



VIOLENCE IS NOT JUST A FAMILY AFFAIR

WOMEN FACE ABUSE IN TAJIKISTAN

**STOP VIOLENCE
AGAINST WOMEN**

**AMNESTY
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1. INTRODUCTION

Zamira is 29 years old, and lives in a small town. Because of the civil war she had to leave school after seven years of education. At 18 she married her husband in a traditional nikoh-marriage¹ which was not registered with the civil registry. She gave birth to a son who is now nine years old. The marriage lasted for five years, and in all those years Zamira was never allowed to leave the house. "It was like in prison", Zamira told Amnesty International. Her husband and his parents prohibited her from going out or talking to other people. Whenever she asked his permission to go out or when they had a quarrel her husband would beat her. One day her husband divorced her, by saying taloq three times² in the presence of two witnesses, and she was thrown out of the house by his parents. Now Zamira and her son live with her parents, but the house is crowded as 10 people live there. Zamira dreams of having her own house for her and her son. She is attending the literacy classes at a NGO women's centre, and she would like to work at the local post office when she has finished her courses. She did not file a claim for alimony because she fears the reactions of her relatives. Occasionally she receives some money from them. Zamira thinks that the in-laws and her husband treated her so badly because their relationship had started before their nikoh marriage.

*"The roots of violence against women lie in historically unequal power relations between men and women and pervasive discrimination against women in both the public and private spheres. Patriarchal disparities of power, discriminatory cultural norms and economic inequalities serve to deny women's human rights and to perpetuate violence. Violence against women is one of the key means through which male control over women's agency and sexuality is maintained."*³

(UN Secretary General)

All over the world women are subjected to violence in their families. This is not just a crime of violence; it is one of the most pervasive human rights violations, as well as one of the most hidden. In Tajikistan, one third to one half of women may at some time experience physical, psychological or sexual violence at the hands of husbands or other family members.

The government of Tajikistan has undertaken some initial steps to address this problem: in 2001 a state programme on "Equal Rights and Opportunities" was adopted, including a chapter on the prevention of domestic violence. A Coordination Council on the "Prevention of Violence against Women" was set up, and a draft law on "Social and Legal Protection against Domestic Violence" is under discussion.

However, Amnesty International is concerned that despite the initial measures that have been taken by the Tajikistani government to combat domestic violence, Tajikistan is falling short of its international obligation to protect women's rights to lead a life free from violence. This failure to adequately address its obligations has resulted in perpetrators of domestic violence enjoying virtual impunity. Women's access to the criminal justice system is very restricted, with inadequate police and judicial response; as a result, women are unwilling to come forward, which has led to massive under-reporting. State authorities' responses reflect a societal attitude of blaming the woman for the violence and they see their primary role as mediation and

preservation of the family rather than protection of the woman. There are insufficient services to protect survivors of domestic violence, such as temporary shelters, and adequate and safe alternative housing in the long term. There is a lack of mandatory government training programmes for police, judges and medical staff. No comprehensive statistics on cases of domestic violence, disaggregated by sex and indicating the relationship between survivor and perpetrator, are compiled in a systematic manner.⁴ A functioning cross-referral system for survivors of domestic violence between different players such as health workers, crisis and legal aid centres and law enforcement agencies is not in place. As a result of a lack of public awareness and support many women are unable to escape the cycle of violence, and many endure violent situations because they have nowhere else to go.

Amnesty International is calling upon the Tajikistani authorities to improve their efforts to respect, protect, fulfil and promote the rights of women to lead a life free of violence. To fulfil its international obligations Tajikistan has to prevent and prosecute violence against women in the family and to incorporate international human rights treaties into effective domestic laws that protect women from violence. Properly-funded government programmes are required to implement the state programme through strengthening the capacity of law enforcement agencies to effectively protect women from violence, introducing civil remedies for women seeking protection and establishing nationwide support services such as shelters, hotlines and crisis centres. To date, most support structures, including the only shelter for survivors of domestic violence, have been built up by non-governmental organizations (NGOs) who work with virtually no funding from the government and rely on financial means provided by international donor organizations.

The report also highlights the entrenched societal attitudes of acceptance and justification of violence against women in the context of the increasing promotion of traditional discourses, which advocate confining women's sphere of activity to the home. These perceptions pose a further obstacle to the protection and fulfilment of women's rights. It is also a responsibility of the state to challenge such attitudes: the Convention on the Elimination of All Forms of Discrimination against Women (Women's Convention) requires in Article 5a that states take measures to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".

A major factor contributing to the exposure of women, in particular young women, to domestic violence is the failure of the state to take adequate measures to prevent illegal early marriages. Moreover, women and girls are exposed to various forms of discrimination through the state's failure to ensure that all marriages are registered and that the law banning polygamy is enforced. In many cases, marriages are not registered because they are the second or the third marriage. Unregistered marriages are not recognised in law, leaving women in such marriages without any of the legal protection a spouse is entitled to. The common practice in case of divorce is for the women and children to be chased out of the family house by their husband or in-laws and refused any rights.

Another issue of concern is the particularly vulnerable situation of unattached women in the context of male migration: many men migrate in search for work which has led to an unbalanced gender ratio in the country. Parents of daughters feel under considerable strain

to marry their daughters. Furthermore, those young women, often uneducated and not empowered to support themselves, are seen as an economic burden to their families. In order to relieve themselves of this burden, families open up unattached women to exploitation by making them available for polygamous, forced or unregistered marriages.

The increased early drop-out rate of girls in the education system is also of particular concern for Amnesty International. Girls are viewed as an economic benefit to another family, so not worth investing in for their own family. Education is a key factor for girls' empowerment to avoid and escape situations of violence. However, the state is failing to ensure that girls get an adequate education, which contributes to the overall picture of violence and discrimination against women in Tajikistan.

In focusing in this report on violence against women in the family in Tajikistan, Amnesty International does not suggest that violence against women is only found in Tajikistan. Amnesty International has documented in its reports on many countries in the region, including Armenia, Georgia, Russia, Belarus, Ukraine and Turkey, that women are subjected to violence by their intimate partners regardless of where they live or their social status. In many cases, violence is seen as a normal part of the relationship between men and women, or it is justified on the grounds of behaviour, honour or tradition. Amnesty International believes that none of these excuses, or indeed any other grounds, can ever justify violence against women. Violence against women is an inexcusable violation of human rights law and standards, and a prohibition that amounts to a norm of customary international law.

1.1. DEFINING VIOLENCE AGAINST WOMEN

In this report a variety of terms are used to describe different manifestations of violence against women in the context of intimate relationships and the family. These include: domestic violence, violence in the family, intimate partner violence. This range of terminology reflects the fact that there is no single term universally accepted as appropriately defining acts or behaviour by an individual that a woman considers to be, or to have been, intimately connected to her – regardless of sex, marital status or residence – which results in death, physical, sexual or psychological harm to the woman.

According to the Committee on the Elimination of Discrimination against Women (CEDAW), gender-based violence against women is violence “*directed against a woman because she is a woman or that affects women disproportionately*”⁵.

The UN Declaration on Elimination of Violence against Women⁶ (DEVAW) defines violence against women as “*any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. It encompasses, but it is not limited to, physical, sexual and psychological violence, including battering, sexual abuse of female children in household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; also, physical, sexual and psychological violence occurring in the community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking of women and forced prostitution.*” A further interpretation of this definition also includes “the withholding of economic necessities from the victim”.⁷

In its preamble, the Declaration describes violence against women as “a manifestation of historically unequal power relationships between men and women” and as one of the “crucial social mechanisms by which women are forced into a subordinate position compared with men”.

The World Health Organization has defined partner violence as any behaviour within an intimate relationship that causes physical, psychological or sexual harm, including:

- Acts of physical aggression, such as slapping, hitting, kicking and beating.
- Psychological abuse such as intimidation, constant belittling and humiliation.
- Forced intercourse and other forms of sexual coercion.
- Various controlling behaviours such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance.⁸

1.2. BACKGROUND, METHODOLOGY AND ACKNOWLEDGMENTS

This report is the first by Amnesty International to address the position of women in Tajikistan. It describes dimensions of gender-based violence, the cycle of violence, how to challenge it, the current international and domestic legal framework and Amnesty International’s recommendations to improve the human rights of women in this country.

This report is part of Amnesty International global campaign “Stop Violence Against Women”, which was launched in March 2004. The campaign has highlighted crimes of gender-based violence as a human rights scandal, depriving women and girls around the world of their rights to lead lives free of violence. The campaign has sought to influence state governments across the globe, urging them to prioritize the eradication of gender-based violence as a crucial component of their obligation under international human rights law to counter discrimination against women.

The information in this report has been gathered through interviews with NGOs, governmental officials and international organizations during three fact-finding visits to Tajikistan in October and November 2008 and July 2009. Representatives of Amnesty International talked to many survivors of domestic violence, lawyers, psychologists and social workers from women’s crisis centres. They also held discussions with government representatives including the national and regional branches of the Committee on Women and Family Affairs, the Ministry of Interior, the Ministry of Justice, the Ombudsman, the State Statistical Committee, doctors from hospitals, and international organizations involved in combating violence against women. Amnesty International delegates visited state organizations and NGOs throughout the country, in Dushanbe, Tursun-Zade, Khudjand and other locations in Sughd province, Kurgan Teppa and Khatlon province. The report is by no means a comprehensive or definitive account; rather it is a contribution to efforts to combat the problem of domestic violence in Tajikistan.

Amnesty International is grateful to the engaged and committed women and men working in NGOs, within the state sector and in international organizations that have helped to compile this report. The organization believes that the recommendations made to the Tajikistani

government will support them in their work. For reasons of personal safety and confidentiality, the names of all women mentioned in this report who have experienced violence in the family have been changed and the names of locations have not been included. The cases highlighted in the report reflect the accounts provided to Amnesty International during interviews with women, unless otherwise indicated.

2. COUNTRY BACKGROUND

2.1. POLITICAL AND ECONOMIC CONDITIONS

"While recent years have seen increased political stability, the nation and its citizens have been struggling to define their place in the region and the world as they enter into a new phase of nation building – one that is based upon a revival of traditional Tajik culture and social values, as well as Islamic practices – while facing extreme poverty, a devastated social services factor, and a challenging socio-economic environment".⁹

Tajikistan is a landlocked country bordering China (East), Afghanistan (South) and Uzbekistan and Kyrgyzstan (North) and has an estimated population of 7.2 million. The vast majority is ethnic Tajik followed by a sizable minority of Uzbeks and smaller groups of Russians, Kyrgyz, Turkmen, Tatar and other peoples.¹⁰ The official language is Tajik, which is a modern variety of Persian. The Ismailis live in the eastern autonomous province of Gorno-Badakhshan. Only a small group of Bukharian Jews has remained in the country since the break-up of the USSR. Sunni Islam is the religion followed by the majority of the population.

Tajikistan gained its independence in 1991. The economic decline of the country after the collapse of the Soviet Union was compounded by a devastating civil war, lasting from 1992-1997.¹¹ The war resulted in the death of more than 60,000 people. Approximately 600,000 people were displaced, 26,000 women were widowed and 55,000 children were orphaned.¹² Although the country has gained political stability and economic growth since the peace accord was signed in 1997, Tajikistan remains the poorest of all Central Asian states; 63.5 per cent of the population still lived in poverty with an income less than US\$2.15 per day in 2007.¹³ According to the International Monetary Fund the estimated GDP per capita in 2008 was US\$795. One of the main income sources for the population is the foreign remittances from Tajik migrant workers (mainly in Russia). According to data from the International Organization for Migration one in every four households has family members regularly seeking jobs abroad.¹⁴ Approximately 700,000 to one million Tajiks were living in Russia in 2008, with most men employed in construction companies. Their remittances constituted an estimated half of the GDP.¹⁵ However, experts assess that the world's financial crisis will seriously affect labour migration with increasing unemployment, a sharp decline of remittances and growing xenophobia towards labour migrants.¹⁶

President Emomali Rakhmon has been in power since 1994 and is eligible to remain in office until 2020, after amendments to the Constitution were made in 2003. Emomali Rakhmon has been successful in consolidating Tajikistan after its devastating civil war. He views himself as the indispensable guarantor of stability and peace in the face of possible new unrest, including in the context of the parlous economic situation in the country and the still politically unstable situation in neighbouring Afghanistan. The human rights record of Tajikistan, however, is widely assessed as poor.

Amnesty International has criticized human rights violations in the country such as torture and ill-treatment of detainees, and other persons, by law enforcement officers, impunity for torturers, the retention of the death penalty for ordinary crimes in law despite the introduction of a moratorium, denial of the right to fair trial, inhuman prison conditions and

the prohibition of international monitoring of the penitentiary system, restrictions of freedom of speech, freedom of religion, freedom of association; forced evictions and violence against women.

Tajikistan has become one of the main transit routes for Afghan narcotics bound for Russian and Western European markets. Drug trafficking constitutes a major illegal source of income in Tajikistan, with the alleged involvement of high-ranking government officials.¹⁷

2.2. STATUS OF WOMEN

"The primary duty of women is to give birth to healthy children, and to bring them up as normal people, then there will be no violence in the family, and our life will be good."

(Deputy Governor of local Khukumat, 7 July 2009)

*"The Committee is concerned about the resurgence of patriarchal attitudes subordinating women and of strong stereotypes regarding their roles and responsibilities in the family and society in the context of the breakdown of the previous political system, the civil war (1992-1997) and rampant poverty. These attitudes and stereotypes present a significant impediment to the implementation of the Convention and are a root cause of women's disadvantaged position in the labour market, their difficulties in accessing their land rights, the continuing existence of polygamy, domestic violence and the high dropout rates of girls from school."*¹⁸

(Committee on the Elimination of Discrimination against Women)

The break-up of the Soviet Union led to substantial changes of the "ideological landscape for women"¹⁹. In most of the countries, including Tajikistan, an emerging traditionalization of gender roles can be observed to different degrees, stressing the importance of the family as a foundation for society. The role of the woman is depicted as a mother and wife, being mainly responsible for bearing children, unpaid housework, and unpaid caring for family members. The breakdown of the social welfare state led to a shift of its tasks onto family structures and it is the women who carry most of the burden. Furthermore, the transition process shows a gendered division of labour in the market economy with women being pushed into the lowest positions or worst-paid sectors such as small businesses, bazaar traders, education and health sector, and a gendered division of labour in the political sphere,²⁰ where men dominate formal government structures, and women constitute the majority in the NGO sector. The Special Rapporteur on violence against women notes in her recent report on Tajikistan that *"upon independence, as the country moved away from its Soviet past, hard-line patriarchal values, presented with religious overtones, gained prominence in public discourse... Within this context women are required to be obedient and subservient to their husband and his family and deviations from this norm justify disciplinary measures and adverse consequences. Practices such as polygamous, unregistered and early marriages have also resurfaced and appear to be largely tolerated across society, including by some officials of this secular country"*.²¹

The Shadow report of 2006 by women's NGOs in Tajikistan to the CEDAW, (hereinafter CEDAW Shadow report), stated there was an under-representation of women in decision-making processes at all levels of political institutions: "[I]n all branches of power the representation of women is lower than 30 per cent. The higher the position of authority, the lower is the representation of women... There is no woman minister or ambassador, for example."²² Women constituted 17.5 percent in the lower chamber of parliament (*Majlisi*

Namoyandagon), 12.1 per cent in the upper chamber (*Majlisi Milli*) and 11.5 per cent in the local parliaments. In the employment sphere experts noted a gender segregation with the vast majority of the working female population (86 per cent) working in the low-paid sectors, such as agriculture (75 per cent), public health services and education: “Wages in these branches are approximately 4-7 times lower than in other spheres (as in industry, construction, transportation and communication). Furthermore, a significant number of women of employable age is engaged in housekeeping or in the informal sector of the economy.”²³



An evening in Bahor street in Kurgan-Tyube © Amnesty International

3. DIMENSIONS OF GENDER-BASED VIOLENCE

Doctors from a local hospital reported a case of one woman whom they treated in intensive care because her husband had beaten her so severely that her kidneys were damaged. The police and her family begged her to write a complaint, but she refused. She said she has four sons and that she was afraid of the repercussions for them. She died a few days later from renal failure.²⁴

Several studies and surveys have been carried out in the last decade to research the problem of violence against women in Tajikistan. Their findings revealed that domestic violence and sexual abuse are widespread and perpetrated not only by husbands but also by in-laws. According to these studies, one third to one half of women in Tajikistan were regularly subjected to physical, psychological or sexual violence.

These surveys provide solid evidence about the widespread nature of domestic violence in Tajikistan. Problems around confidentiality and under-reporting posed difficult challenges for the research. The World Health Organization (WHO) conducted a comprehensive survey²⁵ on violence against women in Tajikistan in 1999. The authors reported that *"[t]hey [the interviewers] also encountered issues of confidentiality and the risk of hostility from a woman's family members when going into a house to conduct an interview. [...] In order to limit under-reporting, a section of the questionnaire dealt with women's perceptions of violence and the extent of it among people they knew. This allowed greater freedom of expression to women who were more reluctant to share their own personal experience."*²⁶ The WHO Survey revealed that women assessed physical violence to be the most common form of violence in their society (91 per cent of the respondents), followed by psychological violence (84 per cent) and sexual violence (44 per cent).

This chapter will focus on dimensions of violence against women in the context of violence in the home, and will highlight two areas of violence against women in wider society.

3.1. VIOLENCE BY HUSBANDS OR INTIMATE PARTNERS

3.1.1. PHYSICAL AND PSYCHOLOGICAL VIOLENCE

A pregnant woman said she was so severely beaten that she miscarried her baby at five months. During the following pregnancy she was mistreated again while eight months pregnant. The unborn baby had a weak heart and she was hospitalized, but her husband forbade her to go to hospital for the birth because "it was shaming for him". In the end, her baby was stillborn at home.²⁷

In a village in a southern district, a husband brought a second wife home three times and tried to have sex with the second one in the room when the first one was there. The first wife left the room when she heard them having sex, but her husband beat her for leaving and later divorced her. They had a registered marriage.

The WHO Survey found that approximately 50 per cent of women²⁸ aged 15 and older had experienced physical, psychological or sexual violence by a family member. Fifty per cent of adult women had reported physical violence,²⁹ and 47 per cent sexual abuse³⁰ by their husbands and 51 per cent had experienced psychological violence³¹. In addition, 35 per cent of girls under 15 had reported physical violence, 0.5 per cent sexual abuse by family members and 44.5 per cent psychological violence perpetrated by members of the family. The WHO Survey indicated that there was a direct link between some socio-demographic factors and the level of violence against women: a higher percentage of rural women were subjected to domestic violence than women living in urban areas, women from the southern Khatlon region reported more violence than women from other regions, refugee women reported more incidents of direct violence than non-refugee-women, women in polygamous marriages reported a higher degree of sexual abuse by their husbands than those in monogamous marriages.

Another study³² by Robin Haarr for the Tajikistani NGO Social Development Group on violence against women in marriage in the southern Khatlon region surveyed 600 people (400 women, 200 men). This study, (hereinafter called the Khatlon Survey), found that 58 per cent of wives from the Khatlon region experienced physical and/or sexual violence by their husbands, and 4.1 per cent of the women interviewed reported physical violence perpetrated by their mothers-in-law. The study found that age is an important factor in making a person vulnerable to being subjected to violence in the family: while 66.7 per cent of women aged 18-22 years reported physical violence perpetrated by their husbands, 14.3 per cent of women aged 43-49 experienced physical violence.³³

A nationwide survey³⁴ conducted by the Tajikistani NGO Gender and Development with 1,629 respondents (male and female) in 2004 found that 35.6 per cent of women experienced violence³⁵ from their husband or relatives. According to this survey, approximately 26 per cent of women reported psychological violence by their husbands or relatives, including verbal humiliation or threats and approximately 8 per cent reported having been beaten.

Data compiled by crisis centres in cooperation with the State Committee on statistics revealed that 8,451 women had applied to NGO survivor support services in 2005 out of which 22.3 per cent applied due to physical violence, 0.8 per cent due to sexual violence, 56.5 due to psychological violence, and 20.4 due to economic violence.³⁶

Whereas this data showed a certain level of awareness about domestic violence against women, data from the Khatlon Survey on respondents' attitudes about abuse by husbands and mothers-in-law revealed that generally both men and women tended to blame the woman for the abuse perpetrated against her.³⁷ However, the survey also revealed significant gender differences with more women than men upholding the view that a husband has the right to abuse his wife: 70 per cent of the female respondents believed that the husband had a right to beat his wife when he was angry, compared to 30 per cent of male respondents, 60 per cent of female respondents said he had the right to forbid her to leave the house when he was angry, compared to 42 per cent of male respondents and 45 per cent of female respondents stated that he had the right to force her into having sex when he was angry as opposed to 10 per cent of male respondents.³⁸

As a result of these studies and the persistent work of local and international organizations across the country, particularly the Committee on Women and Family Affairs, the attitude of the government towards violence against women has shifted over the last decade, from denial to acknowledgement. This is a significant and welcome shift, even if many officials still fail to recognize the extent of the problem.

3.1.2. SEXUAL VIOLENCE

Domestic violence may often involve rape or other forms of sexual violence. While rape perpetrated by a stranger is strongly condemned in Tajik society, rape and sexual violence perpetrated by an intimate partner is viewed as a taboo topic. Marital rape is not explicitly defined as a criminal offence in the Criminal Code of Tajikistan. Amnesty International was told by Tajikistani women's rights activists that women do not report sexual violence perpetrated by their husbands to the authorities and that such sexual violence is often not viewed as violence by the perpetrators. Many women find it difficult to recognize rape or sexual assault by a husband or intimate partner as a crime. Marie Persson-Bottone, a psychologist trainer at a crisis centre, described her experience when introducing the concept of marital rape in her seminars: "When we talk about sexual violence like marital rape in our seminars, many participants ask: 'Is this rape? I thought in a marriage you have to fulfil the needs of your husband.'"³⁹

Data from the Khatlon Survey revealed that the perception of sexual violence differed between men and women:

*"whereas only 11.1 per cent of men reported that they ever forced their wives to have sex when she did not want, 42.5 per cent of women reported having to have sex with their husbands. Violations of a woman's body within the institution of marriage, is frequently justified through cultural values... These cultural values that support a man's sexual access to his wife is supported by religious and social definitions of women as male property, and sex as part of the obligations for exchange of goods in marriage. These cultural values have consequences on women and men's sexual relations within the marriage and can lead to sexual abuse, particularly rape."*⁴⁰

Staff at local crisis centres told Amnesty International⁴¹ that they receive calls from women feeling under pressure from their husbands to try out sexual techniques that they are not willing to participate in. According to staff, there is a link between sexual violence and the increase in men watching pornography in Tajikistan.

Dilorom has lived with her husband for 15 years in a village in southern Tajikistan. She says that he is sexually violent towards her. She had put up with him forcing her to have oral and anal sex against her wishes, until she felt that she could not endure it any more. She asked her son's wife to stay in the room with them to insure against it. But her daughter-in-law was frightened, and fled. Dilorom turned to the local crisis centre for support and the police were called. The police put a gun to her husband's head and threatened to kill him if he did it again. In the following period, the religious leaders of the region worked with the husband, and Dilorom received counselling from the crisis centre.

Another case involved a husband who forced his wife to have anal sex “in order to have a boy”. They already had six girls. The wife put up with it for one month, and then decided to leave her husband.⁴²

3.1.3. DRIVEN TO SUICIDE

“When a woman is beaten black and blue she will not be healthy for sure, because she will lose her appetite and will not want to eat, and it will cause anaemia. She can even become so distressed that she can commit suicide... If a woman goes to her parent’s house... most of our Tajik families, especially fathers, usually tell their daughter to return back to her home, to her husband and mother-in-law, and that from now on her father-in-law is her father. The woman should go back to her husband’s family because of her family, parents and of course her children. And that’s the reason for most of the suicides. It’s better to die than to live in this way.”

(Interviews with women in shelter, age 40-60 years)⁴³

Recent research reveals that survivors of domestic violence are more likely to commit suicide. Amnesty International was told in interviews with women’s NGOs that many families try to cover up a suicide by presenting it as an accident. Statistics, therefore, under-report the real number of suicide cases. The State Committee on Statistics reported in its publication *Women and men in Tajikistan 2007* that “hundreds of women die from fire and flame accidents”, constituting 6 per cent of accidental deaths in 2005. There is no nationwide comprehensive data available⁴⁴, although some regions compile their own statistics and publish them. In July 2009 the provincial Ministry of Interior of Sughd province (northern Tajikistan) reported 113 suicide cases of both men and women over the first five months of the year, which constitutes double the number for the same period in 2008. The increase appears to be both in men and women in this region.

A survey conducted by the Gulrukhsor Centre, the National Association of Tajikistani Business Women and the Dutch NGO Mama Cash in the northern city of Khujand (hereinafter the Khujand Survey), among survivors of attempted suicides and/or close relatives of suicide victims showed that domestic violence is often the first reason given for committing suicide. This included physical violence and psychological violence such as prohibitions, humiliation, the feeling of being treated as a servant or as the in-law family’s property and lack of awareness of her interests and rights.⁴⁵ Thirty-seven per cent of the respondents said that they did not “have the strength to endure it anymore”.⁴⁶ Another reason cited in the survey was “economic insecurity” and the “material dependence” of the woman. A third factor referred to by the respondents was the pressure of “stereotypes and traditionalism” in the family as well as in society. Fearing stigmatization by society many women sought escape in suicide because they “were not allowed to break the cycle of violence through divorce”.⁴⁷ Thirty-two per cent of the interviewed women had already carried out several suicide attempts by poisoning. As high-risk groups the Khujand Survey identified women in the age group of 26 to 30, although women were seen to remain vulnerable up to the age of 40, second wives, women married for a second time and single women.

The Khatlon Survey also presented evidence of suicide as a result of domestic violence: 70 per cent of women who had thoughts of suicide and 70 per cent of those who attempted suicide reported experiencing physical violence from their husbands. Twenty per cent of women who had suicidal thoughts and 10 per cent of women who had attempted suicide reported experiencing physical violence from their mother-in-law.⁴⁸

The NGO Bovari crisis centre told Amnesty International that in their estimation 95 per cent of suicides of women are connected with domestic violence:

“There is no psychological support for failed suicides, and no one has studied the phenomenon in depth. We can just send someone to listen to the stories of the victim. They lie in a burns ward, not wanting to speak, surrounded by other women covered in burns, who don’t want to speak.”⁴⁹

A visit to the burns unit at Dushanbe Clinic No. 3 – the national centre for treating burns – revealed that immolation cases at the clinic have decreased from 59 immolations in 2003 to 18 immolations in 2008. However, Amnesty International was told by a doctor at the burns unit that “not all victims of self-immolation can survive in time to get here”. Doctors from the clinic get invited to help in other regions, and if the patient’s condition allows, they are flown to Dushanbe. One doctor said: “Victims are aged between 19 and 60, but most are young, married women.”⁵⁰

3.2. VIOLENCE BY IN-LAWS

3.2.1. PHYSICAL AND PSYCHOLOGICAL ABUSE BY MOTHERS-IN-LAW

Many interviews with survivors of domestic violence revealed that women often suffer from harsh treatment by their in-laws, especially psychological violence and in particular from the mother-in-law. Traditional family and gender dynamics position younger women very low in the hierarchy of power. They are expected to obey their parents and older siblings, especially their brothers, and their husbands and in-laws, especially their mother-in-law, after marriage. Once women have children of their own, particularly sons, who are at a marriageable age, they acquire greater power and control over the lives of their sons and daughters-in-law. Amnesty International was told by local women that it is almost an initiation ritual for the mother-in-law to put her daughter-in-law through the same torments she went through herself as a young wife. The Khatlon Survey found that 4.1 per cent of the 400 women interviewed reported physical violence perpetrated by their mothers-in-law. The data from this survey showed that abuse by a mother-in-law was justified by a majority of the female respondents: 66.5 per cent said that a mother-in-law has the right to verbally hurt her daughter-in-law or make her afraid when she is angry with her, 50 per cent consented that the mother-in-law has the right to beat her, and 51.5 per cent that she has the right to forbid her to leave the house.⁵¹

Bunafsha was married at 16, 11 years ago. Her marriage was arranged by her mother and her husband’s brother. She had never seen her husband before their marriage.

She suffers from severe anaemia and has four children. Her husband is unemployed but does casual work, and so does Bunafsha, despite her children. Sometimes she works in other people’s rice fields.

She says that her mother-in-law constantly belittles her. She told Amnesty International that once when she was washing the courtyard she fell unconscious, and left her child alone, crying. This was the fourth time she had collapsed. She did not have money to pay for tests, but managed to get some for free by personal contacts. The doctor asked her parents for money to get her treatment, and her own mother came from Khujand to help while she was in hospital. Bunafsha came out of hospital one week before the interview with Amnesty International took place. Her mother-in-law told her that her medical treatment was a waste of money.

The doctor and the neighbours have tried to encourage the mother-in-law to take more care of Bunafsha, but it

has not helped. Her sisters-in-law are economically comfortable and provide their mother with everything she needs. Bunafsha feels that the family are all against her.

Bunafsha said: "If the Mahallah [traditional neighbourhood council] intervenes on my behalf, my mother-in-law will throw me out of the house." For the same reason she is frightened of speaking to the mullah. Her mother-in-law has never hit her, but Bunafsha feels that her words are worse than being hit. "If I say anything I will be thrown out," she said.

Bunafsha continued, "As soon as my husband comes home, my mother-in-law re-does all my housework, as though it was sub-standard. The children cry with me. There are fruit trees in our courtyard and when the children pick some of the fruit, my mother-in-law curses them, and says they should be selling it. I tell her that she is free to tell them off, but I ask her not to curse them. So she starts on me. She does not let me and my children visit other relatives, including my mother."

When asked what could improve her life, Bunafsha says: "If my sisters-in-law stopped coming, I think my husband would then be more likely to improve the situation. One sister is living in a hostel and wants me to move out, so that she can have a home with her husband." While speaking to Amnesty International, Bunafsha's phone rang. It was her husband asking where she was. Bunafsha said she only tolerated it because she loved her husband – and "what can I do?"

3.2.2. LABOUR MIGRATION

Amnesty International has been informed of many cases of violence perpetrated against the wife by in-laws after the husband had migrated abroad to work. It is estimated that until 2008 between 700,000 and one million Tajiks, mostly men, migrated to Russia for work each year.⁵² NGO crisis centres report an increasing number of cases of abuse in the home, especially in cases where the man has stopped sending remittances home, or never returns home. In many cases the family in-law attempts to throw the woman and her children out because they are viewed as an economic burden. Many interviews revealed that migrant husbands divorced their wives in their absence by saying "taloq" three times on the telephone after they had started a new family abroad.

In January 2008 a 23-year-old woman from a village in a southern district committed suicide. Activists from an NGO centre, where the woman was attending a sewing class, are convinced that domestic violence was the main reason for her suicide. After her husband migrated to Russia in search of work, she said that her in-laws started to ill-treat her: the young woman, who had just given birth to a baby girl, reported that she was constantly belittled, humiliated and beaten by her in-laws, especially her sister-in-law. She confided in the staff from the NGO centre about "problems at home", but in the end they could not help her. "If there had been a shelter in our region, maybe we could have saved her life. And we could have helped many more women!" one member of staff said. The 23-year-old hanged herself as she could see no alternative means to escape from her situation, leaving her two-month-old daughter behind. Although police were investigating the circumstances of her death, no case has been opened under Article 109 in the Criminal Code (Driving to suicide).⁵³

3.3. OTHER GENDER-BASED VIOLENCE IN SOCIETY

Although this report focuses on domestic violence, there are many other forms of gender-based violence within Tajikistani society. Below Amnesty International highlights two further aspects – violence against women in the context of the civil war and trafficking. There are other forms of gender-based violence which are not addressed in this report, including rape and sexual harassment by non-partners, sexual harassment in the workplace and violence against girls.

3.3.1. VIOLENCE AGAINST WOMEN IN THE CONTEXT OF THE CIVIL WAR

Some observers reported an increase in violence against women in the context of the Tajikistani civil war⁵⁴ of the 1990s. Sergei Andreyev, a researcher at the Institute of Ismaili Studies in London, reported to the news agency IRIN⁵⁵: “Apart from a general deterioration in the position of women, which one should expect during a civil war, women were specifically targeted by the Islamists in the Tajik conflict factions on 'moral grounds'. Islamic behaviour and dress code were brutally enforced, thus degrading and dehumanising women. Moreover, forced marriages and human trafficking – mainly of young girls – became more acceptable during the war.”

Robin Haarr noted in her study: “During the civil war, violence against all citizens in Tajikistan intensified, but women were subjected to various forms of gender-based violence, including rape, torture, verbal abuse, harassment, and forced marriage. Women felt also pressured to cover their heads and bodies when in public by wearing the national dress (*atlas*), wide trousers (*ezor*), and head scarf (*rumol*) after incidents in which combatants, from all sides of the conflict, used a woman’s Western style of dress as a pretext for harassment, assault and rape.”⁵⁶

An unknown number of women were raped during the civil war. This is still a highly taboo topic and no research has been carried out on the incidents of sexual and other violence against women that took place during the conflict. In addition to this there is no research into the impact of the increase in violence during the war on societal attitudes in the post-war environment.

“There are no estimates of the number of women raped during the 1992-93⁵⁷ conflict. ... Although rape as a war crime was not as widespread in Tajikistan as has been the case in the former Yugoslavia, there were numerous reports of armed bands looking for women to rape in the kishlaqs (villages). Tales of atrocities that focused on crimes against women were used by both sides to fuel the fighting and to exacerbate guilt on the opposition side”.⁵⁸

An activist from the Gamkhori crisis centre in the Khatlon region, where the fiercest fighting took place, told Amnesty International that women turn to their centre now to talk about the sexual violence which happened to them in the past:

“People were murdered just because they came from the Khatlon region, and women were raped – sometimes in a whole group. Now they talk about their experiences at crisis centres, but not at home. Some were girls of 13 when it happened.”⁵⁹

Amnesty International is concerned that an unknown number of rape survivors have been left without any support from state agencies, enduring their suffering in silence. They have also been

denied an effective remedy for the violations they were subjected to. The unwillingness of the authorities to investigate such crimes against women led to impunity for the perpetrators and a double victimization of the survivors: not only are they suffering from the life-long consequences of the attacks but also from stigmatization within the community and family.

In the aftermath of the civil war many parents feared that their daughters would be harassed on the streets and did not let them go to school.⁶⁰ This led to a restriction of girls' access to education.

3.3.2. TRAFFICKING

Research carried out in recent years has provided evidence that Tajikistan is a country of origin for irregular migration, including trafficking of women and girls. According to the 2008 US State Department report, *Trafficking in Persons*, Tajikistani women are mainly trafficked to the United Arab Emirates, Turkey and Russia for the purpose of sexual exploitation. Some women are also trafficked to Pakistan for sexual exploitation and forced labour. Girls are trafficked inside the country for various purposes, such as forced labour, forced begging⁶¹ or forced marriage.⁶²

Widows, divorced women and girls constitute a particularly vulnerable group to exploitation by traffickers in Tajikistan. Amnesty International was told that there was a link between domestic violence and trafficking, as many of the divorced women in Tajikistan had experienced abuse at home. The International Organization for Migration (IOM) also underlined the fact that women who are subjected to domestic violence are more vulnerable to being trafficked due to a higher degree of social isolation and inadequate state support mechanisms.⁶³ Moreover, due to the poor economic situation and lack of job opportunities within the country many women may choose to migrate in search of an income, and may end up being trafficked into grossly exploitative forms of work. Amnesty International believes that effective domestic violence prevention and protection measures are crucial to prevent trafficking in women. In 2006 the IOM estimated that at least 300 women are annually trafficked for sexual exploitation.⁶⁴ The real numbers are believed to be much higher but hard to estimate due to under-reporting and the failure of the government to identify survivors of trafficking. The United Nations Office on Drugs and Crime (UNODC) reported approximately 82 survivors of trafficking who had been identified by state authorities in 2006: 70 women, six girls and six boys. According to UNODC, 47 traffickers were convicted in 2006, out of which 35 were women.⁶⁵ According to the US State Department, only 11 traffickers were convicted in 2007.⁶⁶

The CEDAW Shadow report criticizes the government's failed policy on survivor identification and the failure to provide referral mechanisms: "After rescuing victims of these crimes, they are sent home as law violators via deportation, sometimes they are put away and forced to pass various [medical] tests which cause additional suffering."⁶⁷

Trafficking in human beings was made a criminal offence in 2003. In 2004 a law on "Combating Trafficking in Persons" was adopted and several anti-trafficking units were created under the Presidential Apparatus, the Ministry of Interior and the Public Prosecutor's Department. In 2005, an inter-ministerial Commission was established to coordinate the government's anti-trafficking efforts. According to the US State Department report, a "lack of capacity and poor coordination between government institutions remained key obstacles to effective anti-trafficking efforts".

4. OBSTACLES TO BREAKING THE CYCLE OF VIOLENCE

Women subjected to domestic and sexual violence in Tajikistan confront many obstacles to protecting themselves. A prevailing societal attitude “blames the victim” for her alleged non-compliance with “appropriate behaviour” which is used to justify subsequent violence against her. This is also reflected in the practices and approaches of law enforcement agencies and the judiciary who see the preservation of the family as their primary aim and, therefore, seek to mediate between the perpetrator and the survivor. The protection of the woman is not prioritised and perpetrators go unpunished.

Women remain in violent situations because they do not have viable alternatives to their housing problems, such as short-term shelters and long-term solutions.

4.1. “KEEPING IT IN THE FAMILY”

“Violence against women is not a problem in Tajikistan, it is a family matter; and it depends on individual people how they resolve their problems”⁶⁸
(Government official)

Violence against women is still considered a “family affair” in Tajikistan. The prevailing attitude is that it should be resolved by the spouses or within the extended family. Survivors of domestic violence come under pressure not to make it “public”, as the social disgrace associated with separation or divorce is worse than that associated with domestic violence. The findings of the 2005 Khatlon Survey revealed that 58.5 per cent of survivors of domestic violence kept silent about their abuse. Among those who did speak to someone, 83.7 per cent sought help within the family, 32.7 per cent spoke to friends, 8.2 per cent told a medical doctor, 4.1 per cent reported it to the police.⁶⁹ In this context it is very difficult for women to report violence in the family as a crime because of the absence of a public discourse clearly condemning domestic violence and identifying it as a crime, and the stigma associated with making such violence public.

4.2. CRIMINAL JUSTICE SYSTEM

“When a husband and wife walk down the street and some random person comes up and hits the wife, no one would question that that was a crime. When a husband and wife walk down the street and the husband turns around and hits his wife, guess what, that's a crime too.”

International Rule of Law Attorney, Dushanbe

Under international human rights law, survivors of domestic violence should be provided with access to an effective remedy, including equal and effective access to the criminal justice system. Amnesty International is concerned that the police, the judiciary and the prosecution services are failing to ensure that women have access to an effective remedy to protect them from violence.

The Ministry of Interior has not established special police units on violence against women.⁷⁰

Such cases are handled as common crimes by the police in the district departments of the Ministry of Interior and the Prosecutor's Office (see chapter 5.2).

In cases of domestic violence the police can only initiate a criminal investigation on receiving a written request from the survivor, together with a forensic medical report compiled within 21 days of the alleged incident. In the meantime, the woman lives in close proximity to her attacker. Even when witnesses have complained about an assailant's violence against his partner – for example neighbours, or medical experts – police cannot act without a written complaint from the woman. A district police officer then decides if the case should be investigated further and on what charges.

Activists reported that in many cases, when a woman contacts the police, the perpetrator is only given a warning not to repeat the violence. Sometimes, the perpetrator has to sign a document stating that he will not re-offend and is warned that otherwise there will be “legal consequences”.

The police are also entitled to charge perpetrators of domestic violence with administrative offences which are punishable by short-term detention of up to 15 days or a fine. In such cases the officer has to ascertain the identity of the abuser and present his findings to the district court, which imposes the administrative sanctions.

Amnesty International is concerned that a person who has committed violence in the family is only subjected to administrative liability instead of criminal liability: anyone who commits a crime of assault should be punished under criminal law.

Furthermore, in order to increase the survivor's safety Amnesty International urges the authorities to introduce civil protection or restraining orders which can be made by courts. These should contain a clear instruction that the police are authorized to order the perpetrator out of the home to secure the safety of the aggrieved party, for a specified period of time, long enough for the aggrieved party to make other arrangements, if necessary, for a longer term housing solution, such as the division of property through divorce. If the perpetrator does not abide by the terms of those protection orders he should be subjected to criminal liability and not to administrative sanctions.

Sumangul is 27 years old and comes from a village in western Tajikistan, where she lives in a detached house with her husband. They have been married for nine years.

She married for the first time when she was 15 and became pregnant by 16, but divorced her husband after two years because of his drinking, and went back to her parents. Their marriage had been officially registered.

One day a wealthy businessman's family came to her house and offered her parents a marriage between one of their sons and Sumangul. Her parents thought it would be an advantageous match for a divorced woman, so she was married again without ever having seen her future husband. When she met him she discovered he had served a prison sentence, and he never told her what it was for. It was an unregistered wedding.

“From the outset, it has been terrible”, Sumangul says. “He humiliates me, hits me and threatens to kill me. He pulls a cart in the bazaar, drinks, comes home and drinks again. Then he beats me up. In the street he looks normal and people don't believe he's a devil. All my neighbours know about the violence. One boy once

tried to help but my husband flew at him and now the neighbours are afraid. I have appealed to the local mullah and so did his mother, but after we spoke with him, the violence got worse, as revenge.”

The neighbours phoned the police, who detained Sumangul’s husband for 24 hours, but when he returned the situation deteriorated. On four separate occasions, after Sumangul had sent written appeals to the police, her husband was put under administrative arrest for 15 days, which is the maximum term. Despite this, the case has not become a criminal case. Sumangul’s husband is on the police register because of his criminal record – but not because of his record of current domestic violence. Sumangul reported that although the precinct duty officer visits sometimes it does not help.

Sumangul has not spoken to a doctor because she is afraid her husband will take revenge. She has never contacted a lawyer, because she did not know such help existed. Sumangul sometimes fears for her life. Her sister was killed by her own ex-husband after she complained. Sumangul is afraid that she will be murdered too.

Sumangul’s husband has periodically thrown her and her children out of the house with no food or shelter. At the time of writing they are all living in a room in a factory hostel, provided by her husband’s sister, Irina – but Irina’s work is insecure, leaving Sumangul and her children vulnerable to becoming homeless. Sumangul is constantly afraid that her husband might visit.

Interviews with doctors from a pilot domestic violence clinic revealed that members of staff are obliged to report cases of domestic violence to the police. Once notified of suspected violence, police are authorized to visit the home and contact the Mahallah (traditional neighbourhood council), and keep detailed casefile notes of what they find. However, the police can only initiate a criminal proceeding if the survivor agrees to file a complaint.

In many cases the police gather all family members and members of the Mahallah to “mediate” between the parties. One police officer reported that the main responsibility of the police is to “preserve the family, mediate and not let the children grow up without a father or mother”.⁷¹ This appears to be in line with an order sent out in December 2008 by the Minister of Interior to police inspectors to do “prophylactic work” with “problem families”.

Reconciliation is also fostered by the Criminal Procedure Code (Article 5.3) which foresees the “elimination of criminal punishment pursuant to reconciliation with the victim”.

The under-reporting of domestic violence cases is very high. The Khatlon Survey found that only 4.1 per cent of domestic violence survivors reported incidents to the police. Amnesty International learnt of many cases in which the police responses to complaints of domestic violence had been inadequate. Interviewed survivors of domestic violence told Amnesty International that they felt blamed and unprotected by the police and discouraged to bring charges against their perpetrators. In cases reported by NGOs and survivors, police officers mocked the woman, or blamed her for “misbehaviour”; in other cases survivors were sent away by the police when they wanted to file a complaint. Many activists reported that police often share the general societal perception of domestic violence as an internal family matter and do not take it seriously.

Many women interviewed by Amnesty International said they had not submitted written complaints because they feared reprisals from their partner, their partner’s family, or ostracism by the neighbourhood at large, for publicly exposing the family’s problems. Women

also withdrew their complaints or their private prosecution due to pressure by the perpetrator or the in-laws, feelings of shame or the lengthy nature of the procedure.

Amnesty International is also concerned that due to a shortage of legal advice services, women are left on their own to cope with domestic and sexual violence without knowing how to access the criminal justice system.

Tahmina, a mother of three children, has been married for 13 years. She did not know her husband before their wedding. She told Amnesty International that the beatings started after she had had three stillbirths. Following one beating, she lost another baby; she later miscarried while five months pregnant and her first child was born physically disabled. She went to the police on one occasion, covered in bruises and with a knife cut on her arm. The police told her she could write a complaint, but offered no further assistance. Tahmina said that she felt that the police blamed her for having provoked the violence, and that she had the same feeling about her Mahallah. Tahmina did not turn to the police again, and did not bring charges against her violent husband.

Risolat, a 17-year-old girl from a small town, was raped by her “boyfriend” two years ago, who threatened to kill her if she told anyone about it. He forced her to have sex continuously for a period of four months. He also beat her. A year later she went to the police to file a complaint, but she was mocked by the officers in charge and sent away. Although Risolat wanted to press charges against her attacker, he has left the country and his whereabouts are not known. Risolat thinks that it does not make sense to pursue the case. She is now attending literacy and computer classes at an NGO women’s centre in her local town. She wants to get a better education and find work so “that they cannot humiliate me anymore”.



Women attending a course organized by the League of Women's Lawyers © Private

Amnesty International was informed by the Deputy Head of the Public Order Department under the Ministry of Interior that a manual for law enforcement officers on “How to react in cases of domestic violence” has been prepared jointly by the Ministry of Interior’s Training Academy and the Swiss Development Agency.⁷² The manual is used at some training units of the two police academies of Tajikistan, but is not part of the compulsory curriculum or any legislation or regulations governing the powers and responsibilities of the police. It contains guidelines on how to investigate domestic violence cases but refers only to medium and heavy injury cases. It also instructs police officers to provide the survivor with a resource list of support services. Responding to domestic violence is currently being taught as a subject at the police academies in Dushanbe and Khujand in cooperation with a donor agency, but has not yet been incorporated into the curriculum.⁷³

In Khujand, the district capital of the northern Sughd province, activists from Tajikistan’s only shelter report that they have established a good relationship with the local police. They have signed a mutual memorandum of cooperation and police officers refer survivors of domestic violence to them. They have an emergency button in the shelter to make a direct call to the police station when a perpetrator approaches the shelter and threatens a client or the staff of the shelter.⁷⁴

The Public Prosecutor’s office rarely becomes involved in domestic violence cases, which are usually qualified as “assault” (Article 116, Criminal Code) or “torture” (Article 117, Criminal Code).⁷⁵ The Criminal Procedure Code does not include assault and torture within the jurisdiction of the Public Prosecutor’s Office, which can only get involved in medium and heavy injury cases, or cases which result in the death of a person. In these cases the Public Prosecutor does not need a written complaint by the survivor, and can bring an ex-officio prosecution. Thus, in the absence of prosecutions by the Public Prosecutor’s office for certain offences, domestic violence offences are usually prosecuted either by the police or by the survivor bringing a case to the court through a private prosecution.

Amnesty International urges the government to amend the Criminal and Criminal Procedure Codes to ensure that prosecutions are brought ex-officio for physical assaults and other crimes associated with domestic violence so that the burden to initiate prosecutions in cases of domestic violence does not lie with the survivor. It is in the public interest for the prosecutor to take action in such cases on his or her own initiative, in order to show the authorities’ determination to eradicate gender-based violence.

Furthermore, Amnesty International calls on the government to strongly discourage the use of reconciliation which acts as an obstacle to the prosecution of domestic violence. Such an approach often serves to put women in even more danger for having exposed the perpetrator’s behaviour, which can provoke more violence, as well as leaving the survivor without an avenue to secure her safety. Furthermore, it not only affects the rights of women but also of children who are either directly subjected to violence as well or indirectly through witnessing violence against their mothers.

An additional obstacle for women to access the criminal justice system is the forensic examination. To prove an assault the survivor is required to undergo a forensic medical examination and obtain a certificate of injuries from a forensic medical institute. However, referral to such an institute can only be obtained through the police. According to staff at crisis centres,

police officials are often reluctant to issue such referrals. Activists reported that there are many women who want to obtain a forensic examination in order to gather documentation of their injuries to be used in divorce proceedings, rather than for criminal prosecution. In any case, the requirement of a police referral deters many women from obtaining a forensic examination. Furthermore, many women cannot afford the travel expenses to a city where a forensic institute is located, or they are not allowed by their husbands or other relatives of the in-law family to travel alone. Examinations from non-forensic doctors are not accepted as evidence in court. Only in cases where a woman is hospitalized due to her injuries will the examination of the hospital be accepted by a forensic doctor who will then issue a certificate. The assessment of injuries by the forensic doctor determines if the case can be prosecuted by the police or privately. Light injury cases have to be prosecuted privately which means that the criminal proceeding is initiated and brought to court by the survivor. Medium and heavy injury cases are referred to the prosecutor's office. In the case of private prosecution the court requires witnesses to prove the domestic violence, in accordance with the Criminal Procedure Code. Witnesses are rarely willing to testify in court which poses another obstacle in the legal process.

Few cases of domestic violence go to court. As the authorities do not keep unified statistics on investigations and prosecutions of cases involving family violence, disaggregated by sex and indicating the relationship between the perpetrator and the survivor, comprehensive information about court proceedings in domestic violence cases is not available. The Ministry of Interior told Amnesty International that 65 cases were opened in 2007 against violent husbands, all of which resulted in a court hearing. In 2008, 85 cases were opened⁷⁶. No information was provided on how many of them had resulted in criminal convictions. One lawyer reported that she had only dealt with one case where a woman who was subjected regularly to domestic violence wanted to bring a prosecution against her husband after he had broken her arm. The lawyer believes that the woman had the courage to press charges because she had already separated from her husband and they were no longer living in the same town. "Women living with their husbands usually don't dare to file a complaint against their perpetrators", the lawyer said. During the trial the judge put considerable pressure on the woman to seek reconciliation. He started the process with the question: "Do you want to reconcile?" The woman said no, and the husband was sentenced under Article 111 of the Criminal Code (intentional minor bodily injury) to one year in prison.

Many lawyers from crisis centres told Amnesty International that women mainly seek legal help on property and alimony issues in divorce proceedings, rather than being keen to pursue criminal prosecutions.

Tahmina, a survivor of domestic violence, did not bring criminal charges against her violent husband but turned to the court to gain custody of her children and division of the property:

Tahmina's husband threw her and her three children out of the house. Her own mother had remarried and did not want to house them. Her mother-in-law took back the four-month-old baby and her husband took the two children.

It cost US\$20 – a large sum in Tajikistan – to write a complaint to the court, Tahmina said, but she did it. The court recommended that she go to the crisis centre. With the help of an advocate, Tahima was granted a court order halving the family property and has won back custody of her children. At the time of writing, she was waiting to see which part of the property will now be hers.

Amnesty International is concerned that the culture of impunity for perpetrators of domestic violence perpetuates domestic violence. It is important that the authorities send out a clear signal to society that strict measures will be applied and that the crime of domestic violence is a human rights abuse that will not be tolerated. Amnesty International urges the authorities to minimize barriers to access the criminal justice system for survivors of domestic violence. Amnesty International believes a review of police practice, with a view to clarifying standard procedures in responding to allegations of domestic violence, is necessary. Where police officers have failed to fulfil their duty in investigating such allegations, they should be liable to sanctions. There is an urgent need to increase the capacity of law enforcement agencies and the judiciary and to enforce their duty to respond appropriately to women reporting violence.

4.3. THE HEALTH CARE SYSTEM

There is no established mechanism in Tajikistan to respond to suspected domestic violence across the health care sector and no cross-referral system established between health care institutions and survivor support services.

Sources reveal that although survivors seek help through the medical system, there seems to be no effective mechanism for responding to suspected violence in the home. Although a manual for first aid medical staff on domestic violence screening has been developed⁷⁷ it is not part of any mandatory training for doctors and other medical personnel. Doctors do not routinely ask their patients if they experience domestic violence and are not trained for its screening and documentation. The Khatlon Survey revealed that only 8.2 per cent of domestic violence survivors told a doctor about the violence.⁷⁸

Medical staff from a pilot project on domestic violence told Amnesty International that they often saw signs of physical assault, or mental and psychological signs that someone was being victimized, deprived of food or medical help, or simply under great stress. The staff revealed different approaches regarding their response to suspected domestic violence. Most said they were only able to 'advise' the woman on what she might do while others said that they do inform the police. Amnesty International believes that the authorities should introduce the manual on domestic violence screening as part of the compulsory education for health care workers. A mandatory training for medical personnel including doctors, nurses, midwives, medical students and forensic medical practitioners should also be introduced. Health workers could then carry out proper screening of domestic violence cases, adequately register them and refer women to other specialized institutions or organizations that could provide further consultations and support to survivors of violence. Medical files should be kept strictly confidential. Medical personnel should not be obliged to report the case to the police, but the survivor should be given the information that there is an option for her to seek legal redress.

4.4. WHEN THERE IS NOWHERE TO GO

"If there had been a shelter in our region, maybe we could have saved her life. And we could have helped many more women!"

Crisis centre activist in the context of the suicide of a client

4.4.1. SHELTERS

Women face enormous difficulties in leaving an abusive situation because there is nowhere to go. To date, only one NGO-run shelter for survivors of domestic violence exists in Tajikistan in the northern city of Khujand. It opened in 2005 with grants from the Organization for Security and Co-operation in Europe (OSCE), and offers six rooms for survivors of domestic violence with their children who can stay up to several weeks in the shelter. At the time of Amnesty International's visit to Khujand in November 2008 there were plans to move to bigger premises which had been provided rent-free by the local government office, within the regional department of health. The shelter has an agreed memorandum of understanding with the local police on how to co-operate on cases of domestic violence.

Shelters for survivors of domestic violence are an important element in governments' strategies to protect the human rights of women to lead a life free from violence. They provide a safe place for women who want to leave a violent relationship and have nowhere else to go. Amnesty International calls on the authorities to ensure that a network of shelters is set up throughout Tajikistan as a matter of urgency.

Jahongul's husband is her cousin on her father's side. She did not know him when they married, which was during the civil war. It was an unregistered marriage. They lived with his mother, father, brother and his wife and their children. After 16 years Jahongul's husband threw her and their four children out of the house. He married another woman in a civil ceremony two days later. Jahongul came to the shelter for 18 days. She said that she had no idea where she would have gone or what she would have done otherwise. She did not want to tell her colleagues about what had happened, but had heard them discussing the shelter when someone else was talking about divorce.

Jahongul told Amnesty International that she suspected that her husband was having an affair for about six months, because he did not come home at night and would not say where he had been. She said that he had not beaten her before but had recently started to. She felt it was because he wanted her to leave so he could remarry and bring the new wife into the house with her two children. "When I asked where he had been, he hit me on the head and arms and stabbed my knee with a knife. I did not go to a doctor because the traces were disappearing and I did not want to spoil the reputation of a good family." For the same reason Jahongul did not go to the Mahallah. The first place she turned to was the shelter. Her husband's family always supported Jahongul and have broken off relations with her husband.

4.4.2. LONGER-TERM SOLUTIONS

Amnesty International believes that the state should also address longer-term solutions of adequate housing and economic sustenance for domestic violence survivors.

Many women are not able to permanently leave a violent partner because they are too poor to rent or purchase alternative housing, and relatives are unable or unwilling to house abused women and their children on a permanent basis.

In his 2006 report on *Women and adequate housing* to the UN Commission on Human

Rights, the UN Special Rapporteur on adequate housing urges governments to “ensure that women can access temporary, appropriate shelters and retain access to adequate housing on a longer-term basis so that they do not have to live in situations of violence in order to access adequate housing.”⁷⁹

Factors which increase the difficulties of women being able to permanently leave an abusive relationship include the lack of alternative housing for the abused woman and her economic and social dependency on her family in-law. According to patrilocal traditions⁸⁰, reinforced by the economically dire situation which prohibits most young couples from buying or renting a living space on their own, the woman moves into the home of husband's family.

In Tajikistan, the Soviet-inherited system of *propiska* (obligatory civil residency registration) connects the registration of one's residency with social entitlements and property claims in general and, therefore, after divorce. Interviews with lawyers at women's NGOs revealed that many wives do not obtain such a registration when they move to their husband's home, either due to a lack of knowledge about the importance of a new registration or the refusal of the family in-law to register the new daughter-in-law (*kelin*).⁸¹ This presents an inevitable obstacle to women who want to leave a violent husband. In her report on Tajikistan, the UN Special Rapporteur on violence against women notes: “Divorce or separation can have serious consequences for the woman depending on where her *propiska* is registered, whether the marriage is legally recognized, and who the actual owner of the house is – the husband or his family members... Frequently, the house is owned by the husband's relatives, often his parents. In such cases, upon divorces, separation or the husband's death, courts may grant a woman the right to continue living with her in-laws, based on her *propiska* there. Courts may also grant a woman the same right of residence based on her being recognized in judicial proceedings as a ‘family member’ of the owner under article 121 of the Housing Code. In both cases, this right is solely linked to residence in the actual house and is not an entitlement to property. If the owners of the house – in this case the in-laws – decide to sell the house, the daughter-in-law has no right to any proceedings of the sale or to live in the house after it is sold.”⁸²

Crisis centre activists reported to Amnesty International that many survivors are forced to stay in an abusive relationship and suffer in silence. Women's economic vulnerability leads to housing dependence. Some of them move to live with relatives, but often this is not a long-term solution. Divorce is associated with shame and disgrace for women. “*Biva* in Tajik is literally translated as ‘divorced’ and is used as an insult meaning ‘bad, spoilt woman’” Zaitoona Naimova, the national Gender Assistant from the OSCE Office in Dushanbe, said. Apart from the societal stigma there is a very low level of legal knowledge among women about their property rights upon divorce. A survey by the NGO *Rushd*⁸³ among divorced women in Khatlon province revealed that only 18 per cent of divorced women received property/housing, and 82 per cent were left homeless. Twenty-five per cent of the women had lodged a complaint with the court; the rest had not lodged a complaint, mainly because they were not aware of their property rights.

Amnesty International believes that the Tajikistani authorities should take steps to ensure the availability of longer-term solutions for survivors of domestic violence in order to fulfil their obligation to prevent discrimination against women. This should include the availability of adequate and secure housing to survivors of domestic violence and assistance with securing employment in order to access financial independence from former partners.

4.5. OTHER AGGRAVATING FACTORS

4.5.1. UNREGISTERED AND EARLY MARRIAGES

"The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."
(Article 16(2) of CEDAW)

Interviews with staff at women's crisis centres revealed that the largest group of domestic violence survivors seeking help is women from unregistered marriages. The government is failing to enforce the law in order to protect women's rights as a consequence of being in unregistered marriages.

There are two marriage procedures in Tajikistan: the civil registration in ZAGS (Zapis Aktov Grazhdanskogo Sostoyaniya, the registry office), and the traditional, religious marriage or *nikoh* - under Shari'a law - which is not recognized by the state as a marriage. Within society, the *nikoh* marriage has greater value than marriage by ZAGS. Civil registration is a form of contract between the parties that gives both certain justiciable rights – to property, alimony, and child custody – in case of divorce. It specifies equality of rights and duties between spouses, according to Article 16 of CEDAW. The marriage registration fee is quite high, especially for people living in rural areas. At the time of writing, the fee is 20 Somoni, which is the equivalent of US\$4.5 where the minimum monthly wage is 60 Somoni.

Nikoh, on the other hand, is a form of contract that can be broken by the husband alone, without advanced warning, and with no penalties. A *nikoh* marriage, polygamous or monogamous, can be terminated once the husband says the word '*talq*' three times, in the presence of two witnesses. If the marriage is also unregistered, the wife subsequently faces great difficulties in claiming her rights to housing, property or alimony.⁸⁴

Sabina thought she had a reasonable, unregistered, marriage, but one day when she was out of the house, her husband said '*talq*' three times and divorced her. She was thrown out of the house. Her husband subsequently lived with two other women, but separated from them and is now in Russia, alone. Sabina heard about a crisis centre which she went to for psychological support. She was told about another woman who had been assisted by a centre in securing a flat for herself through a court in Dushanbe; Sabina is trying to do the same. She has one child. "If I was a judge", Sabina says, "I would make sure that all women got their rights."

The WHO Survey highlights the fact that women from unregistered marriages are more vulnerable to being subjected to domestic violence. The survey revealed that 67 per cent of unregistered wives experienced psychological violence, compared to 51 per cent of officially registered wives, and 52 per cent of unregistered wives were subjected to sexual abuse compared to 40 per cent of women in registered marriages.⁸⁵

In many cases, marriages are not registered because they are the husband's second or third marriage. Although polygamy is illegal under Article 170 of the Criminal Code, it is widespread in practice. Sources revealed that even some high-ranking officials live in polygamous marriages. The practice is fuelled by large-scale labour migration which has taken place following the end of civil war in Tajikistan in 1997. Urged by the high level of unemployment and poverty many men leave their families and go to Russia in search of jobs.

The Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, noted in her report on Tajikistan that “the primary cause behind the deviation from civil marriages seems to be linked to poverty and the motivation of the in-laws or the husband to deny the wife access to family property and assets, which more often than not is under the legal ownership of the in-laws.... The rise in unregistered marriages is invariably accompanied by early and polygamous marriages... [T]here is a general understanding in the society that the rise in polygamous practices is caused by the imbalance in the sex ratio, which has been caused by the civil war and male migration abroad.”⁸⁶ Although polygamy and under-aged marriage (marriage under 17) are prohibited under the Criminal Code the State rarely prosecutes such cases.⁸⁷

The minimum marriageable age in Tajikistan is 17 years old.⁸⁸ Under exceptional circumstances, which need to be determined by a judge, for example in the case of pregnancy, a couple can also apply to a court to lower the marriageable age to 16.⁸⁹ Amnesty International was told by NGO contacts that in practice permission is also granted to families living in extreme poverty want to marry their daughters. But there are also many cases of unregistered religious marriages (*nikoh*) with under-aged brides and to men who already have a second or third wife. These are conducted at private ceremonies and this practice is not monitored and prevented.

“Girls are considered a burden as they do not bring any profit to their families.”
Zebo Sharivova, League of Women’s Lawyers, Dushanbe

Interviews with staff at women’s crisis centres revealed that women from unregistered marriages are under greater constraint to endure abuse in silence because of their reduced access to entitlements, as property rights and paternity are bound to official registration of the marriage. Lawyers in crisis centres have gained more experience recently securing alimony and housing claims for unregistered wives. But these services are not known to most survivors and, due to limited resources, they are only available in some parts of the country.⁹⁰

In recent years the state partially addressed this problem by requiring mullahs to demand a certificate of civil marriage registration in order to conduct the religious ceremony, *nikoh*. In an interview with a government official on religious affairs in Dushanbe, in July 2009, Amnesty International was told that the President had issued an oral instruction, which has significant power in Tajikistan, to amend the 2007 Law on Regulation of Traditions, Festivities and Rituals to require mullahs to demand a ZAGS certificate before performing a *nikoh* marriage.

Although Amnesty International’s research and other sources revealed many cases of polygamy and under-aged marriage, the authorities very rarely punish these unlawful acts.⁹¹ Interviews during Amnesty International’s visits revealed that the presidential instruction is not being implemented effectively and generally mullahs who do not comply with the law have not been prosecuted. Amnesty International has only heard of two cases in which mullahs have been prosecuted. Moreover, the presidential apparatus has the powers to oversee traditional unregistered weddings - under its department for the regulation of traditions, festivities and rituals and its local permanent commissions - to check if a civil marriage registration has been obtained before the religious ceremony is conducted, but they are failing to do so. Many NGOs assert that the lack of political will to address these

problems can, in part, be explained by the fact that there are also government officials who live in polygamous marriages.

4.5.2. LACK OF EDUCATION

"The uneducated person is like a blind person. However, at least the blind person has a stick to find his or her way around; the uneducated person does not have even that"

Marifat Haidaralieva, Women's Resource Centre, Huroson

Staff at crisis centres reported that the majority of survivors of domestic violence are young wives with a lack of education. Young and uneducated girls are at a premium as prospective brides, because their lack of experience is thought to make them more compliant. Many of these young girls find themselves in unregistered marriages, and may also have polygamous husbands. Among women interviewed by Amnesty International, it was the older women with education who had managed to escape violent marriages, and then acquire property and alimony.

Although education is mandatory until grade 9 (age 15), most of Amnesty International's local interview partners, especially from rural contexts, emphasized the fact that many girls are dropping out of school from the age of 13 to 14 years old for a variety of reasons. Tajikistan's official literacy rate is 95 per cent⁹² but many believe that this does not reflect the real situation. A recent UNICEF survey revealed that approximately 20 per cent of girls drop out of compulsory education. UNICEF Tajikistan's Head of Office, Yukie Mokou, said during a conference: "Tajikistan used to enjoy high achievements in education for both girls and boys. Unfortunately, this situation is changing, and that is very alarming because we hear that approximately 20 per cent of girls do not complete the nine-year compulsory education."⁹³

The survey found that 40 per cent of girls do not believe that education would impact the quality of their lives; 57 per cent of parents think that it is more important to educate boys than girls; and that the number of girls dropping out of school increases in the older classes. Three main factors were identified as contributing to this problematic trend. Firstly, most families invest money in their sons' education rather than their daughters', especially in the context of the dire economic situation.⁹⁴ Secondly, according to the survey, there is stereotyped gender socialization at home and in school: boys are more encouraged by their families to get a better education because they are expected to be responsible for their parents' well-being in old age, whereas girls are expected to marry into another family and to care for their husband and children, and in-laws. The UNICEF survey has found that this gender socialization is reinforced by teachers in school. Thirdly, the survey notes the role of religion on girls' education. More and more families choose religious schools with a female mullah, a *bihatun*, for their daughters as they often consider it a more affordable and appropriate form of education. The *bihatun* classes are centered on readings from the Qur'an and also offer some life skills training, which the families often consider valuable in preparing girls for marriage. Another reason given for girls dropping out of school is that many families prefer not to let their daughters attend if the school is outside the village: "The usual reason they gave was that this would be shaming, since they would be unable to control their daughters' movements."⁹⁵

Interviewees reported to Amnesty International that girls are dropping out of school for

various reasons. The violence during the five years of civil war (1992-1997) caused interruption in education for many and led to a serious decrease in literacy among younger generations. Many families are too poor to be able to pay for the basic costs related to schooling such as clothes, shoes, textbooks, transport and food. The remoteness of the villages where there are no schools, and lack of appropriate transport to the nearest school, also contribute to the decision of the families to keep girls working at home or in the field until they get married. However, girls from towns where there are schools also drop out of school, and the reasons for this can partly be attributed to the societal perception of the woman's role solely as wife and mother. One deputy district governor told Amnesty International that "the duty of women is to give birth to healthy children, and to educate them well. Then there will be no violence in the family and our life will be good." A psychologist at a crisis center said that rural parents in particular did not think that it was "worth investing in the education of the daughter because she will marry soon anyway, and no one wants an educated wife".

Amnesty International was also told by interview partners that often families do not see a reason to invest in the education of their daughters as one day they will get married, move on to another family and will not bring any income to the family. On the contrary, what is considered valuable is woman's virginity and chastity, and therefore many families prefer to keep their daughters away from men's gaze once their womanhood begins to show in puberty in order to marry them successfully.



Girls pushing a pram in front of a school in Kurgan-Tyube, Tajikistan, July 2009 © Amnesty International

Although the government has introduced quotas for university education for girls from remote villages, the authorities are not acknowledging or sufficiently addressing the problem of girls dropping out of secondary education as a systemic problem. Amnesty International was told of instances when NGOs alerted the central authorities about girls dropping out of school but this only resulted in awareness letters, which have no executive power, being sent to the district authorities.

This tendency of girls dropping out of school must be considered in the overall context of the deteriorating educational system as well, with underpaid teachers and outdated curricula: Interview respondents reported that teachers' salaries are so low that they seek additional employment, such as agricultural work, in order to survive. Teaching has become a very low-profile and low-paid job in Tajikistan and most teachers are now women.

*"[O]nly about two per cent of the gross domestic product of Tajikistan goes towards education. This is insufficient to maintain any sort of decent level. [...] In any case, the Tajik education system is very far from meeting requirements to provide requisite skills for those seeking employment."*⁹⁶

Amnesty International is concerned that the government is failing to ensure that all girls complete compulsory education. One of the problems to be addressed is the school enrolment and inspection system. All children who were registered at birth are automatically enrolled in school by the district authorities. As a result, there is a very high enrolment rate of children at school age, currently 89.1 per cent. However, the figures do not include unregistered children, for example, those from unregistered marriages or of people who have moved and not registered in their new district. Many interviews revealed that there is no effective reporting mechanism between the school authorities and the district authorities in order to monitor the drop-out rate, and the inspection system does not effectively function to check on the real attendance figures of pupils.⁹⁷ Authorities from the education system often deny this problem. Amnesty International was told in an interview with the head of the education department from a local government body (*Khukumat*) that there "was no problem at all with drop out of girls" and that "everyone who is enrolled goes to school".⁹⁸

Education is a key factor for girls' empowerment to avoid and escape situations of violence. The government is failing in its obligations to ensure that girls get an adequate education, which contributes to the overall picture of violence and discrimination against women in Tajikistan.

Sarvinos, who is 16 years old, went to Russia with her parents when she was very young and they returned to Tajikistan she was 11 years old. She did not want to go to school because she "was ashamed to wear the obligatory school uniform" instead of her Tajik traditional dress and has not attended any classes since her return. The family has not registered in the town they are living in now, so it has not been possible to monitor Sarvinos' absence from school. Sarvinos is expected to marry her cousin soon, and is participating in the education courses of a local crisis centre so that she can "sign her marriage document at the ZAGS".

5. THE LEGAL FRAMEWORK

5.1. INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

The UN Secretary General stated:

“States have concrete and clear obligations to address violence against women, whether committed by state agents or by non-state actors. States are accountable to women themselves, to all their citizens and to the international community. States have a duty to prevent acts of violence against women; to investigate such acts when they occur and prosecute and punish perpetrators; and to provide redress and relief to the victims.”⁹⁹

Domestic violence severely restricts the enjoyment of human rights, such as the rights to mental and physical integrity, the right to liberty and security of the person, the right to an effective remedy (the right to redress and reparation) and the right to health. Tajikistan is a party to international human rights treaties, all of which require the government to protect, respect and fulfil the human rights of those under its jurisdiction:

- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The Convention on the Elimination of All Forms of Discrimination against Women (Women’s Convention)
- The UN Convention on the Rights of the Child
- The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

Tajikistan has signed¹⁰⁰ but not yet ratified the Optional Protocol to the Women’s Convention, which recognizes the competence of CEDAW to receive and consider complaints about violations of rights (protected under the convention) from individual women and groups of women.

Tajikistan is required under the Women’s Convention to adopt appropriate legislative and other measures to prohibit all forms of discrimination against women, and to submit reports every four years to CEDAW with details on the implementation of the Convention.

Although the Women’s Convention does not refer explicitly to violence against women, the CEDAW has stipulated in its General Recommendation 19 that all forms of violence against women fall within the definition of discrimination against women as defined in the Convention.¹⁰¹ Furthermore, it has elaborated the standard of due diligence, which states:

“Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights

or to investigate and punish acts of violence, and for providing compensation (Article 9)."

The concept of due diligence is particularly valuable in assessing the State's accountability for the acts of individuals and groups. Governments are required to ensure that the rights recognized under human rights law are made a reality in practice.

Also the Declaration on the Elimination of Violence against Women (DEVAW) determines the standard of due diligence in Article 4 (c) which calls on states to: "[e]xercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons".¹⁰²

5.2. DOMESTIC LAW

To date Tajikistan has no specific law addressing violence against women. A draft law on domestic violence had been elaborated by a group of NGOs¹⁰³ and has been discussed for several years. It has not been introduced to parliament yet. Interviews with NGOs and international organizations in Tajikistan revealed that the various members of the inter-governmental inter-ministerial working group on domestic violence stated that due to the lack of a clear financial plan and a monitoring mechanism, the "law is still not ready".

The Tajikistani Criminal Code does not define domestic violence as a separate crime and does not explicitly criminalize it. Crimes of domestic violence are prosecuted under more general provisions of the Tajikistani Criminal Code dealing with assault, battery and bodily harm and murder, and no distinction is drawn between strangers or family members perpetrating violent crimes.

In the absence of a domestic violence law or explicit prohibition of domestic violence, articles of the Tajikistani Criminal Code are commonly used to prosecute domestic violence. None of the articles, with the exception of Article 109 (Suicide) and 117 (Torture), differentiates between strangers and partners as perpetrators. While there is no explicit prohibition of marital rape, a husband or intimate partner can be prosecuted under the articles listed below.¹⁰⁴

Articles of the Tajikistani Criminal Code under which family violence is prosecuted are:

- Article 109, Driving to suicide, punishable by imprisonment from three to five years; and from five to eight years in regard to a dependent person
- Article 110, Intentional major bodily injury, punishable by imprisonment from five to ten years, increased under aggravating circumstances
- Article 111, Intentional minor bodily injury, punishable by up to two years of correctional labour, or up to three years of imprisonment
- Article 112, Intentional bodily injury of lesser degree, punishable by a fine, up to two years of correctional labour, or up to four months of confinement
- Article 116, Assault, punishable by a fine, or up to three months of confinement

- Article 117, Torture, punishable by imprisonment up to three years, increased under aggravating circumstances
- Article 130, Kidnapping¹⁰⁵, punishable by imprisonment from 5 to 10 years, under aggravating circumstances up to 20 years
- Article 132, Recruitment of people for exploitation, punishable by a fine, or limitation of freedom or imprisonment up to two years
- Article 138, Rape, punishable by imprisonment from three to seven years, under aggravating circumstances up to 10 years, and up to 20 years or death penalty¹⁰⁶, if perpetrated against a girl under 14 or a close relative
- Article 139¹⁰⁷, Forcible actions of sexual character, punishable by imprisonment from five to seven years, under aggravating circumstances up to 15 years, and up to 20 years if perpetrated against a minor under 14
- Article 140, Compulsion to actions of sexual character, punishable by a fine, correctional labour up to two years, or imprisonment up to two years
- Article 141, Sexual intercourse and other actions of sexual character with an individual under 16 years of age, punishable by deprivation of liberty from two to five years
- Article 142, Debauched actions, in relation to a minor under 16 punishable by up to three years' imprisonment, under aggravating circumstances up to 5 years
- Article 237, Hooliganism, punishable by a fine or by confinement up to six months, or up to two years' imprisonment

5.3. STATE RESPONSE

"The government views violence against women as a family issue, not as a human rights violation."

Intergovernmental Organization, Dushanbe

Although the Tajikistani government has established a formal structure of governmental agencies and posts addressing women's issues, those structures have so far failed to function as an effective machinery promoting and implementing equality. Furthermore, clear mechanisms for implementation, monitoring and evaluation do not exist. The state subsumes women's rights under "women and family issues" (for example: Committee on Women and Family Affairs). A recent political gesture enforcing this concept is the presidential decree No.632 from March 2009 under which March 8 – International Women's Day - is now celebrated in Tajikistan as Mother's Day. The decree refers to the homage that should be paid to women as mothers who are "creators of life", "educators of the next generation", "the ones who lead children and youth to the right path" as the reason for renaming Women's Day into Mother's Day.¹⁰⁸

5.3.1. THE COMMITTEE

The main governmental body tasked with implementing gender equality policies is the Committee on Women and Family Affairs (the Committee) under the Government of the Republic of Tajikistan (Deputy Prime Minister). The Committee functions as a coordinating agency for implementing the government's state programme on "The Principal Directions of the State Policy on Providing Equal Rights and Opportunities for Men and Women in the Republic of Tajikistan for the Period of 2001-2010"¹⁰⁹. The Programme consists of seven chapters¹¹⁰ and also includes an action plan outlining 14 strategic aims. It includes a chapter on "Preventing Violence Against Women" which includes, among others, the following goals: creation of a national analytical centre for statistical data and analysis of violence against women, public awareness campaigns, women's rights seminars, special training for law enforcement and the establishment of crisis centres and hotlines throughout the region.

Many interviews with local NGOs and international organizations revealed that, although the Committee is very committed in its work, it is too weak as a structure to drive issues forward. The Committee has three regional branches (Sughd region, Khatlon region, Pamir region) and representatives at local government bodies (*Khukumat* and *Jamoat*¹¹¹). Various Tajikistani NGOs and the Committee itself have criticized the lack of concerted coordination between the Committee in the capital and the local branches. The Vice-Chair of the Committee told Amnesty International¹¹² that the local Women's Committees do not answer to the Committee, but to their *Khukumat* which also finances them. The regional Women's Committees account locally and to the national committee which creates a problematic double bureaucracy. According to the Vice-Chair of the Committee it would be better to establish a single vertical structure with a budget dispersed centrally. Understaffing and under-funding hamper the work of the Committee.

There are other government bodies responsible for the implementation of the gender equality programme apart from the Committee. These include the Ministry of Labour and Social Protection, the Ministry of Justice, the Ministry of Education, the Ministry of Health, the Ministry of Interior, State Committee on Statistics Institute of Increasing Qualifications of Governmental Employees. Under the government's state programme on gender equality a Coordination Council on the Prevention of Violence against Women (the Coordination Council) under the Deputy Prime Minister was established in 2006. It is comprised of representatives of six NGOs and various government officials involved in gender issues. The stated main tasks of the Council are: lobbying for a draft law on violence against women to be placed before parliament and carrying out public awareness campaigns.

Amnesty International learned that the Coordination Council has not met for one year and is not actively pushing for the adoption of the law. "Obviously, the Law on Domestic Violence is not a priority for all members of the government, even though there are some very active officials who are advocating for its adoption", Graziella Piga, Manager for Gender programme of the OSCE Office in Tajikistan, said in an interview.¹¹³

5.3.2. LEGISLATIVE MEASURES

The draft law on Social and Legal Protection against Domestic Violence (Law on Domestic Violence) has been prepared by the NGO, League of Women's Lawyers, and various governmental bodies several years ago. The Coordination Council established a working group

in its June 2006 session to review and rework the draft law. It has still not been introduced to parliament. Most of the local women's rights activists believe that the adoption of the Law on Domestic Violence would considerably improve the prevention and prosecution of, and protection of women from, domestic violence. However, a review of the draft Law on Domestic Violence by the NGO, Advocates for Human Rights, has criticized the provision in the draft law which in its current form would authorize internal affairs bodies to identify causes of family violence and to engage in preventive work with families where violence occurs. Furthermore, their analysis suggests that "‘victims of family violence’ should be provided with the ability to apply for [...] civil and administrative measures without requesting that the prosecutor file criminal charges".¹¹⁴

In 2005 Tajikistan adopted a "Gender Equality Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of Such Rights". The law defines its purpose of "ensuring equal rights for men and women in the social, political, and cultural spheres, and in any other sphere" in order to eliminate "discrimination on the basis of sex". Experts criticize this law because it does not cover domestic violence issues.¹¹⁵



Street in Kurgan-Tyube, Tajikistan 2009 © Amnesty International

6. SUPPORT FOR SURVIVORS OF FAMILY VIOLENCE

NGOs and development agency projects provide most of the concrete support services such as free legal and psychological counselling, social assistance, hotlines and one shelter to survivors of domestic violence in Tajikistan. However, during interviews with Amnesty International a considerable number of the NGOs stressed their cooperation with the Committee on Women and Family Affairs, or its respective branches under local government structures, or with Women's Councils in the Mahallahs, who refer survivors to them. Some NGOs reported that they worked with mullahs on the issue of family violence, and see a great potential in mobilizing them to include the prohibition of domestic violence in their teachings.

NGOS and development agency projects providing assistance to survivors of domestic violence include:

Crisis centre *Bovari*, Dushanbe: offers free legal and psychological counselling, social work, funded by Swiss Agency for Development and Cooperation (SDC).

League of Women's Lawyers, Dushanbe, Hissar, Tursun-Zade, Khujand, Penjikent, Isfara, and Qurghonteppa: offers free legal and psychological counselling (funded by various donors, including SDC, UNHCR, Soros Foundation, and Save the Children).

INIS, Women's Legal Rights NGO, Dushanbe, and Khujand: offers legal aid, (funded by American Bar Association Rule of Law Initiative).

Women's Resource Centre *Women against violence*, Istarafshan: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Crisis centre *Gamkhori*, Qurghonteppa: offers free legal and psychological counselling, social work (funded by SDC).

NGO *Dilafruz*, Qurghonteppa: offers free legal and psychological counselling, social work (funded by SDC).

Women's Resource Centre *Bonuvoni Khatlon*, Qurghonteppa: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Women's Resource Centre *Marifat*, Khuroson district, village Obi-Kiik: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Women's Resource Centre *Oksana*, Rumi district, village Isaev: offers free legal and

psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Women's Resource Centre *Mokhi Munir*, Kumsangirskiy district, village Dusti: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Women's Resource Centre *Mekhrubon*, Kabadiyanskiy district, village Khudoykulov: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

NGO *Makhtubaba*, Vakhsh district: offers free legal and psychological counselling, social work (funded by SDC).

NGO *Khamroz*, Bokhtar district: offers free legal and psychological counselling, social work (funded by SDC).

NGO *Madadgor*, Vakhdad: offers free legal counselling (funded by SDC).

Women's Resource Centre *Hachoti Kudakon*, Kulyab: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Women's Resource Centre *Development Centre Garm*, Garm district: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Crisis centre *Gulrukhsor*, Khujand: temporary shelter, offers free legal and psychological counselling, hotline (funded by OSCE).

Women's Resource Centre *Eastern Women*, Penjikent: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Women's Resource Centre *Darmonbakhsh*, Dzhilikulskyiy district: offers free legal and psychological counselling, social work, computer/ literacy and sewing courses (funded by OSCE).

Raiyonny Naselyennyj Punkt Medical Centre, Tursun-Zade district: 20 doctors from 8 polyclinics pass 6-month trainings to become general practitioners, with a special focus on domestic violence screening (funded by SDC).

City Health Centre 1 (Doctors and Experts Group at the Policlinics Nr. 8), Dushanbe: trained in screening domestic violence (funded by SDC).

7. RECOMMENDATIONS

Amnesty International considers that the government of Tajikistan has failed to take adequate measures to respect, protect and fulfil the human rights of Tajikistani women to lead a life free from violence.

Amnesty International is aware of the precarious state of the Tajikistani economy, but especially urges the authorities to raise public awareness about domestic violence as a human rights violation, end impunity for domestic violence, protect women from violence, enforce legislation on early and unregistered marriage practices, ensure that girls complete their mandatory education, increase institutional capacity and comply with international obligations.

DATA COLLECTION AND RESEARCH

- Compile reliable and accurate statistics disaggregated by sex, age, disability and ethnicity and indicating the family relationship of survivor/s and perpetrator/s on reports, and investigations and prosecutions of violence against women in the family across Tajikistan, and make these statistics available to the public. The standing Methodological Commission should publish – and make widely accessible – guidelines for disaggregation of statistics by gender, including statistics for incidents and prosecutions of violence against women;
- Ensure that data is collected in a way that respects confidentiality and women's human rights and does not put at risk women's safety;
- Ensure that all agencies involved in data collection on violence against women receive appropriate training;
- Develop the exchange of data between crisis centres and governmental agencies, based on strict ethical standards and confidentiality;
- Conduct research on the nature and extent of suicides, disaggregated by age and gender related to domestic violence and establish a centralized database with accurate statistics on the problem;
- Facilitate nationwide research violence against women and girls and the contexts in which such violence takes place.

PUBLIC AWARENESS AND INFORMATION

- Politicians and public authorities should speak out and condemn violence against women;
- Fund and implement outreach and educational campaigns to address the underlying social and cultural attitudes that discriminate against women and that facilitate and

perpetuate violence against them. These campaigns should: promote zero tolerance of violence against women, remove the stigma from women survivors of violence, and encourage survivors to seek redress. The campaigns should include community leaders, mullahs, Mahallah representatives, local government politicians (*khukumat* and *jamoat* levels), the media and civil society, and could take place in schools, adult education facilities, Mosques, Mahallah committees, citizens' forums, workplaces, open lectures and televised debates;

- Raise public awareness across Tajikistan through schools, mass media, Mahallah committees and public education campaigns, that gender-based violence is a human rights violation, and a crime which will be effectively sanctioned, whether committed by a state agent or a private individual.

END IMPUNITY

- Treat violence against women as a criminal offence and prosecute it ex-officio so that the burden to initiate prosecutions in cases of domestic violence does not lie with the survivor;
- Ensure survivor and witness safety, so that they can bring complaints and give evidence without fear of reprisal: the government should draft, adopt and implement civil law establishing an accessible and effective system of protection and non-molestation orders;
- Amend the Criminal Procedure Code to include "physical assault" and "torture" within the jurisdiction of public prosecutors;
- Amend the Criminal Procedure Code in order to ensure that women's complaints of violence by husbands or other intimate partners or family members are investigated promptly, impartially and thoroughly. They should not face pressure to withdraw complaints or reconcile with their abuser. Crimes of domestic violence should be treated with the same seriousness as violence in other contexts;
- Undertake a review of those articles of the Criminal Code that are most commonly used in cases of domestic violence to ensure that they offer a definition of domestic violence in line with the definition in the UN Declaration on the Elimination of Violence against Women;
- Set up specialized police units dealing with domestic violence cases, and ensure that the respective officers receive mandatory special training for handling such cases;
- Create a code of conduct for law enforcement officials and train them to respond to women who are survivors of violence to ensure that women are not revictimized by gender-insensitive law enforcement practices. Also ensure that the trainers for this code of conduct are evaluated in terms of their effectiveness and that action is taken to ensure that the code is enforced in practice, including by integrating the code of conduct into the legislation establishing police powers and responsibilities.

Practical use of the code of conduct should be a compulsory part of the training of all police officers;

- Enable support for and promote the recruitment and training of women police officers to provide a better gender balance within the Ministry of Interior and to encourage women to report incidents of domestic violence;
- Set up a functioning cross-referral system with regard to domestic violence cases creating strong links between key players such as medical institutions, legal aid and crisis centres, shelters and police;
- Support the establishment of more legal aid/advocacy centres where women can seek legal services to enforce their rights and to provide more training and case-law materials to lawyers working in those centres;
- Fund and implement training schemes for doctors, nurses, medical students and forensic scientists in identifying and responding to family violence by introducing the manual for first aid medical staff on domestic violence screening (developed by Ministry of Health and Swiss Development Cooperation) into the compulsory curriculum of medical institutions;
- Ensure that medical files on domestic violence are kept strictly confidential. healthcare providers should not be obliged to disclose reports of violence to the authorities, rather they should provide women with appropriate referrals to support them in making complaints;
- Women survivors of violence should be provided with funding for transport to facilities where they can be seen by a doctor and a forensic medical report prepared. There should be no charge to the woman for this service.

VIOLENCE AGAINST WOMEN IN THE CIVIL WAR

- Civil society organizations, especially women's rights advocates, should consult with survivors of rape and other human rights violations about the conditions under which they could disclose the details of what happened to them in safety and dignity, with a view to preparing a study on the rapes and other violations of human rights which took place during the war; this report should be the basis of prompt, effective, independent and impartial investigations by police and prosecutors and bringing perpetrators to justice in fair trials (which do not lead to the imposition of the death penalty).

PROTECT WOMEN AGAINST DOMESTIC VIOLENCE

- Ensure that all women who have been subjected to violence are provided with access to full redress and reparation, including compensation and psycho-social and medical rehabilitation;
- Train healthcare personnel to treat women survivors of violence in an effective way,

which respects their confidentiality while advising them of appropriate referral agencies;

- Ensure sufficient public information and points of access are provided for women to report domestic violence, such as hotlines covering all regions of Tajikistan and staffed by sufficiently trained personnel, including legal experts and psychologists. Ensure there are brochures and posters disseminated at hospitals, primary health care centres and courts;
- Promptly allocate secure, long-term government funding, or actively seek donor funding, to ensure that appropriate shelters are set up across the country in sufficient numbers, in collaboration with NGOs experienced in working to protect women from violence;
- Ensure the provision and availability of adequate and safe housing for survivors of domestic violence for both short-term and long-term needs; also ensure social and economic support for women and their dependants, and provide programs encouraging women's economic empowerment so that they can support themselves.

MARRIAGE PRACTICES

- Carry out a nationwide public awareness campaign on the importance of civil registration of marriage and registration of the place of residence;
- Abolish or lower the registration fee for ZAGS civil registry;
- Enforce the instructions to mullahs to carry out religious marriages only after a certificate of civil marriage has been presented.

GIRLS' EDUCATION

The state must ensure girls complete all years of mandatory education. It should:

- Collect school attendance statistics that reflect the actual situation;
- Properly oversee school attendance through unannounced visits by school inspectors and establish an effective reporting system between school administrations and education departments of local government offices;
- Prioritize the development, funding and implementation, with international assistance as necessary, of a plan as required under Article 14 of the ICESCR, to ensure that primary education at least is genuinely free and compulsory;
- Adopt temporary special measures aimed at reducing drop-out rates of girls in education, including by addressing discriminatory practices based on gendered roles by teachers and expectations which influence decisions by girls to leave education;
- Address the root causes for girls' dropping-out through work with individual families

and social assistance measures, including the provision of security and more schools which are geographically accessible to girls in rural areas;

- Establish accessible literacy classes and other educational opportunities for adult women;
- Improve working conditions and salaries of teachers.

INSTITUTIONAL CAPACITY BUILDING AND INTERNATIONAL OBLIGATIONS

- Strengthen the draft law on Social and Legal Protection against Domestic Violence by extending the definition of family to include persons “involved in a significant romantic or sexual relationship or who have formerly been involved in a significant romantic or sexual relationship”. Remove the provision that authorizes internal affairs bodies to identify causes of family violence and to engage in preventive work with families where violence occurs. Ensure that survivors can apply for civil remedies such as protection orders without requesting that the prosecutor file criminal charges. Ensure the adequate funding and implementation mechanism of the law and adopt it swiftly;
- Strengthen the institutional capacity of the Committee for Women and Family Affairs by creating a single subordination structure for regional and district Women’s Committees to the National Committee and to provide them with an adequate budget and training;
- Establish within the Ombudsman’s Office in Tajikistan a structure on women’s human rights, which addresses the elimination of violence against women, oversees a review of legislative compliance with international treaty obligations on women, oversees a review of juvenile cases, and brings key cases to the Constitutional Court;
- Ratify the Optional Protocol to the Women’s Convention which would enable individual women and groups to petition CEDAW directly about violations of their rights under the Convention.

ENDNOTES

¹ *Nikoh*-marriage refers to a marriage carried out by an Islamic religious ceremony which is not registered with the state. The word '*nikoh*' derives from the Arabic word '*nikah*' which refers to the union of a man and a woman in marriage.

² *Taloq* means to "repudiate" in Tajik and derives from the Arabic word '*talaq*' of the same meaning. According to local Islamic traditions, a *nikoh* marriage can be terminated by the husband when he says '*taloq*' three times in the presence of two witnesses.

³ United Nations, *Ending violence against women: From words to action. Study of the Secretary-General*, 2006, pii, available at <http://www.un.org/womenwatch/daw/vaw>.

⁴ The State Statistics Office published a Digest *Women and Men in the Republic of Tajikistan*, 2007, which contains statistics on types of crimes and number of convictions from 2000-2006. These statistics are not disaggregated for cases involving domestic violence. The Digest includes, however, statistics on public attitudes towards domestic violence (p155).

⁵ Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N.Doc. HRI/GEN/1/Rev.1 at 84 (1994), para6.

⁶ General Assembly resolution 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993).

⁷ Radhika Coomaraswamy, Special Rapporteur on violence against women, *Report to the Commission on Human Rights*, UN Doc. E/CN.4/2003/75, 6 January 2003, para30.

⁸ World Health Organization, *World Report on Violence and Health*, Geneva, 2002.

⁹ Haarr, Robin N., *Violence against Women in Marriage: A General Population Study in Khatlon Oblast, Tajikistan*, Dushanbe: NGO Social Development Group, 2005, p1.

¹⁰ In 2000, out of a total population of 6,127,493 people there was: Tajik 4,898,382, Uzbek 936,703, Russian 68,171, Kyrgyz 65,515, Lakaie 51,101, Turkmen 20,270, Tatar 18,939, Kongrat 15,102, Arab 14,450, Ukrainian 3,787, Korean 1,696, German 1,136, Kazakh 936, Jewish 197, cf. Erlich, Aaron: *Tajikistan: From Refugee Sender to Labor Exporter*, Migration Policy Institute, Washington, available at www.migrationinformation.org/Profiles/display.cfm?ID=411.

¹¹ New central anti-communist government forces were battling against the Popular Front from the Southern Khatlon province (who were backed by Russia, Uzbekistan and the republic's former Soviet establishment) and the United Tajik Opposition (UTO), cf. International Crisis Group (ICG), *Tajikistan: On the road to failure*, Asia Report No.16, 12 February 2009, p2 (ICG, *Tajikistan*).

¹² cf. Haarr, Robin, "Wife Abuse in Tajikistan", *Feminist Criminology*, Volume 2, No. 3 (2007), p247.

¹³ State Statistics Committee of the Republic of Tajikistan: *Women and Men in the Republic of Tajikistan*, Dushanbe 2007, p17.

¹⁴ www.iom/tj/about_challenges.html

¹⁵ *Migration News*, <http://migration.ucdavis.edu>

¹⁶ International Crisis Group, *Tajikistan*, p12.

¹⁷ Cf. www.stratfor.com/tajikistan_inviting_u_s_forces_helping_drug_trade, and Bureau of Democracy, Human Rights, and Labor, Tajikistan. Country Reports on Human Rights Practices, 2007, www.state.gov/g/drl/rls/hrrpt/2006/78843.htm.

¹⁸ Concluding Observations of CEDAW on the first, second and third combined report of Tajikistan, UN Doc CEDAW/C/TJK/CO/3, 2 February 2007, para19.

¹⁹ Kuehnast, Kathleen and Nechemias, Carol: "Introduction: Women Navigating Change in Post-Soviet Currents", *Post-Soviet Women Encountering Transition*. Nation Building, Economic Survival, and Civic Activism, Washington, p4.

²⁰ Kuehnast and Nechemias, *Post-Soviet Women*, p2.

²¹ Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Addendum, Mission to Tajikistan, A/HRC/11/6/Add.2, 29 April 2009, para10.

²² Non-governmental organizations of Tajikistan, *Tajikistan Shadow Report on the Realization of the Convention on the Elimination of All Forms of Discrimination against Women*, Dushanbe, November 2006, p8.

²³ *Tajikistan Shadow Report*, p8.

²⁴ Amnesty International interview with doctors in Raionny Naselyonny Punkt Medical Centre, Turzun-Zade, 20 November 2009.

²⁵ World Health Organization (WHO), *Violence against Women: Report on the 1999 WHO Pilot Survey in Tajikistan* (Copenhagen: WHO Regional Office for Europe, 2000), (hereafter the WHO Survey); 900 women from three different regions in Tajikistan had been surveyed.

²⁶ WHO Survey, p6.

²⁷ Amnesty International interview with crisis centre, 29 November 2009.

²⁸ The WHO Survey defined "adult women" for methodological reasons as aged 15 years or above. The Convention on the Rights of the Child defines a child as being up to 18 years.

²⁹ Beating by husband, relatives, see WHO Survey 2000, p9.

³⁰ Forced to have sex with husband, raped by husband, see WHO Survey 2000, p9.

³¹ Cruel treatment by husband/in-laws; husband/in-laws threatening to kill wife; husband/in-laws using children against wife; husband/in-laws threatening wife that they would take children away; husband/in-laws isolating wife; husband/in-laws forbidding wife to work and controlling household budget; husband/in-laws restricting wife's freedom to see friends, way of dressing; constant criticism; husband threatening to abandon wife and children; husband threatening to beat wife and children; husband forbidding the termination of pregnancy; husband forcing woman to terminate pregnancy; husband forbidding the use of contraceptives; see WHO Survey 2000, p9.

³² Haarr, Robin N., *Violence against Women in Marriage: A General Population Study in Khatlon Oblast*,

Tajikistan, Dushanbe: NGO Social Development Group, 2005) (hereafter Khatlon Survey).

³³ 48.2 per cent of women in the age group 23-27 years, 46.9 per cent of women in the age group 28-32 years, 30.8 per cent of women in the age group 33-37 years, 22.2 per cent of women in the age group 38-42 years reported physical violence during the past 12 months.

³⁴ Public Association "Gender and Development": *Problems of Violence in Gender Statistics (according to the results of a sociological survey)*, in Russian, Dushanbe, 2004.

³⁵ The survey analysed the following types of violence: physical violence, sexual violence, economic pressure (prohibition to work, withdrawal of money), rejection of help, isolation (prohibition to meet with friends or relatives), and verbal humiliation.

³⁶ A total of 13,561 women applied to crisis centres between 2001-2005, State Statistics Committee of the Republic of Tajikistan, *Women and Men in Tajikistan*, Dushanbe 2007, p56.

³⁷ Both female and male respondents enumerated a long list of "misbehaviours" of wives which would constitute "justifiable reasons" for physical abuse. This included among others: if she is disobedient, disrespectful or rude to her husband/in-laws; if she does not listen to her husband; if she talks back to her husband; if she lies, gossips, or slanders someone in the family; if she uses improper words or swears at her husband or in-laws; if she speaks a lot; if she creates conflict; if she doesn't clean the house or clothes on time or in the proper way; if she doesn't prepare food on time; if her husband is jealous and sees her talking with another man who is not a relative; if her husband suspects her of having a love affair with another man; if she is jealous and accuses her husband of having an affair; if she comes home late, if she goes to the disco, drinks alcohol and dances; if a neighbour or someone else gossips or slanders her; if her children choose a bad way of life; if her children are dirty; if she cannot give birth to a child; if she beats her children (cf. Khatlon Survey, p19).

³⁸ Even if some women accept this kind of behaviour, it is an inexcusable abuse of their human right to integrity of the person. The Beijing Platform for Action notes: "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behaviour and its consequences" (1995, para96).

³⁹ Amnesty International interview with Marie Persson-Bottone, Dushanbe, 25 October 2008.

⁴⁰ Khatlon Survey, p38.

⁴¹ Amnesty International interview with activists from crisis centres, 29 November 2009.

⁴² Both cases from an Amnesty International interview with crisis centre activists, 29 November 2009.

⁴³ Quoted in the Khatlon survey, p47.

⁴⁴ A Tajikistani suicide expert, Davron Muhamadiev, said that there is no standardized single system for counting and registering suicides established in the country. The Interior Ministry, the Public Prosecutors Office, the Forensic institutions and medical institutions have developed their own methodologies which may lead to "distortion of the actual figures". Additionally, whereas the Sughd authorities regularly publicise their statistics on suicide, the other provinces or the government are reluctant to do so (*Tajik Times*, No.11, 1 July 2009).

⁴⁵ Gulruksor/Mama Cash/ National Association of Tajikistani Business Women, *Research on origin and extent of female suicides as a result of domestic violence* (in Russian), Khujand, 2006, (hereafter the Khujand Survey) available at www.gulruksor.tj.

⁴⁶ See Khujand Survey, p14.

⁴⁷ See Khujand Survey, p38.

⁴⁸ Khatlon Survey, p49.

⁴⁹ Amnesty International interview with Bovari crisis centre, 26 November 2008, Dushanbe.

⁵⁰ Amnesty International interview with Dr. Alisher Umarov, Dushanbe Clinic No.3, Burns Unit, 26 November 2008.

⁵¹ Khatlon Survey, p18.

⁵² With the impact of the global financial crisis it is estimated that this figure will decrease for 2009, see International Crisis Group, *Tajikistan*, p12.

⁵³ Amnesty International interview with a women's crisis centre, 6 July 2009.

⁵⁴ The civil war in Tajikistan lasted from 1992 to 1997 and resulted in the death of more than 60,000 people. Approximately 600,000 thousand people were displaced, 26,000 women widowed and 55,000 children orphaned, cf. Haarr, Robin, "Wife Abuse in Tajikistan", *Feminist Criminology*, Volume 2, No. 3 (2007), p247.

⁵⁵ Quoted from IRIN: In-Depth: Our bodies – their Battle Ground: Gender-based Violence in Conflict Zones. Tajikistan: Civil war has left one in three women survivors of domestic violence, available at <http://www.irinnews.org/InDepthMain.aspx?InDepthId=20&ReportId=62834&Country=Yes>, accessed 5 June 2009.

⁵⁶ Haarr, *Wife Abuse*, p248.

⁵⁷ Although the civil war lasted from 1992-1997, the author refers to 1992-1993 as the years in which the fiercest fighting took place.

⁵⁸ Falkingham, Jane: *Women and Gender Relations in Tajikistan: Country Briefing Paper 8-9*, Asian Development Bank, 2000, p17.

⁵⁹ Amnesty International interview with Gamkhori crisis centre, Qurghonteppa, 18 November 2009.

⁶⁰ Cf. Falkingham, Jane, *Women and Gender Relations in Tajikistan*, Country Briefing Paper, 2000, p20.

⁶¹ US State Department, *Trafficking in Persons Report*, Washington, 2008, available at <http://www.state.gov/g/tip/rls/tiprpt/2008/105389.htm>.

⁶² International Organization for Migration (IOM): *Trafficking in Persons in Tajikistan*, in Russian, Dushanbe, 2006, p33-34.

⁶³ IOM *Trafficking in Persons in Tajikistan*, 2006, p17.

⁶⁴ IOM *Trafficking in Persons in Tajikistan*, 2006, p27.

⁶⁵ United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons*, Vienna,

2009, p226.

⁶⁶ The U.S. State Department criticized the Tajikistani authorities for lenient punishment, allegations of official complicity in trafficking and poor coordination between government institutions. Therefore, Tajikistan was down-graded in 2008 from a Tier 2 country to the Tier 2-Watch list.

⁶⁷ NGOs of Tajikistan, *Tajikistan Shadow Report*.

⁶⁸ Amnesty International interview with governmental official, 7 July 2009.

⁶⁹ Another 2 per cent of survivors reported the abuse to an official forensic doctor, 4 per cent to the Mullah, 2 per cent to the Women's Committee, and 4 per cent to the local women's crisis centre or local NGOs. Khatlon Survey, p51.

⁷⁰ In an interview with Amnesty International on 4 July 2009 in Dushanbe, Lola Otaboeva, Inspector of the Ministry of Interior's Legal Department, and Gender coordinator within the Ministry, reported a planned initiative of the Ministry to set up specialized "domestic violence police units" in the near future.

⁷¹ The Advocates for Human Rights, *Domestic Violence in Tajikistan*, Minneapolis, 2008

⁷² Amnesty International Interview with Kurbonali Alimov, Deputy Head of Public Order Department, Dushanbe, 26 November 2008.

⁷³ According to Lola Otaboeva, Inspector of the Ministry of Interior's Legal Department, and Gender coordinator within the Ministry, currently domestic violence is tackled under five subjects at the police academies in Dushanbe and Khujand: criminal law, criminal procedure code, civil law, administrative law, family code. The number of hours devoted to it is: a total of 6-10 hours at the police academy in Dushanbe (higher education for Ministry of Interior staff), and a total of 2-6 hours at the police academy in Khujand (two years education for police officers), interview with Amnesty International, 4 July 2009, Dushanbe.

⁷⁴ Amnesty International interview with activists from crisis centre and shelter Gulruksor, 25 November 2008, Khujand.

⁷⁵ The Tajikistani Criminal Code defines torture as "causing physical or mental suffering by systematic assault or other forcible means". This definition of torture does not correspond to the definition given in the Convention against Torture.

⁷⁶ Amnesty International interview with Kurbonali Alimov, Deputy Head of Public Order Department, Dushanbe, 26 November 2008.

⁷⁷ Joint project by the Ministry of Health, expert group of doctors, the NGOs Avesto and Social Development Group (and funded by the Swiss Agency for Development Cooperation). It is used for training doctors in two pilot projects: at the Raiyonny Naselyennyj Punkt Medical Centre, Tursun-Zade district and in City Health Centre 1, Dushanbe.

⁷⁸ Khatlon Survey, p51.

⁷⁹ U.N. E/CN.4/2006/118, part III, Conclusions and recommendations, paragraph 83 (d) and (e).

⁸⁰ "In Tajikistan today, both collectivist ethics and the current economic problems make it difficult, if

not impossible, for newly married couples to live on their own. This gives parents considerable power. A mother determined to force her kelin [daughter-in-law] to submit to her authority at all costs can easily destroy her son's marriage. When the couple come from significantly different backgrounds, living with the groom's parents can be even more problematic than usual, particularly when a bride from a modernistic setting is asked to conform to the expectations of traditionalistic in-laws." Colette Harris, *Muslim Youth*, p131.

⁸¹ Amnesty International interview with a women's NGO lawyer, 23 October 2008, Dushanbe.

⁸² Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Addendum, Mission to Tajikistan, A/HRC/11/6/Add.2, 29 April 2009.

⁸³ Rushd, *Women and property*, Qurghonteppa 2005 (in Tajik).

⁸⁴ Cf. also Khagai Margarita, *Polygamy Research in Tajikistan. Report on the Pilot Research conducted in Dushanbe, Khatlon's Urban and Rural Areas*, February-April 2002.

⁸⁵ WHO Survey 2000, p19.

⁸⁶ Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, on her mission to Tajikistan (15-23 May 2008), A/HRC/11/6/Add.2, 29 April 2009, p16.

⁸⁷ According to official figures 15 persons were sentenced for polygamy in 2001, 30 persons in 2002 and 56 persons in 2003, *National Report of the status of the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in the Republic of Tajikistan*, CEDAW/C/TJK/1-3, 7 June 2005, p12.

⁸⁸ Family Code Art. 13(1).

⁸⁹ Family Code Art. 13(2). "In exceptional cases, the court at the request of persons wishing to enter into a marriage may lower the marriageable age established for men and women, but not by more than one year." And further in Art. 13(3) "The applications shall be considered by the court in terms of a special proceeding at the residence of the person whose age is lowered. The rights to apply to a court on the issue shall be applied at the age of 16."

⁹⁰ According to an Amnesty International interview with the Bovari crisis centre in Dushanbe with Tursulton Shinazirova, a lawyer, 3 July 2009, one of the main problems when an unregistered wife leaves her husband and wants to claim alimony and housing is that many men deny paternity of their children. Therefore, paternity has to be established through a biological medical expertise through the Ministry of Health. "Sometimes just the announcement that we will apply for the expertise at the Ministry of Health has an effect on the man, and he confirms paternity."

⁹¹ The Special Rapporteur on violence against women noted in her report on Tajikistan "the few cases that are prosecuted are apparently handled as aggravating circumstances to other offences" (Special Rapporteur Report). A/HRC/11/6/Add.2, 29 April 2009.

⁹² State Committee on Statistics of the Republic of Tajikistan, *Tajikistan Multiple Indicator Cluster Survey 2005*, Final Report, Dushanbe 2007.

⁹³ http://www.unicef.org/girlseducation/index_school_girls.html (accessed 25 June 2009).

⁹⁴ Although education is officially free of charge in Tajikistan, there is evidence about widespread corruption in the school system due to the low wages of teachers. Also school materials, clothes and

transport fees constitute costs many families cannot meet. See also Colette Harris, *Muslim Youth. Tensions and Transitions in Tajikistan*, Boulder, 2006, p100.

⁹⁵ Colette Harris, *Muslim Youth*, p170.

⁹⁶ Colette Harris, *Muslim Youth*, pp100-101.

⁹⁷ For example, the educational departments of the local Khukumat issue advanced notices about their inspections to schools. As a result, teacher and school directors can mobilize children who usually do not attend.

⁹⁸ Amnesty International interview, 7 July 2009.

⁹⁹ United Nations, *Ending violence against women. From words to action. Study of the Secretary-General*, 2006, p.iv, available at <http://www.un.org/womenwatch/daw/vaw/v-sg-study.htm>.

¹⁰⁰ On 7 September 2000, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en.

¹⁰¹ CEDAW, General Recommendation No.19, 1992, UN DOC A/47/38.

¹⁰² UN Declaration on the Elimination of Violence against Women, General Assembly 48/104, 20 December 1993.

¹⁰³ Mainly the League of Women's Lawyers.

¹⁰⁴ Amnesty International was told however by a lawyer from the NGO League of Women's Lawyers (20 May 2009) that they are not aware of any marital rape case which has gone to court, although in theory it could be prosecuted under this Article.

¹⁰⁵ There is a note to this Article that "an individual who voluntarily releases the kidnapped person, will be released from criminal liability, if there are no signs of another crime in his actions".

¹⁰⁶ In 2004 Tajikistan introduced a moratorium on the imposition and execution of the death penalty.

¹⁰⁷ This is defined in the Tajik Criminal Code as "[h]omosexuality or lesbianism or satisfaction of sexual desire using force or threat of force towards the victim or other persons, or using the helpless condition of the victim".

¹⁰⁸ Decree available at http://www.prezident.tj/farmon/060309_632.htm.

¹⁰⁹ A representative from a regional Women's Committee told Amnesty International on 18 November 2008 that according to her view no concrete actions had been taken in this programme. Therefore her regional committee had published its own programme to flesh out the national one.

¹¹⁰ Chapter 1: Policy on Providing Equal Rights and Opportunities for Men and women as Integral Part of State Policy of the Republic of Tajikistan, Chapter 2: Institutional Mechanisms of Providing Equal Rights and Opportunities for Men and Women, Chapter 3: Women and Politics, Chapter 4: Women and Economy, Chapter 5: Women and Education, Chapter 6: Family and Women's Health, Chapter 7: Violence against Women.

¹¹¹ *Khukumat* is Tajik for district-level government, *Jamoat* refers to village-level government.

¹¹² Interview with Hilorbi Kurbonova, Vice Chair of the Republican Committee on Women and Family Affairs, Dushanbe 19 November 2009.

¹¹³ Amnesty International interview, 2 July 2009, Dushanbe. Graziella Piga sees two reasons why the

government is blocking the Law on Domestic Violence. First, it refers to the lack of financial means to implement the law, and secondly, she observed a resistance among certain representatives to enforce criminalization under the pretext that “conviction of perpetrators is an intrusion in family affairs”.

¹¹⁴ The Advocates for Human Rights, *Comments on the Draft Law of the Republic of Tajikistan, “On Protection From Family Violence”*, 12 October 2008, p6.

¹¹⁵ See ABA/CEELI’s *Analysis of the Law of the Republic of Tajikistan on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of Such Rights*, Dushanbe 2005.



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VIOLENCE IS NOT JUST A FAMILY AFFAIR

WOMEN FACE ABUSE IN TAJIKISTAN

Violence in the family is widespread in Tajikistan. One third to one half of women have regularly been subjected to physical, psychological or sexual violence at the hands of their husbands or their in-laws. Violence against women is not only a crime but also one of the most pervasive human rights violations across the world. It happens in every country and often remains hidden in the family.

This report reveals that women's rights are severely restricted in Tajikistan. The growing practice of unregistered, polygamous and early marriages means that wives often do not have the means or opportunity to access their rights, including upon divorce. Domestic violence often goes unreported. Girls' access to education is restricted through societal attitudes, and this limits their opportunities to escape the cycle of violence, discrimination and poverty.

Some non-governmental organizations provide support for women through shelters and education programmes, but the state does not act to effectively protect women's rights. In this report, Amnesty International calls on the government to pass a law criminalizing domestic violence in Tajikistan, and to address and challenge prevailing attitudes towards women's rights through a national public awareness campaign.

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