

Joint NGO submission to CEDAW ahead of the consideration of Uzbekistan's Sixth Periodic Report at the 81st session in February 2022

Uzbekistan: Failure to Protect Women from Domestic Violence

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TABLE OF CONTENTS

INTRODUCTION	3
GOVERNMENT STEPS TO ADDRESS DOMESTIC VIOLENCE	3
DOMESTIC VIOLENCE: CAUSES, EXTENT AND KEY CONCERNS	3
NATIONAL LEGISLATION	4
OBSTACLES TO PROTECTION, JUSTICE AND REDRESS	5
GAPS AND SHORTCOMINGS IN DOMESTIC LEGISLATION	5
PREJUDICE AND PATRIARCHAL ATTITUDES IN GOVERNMENT AGENCIES AND COURTS	6
PROTECTION ORDERS NOT ALWAYS IMPLEMENTED IN A VICTIM-CENTRED WAY	9
RECONCILIATION AND IMPUNITY	9
POLICY TO REDUCE THE DIVORCE RATE	10
DIFFICULTIES IN OBTAINING FORENSIC MEDICAL EVIDENCE	10
LACK OF COORDINATED PROTECTION AND REFERRAL MECHANISM	10
INADEQUATE PROVISION OF EMERGENCY ASSISTANCE	11
NO SUFFICIENT NUMBER OF WELL-RESOURCED SHELTERS	11
INSUFFICIENT WELL-TRAINED SOCIAL WORKERS AND PSYCHOLOGISTS	11
RECOMMENDATIONS TO THE AUTHORITIES OF UZBEKISTAN	12

Introduction

This submission focuses on the issue of domestic violence against women in Uzbekistan. It identifies protection gaps in both domestic legislation and practice and provides recommendations for the Uzbekistani government ahead of the Committee on the Elimination of Discrimination against Women's (CEDAW) examination of Uzbekistan's periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The constructive dialogue is scheduled to take place on 15 and 16 February 2022 at CEDAW's 81st session.

International Partnership for Human Rights (IPHR) is a non-profit organization based in Brussels. Founded in April 2008, its mandate is to support local civil society groups in their work to eradicate violations of human rights and help their concerns and efforts be heard at the international level. In preparing this report IPHR cooperated with activists and human rights defenders across Uzbekistan.

Government steps to address domestic violence

The Uzbekistani authorities have taken some positive steps to combat domestic violence since Uzbekistan's last review by CEDAW in 2015. In 2019 the Law on the Protection of Women from Oppression and Violence (further Law on the Protection of Women) was adopted. Uzbekistan significantly enhanced the role of parliament in improving legislation, oversight and law enforcement practice in relation to gender equality and protection of women from violence. A Republican Public Council of Women was set up, headed by the Chairperson of the Parliamentary Senate and tasked with coordinating the implementation of Uzbekistan's obligations under CEDAW, the Beijing Platform for Action and a National Action Plan. The Ministry for Support of the Mahalla and Family was established with one of its priorities as providing support to women and a Fund for the Support of Women and the Family was allocated for income generating projects and training; the Federation of Trade Unions and the Ministry for Support of the Mahalla and Family established a working group to study problems facing women. Presidential Resolution "On additional measures to rehabilitate women who have suffered from violence" of 2021 established the Republican Centre for Rehabilitation and Adaptation of Women under this same ministry and tasked it with setting up 29 shelters across Uzbekistan.

Domestic violence: causes, extent and key concerns

"A woman victim of domestic violence is often ashamed to talk about abuse, because she is afraid of being judged or rejected by loved ones, family, friends, colleagues or neighbours. Afraid that no one will believe her or help her, and her husband will be bitter when he learns that she tried to tell and will beat her harder". Women's rights defender from Uzbekistan

Despite the government measures outlined above, violence against women continues to be a matter of grave concern across Uzbekistan and stigma and lack of awareness about domestic violence remain widespread.

Society typically blames the victim rather than the perpetrator. According to women's activists in Uzbekistan, many people believe that women "provoke" or "deserve" violence, that women victims of domestic violence are "masochistic", that "quarrels" between husbands and wives are natural, and that victims of abuse are always free to leave their homes. Discussions on social networks about violence against women and girls, including sexual violence, often attract harsh stereotypical comments from individuals (including state representatives and heads of public universities)¹ who frequently also resort to victim-blaming. Education curricula in schools, universities and official academies do not address issues of gender stereotypes, the prevention of domestic violence and the protection measures that are available.

Deep rooted patriarchal attitudes and stereotypes about gender roles persist in Uzbekistan also amongst officials including police officers, prosecutors and judges. Despite efforts by some, government representatives have failed to communicate a consistent public message of zero tolerance of domestic violence and state media has continued to perpetuate gender disparity and stereotypes which reinforce the idea that women and girls should be "controlled". All this contributes to a culture of violence and a general climate of impunity for perpetrators.

On 17 December 2021, the Ministry of internal Affairs reported that from January to November 2021, it registered 35,994 cases of violence towards women including psychological violence (16,982 cases), physical violence (12,215 cases),

¹ <https://www.podrobno.uz/cat/proisshestviya/zamdekana-utverzhaet-cto-on-zhertva-vo-vsem-vinovata-moya-doch-mat-studentki-pedinstitut-podelila/>

economic violence (208 cases), sexual violence (90 cases), and harassment (6,513). According to the statistics, 25,807 people were over 30 years old; 9,835 were between 18 and 30 and 352 persons were under 18 years of age.

However, NGOs and women's activists report that many incidents of domestic violence crimes are not reported and that women often do not turn to the police for fear of reprisals, societal stigma, due to economic and material dependence on their husbands or to lack of knowledge about their rights.

Perpetrators of domestic violence are rarely prosecuted. The Uzbekistani authorities are routinely failing to meet the standard of due diligence regarding the investigation and prosecution of crimes related to domestic violence. Women are not effectively protected, and the perpetrators enjoy impunity in the large majority of cases.

Local women's rights activists report that the tragic consequences of the government's failure to provide effective protection is reflected in the alarming rise in the suicide rate among women and girls in Uzbekistan, which increased from 600 in 2019 to 900 in 2020, i.e. during the pandemic and when Uzbekistan implemented lockdowns to prevent the spread of the virus.² Conflicts with family members – spouses or mothers-in-law – appear to be the main causes.

Early marriages also contribute to domestic violence. Although the Family Code stipulates that girls need to be 17 in order to marry, earlier marriages are reportedly common. It is difficult to obtain accurate statistics, as young brides (15 or 16 years old) are usually married in religious wedding ceremonies and not registered with the State. Often parents only turn to the state registry office when they need to obtain birth certificate for their child. Polygamous marriages are reportedly also increasing.

National legislation

National legislation contains safeguards on domestic and gender-based violence, which are briefly outlined in this chapter. However, IPHR and the women's activists contributing to this report are concerned that further efforts are needed to bring Uzbekistan's legislation in line with the country's obligations under international human rights law and to ensure that the existing safeguards are consistently implemented.

The Constitution of Uzbekistan guarantees equality for all citizens irrespective of their sex (Article 17) and equal rights for women and men (Art. 46). It enshrines guarantees of the right to life, liberty and security of person (Art. 25), protection of honour and dignity (Art. 27); judicial protection of rights and freedoms (Art. 44).

The Family Code from 1998 guarantees the protection of the rights and interests of the family and sets out principles of the equality of responsibilities in marriage and family. Discussions are under way about drafting a new Family Code.

The Code on Administrative Responsibility provides sanctions for administrative violations that threaten public order and safety including those committed in the domestic sphere, which are most often insult (Article 41), minor bodily harm (Article 52), and petty hooliganism (Article 183).

The Criminal Code of Uzbekistan punishes driving someone to suicide (Article 103); deliberate infliction of bodily harm (Articles 104-105, 109); torment (Article 110); threats of murder or violence (Article 112); forcing a woman to have sexual intercourse to satisfy a sexual need in an unnatural form by someone to whom the woman was in service, or material or other dependence (Article 212) and violent, illegal imprisonment (Article 138).

The 2019 Law on the Protection of Women from Oppression and Violence introduced definitions of physical, psychological, economic and sexual violence, and also protective orders. It sets out the rights of victims of violence to contact rehabilitation centres, helplines, and law enforcement agencies. Importantly, the law guarantees confidentiality for those in situations of violence.

A Cabinet of Ministers resolution of 4 January 2020 "On measures to improve the system of protecting women from oppression and violence", approved documents aimed at enhancing the protection of women, including a document that outlines the procedure for issuing a protection order. In 2021, measures were also taken to work with aggressors as a preventive measure.

² Refer to: <https://tribune.com.pk/story/1132722/tajikistan-shock-mothers-kill-babies/> and Anhor.uz, <https://anhor.uz/news/23946-2/>

Obstacles to protection, justice and redress

Gaps and shortcomings in domestic legislation

Despite some positive legislative developments outlined above, significant protection gaps and shortcomings remain which contribute to ineffective prosecution of perpetrators of domestic violence, and thus impunity.

No clear definition of domestic violence

A central problem is that legislation in Uzbekistan does not contain a clear definition of “domestic violence” which addresses the dependent relationship of the victim and the offender as well as the systematic nature of the violence.

The 2019 Law on Protection of Women simply defines “violence” as an illegal action (or inaction) against women that impinges upon their lives, health, sexual immunity, honour, dignity and other rights and freedoms protected by law and involves physical, psychological, sexual or economic coercion or threats thereof.

No effective criminalization and no separate offence on domestic violence

Currently, the Criminal Code does not contain domestic violence as a separate offence. The Criminal Code, the Administrative Code and the 2019 Law on Protection of Women do not contain provisions that address the ongoing, controlling and coercive nature of domestic violence. For example, the following offences are inadequately covered by existing legislation and thus not prosecuted in practice: bans by the spouse or in-laws on the woman visiting her parents or working; and verbal abuse amounting to psychological harassment.

IPHR and Uzbekistani women’s rights activists therefore call for the addition of a separate offence on domestic violence to the Criminal Code. Economic and psychological violence are not regulated in either the Administrative or the Criminal Code, despite the fact that these types of violence are recognized in the Law on the Protection of Women.³

Sexual Violence not punished in intimate partnerships

Sexual violence against a spouse is often considered the norm due to ‘traditional’, patriarchal attitudes. Marital rape is not a specific offence in the Criminal Code. Article 118, part 3b of the Criminal Code punishes the rape of a “close relative”, but the Criminal Code fails to define “close relative” and women who are in unregistered religious marriages are not included and protected. The Criminal Code does not explicitly refer to spousal rape and, as a rule, courts do not hear cases of spousal rape due to stereotypical views.

A 2010 Resolution of the Plenary of the Supreme Court defines rape or sexual violence as ‘sexual intercourse in a natural form with a female person against her will, committed with the use of violence, threats or using the helpless state of the victim’.⁴

In 2013 CEDAW expressed concern at “The lack of a specific definition of family in the existing legislation, including that on the prevention of violence in the family, which may leave out of its scope women in de facto polygamous relations, which are quite widespread, in particular in rural and remote areas”.

In 2020 the UN Human Rights Committee (HRC) recommended that Uzbekistan “explicitly criminalize marital rape and domestic violence”, and in the same year the Committee against Torture (CAT) recommended that Uzbekistan “include marital rape, a form of domestic violence, as a specific crime in the Criminal Code entailing ex officio prosecutions”.

The Criminal Code also fails to punish sexual harassment, a widespread problem in Uzbekistan. Victims of sexual harassment are often dependent on the perpetrator of the crime – and risk losing their jobs (if the crime is committed in the workplace); home or family (if the crime occurs within the home) or study (if it takes place in an educational institution).

No ex officio prosecution

In Uzbekistan, cases of domestic violence rarely reach court. According to the Criminal Procedure Code, the Prosecutor General’s Office can only bring ex officio prosecutions in cases involving injuries qualified as medium or heavy, or which result in death. In all other cases the victim has to pursue private prosecution, presenting a significant obstacle to justice for the victims.

³ Article 3, Law On the Protection of Women from Violence and Oppression, September 2019 <https://www.lex.uz/docs/4494712#4496299>

⁴ <https://www.lex.uz/acts/2414124>

Insufficient penalties

Existing legislation does not provide adequate penalties for domestic violence. Lawyers working with victims of domestic violence report that in those rare cases which reach court, the relatively low penalties that are handed down, which do not appear to be commensurate with the crime committed, further weaken victims' trust in the criminal justice system.

Chapter 2 of the Criminal Code covers "Crimes against health" and contains several articles which have been used by courts in domestic violence cases, such as "intentional grievous bodily harm" (Article 104), "intentional moderate bodily harm" (Article 105), "intentional minor bodily harm" (Article 109) or "cruel treatment" (Article 110⁵). The Criminal Code provides for increased punishment for crimes against a "woman who the perpetrator knows to be pregnant", from eight to 10 years imprisonment for grievous bodily harm and from three to five years for moderate bodily harm. Article 206 of the Criminal Code prescribes lesser penalties for the crimes covered in Articles 104 to 111 if the assault is carried out in a state of psychological stress.

Domestic violence does not feature as an aggravating circumstance in serious crimes such as murder or serious bodily harm. This, coupled with fear of revenge from their abusers means that victims of domestic violence rarely file complaints with the police or the courts.

No guarantee of free legal advice

The Law on Protection of Women provides that a victim of psychological, physical, sexual and economic violence can receive free legal advice.⁶ However, in practice there is no legal mechanism that would establish procedures to enable women to access this right. In practice, this means that most victims of domestic violence are unable to access legal support as they are financially dependent on their spouses.

The draft Law on Free Legal Aid⁷ provides that eligible persons include those who have filed a complaint about an administrative offense, which may include victims of violence.

However, in the criminal process a victim of violence cannot benefit from free legal aid as criminal procedural regulations guarantee free legal assistance only to suspects, accused or defendants.⁸ This leads to a situation where an abuser is eligible for free legal aid, but a victim of domestic violence is not.

The state exempts victims of gender-based violence from legal costs in cases related to claims for compensation, but initial court hearings to decide if someone is a victim of gender-based violence are carried out at the victim's own expense.

These gaps in the legislation and lack of clear legal provisions on free legal aid for victims of gender-based violence, together with the lack of sufficient pro bono legal services, means that victims of domestic violence and gender-based violence often cannot access legal aid.

Prejudice and patriarchal attitudes in government agencies and courts

"In most cases of domestic violence, women don't contact the police. They only manage to do so with the help of friends or family. In 2021 in our region, out of 283 women, only three per cent went to the police."

NGO representative

Law enforcement agencies are tasked with considering all incoming complaints and take steps to prevent violence, including by talking to abusers. If a violent incident against a woman is confirmed, the Police Women's Affairs Officer is authorized to issue a 30 day protection order and explain the consequences of violating the order to the aggressor. The protection order can be extended for a month if necessary.

However, reports of abuse and discrimination received from women's organisations and media indicate that police officers, inspectors, prosecutors and judges often hold prejudiced views towards women and girls and that these views frequently

⁵ Article 110 punishes "systematic beatings or other actions constituting torture" with up to three years imprisonment, or five if the victim is a minor, or a pregnant woman. As distinct from torture as punished under Article 235, the perpetrator of the offense need not be a state actor.

⁶ <https://www.lex.uz/docs/4494712#4496299>

⁷ https://www.norma.uz/proekty_npa/kakaya_yuridicheskaya_pomoshch_budet_predostavlyatsya_besplatno

⁸ Article 24 CPC <https://lex.uz/docs/111463#186108>

take priority over legal standards in Uzbekistan and lead, in practice, to state failure to protect victims of domestic violence.⁹ According to representatives of women's groups, police officers sometimes try to dissuade women from pressing charges, warning them that their reputations will suffer.

NGOs and lawyers report that even if a case of domestic violence reaches court, the victim faces further obstacles to justice including that information about a woman's past sexual history can be used in court to cast doubt on the victim's allegations; that judges sometimes prioritise the family unit over the safety of victims of abuse, taking steps to keep the family together rather than protecting the women and children at risk. Additionally, amnesties are reportedly applied to perpetrators of domestic violence which undermines efforts to put a stop to domestic violence. Victims are not given advice about their right to compensation for moral harm.

An exacerbating factor is the lack of sufficient numbers of women judges and prosecutors, meaning that in courts an atmosphere of "male solidarity" often prevails which leaves the victim feeling alone and not taken seriously.

In 2015 CEDAW recommended that Uzbekistan prioritize training for officials "on the strict application of legal provisions criminalizing violence against women". Women's activists from Uzbekistan report that awareness raising work is being carried out towards traditional leaders, representatives of Mahalla (neighbourhood) committees and the general public, with a focus on addressing discrimination towards women, including early marriages and allowing women to take their own decisions on marriage and divorce. However, further training of law enforcement officials including police officers, prosecutors and judges is required to ensure they are sensitized to the complex issues surrounding domestic violence. Training on domestic violence is also required for lawyers, psychologists and social workers.

Below are two case examples that illustrate how prejudice and patriarchal attitudes of judges, police and other officials can harm victims of domestic violence in their attempts to find protection and justice.

A perpetrator of domestic violence goes unpunished, but the victim faces criminal charges

In Tashkent in February 2021, Nigina¹⁰, a healthworker, was convicted of grievous bodily harm (Article 104 of the Criminal Code) after she wounded her husband with a kitchen knife when he threatened to kill her. He had subjected her to physical and psychological for many years and displayed controlling behaviour. The couple had met for lunch near Nigina's work, but when she received a call from a colleague, her husband got angry and followed her back to work, insulting her. Frightened, Nigina ran into her workplace and at the tea corner she grabbed a knife in order to keep her husband at bay. He tried to wrestle the knife from her, and as he did so the knife touched his abdomen and inflicted a light injury. The husband was hospitalized for two days but the injury had no longer term negative consequences on his health. Nigina was arrested on the same day and taken to the police station, where she was detained for two days without being able to inform her relatives of her whereabouts, despite having a two-month-old baby at home whom she was still breastfeeding. The police investigator violated procedural norms by refusing her request for a female police officer to be present, and Nigina alleges that he asked her intimate questions about her private life, checked her mobile phone for contacts and messages, and commented that he would not be against having a fifth wife, as he already had four.

Yashnoabad Police Department initiated a criminal case against Nigina. She lodged a complaint about the sexual harassment by the police investigator and the violation of her procedural rights with the General Prosecutor's Office. The police investigator was subsequently dismissed. In April 2021, Nigina was found guilty by Yashnoabad District Criminal Court and given a one-year suspended sentence. Her lawyer's arguments about the lack of corpus delicti were ignored.

In May 2021, Tashkent City Court of Appeal upheld the verdict. When Nigina addressed the court, the three judges openly ignored her, talking among themselves, laughing, and then gave the floor to her husband. One of them advised her husband "relations should be sorted out at home, behind closed doors, and not in public".

When Nigina told her husband she wanted to leave him in August 2021, he threatened to ensure "she was locked up" and reported her to the police for allegedly fraudulently taking money from him and never returning it. In September 2021 Nigina was arrested again and a criminal case was opened.

⁹ During one court appeal in a DV case the judge told the victim that such cases 'should not be heard in public but at home behind closed doors'

¹⁰ The name was changed for security reasons.

The husband's lawyer is the same former police investigator from Yashnoabad District Police Station who was dismissed on the basis of Nigina's first statement for sexual harassment and who changed profession after his dismissal. The trial is currently underway.

Cover up of sexual abuse by state-run rehabilitation center

Safargul¹¹, called an ambulance after her three-year-old daughter returned from her older daughter's house with bite marks over her body. After questioning both daughters (the 18-year-old older daughter is married), Safargul learned that her son-in-law regularly rapes her older daughter. When his wife's young sister came to visit, he would "punish" the little girl by locking her in a dark room, suffocating her, and biting her. Safargul turned to the Shaykhontour District Police Inspector, who told her to drop the complaint. Safargul refused and insisted that criminal proceedings be instituted. Subsequently, a psychologist invited by the Shaykhontour District Department of Internal Affairs talked to the girl and found that the offender had repeatedly taken her driving in his car, undressed her, touched her and showed her his genitals. However, the girl's statements were not found in the police files, and the officer responsible for taking minutes during the psychologist's interview told the mother afterwards that she was slandering her son-in-law.

For two months, Safargul repeatedly asked for a psycho-medical examination, and provided photo and video evidence with her daughters' testimonies for the investigation.

In the meantime, the police investigator asked the Republican Centre for Rehabilitation and Adaptation of Women Victims of Violence to provide an expert opinion on the case. The centre director sent a male trainee psychologist to meet the police investigator. In early October 2021, this psychologist came to meet the girl accompanied by the accused perpetrator. The case was closed based on the trainee psychologist's conclusions of no indications of sexual harassment or psychological violence in his conversation with the young child. This conclusion is surprising as the mother and police inspector were present during the meeting, which was recorded and contained detailed and exact descriptions of the abuse, including how the young girl's trousers had been taken off.

On 19 November 2021, Safargul appealed to the Children's Ombudsman, the General Prosecutor's Office and the Gender Commission. Three days later the General Prosecutor's Office informed her that Tashkent Prosecutor's Office had returned the case for additional investigation to Shaykhontour District Prosecutor's office. Safargul worries that her complaint has been returned to the same officials. The trainee psychologist reportedly left Uzbekistan and the investigator who was in charge of the case resigned.

¹¹ The name was changed for security reasons.

Protection orders not always implemented in a victim-centred way

"A protection order does not prevent further violence; it is impractical when spouses live in the same house. Who makes sure the protective order is respected? Violence usually happens at home, with no witnesses, and if there is no evidence, measures to protect the victim are not taken." Women's rights activist

Protection orders are issued by police in order to protect victims from harassment and violence. Police "Prevention Inspectors"¹² issue protection orders either at the victim's request, or after a report of violence by a third party (including media reports and social networks). A protection order prohibits the abuser from communicating or approaching the victim for 30 days and from carrying any type of weapon. Violations of protection orders are often punished by fines or 15 days' detention under the Administrative Code.

According to data published by the MVD, between January and November 2021 police issued protection orders to protect wives from husbands in 24,265 cases; to protect women from their mothers-in-law in 1,472 cases; to protect mothers-in-law from their daughters-in-law in 1,066 cases and in 9,191 cases to protect from a different party. In 588 cases protection orders were extended and in 913 cases repeat protection orders were issued.¹³ In comparison, in 2020, the Ministry of Internal Affairs reported that 14,774 women were issued with protection orders, of whom 125 related to underage persons.¹⁴

Problems with protection orders documented by women's rights activists include the lack of sustained monitoring of the victim's welfare after the order has been issued. This problem is exacerbated in remote rural villages. Due to their legal and financial vulnerability – and because they have nowhere else to go, victims are often forced to remain with their aggressors, despite having a protection order.

For example, a woman in Ferghana Valley repeatedly appealed to the police about her violent husband, but they failed to act. It was not until her husband beat her again and turned her and the children out into the street, that she managed to obtain a protection order.

Reconciliation and impunity

As mentioned above, few victims of domestic violence pursue justice through the courts and women's rights defenders report that even in the few cases when women do turn to the courts, successful prosecutions of perpetrators of domestic violence are rare. Often cases are closed, and victims agree to reconciliation procedures.

In Uzbekistan, criminal procedural legislation provides for exemption from criminal liability in the case of reconciliation between the victim and perpetrator of a crime.¹⁵ The Family Code sets out procedures for resolution of disputes between family members, further enshrining the view of physical and psychological domestic violence as a "family dispute". Reconciliation procedures can be initiated when an offender admits his/ her guilt and makes amends for the harm caused. In practice this mechanism leads to impunity for abusers.¹⁶ During investigative procedures a victim of domestic violence often has to face humiliation and incomprehension from law enforcement officials, the general public and her relatives, and thus victims frequently chose not to pursue their complaints and agree to reconciliation.

¹² under the Ministry of Internal Affairs and the Ministry for Supporting Mahalla and the Family

¹³ <https://telegra.ph/ANALIZ-DEYATELNOSTI-MVD-RESPUBLIKI-UZBEKISTAN-PROTIV-NASILIIYA-V-OTNOSHENII-ZHENSCHIN-ZA-11-MESYACEV-2021-G-12-17>

¹⁴ <https://www.gazeta.uz/ru/2021/01/26/women-protect/>

¹⁵ Article 66¹ Criminal Procedural Code of Uzbekistan

¹⁶ The articles where reconciliation is applicable include Article 105 part 1 (intentional medium-gravity bodily injury), Article 106 (intentional grave or medium-gravity bodily injury in a state of mental unrest), Articles 107 and 108 (intentional grievous bodily harm), Article 109 (intentional bodily injury), Article 110.1 (torture), Article 111 (negligent infliction of moderate or serious bodily injury), Article 113 1 and 2 (spread of a venereal disease or HIV / AIDS), Article 115 (forcing a woman to have an abortion), Article 116 1 and 2 (improper performance of professional duties), Article 117 1 (leaving someone in danger), Article 121 1 (forcing a woman to have sexual intercourse), Article 122 (neglect of minors or disabled persons), Article 123 (neglect of parents), Article 125 part 1 (disclosure of the secret of adoption), Article 136 (forced marriage or preventing a marriage), Article 138 1 (violent unlawful deprivation of liberty), Article 139 1 and 2 (libel), Article 140 1 and 2 (insult), Article 141 1 (violation of privacy), Article 142 1 (violation of personal data), Article 143 (violation of private correspondence), Article 148 (violation of right to work).

NGOs in Uzbekistan report that Mahalla committees play an active role in conflict resolution processes between couples, including in domestic violence cases. These committees frequently encourage women to reconcile with the abuser.

According to Nilufar Giyesova, head of the MVD's department for awareness-raising, in 2020, after dialogue with mahalla committees, couples in 8166 families which had been issued with protection orders decided to reconcile.

Policy to reduce the divorce rate

According to women's rights activists, in recent years a government policy of reducing the number of divorces has been introduced, with measures including courses about married life for newlyweds and attempts at reconciliation when there is a conflict in the family. Mahalla Conciliation Commissions are tasked with conducting the latter and attempting to prevent divorce.¹⁷

However, there is concern that these policies aimed at reducing the divorce rate are causing harm to women in situations of domestic abuse. Women's rights defenders report that obtaining a divorce can involve a long and humiliating procedure with a Mahalla Conciliation Commission, where women victims of domestic violence are advised that they must endure for the sake of children, that divorce is a shame for old parents, and so on.

In general, in cases of divorce, courts require a certificate from the Mahalla Divorce Commission, which considers whether it is possible to save the family. Only once this commission concludes that it is impossible to save the family, does the judge rule on the divorce. This provision has no legal basis, that is, the Family Code does not set out the requirement but there is reportedly an internal order, according to which judges are prohibited from proceeding with divorce rulings without the conclusion of the conciliation commission of the mahalla. NGOs report that in more than 80 per cent of the cases they dealt with, women were unable to get divorced and that divorce procedures often take many years and several appeals to court.

For example, Zulfiya¹⁸ from a region in Ferghana Valley was refused permission by the mahalla committee to divorce despite the fact that her husband regularly subjected her to violence and had previously been prosecuted for this.

Nargis¹⁹ has three children and her husband had not lived with them for several years. She wanted to get divorced and in mid-2017, the couple filed a lawsuit. The application was accepted but the consent of the mahalla was needed. Nargis applied to the mahalla committee many times in order to obtain a divorce certificate. The mahalla committee specialist did not help her and no date was set for the court hearing. For over three years, Nargis sought help but in the end an NGO centre provided a lawyer to help obtain the mahalla certificate.

Frequently, in cases where one person in a couple refuses to divorce, courts refuse permission to dissolve the marriage. When both parties consent to divorce, the courts set a time limit for reconciliation, which is typically six months. Until this period is over, the spouses cannot obtain the act confirming they have tried mediation. The partner requesting the divorce is obliged to pay the state fee of the equivalent of 60 USD. Activists report that many women have problems obtaining the divorce certificate from the mahalla Conciliation Commissions.

Difficulties in obtaining forensic medical evidence

In Uzbekistan it is very difficult for women victims of domestic violence to obtain medical evidence of the abuse that is recognized by the courts, especially in cases of economic or psychological abuse. The Republican Forensic Medical Examination Centre "Khadichi Suleimanova", which has branches across Uzbekistan, is the only institution whose examinations are accepted by the courts. However, the Centre only conducts examinations upon request of law enforcement agencies. Since the burden of proof most often rests with the victim of domestic violence who has to prosecute her abuser in a private capacity, this means that the woman has to convince police to order a forensic medical examination. It is not possible to officially request an examination by a female expert.

Lack of coordinated protection and referral mechanism

¹⁷ Appendix No. 3 to Resolution of the Cabinet of Ministers 07.10.2013 No. 274.

¹⁸ Her real name was changed for security reasons.

¹⁹ Her real name was changed for security reasons.

"More than 89 per cent of women do not know about the rehabilitation centres in our region. In many cases, the mahalla committees force them to put up with the abuse." Women's activist from Uzbekistan

The authorities have taken steps to improve protection for victims of domestic violence, through the provision of shelters, hotlines and protection orders, and through the provision of free legal aid in some cases, all introduced in the 2019 Law on Protection of Women. However, these elements are not fully operational in practice, and an overall, coordinated and accessible protection strategy is lacking.

One problem is that the different legal instruments are implemented independently of each other, complicating protection for victims of domestic violence. For example, when a criminal case is opened it is not accompanied by civil law measures to protect the victim such as the payment of compensation and rehabilitation costs. Additionally, non-legal protective measures, such as support from psychologists, social and medical workers are not widely available. This lack of a coordinated, multidisciplinary approach and effective referral system severely hinders an effective state response to the problem of domestic violence.

Inadequate provision of emergency assistance

Although Article 18 of the 2019 Law on Protection of Women provides for hotlines for victims of domestic violence, in practice funding is insufficient. According to women's rights defenders, Government officials responsible for women's rights often agree that funding for hotlines, often provided by international organizations, is insufficient for a sustainable protection mechanism. Victims of domestic violence often prefer to use NGO hotlines, for reasons of anonymity and lack of trust in state services.

No sufficient number of well-resourced shelters

On 7 March 2021, President Mirziyoyev stated at an event for International Women's Day that "from now on, not a single woman in Uzbekistan will be left without the attention of the state and society." He announced that in 2021, 210 billion soums would be allocated to provide housing for low-income women and girls raised by single mothers, another 211 billion soums - to provide social housing.

Women's activists reported that in April 2021 there were 197 shelters run under the Republican Centre for Rehabilitation and Adaptation of Persons Suffering from Violence and Prevention of Suicides (Republican Centre for Rehabilitation and Prevention of Suicides) providing services to domestic violence victims. However, staff shortages and a lack of state funding meant that these were not able to function effectively.

On 19 May 2021, the President signed decree "On additional measures to rehabilitate women who have suffered from violence" which abolished the Republican Centre for Rehabilitation and Prevention of Suicides and instead established the Republican Centre for Rehabilitation and Adaptation of Women under the Ministry for Support of the Mahalla and Family.²⁰ The decree states that 29 shelters should be set up across Uzbekistan; one at the republican level; 14 regional and 14 interdistrict centres.

Women's activists believe that the planned 29 shelters will not be enough to accommodate all those in need of support but even for the 29 shelters funding has not been secured and there is a lack of trained staff.

Although the Law on the Protection of Women stipulates that maintenance and rehabilitation expenses for victims of domestic violence should be covered by the aggressor, women's activists are not aware of such a case in practice.

Apart from the shelters that are established by the state, there are two NGO shelters which receive no government funding.

Insufficient well-trained social workers and psychologists

There are not enough trained social workers and psychologists to support victims of domestic violence and to work with abusers, which means that victims' fates are often unknown after they leave shelters and when protection orders expire.

²⁰ <https://lex.uz/pdfs/5426650>

Insufficient state funding has prevented shelters from establishing and training social workers to monitor victims after they return to their families.

Recommendations to the authorities of Uzbekistan

Amend legislation:

- Introduce into domestic legislation a clear definition of domestic violence which addresses the dependent relationship of the victim and the offender as well as the systematic nature of the violence and carries penalties that are commensurate with the crimes committed.
- Ensure that the sex and age of the victim of the crime are taken into account by including as aggravating circumstances crimes which are committed in the domestic context against women, minors or persons with disabilities.
- Amend the Criminal Code and include an article criminalizing all forms of domestic violence including psychological violence, economic and sexual violence and ensure that they specifically address the ongoing, controlling and coercive nature of domestic violence.
- Explicitly criminalize marital rape and ensure that rape in unregistered marriages is also appropriately punished.
- Amend the Criminal Procedural Code to stipulate that incidents of domestic violence should, in all cases, be investigated through public prosecution instead of through private prosecution and that a victim of domestic violence is not responsible for instigating criminal proceedings.
- Ensure that all victims of domestic violence can access free legal aid.
- Include specific references into relevant legislation regarding welfare support for victims and/or witnesses of domestic violence and provide and fund a detailed and effective mechanism to ensure their social protection and support.
- Amend the Criminal Code and other relevant legislation to punish sexual harassment of women.

Address other obstacles to justice:

- Compile and publish unified comprehensive statistics on domestic violence that are disaggregated by sex and age, with information about the perpetrator-victim relationship, investigations, charges, prosecutions, convictions, reconciliations and data about perpetrators who subsequently benefitted from amnesties.
- Adopt a comprehensive strategy to eliminate discriminatory stereotypes and patriarchal attitudes about the roles and responsibilities of women and men; and use innovative measures targeting the media to strengthen understanding of gender equality.
- Develop, with input from civil society, a plan for the prevention of domestic violence which sets out clear objectives for each state body; establishing a clear referral mechanism with deadlines and specific indicators for measuring impact and progress; provide funding from the central budget for the implementation of programmes and information services to prevent domestic violence, especially for shelters in rural locations and provide long term funding for NGOs providing such services.
- Make public, high-level statements sending an unambiguous message is given about zero state tolerance of domestic violence.
- Provide affordable and easily accessible ways for victims of domestic violence to obtain medical evidence of abuse that is recognized in court.
- Set up a sufficient number of rehabilitation centres and/ or shelters across the country and ensure secure and sustainable funding for state-run centres as well as those run by NGOs.
- Conduct training to ensure that shelters operate with a sufficient number of well-trained personnel.
- Set out and fund training programmes for educational establishments including schools and training academies to raise awareness amongst the general public and officials of the issues surrounding domestic violence, forced marriage and polygamy.