Tajikistan: Failure to Protect Women from Domestic Violence

Joint NGO submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW) ahead of its consideration of Tajikistan’s Seventh Periodic Report at its 87th session in January 2024

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Introduction

“When I got married, I lost my life”, Nilufar, Sughd region, November 2023

This submission focuses on the pervasive problem of domestic violence against women in Tajikistan, identifying protection gaps in domestic legislation and practice and providing recommendations to the Tajikistani government ahead of UN CEDAW’s examination of Tajikistan’s seventh periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women on 31 January 2024.

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

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

This submission has been prepared by IPHR together with two Tajikistan-based organisations, Public Foundation Nota Bene and Public Foundation “Vash Vybor” (Your Choice). Nota Bene has 14 years’ experience of legal analysis and human rights training. It was a member of the State established Anti-Discrimination Working Group and coordinated civil society input into the drafting of the 2023 Law on Anti-Discrimination law. “Vash Vybor” is a women’s rights organisation which monitors the respect of women’s rights in relation to issues such as DV and women living with HIV.

Government steps to address domestic violence

The Tajikistani authorities have taken some positive steps to combat DV since the last CEDAW review. Three working groups, which were set up by the Presidential Administration1 in 2017 to reform legislation in the field of women’s rights, combat gender stereotypes and prevent DV, continue their activities.

In a positive development, a draft revised Criminal Code including a separate article on DV (Article 153) was prepared by a Presidential Working Group on drafting a new Criminal Code and submitted to the Presidential Administration. The proposed draft Article punishes DV, including physical violence, isolation, intimidation, control and economic deprivation and neglect. However, the definition fails to cover all types of violence as recommended by the UN CAT’s Concluding Observations on Tajikistan adopted in 2018 (para. 48)2 and CEDAW Concluding Observations on Tajikistan adopted in 2018 (para. 26)3, notably psychological violence, marital rape and sexual assault. Penalties under draft Article 153 include fines, correctional labour or up to 40 days’ detention for causing minor harm to another family member. Causing minor harm to several family members or moderate harm to one or several family members; committing violence while a restraining order is in place; and acts of violence against a pregnant woman, a minor or a vulnerable person or in the presence of a minor are punishable by up to three years' imprisonment. However, we strongly recommend that the punishments for DV are increased to ensure that they are commensurate with the crimes committed and that the punishments are equivalent to corresponding crimes committed outside the home.

The Tajikistani government has also made progress on the provision of medical care, safe housing and counselling services to victims of DV through a helpline for survivors. For example, in August 2021, a Republican Centre for Social Services for Victims of Human Trafficking and DV was opened under the Ministry of Health and Social Protection of the Population (MHSPP). A shelter operates under the centre, which received 14 women with children in 2021, and assisted 68 people in the first nine months of 2022, including in 56 cases of DV.4

1Order of the Chief of Staff of the President of Tajikistan No. 32/10-225 of 1 November 2017.
2 CAT/C/TJK/CO/3, 18 June 2018.
3 CEDAW/C/TJK/CO/6, 14 November 2018.
During the Covid-19 pandemic, 10 new medical rooms for DV survivors were opened in addition to 12 rooms already in operation and specialised services were provided to 26 female DV survivors.\(^5\) The state is working with two NGOs in Khatlon province and Dushanbe to provide services to survivors of DV. The State Committee for Women’s and Family Affairs (CoWFA) runs a hotline.

The Law on Prevention of Violence in the Family - stocktaking on its 10th anniversary

Although the introduction of the Law on Prevention of Violence in the Family in 2013 was welcomed by civil society and public awareness and discussion of DV increased as a result of its adoption, the law has proved an ineffective protection tool.

Experts interviewed by IPHR in Tajikistan in November 2023 raised concerns that:

- The law is more preventive than protective in nature and prioritises preserving family relations, despite the fact that violence is regularly perpetrated in the family.
- There are gaps in the definition of DV, including the different types of DV (physical, psychological, economic and sexual violence). The law is formulated in gender-neutral terms, and fails to define DV as a gendered, patriarchal phenomenon, where women are disproportionately the victims of violence perpetrated by their intimate partners and in-laws.\(^6\)
- The law does not reflect the specific power and control relationship between abusers and victims, which is important as police and other officials often engage in victim blaming and claim that women use violence as much as men. Furthermore, the DV definition refers to violent actions, but violence can be shown also through inaction or lack of action (e.g. neglect, ignoring, failure to provide resources etc.). The law regulates a limited range of family relations mainly based on the fact of cohabitation and official marriage, but does not cover other intimate or romantic relations, relations with former spouses or cohabitants, or relations of dependency/ guardianship/ trusteeship etc.

\(^5\)Ibid.
The law is not victim-centred and does not provide effective protection to women and child victims of violence. It fails to take into account the specifics of sexual violence, the situation of pregnant women, and vulnerable groups of women. It does not reflect the special situation of children of victims of violence and child witnesses of violence. It fails to provide for free rehabilitation services for women who have suffered violence, and falls short of international standards of victim safety and access to justice (i.e. with respect to measures such as allowing video evidence in court to avoid a victim having to meet her abuser).

There is no legislative provision establishing a high-level inter-agency body to coordinate the activities of agencies working with victims of DV, determine their responsibilities and ensure an adequate referral mechanism.

The law does not make reference to prosecutor’s offices, courts or local committees on religious affairs as agencies responsible for conducting DV prevention activities and referrals.

The procedure for the issuance of restraining orders, established by the law, falls short of international standards and recommendations and fails to create a safe environment for victims, mainly because restraining orders are usually not issued immediately by police but have to be requested by victims (see chapter on restraining orders).

The law fails to provide for important interim measures for victims such as ordering a perpetrator (including a DV abuser) to provide financial assistance to the victim/survivor for the payment of medical bills, counselling services or temporary accommodation/shelter, financial compensation, etc.; prohibiting the abuser from contacting the victim, ordering the abuser to leave the home where the victim lives even if this home is his property.

The law does not define the notion of an "aggressor", nor provide for mandatory correctional (anti-violence) training programmes for aggressors. There is no government standard for the provision of such services and work with aggressors is carried out only in Levakand town of Khatlon region, in Dushanbe and in Sughd region within the framework of project activities.

Weak implementation of legislation and Action Plan

In 2014, Tajikistan adopted the State Programme and Action Plan for the Prevention of DV for 2014-2023 (Action Plan), aimed at ensuring the implementation of the Law on Prevention of Violence in the Family and influencing public opinion on DV.

The Action Plan provides a list of implementing state agencies and names CoWFA as the body responsible for overall coordination and implementation. However, it fails to define clear responsibilities for relevant state agencies leading to poor coordination. CoWFA has a predominantly analytical and informational role and does not play the leading coordination role foreseen in the Action Plan. The reasons for this include, CoWFA’s lack of ministerial status, underfunding and high staff turnover which have negatively impacted the effective
implementation of the Action Plan. This is shown by two monitoring exercises that CoWFA conducted in 2019 and 2022 which highlighted problems of poor coordination with other government agencies, and showed that preventive activities foreseen in the Law are conducted predominantly with international donor support and are not systemic.

- It also does **not provide a timeframe** for implementation or specific indicators to measure impact and progress.
- The Action Plan stipulates that the activities it sets out should be carried out “at the expense of the state budget and other extra-budgetary resources.” However, two monitoring surveys conducted by CoWFA concluded that there is **no separate funding** for the State Programme for the Prevention of DV, and that Tajikistan has not adopted a gendered approach to financing state programmes and policies. Responses to enquiries showed that **no ministries** have earmarked financial expenditures for the State Programme. Budgets of local executive bodies often fail to allocate funds for the implementation of the State Programme.\(^7\)
- Awareness raising activities conducted by ministries and local executive bodies to date have failed to reach a wide section of the population and have not been effective in terms of changing public attitudes towards DV.
- An expert analysis of the State Programme for the Prevention of DV concluded that there is **no gender-oriented approach** in the **internal regulations** and policies of ministries and agencies working on prevention, detection, response and recording of DV. Gender considerations are poorly implemented in police reform, and there are few women police officers. Other relevant ministries (education, health) and judicial authorities have failed to establish special departments on DV. Policies, laws and regulations do not stipulate mandatory training on DV, discrimination against women, gender-sensitivity, sexual assault and harassment, and non-discrimination for police officers and members of the judiciary.\(^8\)

**Recommendations for how to improve the Law on the Prevention of Family Violence** and related legislation have been made by civil society\(^9\), a UNFPA supported group of parliamentarians, as well as legal experts. However, the proposed measures still lack support from the **Government** and most members of parliament.

In 2022, the **Law on Equality and the Elimination of All Forms of Discrimination** was adopted, which improved compliance with international human rights standards, although it is still too early to determine its impact.

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\(^9\) With the support of the Ray of Light Initiative.
on women's lives. Furthermore, several grounds of discrimination, including gender identity and sexual orientation, which were included in the initial draft law were excluded before the adoption of the law. This may create practical problems in the implementation of the law when considering certain cases of violence occurring as a consequence of stigma and discrimination.

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

In 2018, CEDAW expressed concern that "Gender-based violence against women and girls remains widespread but underreported", and that "there is systematic impunity for perpetrators of gender-based violence against women, as illustrated by the low number of prosecutions and convictions, the reports of police complicity, the focus on reconciliation and the failure to protect the confidentiality of the victim."

It remains difficult to assess the extent of DV in Tajikistan because the government does not publish comprehensive statistics and because of underreporting of abuse due to societal stigma and fear of reprisals. However, it is estimated that at least one in two women in Tajikistan have been subjected to physical, psychological or economic abuse at some time in their lives by their husbands, in-laws or other family members. The UN Human Rights Committee noted in 2019 that a 2017 demographic survey conducted by the State Statistical Agency revealed that as many as 8 out of every 10 women in Tajikistan experienced domestic violence once in their lifetimes.\(^{10}\)

The 2017 survey showed that among married women who reported physical violence, the most common perpetrator was the current husband (8 in 10), followed by the ex-husband (1 in 10). Among women who had never been married, the most common perpetrators were mothers/stepmothers (8 in 10) and sisters/brothers (3 in 10).\(^{11}\)

Another baseline study from 2017 found that 65% of respondents believed that violence must be tolerated to keep families together and 52% said that they would not intervene if their neighbour beat his wife.\(^{12}\) Worryingly, the results of a new baseline study conducted in 2021 indicate that public opinion towards DV against women may have deteriorated further in recent years. According to the 2021 survey, which was

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conducted in Dushanbe and six regions of the country. 13 58% of respondents agreed that violence against women is widespread. However, although 75% of respondents considered DV against women to be a serious societal problem, 72% believed it to be a private family matter and 75% said that they would not intervene. This can be compared to the 2017 study where over 52% of respondents said that they would not intervene if their neighbour beat his wife. 14

Women with disabilities are a particularly vulnerable group: according to a recently published baseline study under the EU/UN Spotlight Initiative, all of the female respondents with a disability who were interviewed had suffered violence in the family. 15

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

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

The State report to CEDAW states that the Agency for Statistics is working with UNFPA to provide harmonised statistical data which should be available from 2024. 16 However, at the time of writing, available statistics must be gathered from various state reports, which makes it difficult to accurately assess the scale of the problem of DV and to adopt effective prevention and protection measures and policies. 17 In addition, the official statistics provided in the State report submitted to CEDAW in October 2023 do not tally, for example, with those provided by the Ombudsperson's office in 2022 (see “Impunity prevails” below).

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13 Isfara, B. Gafurov, Rudaki, Gissar, Vose and Yavan.
14 Tahlilil va Mashwarat 2021: Baseline study “Public Knowledge, Attitudes, Beliefs and Behavioural Practices on Sexual and Gender-Based Violence” (within the framework of the joint UN-European Union “Ray of Light” initiative).
15 See Tahlilil va Mashvarat: Baseline Study 2022 of the EU/UN Spotlight Initiative, https://www.spotlightinitiative.org/sites/default/files/publication/Spotlight_Baseline_-_KAPB_Summary_0.pdf
16 Replies of Tajikistan to the list of issues and questions in relation to its seventh periodic report1; 23 October 2023, para. 31
17 E.g., the Replies of Tajikistan to the list of issues and questions in relation to its seventh periodic report states in para. 32 that in 2022 local police received 4244 statements and complaints; in para. 33 that 1931 administrative offences related to DV were registered, that the police issued 2147 restraining orders and held 7676 so called “explanatory conversations” with perpetrators; in para. 34 the General Prosecutor’s office recorded 115 crimes related to DV; in para. 35 that from 2019 - 2023 courts reviewed 1667 criminal cases related to DV and issued 1507 sentences against 1554 persons (392 of whom were given terms of imprisonment). But para. 39 states that from 2021–2022, courts considered 982 criminal cases related to DV, in which 192 persons were sentenced to imprisonment.
Impunity prevails

According to the Ombudsperson’s annual report for 2022, police received 5,091 complaints about DV during the year - 4,188 against men, 885 against women and 18 against minors. In comparison, the total number of complaints about DV was 4,194 in 2021; and 3,258 in 2019. In 2022, courts considered only 441 criminal cases on DV, of which 391 ended with a conviction. Women activists and experts repeatedly told IPHR that the number of women turning to the police and filing complaints about DV is only the tip of the iceberg, with high numbers of unreported cases.

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

Obstacles to protection, justice and redress

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

Since the last CEDAW review, Tajikistan has made little progress on protecting survivors of DV and ensuring their access to justice and redress. To date, DV is not criminalised as such and other articles of the Criminal Code are instead used to prosecute violent domestic incidents. Currently, only domestic violence offences which result in serious injury are prosecuted by the state, and in cases resulting in minor bodily harm victims are required to pursue complaints as “private prosecutions” through the ordinary criminal courts. This system puts the burden on victims and hinders both effective protection for victims as well as their access

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19 According to the Tajikistan Demography and Health Study only one in 10 women survivors of domestic violence sought help to stop the violence they had experienced. Only six women out of every 100 sought help from the police, and 10 women out of every 100 sought help from a lawyer, cf. State Statistical Agency 2017: Tajikistan Demography and Health Study, p 215.
to justice. For example, if a victim of DV who has sustained “minor injuries”\textsuperscript{20} turns to the police for help, she will often be advised to pursue the court complaint herself. This means that the victim must find and pay for a lawyer to file a complaint with the court and gather the necessary evidence (medical examination conclusions and witnesses) while in a vulnerable physical and emotional state.

**No victim centred approach**

Regarding the procedural rights of victims of DV - the Criminal Procedure Code (CPC) does not make any special provisions for victims of DV at the investigation or trial stages. In practice, many survivors of DV bear the burden of proof, including obtaining forensic medical examinations and presenting evidence to court (see next chapter “No access to forensic expertise for survivors of DV”). These obstacles inevitably affect the willingness of DV survivors to report violence and attempt to hold the perpetrator accountable. The problem is compounded by the lack of access for DV survivors to free secondary legal aid, as they are not listed as an eligible group in legislation governing free legal aid. This directly contradicts the State’s obligation to exercise due diligence under CEDAW.\textsuperscript{21} Legal counselling is not enough for survivors of DV; they need legal support at all stages of their cases against their aggressors, both in criminal and administrative proceedings whereas in fact, only a few crisis centres and NGOs provide free legal counselling, mostly dependent on international donor funding.

**No access to forensic expertise for survivors of DV**

A forensic medical report is considered by the Tajikistani authorities to be a crucial element for assessing the health of a DV victim and assessing the impact of the DV on her physical and mental health and the possibility of recovering material and moral damages, as well as the punishment of the perpetrator.

Although forensic medical examinations can provide more legal certainty for a possible trial, the victim's own photo documentation or injuries documented by a General Medical Practitioner (GP) should also be valid in court. This would correspond to a victim-centred approach, as access to GPs is easier and thus presents fewer barriers for the victim.

\textsuperscript{20}According to Tajikistan’s Criminal Code the definition of a minor injury contains the loss of one third of the capability to work (Article 111 (1)): “Intentional minor bodily injury which is not life threatening and does not result in consequences provided for in Article 110 of the present Code, but causes continuing health problems or major physical disability with the loss of 1/3 of the capability to work is punishable by up to 2 years of correctional labour, or up to 3 years of imprisonment.

\textsuperscript{21}Review and Analysis of Tajikistan’s Legislation and Policies Affecting Sexual and Gender-Based Violence against Women and Girls and their Compliance with International Standards. Commissioned by UNDP under the “Ray of Light” Initiative, Dushanbe 2022.
Victims of domestic violence only receive a free medical examination if they have been referred by the police. Without a referral, they have to pay. If the woman is referred by the police for a medical examination, the medical findings are often sent directly to the police station and not to the victim herself.

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

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

**Insufficient emergency police response to domestic violence**

“In a family all kinds of things can happen, go home.”

Response of a prosecutor when a survivor of DV turned to him in in a torn, bloodstained bathrobe, after she was beaten and tormented for hours by her violent husband, Khatlon region.

Despite certain steps taken to improve the responsiveness of police in DV cases, such as an Instruction on Preventing, Eliminating and Responding to DV for police officers approved by the Ministry of Interior (hereafter the Instruction) many DV victims and lawyers report that the police fail to fulfil their duty to adequately protect victims. Reports of violence are often not taken seriously, and victims are sent home or even blamed for the violence. In many cases, there is still pressure to reconcile with the perpetrator so as not to ”destroy” the family.

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

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22 Procedure for Payment of State Forensic Examination funds to individuals and legal entities; Decree of Government of Tajikistan № 661 of 30.12.2011
There are critical gaps in the above-mentioned police Instruction. There is no standard operating procedure for police and no clear procedures for risk assessment in cases of DV. The main specialists who should respond to an emergency are local police officers and special gender-violence prevention police inspectors (17 of which work across Tajikistan), however, there are insufficient numbers of police officers especially in remote, rural areas.

Additionally, there are no of detailed procedures on how to respond to cases of sexual violence in the family, in itself a topic that is considered taboo. The Instruction stipulates that in rape cases, the victim should be assisted in accessing health services but provides no further guidance on what support police should provide to victims of sexual violence.

Many police officers still have little awareness about DV (the different types of violence, the controlling behaviour of the perpetrator over the victim, the cycle of violence, etc.) and gender sensitivity. As a result, victims are not taken seriously by many officers, victim blaming is practised, and viewing violence as a "quarrel within the family" which should be reconciled is a prevailing approach.

In rural areas police find it hard to respond to DV cases and accompany the victim to access support services or oversee compliance of the perpetrator with a restraining order. Currently in some districts there is only one neighbourhood police inspector per 12,000-15,000 people although the ratio should be 1 inspector per 5,000 people in cities and 1 per 7,000 people outside cities.

**Restraining orders are not effective**

"I’ll kill you and the children if you leave"

Survivor of DV was constantly threatened by her violent husband

The Law on Prevention of Violence in the Family provides for restraining orders which are valid for up to 15 days. However, many activists and victims with whom we spoke reported that these restraining orders have proven to be ineffective and that they urgently need to be reformed.

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24 Article 21
Restraining orders can be issued by the head or deputy head police officer of a local police station to perpetrators of DV within 24 hours of the abuse being reported. Some civil society activists and experts told IPHR that in practice this slows down the process considerably and that all police officers should be able to issue restraining orders. Restraining orders can be extended for up to 30 days at the victim’s or her lawyer’s request (with prosecutorial approval). The Law provides that while a restraining order is in force the perpetrator should not be violent towards a victim, or undertake any conversations, relations or behaviour (including following her) which would limit the victim’s freedom and also avoid consuming alcohol and drugs. Failure to abide by these terms can lead to the perpetrator incurring an administrative fine or being subjected to administrative detention from five to 15 days.

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

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

Although NGO monitoring of the State Programme for the Prevention of DV showed that more restraining orders were issued in 2021 than in 2018, many victims and NGO representatives with whom we spoke reported that their application is still alarmingly low and that they do not function in practice. As already mentioned, few women victims of DV turn to the police, and if they do, they are often discouraged from applying for a restraining order.

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

NGO monitoring showed that police practices in meeting these requirements varied. Some police officers telephone the victim to inquire about the offender’s compliance with the restraining order. Others call the
chair of the local government body (Makhalla Committee) to find out about the situation. Inspectors sometimes visit families if they are nearby but none of them reported that they were planning special visits to check on offenders and victims at their place of residence. Some Family Violence Officers expressed concern about the short validity of a restraining order, saying that it is not possible to draw conclusions about changes in an offender's behaviour after 15 or 30 days of monitoring, since behavioural change is a long-term process and the duration of a restraining order would need to last up to six months to achieve a long-term effect of the intervention.

As far as we are aware no official monitoring has been carried out of how police officers implement the provisions on restraining orders in practice.

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

Survivor of DV, Kulob, November 2023

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

Survivor of DV, Dushanbe, November 2023

No comprehensive integrated services for DV survivors

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

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25UNDP Focus group discussions with inspectors for the prevention of family violence and local police inspectors of the Rudaki and Dushanbe districts, on 16 June 2022.
Additionally, according to information from CoWFA, there are 33 crisis centres and three shelters run by NGOs with funding from international development partners. These centres generally provide legal, medical and psychological services. The NGO shelters and crisis centres do extremely important work, but the number of places is insufficient and dependence on international project funding makes it difficult for the organisations running them to ensure the sustainability of their operations.

In its Concluding Observations on Tajikistan adopted in 2018, CEDAW expressed concerns that “there are inadequate support services for women and girls who are victims of gender-based violence”, and that “civil society organisations mainly lead the work of combating gender-based violence” in Tajikistan.

It is particularly problematic that services for DV victims often are not funded from the state budget. For example, hotline 1313 (mentioned above) is supported by UNDP, and medical rooms are often opened and supported by various donors for short term projects. While funding for some medical premises targeted at victims of DV does come from the state budget (with the government spending an estimated average of between US$ 3,000 and US$ 4,500 annually per such facility), several people to whom IPHR spoke reported that women whom they have referred to such medical rooms have not always received adequate support.

All four shelters (three NGO-run and one state-run) for DV and trafficking victims have restrictions on services for girls and women living with HIV due to stigma and discrimination and are mostly inaccessible to girls and women with disabilities. In addition, these centres are mostly located in district centres, so they are more difficult to access for women from remote, rural areas.

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

**Harmful practices: early and forced marriages**

A significant barrier to accessing education, and the greatest risk of future exposure to DV is forced and early marriage. Although the marriageable age was increased to 18 in 2010, courts can grant those aged 17 to marry in exceptional cases. At the same time, national legislation does not clearly define the term

“exceptional cases,” which allows for a broad interpretation of it, as a review of court decisions conducted in 2019 showed.28

The most common family model in Tajikistan is the traditional, multi-generational patrilineal model where the bride moves to her husband’s/in-law’s house following marriage. The widespread occurrence of these types of households is related to the fact that over 70% of the population lives in rural areas. In public perception, forced and early marriages are often still considered the “norm”, resulting in young girls being married off and moving into their husbands’ family often unprepared for independent life and without professional education and skills. In accordance with the multigenerational family model, a significant portion of women’s time is devoted to household and childcare duties. Accordingly, in the labour market, women are over-represented in low-income niches that allow them to combine work and housework.29 At the same time, domestic work is invisible and unpaid.30

Despite the small percentage of official early marriages, (0.8% of all registered marriages) other early marriages are concluded unofficially through the Muslim nikoh ritual. The authorised body for religious affairs, regulation of traditions and celebrations has recommended that clergy do not conduct marriage ceremonies without confirmation of an official marriage registration certificate. However, the Law on the Regulation of Traditions, Celebrations and Rituals does not prohibit the conduct of a religious marriage ceremony without confirmation of an official marriage registration certificate. As a result, there are many cases in which nikoh marriage ceremonies are conducted in cases of underage girls, or in relation to “second” or “third” wives. From the moment of their engagement with their unofficial husband, girls are typically under strict control of his relatives. Their rights to education and freedom of movement are severely restricted, and they are often socially isolated, economically dependent on their husband’s families and prevented from independent personal development. As a result, they are at heightened risk of different forms of DV.

Deeply rooted gender stereotypes

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

29See Agency of Statistics Tajikistan and IFC International 2013: Health and Demographic Survey of Tajikistan.
During our research, all our interviewees repeatedly emphasised that deep-rooted traditional gender stereotypes have a profoundly negative impact on women’s rights in Tajikistan. A recently published World Bank gender assessment study\(^{31}\) confirms these impressions from the field and suggests that women’s rights continue to be severely restricted in the country because of widespread gender stereotypes combined with a lack of financial resources, time, and family support of women. The study found that in many population groups “marriage is negatively correlated with women’s employment status”\(^{32}\) as many husbands prohibit their wives from working; only 25% of married women and 19% of women who were never married are currently in employment. Furthermore, women in Tajikistan often have very little decision-making power in their domestic lives.\(^{33}\)

**Economic factors contributing to DV**

An important underlying cause of DV is the economic and financial dependence of women on the husband’s family and husband. Barriers to women’s economic empowerment include women’s limited access to resources (land, finance, property, education, information, etc.); a gender gap in vocational education and training; unpaid domestic work and care work; the impact of gender stereotypes about the subordinate role of women in the family; and women’s lack of decision-making power on issues concerning themselves and their children. According to recent survey fundings, 64% of women surveyed assess their economic opportunities as average, while every fifth out of 1000 women surveyed classified themselves as belonging to a low-income group. Women’s limited employment opportunities also negatively affect their access to social security benefits. For example, at the end of 2019, the average pension for women was equivalent to only 69% to that of men.\(^{34}\)

\(^{32}\)ibid., p16.
\(^{33}\)ibid., p16.
Recommendations to the authorities of Tajikistan

Amend legislation and policies on DV

- Swiftly amend and adopt the draft Criminal Code providing for a separate article criminalising DV, ensuring that the penalties foreseen are proportionate to the crime committed.
- Recognise DV as a criminal offence which must always be prosecuted ex officio by the public prosecutor's office rather than at the initiative of individual victims.
- Enshrine a victim-centred approach in the Criminal Procedure Code that places the victim at the centre, including by ensuring that victims are informed of their rights, the progress of their complaint and are supported throughout the judicial process, and provided with free legal aid where necessary.
- Ensure the right of survivors of DV to receive free legal aid in all cases by making relevant amendments to the Law on Legal Aid. Ensure that medical examinations are free of charge in all cases for victims of DV.
- Develop and adopt special rules for the investigation of criminal offences related to DV. Improve police infrastructure and equipment (including by providing vehicles) to ensure adequate emergency responses to DV cases and the effective enforcement of restraining orders.
- Amend national legislation to protect children from DV by listing children as separate legal subjects in this context.
- Amend the Law on “Prevention of Violence in the Family”, taking into account UN standards, which provide for a comprehensive concept of gender-based violence both from private individuals in the family, in public places, and from the state, as well as the creation of an Inter-agency Coordination Council to combat DV and GBV at the highest level, including the creation of a mechanism for referrals of victims and the provision of comprehensive rehabilitation services for survivors of DV and ensuring access to justice. The law should also reflect provisions for children of victims and witnesses of violence.
- Amend the Family Code to eliminate the possibility of requesting court permission to lower the marriageable age by one year.
- Legislate for the introduction of mandatory anti-violence programmes for aggressors.
Address other obstacles to justice for DV victims

- Set up an interagency body to coordinate state responses to DV and develop a clear and effective referral mechanism for victims.
- Adopt a comprehensive programme to combat all types of DV, providing for measurable indicators, achievable results and the allocation of sufficient human and financial resources.
- Introduce protective restraining and emergency orders in accordance with UN standards, to ensure they afford effective protection to victims, including by ensuring that police issue them rapidly; that they provide for the removal of the abuser/offender from the home; and that they can be extended for up to one year. Introduce a clear and understandable risk assessment procedure into the work of police agencies.
- Allocate sufficient state funding for the implementation of the state Action Plan to combat DV. Some of these resources should also be made available to civil society, especially regarding shelters, housing, and social support for victims.
- Provide for a ban on mediation at investigation and trial stages which aim to reconcile the victim and the perpetrator in DV cases.
- Develop a unified database on the registration of DV in all its forms, the relationship between the victim and the perpetrator, services provided, and the results of the victim’s appeal.
- Introduce standard operating procedures for all services, police and prosecutors that work in the field of DV, including for “helpline” services.
- Provide women and children who have suffered from DV and GBV and children who have witnessed violence with a range of free rehabilitation services, compensation for moral and material damage and the opportunity to have access to safe and affordable housing.
- Conduct systematic training for all specialists (doctors, psychologists, forensic experts, social workers, police and prosecutors, lawyers and government lawyers) providing services to victims of gender-based violence.
- Develop and adopt a comprehensive government Policy and Communication Strategy aimed at achieving gender equality, combating gender stereotypes and promoting zero tolerance towards DV.
- Carry out a nationwide, prominent “Zero Tolerance” campaign against DV across state TV and radio, featuring strong, public messages by high-level officials.