on Women and the adoption of the Beijing Declaration and Platform for Action*. https://unece.org/fileadmin/DAM/Gender/Beijing_20/Tajikistan_ENG.pdf, p. 41.
[507] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[508] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[509] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[510] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[511] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[512] Asia-Plus. 2025. *Why is the problem of domestic violence in Tajikistan still unresolved?* https://asiaplustj.info/en/news/tajikistan/society/20250217/why-is-the-problem-of-domestic-violence-in-tajikistan-still-unresolved; Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[513] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[514] IPHR, 2024, p.19.

The only State-funded facility, the Republican Centre for Social Services for Victims of Human Trafficking and Domestic Violence, was established in August 2021 by the Ministry of Health and Social Protection. This centre has a capacity of 25 beds and serves both domestic violence and trafficking survivors, with separate accommodation available for men when necessary.[515] In 2021, the centre provided support to 14 women and children, and in the first nine months of 2022, assisted 68 individuals, including 56 domestic violence cases.[516]

Additionally, 33 crisis centres, also operated by NGOs and funded by international development partners, provide crucial legal, medical, and psychological services.[517] However, their number is also insufficient, and their reliance on international funding threatens their long-term sustainability.[518]

Overall, there is a critical shortage of safe spaces for survivors, especially State-funded ones. According to the Istanbul Convention, safe accommodation in specialized women's shelters should be available in every region, with at least one family place per 10,000 inhabitants.[519] Based on Tajikistan's population of approximately 10.8 million,[520] this would translate to over 1,000 family places nationwide. In reality, the current provision falls catastrophically short of this benchmark, leaving the vast majority of survivors without access to adequate protection and support.

More broadly, Tajikistan's response to GBV, heavily dependent on international donors to sustain basic services, should fall under the State's core responsibilities. Without increased and sustained national investment, the availability and quality of essential survivor services and indeed the entire support system remain at heightened risk.

For survivors, these systemic gaps translate into real barriers to seeking protection or access to justice. Access to support services is uneven and often conditioned on survivors presenting identification documents, a requirement that many women fleeing abuse cannot meet. Women with disabilities and those living with HIV face additional barriers, including discrimination and physical inaccessibility.[521] The continued criminalization of HIV transmission further deters women from seeking support, despite advances in treatment that have reduced transmission risk to negligible levels.[522] This should not be the case; criminal law should be limited to proven cases of intentional transmission, based on scientific and medical evidence.[523]

In its 2018 Concluding Observations on Tajikistan, the CEDAW Committee highlighted the inadequacy of support services for women and girls who are survivors of GBV, noting that civil society organizations primarily led the majority of these efforts.[524] While the government has made some progress in providing medical care, safe housing, and counselling services for survivors of domestic violence since 2018 to expand survivor support,[525] the CEDAW Committee reiterated its concerns in its 2024 Concluding

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[515] *Ibid,* p.4.
[516] CEDAW Seventh periodic report submitted by Tajikistan under Article 18 of the Convention, due in 2022 CEDAW/C/TJK/7, 12 December 2022, para. 98.
[517] IPHR, 2024, p.19.
[518] *Ibid.*
[519] Council of Europe, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, 11 May 2011, para. 135.
[520] https://worldpopulationreview.com/countries/tajikistan (Accessed 5 December 2025).
[521] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[522] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[523] Principle 19: "Criminal law may not proscribe non-disclosure of HIV status or exposure to HIV or HIV transmission per se. The use of criminal law should be limited to cases of intentional transmission of HIV: that is, where a person knows their HIV-positive status, acts with the intent to transmit HIV, and does in fact transmit it. In those circumstances, criminal law enforcement must be based on the best available scientific and medical evidence about HIV and modes of transmission, prevention and treatment." ICJ, *The 8 March Principles,* 2023.
[524] CEDAW Concluding Observations on Tajikistan CEDAW/C/TJK/CO/6 (14 November 2018), para. 25(e), (g).
[525] IPHR, 2024, p.4.

Observations, emphasizing the lack of support services for survivors of GBV beyond domestic violence cases, and the limitation of those for domestic violence cases.[526]

The Committee noted that only one shelter for domestic violence survivors is State-funded and that support services remain largely inaccessible for women with disabilities.[527] The Committee urged the government to provide or adequately fund accessible support services and shelters for all survivors of GBV, including those with disabilities, and to financially support non-governmental organizations (NGO) offering these services.[528]

The landscape of civil society-led services has deteriorated in recent years, especially in rural areas.[529] Authorities have closed down local NGO branches[530] and newly established organizations face significant bureaucratic obstacles. Although a number of long-standing NGOs continue to operate, the overall space for civil society has narrowed.[531]

This trend has been exacerbated by the outflow of experienced human rights lawyers and low levels of youth engagement in the sector. The mission also heard of instances of harassment and retaliation against lawyers and human rights defenders working on GBV cases. As a result, the capacity of NGOs to provide survivor-focused services, such as shelters, psychological support, counselling, and emergency assistance has diminished. At the same time, while UN agencies continue to support civil society organizations, government cooperation remains limited and often lacks transparency.[532]

Limited legal awareness and education

The mission was informed that in Tajikistan, most legal professionals and the broader public lack awareness of gender equality, with a significant number of women believing that men have the right to hold power and that they themselves have no rights.[533] Many women are unfamiliar with the content of national laws against gender discrimination and domestic violence, have difficulty reading and interpreting legal texts.[534]

While laws against employment discrimination are in place, awareness of these legal protections remain limited, and many individuals are unaware that they can seek legal assistance to challenge discriminatory practices.[535] The Law on the State Guarantees of Equality between Men and Women and Equal Opportunities for their Implementation,[536] which promotes gender equality, is also largely unknown among the general population.[537]

Despite certain shortcomings, the government and various stakeholders in Tajikistan have evidently been making efforts to improve legal awareness, with some progress already achieved. The year 2024 was declared a year for improving legal knowledge among the population,[538] highlighting the need for greater awareness of rights and the commitment to fostering this awareness. Within the mandate of the Commissioner for Human Rights of the Republic of Tajikistan (Ombudsperson), which includes generally protecting human rights, efforts are underway to raise awareness of rights.[539] These initiatives are designed to align with the UN's Fourth Phase of the World Program for Human Rights Education,

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[526] CEDAW Concluding Observations on Tajikistan CEDAW/C/TJK/CO/7 (19 February 2024), para. 36(e).
[527] *Ibid,* para. 36(e).
[528] *Ibid,* para. 37(c).
[529] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[530] Asia-Plus. 2024. *700 non-government organizations liquidated in Tajikistan over an 18-month period.* https://asiaplustj.info/en/node/335077
[531] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[532] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[533] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[534] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[535] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[536] Law of the Republic of Tajikistan on the State Guarantees of Equality between Men and Women and Equal Opportunities for Their Implementation of March 1, 2005, No. 89 (with amendments from 24 December 2022).
[537] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[538] FINCA. 2024. *The year 2024 has been declared the "Year of Legal Education" in Tajikistan,* https://finca.tj/en/news/the-year-2024-has-been-declared-the-year-of-legal-education-in-tajikistan/
[539] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.

targeting various groups in the population, including the general population and civil servants.

The United Nations Development Programme (UNDP) has introduced a course on international human rights law, which has been positively received across the country.[540] These efforts are crucial, especially for women: increased reporting of domestic violence suggests that women are beginning to assert their rights more actively.[541]

To further enhance legal education, there are proposals to introduce discussions on gender equality from an early age, including in kindergarten, with a view to fostering respect for the principle of equality between men and women.[542] This foundational education could help shape attitudes and promote the understanding of equal rights from childhood. Additionally, recent laws allowing school students to directly campaign on grievances provide a platform for younger generations to understand and advocate for their rights.[543] Information campaigns targeting students could help ensure that children are informed about their legal rights and responsibilities. Overall, these initiatives represent significant steps toward improving legal awareness and promoting gender equality in Tajikistan.

In addition to addressing the needs of survivors, there was a strong call for implementing corrective programs for aggressors. The mission underscored the importance of developing social corrective work that not only focuses on punishing aggressors but also on rehabilitating them to prevent recidivism.[544] Programs designed to work with aggressors have reportedly demonstrated promising outcomes, reinforcing the need for a holistic approach to GBV that considers both survivors and perpetrators.[545]

4. Institutional barriers in the justice system's response to GBV

Independence of the judiciary

The independence of the judiciary in Tajikistan remains severely compromised, posing significant barriers to justice for survivors of GBV. The ICJ's report, *Neither Check nor Balance: the Judiciary in Tajikistan*, provides a detailed analysis of these structural and systemic challenges.[546] The report examined the legal framework, institutional practices, and governance of the judiciary, identifying key weaknesses and offering recommendations for reform based on findings from an in-country mission. According to the report's conclusions:

> "Multiple judicial reforms in Tajikistan have not yet resulted in a judiciary with strong self-governance institutions which are capable of protecting judges who can therefore independently apply the law. An examination of the justice system's organization reveals the rudimentary nature of judicial institutions, unevenness in distribution of function among them, legal gaps and institutional add-ons which have no basis in law. This points to the need of a significant institutional reform to re-design a system of self-regulation that would allow individual judges to administer justice independently, not fearing to take an independent decision without a formal or informal check or approval from superiors. But most importantly, any such reform needs practical implementation, so that the safeguards it provides for are not overridden by informal practices.
>
> In the current context, judges may often find themselves in a situation where they are unable to adjudicate cases fairly without a risk of negative consequences for independent decisions. Presidents of courts retain overly broad powers to influence

[540] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[541] Based on a stakeholder meeting held on 18 September 2024 during the ICJ mission to Tajikistan.
[542] Based on a stakeholder meeting held on 18 September 2024 during the ICJ mission to Tajikistan.
[543] From the discussions during the Expert Roundtable on access to justice for women in Tajikistan that was held on 18-19 September 2024 in Dushanbe.
[544] Based on a stakeholder meeting held on 18 September 2024 during the ICJ mission to Tajikistan.
[545] Based on a stakeholder meeting held on 18 September 2024 during the ICJ mission to Tajikistan.
[546] ICJ. 2020. *Neither Check nor Balance: The Judiciary in Tajikistan*. https://www.icj.org/wp-content/uploads/2020/12/Tajikistan-Judiciary-Publications-Reports-Mission-report-2020-ENG.pdf, p. 68.

> decision-making in cases within this system, while the role of other judges risks becoming an auxiliary one, dependent on approval of the court president."[547]

The 2024 mission was informed that political interference, corruption, and structural dependence on the executive branch[548] continued to undermine the impartiality of judicial proceedings, particularly in sensitive or high-profile cases. Corruption, especially at the pre-trial stage, was cited as a major barrier to fair outcomes in criminal proceedings.[549]

Limited use of international human rights law and standards

Lack of engagement with international law is another factor undermining access to justice in GBV-related cases. The mission was told that lawyers and judges in Tajikistan rarely invoke international law and standards, and never in the context of GBV.[550] This gap persists despite the fact that the State is party to the principal human rights treaties, including the CEDAW.[551] Even when domestic law allows or encourages cases to be reconsidered, judges are reluctant to do so due to fears of institutional backlash or reputational harm if their original decisions are overturned.

The mission was informed of a case in which a judge, who had invoked the CRC for the best interests of the child in an alimony case, was subsequently transferred to a remote region in Khatlon as a way of retaliation and eventually resigned.[552] Such decisions contribute to the near total absence of international legal standards in the adjudication of GBV cases, even where Tajikistan is legally bound by those treaties. It was reported to the mission that in some cases, civil society organizations collaborate with lawyers to develop legal strategies that incorporate international law. However, references to international standards appear to be either ignored or rejected by courts.[553]

Tajikistan follows a formal approach, under which ratified international treaties are legally binding and take precedence over conflicting domestic law,[554] and courts are not prevented from directly applying treaty provisions. In practice, the mission was told that there is a significant lack of understanding regarding the binding nature of international obligations.[555] While some actors recognize the need for national law to be in line with international legal obligations, international standards are often misunderstood as optional recommendations rather than binding legal obligations.[556] In some instances, local independent legal experts have argued that these standards do not apply in the Tajikistan context, highlighting a significant gap in the implementation of international human rights law at the national level.

One obstacle to access to international treaties appears to be the poor translation of legal texts into the Tajik language.[557] Many key documents are either not translated or are translated inadequately, making them difficult to understand and apply in practice.[558] Unlike domestic legislation, which undergoes an official linguistic review, translations of international documents are not subject to the same level of scrutiny. As a result, lawyers and judges often have difficulties in accessing or relying on accurate versions of international legal texts. While some professionals can read Russian, in which many

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[547] *Ibid.*
[548] *Ibid,* p. 6.
[549] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[550] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[551] For a list of international treaties to which Tajikistan is a party and the corresponding obligations arising from their ratification, see Annex I.
[552] Even when domestic law allows or encourages cases to be reconsidered, judges are reluctant to do so due to fears of institutional backlash or reputational harm if their original decisions are overturned.
[553] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[554] Constitution of Tajikistan, art. 10; Law of the Republic of Tajikistan No. 1326, On International Treaties of the Republic of Tajikistan, adopted on 23 July 2016, art. 18
[555] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[556] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[557] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[558] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.

international treaties are available, this cannot fully substitute for authoritative Tajik-language versions

Courts, prosecutors, and other justice actors remain largely disconnected from the international legal framework, leaving GBV survivors without the full range of protections to which they are entitled. Both the CEDAW Committee[559] and stakeholders within Tajikistan's justice system during the mission have noted that these issues stem from a lack of systematic capacity-building for the judiciary members.

Inadequate training and capacity building of justice actors

The CEDAW Committee has highlighted the lack of systematic capacity-building for the judiciary on gender-responsive court procedures and appropriate measures to combat gender bias in judicial, adjudicatory, and investigative bodies.[560] As mentioned earlier in the report (Chapter IV, Section 4), many legal professionals lack gender-sensitive approaches to GBV cases; to the contrary, legal professionals may be led by gender stereotypes and discriminatory prejudice.

Concerns have been raised regarding the general understanding by judges of GBV, including confusion over behaviours by survivors, such as withdrawing petitions, which affects their perceptions of credibility.[561] Judges reportedly were surprised to learn about the link between psychological trauma and physical responses, illustrating a gap in their understanding of the legal and psychological dimensions of GBV. The inclination to require corroborating evidence beyond the survivor's statement reveals a critical shortcoming in current judicial approaches to these sensitive cases.

Efforts to address these challenges include governmental initiatives, especially through the CWFA, which leads nationwide workshops on violence prevention, including those in remote areas.[562] They aim to raise awareness about available support services and provide educational materials. In partnership with the Civil Service Agency, CWFA also delivers training to civil servants, including students, emphasizing violence prevention and promoting women's participation in public service roles.[563]

Further support is provided by the Ombudsperson's office and the Ministry of Internal Affairs (MoI), which work together to support MoI's field inspectors responsible for monitoring domestic violence prevention efforts.[564] The Ombudsperson's office oversees their activities, issues recommendations to MoI and works to build closer partnerships with local human rights defenders and focuses on increasing awareness-raising activities on rights protection.

According to the State reports to the CEDAW Committee, between 2019 and 2022, 424 representatives from ministries, the judiciary, and the CWFA participated in training to enhance inter-agency collaboration to promote gender equality and effectively address GBV.[565] Additionally, 160 healthcare workers reportedly were trained on national and UN standards for supporting GBV survivors and 270 religious leaders were said to have been trained to address domestic violence within their communities. The initiative also reportedly reached 600 educators and 46 media professionals, who were trained on gender sensitivity, survivor-centred approaches, and appropriate language use.[566]

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[559] CEDAW Committee, Concluding Observations on Tajikistan CEDAW/C/TJK/CO/7 (19 February 2024), para. 22(c).
[560] *Ibid,* para. 22(c); CEDAW Committee, Concluding Observations on Tajikistan CEDAW/C/TJK/CO/6 (14 November 2018), paras. 11-14.
[561] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[562] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[563] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[564] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.
[565] CEDAW Seventh periodic report submitted by Tajikistan under Article 18 of the Convention, due in 2022 CEDAW/C/TJK/7, 12 December 2022, para. 123(c).
[566] *Ibid,* para. 123(c).

International standards are formally included in training modules for the judiciary in Tajikistan, particularly those developed in cooperation with the Supreme Court.[567] However, it was reported to the mission that judicial training modules are not fully aligned with international standards, with approximately 45 per cent of the materials not meeting these criteria.[568]

While these modules, including sections on international legislation, are generally accepted during training sessions, the level of practical implementation seems unsatisfactory. Judicial actors rarely apply international standards in actual cases, partly due to the lack of specialized judges, lawyers, and investigators, particularly for cases involving children.[569] Efforts to establish a separate system with designated judges for children justice and GBV cases have not succeeded. Additionally, the selection for training of participants is problematic, as professionals who do not typically engage international human rights law in their practice, such as accountants, are sometimes sent instead of the judges who adjudicate cases.[570]

The mission was told that most training on gender and international standards for judges is conducted by international organizations.[571] They note a significant challenge in advancing gender-responsive training within the judiciary because of a restrictive policy of limiting the pool of trainers to judges only.[572]

The topics are not integrated into the national judicial training system, resulting in a lack of institutionalization. As trained staff rotates, trained judges may leave, leaving others uninformed about these critical issues.[573] There is no compulsory training on GBV-related offences, resulting in a significant loss of institutional continuity regarding the understanding and handling of such cases.

Beyond judicial training, international organizations have been supporting young lawyers in Tajikistan to build their skills and commitment to addressing GBV.[574] Initiatives such as the women's legal education project invest in training for recent law graduates. Supported by the UNDP, an internship programme for young female law graduates includes training on domestic violence laws and international human rights frameworks.[575]

While various training activities have been conducted, their overall impact remains limited. A key objective is to shift the mindset of aspiring lawyers.[576] Many trainings focus on improving writing skills through the use of GBV case studies. For instance, during sessions on domestic violence, many participants were unfamiliar with the country's domestic violence Law, so this law is integrated into their writing exercises. Additionally, while some lawyers may refer to international human rights law sources, such as the ICCPR, they often struggle to interpret and apply these instruments correctly, indicating a gap in understanding that the program seeks to close.

V. Conclusions and recommendations

1. Conclusions

GBV in Tajikistan remains widespread, with domestic violence continuing to represent the most pervasive and normalized form of abuse. Despite certain welcome policy initiatives and legislative and administrative measures undertaken by the government in recent

[567] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[568] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[569] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
[570] Based on a stakeholder meeting held on 16 September 2024 during the ICJ mission to Tajikistan.
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[576] Based on a stakeholder meeting held on 17 September 2024 during the ICJ mission to Tajikistan.

years, the response remains inadequate both in scope and in practice. Existing measures have neither provided sufficient protection nor access to justice for survivors nor been effective for the purposes of prevention. Neither have they been aimed at effectively addressing the root causes of violence. While some progress has been achieved, particularly through the adoption of the Law on the Prevention of Domestic Violence and the introduction of protective orders, these efforts fall far short of offering a comprehensive and survivor-centred framework.

Structural and legislative gaps remain significant. The legal framework of Tajikistan is not fully compliant with the State's international legal obligations, leaving some forms and expressions of violence unrecognized or subject to inadequate accountability consequences. Sexual violence continues to be defined through outdated, force-based provisions that do not place consent at the centre of the law, exclude coercive control, and leave marital rape outside the scope of criminal liability. Sexual harassment is typically minimized in official responses and treated as a minor administrative offence rather than a serious violation of human rights. Survivors of domestic violence often face daunting procedural burdens, as the State frequently shifts the responsibility of initiating prosecutions and gathering evidence onto them. This reliance on private prosecution and the demand for forensic proof of physical injury exclude many survivors of psychological, economic, and coercive abuse from legal protection. In addition, survivors frequently must cover the costs of forensic examinations themselves, creating a financial barrier that prevents many from accessing justice. Where formal remedies exist, they tend to be ineffective and are undermined by weak enforcement.

The persistence of harmful practices continues to fuel GBV and limit the autonomy of women. Early, forced, and unregistered marriages remain prevalent, driven largely by poverty, economic insecurity, and discriminatory gender norms. These practices violate women's rights, also deepen their economic dependence and expose them to heightened risks of domestic violence. Continuing and persistent social tolerance of polygamy, often justified by religious or cultural arguments, further entrenches the subordination of women and undermines legal protections. Child marriage has been empirically shown to be closely associated with spousal abuse and long-term vulnerability. Yet enforcement of prohibitions remains weak, and loopholes in existing laws permit religious unions or exceptions to the marriage age that continue to put girls at risk. These realities demonstrate that while Tajikistan has taken some legislative steps to restrict harmful marriage practices, the reforms remain partial, fragmented, and insufficiently enforced.

Institutional responses to GBV remain inconsistent and flawed. Protective orders exist in law, but enforcement is weak, and police officers, prosecutors and judges often lack training in gender-sensitive approaches. Survivors of GBV frequently report being blamed, pressured to reconcile with abusers, or discouraged from pursuing formal complaints. The policies and practices of the justice system itself often serve to re-traumatize women by requiring invasive procedures, public testimony, or investigative experiments that disregard their dignity and well-being. Law enforcement institutions lack the capacity, resources, and officials usually lack the will to proactively investigate cases, leaving survivors to shoulder the burden of proof. Where cases reach the courts, they are often settled informally or dismissed due to lack of evidence, perpetuating a cycle of impunity.

Data collection and monitoring are inadequate. There is no uniform, disaggregated system across police, prosecution, courts, healthcare, and social services, as a consequence of which there are gaps and inconsistencies that impede evaluation of institutional responses, and development of evidence-based policy.

Access to protection and support services remains very limited. Survivors of GBV are excluded from the categories of persons entitled to free legal aid, which creates a serious imbalance between perpetrators, who often secure representation, and survivors, who are left without adequate legal assistance. The few shelters and psychosocial services that exist are predominantly funded and managed by civil society organizations or international

donors, with minimal State contribution. This over-reliance on external actors creates a patchwork system of support that is fragmented, under-resourced, and unevenly distributed, particularly in rural areas.

Violence against women is still widely considered a private matter, best resolved through family "reconciliation" rather than accountability of perpetrators and protection of survivors. Survivors often face stigma and victim-blaming not only from their families and the families of their husbands but also from the very institutions tasked with protecting them. This culture of silence, combined with weak law enforcement and the absence of survivor-centred procedures, results in low reporting rates and widespread mistrust in authorities. Access to social housing and economic empowerment opportunities for women who wish to leave violent relationships remains extremely limited, further constraining their ability to escape abuse and rebuild independent, safe lives.

Domestic laws and procedures to give effect to the ICCPR, CEDAW, CRC and other human rights treaties remain weak, with no clear mechanism to ensure compliance, address the findings of UN Treaty Bodies and other mechanisms, and ensure effective follow-up. Human rights defenders, lawyers, journalists, and civil society organizations whose work is essential for addressing the GBV issues face obstacles that impede monitoring, legal assistance, and other engagement, which weakens access to justice for survivors and public oversight.

Tajikistan has taken some steps towards recognizing and addressing GBV, but the measures adopted so far remain very far from sufficient. Legal frameworks are narrow and outdated, institutional responses are inconsistent and ineffective, and survivors are left to navigate a system that frequently re-traumatizes them rather than offers safety and justice. Without addressing entrenched harmful practices that fuel violence, reforming laws and practices to bring them in conformity with international human rights law and standards, and building a robust, State-funded support infrastructure with adequate health, legal aid, shelter and psychological services, the gap between protections on paper and protections in practice will persist. Adopting a national strategy with dedicated budgeting and credible monitoring, developing a centralized, disaggregated data system and ensuring space for independent oversight and civil society support are all indispensable. More fundamentally, change requires not only legislative reform but also a transformation in social attitudes, achieved through sustained training, awareness-raising, and the promotion of women's rights at all levels of society. Unless such comprehensive reforms are undertaken, GBV will remain pervasive, survivors will continue to be denied justice and dignity, and Tajikistan will fall short of its obligations to protect women and girls from violence.

2. Recommendations

Bearing these conclusions in mind, and with reference to international human rights law and standards, the following recommendations will be directed to the Government of Tajikistan, Parliament, law enforcement and judicial authorities, and civil society. These recommendations aim to close the legislative and institutional gaps, strengthen survivor-centred protection and support services, and foster the societal change necessary to effectively prevent and respond to GBV.

(i) Recommendations to the Legislature - Majlisi Oli of the Republic of Tajikistan

Amendments to Administrative Law

- Expand Article 93(1) of the Code of Administrative Offences to include non-intentional acts and intimate partner violence outside formal family relationships, in line with international standards.
- Increase sanctions to ensure penalties are proportionate and effective deterrents.
- Introduce graduated sanctions for repeat violations of Articles 93(1) and 93(2) of the Code of Administrative Offences.

- Amend the Procedural Code on Administrative Offences to reduce the competency of officials to exercise discretion in initiating GBV-related proceedings and require written justifications for refusals, reviewable by a higher authority within a short, defined timeframe
- Reevaluate the use of "educational conversations" as a first response measure to domestic violence to ensure they do not prioritize "reconciliation" over survivor safety.

Amendments to Criminal Law

- Explicitly provide for domestic violence as a specific stand-alone offence in the Criminal Code.
- Provide for criminal liability as a consequence of repeated violations of protective orders.
- Criminalize all forms of forced marriage and cohabitation, including religious or informal arrangements, and effectively enforce this provision.
- Provide expressly for marital rape as a criminal offence, ensuring the provision applies to all forms of unions, not only officially registered marriages.
- Strengthen penalties for coercion-based sexual offences, reflecting psychological harm and power imbalances.
- Ensure that the criminal law provides effective protection against sexual exploitation and abuse of children, including forced or early marriage, while refraining from the criminalisation of consensual, non-exploitative sexual conduct between adolescents of a similar age.
- Introduce a dedicated Criminal Code provision addressing certain forms and expressions of sexual harassment, including in the workplace and public spaces.
- Adopt comprehensive legislation explicitly defining and criminalizing online GBV.
- Reform the definition of rape to adopt a consent-based approach, applicable regardless of the gender of the survivor or the perpetrator, consistent with international human rights law and standards.
- Expand the definition of sexual violence to include all non-consensual sexual acts beyond penile-vaginal penetration.
- Recognize coercion and abuse of power or trust as invalidating consent.
- Expand the legal definition of coercion to include emotional manipulation, family or social pressure, and isolation.
- Amend the Criminal Code and the Code of Criminal Procedure to ensure all forms of GBV, including those causing minor physical harm, are subject to State-led prosecution.
- Explicitly recognize psychological violence and coercive control as criminal offences, with forensic and psychological evaluation protocols that should be accessible at no cost.
- Amend the Criminal Code to allow mitigating circumstances for women who kill or injure their husbands or other family members after enduring years of gender-based or sexual violence.

Amendments to Criminal Procedure

- Ensure *ex officio* investigation and prosecution of GBV offences irrespective of complaint withdrawal, with safeguards against coercion.
- Remove procedural requirements obliging survivors to provide preliminary evidence, formalities, or witness lists at the complaint stage.
- Recognize expert psychological evidence on trauma and coercive control; adopt national standards for sexual-assault evidence.
- Introduce trauma-sensitive interviewing and protective measures during testimony in GBV cases, with strict guarantees of confidentiality throughout proceedings.
- Ensure that forensic injury classifications in GBV cases do not downplay serious violence by categorizing it as "minor" or "moderate" harm, and do not restrict criminal qualification or State-led prosecution on that basis.
- Waive court fees and medical certification costs in all cases involving GBV, sexual harassment, or other forms of discrimination and abuse.
- Introduce internal disciplinary consequences for failures to register complaints, unlawful pressure to "reconcile", or secondary victimization.
- Clarify access pathways so survivors can seek legal aid independently, without requiring judicial or investigative referral.
- Prohibit forced mediation or "reconciliation" in GBV cases.

Broader legal reforms

- Expand the definition of domestic violence to include violence in non-marital and non-cohabiting intimate relationships.
- Remove the requirement of intent from the definition of domestic violence to cover harm resulting from reckless or negligent conduct, while allowing for differing levels of sanction.
- Include comprehensive definitions of physical, psychological, sexual, and economic violence in national law.
- Amend harassment and sexual harassment definitions to centre on lack of consent rather than intent.
- Broaden workplace harassment to include single incidents as well as horizontal harassment (between colleagues of equal status) and harassment perpetrated by subordinates.
- Broaden the scope of protective orders to include no-contact and distance requirements.
- Include restrictions on perpetrators' use of shared property and contact with children.
- Revise provisions recommending survivors' "timely return" home to avoid pressuring re-entry into unsafe environments.
- Enact legislation allowing emergency barring orders in cases of imminent danger.
- Allow survivors to extend protective orders beyond 60 days, based on risk assessment.
- Amend the Family Code to eliminate all exceptions to the minimum marriage age and ensure that marriage is legally permitted only from age 18 for all, without exceptions.

- Require mandatory civil registration of all marriages, including through a legal prohibition on conducting *nikokh* without proof of civil registration.
- Amend the Labour Code to require workplace GBV policies, confidential reporting channels, non-retaliation guarantees; empower the labour inspectorate to investigate and sanction non-compliance.
- Amend the Law on Legal Aid to explicitly include GBV survivors (including children) as eligible for free legal aid.
- Institutionalize corrective and rehabilitative programmes for aggressors to prevent repeat offences.
- Prioritize the allocation of sufficient State budget and resources to prevent and respond to GBV, including funding for justice, law enforcement, shelters, legal aid, and survivor support services.
- Take concrete steps to implement recommendations from *Neither Check nor Balance: The Judiciary in Tajikistan* ICJ mission report.

(ii) Recommendations to Law Enforcement

- Improve monitoring and enforcement of protective orders.
- Consistently enforce laws criminalizing child marriage and polygamy, and sanction those who facilitate or condone these practices.
- Require all officers, especially criminal investigators, to undergo standardized, ongoing GBV training focused on survivor-centred and trauma-informed approaches.
- Enforce the legal requirement that female officers handle cases involving women and girl survivors, particularly in sexual violence cases.
- Improve recruitment and retention of women officers through better working conditions and professional incentives.
- Ensure survivor interviews take place in private, secure settings, conducted only by trained personnel.
- Prohibit the use of investigative re-enactments in sexual violence cases, unless strictly necessary, under evidentiary review and with informed survivor consent.
- Establish multidisciplinary referral systems linking police with healthcare providers, legal aid services, and crisis centres to ensure comprehensive survivor support.
- Prohibit the use of informal "reconciliation methods", including the involvement of religious figures, especially where they endanger survivor safety or access to justice.
- Prohibit blame-shifting, discriminatory language, and morally charged questioning of survivors in all police interactions.

(iii) Recommendations to Judicial Authorities

- Develop and enforce detailed guidelines for GBV and domestic violence cases, prioritizing survivor safety and dignity over family preservation.

    - Require protective procedural measures, for example, prohibition of direct questioning by the accused and use of partitions or video testimony at survivor request.
    - Establish binding GBV protocols and other necessary safeguards for defence lawyers to prohibit degrading and irrelevant questioning, including sexual history evidence, and obligate judges to intervene against secondary victimization.
    - Require courts to recognize prolonged victimization as a mitigating factor.
- Require reasoned, written decisions for dismissals based on "insufficient evidence", with prompt appeals review.
- Develop clear, standardized guidelines for assessing a minor's capacity to consent, ensuring consistent protection against exploitation.
- Adopt child-sensitive, psychologically safe interviewing procedures, and ensure personnel are trained accordingly.
- Require continuing education for judges, prosecutors, and lawyers on applying international legal standards in domestic proceedings, especially GBV cases.
- Encourage judges to explicitly reference international human rights treaties, including CEDAW, ICCPR and UNCAT, in GBV-related rulings.
- Ensure judicial training institutes:
    - Make gender-sensitivity and GBV-specific modules mandatory in official curricula.
    - Improve participant selection to prioritize judges and prosecutors handling GBV cases.
- Establish or strengthen independent oversight mechanisms to investigate failures by police or judicial authorities to register complaints, as well as cases of bribery, or improper dismissal of GBV proceedings.
- Take concrete steps to implement recommendations from *Neither Check nor Balance: The Judiciary in Tajikistan* ICJ mission report.
- Establish safeguards against reprisal or retaliation by political or other powerful actors, ensuring that reliance on international human rights law and standards is welcomed, not penalized.
- Ensure compliance with international obligations, including reopening cases in line with UN Treaty Body decisions on individual communications, through clear procedural guidance.
- Strengthen cooperation between courts, civil society organizations, and State actors to guarantee survivors receive legal, social, and psychological support throughout proceedings.

(iv) Recommendations to the Executive

- Adopt and implement a comprehensive national strategy to eradicate gender stereotypes and patriarchal attitudes towards women and girls, particularly the dominant perception of women's subordinate role in the family and society.

- Adopt and implement a National Strategy and Action Plan on GBV with measurable indicators, a sufficient State-funded budget, and an inter-ministerial coordination mechanism including civil society.
- Ensure that the entire justice system and GBV response services are financed through the State budget, rather than foreign funding only, to guarantee sustainability and accountability.
- Adopt survivor-centred standard operating procedures (SOPs) for the police when handling GBV cases.
- Ensure equal access to free forensic and medical examinations for all survivors of GBV, regardless of police referral.
- Train and deploy female forensic professionals, particularly in rural areas.
- Develop standardized forensic assessment guidelines, consistently applied nationwide, covering both physical and psychological harm.
- Provide mandatory training for forensic, legal, and law enforcement professionals on GBV-sensitive practices.
- Allocate a permanent State budget for shelters, legal aid, and psychosocial services for all GBV survivors, reducing reliance on donors.
- Increase the number of accessible shelters and temporary accommodation facilities to meet the international standards and actual needs of GBV survivors, ensuring at least one family place per 10,000 inhabitants as required by the Istanbul Convention. Ensure that shelters are distributed across all regions and accessible without requiring identity documents.
- Ensure services (shelters, crisis centres, hotline) are accessible to women with disabilities, HIV-positive women, and other marginalized groups.
- Establish specialized GBV hotlines at the regional level with mandatory incident registration and written reasons for any refusal to register complaints. Secure sustainable funding for the national domestic violence hotline.
- Strengthen coordination among CWFA, healthcare providers, police, and civil society organizations to improve referrals, protection responses, and data collection.
- Expand the network of licensed legal aid lawyers, with incentives for rural deployment.
- Ensure all legal aid providers (State institutions, Bar Association, civil society organizations) receive GBV-sensitive and trauma-informed training, including CEDAW and Istanbul Convention.
- Scale up State-funded legal aid for GBV survivors, especially in administrative and criminal procedures.
- Invest in mentorship, scholarships, and internships for young lawyers, particularly women, in GBV advocacy.
- Expand public legal education for women and marginalized groups through community outreach, media campaigns, and local leaders, with accessible materials in local languages.
- Introduce mandatory human rights and gender equality education in schools from early levels.

- Integrate international human rights law (including the CEDAW) into curricula of law faculties and judicial training programs.
- Translate the CEDAW, the ICCPR; the UNCAT, the CRC and other human rights instruments into Tajik and other local languages where appropriate with the same accuracy as domestic laws.
- Establish a centralized online database of international human rights documents in Tajik and other local languages where appropriate, accessible to professionals and the public.
- Ensure the primacy of international law over national legislation in the field of human rights and gender equality both in law and in practice:
    - Withdraw the declaration to Articles 8 and 9 of the Optional Protocol to the CEDAW Convention to allow for the inquiry procedure.
    - Seek to accede to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence as a framework for strengthening legal and institutional responses to GBV.
    - Take concrete steps to implement recommendations from *Neither Check nor Balance: The Judiciary in Tajikistan* ICJ mission report.
    - Guarantee the protection of NGOs, including those addressing women's human rights, ensuring they can operate without interference, access funding, and are safeguarded from harassment or arbitrary actions by the authorities.
    - Protect all stakeholders — including women human rights defenders, journalists, lawyers, judges, and civil society actors — from threats, retaliation, or intimidation for reporting or addressing GBV, including when invoking international law, and ensure they are not subjected to arbitrary arrest, detention, prosecution, or career-related reprisals.

Annex I: International HR instruments

Reporting Status for Tajikistan

Treaty	Signature Date	Ratification Date, Accession(a), Succession(d) Date
CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		11 Jan 1995 (a)
CCPR - International Covenant on Civil and Political Rights		04 Jan 1999 (a)
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women		26 Oct 1993 (a)
CERD - International Convention on the Elimination of All Forms of Racial Discrimination		11 Jan 1995 (a)
CESCR - International Covenant on Economic, Social and Cultural Rights		04 Jan 1999 (a)
CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	07 Sep 2000	08 Jan 2002
CRC - Convention on the Rights of the Child		26 Oct 1993 (a)
CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		05 Aug 2002 (a)
CRC-OP-SC - Optional Protocol to the Convention on the Rights		05 Aug 2002 (a)

CRPD - Convention on the Rights of Persons with Disabilities	22 Mar 2018	

Acceptance of Individual Complaints Procedures for Tajikistan

Treaty	Signature Date	Ratification Date, Accession(a), Succession(d) Date
CCPR-OP1 - Optional Protocol to the International Covenant on Civil and Political Rights		04 Jan 1999 (a)
CEDAW-OP - Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	07 Sep 2000	22 Jul 2014

Acceptance of the Inquiry Procedure for Tajikistan

Treaty	Acceptance of inquiry procedure	Date of acceptance/non acceptance
CAT, Art.20 - Inquiry procedure under the Convention against Torture	YES	11 Jan 1995
CEDAW-OP, Art. 8-9 - Inquiry procedure under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women	NO	22 Jul 2014

UN Human Rights Bodies. 2025. *UN Treaty Body Database*. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=TJK&Lang=EN (Accessed 4 December 2025).

Annex II: List of all articles of the Criminal Code and Code of Administrative Offences

Criminal Code

- Article 104: murder;
- Article 109: driving to suicide;
- Article 110: intentional infliction of grievous bodily harm;
- Article 111: intentional infliction of harm to health of moderate severity;
- Article 112: intentional infliction of slight harm to health;
- Article 116: beating;
- Article 117: tormenting;
- Article 124: forcing a woman to perform an abortion;
- Article 138: rape;
- Article 139: violent acts of a sexual nature;
- Article 140: compulsion to acts of a sexual nature;
- Article 141: sexual intercourse and other actions of a sexual nature with a person under the age of sixteen;
- Article 142: lecherous acts;
- Article 142.1: sexual intercourse, other acts of a sexual nature, or debauchery with abuse of feelings and religious belief;
- Article 143.1: torture.

Code of Administrative Offences

- Article 93.1: violation of the requirements of the legislation of the Republic of Tajikistan on the prevention of domestic violence;
- Article 93.2: violation of the requirements of a restraining order;
- Article 460: petty hooliganism.

Code of Criminal Procedure

- Article 24: cases of private, private-public, and public prosecution
- Article 140: grounds and reasons for initiating a criminal case
- Article 141: statement (report) of a crime
- Article 146: initiation of a criminal case of public prosecution
- Article 147: initiation of a criminal case of private-public prosecution
- Article 188: investigative experiment
- Article 282: participation of the victim in court proceedings
- Article 354: initiation of cases of private prosecution
- Article 355: powers of the judge in a case of private prosecution before the commencement of court proceedings

Annex III. List of meetings of the ICJ Mission to Tajikistan

September 2024

- **Civil society organizations**
- **Judiciary / Government Officials**
  - Supreme Court / Association of Women Judges
  - Alliance of Women Deputies, Parliament of Tajikistan
  - Bar Association
  - Committee on Women and Family Affairs
- **International Organizations**
  - EU Delegation in Tajikistan
  - UN Women – Tajikistan
  - OHCHR
  - UNDP – Tajikistan
  - Swiss Cooperation / Swiss Development Agency

Commission Members
October 2025

President:
Prof. Carlos Ayala, Venezuela

Vice-Presidents:
Justice Radmila Dragicevic-Dicic, Serbia
Justice Sir Nicolas Bratza, UK

Executive Committee:
(Chair) Dame Silvia Cartwright, New Zealand
Ms. Nahla Haidar El Addal, Lebanon
Mr. Shawan Jabarin, Palestine
Justice Qinisile Mabuza, Eswatini
Ms. Mikiko Otani, Japan
Prof. Marco Sassoli, Italy/Switzerland
Mr. Wilder Tayler, Uruguay

Africa
Justice Azhar Cachalia, Africa
Justice Moses Chinhengo, Africa
Ms. Jamesina King, Africa
Justice Charles Mkandawire, Africa
Justice Aruna Narain, Africa
Justice Lillian Tibatemwa-Ekirikubinza, Africa
Justice Sanji Monageng, Africa
Justice Willy Mutunga, Africa
Mr. Lawrence Mute, Africa

Asia & Europe
Justice Ajit Prakash Shah, Asia
Justice Kalyan Shrestha, Asia
Ms. Ambiga Sreenevasan, Asia
Ms. Imrana Jalal, Asia
Ms. Miyeon Kim, Asia
Ms. Chinara Aidarbekova, Europe
Justice Martine Comte, Europe
Ms. Gulnora Ishankhanova, Europe
Ms. Asne Julsrud, Europe
Justice Tamara Morschakova, Europe
Justice Egbert Myjer, Europe
Dr. Jarna Petman, Europe
Justice Stefan Trechsel
Prof. Fionnuala Ni Aolain
Ms. Patricia Schulz, Europe
Ms. Anne Ramberg, Europe
Professor Laurence Burgorgue-Larsen, Europe

MENA
Ms. Hadeel Abdel Aziz, MENA
Mr. Marzen Darwish, MENA
Mr. Gamal Eid, MENA
Justice Kalthoum Kennou, MENA
Justice Fatsah Ouguergouz, MENA
Mr. Michael Sfard, MENA
Justice Marwan Tashani, MENA
Ms. Mona Rishmawi, MENA

Americas
Mr. Reed Brody, Americas
Ms. Catalina Botero, Americas
Prof. José Luis Caballero Ochoa, Americas
Prof. Juan Mendez, Americas
Prof. Mónica Pinto, Americas
Prof. Victor Rodriguez Rescia, Americas
Mr. Alejandro Salinas Rivera, Americas
Prof. Rodrigo Uprimny Yepes, Americas
Ms. Claudia Paz y Paz, Americas
Ms. Roberta Clarke, Americas
Ms. Beth Van Schaack, Americas
Mr. Eduardo Ferrer MacGregor, Americas
Prof. Kyong-Wahn Ahn, Asia
Justice Adolfo Azcuna, Asia
Dr. Elizabeth Biok, Asia
Ms. Hina Jilani, Asia

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